

Colorado Legal Services

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December 8, 2015

Stefanie K. Davis
Assistant General Counsel
Legal Services Corporation
3333 K Street, Northwest
Washington, DC 20007
Attn: Part 1630/PAMM Rulemaking

Re: Consideration of Revisions to 45 CFR Part 1630 and
the Property Acquisition and Management Manual (PAMM)
Advance Notice of Proposed Rulemaking (ANPRM)

Dear Ms. Davis:

This letter is submitted by Colorado Legal Services in response to the Legal Services Corporation's Advance Notice of Proposed Rulemaking requesting comments on LSC's considerations for revising 45 CFR Part 1630, Cost Standards, and the Property Acquisition and Management Manual (PAMM).

Colorado Legal Services (CLS) appreciates the opportunity to comment early in the process while LSC is considering possible revisions to its Cost Standard Regulation and the PAMM. The process used by LSC will likely result in better proposed revisions that will benefit both LSC and its grantees.

CLS supports the comments being submitted by the National Legal Aid and Defender Association and, no doubt, agrees and supports most, if not all, of the comments submitted by other grantees. CLS simply wants to comment on a few significant issues presented in LSC's questions.

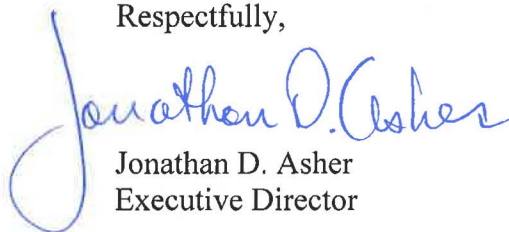
CLS does not believe it is necessary or appropriate to include single acquisitions of multiple items in calculating the amount of a purchase requiring prior approval by LSC. There almost certainly will be confusion over what items constitute a single purchase, what items are included, etc. A clear definition will help, but not provide adequate certainty. The single item standard has served LSC and grantees well, and does not appear to have been abused by grantees. A revision will increase the number of requests for approval that will add to the administrative burdens of both LSC and its grantees. (Question 3.)

CLS is also concerned with adding administrative burdens to the disposal of used, broken or obsolete property. Certainly, a definition of the property that will require LSC approval, and the manner and method of disposition, should be clear and narrow, although altogether unnecessary. It is not clear that there have been inappropriate dispositions of property, or that there is a problem requiring resolution or attention, even if LSC's current requirements are inconsistent with OMB's Single Uniform Guidance. It is CLS's experience that grantees most often use non-disposable equipment far past when it is fully depreciated, even frequently past its obvious useful life. A narrow definition and threshold amount of the equipment's fair market value (but, hopefully, not subject to costly and time consuming required documentation of an item's fair market value) would certainly be appropriate were a prior approval requirement to be imposed. Without careful definition and a reasonable minimum threshold value, would approval of the disposal of a broken stapler or keyboard be required? Certainly neither LSC nor grantees should need to face the administrative time, cost and burden of requesting approval to dispose of fully depreciated and broken non-expendable equipment. This is a burden that should not be imposed, to fix a nonexistent or rarely found problem. (Question 8.)

Lastly, Colorado Legal Services is concerned with the possibility of LSC imposing a prior approval requirement on service contracts. A requirement that grantees adopt procurement policies may be appropriate, but prior approval would be burdensome. While there would be times when such an approval process would be feasible, there are occasions when service agreements are most needed and prior approval would be least feasible. When a grantee faces a computer crash, a data breach, or a serious personnel issue, it needs to have the authority to seek outside service assistance that is immediately needed to resolve the issue and beyond even a well-managed program's capacity to resolve. Such situations cannot even wait a few days to secure a number of bids or prior approval for a sole source contract. These emergencies need to be dealt with and fixed immediately. Such expenditures, of course, must be reasonable, necessary and meet all of the standards currently and likely to be required by a Cost Standard Regulation and a program's procurement policies. Accountability is necessary; reasonableness is necessary; prior approval is not. (Question 16.)

If you have any questions concerning these comments, or if CLS or I can be of any further assistance in your consideration of possible revisions to Part 1630 or the PAMM, please inform me at your convenience. Otherwise, CLS and I look forward to your careful consideration of these comments.

Respectfully,



Jonathan D. Asher
Executive Director