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7050-01-P

LEGAL SERVICES CORPORATION

45 CFR Part 1631

Purchasing and Property Management

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the Legal Services Corporation's (LSC) definition of "capital improvement" by removing the threshold amount of LSC funds that must be expended on an improvement to real estate for the expenditure to qualify as a capital improvement. The proposed amendment would distinguish the definition of a capital improvement from the monetary thresholds required for prior approval; promote consistent tracking and oversight of LSC funds used for capital improvements; and strengthen accountability for LSC funds invested in recipients' real property.

DATES: Comments must be submitted by 11:59 p.m. Eastern on [**INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES:

You may submit comments by any of the following methods:

- *Email:* lscrulemaking@lsc.gov. Include "Comments on Revision to Part 1631" in the subject line of the message.
- *Mail:* Brittany Sims Nwankwoala, Assistant General Counsel, Legal Services Corporation, 1825 I St. NW Ste 800, Washington, D.C. 20006, ATTN: Part 1631 Rulemaking.
- *Hand Delivery/Courier:* Brittany Sims Nwankwoala, Assistant General Counsel, Legal Services Corporation, 1825 I St. NW Ste 800, Washington, D.C. 20006, ATTN: Part 1631 Rulemaking.

Instructions*:* Electronic submissions are preferred via email with attachments in Acrobat PDF format. LSC will not consider written comments sent to any other address or received after the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Brittany Sims Nwankwoala, Assistant General Counsel, Legal Services Corporation, 1825 I St. NW Ste 800, Washington, D.C. 20006; (202) 295-1599 (phone), or nwankwoalab@lsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Legal Services Corporation Act of 1974 authorizes LSC to establish regulations governing the use of grant funds and to ensure appropriate stewardship of Federal resources. See 42 U.S.C. 2996g(e). LSC sets forth its procurement and property management requirements in 45 CFR part 1631.

In 2017, LSC revised parts 1630, pertaining to cost standards, and 1631 to increase the prior approval threshold from $10,000 to $25,000 to account for inflation and reduce unnecessary administrative burdens on recipients. This change also established $25,000 as the applicable threshold in all provisions governing prior approval, property, and procurement requirements. In 2022, LSC conducted a retrospective review of all regulations. It identified several additional areas within parts 1630 and 1631 that recipients and LSC staff found difficult to administer consistently or that lacked sufficient clarity for grantees and oversight staff. In 2026, LSC initiated rulemaking to resolve those inconsistencies and increase the $25,000 prior approval threshold to $50,000 in §§ 1630.3, 1630.6, 1631.8, and 1631.15. See 91 FR 23228 (Apr. 30, 2026).

During the 2026 rulemaking, however, LSC did not propose increasing the threshold in the definition of "capital improvement" in § 1631.2(a). Although LSC increased the threshold for obtaining prior approval for certain expenditures from $25,000 to $50,000, that amendment would not address which expenditures constitute capital improvements for purposes of part 1631. Rather, through subsequent conversations with the Office of Compliance Enforcement (OCE), LSC found that

removing the threshold amount altogether would enhance LSC's ability to identify and account for all LSC funds used to improve real property. Currently, expenditures below the threshold may nevertheless constitute capital improvements and, when repeatedly made over time, could represent a significant investment of LSC funds in a recipient's real property. The $50,000 threshold for determining when prior approval is required remains separate from the definition of "capital improvement."

II. Remove the Threshold Amount in Definition of Capital Improvement

LSC proposes to revise the definition of "capital improvement" in § 1631.2(a) by removing any monetary threshold from the definition. Currently, § 1631.2(a) defines "capital improvement" as spending more than $50,000 of LSC funds to improve real estate through construction or the addition of fixtures that become an integral part of the real estate. LSC proposes to remove the monetary threshold so that any improvement to real estate using LSC funds constitutes a capital improvement.

LSC is undertaking this rulemaking to strengthen its oversight of LSC funds used to improve real property and ensure that recipients identify and account for such expenditures regardless of amount. The amendment also clarifies that an expenditure may constitute a capital improvement even if it does not meet the monetary threshold requiring LSC's prior approval. The character of an expenditure made with LSC funds as a capital improvement does not depend on its cost. An expenditure may improve real estate through construction or the addition of an integral fixture even when the amount of LSC funds used for that particular improvement is less than the applicable prior approval threshold.

Removing the monetary threshold from the definition would also ensure that recipients identify and account for any LSC funds used for capital improvements regardless of the amount of the individual expenditure. Under the current definition, improvements costing less than $50,000 do not constitute "capital improvements" for

purposes of part 1631. As a result, a recipient could make multiple improvements to the same real estate over time using LSC funds, with each individual improvement falling below $50,000, without those expenditures being treated as capital improvements under the rule. For example, a recipient could expend $30,000 of LSC funds on an improvement in one year and later expend an additional $40,000 on another improvement to the same property in a different year. Although the recipient would have invested a total of $70,000 of LSC funds in improvements to the property, neither expenditure would constitute a capital improvement under the current definition.

This result is inconsistent with LSC's interest in ensuring that recipients accurately identify and account for LSC funds invested in real estate. Section 1631.15(c) requires recipients to maintain supporting documentation sufficient to accurately identify and account for any use of LSC funds to make capital improvements to real estate owned by the recipient. Removing the $50,000 threshold from the definition would make the definition consistent with that requirement and enable LSC and recipients to account for the cumulative amount of LSC funds invested in improvements to real estate over time.

The proposed amendment would also clarify the distinction between the classification and tracking of an expenditure and the requirement to obtain prior approval. Removing the dollar amount from the definition of “capital improvement” would not, by itself, require prior approval for every capital improvement. Rather, grantees would need to treat and track expenditures that meet the definition as a capital improvement regardless of amount. Meanwhile, the applicable provisions governing prior approval would continue to determine when a recipient must obtain LSC's approval before using LSC funds for the improvement.

This change would ensure that the regulatory definition accurately identifies the nature of the expenditure and that LSC's interest in real estate reflects LSC funds used for

capital improvements, including improvements made through multiple expenditures over time.

IV. Proposed Changes

PART 1631—PURCHASING AND PROPERTY MANAGEMENT

§ 1631.2 Definitions

LSC proposes to revise the definition of "capital improvement" in § 1631.2(a) by removing the monetary amount of LSC funds a recipient may spend to improve real property through construction or the addition of fixtures that become an integral part of the real property.

List of Subjects in 45 CFR Part 1631

Government contracts, Grant programs—law, Legal services, Real property acquisition.

For the reasons set forth in the preamble, the Legal Services Corporation proposes to amend part 1631 of title 45 of the Code of Federal Regulations as follows:

PART 1631—PURCHASING AND PROPERTY MANAGEMENT

1. The authority citation for part 1631 continues to read as follows:

Authority: 42 U.S.C. 2996g(e).

2. Amend § 1631.2 by revising paragraph (a) to read as follows:

§ 1631.2. Definitions.

(a) Capital improvement means spending any amount of LSC funds to improve real estate through construction or the addition of fixtures that become an integral part of real estate.

* * * * *

Dated: November 3, 2026.

Stefanie Davis

Deputy General Counsel and Ethics Officer,

Legal Services Corporation.

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