

funding in order to permit the Corporation to conduct a new competition.

(d) In selecting recipients of awards for grants or contracts under this part, the Corporation shall not grant any preference to current or previous recipients of funds from the Corporation.

#### § 1634.9 Selection criteria.

The Corporation shall consider the following criteria in selecting recipients.

(a) Whether the applicant has a full understanding of the basic legal needs of the eligible clients in the area to be served;

(b) The quality, feasibility and cost-effectiveness of the applicant's legal services delivery approach in relation to the Corporation's Performance Criteria and the American Bar Association's Standards for Providers of Civil Legal Services to the Poor, as evidenced by, among other things, the applicant's experience with the delivery of the type of legal assistance contemplated under the proposal;

(c) Whether the applicant's governing or policy body meets or will meet all applicable requirements of the LSC Act, regulations, guidelines, instructions and any other requirements of law;

(d) Applicant's capacity to comply with all other applicable provisions of the LSC Act, rules, regulations, guidelines and instructions, as well as with ethical requirements and any other requirements imposed by law. Evidence of the applicant's capacity to comply with this criterion may include, among other things, the applicants compliance experience with the Corporation or other funding sources or regulatory agencies, including but not limited to federal or state agencies, bar associations or foundations, courts, IOLTA programs, and private foundations;

(e) The reputations of the applicant's principals and key staff;

(f) The applicant's knowledge of the various components of the legal services delivery system in the State and its willingness to coordinate with them as appropriate to assure the availability of a full range of legal assistance, including its capacity to:

(1) develop and increase non-Corporation resources,

(2) cooperate with State and local bar associations, private attorneys and pro bono programs to increase the involvement of private attorneys in the delivery of legal assistance and the availability of pro bono legal services to eligible clients, and

(3) have knowledge of and cooperate with other services providers,

community groups, public interest organizations and human services providers in a manner that is consistent with the local ethical requirements;

(g) Applicant's capacity to ensure continuity in client services and representation of eligible clients with pending matters.

(h) Applicant does not have known or potential conflicts of interest, institutional or otherwise, with client community and demonstrates a capacity to protect against such conflicts that may arise during the term of the grant or contract.

#### § 1634.10 Transition provisions.

(a) When the competitive bidding process results in the award of a grant or contract to an applicant other than the current recipient to serve the area currently served by that recipient, the Corporation may, if the law permits;

(1) Provide continued funding to the current recipient, for a period and at a level to be determined by the Corporation after consultation with the recipient, to ensure the prompt and orderly completion of or withdrawal from pending cases or matters or the transferral of such cases or matters to the new recipient or to other appropriate legal services providers in a manner consistent with the rules of ethics or professional responsibility for the jurisdiction in which those services are being provided;

(2) Ensure, after consultation with the recipient, the appropriate disposition of real and personal property purchased by the current recipient in whole or in part with Corporation funds.

(b) Awards of grants or contracts for legal assistance to any applicant that is not a current recipient may, in the Corporation's discretion, provide for incremental increases in funding up to the annualized level of the grant or contract award in order to ensure that the applicant has the capacity to use Corporation funds in an effective and efficient manner.

#### § 1634.11 Emergency Procedures and Waivers

The President of the Corporation may waive the requirements of §§ 1634.6 and 1634.8(a)(3) and (5), when necessary to comply with requirements imposed by law on the awards of grants and contracts for a particular fiscal year.

Dated: September 18, 1995.

Suzanne B. Glasow,

*Senior Counsel for Operations and Regulations.*

[FR Doc. 95-23491 Filed 9-20-95; 8:45 am]

BILLING CODE 7050-01-M

## 45 CFR Part 1635

### Timekeeping Requirement

**AGENCY:** Legal Services Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule requires all recipients of Legal Services Corporation ("LSC" or "Corporation") funds to account for the time spent on all cases, matters and other activities by their attorneys and paralegals, whether funded by the Corporation or by other sources.

**DATES:** Comments must be submitted on or before October 23, 1995.

**ADDRESSES:** Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002-4250.

**FOR FURTHER INFORMATION CONTACT:** Victor M. Fortuno, General Counsel, at (202) 336-8810.

**SUPPLEMENTARY INFORMATION:** On June 25, 1995, in order to improve the accountability of recipients for their Corporation funds, and in response to concerns expressed during congressional hearings, the LSC Board of Directors ("Board") adopted a resolution requiring Corporation staff to prepare a regulation specifying a time and recordkeeping system for implementation by LSC recipients. On September 8, 1995, the Board's Operations and Regulations Committee ("Committee") held public hearings on proposed 45 CFR part 1635. After adopting several changes to the proposed rule, the Committee voted to publish the proposed rule in the Federal Register for notice and comment.

This proposed rule requires recipients to account for the time spent on all cases, matters and other activities by their attorneys and paralegals. These requirements apply whether the case, matter or activity is funded by the Corporation or by other sources. Such timekeeping is not now required under 45 C.F.R. part 1630.

Perhaps a quarter of current Corporation recipients already maintain time records that meet most or all of the conditions of the proposed rule. They are already able to avail themselves of the potential benefits of timekeeping to recipients, such as improved supervisory information, better cost estimation in bidding for other funds, enhanced control of priority implementation by their local boards of directors and more informative reports to grantors and the public.

The Corporation is mindful of the costs which this regulation will impose

on its recipients, especially those who currently do not have the capacity to maintain the time records required by this proposed rule. Timekeeping is time consuming, and record keeping systems have real costs. Nevertheless, despite the possibility that implementation of this proposed rule will reduce a recipient's LSC-funded capacity for client services by one- or two-percent or more, the Corporation has concluded that timekeeping by attorneys and paralegals will materially improve recipient accountability for Corporation funds.

If adopted, this part shall be effective January 1, 1996.

A section-by-section discussion of the proposed rule is provided below.

#### *Section 1635.1 Purpose*

This section sets out the purpose of the proposed rule: to improve recipient accountability for the use of funds provided by the Corporation. This section also sets out the manner in which the proposed rule achieves its stated purpose: by assuring supporting documentation of allocations of expenditures of Corporation funds, by enhancing recipients' ability to determine costs, and by increasing the information available to the Corporation for assuring recipient compliance.

#### *Section 1635.2 Definitions*

This section defines "case", "matter" and "activity," the functions of a program for which time records are required to be kept. The definitions are formulated so as to cover all allocations of recipients. Some examples of "matters" are education of eligible clients and development of written materials explaining legal rights and responsibilities. "Administrative and general" is a catchall category within "activity." It is designed to encompass everything that does not fall within cases or matters or fund-raising activities, and would include, for example, skills training and professional activities.

#### *Section 1635.3 Timekeeping Requirement*

This section sets out the timekeeping requirement. It is intended to require all recipients to account for the time spent on all cases, matters and other activities by their attorneys and paralegals, whether funded by the Corporation or by other sources. Recipients must account for one hundred percent of attorney and paralegal time spent in the course of their employment, even if the time is spent outside normal business hours. Allocation of costs based on time and other records continues to be

governed by 45 C.F.R. part 1630, which requires a reasonable basis for allocations of expenses to all funds.

The Corporation does not prescribe either manual or automated timekeeping systems, nor specific report formats or contents. Each recipient will need to determine the appropriate matters and activities for which time will be kept, keeping in mind its particular service patterns. In order to assist recipients, the Corporation plans to make available this fall a manual of forms and operating systems already in use by some recipients.

#### *Section 1635.4 Administrative Provisions*

This section advises recipients of the Corporation's access to the time records required by this part. Since these records will be available for examination by auditors and representatives of the Corporation, they should be maintained in a manner consistent with the attorney-client privilege and all applicable rules of professional responsibility. As a practical matter, this may mean that client names should not appear in time records.

#### List of Subjects in 45 CFR Part 1635

Legal services, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, LSC proposes to amend 45 CFR chapter XVI by adding part 1635 as follows:

#### **PART 1635—TIMEKEEPING REQUIREMENT**

Sec.

- 1635.1 Purpose.
- 1635.2 Definitions.
- 1635.3 Timekeeping Requirement.
- 1635.4 Administrative Provisions.

Authority: 42 U.S.C. 2996e(b)(1)(A), 2996g(a), 2996g(b), 2996g(e).

#### **§ 1635.1 Purpose.**

This part is intended to improve recipient accountability for the use of funds provided by the Corporation by:

- (a) assuring that allocations of expenditures of Corporation funds pursuant to 45 C.F.R. part 1630 are supported by accurate and contemporaneous records of the cases, matters and activities for which the funds have been expended;
- (b) enhancing the ability of recipients to determine the cost of specific functions; and
- (c) increasing the information available to the Corporation for assuring recipient compliance with federal law and Corporation rules and regulations.

#### **§ 1635.2 Definitions.**

As used in this part—

(a) "Activity" means all other actions of or by a recipient, including fund-raising and administrative and general, which are not cases or matters.

(b) "Case" means the provision of advice to representation of one or more clients.

(c) "Matter" means the provision of other program services that do not involve advice to or representation of one or more clients.

#### **§ 1635.3 Timekeeping Requirement.**

(a) All expenditures of funds for recipient actions are, by definition, for cases, matters or activities. The allocation of all expenditures must be carried out in accordance with 45 C.F.R. part 1630.

(b) Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter or activity. Time records must be created contemporaneously and must account for time in increments not greater than one-quarter of an hour which aggregate to all of the efforts of the attorneys and paralegals for which compensation is paid.

#### **§ 1635.4 Administrative Provisions.**

Time records required by this section shall be available for examination by auditors and representatives of the Corporation, and should be maintained in a manner consistent with the attorney-client privilege and the rules of professional responsibility applicable in the local jurisdiction.

Dated: September 18, 1995.

Suzanne B. Glasow,

*Senior Counsel for Operations & Regulations.*

[FR Doc. 95-23489 Filed 9-20-95; 8:45 am]

BILLING CODE 7050-01-P

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 64**

[CC Docket No. 91-35; FCC 95-374]

#### **Operator Service Access and Payphone Compensation**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission adopted a Notice of Proposed Rulemaking ("Notice") seeking comment on tentative proposals for implementing a per-call system of compensation for the largest operator services providers