

periods beginning on or after April 20, 1983. For cost reporting periods beginning on or after April 20, 1983, the amount allowable in determining the return related to inpatient hospital services is determined using a percentage equal to the average of the rates of interest as described in paragraph (b)(1) of this section.

(3) *Rate of return related to proprietary SNFs and outpatient hospital services furnished by proprietary hospitals for cost reporting periods beginning on or after [the effective date of the final rule].* For cost reporting periods beginning on or after [the effective date of the final rule], the amount allowable in determining the return related to SNFs and outpatient hospital services is determined using a percentage equal to the average of the rates of interest as described in paragraph (b)(1) of this section.

(c) *Application—(1) Computation of equity capital.* For purposes of computing the allowable return, the provider's equity capital means—

(i) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds); and

(ii) Net working capital maintained for necessary and proper operation of patient care activities. However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 405.419(b)(3)(ii), is not subtracted in computing the amount of equity capital in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost, or other basis, used for depreciation and other purposes under Part A of Medicare.

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4. Section 405.460 is amended by removing and reserving paragraph (f)(7) as follows:

§ 405.460 Limitation on reimbursable costs.

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(f) *Exceptions.*

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(7) [Reserved]

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(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital

Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 30, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: January 23, 1986.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 86-3551 Filed 2-19-86; 8:45 am]

BILLING CODE 4120-01-M

LEGAL SERVICES CORPORATION

45 CFR Parts 1600 and 1631

Expenditure of Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The proposed regulation provides that carryover funds of grant recipients, except those permitted to be used for representation of ineligible aliens pursuant to 45 CFR 1626.6(a)(3), will be expended with 1986 funds on a first-in, first-out basis. Section 112 of Pub. L. 99-190 provides that prior year funds carried over into fiscal year 1986 by the Corporation and by any recipient will be expended in accordance with Pub. L. 99-180 which appropriates 1986 funds for the Corporation. The regulation will assure that in monitoring and auditing recipients, the Corporation will be able to track carryover funds from prior years to determine that they are not being used for purposes not authorized by Congress.

DATE: Comments must be received on or before March 24, 1986.

ADDRESS: Comments may be submitted to the Office of the General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024-2751.

FOR FURTHER INFORMATION CONTACT: Michael J. Coster, Comptroller, (202) 863-1820.

SUPPLEMENTARY INFORMATION: This regulation responds to concerns that certain activities, such as grassroots lobbying, which Congress restricted in 1982, 1983, 1984, and 1985 appropriations measures would be continued into 1986 and beyond with pre-1982 carry-over funds. The Audit and Accounting Guide for Recipients and Auditors contains a short provision establishing a first-in, first-out requirement (50 FR 49276, 49283, Nov. 29, 1985). Proposed Part 1631 sets forth this requirement in greater detail and provides standards for enforcement and penalties for violations. Section 112 of Pub. L. 99-190 (99 Stat. 1185) requires LSC and its grantees to comply with

current restrictions on the use of prior funds.

The proposed regulations amend Part 1600 to add three new definitions, including "control" as used in Section 7 of Chapter 1 of the Audit Guide referred to above. They permit the completion of cases on behalf of aliens commenced prior to January 1, 1983, and require recipients and subrecipients to submit an annual report documenting the expenditure of all carryover funds on a first-in, first-out basis. The report must include a statement of what efforts have been made to avoid the need for the use of LSC funds to represent ineligible aliens. A conforming amendment will be made to Part 1626 in the final regulation to require recipients to make good faith efforts to avoid the use of LSC funds to represent ineligible aliens—including a requirement for good faith efforts to ascertain whether all clients are, in fact, either citizens, or aliens lawfully within the United States.

Paragraph (a) of § 1631.5 provides for repayment to the Corporation of funds spent in violation of Part 1631, either in a lump sum or by pro rata deductions. The Office of Monitoring, Audit, and Compliance will determine which of the specified methods of repayment is reasonable and appropriate in each case after consultation with the recipient.

Section 4 clarifies the separation a recipient or subrecipient must maintain between restricted and unrestricted funds if it wants to use unrestricted funds for purposes not allowed for restricted funds.

List of Subjects

45 CFR Part 1600

Legal services.

45 CFR Part 1631

Aliens. Grant programs—Legal services.

For the reasons stated in the preamble, 45 CFR Part 1600 is proposed to be amended and new Part 1631 is proposed to be added as follows:

PART 1600—DEFINITIONS

1. Section 1600.1 is proposed to be amended by inserting these new definitions alphabetically as follows:

§ 1600.1 Definitions.

* * * * *

"Carryover funds" means any funds or support not expended at the end of a fiscal year and remaining as a program asset on the first day of the succeeding fiscal year.

"Control" means the direct or indirect ability to determine the direction of

management and policies or to influence the management or operating policies of another organization to the extent that an arm's length transaction may not be achieved.

"First-in, first-out basis" means a method of operation under which a recipient expends all funds carried over from a fiscal year before it expends any funds that have been made available to it for a subsequent fiscal year.

2. New Part 1631 is proposed as follows:

PART 1631—EXPENDITURE OF GRANT FUNDS

Sec.	
1631.1	Purpose.
1631.2	Policy.
1631.3	Representation of certain aliens.
1631.4	Annual reports.
1631.5	Refunds to the Corporation.
1631.6	Separation of funds.
1631.7	Dates.

Authority: Sec. 1006(b)(1)(A), 1007(a)(3) Legal Services Corporation Act, as amended (42 U.S.C. 2996e(b)(1)(A), 2996f(a)(3)); Pub. L. 99-190, 99 Stat. 1185; Pub. L. 99-180, 99 Stat. 1136

§ 1631.1 Purpose.

This part is designed to ensure the timely allocation of Legal Services Corporation (LSC) funds for the effective and economical provision of high quality legal assistance to eligible clients and to provide notice and direction to recipients of LSC funding regarding the use of carryover funds. To that end, recipients are required to expend all funds on a first in, first out basis.

§ 1631.2 Policy.

Except as specified in § 1631.3, all LSC funds and all revenue derived from the use or investment of LSC funds, including those held by separate entities that are under the control of the recipient or subrecipient or its agents or employees are required to be expended on a first-in, first-out basis.

§ 1631.3 Representation of certain aliens.

LSC carryover funds may be reserved and expended, pursuant to the provisions of § 1626.6(a)(3) (Disposition of cases involving representation of ineligible aliens) for completion of cases on behalf of aliens commenced prior to January 1, 1983.

§ 1631.4 Annual reports

Recipients and subrecipients shall provide an annual report to the Office of Monitoring, Audit, and Compliance documenting that they have complied with the provisions of § 1631.2. The

report shall state whether the recipient or subrecipient represents any group or class which may include any ineligible alien and its efforts to ensure that no LSC funds are or have been used to represent ineligible aliens through such group or class representation. If the recipient or subrecipient expended funds pursuant to § 1626.6(a)(3) in the preceding year or has reserved carryover funds pursuant to § 1631.3, it shall provide for each case:

- (a) Date of case acceptance;
- (b) A certified copy from each court or administrative agency in which an action has been filed or, if no such docket is available, a detailed statement of what actions have been taken with respect to any such matter, relevant dates, and the name of the forum;
- (c) A list of the individual attorneys who have appeared for or otherwise represented the client, the time period during which each represented the client, the extent of direct contact each had with the client, and whether each is still an employee of the program;
- (d) A statement of what efforts have been made to terminate its representation of the client(s) (consistent with relevant ethical obligations) and to find alternative funding to cover these expenditures;
- (e) Estimated cost of completion, including, in separate categories, attorney costs and other costs; and
- (f) Estimated date of completion.

§ 1631.5 Refunds to the Corporation.

(a) Any funds spent in violation of the provisions of §§ 1631.2 and 3 of this part shall be repaid to the Corporation in a lump sum or by one or more deductions from the recipient's grant checks for a specific number of months. The Office of Monitoring, Audit, and Compliance shall determine the amount of such repayment and which of the specified methods or repayment is reasonable and appropriate in each case after consultation with the recipient.

(b) No less than 30 days prior to the effective date for repayment either to occur or commence in accordance with paragraph (a) of this section, the Corporation shall provide written notice to the recipient of the amount of funds not expended in accordance with the provisions of §§ 1631.2 and 1631.3 of this part as well as of the method of repayment.

(c) Within ten days after receipt of the notice specified in paragraph (b), the recipient may request the President to review the determination. The President's decision shall be final.

(d) In no way shall any such reduction in LSC support be construed to affect permanently the annualized funding level

of the recipient, nor shall any such reduction in LSC support to be considered to be a termination or denial of refunding under 45 CFR Parts 1606 and 1625 respectively.

§ 1631.6 Separation of funds.

(a) If a recipient or subrecipient has placed funds subject to restrictions contained in a federal statute, a Corporation rule, regulation, instruction or guideline, or a grant or contract condition in the same account with funds not subject to such restrictions, all the funds in such account shall be deemed subject to the restriction.

(b) If funds in separate accounts are controlled by the same person or are under common control, and clear, objective, prior standards are not consistently followed as to what expenses will be paid from which account, all funds in all such accounts shall be subject to all the restrictions.

(c) If funds in separate accounts are controlled by the same person or are under common control, the recipient shall submit an annual report specifying the institution(s) in which the funds are held, each account number, the balance of each account, and for each account, the formal style or designation of all cases for which any expenses have been paid from the account. Such annual report must be approved by the recipient's governing body.

§ 1631.7 Dates.

The annual reports specified in §§ 1631.4 and 1631.6 shall be received by the Corporation no later than 30 days after the end of each calendar year. Initial reports shall be due no later than 30 days after the effective date of this regulation.

Dated: February 12, 1986

John H. Bayly,
General Counsel.
[FR Doc. 86-3404 Filed 2-19-86; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-50 RM-5140]

Radio Stations; FM Broadcast Station in McCook, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 230A to McCook, Nebraska, at the request of Donna Goad, to provide the community with its third local FM service.