

(d) Documentation of real property acquisitions shall consist of the acquisition contract, evidence of a market survey, cost or price analysis, and an explanation of the reason(s) for selecting a particular source, a copy of an independent appraisal of the property's market value, evidence of board approval of the acquisition, a statement of handicapped accessibility sufficient to meet the requirements of 45 CFR 1624.5(c), and a copy of the LSC property interest agreement required by Section 4(e) herein.

### Section 9—Recipient Policies and Procedures

Recipients shall develop written policies and procedures which implement, at a minimum, the requirements of Sections 3 and 4 herein.

#### Victor M. Fortuno,

*General Counsel and Vice President for Legal Affairs.*

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## LEGAL SERVICES CORPORATION

### Rulemaking Protocol

**AGENCY:** Legal Services Corporation.

**ACTION:** Announcement of adoption of rulemaking protocol and establishment of new rulemakings notification mailing list.

**SUMMARY:** This notice sets forth the text of a new rulemaking protocol adopted by the LSC Board of Directors which will govern LSC rulemaking activities and announces the establishment of a mailing list for persons and organizations wishing to be notified of future LSC rulemakings.

**DATES:** This Rulemaking Protocol became effective upon its adoption at the LSC Board of Directors Meeting on September 18, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

#### SUPPLEMENTARY INFORMATION:

### Background

The Legal Services Corporation is authorized by Congress to issue regulations as necessary to carry out its mission. See 42 U.S.C. 2996(e). LSC, however, is not a “department, agency, or instrumentality of the Federal Government.” 42 U.S.C. 2996(d). As such, LSC is not subject to the

requirements of the Administrative Procedures Act, which governs the rulemaking activities of Federal agencies. Rather, LSC is required to “afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the **Federal Register** at least 30 days prior to their effective date all its rules, regulations, guidelines and instructions.” 42 U.S.C. 2999(g).

Throughout its history, LSC has conducted its rulemaking in compliance with the statutory requirements described above, but has not had a written statement of the Board of Directors (“Board”) setting forth the procedures to be followed in the course of LSC rulemaking activities. The Board determined that, while there is no legal requirement for LSC to have a written protocol related to rulemaking, having one would serve to advance LSC’s policy of conducting its rulemaking activities in a spirit of cooperative dialog with our recipients and other interested parties. Accordingly, on September 18, 2000, at a meeting of its Board of Directors, the Legal Services Corporation adopted a new Rulemaking Protocol to govern its rulemaking activities. The text of the Protocol is set forth below.

It should be noted that, since this Protocol is a statement of LSC internal procedure and is not a “rule, regulation, guideline or instruction,” LSC is not required by law to publish this Protocol or seek public comment. LSC is choosing to publish this Protocol in the **Federal Register** (and has also posted it on the LSC website at <http://www.lsc.gov>) in furtherance of LSC’s interest in and policy of conducting its business in a fair and open manner.

### Rulemaking Protocol

This Rulemaking Protocol is intended to reflect the policy of LSC to conduct its rulemaking activities in a spirit of cooperative dialog with our recipients and other interested parties<sup>1</sup> and has the following six objectives:

1. Enhanced implementation of the will of Congress as expressed in the LSC Act, amendments thereto and other statutory enactments;

2. Increased public participation in the manner and method in which LSC promulgates rules;

<sup>1</sup> Although this Draft Protocol reflects LSC policy, it is not intended to and shall not create or confer any rights for or on behalf of any person or party and shall not establish legally enforceable rights against LSC or establish any legally enforceable obligations on the part of LSC, its directors, officers, employees and other agents.

3. The adoption of procedures that reflect the best practices in rulemaking as articulated in the Administrative Procedures Act, the Negotiated Rulemaking Act of 1990 and Executive Order 12866;

4. Implementation of LSC’s strategic initiatives as set forth in Strategic Directions, 2000–2005 (adopted January 29, 2000);

5. Formalization of LSC’s policies governing rulemaking and specifically reserving specific responsibilities and authorities unto the Board; and

6. Development of a rulemaking protocol that is efficient and effective.

### Regulatory Policy Direction

The Board, through the Operations and Regulations Committee (“Committee”), provides direction on LSC regulatory policy and establishes priorities for LSC rulemaking activities. The Committee will look to staff to effectuate LSC rulemaking policies and priorities through this Protocol. Final authority over LSC rulemaking policies and actions rests with the Board.

### Initiation of Rulemaking

The impetus for a rulemaking<sup>2</sup> may come from any one of several sources; Congressional directive; internal LSC initiative (Board or Committee members and/or staff); or a formal request from a member of the regulated community or general public. Once the Board has agreed on a potential subject for rulemaking, LSC’s Office of Legal Affairs<sup>3</sup> (“OLA”), in close consultation with appropriate Corporation staff, will develop a Rulemaking Options Paper (“ROP”). The ROP will contain a discussion of the subject for the potential rulemaking, and will include an outline of the policy and legal issues involved. The ROP shall also recommend whether the potential rulemaking should be Negotiated or accomplished by Notice and Comment Rulemaking. The appropriate rulemaking process shall be selected on a case-by-case with full recognition, however, of LSC’s policy favoring open and collaborative rulemaking. It is anticipated that most rulemaking will be Negotiated.<sup>4</sup> Once the ROP is

<sup>2</sup> Rulemaking includes both the development of new rules and regulations and the amendment of existing rules and regulations.

<sup>3</sup> The Office of Legal Affairs is the office previously known as the Office of General Counsel and serves as legal advisor and corporate secretary to LSC.

<sup>4</sup> There may be instances in which use of Negotiated Rulemaking is unnecessary or inappropriate, such as for non-controversial issues or issues relating solely to LSC’s internal operations. In such cases, LSC may determine that

developed, it will be submitted to the Committee. The Committee, acting through its Chair, shall consult with the President before deciding whether to proceed as recommended.

If, after consultation with the President, the Committee elects to proceed with a rulemaking, the President will officially so notify the Board. The President will also inform the Inspector General ("IG") that the rulemaking is being undertaken and communicate to the IG the general parameters of the proposed rule and the ROP. Notice that a rulemaking proceeding has begun will also be posted on the LSC website, indicating the subject matter of the rulemaking and whether the rulemaking will be Negotiated or accomplished through Notice and Comment. In addition to website notice, notice by mail will also be given those who have previously requested such notice and are included in the Corporation's mailing list dedicated to that purpose.

#### *Negotiated Rulemaking*

In a Negotiated Rulemaking, a group comprised of LSC representatives and affected and/or interested parties will meet under the direction of a trained facilitator, ("Working Group")<sup>5</sup> with the intention of developing consensus-based positions leading to regulations. The key feature of Negotiated Rulemaking is its collaborative approach, which seeks consensus where possible and decisionmaking by LSC after full dialog with the regulated community and other interested parties.

The President, in consultation with the Committee Chair, will solicit suggestions for appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties. The President, working in consultation with the Committee, acting through its Chair, will make appointments of individuals and organizations to the Working Group, including the facilitator and the OLA representative. All groups or organizations asked to participate in the Working Group shall be responsible for selecting and designating their representatives. It is expected that

such issues should be handled solely through Notice and Comment Rulemaking.

<sup>5</sup> The facilitator could be a professional facilitator hired by the LSC or could be an LSC employee who has received training in Alternative Dispute Resolution and facilitation methods (including training in areas such as recognizing leadership styles, methods for team-building, creating consensus and defusing conflict). In either case, the facilitator will be specifically assigned to act in a neutral capacity and not as an advocate of LSC policy or substantive expert in the matter at hand.

membership on the Working Group will be diverse and fully representative of the legal services community and other interested parties.

The Working Group shall meet as necessary to develop a draft Notice of Proposed Rulemaking ("NPRM"). The members of the Working Group will, drawing upon their substantive expertise, discuss the subjects prompting the need for rulemaking and work toward developing a consensus on solutions to the problems identified.

The OLA representative on the Working Group, with the assistance of a subgroup of the membership, shall draft the regulatory language consistent with achieved consensus. The Working Group will review the regulation to ensure it reflects any consensus reached, although the Corporation retains ultimate responsibility for crafting the regulatory language.

The consensus proposal of the group, once developed, must go through the formal rulemaking process as an NPRM. At this point the Notice and Comment process described below will be followed.

On occasion it may happen that no consensus can be reached by the Working Group on a regulatory proposal or some element thereof. In those instances, the President will report this to the Committee and seek direction from the Committee, acting through its Chair, on whether to continue the rulemaking using the Notice and Comment process or to terminate the rulemaking.

#### *Notice and Comment Rulemaking*

In Notice and Comment Rulemaking, LSC develops rulemaking proposals and takes comment on them in writing and at certain publicly designated meetings of the Committee. Employing this process in conjunction with Negotiated Rulemaking will ensure that LSC's policy of cooperative dialog will be carried out in a fair, open and productive manner. LSC believes the Notice and Comment process will allow for an effective dialog between LSC and its recipients and other interested parties, even in those instances in which Negotiated Rulemaking is not used.

OLA will have the primary responsibility for the drafting of the Draft NPRM, which includes both the proposed regulatory text and the proposed preamble, working with management, appropriate staff and the Office of Inspector General ("OIG").<sup>6</sup>

<sup>6</sup> Prior to the development of the NPRM, LSC may do some information gathering (either through seeking written comments or through formal or

The Draft NPRM will be shared with the OIG for review and comment. The Draft NPRM will be submitted to the President with a Statement of Issues. The President may then: approve the Draft NPRM for submission to the Committee for its consideration; return the Draft NPRM to OLA for revisions as necessary; or, jointly with the Committee, terminate the rulemaking.

Once approved, the Draft NPRM will be set for consideration by the Committee at a public meeting. The Draft NPRM and Statement of Issues will be provided to the Committee sufficiently in advance of the meeting to permit their appropriate consideration. The notice of the meeting announcing the placement of the Draft NPRM on the Committee agenda will be published in the **Federal Register** and will recite that the Draft NPRM will be publicly available and will be posted on the LSC website. Posting of the Draft NPRM to the LSC website will be sufficiently in advance of the Committee meeting to permit appropriate consideration by interested parties.

At the Committee meeting, management will present the Draft NPRM with the assistance of OLA and opportunity for public comment will be provided. The Committee will then deliberate and shall decide whether to publish the NPRM or return it to staff for revisions.

Once the NPRM has been approved, OLA will make any necessary technical revisions to document before it is published in the **Federal Register** for comment.<sup>7</sup> The comment period will be at least 30 days and, it is anticipated, in most instances will be 60 days (but could, under appropriate circumstances, be longer). However, the decision as to whether to limit the notice period to 30 days or to provide a longer comment period is a matter entirely within discretion of the Board.

Copies of all comments received will be provided to the Committee and made available to other Board Members upon request. Copies of all comments will also be placed in a public docket available for inspection and copying in the FOIA Reading Room at the Corporation's offices. Copies of comments received in electronic format, along with an index of all comments received, will be placed into an "electronic" docket on the LSC website.

Upon the close of the comment period, OLA will draft a Final Rule

informal in-person outreach other otherwise) as necessary.

<sup>7</sup> During the comment period, LSC may, in its discretion, hold a public hearing at which interested parties make oral presentations, followed by written comments.

(which consists of the regulatory text and preamble).<sup>8</sup> The draft of the Final Rule will be shared with the OIG for review and comment. The draft of the Final Rule will be submitted to the President with a Statement of Issues. The President may then: approve the draft of the Final Rule for submission to the Committee for its consideration; return it to OLA for revisions as necessary; or, jointly with the Committee, terminate the rulemaking.

Once approved, the draft of the Final Rule will be set for consideration by the Committee at a public meeting. The draft of the Final Rule and Statement of Issues will be provided to the Committee and the Board sufficiently in advance of the meeting to permit appropriate consideration. In addition, a notice of the meeting announcing the placement of the Final Rule on the Committee agenda will be published in the **Federal Register**. At the Committee meeting, management will present a summary of the Comments and the draft Final Rule with the assistance of OLA. It is anticipated that the Committee will accept public comment as needed to assist in its deliberations. The Committee will vote on whether to recommend the Final Rule to the Board or return it to staff for revisions.

If the draft Final Rule is approved by the Committee for review by the Board, the Board will consider the draft Final Rule and vote to adopt it or to return it to the Committee for further action. At its discretion, the Board may request the participation of members of the public during its deliberations. Once the Final Rule is adopted by the Board, OLA will make any necessary technical revisions to it and submit the final version for approval for publication to the Board's designee (for example, the Board Chair or the Committee Chair). The Final Rule will then be published in the **Federal Register** and placed on LSC's website.

#### Establishment of Mailing List

As noted above, public notice that a rulemaking proceeding has begun will be accomplished through posting a notice to that effect on the LSC website, and by sending notice by mail to those who have previously requested such notice. With this notice, LSC is formally establishing a mailing list dedicated to that purpose. Persons and organizations wishing to be notified by mail when LSC undertakes a rulemaking proceeding should submit a notice indicating such interest and providing

contact information (name, title, organization and mailing address) to Mattie C. Condray at the address listed above.

**Victor M. Fortuno,**

*General Counsel and Vice President for Legal Affairs.*

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#### NATIONAL SCIENCE FOUNDATION

##### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** Under the paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection.

**DATES:** Written comments on this notice must be received by November 27, 2000 to be assured of consideration.

Comments received after that date will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** For further information or for a copy of the collection instrument and instructions contact Ms. Suzanne H. Plimpton, NSF Reports Clearance Officer, via surface mail: National Science Foundation, ATTN: NSF Reports Clearance Officer, Suite 295, 4201 Wilson Boulevard, Arlington, VA 22230 or e-mail: [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

##### SUPPLEMENTARY INFORMATION:

*Title of Collection:* 2001 National Survey of Recent College Graduates.

*OMB Control No.:* 3145-0077.

*Expiration Date of Approval:* February 28, 2002.

#### 1. Abstract

The National Survey of Recent College Graduates (NSRCG) has been conducted biennially since 1974. For the 2001 cycle, a sample of individuals who have recently earned bachelor's and master's degrees in science and engineering from U.S. institutions will be surveyed. The purpose of the study is to provide national estimates

describing the relationship between education and employment for bachelor's and master's recipients in science and engineering. The study is one of three components of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering population.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to “\* \* \* provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.” The National Survey of Recent College Graduates is designed to comply with these mandates by providing information on the supply and utilization of scientists and engineers at the bachelor's and master's degree level. Collected data will be used to produce estimates of the characteristics of these individuals. They will also provide necessary input into the SESTAT labor force data system, which produces national estimates of the size and characteristics of the country's science and engineering population. The Foundation uses this information to prepare congressionally mandated reports such as Women and Minorities in Science and Engineering and Science and Engineering Indicators. A public release file of collected data, designed to protect respondent confidentiality, is expected to be made available to researchers on CD-ROM and on the World Wide Web.

The Survey will be primarily conducted using Computer Assisted Telephone Interviews (CATI). Questionnaires will be mailed only to those individuals who are unwilling to provide information over the telephone but willing to complete a mail questionnaire. CATI interviewing will begin in April 2001 and is estimated to end in December 2001. The survey will be collected in conformance with the Privacy Act of 1974 and the individual's response to the survey is voluntary. NSF will insure that all information collected will be kept strictly confidential and will be used only for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

#### 2. Expected Respondents

We will sample approximately 27,500 graduates with bachelor's and master's degrees in science and engineering from U.S. academic institutions

<sup>8</sup> On rare occasions, it may become necessary for LSC to raise additional issues for comment. In such a case, LSC may issue a Revised NPRM and repeat the comment process.