

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PROVISIONS COMMITTEE

OPEN SESSION

Sunday, February 21, 1999

10:10 a.m.

Key Biscayne Room
Eden Roc Hotel
4525 Collins Avenue
Miami Beach, Florida 33140

COMMITTEE MEMBERS PRESENT:

Hulett H. Askew, Chair
Nancy H. Rogers
Edna Fairbanks-Williams
LaVeeda Battle
F. William McCalpin
Maria Luisa Mercado
Douglas S. Eakeley

STAFF AND PUBLIC PRESENT:

John McKay, President
Mike Genz
Bob Gross
Karen Sarjeant, VP-Programs
Ted Faris
Jim Hogan, VP-Admin.

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P R O C E E D I N G S

1
2 CHAIR ASKEW: Good morning. Can you hear
3 through these microphones? Welcome. This is a meeting
4 of the Committee on the Provisions of the Delivery of
5 Legal Services. I would note for the record that all
6 members of the Committee are here as well as several
7 other board members.

8 The agenda is found on page 11 of the booklet
9 that was in the back of the room this morning and I'm
10 going to ask the Committee members to make a motion to
11 approve today's agenda.

M O T I O N

12 MS. FAIRBANKS-WILLIAMS: So moved.

13 MS. ROGERS: Seconded.

14 CHAIR ASKEW: All in favor, say aye.

15 (Chorus of ayes.)

16 CHAIR ASKEW: The minutes from the last
17 meeting of November 15 are in the materials. If you've
18 had a chance to review it, I'd ask for a motion that
19 the minutes be approved.
20

M O T I O N

21 MS. FAIRBANKS-WILLIAMS: So moved.
22

1 MS. ROGERS: Second.

2 CHAIR ASKEW: All in favor, say aye.

3 (Chorus of ayes.)

4 MR. MCKAY: Mr. Chairman, as a humble ex-
5 officio and former member of the Committee, there are,
6 I think, a couple of -- with respect to Mr. Gross's
7 testimony during the last meeting of Provisions, and
8 that appears at the last paragraph, the large
9 paragraph, if I could read Mr. Gross's handwriting, Mr.
10 Chairman -- Mr. Chairman, Mr. Gross advises me, and
11 this is my recollection as well of the meeting, that on
12 the third line of that first full paragraph, the large
13 paragraph on page 13, it states that the goal is to
14 develop the capacity on a statewide level.

15 Mr. Gross suggests that his testimony more
16 accurately reflected would be the elimination of the
17 words implement new technologies in an effective way.
18 In other words, I think the intent was not to limit
19 state planning to technology, which was also my own
20 thought as I reviewed these minutes. And the problem
21 would be solved if we eliminated "implement new
22 technologies in an effective way."

1 CHAIR ASKEW: Okay. So the sentence would
2 read the goal is to develop the capacity on a statewide
3 level to better serve needy clients.

4 MR. MCKAY: I think you could eliminate the
5 word "the" and just say develop capacity on a statewide
6 level.

7 MR. McCALPIN: I assume you're going to
8 continue to split the infinitive.

9 MR. MCKAY: Mr. McCalpin, I have always had a
10 problem with split infinitives.

11 CHAIR ASKEW: Actually, it's now legal.

12 (Laughter.)

13 MR. MCKAY: There are two schools of thought
14 on split infinitives. One school of thought studies it
15 carefully, writes about it a lot, becomes terribly
16 offended when they see split infinitives, and the
17 second school of thought knows when they see them but
18 uses them anyway and I unfortunately belong to the
19 latter class.

20 CHAIR ASKEW: And then those of us who don't
21 know what one is.

22 (Laughter.)

1 MR. McKAY: Mr. Chairman, I was not going to
2 mention that. One other change, if I might, Mr.
3 Chairman. About halfway down, the sentence begins
4 "after an assessment by the entire OPO staff, the
5 states are told what steps they can take." To
6 strengthen -- we're suggesting replacing the phrase
7 progress in the area of technology implementation again
8 -- this is the same issue -- and replace -- following
9 they can take too before the strikeout beginning with
10 progress, it would be strengthen their capacities --
11 I'm sorry -- strengthen their statewide capacities to
12 serve clients, period.

13 MS. FAIRBANKS-WILLIAMS: Do you think that
14 this makes this less argumentative or less what?
15 What's the reason for the change?

16 MR. McKAY: Well, the reason for the change --
17 first of all, we want to accurately reflect, I believe,
18 the comments and testimony of Mr. Gross at the
19 Provisions Committee and his comments were more
20 general, I believe, relating to all of the purposes of
21 state planning. Technology improvement is only one.
22 And I think what happened was the prior testimony by

1 Mike Genz and Karen Sarjeant and John Tull relating to
2 the technology conference sort of spilled into these
3 notes and really Bob's comments were with respect to
4 all of the perceived benefits of state planning.

5 Thank you, Mr. Chairman.

6 MS. FAIRBANKS-WILLIAMS: I will accept the
7 corrections.

8 MS. ROGERS: Mr. Chairman, I was not present
9 but I wonder if perhaps Mr. Gross may not have said
10 that the states are advised rather than told?

11 MR. McCALPIN: I think advised is better, too.

12 MR. GROSS: I accept that as a friendly --

13 CHAIR ASKEW: History belongs to the survivors
14 who get to write it? Edna, is that acceptable?

15 MS. FAIRBANKS-WILLIAMS: Yes.

16 CHAIR ASKEW: All right. We have a motion and
17 second to revise the minutes to reflect those changes.

18 All in favor, say aye.

19 (Chorus of ayes.)

20 CHAIR ASKEW: Thank you. Now, the first item
21 on the agenda is to hear a report from the Office of
22 Program Performance on the FY '99 competitive grants

1 process. Karen Sarjeant is here but I understand Karen
2 is going to report on a few things before we get into
3 competitive grants so I'll ask Karen to introduce that
4 part of the agenda to us.

5 MS. SARJEANT: Thank you, Mr. Chairman and
6 thank you for the opportunity to be here again this
7 morning to brief you on just a few activities, both
8 administrative and programmatic, that are happening
9 within the corporation.

10 What I'm going to briefly talk to you about is
11 a restructuring within what was formerly the office of
12 Program Operations. I'm going to talk very briefly
13 about some work we're doing on our case service reports
14 and the reporting process and on the Native American
15 conference that we are planning for May of this year.

16 And then we will have two presentations, one
17 by Mike Genz who will do a competition update on the
18 status of the FY '99 competition. The plan changes for
19 the FY 2000 competition and some technology
20 improvements that we have worked into the process and
21 Mike is currently our director of Program Performance
22 which covers the competitive grants process.

1 And then Bob Gross, who has also been
2 previously introduced to the Committee, who is now our
3 senior program counsel for state planning, will do an
4 update and a discussion on the FY '99 funding
5 decisions, what has happened since those decisions, the
6 current activities that we're undertaking, and what is
7 planned for the future.

8 So the majority of the time will be spent on
9 both competition and state planning and I would like to
10 just very briefly talk to you about the restructuring,
11 the CSR reporting and the Native American conference.

12 In January of '98 when John Tull was the vice
13 president for programs, he reorganized, along with John
14 McKay's agreement, the office of program operation and
15 that was done at that time to eliminate the one unit
16 within the office of program operations, issues and
17 analysis which functions are currently handled by the
18 office of general counsel and to create an information
19 management unit within OPO that would put a more -- a
20 higher focus on the use of grantee data and the role of
21 data gathering and our use of that data by the
22 corporation.

1 At the same time, the director's position of
2 the office of program operations was eliminated so what
3 we had were three units, compliance and enforcement,
4 competition, program improvement and information
5 management, that were headed by two managing program
6 counsels and a managing information specialist, all who
7 were reporting directly to the vice president for
8 programs.

9 Then in June of '98 when John left the
10 corporation and I took over as the acting vice
11 president for programs, I began to reexamine that
12 structure as we were working through various things
13 that we had to do and at that time and since that time
14 I think the managers of those units have been called
15 upon to fulfill a broader role in terms of taking on
16 management responsibilities.

17 And both John McKay and I have talked for
18 quite some time about the importance of both the
19 compliance function and the data-gathering function and
20 the competition and program performance function, none
21 of which is greater than the other. And so John has
22 for quite some time included the three managers of

1 those units in the senior management team and I think
2 that over the months that they have been involved, they
3 have brought a broader and a very important addition to
4 the functioning of the senior management team and an
5 expanded perspective.

6 So after several months in the acting position
7 and with John's agreement, we have restructured what
8 was formerly the office of program operations into
9 three separate offices. So we've converted each of
10 those units into an office. They are currently headed
11 by directors as opposed to managing program counsels or
12 managing information specialist.

13 So now we have the office of program
14 performance which handles all programmatic issues
15 related to competition and program performance issues
16 including state planning. We have the office of
17 compliance and enforcement which has the responsibility
18 for the compliance and approvals, waivers, all kinds of
19 various things that come along the compliance line, and
20 then we have an office of information management.

21 And I would bring to your attention that the
22 directors of those offices, as I have noted previously,

1 Mike Genz, who is sitting here at the table with me, is
2 the director of the office of program performance, Ted
3 Faris is the director of the office of information
4 management, and Danilo Cardona is the director of the
5 office of compliance and enforcement.

6 So those three directors report to me as the
7 vice president for programs. We do not have an office
8 of program operations anymore but we have, which is
9 consistent with the structure of the Corporation, those
10 three offices and those directors reporting to the vice
11 president for programs.

12 The other major and very important structural
13 change that we did was to promote Bob Gross to the
14 position of senior program counsel for state planning
15 and this was done in recognition of the efforts and the
16 responsibility that he is undertaking as a member of
17 the office of program performance to direct the work
18 that our staff and program counsel are doing in the
19 state planning area.

20 So this restructuring became effective
21 February 1 of this year and we think that it is a good
22 recognition of the way we are actually operating and

1 that it puts in place a good management team on the
2 programmatic side of the corporation to effectively get
3 the work done that we need to handle in the coming
4 months and years.

5 So that is -- I just wanted to very briefly
6 let you know about that restructuring and there was
7 notice to the Hill on that restructuring although it
8 didn't require any reprogramming.

9 CHAIR ASKEW: Karen, let me stop you and ask
10 if there are any Committee members or other board
11 members that have any questions about that. Anything?

12 MS. BATTLE: Do you have just a -- it would be
13 helpful just to have a chart so we can see exactly
14 where all the players fall out.

15 MS. SARJEANT: I was very afraid that someone
16 was going to raise that. I forgot the chart. We have
17 one and I would be glad to see that that is made
18 available to each board member.

19 MR. EAKELEY: I think it's one of the first
20 and most important tests of the office of information
21 management.

22 MS. SARJEANT: We will get that out, so there

1 is.

2 CHAIR ASKEW: In terms of program relations
3 and the corporation's interaction with the field, this
4 seems, just from what you've said, to make sense but I
5 think it's critical how those three directors and their
6 staffs relate to each other, to inform each other about
7 what they know and what their relationship is to those
8 programs. I'm sure you've thought that through.

9 MS. SARJEANT: That's absolutely crucial and
10 one of the reasons we did that, because they each have
11 such an important function within the work that the
12 corporation is doing, and just as an example, the three
13 directors and I meet on a weekly basis to talk and
14 share what activities are underway within each office
15 and so there is quite a bit of coordinated work going
16 on. But there was so much of it that it really was
17 somewhat unworkable to have it all funneling through
18 one position and that's why we spread it through three.

19 MR. EAKELEY: I'd just add one other thing. I
20 sat in on a weekly management team meeting the other
21 week and it's now -- all of the directors are also at
22 the table with John McKay and both vice presidents and

1 so it's really, I think, enhanced the status and
2 capacity to focus on what we ought to be focusing on
3 when we have the luxury of time and resources, namely
4 program enhancement and support.

5 MS. SARJEANT: Very briefly, let me tell you
6 about what we're doing on CSRs, the case service
7 reports. In May of '98, we reissued the CSR handbook
8 because it had -- was coming to our attention that
9 there were programs that maybe not coding cases
10 correctly, counting cases correctly and using that
11 system. So we reissued the handbook.

12 Then we undertook a process throughout the
13 summer and early fall to make some revisions to the
14 handbook and those were done and there was discussion
15 with both members of the field and class and our staff
16 about -- and the Office of Inspector General about the
17 issues that we thought were most often being
18 misinterpreted in the use of CSRs so we tried to
19 address those concerns in the revision to the handbook.

20 So we sent that out in November and then again
21 in February we sent out a program letter referring to
22 the revised handbook and giving further guidance on the

1 use of CSRs. And the reasons that we are putting such
2 focus on these activities are we use the CSR
3 information which is information about case closings
4 and the categories of closings to help tell the
5 Congress and others the type of work we do.

6 So it's very important that we have credible
7 numbers and good information and through talking to the
8 Office of Inspector General, talking to some of our
9 programs, it had come to our attention that there may
10 be some areas of the CSR handbook that were being
11 misinterpreted so our numbers had -- might have some
12 areas that could be clarified.

13 We have that out now. Additionally, CLASP has
14 done a memo to the field on the importance of CSRs and
15 the correct -- their interpretation of the correct way
16 to interpret them. I think it's a joint effort. We're
17 trying to get all the field programs to take this
18 clarified information and utilize it and put it in
19 place so that we will have the best numbers that we can
20 obtain to help make our case to Congress.

21 Now, additionally, what the CSRs do is they
22 only count cases and so we're in the process of

1 developing a survey to send out to the field to help us
2 determine what other types of work and how they are
3 currently counting and reporting other types of work
4 because we need to give programs a way to report all of
5 what they do with our money, not just the case work
6 that they do. There are matters and supporting
7 activities and other kinds of things that programs do.

8 We hope to have that survey out in the next
9 few weeks and we hope then to be able to put in place a
10 system that allows programs to report to us the other
11 types of work that they're doing with our funds. This
12 is an activity that is primarily the responsibility of
13 the office of information management and Ted Faris is
14 leading the work in this area both on the CSRs and on
15 the new data survey.

16 So that's what we're doing in that area. Are
17 there any questions about that?

18 CHAIR ASKEW: I'm glad to hear you're doing
19 the survey. I didn't know you were going to do that
20 because one of the things that's always concerned me is
21 brief advice and service and referrals that programs do
22 and then don't get any real credit for it or it's

1 viewed as not particularly important but yet it can be
2 quite important to the client or to the programs
3 activities and we need to find some way to capture that
4 to be able to know ourselves but report to Congress
5 that there's a lot happening that really doesn't result
6 in being counted as a case but it's very important to
7 that individual.

8 MS. SARJEANT: That's right.

9 MS. MERCADO: Especially when you call
10 programs and got quality in your own programs and
11 because such funding can't help everybody that comes
12 in, you can improvise brief service, advice and
13 referral and that time needs to be accounted for.

14 MS. FAIRBANKS-WILLIAMS: And writing them,
15 educational material.

16 MS. SARJEANT: Well, that's the other big area
17 is the community education that a lot of programs are
18 undertaking and we need to give them a way to report
19 that to us in a way that they are then getting credit
20 for.

21 MR. EAKELEY: Are we also looking at ways to
22 evaluate the quality of the legal services or

1 complexity of the case so that even within the case
2 statistics it's still -- there's always the risk of it
3 becoming a bean counting exercise unless there's some
4 way to gauge quality and complexity.

5 MS. SARJEANT: We are. As part of the survey,
6 we're also asking about the types of outcome measures
7 that programs are using. We're trying to have some
8 discussion about that with other funders, for example,
9 like the IOLTA programs that we know that some of them
10 have put in place systems to measure outcomes. So
11 we're trying to cover a broad range of information, not
12 just numbers, so that we will be able to look at some
13 of the qualitative issues also.

14 CHAIR ASKEW: Have we made a decision that the
15 case service reports cannot request information on
16 referrals and community legal education and that sort
17 of thing or is it -- it has to be done with a separate
18 instruction or could it be a part of CSRs?

19 MS. SARJEANT: I'm going to let Ted answer
20 that question because I don't want to give the wrong
21 off-the-cuff interpretation of the CSRs because that
22 will create a whole new problem.

1 MR. FARIS: The short answer to your question,
2 Mr. Chairman, is yes. We inherited a system which had
3 been in place for many, many years which was meant to
4 capture information about what we consider to be cases,
5 those being instances where a program provides a
6 certain level of service to an eligible client which
7 addresses that eligible client's legal problem.

8 We recognize that we are missing a lot of what
9 programs do. We made a decision not to expand the
10 scope of the CSR system so as to bring in a lot of
11 things which it was not initially meant to capture and
12 so what we are going to endeavor to do is to augment
13 that with additional places for collecting information.

14 CHAIR ASKEW: And that won't be just a one-
15 time survey; that will be an ongoing way after you do
16 this first survey?

17 MR. FARIS: We felt as though we did not want
18 to develop a system without fully involving the field
19 in its design. The survey is the first step in
20 starting what we think will be a very thorough
21 discussion about what to do in this area.

22 CHAIR ASKEW: Great; okay.

1 MS. SARJEANT: And then, very briefly, let me
2 tell you about a Native American delivery conference
3 that we are planning for May 23 through 26 of this year
4 in Estes Park, Colorado in Indian country. We for
5 several years have been concerned about special
6 populations and the delivery structure that's set up
7 and the adequacy of services and funding and all kinds
8 of issues related to legal services delivered to
9 special populations.

10 What we are planning to do this year, and
11 we're planning a conference with representatives of the
12 Native American legal community sitting as an advisory
13 committee with us to help plan this, to provide an
14 opportunity for the programs to come together and
15 discuss these delivery issues and hopefully make some
16 recommendations to the corporation about issues and
17 areas where we could make changes or improvements or do
18 things in different ways in terms of how we're either
19 funding Native American programs or the kinds of
20 delivery mechanisms they're using.

21 We're going to be looking at the use of
22 technology in Native American legal services delivery

1 and a lot of other different issues. The agenda is not
2 set yet but, again, the advisory committee is working
3 with our staff. Caroline Worrell and Anh Tu are the
4 two program counsel staff who are charged with the
5 responsibility for developing and implementing this
6 conference.

7 And it is our plan to have and to actually pay
8 for at least one representative from each of our 29
9 Native American programs or components to attend the
10 conference and then we are looking at a range of other
11 invitees to the conference that may come from other
12 federal agencies that represent and have programs for
13 the benefit of Native Americans or some representatives
14 from the tribal court systems, other service providers.

15 So we are hoping that this will just be the
16 beginning in a dialogue that we have with the programs
17 on some of the issues that have not received the kind
18 of attention that they should have received in the past
19 and we're very hopeful that this will give us some good
20 recommendations about ways that we can change some of
21 what we're doing in a way that will improve services to
22 clients in those service areas.

1 So those are kind of some of the major things
2 we have underway and then now I will turn it over to
3 Mike who will discuss the competition process and then
4 right after Mike, Bob will get right into state
5 planning.

6 MR. MCKAY: May I just make a comment, Mr.
7 Chairman, on the last topic which we are also very
8 interested in knowing whether particular board members
9 have an interest in attending. We will keep all board
10 members informed of the Native American conference.

11 We do think this would be a very important
12 opportunity for us and the staff to listen and to bring
13 others in to listen so that we could hear the concerns
14 that are out there. We want to be informed so we can
15 come back to the board and make recommendations if
16 they're appropriate as to how we should best administer
17 this system.

18 There is, I think, a sense out there that we
19 may not be doing that in the best way so if board
20 members are particularly interested in attending, I
21 think it's going to be a very interesting, very
22 productive conference.

1 MS. MERCADO: I just wanted to ask Karen, when
2 you were talking about service providers, for example
3 like the IAA or any other that provide also some kind
4 of services to the Native American communities, I'm
5 trying to figure out how we can jointly service that
6 community better.

7 MS. SARJEANT: That's right.

8 MS. MERCADO: The housing issue, how our legal
9 services programs can deal with those particular
10 housing issues --

11 MS. SARJEANT: That's right.

12 MS. MERCADO: -- on working with the Native
13 American housing programs --

14 MS. SARJEANT: What we want to do is bring in
15 the full range of the types of services and
16 representatives to have that discussion. We also want
17 to focus on the issue of what other funds, non-LSC
18 funds, are out there that we could be instrumental in
19 helping programs access to expand their ability to
20 provide legal services. So we're digging around trying
21 to locate who would be appropriate to attend and
22 participate in those discussions.

1 CHAIR ASKEW: Great. Welcome, Mike.

2 MR. GENZ: Thank you. Good morning. I have
3 two tasks this morning. One is to summarize the grant
4 competition process for last year for FY 1999 and the
5 second is to discuss changes we're making to make it
6 better and to address things that we need to look at.

7 I want to take one thing from that section out
8 of order to talk about one design question we're
9 looking at with respect to the Native American
10 population because that's what we've been talking
11 about.

12 One of the concerns about what we're getting
13 back from the application process has been although
14 we've asked for responses for programs that are not
15 exclusively to Native American services but that have a
16 Native American component, to address those issues in
17 the appropriate sections, how different intake is or
18 how the determination of needs are, we've not gotten
19 that information as clearly and distinctly as we need
20 it so we're taking several steps to do that so that
21 we'll have that base of information and also to be
22 emphasizing the particular needs and differences, make

1 sure that we're reaching that community in the way in
2 which they need to be reached.

3 One is by emphasizing the questions and
4 another way is by making individual contacts to those
5 applicants for those service areas before the
6 applications are back to make sure that they understand
7 that these need to be addressed, and we'll follow-up in
8 looking at them to make sure we've got that covered.

9 The first topic, on the 1999 competition,
10 there were 136 service areas subject to full
11 competition. Of course, there were the renewals also.
12 In four of the service areas, we had more than one
13 applicant. In those, of course, we went through the
14 full process of reviewing completely the papers, of
15 having a capability assessment where we go to the
16 applicants on site, of convening a review panel, of
17 getting a report from the review panel, getting a final
18 report from the staff and then the decision of the
19 president of the award from the information that he has
20 in front of him.

21 The first of those was in Ohio. The Ohio non-
22 service area of Butler and Warren counties, the

1 provider at the time was Butler Warren Legal Assistance
2 and the other applicant was the Legal Aid Society of
3 Cincinnati. The grant was awarded to the Legal Aid
4 Society of Cincinnati. It should be noted that those
5 two entities were in the process of talking about
6 merger, have now completed those talks and a merger
7 will occur in April or will be finished in April.

8 The second service area with more than one
9 applicant was in the New Mexico-4 service area. That
10 covers a total of 15 counties in the Northern New
11 Mexico area. The provider at the time for that
12 territory was the Northern New Mexico Legal Services
13 and the other applicant was Justice, Inc. The grant
14 for this period was awarded to Northern New Mexico
15 Legal Services.

16 The third area where we had two competitions
17 was in Michigan, the MI-3 service area. The provider
18 at the time was Wayne County Neighborhood Legal
19 Services and the other applicant was Legal Aid and
20 Defender of Detroit. The grant was awarded to Legal
21 Aid and Defender Association of Detroit.

22 The fourth service area was in California,

1 covered Alameda County and the service area was CA-6.
2 At the time of the competition, the current provider
3 was an interim provider because Legal Aid Society of
4 Alameda Counties' service to the area had been
5 terminated. They'd been on month-to-month, as you
6 remember, for 17 months. Their grant had been
7 terminated. So the two competitors were the Legal Aid
8 Society of Alameda County and the Volunteer Legal
9 Services Corporation, the bar organization of Alameda
10 County.

11 Because of the state planning process that
12 we'll be talking about soon, where that service area is
13 to be combined with other Bay Area counties, the
14 decision of the president was to award on an interim
15 basis, the interim provider, San Francisco Neighborhood
16 Legal Assistance Foundation who had been the provider
17 for the six months previously to continue to be the
18 interim provider for the reason that a change in
19 service area, bringing somebody in new at this time
20 when there would be another change in the next year,
21 was not thought to be appropriate.

22 MS. BATTLE: I have a couple of questions.

1 Did I hear you say that San Francisco submitted an
2 application for the Alameda County area?

3 MR. GENZ: No. The only two competitors were
4 the other organizations, subject to our ability to
5 appoint interim provides. We had San Francisco as an
6 interim provider and the determination was made to ask
7 and they accepted to continue in that role for the
8 year.

9 MS. BATTLE: Okay. I also understand that in
10 Ohio there were some discussions about merging. In
11 Michigan, the award was to Legal Aid and Defenders of
12 Detroit. Was there any discussion about merger between
13 that and the Wayne County program or was this an
14 outright award to a different program?

15 MR. GENZ: No. This was an outright award to
16 a different program.

17 MS. BATTLE: In New Mexico, the service
18 provider in New Mexico was the previous provider to
19 Northern New Mexico?

20 MR. GENZ: That's correct.

21 MS. BATTLE: Okay.

22 MR. GENZ: In that competition and that one

1 alone we went with the previous provider.

2 MS. BATTLE: I'm trying to get an assessment.
3 So out of the competitions, you maintained with one and
4 there was movement on two others and a merger on the
5 fourth.

6 MR. GENZ: That's correct.

7 CHAIR ASKEW: Nancy?

8 MS. ROGERS: Were any of those in the
9 competitions new organizations?

10 MR. GENZ: To legal services provision?
11 Right; yes, they were. The three, all except for the
12 Legal Aid Society of Cincinnati, were not grantees of
13 the corporation in the past. The other three have not
14 been. Two of the volunteer Legal Services Corporation
15 and LADAD, the Legal Aid and Defender Association of
16 Detroit, existed as legal services providers before but
17 they weren't our grantees.

18 MS. ROGERS: What about Justice?

19 MR. GENZ: Justice, Inc. was a newly-formed
20 organization, formed of people who had given service in
21 other locations in the legal services world but it was
22 a new organization as far as grant.

1 MR. EAKELEY: Mike, how many service areas
2 were we drawing in this past year?

3 MR. GENZ: For FY 2000?

4 MR. EAKELEY: Yeah.

5 MR. GENZ: One --

6 MR. EAKELEY: Is that coming up later? Okay.

7 MR. GENZ: We can certainly answer it.

8 MR. EAKELEY: No, I'll wait. I'll withdraw
9 the question.

10 MS. BATTLE: One last question on process so
11 that I'll understand how this works because with
12 competition you get the opportunity of course for
13 others to be able to bid on particular service areas
14 and for each of them, do they go through the review
15 panel and have some recommendation made by the review
16 panel and then a staff recommendation, and on the
17 decisions that were made where a long-term provider was
18 not selected, was it because the review panel -- both
19 the review panel and the staff agreed that that should
20 be the case?

21 MR. GENZ: In no instance was there a
22 recommendation -- no, I'll take that back. With

1 respect to the California situation, the review panel
2 and the staff recommendations were looking entirely at
3 the two organizations that had applied. The ultimate
4 decision was made looking at the overall situation at a
5 later period of time by the president who had at that
6 time the state planning information before him. But
7 the recommendation was in favor of the organization
8 that had applied, volunteer Legal Services Corporation.
9 In none of the others was there a recommendation that
10 the current applicant be re-funded, get the
11 application --

12 MR. McCALPIN: I think the question was were
13 there any situations in which the review panel and the
14 staff disagreed.

15 MS. BATTLE: Yes, that was the question.

16 MS. SARJEANT: Yes, there were and under the
17 regulation when that happens, the staff recommendation
18 has to address where those differences are and then the
19 final recommendation is made by -- the final decision
20 on funding is made by the president. But in a couple
21 of the multi-applicant service areas, there were
22 differing recommendations from the review panel and the

1 staff.

2 MS. BATTLE: Which ones? I'm just trying to
3 gain an understanding of how that works.

4 MS. SARJEANT: There was in Michigan, there
5 was a differing recommendation.

6 MR. MCKAY: Well, if I could just interject,
7 in Michigan I believe both of the panels recommended
8 that the current provider, who was Wayne County Legal
9 Services, should not be awarded the grant, although the
10 recommended -- the staff recommended one applicant and
11 the review panel recommended that neither applicant
12 receive the award which came to me in that form and I
13 selected the other applicant.

14 MS. SARJEANT: Right.

15 MS. BATTLE: So really, I guess what I'm
16 trying to see is that really you get presented with
17 dilemmas because from what I'm hearing, what could
18 happen is you had a situation where you actually had
19 two applicants, neither was found appropriate in, was
20 it the Michigan situation, and that was the same
21 situation in Alameda County ultimately.

22 MR. MCKAY: No. That's not accurate.

1 MS. SARJEANT: No, they're different.

2 MR. MCKAY: They're very different but -- let
3 me take --

4 MS. BATTLE: Take Wayne County and explain it
5 to me.

6 MR. MCKAY: Let me explain since I -- I guess
7 I -- under the process I was the final decision-maker
8 and I think that's important to understand that the way
9 the statute is created, the president does make the
10 final decision on these grants.

11 The process under our regulation sets up an
12 outside review panel and a staff panel both of which
13 come to me in separate packages. In the Wayne County
14 situation, both the outside panel and the staff panel
15 recommended that the current provider, Wayne County,
16 not receive further federal funding.

17 So from my standpoint, I had that
18 recommendation from both review panels. The staff
19 recommendation was that the grant be awarded to the
20 other applicant. The outside panel, I believe, did not
21 go that far and said that they were not convinced that
22 the new applicant should be awarded a grant. I think

1 that's a fair statement of the tenor of the outside
2 review panel.

3 And my decision. -- actually, I was -- if it's
4 helpful to give you my thinking on this was that it was
5 very clear to me that the current provider should not
6 receive the grant so half of my decision was, I think,
7 very clearly made in the recommendations and as to who
8 should receive the grants, I was persuaded on very
9 careful review of the information in both reports, the
10 outside review panel and the interim -- and our staff
11 review that the other applicant was capable of doing
12 this job and I'd be glad to give you more detail on
13 that. And so I did make the decision to award the
14 grant funds to the Legal Aid and Defender Association.
15 So that was the decision there.

16 Alameda was a different situation. In
17 Alameda, the recommendation came to me that the -- that
18 both outside panels indicated that the prior recipient
19 should not receive federal funding so that part, I
20 didn't disagree with that decision. And both panels, I
21 believe, recommended that the new applicant receive the
22 funding.

1 The problem really was one of timing in my
2 judgment which was those applications came in before
3 our state planning decision, which you'll hear about in
4 a moment, to combine all the service areas. My feeling
5 was that a new applicant applying for Alameda would be
6 spending a lot of time starting up and learning the
7 Alameda service area as a brand new provider, hadn't
8 provided legal services in the past, and then would be
9 subject in a year to applying for what had previously
10 been six service areas in San Francisco.

11 It seemed to me that, given our reviews of how
12 the San Francisco program was handling that grant on an
13 interim basis, it would be better to keep them for a
14 year if they would agree on an interim basis in
15 Alameda, let everybody regroup and decide how we were
16 going to staff and provide a grant in the greater
17 program created in state planning.

18 And I think that the response to that from the
19 applicant has also been a good one and an understanding
20 one.

21 MS. BATTLE: Okay. I guess I'm trying to get
22 a good grasp of the scope because particularly -- let's

1 say -- and this is a hypothetical so I'll understand
2 how it works. Let's say in Michigan if the
3 determination was made that neither of the applicants
4 was appropriate for providing a service, then the
5 president has the authority to find some other measure
6 or some other non-applicant provider.

7 MR. MCKAY: An interim provider could be
8 selected.

9 MS. BATTLE: And you had an interim already in
10 Alameda County so you just relied on that interim to
11 continue, given your state planning arrangement.

12 MR. MCKAY: Yes. That's right.

13 MS. BATTLE: I just don't recall how our
14 regulation and how the statute worked in a situation
15 where none of the applicants met whatever the criteria
16 was by either the independent review panel or the staff
17 as to how we make provisions to ensure that a
18 particular service area continues to be served.

19 MR. MCKAY: Well, we are required under the
20 reg then to seek out an interim provider in that
21 circumstance and in effect that's what happened in the
22 Bay Area as we asked the interim provider who had

1 previously agreed to provide service for a much more
2 limited period of time if they would consider serving
3 in that capacity during calendar year 1999 and they did
4 agree.

5 And we're very pleased, by the way, with the
6 performance of the San Francisco program in Alameda.
7 And I believe that is the response pretty universally
8 in Oakland and Alameda County that they're doing a
9 tremendous job there.

10 MS. SARJEANT: Under the regulation, the
11 corporation has quite a bit of discretion in terms of
12 what it does to make sure that there are continued
13 services to the service area if in fact neither
14 applicant is deemed to be the successful applicant and
15 that's in 1634.8(c) in the regulations. We could find
16 private attorneys, we could get an interim provider, we
17 can ask a neighboring program to be the interim
18 provider. There are several different things we could
19 do.

20 MS. BATTLE: Okay; that's helpful.

21 MR. GENZ: As you know and as you have
22 established, our charge in competition is not only with

1 respect to those situations where we get multiple
2 applicants but also our charge is to make sure for each
3 applicant and each service area that we have an
4 applicant who is capable of effective and efficient
5 delivery.

6 So with respect to those other service areas,
7 we had 132 of them, in 118, that is the vast majority,
8 the current provider was reinstated as the grantee
9 without any restrictions based on the merit of that
10 application.

11 MR. EAKELEY: Those mean 118 3-year grants?

12 MR. GENZ: No, they're different lengths
13 depending on the state planning process that you'll be
14 hearing. The without restrictions is with respect to
15 the quality of the applications, the fact that we're
16 not doing any further reviews in those areas. There
17 were 11 grantees where we are engaging in a review
18 process requiring them to address identified areas of
19 concern within the next year period, to begin a
20 dialogue with the SRP to work on these areas or to
21 clarify if maybe we don't have it right from the paper
22 record, maybe everything's fine but to pursue that

1 process in 11 of those areas.

2 CHAIR ASKEW: Remind me what an SRP is.

3 MR. GENZ: I'm sorry. State responsible
4 person. We have within our program counsel ranks -- we
5 have somebody for each state.

6 MS. BATTLE: For the brand new entities coming
7 within the fold in the competition process, how long is
8 the grant time frame for those entities?

9 MR. GENZ: Well, for San Francisco, with
10 respect to that territory, it's doing the interim grant
11 for one year till the next competition cycle. In
12 Michigan, the state planning period is two years so
13 that's the length of the grant for that new entity.
14 And those are the two. New Mexico is the current
15 provider and that's a three-year period for New Mexico
16 so that grant is for three years. In Ohio, the grant
17 is for one year so that's what they have.

18 So there are 11 grantees where that process of
19 reviewing and addressing identified areas of concern is
20 happening and in two of those, there will be visits,
21 capability assessment visits coming up within the year.

22 In addition, there was one service area or

1 three service areas with one provider, that is in
2 Colorado -- the service areas are Colorado-2, migrant
3 Colorado grant and the Native American grant, INCO-1,
4 where the provider was Colorado Rural Legal Services.
5 And the determination of our process there was that
6 they would need an interim provider pending a re-
7 competition that's happening now where the decision
8 will be around July 1 or in that period.

9 So this is an example of our use of the
10 provisions of our ability to appoint an interim
11 provider. In that case we're appointing the current
12 provider to continue for that period and there will be
13 a new competition there and the new competition is
14 underway in that territory.

15 Renewal applications were also processed. We
16 had 157 renewal applications so if you have a three-
17 year grant or a two-year grant, you still make a
18 renewal application and those are reviewed to consider
19 changes in the delivery structure, CSR data, any
20 regulatory concerns that we have. Those were all
21 processed and all of those were given renewal grants.

22 In one of those, there was a successor that

1 followed our process of being a legal services
2 successor-in-interest so it was the new provider there
3 because of the change. We followed our process.

4 MR. EAKELEY: To what extent have we developed
5 the capacity in the grant process to offer assistance
6 to programs, grantees and applicants to improve the
7 quality and effectiveness of their delivery? Or
8 another way of putting it, how much of our time is
9 spent dealing with processing the paper and dealing
10 with problem programs and how much is left over in
11 order to help the balance of the programs improve their
12 delivery?

13 MS. SARJEANT: I think we are -- there are
14 several ways in which we are working directly with the
15 programs. When we go out and do capability assessment
16 visits, we are also, those involved, having discussions
17 with various staff and talking about the ways they're
18 doing things and it's kind of not only a capability
19 assessment but suggestions are given about how to do
20 things.

21 We have folks assigned, the SRPs are assigned
22 to different substantive areas so that if a program

1 calls and says that they're trying to, for example,
2 take a new look at how they're doing intake or
3 community education, we then put them in touch with the
4 SRP who is specializing in that area so that they can
5 get them the information that we have available and put
6 them in touch with people around the country that we
7 know are working in those areas. And then Bob is going
8 to talk about the technical systems grants and the
9 state planning process.

10 Also in Danilo's shop, in compliance and
11 enforcement, one thing that -- when his staff goes out,
12 whether it's on a complaint investigation or looking at
13 other issues, they are being not only looking at what
14 is done but they talk to the program about what they
15 need to do to improve their policies and procedures to
16 make sure that they're in compliance with the
17 regulations and things like that.

18 So there is I think a lot going on in terms of
19 interaction with the programs on quality issues. We
20 would love to have the capacity to do a lot more of
21 that. We're using some consultants to help us be out
22 in the field more to do some of that work, and then

1 there's a lot going on around the CSRs, again, that Ted
2 is leading that effort to help programs in terms of
3 knowing and figuring out the appropriate way and
4 correct way to report to us what they are doing.

5 MR. EAKELEY: I'd just like to suggest that
6 this might be a topic that the committee revisit
7 periodically and see whether we can marshall further
8 resources and whether they might be effectively
9 deployed in this particular area.

10 CHAIR ASKEW: Would it be fair to say that
11 given the minimal levels of staffing in the areas that
12 you're responsible for and the demands of state
13 planning and competition that you don't have as many
14 resources, either money or people, as you would like to
15 have to assist programs with quality improvement?

16 MS. SARJEANT: Very fair to say.

17 MR. EAKELEY: Is it also fair to say, though,
18 you think there is a potential for doing more if we
19 could?

20 MS. SARJEANT: Yes.

21 MR. EAKELEY: I mean, if there is an ability
22 here -- I don't want to use sight of the fact that this

1 particular opportunity is one that needs to be seized
2 whenever we can.

3 MS. SARJEANT: We always would like to be in
4 the position of doing more and one of the things that
5 we have to struggle with is a staff who wants to
6 continually take on more because they want to be out
7 there working with the programs. We are currently in
8 the process of hiring for five positions, three within
9 the office of program performance and two within the
10 office of compliance and enforcement.

11 One of the positions that we're hiring within
12 program performance will be a program counsel with an
13 emphasis on technology who can actually work very
14 directly with programs on field technology and we're
15 hoping to have those positions filled in the next month
16 or two. But we'll take more. We'll take more.

17 MR. GENZ: And the way field technology is and
18 how it works, it tends to look at so many other
19 different areas, too; case management affected by
20 access in terms of ability to give pro se help and to
21 do the intake systems, the ability to supervise legal
22 work and to be in contact with others who can be

1 helpful, so much of that is connected with technology
2 and the people that we're looking at for that position
3 are people that bring not just the technological
4 expertise but the ones who've been out in the field and
5 have been supervising and therefore know that potential
6 so they can add to that also.

7 CHAIR ASKEW: Maybe you can get Mr. Tull to
8 come back.

9 MR. GENZ: Okay.

10 MR. EAKELEY: We already have our new vice
11 president.

12 MS. SARJEANT: Yeah; I think I should say
13 something about that.

14 MR. GENZ: Very briefly, the next part of it
15 is the goals for improving the process this year and I
16 think a lot of this we hope to come to address some of
17 our ability to give some feedback in this process. We
18 have two basic goals. One is to streamline what we're
19 doing and the second is to allow us to look at our data
20 not just program by program but allow us to look at
21 patterns.

22 With respect to streamlining the process, it

1 should be clear from this discussion of everything else
2 we want to do how important that is. In this
3 particular year, we have a lot more proposals to
4 analyze than we had before. We have 183 programs that
5 are coming up and they serve 238 service areas; that's
6 much more than last year. We've got almost twice the
7 volume of work.

8 Also, a goal for streamlining of course is to
9 give us -- to free us up to do the work for state
10 planning and for technology and for getting out to the
11 field and doing what we can in program improvement
12 areas of all sorts.

13 The second goal is so that we can have the
14 information we have be useful, again, not only
15 evaluating the one program but answering questions
16 laterally. In a particular state, who has a good
17 intake system? Where is PAI being done well in the
18 west, so that when these questions come up we'll begin
19 to have a better handle on the overall picture and can
20 refer -- can have this database for state planning and
21 for other purposes to begin to answer these questions.

22 The two goals may seem paradox but in fact is

1 the one solution of making the process more
2 computerized to give us the handle on the information
3 we want. We have collected -- throughout competition
4 we've collected budget data and staffing and CSR data.
5 What we're going to be doing with this now is allowing
6 the database and the computer process to identify those
7 areas we need to look into more intensively and not
8 just have our individual reviewers looking over the
9 data, picking out what they might pick out or what they
10 might miss. This will be easier, it will be more
11 effective and it will be more sure in terms of what we
12 have. This is a project undertaken by the office of
13 information management for us. We're working closely
14 with them to design ways in which we can have this be
15 more usable.

16 The second thing we're doing is to simplify the
17 evaluation process so that the reviewer, when he or she
18 has in front of them that 45-page essay, has an easier
19 time of it and gives us more useful information. The
20 procedure we've had in the past is you have 17 large
21 questions so essentially you have reviewers writing 17
22 little essays justifying their answer.

1 The procedure we're setting up now would have
2 preformed strong answer and weak answer elements and
3 the reviewer would check those and then have a space on
4 the form to indicate something that doesn't fit. Not
5 only is that a lot easier to do but it gives us a
6 chance to aggregate those responses and see what's
7 strong and what's weak and those patterns.

8 So in the system we believe that we will have
9 a system that will be more efficient and that will be
10 more useful to our other efforts of the identified
11 projects. I've already identified the only area in
12 which we're working on looking at the content of the
13 questions we're asking this year with respect to the
14 Native Americans. We didn't want to take on that
15 project. Again, we don't want to waste our resources.
16 Thank you.

17 CHAIR ASKEW: Thank you, Mike.

18 MR. GROSS: Good morning, Honorable Chairman.

19 CHAIR ASKEW: Good morning.

20 MR. GROSS: Members of the Committee, it's my
21 pleasure to be here again to talk to you about state
22 planning. I'm going to answer your question about

1 service areas first.

2 As you know, the competitive bidding process
3 usually begins with the publication in the Federal
4 Register sometime in April of the service areas to be
5 bid for the following year and so we're coming upon
6 that. The competition decisions that were made last
7 year for this current year in three states, we made one
8 year funding decisions in either the whole state,
9 Nebraska, or in certain areas, in California, the Bay
10 Area and in Tucson, some service areas in there, and we
11 announced at that time that for the coming competition,
12 those service areas will be combined so that the then-
13 current recipients are receiving funding for the
14 duration of this year but in 2000 there will be
15 different service areas.

16 So in those states and in those areas of those
17 states, the recipients are working together to forge
18 new alliances and to determine how best to serve those
19 new areas.

20 Let me also touch on what came up yesterday
21 which is the state planning technical assistance
22 grants. We're happy that there are some funds that we

1 can make available to the states to assist them in
2 their planning and in their implementation of their
3 plans. As you know, we have set aside \$75,000 to
4 assist the states. Grants would be in the range of
5 five to \$10,000 at this point, in our thinking, with no
6 match required. Grants could range up to \$15,000 if
7 the states produce a match of each dollar over \$10,000
8 so that there's an incentive for larger grants for the
9 states to contribute.

10 The thinking on matches is that we don't want
11 to require them, we may want to have a preference for
12 them so that our recipients and other stakeholders who
13 are eligible, more on that in a second, can leverage
14 other funds so that we can make the most of the limited
15 dollars that are available.

16 The purposes for which the grants will be made
17 are broad, assisting the states to advance
18 comprehensive delivery systems. We want the states to
19 define what their priorities are and what their needs
20 are and we've designed a very simple application
21 process which requests no more than a two-page letter
22 with a very simplified budget. We want to set a

1 deadline of April 1. We've already spread the word
2 that we hope the board will approve this initiative in
3 its meeting tomorrow.

4 We are prepared to fax all our recipients;
5 through the good graces of the American Bar
6 Association, there will be an e-mail to their list
7 serve and a fax also to state bar presidents and
8 presidents of -- I'm sorry -- executive directors, I
9 believe, of the larger bars in the country as well as
10 all the IOLTA executive directors. Because the
11 eligible applicants include not just current recipients
12 but other stakeholders, bar associations, IOLTA
13 programs, whoever has been involved in state planning,
14 there is one requirement that they have been involved
15 and that their application touches upon areas that will
16 advance comprehensive integrated delivery in their
17 states.

18 Reporting will also be simple; two-page
19 maximum when funds are expanded. We hope to have
20 applications, as I said, in by April 1, decisions made
21 by April 15. We realize that there is a need out there
22 and we want to meet that as soon as possible. So

1 that's the gist of that program.

2 CHAIR ASKEW: Great. And I think as we heard
3 yesterday, \$75,000 is a starting figure you're
4 committed to and if the emergency fund is not
5 exhausted, you might transfer some of those funds into
6 technical assistance funding later in the year?

7 MR. GROSS: Yes. We would be very happy to be
8 in that position.

9 CHAIR ASKEW: What would be the timing of that
10 in terms of the emergency funds? Are they available on
11 a calendar year so it would be looking at the fall to
12 see if there are funds or is that a fiscal year?

13 MR. EAKELEY: It's fiscal.

14 MR. MCKAY: I think it would truly fit into
15 the fiscal year of our budget planning process. We're
16 pretty confident, Mr. Chairman, that we will have some
17 additional funds. There's been some dialogue with Dave
18 Richardson and Jim Hogar. and Karen but we've already
19 had one round of discussions where we think we really
20 will be able to replenish that fund. As I said
21 yesterday, I think the request for this assistance will
22 be pretty brisk and Bob will be pretty popular here

1 over the next few weeks and will be coming back. And
2 we've indicated we expect him to do that.

3 CHAIR ASKEW: Yes.

4 MR. HOGAN: Those funds are available until
5 expended.

6 CHAIR ASKEW: Identify yourself for the record
7 first.

8 MR. HOGAN: James Hogan, vice president,
9 administration. Those funds will be available until
10 expended and if, during the course of the year, we
11 should get some funds back from other programs for
12 whatever reason, if those funds would have come before
13 -- during the course of the year, we would ask the
14 board to transfer those funds over also. It's the same
15 grant funds so the funds we begin the year with are
16 available until expended.

17 We have some requests pending currently with
18 respect to disaster relief and those will be resolved
19 during the course of the year. So as the year goes on,
20 we could actually pick up some more funds and then
21 we'll have a clearer picture of what disaster relief
22 funds would be needed. But the balance we're starting

1 out with is available until expended.

2 MR. GROSS: Let me go back to where we began
3 with decisions that were made last December in the
4 competition where for the first time the corporation
5 married its competition process with state planning and
6 as you'll recall, at the last meeting I discussed the
7 process we use to review the state plans that we have
8 received in October from the states that were in
9 competition.

10 That process involved a team of 12 staff at
11 LSC and some consultants reading each plan and then a
12 primary reader who made a written evaluation of that
13 plan. We all then discussed those plans and other
14 information that we had gathered over the years about
15 programs and state systems.

16 We developed and drafted what we call feedback
17 letters which we sent the states, which were our
18 assessments of the strengths and weaknesses of their
19 plans. Both the state plans and our feedback letters
20 are posted on our recipient information network and
21 have been made available to various stakeholders as
22 well as our recipients.

1 Ultimately, that review process led to the
2 grant decisions that we made in December in those
3 states, principally, around the term of the grants, the
4 length of the grants, and let me recap what we did
5 there.

6 We essentially had three different funding
7 lengths; three-year funding, two-year funding and one-
8 year funding. Three-year funding was made to states
9 where we felt that there was significant progress had
10 been made towards development of a comprehensive
11 integrated delivery system as reflected not just in the
12 planning report that we receive but the planning that
13 had gone on in those states for a number of years. New
14 Mexico and Massachusetts were those two states. We
15 thought they were and are very good models of what
16 we're looking for nationally.

17 In a number of other states, we felt that some
18 progress had been made, in some cases some substantial
19 progress, in addressing the issues that we posed, the
20 questions we posed in our planning letters and the
21 elements of a comprehensive integrated system but we
22 felt that further work needed to be done. And we tried

1 to advise the states of what we thought that work
2 should consist of.

3 In some of those states, configuration, which
4 was the seventh item that we looked at, remains an item
5 that we have asked the states to take a look at. We
6 believe in some states this is not a front burner issue
7 but in other states, and we have so advised and we
8 think that some attention needs to be paid to that in
9 the following year and we've asked those states to
10 submit additional information and to please take
11 another look at the whole array of issues that we
12 identified in the planning letters as well as
13 configuration.

14 CHAIR ASKEW: These are the two-year.

15 MR. GROSS: These are the two-year states;
16 right. And those states were Kentucky, Michigan,
17 Missouri, North Carolina, West Virginia and Wisconsin.
18 And I think if you look at our feedback letters you
19 will see that our assessment is every bit as different
20 as those states are.

21 CHAIR ASKEW: In some of those states but not
22 all configuration was an issue, but not in all of those

1 states.

2 MR. GROSS: Not in all of those states is it
3 on the front burner at all. In one state, for example,
4 our feedback letter said we presume that the present
5 configuration is appropriate. The challenge is for you
6 all to work together to develop further -- and
7 specifically in that state there were some questions
8 about integrated intake, technology and some other
9 items but we did not think that the configuration was
10 an impediment to expanding services to clients and
11 being as effective as possible.

12 There are other states where we noted that we
13 think incredible progress has been made, they have
14 strong state partnerships but we believed that the
15 configuration of programs is still something that needs
16 to be looked at over the next year.

17 There were two states where we made one-year
18 funding, where we feel that substantial LSC involvement
19 will be required and has been given those states or we
20 have spent significant time in those states in the last
21 several months. Their plans in one case, Indiana, we
22 felt fell far short and we asked them essentially to go

1 back to the drawing board and produce another plan of
2 course by this March 1.

3 Ohio got a late start in their planning and
4 asked for an extension and we granted it and their
5 first planning report is due March 1. We have had the
6 same LSC consultant working actively, Randy Ewells by
7 name, in both of those states. She has spent a whole
8 lot of time in Ohio recently, also in Indiana, has been
9 very much engaged with the programs and a number of
10 stakeholders there and we eagerly await their reports.

11 There was one other state which received all
12 three funding ranks, one, two, and three, and that's
13 California. California adopted a regional approach to
14 planning or I should say a combined approach where they
15 talked about those things that they're doing on a
16 statewide level to integrate program services and the
17 efforts of other providers and then they also said that
18 certain functions are best carried out in a state of
19 that size and that diversity on a regional level and so
20 they had some plans for different regions of the state.

21 And so we looked at each of those regions and
22 we found as much variation within California as we did

1 among other states. So in that state, in the northern
2 part, for instance, we made three-year grants to two
3 recipients in the north. Most other recipients in
4 other regions received two-year grants.

5 And again, even in that area where there was a
6 three-year grant, there was specific feedback in our
7 letter about their regional effort as well as the
8 statewide effort and as you know, in the Bay Area, we
9 made a one-year grant and we have notified the programs
10 in that area that we will bid one service area this
11 April for the year 2000.

12 We have spent a lot of time in California
13 recently, actually since that decision and in
14 particular recently, two of our program officers for
15 that state spent a whole week in California two weeks
16 ago, I think has the phone attached to her ear. She
17 has been very involved with that state and we are
18 trying, particularly in a state that large with the
19 different regions, to supplement the feedback we gave
20 them in our letter which of necessity can't be complete
21 but to supplement that with more information about what
22 we're looking for and to continue the dialogue and to

1 continue to learn from those states.

2 As I mentioned, one-year funding was also made
3 in Nebraska where there were three -- where there are
4 for this remaining year three recipients. There will
5 be one -- in Nebraska there has been considerable
6 follow-up. We have actually been facilitating state
7 planning sessions that have been going on since our
8 decision.

9 We have a consultant out there along with our
10 staff person. Three weeks ago now they facilitated a
11 two-day meeting that had bar leaders, IOLTA funders,
12 non-LSC providers, our own recipients there to forge a
13 new day in Nebraska. We have also been in touch in
14 Arizona where around Tucson, two service areas, basic
15 field service areas will be combined and four Native
16 American service areas will be combined.

17 Those are what happened and sort of what we're
18 doing in those states. I sense a question coming.

19 MS. BATTLE: I guess I'm trying to understand
20 historically -- competition has really changed the
21 historical relationship that we've had with recipients
22 because the service areas that existed were based on

1 historical determinations by the applicant as to what
2 they could serve and then they applied for it, we
3 accepted it and we entered into pretty much long-term
4 relationships based on how that happened.

5 I just happen to remember back in 1978 having
6 been a legal services lawyer back then as to what was
7 going on and how that really got developed. And then
8 now what we're looking at doing is beginning to look
9 for a number of reasons at states and to encourage them
10 to figure out a way to best deliver in those states.
11 And now we're making a determination as to how that
12 configuration ought to look after getting feedback from
13 the various programs in that state about what they're
14 able to accomplish.

15 And I'm just wondering, from a process
16 standpoint of view, because that's a little bit
17 different from a grantee going in saying, okay, I can
18 service this area and us accepting that, when we begin
19 to say this needs to be the service area in a
20 particular state, and I've heard about the dialogue but
21 ultimately, are those decisions being made
22 collaboratively or are we going in saying well, this is

1 -- you know, we've looked at it and we've decided?

2 Because there is a sense that are some local
3 dynamics that people on a local level know and
4 understand about the relationships that they have with
5 local bar, the kind of support that they get from the
6 community, that ties into how a particular program has
7 been able to function in a community historically. And
8 when we look at reconfiguring that, I'm just concerned
9 that we're -- are we looking at all those dynamics and
10 taking all of that into account given the history,
11 given where we are now and given what our task is
12 before us?

13 MS. SARJEANT: I do think that -- let me just
14 jump in for one minute before Bob gets started.

15 Unfortunately, in a presentation like this,
16 you won't get the benefit of the amount of work and
17 effort and communication that goes into getting both
18 the programs and us to a point of having these
19 discussions and reviewing the state plans and all of
20 the decisions that are made but there is a huge amount
21 of review and information-gathering.

22 In all of the reconfiguration decisions that

1 were made in this last competition cycle, we were very
2 careful not to make any decisions unless we felt that
3 we had an adequate informational base to do that and so
4 that required people being on site, having a lot of
5 communication with the programs in those service areas
6 and others.

7 I think Bob also wanted to respond to that but
8 I do want to impress upon the board how much time the
9 staff puts into getting to the point of reviewing the
10 state plans, reviewing proposals, reviewing the
11 response that we give back to the state plans and prior
12 to there being any discussion or decision about taking
13 an action on reconfiguration, there's a huge amount of
14 discussion and input that goes into that.

15 MR. GROSS: I would add that this cannot and
16 must not be a paper review done in Washington. We
17 cannot and do not assume that we are the fount of all
18 wisdom and know what's best for all states or any
19 state, for that matter. We must listen carefully, we
20 must go out and visit, we must understand, particularly
21 since really this involves -- if it didn't strike us
22 before of how important partnerships were, it should be

1 crystal clear now on a national level and on a local
2 level with the devolution of programs to the states,
3 with restrictions on LSC funding, how important
4 partnerships are and the network of providers in a
5 state. And we have to understand those and encourage
6 those groups to work together. That's why we are
7 talking about comprehensive integrated delivery so I
8 echo what Karen said and just reiterate it.

9 CHAIR ASKEW: Bill.

10 MR. McCALPIN: I may not have understood
11 LaVeeda's question perfectly and I certainly don't want
12 to put words in her mouth but it seems to me what she
13 was saying is is the decision made essentially in
14 Washington or is it collaborative? Is it a joint
15 decision or is it a sole decision?

16 MS. BATTLE: That's exactly what my question
17 was.

18 MR. GROSS: Well, ultimately, the corporation
19 has the fiduciary responsibility to make decisions
20 about wise expenditure of its funds so it is our
21 decision ultimately. But one would not want to make
22 that without a lot of collaboration with appropriate

1 stakeholders in the states and without a lot of
2 understanding. But we must I guess have our
3 independent -- reserve the right and have the
4 responsibilities to make an independent assessment.

5 CHAIR ASKEW: Nancy.

6 MS. ROGERS: Where it has gone well, what
7 would you say has been gained?

8 MR. GROSS: In the states that we've already
9 seen where it's gone well, one thing stands out
10 certainly is increased revenue for programs, for
11 recipients to serve clients. I think another thing is
12 increased participation, involvement, partnership with
13 private bar, again expanding the resources available.

14 Again, I'm looking at this more broadly than
15 configuration which I know is the question that we
16 always end up focusing on but it really is number seven
17 on our list. I think in Ohio, for example, what's
18 going on now that's very exciting, we've had glimpses
19 of their draft state plan.

20 They've decided -- they've hired someone at
21 the IOLTA foundation to integrate technology, to make
22 the purchase and use of technology more efficient

1 throughout the state so that they don't have providers
2 going separate ways so that all the things that Mike
3 talked about in terms of sharing of information,
4 supporting legal work, developing information for
5 clients, can be done much more efficiently at lower
6 cost, much more effectively. They're also looking at
7 training capacities in the state and the way they're
8 going to strengthen that.

9 They're looking -- and this is why partnership
10 is really important. The funding for those endeavors
11 is going to come from the state, not from Legal
12 Services Corporation. So there has to be a partnership
13 in planning and I think those are some of the exciting
14 things that are happening.

15 There are also -- in some states there are
16 programs that have decided -- I guess the word is
17 synergy that we've seen in their reports, that a merger
18 would produce sort of not just economies of scale but
19 economies of effectiveness, that by putting together
20 the strengths of smaller programs they can better serve
21 clients in their region. That's the approach that
22 Pennsylvania has taken.

1 There are new approaches -- continue new
2 approaches to intake, experimentation on a regional
3 basis in different states. So I think there is a lot
4 of positive happening. It's not all a result of what
5 we're doing and there are other partners on the
6 national level and the state level but I think all
7 working together are beginning to make a big
8 difference.

9 It is a change in 30 years, sort of a
10 thinking, and I was a project director during most of
11 the years, of my program and my service area which we
12 were principally funded to serve. It is now, for the
13 reasons I mentioned, we're asking programs to look
14 beyond their boundaries. We have to take advantage of
15 our collective potential so that we can expand access
16 for our clients.

17 CHAIR ASKEW: Go ahead, Karen.

18 MS. SARJEANT: I just wanted to say that I
19 think a very important concept here is potential and
20 that we are relatively early in the process of both
21 competition and state planning and recognizing that
22 change is a process, we don't expect to be able to say

1 to you immediately that this merger or combining a
2 service area immediately translates into a higher level
3 of service.

4 What it does is it sets the ground work that
5 there is a larger potential for better services to
6 clients where those decisions are being made. And some
7 of them are voluntary and some of them -- and it's true
8 that Corporation is making its statutory decisions that
9 these changes need to be made but I think what we're
10 doing is putting in place and helping to create, along
11 with the programs and the other stakeholders in the
12 states, an environment where we can realistically talk
13 about and move towards increased services to clients.

14 MR. EAKELEY: I've got a couple of questions
15 with perhaps a wind-up first, if I may. I think the
16 state planning process is terribly important; the
17 coordination and the efficient, effective delivery of
18 limited resources to a very needy population is never
19 easy. We've all been used to doing things one way and
20 we are part of what is driving change; change is never
21 -- under the best of circumstances, change can be
22 perceived as being threatening and how we accomplish

1 that change depends as much upon the trust and support
2 of the people with whom we're developing these things.

3 And I'm not really sure where you draw the
4 line when you're confronted with the issues that
5 reconfiguration presents in terms of have you compared
6 functional integration with redrawing a service area to
7 create a different service area. And I think a lot of
8 -- most of -- I don't even want to quantify it but what
9 is -- I've been very impressed with how the staff has
10 proceeded with this and yet you come back and you hear
11 about reconfiguration because that's, I think, the one
12 area that has drawn the largest expression of concern
13 and for very valid reasons.

14 So getting us to talk more at you or back and
15 you've heard more from plenty of other people than from
16 us about reconfiguration or redrawing service areas
17 doesn't -- is not intended to take away from all the
18 many very positive accomplishments and the Herculean
19 efforts that you're making.

20 But having said that, I want to -- we've had
21 Bob -- of course, I don't even have to remind you, I'm
22 from New Jersey. I think a very fair question has been

1 raised in terms of whether we have established and
2 articulated adequately the criteria for when functional
3 integration will satisfy the mission of state planning.

4 I think that a fair suggestion has also been
5 made that maybe we can do better in establishing and
6 articulating the criteria by which we say to the world
7 or to our grantees this is the kind of service within
8 the -- I mean, we've already agreed, and I think for
9 very valid reasons, that the state is the appropriate
10 sub-system within which planning should take place but
11 how -- and how does the Corporation look at different
12 lines with which to draw service areas? I don't know
13 the answer to that. I hope you do. I'm sure you do
14 and have a better idea than I do but I think that's a
15 valid question.

16 I was also concerned because we had all met
17 before the grants were announced and I was treated to a
18 very impressive presentation of the process and the
19 results and the intake and output that had gone on. I
20 was concerned to learn that some of the stakeholders
21 involved in the planning process in the areas where
22 reconfiguration was imposed may have been surprised at

1 the decision.

2 Now, this is partly -- we can say things
3 forever but if people don't think we're going to act on
4 them, they don't hear us and these actions spoke much
5 more loudly than any words the Corporation could ever
6 have enunciated at the time. But is it the case that
7 we overlooked informing or giving enough advance notice
8 to those areas that have been reconfigured? The second
9 question is, if that is the case, are we making sure
10 that that doesn't happen again as we approach the next
11 cycle?

12 MS. SARJEANT: When we were in San Antonio and
13 we had the opportunity to hear from several folks in
14 the field during that conference about concerns that
15 they felt regarding the process. And while I think
16 within our staff we feel that there was clear
17 communication about what was happening, I think we also
18 recognize that if in fact there is a perception that
19 then creates some problems, that we have a
20 responsibility to have the communication in dialogue
21 with those who think or have this perception that we
22 weren't doing something and so that we can have a

1 better -- whether it's a meeting of the minds or
2 whatever it is, but we're not just tossing aside the
3 concerns that have been raised with us and we are in
4 dialogue and talking to representatives from the field
5 about these issues because I do think that while
6 everybody doesn't have to agree with what we're saying,
7 we do want to reach the best possible working
8 relationship with other stakeholders in the national
9 legal services community that we can.

10 We want to have the communication. We want to
11 have clarity and we will do certainly as much as we can
12 to reach that. So the fact that there is -- on our
13 side, we think it was done but there's a perception out
14 there that there wasn't enough communication. We want
15 to work on that and we want to work with folks.

16 MR. EAKELEY: It's advance notice but also
17 articulating the reasons why what appears to be a
18 change is being what apparently is imposed and I think
19 that's -- yes. In other words.

20 MS. SARJEANT: Right.

21 CHAIR ASKEW: There's another small piece to
22 that, too, which I've heard which is who you give

1 notice to; not just timing but who you give notice to,
2 whether it needs to go beyond just the program
3 director. And I'm not certain I've got the answer to
4 that but I think that's something you need to think
5 through for the future, also.

6 MS. SARJEANT: Uh-huh. This is very
7 consistent with what we've heard and we said there and
8 we'll say again, you know, we are very interested in
9 having this -- the communication to clear up whatever
10 the perceptions are about what isn't happening because
11 we want to make sure that we're all approaching this in
12 a collaborative way. But as Bob did reinforce, the
13 ultimate responsibility is ours on the funding
14 decisions and we will certainly take the appropriate
15 actions to make sure people understand what we're doing
16 and why but we will make the decisions when we are
17 called upon to do that.

18 CHAIR ASKEW: And don't be surprised when you
19 get a reaction to those decisions.

20 MS. SARJEANT: That's right; we won't.

21 CHAIR ASKEW: LaVeeda?

22 MS. BATTLE: I just -- something that Doug

1 said really struck me because -- and I know that you're
2 only talking about number seven on a long list of
3 criteria that you've outlined so each state standing --
4 each state planning process is informed by all of the
5 different things that you're looking at.

6 And that is articulating the criteria in a way
7 for each state that meets that particular state's needs
8 so that when they inform you of where they are in that
9 process, they can inform you with an articulation that
10 -- you know, because each state is so different. When
11 you talk about California, you're really not talking
12 about Pennsylvania and what the needs are there in
13 terms of what's feasible and what can be done.

14 So that is why I raised initially the issue of
15 collaboration because you really have to have your ear
16 to the ground to know what the particular needs are of
17 a state in order to have that criteria informed in a
18 way that when you get information about where they are,
19 it can be heard.

20 And by linking the state planning to
21 competition, you know, what we're doing is on the one
22 hand we've got limited funds and so we've got to figure

1 out how to take these limited funds and spread them
2 over a larger area, but the larger the area, the more
3 difficult it is for somebody to compete for that
4 because they've got to be big enough to have people all
5 over to do it. So it's a very dynamic process of
6 making sure that by doing one, we aren't hampering the
7 other as well. I just want to make that point.

8 CHAIR ASKEW: Let me ask you, Bob, did you
9 finish your presentation or did we start asking
10 questions before you were through?

11 MR. GROSS: If you're interested in hearing at
12 all about the next group of states, the 32, and my
13 pledge that we will do everything possible so that if
14 decisions are made about configuration none of us will
15 hear that anyone is surprised, can't guarantee that.
16 We also hope that no one will feel that there is
17 criteria about which they did not know.

18 We received a very thoughtful letter from
19 SCLAID which we responded to and with whom we continue
20 to have discussions and, as you may know, just the
21 other day we received a very thorough analysis of our
22 state planning decisions around configuration and some

1 detailed recommendations about criteria, about process,
2 and we will definitely be engaging with -- from Alan
3 Houseman, CLASP, NLADA and the FCC as it becomes part
4 of the new organization, NLADA.

5 We certainly will be engaging with those folks
6
7 and listening and taking to heart what they have to
8 say.

9 MR. EAKELEY: I'd encourage Mr. Houseman to
10 share with us what he shares with you.

11 MS. BATTLE: I think that would be helpful.

12 MR. EAKELEY: We've been hearing about the
13 Houseman memo but --

14 CHAIR ASKEW: Me, too.

15 MS. BATTLE: We haven't seen it.

16 CHAIR ASKEW: Nancy?

17 MS. ROGERS: That was my question, too. If
18 you could share those with us.

19 MR. GROSS: Absolutely.

20 MS. BATTLE: And I guess -- I just wonder from
21 the board's perspective where there are any policy
22 considerations in this that we need to at least be

1 interfacing on, so we need to just be aware of that as
2 well.

3 CHAIR ASKEW: Let me say -- you have other
4 things you want to bring up? Let me say the statement
5 that our board chair made I think was very articulately
6 made and I agree with it a hundred percent and I think
7 it was very well stated. And I think, without going
8 over the individual decisions we've made on competition
9 and on state planning, I have to tell you I admire what
10 you've done because you've taken on some very difficult
11 things and you've done it, from my perspective, in a
12 very thoughtful, careful way and you're going to get
13 criticism for it.

14 The two things to that for me, one, we've
15 talked about collaboration between you and the states
16 and the programs but collaboration at the national
17 level with all those groups that represent the various
18 -- is critically important and as you get criticism,
19 don't allow that to affect your collaboration with them
20 because the criticism goes with the territory.

21 And don't take it personally and don't
22 overreact to it; just continue to work through these

1 issues with them because you have to and they have
2 interests that they have to represent and are going to
3 represent and that's fine. A lot of their criticism, I
4 think, deserves careful consideration and respect both
5 because of where it's coming from and the substance of
6 what they have to say to you.

7 MR. GROSS: Thank you. I look at the
8 criticism as constructive criticism. We've been
9 engaged with national partners from the very beginning
10 in the drafting of the program letters. It is dynamic;
11 it is evolving and we need to continue to have their
12 help to move forward.

13 CHAIR ASKEW: Criticism may be too strong a
14 word. I think it's more constructive suggesting about
15 how to do this better because we all share the same
16 issue here so it's really a question of how do we get
17 this done in the most efficient effective way. So it's
18 really not criticism from what I've seen. It's more
19 here are some ideas and some feedback to you like you
20 give to programs and take it in that context.

21 John did you want to say something?

22 MR. McKAY: No.

1 CHAIR ASKEW: Nancy?

2 MS. ROGERS: I was just going to say I, too,
3 have heard a lot of the criticism. I actually went to
4 our state planning meeting to watch and I remain very
5 supportive of what we initially decided to do and the
6 way the staff has carried it out.

7 MS. FAIRBANKS-WILLIAMS: I would like to say
8 something about Vermont, too. They have pushed forward
9 with a future committee -- I've been asked to sit on --
10 I call it a committee because I don't know what to call
11 it but it's some judges from family court, it's some
12 lawyers, it's the LawLine that's funded by LSC, it's
13 the old legal aid program and it's some pro bono
14 lawyers. And they're studying the access to the family
15 court and what they can do to make things a little bit
16 better and there will be a survey to all of the past
17 clients of both the Vermont Legal Aid which used to be
18 and the LawLine which is now. So we will also have the
19 input of the clients.

20 CHAIR ASKEW: Anything else from the panel?
21 Anything else from board members?

22 MR. EAKELEY: I just want to thank the panel.

1 This was very helpful.

2 MS. SARJEANT: And let me just give you each -
3 - I think Leslie handed this to me. It's not quite the
4 organizational chart that I think you were referring to
5 but it does have the listing of all of the offices and
6 who is in which office so this came off of our web site
7 immediately so we will hand this out. But I will still
8 get to you the organizational chart.

9 CHAIR ASKEW: Is there any more business to
10 bring before the committee?

11 (No response.)

12 CHAIR ASKEW: We do have a public comment
13 period. If there is anyone here that would like to
14 make comments to the committee, we'd be happy to
15 entertain those comments. Any public comment?

16 (No response.)

17 CHAIR ASKEW: Okay; thank you. Let me make an
18 announcement about lunch. It's at 12:00 noon or as
19 soon as we get there. It's not noon Legal Services
20 time; keep that in mind. It's going to be outside on
21 the lobby level near the pool, the topiary garden.
22 That's all I know so hopefully you can find it.

1 MR. EAKELEY: Nikki will lead us there.

2 MR. MCKAY: The lower pool.

3 CHAIR ASKEW: May I have a motion that we
4 adjourn from someone?

5 M O T I O N

6 MS. FAIRBANKS-WILLIAMS: So moved.

7 MS. ROGERS: Second.

8 CHAIR ASKEW: The meeting is adjourned. Thank
9 you.

10 (Whereupon, the meeting was adjourned at 12:00 noon.)