

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
AUDIT COMMITTEE

OPEN SESSION

Monday, April 15, 2013

2:03 p.m.

Legal Services Corporation
McCalpin Conference Center
3333 K Street, N.W.
Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:

Victor B. Maddox, Chairperson
Gloria Valencia-Weber
David Hoffman (Non-Director Member)(by telephone)
Paul L. Snyder (Non-Director Member)
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Sharon L. Browne (by telephone)
Robert J. Grey Jr.
Charles N.W. Keckler
Laurie Mikva
Martha L. Minow
Father Pius Pietrzyk, O.P.
Julie A. Reiskin

STAFF AND PUBLIC PRESENT:

James J. Sandman, President

Patricia Stinneford, Executive Assistant to the
President

Rebecca Fertig, Special Assistant to the President

Lynn Jennings, Vice President for Grants Management

Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

Charles Martel, Assistant General Counsel,
Office of Legal Affairs

Atitaya Rok, Staff Attorney, Office of Legal Affairs

Katherine Ward, Executive Assistant, Office of Legal
Affairs

Rricha Mathur, Intern, Office of Legal Affairs

David L. Richardson, Comptroller and Treasurer,
Office of Financial and Administrative Services

Martin Polacek, Accountant Manager, Office of
Financial and Administrative Services

Jeffrey E. Schanz, Inspector General

Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel, Office of the Inspector General

John Seeba, Director of Audit Operations/
Administrative Officer, Office of the Inspector
General

Daniel Sheahan, Program Evaluation Analyst, Office of
the Inspector General

STAFF AND PUBLIC PRESENT (Cont'd):

Carol Bergman, Director, Office of Government
Relations and Public Affairs
Lora M. Rath, Deputy Director, Office of Compliance
and Enforcement
David de la Tour, Program Counsel, Office of
Compliance and Enforcement
LaVon Smith, Office of Information Management
Eric R. Jones, Office of Information Technology
Herbert S. Garten, Non-Director Member, Institutional
Advancement Committee
Frank B. Strickland, Non-Director Member,
Institutional Advancement Committee
Robert E. Henley, Jr., Non-Director Member, Finance
Committee
Allan J. Tanenbaum, Non-Director Member, Finance
Committee (General Counsel, Equicorp Partners)
David H. Hoffman, Non-Director Member, Audit
Committee (Sidley Austin)
Paul L. Snyder, CPA, Non-Director Member, Audit
Committee (retired KPMG Midwest area manager)
Chuck Greenfield, National Legal Aid and Defender
Association (NLADA)
Don Saunders, National Legal Aid and Defenders
Association (NLADA)
Terry Brooks, American Bar Association
Dominique Martin, Law99.com

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10. Briefing on Insurance Coverage
David Richardson, Treasurer/Comptroller

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1 P R O C E E D I N G S

2 (2:03 p.m.)

3 CHAIRMAN MADDOX: I will call to order the
4 meeting of the Audit Committee of the Legal Services
5 Corporation, and take a roll call. We have Gloria
6 Valencia-Weber.

7 PROFESSOR VALENCIA-WEBER: Present.

8 CHAIRMAN MADDOX: Paul Snyder.

9 MR. SNYDER: Present.

10 CHAIRMAN MADDOX: Harry Korrell, is Harry on
11 the phone?

12 (No response.)

13 CHAIRMAN MADDOX: I don't think he is. And
14 David Hoffman. Is David on the phone?

15 (No response.)

16 CHAIRMAN MADDOX: So the question is, do I
17 have a quorum? I do have a quorum, three? Okay.18 Then I'll ask for a motion to approve the
19 agenda.

20 M O T I O N

21 MR. SNYDER: So moved.

22 PROFESSOR VALENCIA-WEBER: Second.

1 CHAIRMAN MADDOX: Hold on. I think Katherine
2 indicated that the phone line is open. Is our phone
3 line open? Okay. Is there anyone on the phone?

4 MR. HOFFMAN: Hi. It's David Hoffman who just
5 joined.

6 CHAIRMAN MADDOX: Oh, great. Hi, David.

7 MS. BROWNE: And Sharon Browne is on the
8 phone.

9 CHAIRMAN MADDOX: Hi, Sharon. Thank you.

10 So David, we just took a roll call, and I've
11 asked for a motion to approve the agenda. We've had a
12 motion, and all in favor?

13 (A chorus of ayes.)

14 CHAIRMAN MADDOX: Opposed?

15 (No response.)

16 CHAIRMAN MADDOX: And so the motion to approve
17 the agenda is passed.

18 The next item is to approve the minutes from
19 the January 26, 2013 meeting. Is there a motion?

20 M O T I O N

21 MR. SNYDER: So moved.

22 MR. HOFFMAN: So moved.

1 CHAIRMAN MADDOX: Second? All in favor?

2 (A chorus of ayes.)

3 CHAIRMAN MADDOX: And opposed? I guess not.

4 The motion to approve the minutes is passed.

5 That takes us to our first substantive matter,
6 which is the quarterly review of the 403(b) plan
7 performance. And I guess David Richardson, the
8 Corporation comptroller, will do the presenting.

9 PRESIDENT SANDMAN: Actually, I'll address
10 that. Traci Higgins had submitted a memo, which is in
11 the committee section of the board book, and had
12 offered to stand on the memo unless people had
13 questions. If people have questions, she's available
14 to come in and address them.

15 CHAIRMAN MADDOX: Okay. So that's her memo of
16 March 26, 2013. Does anyone have any questions about
17 that?

18 (No response.)

19 CHAIRMAN MADDOX: Hearing none, we will then
20 move to the next item on the agenda, which is the
21 briefing by the Inspector General.

22 I see the Inspector General coming to the

1 table, and so I recognize Jeff Schanz, the Inspector
2 General.

3 MR. SCHANZ: Thank you, Mr. Chairman.

4 Earlier yesterday, there was a discussion
5 about what GAO actually does and who they are and how
6 they got to this point. GAO is the watchdog for the
7 inspectors general as well as the overall community and
8 Congress, although they work for Congress. They just
9 issued a report. I want to just mention a couple of
10 numbers to you.

11 Unnecessary government programs are costing
12 taxpayers billions of dollars annually. That's not a
13 surprise. But they went into it from looking at
14 duplicative programs. They did not access LSC; we're
15 fairly unique in what we do, so we're not included in
16 this study.

17 But I just wanted to let you know that not
18 only GAO looks at this, but Representative Issa from
19 California has also done a study and a congressional
20 report, I believe I reported on that last meeting, on,
21 "Unimplemented OIG recommendations could save the
22 government billions of dollars." And I'll have to

1 refresh my memory, but I'm pretty sure I presented that
2 to you last time.

3 This time -- and Danny Wuerffel is the OMB
4 representative on the CIGIE committee, so we hear from
5 him pretty much every month. And what he said is,
6 "From day one, the President has made rooting out waste
7 and improving the way government works as a top
8 priority."

9 Now, that's music to my ears and to most IGs'
10 ears. How you get that is the tougher question. But
11 making sure it's a number one priority is a goal of
12 this Administration, as articulated in this case by GAO
13 in their review of duplicate programs, as well as
14 Representative Issa's congressional report on
15 unimplemented IG programs.

16 He solicited Elijah Cummings of Maryland to
17 put out the memo that went out to all inspectors
18 general on unimplemented IG recommendations. Not all
19 of them are formal; some of them are investigative
20 findings.

21 And that was designed, and they put out a
22 congressional report -- I believe it's probably online

1 on Thomas, but I don't know that for a fact; I can
2 check that -- to lay out more than 80 recommendations
3 to reduce wasteful spending in the government. And a
4 lot of that is based on duplicate services and, as I
5 mentioned, unimplemented IG recommendations.

6 We work fairly well with Management of the
7 LSC, and the Audit Committee will be looking over our
8 shoulders to make sure that some of those unimplemented
9 recommendations are in fact implemented if they make
10 sense to Management and to the Board.

11 That's just a preamble to what I want to talk
12 about today. I want to talk about our Hurricane Sandy
13 implementation process. Management has a role in this
14 and, per the legislation and the statute, providing
15 funding to the government community, LSC received a
16 million dollars in Sandy funding, and they have some
17 functions that they have to do, such as developing an
18 internal control plan for the use of those monies.

19 We have worked with Management in doing that.

20 But in addition to that, the statute requires every IG
21 to take a look at those internal control plans and to
22 make sure the money is being spent as was planned.

1 This is in the embryonic stage at this point.
2 Management has done their job in putting together their
3 internal control survey, which we have looked at. We
4 haven't been able to do anything with it yet because
5 the money hasn't been spent by the grantees.

6 We are involved at the CIGIE level -- or
7 Council of IGs for Integrity and Efficiency, instead
8 just the acronym. They have a group going where the
9 IGs are sharing best practices and how to get at this
10 beast.

11 I have assigned John Seeba to that board and
12 to shepherd the LSC OIG efforts in making sure that the
13 funds are being properly spent and protected.

14 And I'd like to bring John Seeba up to the
15 table, please. By way of introduction, he'll tell you
16 who he is. But he was also the Inspector General from
17 the Federal Trade Commission and I'm in the enviable
18 position of having been one of the first IGs to ever
19 hire an IG. So I'm very happy to have John on board.

20 MR. SEEBBA: Good afternoon. As Jeff
21 mentioned, I'm going to be heading up this audit on the
22 Hurricane Sandy review. We're basically going to look

1 and review how Management has taken the grant money,
2 how they're going to distribute it. We're going to
3 look at the grantees and how they're using the money.

4 Basically, it's a fairly straightforward
5 process. We don't expect a whole lot of problems with
6 this, quite honestly. With a million dollars, it's a
7 very small amount for this organization -- I mean, for
8 the government as a whole.

9 As Jeff mentioned, the Council on Integrity
10 and Efficiency -- the government has gotten billions of
11 dollars for the Hurricane Sandy victims. And they're
12 concerned more about the waste, fraud, and abuse from
13 that angle and basically rebuilding and construction
14 contracts, that kind of thing.

15 The million dollars that LSC has received will
16 be used basically for mobile resources technology and
17 coordination. And so we're expecting a pretty
18 straightforward process in that. But we're having to
19 wait for the organization to kind of how it plays out,
20 how the funds are distributed, and then reviewing
21 those.

22 I'll be happy to answer any questions you have

1 on that.

2 CHAIRMAN MADDOX: Julie?

3 MS. REISKIN: I don't know if this is the
4 right place to ask this. Do you know if the people who
5 get the money are going to help clients fight the
6 people that are supposed to be making sure that they
7 get money?

8 Because -- and again, this is just from news
9 reports -- it seems like money is being given out, and
10 it's not getting into the hands of the people it's
11 supposed to get to. Is that what you look at?

12 MR. SEEBA: It will be -- well, we're going to
13 look at how the money is distributed to the grantees,
14 to the recipients, and how they utilize it. Now, the
15 legislation is fairly specific. It can be used for
16 technology, mobile resources, and basically a PAI
17 coordinator. So it's a very limited spectrum of how
18 the money can be utilized. So we will be looking at
19 that.

20 MR. SCHANZ: So as John says, it's
21 straightforward. But just as we thought it was really
22 straightforward, I received notification from GAO that

1 they want to work with the IG, the LSC IG and the other
2 IGs, to make sure that the reporting metrics are about
3 the same.

4 So I received an email on Mon, yesterday, and
5 it was from a person at GAO that I used to work with at
6 DOJ. She said, "Do you remember me?" I said, "Yes, I
7 do." And they said, "Okay. Well, we're going to be
8 coordinating at this time with all government agencies
9 that receive Sandy money to make sure it's being spent
10 in the manner for which it's intended."

11 They are going to build on the IG reports
12 related to that because management is to report to
13 their IG on a quarterly basis as to how the monies are
14 being spent.

15 So, as I mentioned earlier, GAO is a client.
16 We have Congress as a client. And Congress wants to
17 make sure that this money goes to the purposes for
18 which it's intended. So I think that will be part of
19 the overall CIGIE effort, Julie.

20 Well, that's where we are on the Sandy funds.
21 Management met their deadline, which I'm pleased to
22 report. An internal control plan was due March 31st,

1 and it was completed and provided.

2 The next thing I want to talk about a little
3 bit is the semiannual. That's being referenced right
4 now, as you know. That's a six-month report card,
5 essentially, of what the Inspectors General nationwide
6 have done as of the end of the federal fiscal year,
7 which is September 30th. So as of September 30th,
8 we'll be reporting what we have done.

9 The Board will transmit that to the Congress.

10 I don't have a date certain for that yet because
11 Management and the Board haven't even seen the
12 semiannual report. But it's in referencing.

13 The OIG has experienced several medical
14 issues, but we're working through that. We're having
15 to do that offline at the moment. But we are
16 progressing, and plan to have a semiannual report for
17 Management and the Board to look at in the immediate
18 future.

19 That's all I have unless there's other
20 questions. I would turn to the Chairman and see if he
21 has any other questions of the IG and what we're doing
22 at the moment. We are very actively engaged in audit

1 work. We're doing our internal control surveys of
2 grantees across the country. As I reported last time,
3 I hired four new auditors, so we intend to have a more
4 nationwide scope in what we're doing.

5 CHAIRMAN MADDUX: Jeff, I've got a question
6 relating to the report you all recently published about
7 the Idaho program and your audit of its TIG grants.

8 As I recall, there was basically \$211,000 of
9 questioned costs involved in that. And the essence of
10 it is that there was not supporting documentation so
11 that you could trace the costs involved, which I think
12 were largely personnel costs --

13 MR. SCHANZ: Yes.

14 CHAIRMAN MADDUX: -- to the fulfillment of the
15 TIG grant.

16 MR. SCHANZ: Correct.

17 CHAIRMAN MADDUX: I had an email discussion
18 with you and Dutch Merryman about it because I think
19 it's a pretty significant issue. And if I understand
20 it, basically that's now been referred to LSC
21 Management for followup and investigation and the like.

22 I guess my question is to what extent, if any,

1 you're able to say this sort of problem is common to
2 the TIG program. Is this the first time you or in the
3 OIG have come across this kind of undocumented costs?

4 And if not, what's your experience been with
5 this sort of -- I mean, do these questioned costs
6 generally fall back into place and everything
7 eventually gets buttoned up? Or is this a more serious
8 issue?

9 MR. SCHANZ: Well, that's going to be a
10 management decision. Our job is based on the facts and
11 the documentation available at the time we do the TIG
12 review. Is there documentation for those costs related
13 to the goals of the grant?

14 In three cases so far, we have found the lack
15 of evidence of documentation and we've questioned the
16 costs because it is truly Management's decision.
17 They're the funding agency.

18 It's their decision to identify whether they
19 agree with the IG's representation of the questioned
20 costs, or if they have the authority to waive or
21 mitigate or otherwise determine what's the best use of
22 those fundings.

1 As a little bit of a backdrop, several years
2 ago Senator Grassley -- or, I'm sorry -- yes,
3 Grassley -- was very interested in the TIG program,
4 which generated our overall TIG audit, and which is on
5 our website. That goes back about three years. You
6 can read that. And we found a frightful lack of
7 internal controls over any of the funding.

8 So what we decided to do to take a step
9 further now, Management has focused on the TIG program.
10 Congress funds it as an earmark because leveraging
11 resources is a great idea.

12 But we wanted to make sure that at the local
13 level, the recipients of the TIG grants are actually
14 receiving the money that they requested and are doing
15 what is required by the grant assurances. And in three
16 cases so far, we have found that the grantees have
17 fallen short in that effort, and therefore we
18 questioned the costs.

19 DEAN MINOW: You said three. Out of how many?

20 MR. SCHANZ: I don't know how many we've done,
21 Dean Minow. I would ask maybe John to help me out.
22 But I think it's been about ten we've done. We've done

1 Arkansas, we've done Idaho, and we've done one other
2 one. And I'm a little hindered without Dutch here.
3 I'm sorry.

4 MR. HOFFMAN: Vic, this is David Hoffman. Can
5 I ask a couple followup questions to your question to
6 Jeff?

7 CHAIRMAN MADDOX: Go ahead. By all means.

8 MR. HOFFMAN: Okay. Hi, Jeff.

9 MR. SCHANZ: Hi, David.

10 MR. HOFFMAN: I've just pulled this up on
11 mine, and Vic, this may be my fault or something to do
12 with the status as a non-director Audit Committee
13 member.

14 But I see that this report is posted online,
15 and I see that the reports are posted online. If
16 either Vic or Jeff, you think it would be convenient
17 going forward to be able to distribute to Paul and me,
18 or other members of the Audit Committee if they're not
19 receiving it, your reports when they come out, I think
20 that would be helpful just to get an email saying, we
21 just issued this.

22 Substantively, though, I've just, as you've

1 been talking, been skimming your report and finding.
2 And then I see that the Idaho Legal Aid Services'
3 response was attached.

4 MR. SCHANZ: Correct.

5 MR. HOFFMAN: And I've been skimming their
6 response. And so my comment, Vic and Jeff, is sort of
7 a followup on one of the things that came out of the
8 Fiscal Oversight Task Force report and a discussion of
9 the experiences for grantees who are being audited and
10 where there are findings being made and whether they're
11 receiving proper or sufficient training or assistance
12 from LSC to make sure that, for instance, the IG is
13 getting what it needs and they feel like they are
14 properly trained to keep the right records and so on.

15 So I'm just looking at their letter. And they
16 say that they -- and Jeff, you addressed their letter
17 in your report, which I appreciate -- that they
18 disagree with the findings, and one of their main
19 points, as Jeff summarizes, is that it's inequitable
20 for the legal aid services to be punished for not doing
21 something we were never told to do.

22 And specifically, they say in their letter,

1 this long letter, that the weren't told to keep the
2 kind of records that the IG's report dings them for.
3 They talk about what makes the situation doubly
4 frustrating is that while we were never told that we
5 needed to keep certain time distribution records, we
6 did, and then all 4600 hours provided to the OIG were
7 rejected. So I have no idea, in reading these briefly,
8 whether the Idaho organization is totally right or
9 totally wrong or somewhere in the middle.

10 The only point I wanted to make was, I think
11 there was a discussion a year or so ago following up on
12 our Fiscal Oversight Task Force work, that it would
13 probably be really helpful to have some effort either
14 from Management or the IG or jointly in terms of making
15 sure that grantees felt that they were being properly
16 informed, or given enough assistance about what
17 paperwork and other requirements they needed to keep,
18 which of course, for even the most organized, diligent,
19 well-meaning grantee, can be, I think, fair to say
20 frustrating.

21 And it's actually to LSC's benefit. And think
22 my guess is, Jeff, you would agree, but I want your

1 view on this, to have the grantees as well transaction
2 with the right resources to make sure they're up to
3 speed on the kind of documentation they need to keep.

4 So in reading this letter, I'm prompted on
5 that point. And I'm wondering, since the Fiscal
6 Oversight Task Force report came out, whether from
7 Management or IG there's been any progress made on
8 putting together any sort of training program or
9 resources for grantees on this point.

10 MS. JENNINGS: I can answer that. Sorry,
11 Laurie.

12 Hi. This is Lynn Jennings, Vice President for
13 Grants Management. We are moving forward with training
14 related to TIG and cost allocation and proper
15 timekeeping. It is relatively new, but we are moving
16 forward.

17 We had a first training treat TIG conference
18 in January in Florida, and had folks from the Office of
19 Compliance and Enforcement brief everyone on what the
20 requirements are related -- any grant assurance going
21 out related to TIG has the cost allocation instructions
22 related to it more clearly. And whenever we go out and

1 we talk about TIG, we ask about cost allocation.

2 As we move forward with the reorganization, we
3 will be doing comprehensive compliance assistance and
4 training related to all of the requirements under the
5 LSC Act and its regulations.

6 So we are moving forward with this. We
7 recognize that it has been a problem in the past. We
8 treat every questioned costs case on a case-by-case
9 basis, and this is, I think, our third or fourth
10 questioned costs related to TIG.

11 And the Office of Compliance and Enforcement
12 works with the grantees to look at what their
13 recordkeeping was and their timekeeping and cost
14 allocation in that regard.

15 MR. HOFFMAN: Lynn, have you had a
16 chance -- and thank you for the comments. Have you had
17 a chance to look at this response letter from the Idaho
18 Legal Aid Services that I'm referencing?

19 MS. JENNINGS: Yes. I have read it. It's
20 somewhat similar to other responses that we've gotten
21 for questioned costs related to TIG, particularly as it
22 relates to it being inequitable.

1 We take those on a case-by-case basis as we
2 work with the program. So that is not an unusual
3 argument that they make, but we go back and we work
4 with the program to see what actual documentation that
5 they have.

6 MR. HOFFMAN: So you sound like you have a
7 very good perspective on this, including
8 being -- you've seen this before. Is your take on this
9 that it is a potential training issue, and that if they
10 just had the right information and training, no one
11 would have to spend time on the back-and-forth on this?
12 Or do you think that they're incorrect in their
13 complaint? I mean, how should we assess this?

14 MS. JENNINGS: Well, I think I came on about
15 six months ago, and walked into the closing of the TIG
16 audit. And I definitely think that there is a universe
17 of pre-TIG audit TIG grants and post-TIG audit TIG
18 grants. So we are looking at this.

19 Moving forward, anything post-TIG audit should
20 be in compliance. But it is certainly ripe for -- you
21 can never have enough training related to anything.

22 So particularly as it relates to TIG and cost

1 allocation and tracking the time, whether you have one
2 TIG -- it certainly comes up if you have multiple TIGs
3 at a time. People might just say, "I'm working on
4 TIG," but I may not be working on TIG 1 or track my
5 time for TIG 1, TIG 2, or TIG 3.

6 So when we look at it, I think we definitely
7 see, and it would be interesting -- I don't remember
8 the years off the top of my head, but I think that
9 these are older TIG grants that are more subject to
10 this than newer TIG grants would be. That is my hope.

11 MR. HOFFMAN: And I'll just give one final
12 comment, and then I appreciate the attention paid to
13 this.

14 I feel, again, if the grantee is doing
15 something wrong, if they're obviously violating easy
16 and clear paperwork requirements, that's one thing. If
17 they're doing anything close to something fraudulent or
18 intentionally wrong with the money, obviously we want
19 everyone, whether it's IG or Management, to be digging
20 in aggressively on that.

21 But if we're just talking about bureaucratic
22 paperwork requirements, where the certain kind of form

1 was wrong, I have to say I feel bad that this Legal Aid
2 Services group in Idaho is having to spend lots of time
3 writing this very detailed letter.

4 I'm looking at page 3, and there's a bullet
5 point that says -- they note that Mr. Steve Rapp, a
6 technology project developer for five or six grants,
7 spent 3,259.5 hours on something, and he sent in time
8 records that were contemporaneously kept in six-minute
9 increments by him, which are attached to their letter,
10 but all of those time slips were rejected by OIG.

11 Now, maybe they were rejected for some good
12 reason, because they didn't fit a certain form, and I
13 don't think it's worth getting into it. But that's why
14 I'm thinking about the training plan because I think,
15 in terms of the efficiency of what we want our grantees
16 to be spending time on, this doesn't seem like an
17 efficient use of anyone's time.

18 So I would encourage everyone on Management
19 and, as appropriate, the IG to do whatever you believe
20 is appropriate on the training front because that can
21 only make compliance on the grantee side, I think, more
22 efficient and therefore the work by the IG more

1 efficient. So just some thoughts on that. Thank you.

2 MS. JENNINGS: I couldn't agree more.

3 MR. SCHANZ: Thank you, David. This is Jeff
4 again. As you well know, an IG audit, or any audit,
5 happens at a point in time. And you have to have a
6 cutoff point in time, and then that's where the OCE
7 reconciliation of the questioned costs come in.

8 If there's after-acquired information or
9 documentation that may mitigate the questioned costs,
10 then that's the opportunity for Management to work with
11 their grantee.

12 Julie had some of the same questions that you
13 did, and I'm sort of in a box here because I report
14 what happened at the time of the field work, and that's
15 what we report.

16 After-acquired information can always change
17 things. We talk about contemporaneous time records.
18 That's onsite while we're there, not what may be
19 developed four or five months later that may mitigate
20 some of the questioned costs when they provide
21 documentation.

22 And that goes to the OCE reconciliation

1 process. Our job is to question costs to Management
2 and to determine if those funds were used appropriately
3 at the time of our visit. And in this case they were
4 not, so we reported.

5 And then you understand the Yellow Book.
6 Everybody has an opportunity to be heard, which is why
7 we include the sum total of the grantee's comments to
8 our audit report so you're not just getting one side of
9 the picture, you're getting a balanced approach to
10 audit reporting.

11 MR. HOFFMAN: No. I really appreciate it.
12 And you're right, and I'm looking at your -- look. The
13 back and forth, where the grantee gets the opportunity
14 to see your initial audit findings, has a response, and
15 then you respond to them, it's very helpful and
16 obviously very professionally done.

17 I'm looking at pages 4 and 5 of your report,
18 where you're responding to their comments. And there's
19 some bullet points on the top of page 5 where you're
20 responding directly.

21 I have no way of assessing who's got the
22 better of the point there. I'm just trying to get to,

1 the requirements need to be followed, but I'm sure from
2 the grantee's perspective if it's just a -- just tell
3 us what paperwork to fill out and we'll do it, is my
4 guess as to what all their attitudes would be.

5 So that's why I'm focused on this training
6 plan because I think the more LSC does on that, the
7 more efficient it is from both the audit side and the
8 grantee side. But I appreciate your comment, Jeff.
9 Thank you.

10 MR. SCHANZ: Well, thank you. I will say that
11 there's a bit of a vacuum, and Lynn Jennings was
12 getting to that, because our original TIG audit found
13 that there was almost a complete void of internal
14 controls over the money leaving LSC Management to the
15 TIG grantees.

16 That has been tightened up significantly, and
17 I would hope that's because of congressional interest
18 based on our audit report. And moving forward, I think
19 we're almost to the point where -- these are federal
20 funds, and they're tied to the grant conditions, and
21 the grant conditions call for contemporaneous
22 timekeeping records.

1 So if you don't want to be able to do that,
2 then you should not accept the grant. And as I
3 mentioned earlier, we report on the facts that we find
4 in the field. Thank you.

5 MR. HOFFMAN: Thank you, Vic.

6 CHAIRMAN MADDUX: Well, thank you, David. I
7 appreciate your comments. I think I agree with just
8 about all of them. As a lawyer who sometimes submits
9 bills to clients and have them come back as
10 inadequately complying with the coding process, I know
11 it's one of the most frustrating things that a working
12 lawyer has to deal with. On the other hand, \$211,000
13 out of a \$511,000 grant is a pretty substantial
14 percentage of noncompliance.

15 Lynn, I know you addressed some of this. The
16 letter from the Idaho folks concluded, I think, by
17 saying that they suspect that there are lots of
18 grantees who don't know what they need to submit. And
19 they go through and document other TIG grants around
20 the country.

21 And I'm not sure where that sentence was, but
22 it says, "We suspect that even as these audits are

1 taking place, many TIG grantees are unknowingly
2 continuing to generate what OIG would deem to be
3 insufficient time distribution records." And David's
4 right. We can't really identify the problem here.

5 OIG rejected the records as inadequate. Idaho
6 says that they were contemporaneously generated and
7 maintained. And our regulations say that the records
8 need to be adequately and contemporaneously documented
9 in business records.

10 So that suggests that there was some element
11 of "adequate" that OIG determined wasn't met. And
12 Idaho's suggesting that if that's the case, they don't
13 know what it is, and lots of people don't.

14 So I don't know if the resolution of this
15 particular questioned cost proceeding is going to
16 address the overall picture. But is that something
17 that your office will be looking at as part of our
18 overall fiscal oversight improvement process?

19 MS. JENNINGS: Absolutely. I think the
20 universe of noncompliance related to TIG timekeeping,
21 particularly pre-OIG audit, is unknown to us and
22 something that I think we'll be dealing with. And

1 we're waiting to see what the outcome of a number of
2 these audits are.

3 But in the three TIG -- Lora Rath just sent me
4 a note that in the three TIG questioned costs, we found
5 many of the records provided were okay. But it's a lot
6 of back and forth, and much more -- I don't want to say
7 in-depth, but long-term, working with the program to
8 ensure that the documentation is adequate and we can
9 account for some of the time or most all of the time.

10 But training is a huge component of this as
11 well.

12 CHAIRMAN MADDOX: Right. I think it needs to
13 be.

14 Let me just make a note because you weren't
15 here in July of 2012, I don't believe. Right?

16 MS. JENNINGS: No.

17 CHAIRMAN MADDOX: In July, we attended a
18 presentation by a variety of services in the Northwest,
19 including Idaho. And this came to my attention in part
20 because of the Idaho reference.

21 I have a very specific memory -- others may as
22 well -- of the lawyer who was responsible for the

1 Indian work, Native American grants, saying to us at
2 the end of his presentation that he only gets about
3 \$60,000 in segregated funds, and it's a big state.
4 There's no way he can possibly do everything he needed
5 to do with \$60,000.

6 Now, we've got \$211,000 of costs that the OIG
7 says aren't adequately documented. So it raises a red
8 flag with me that there are now two elements in this
9 program that don't seem quite right.

10 One is, there's a lot of money for a specific
11 grant that's not adequately documented. The other is,
12 we have a representative of the program saying that he
13 doesn't have enough money for his specific program, and
14 so he has to find money elsewhere. Others may have
15 that memory. I don't know. It was at the very tail
16 end of that presentation.

17 So that's something you might want to keep in
18 mind as you go about looking at their costs and looking
19 at their systems because I think it's the kind of thing
20 that -- we want to have confidence in the program and
21 in the way the funds are being used. I know that we're
22 gaining confidence because we've done a lot of good

1 work in the whole TIG program, but this is one I'd like
2 to follow up pretty closely on.

3 MS. JENNINGS: Absolutely. And I think Jim
4 has something on that.

5 PRESIDENT SANDMAN: I do recall that exchange.
6 And as I understand the point that the presenter was
7 trying to make, it was that he was using basic field
8 grant money to supplement the resources that were
9 available under the Native American grant to serve
10 Native Americans, which is perfectly proper.

11 Grantees do not need to limit the funds that
12 they use to service Native Americans to the Native
13 American grant. That's over and above their basic
14 field, and the Native American population is just a
15 portion of the general population of the service area.

16 So if I understood the point that he was
17 making, I don't think there's an impropriety in that
18 under our regulations.

19 CHAIRMAN MADDOX: Yes. Well, that's probably
20 the proper interpretation. Just sort of a flag set off
21 for me when I saw this report from the OIG, and it's
22 just background for whatever work you guys do following

1 up on it. Thank you, Jim.

2 MS. JENNINGS: No. I appreciate that. Thank
3 you very much for the input.

4 CHAIRMAN MADDOX: Julie?

5 MS. REISKIN: I agree with everything David
6 said. And I guess what I can't reconcile -- first of
7 all, I think there's just a basic unfairness about if
8 we didn't tell them, going back -- and I'm sure
9 Management will deal with it -- but even if Management
10 waived everything, it's still the stress and the chill
11 effect that this will have that I'm afraid of. Because
12 TIG has been one of the really good programs, and I
13 don't want to see people afraid to use it.

14 But the bigger issue is, how could none of the
15 costs be appropriate when it doesn't seem like there's
16 any dispute that they actually met their milestones and
17 did what they were supposed to do? That had to have
18 been done with time. That's what I'm having trouble
19 with.

20 It's not like you're saying, some of it's okay
21 and there's a few records that don't make sense, like
22 normally happens with billings, or at least that I see,

1 is someone will come back and question pieces. You say
2 everything was wrong.

3 So how did they do the work? That's what I
4 don't understand.

5 CHAIRMAN MADDOX: Well, Julie, I think if you
6 look at the Idaho letter, they provide an explanation
7 that may go to that because they say that, "LSC regs
8 provide that time can be tracked through personnel
9 activity reports, as outlined in 45 CFR Part 1630."
10 They've interpreted this as requiring less specificity
11 that time slips kept under a different reg, 45 CFR
12 1635.

13 So it may be that there's just a difference of
14 understanding. This goes to the whole training
15 question. And believe me, if I were under the
16 impression I didn't have to keep as specific a time
17 record as I might otherwise have to, I would keep the
18 less specific.

19 MS. REISKIN: Right.

20 CHAIRMAN MADDOX: So I think that the process
21 is going the way it needs to go. OIG's questioned the
22 costs. They've evaluated the comments. They're not

1 satisfied. They're submitted to Management, and
2 Management has it now. We'll get a followup report.

3 MS. JENNINGS: Right. We'll be reviewing
4 that. I think, again, the point is well-taken about
5 the training. And my hope is that in the post-OIG TIG
6 audit world, that that is less of a problem. There was
7 definitely some confusion prior to the TIG audit as to
8 the grant assurances versus milestones, to some degree.
9 But nonetheless, they all signed grant assurances.

10 MR. SCHANZ: And if I could add --

11 MR. HOFFMAN: Vic, it's David. One last
12 thing. I think it would be helpful, assuming that
13 we're going to meet again next about three months from
14 now -- depending on how the agenda looks for that
15 meeting, I think it would be helpful to just get a
16 quick update from Lynn about these overall training
17 efforts for grantees.

18 Because it would be nice to make sure we
19 follow the string, keep apprised of the work being done
20 by Management and/or the IG on this, and make sure that
21 we feel satisfied that it's going in the right
22 direction.

1 MS. JENNINGS: Absolutely. Happy to.

2 MR. HOFFMAN: So however you want to handle
3 that, Vic. Thank you.

4 CHAIRMAN MADDOX: Thank you, David. I think
5 that's a great suggestion, and we'll make sure that
6 it's on our agenda for next quarter.

7 Jeff?

8 MR. SCHANZ: If I could just add a postscript.
9 Only part of an IG's job is to ferret out fraud,
10 waste, and abuse. The other is to make the host agency
11 more efficient and economical. And I think our TIG
12 work reflects both parts of that dual reporting process
13 and goals.

14 So I think we're moving in the right
15 direction, and I think that in the immediate future,
16 with Lynn on hand and the fact that we've done four of
17 these TIG reviews in the field, the followup on what we
18 reported to headquarters in the first place, we're
19 making a lot of progress.

20 CHAIRMAN MADDOX: Thank you, Jeff. Anything
21 else from you?

22 MR. SCHANZ: No.

1 CHAIRMAN MADDOX: Okay. And thank you, Lynn,
2 as well.

3 MS. JENNINGS: No problem.

4 CHAIRMAN MADDOX: So that takes us to item
5 number 5 on our agenda, which is a report on audits and
6 implementation of findings and recommendations made by
7 the OIG and external auditors in compliance with the
8 restrictions of 45 CFR Part 1612.

9 And we'll hear from Jim Sandman, the
10 President, David Richardson, the Treasurer/
11 Comptroller, and Lora Rath, Director of Compliance and
12 Enforcement. Jim?

13 PRESIDENT SANDMAN: I'd like to start by
14 addressing recommendations that the OIG has made to
15 Management of LSC in terms of the headquarters
16 separation.

17 As has previously been reported, OIG closed
18 the TIG audit. We complied with all of the
19 recommendations in the TIG audit.

20 In addition, as I reported back in January, at
21 my request OIG did a fraud vulnerability assessment of
22 headquarters, issued a report, and made a number of

1 recommendations in that report. We have implemented
2 all of those recommendations except for three, which
3 are currently in progress.

4 We are in the process of documenting high
5 credit card limits for certain employees because of the
6 job functions they have. We are in the process of
7 documenting a revised process for doing bank
8 reconciliations.

9 And we will be discussing with our insurance
10 broker before September 30th the amount of coverage we
11 have under our fidelity insurance policy. The current
12 policy that we have is in effect until September 30th
13 of this year. But we have taken action on all of the
14 other recommendations in that report.

15 I'd now like to turn it over to Dave
16 Richardson, who will report on what we're doing to
17 comply with a recommendation in the report of the
18 outside auditor for the last fiscal year.

19 MR. RICHARDSON: Thank you. For the record,
20 my name is David Richardson. I'm the Treasurer of the
21 Corporation.

22 One of the audit recommendations is that we

1 needed to strengthen our internal controls on the
2 voiding check process. I've laid out in the memo
3 that's on page 28 in your board book some of the
4 procedures that we have modified.

5 We have put some written procedures in place
6 as to steps needed to void a check in the accounting
7 system, to begin with assuring that the procedures are
8 being followed, to make sure that people are aware of
9 what needs to be done.

10 We do have a print register and report, and
11 we're referring to that as we prepare our void check
12 list to make sure that the check number and the amount
13 and who it's written to is properly noted on the void
14 check process.

15 We established procedures to capture the dates
16 that checks were mailed. We've got a check log as to
17 the date that checks are mailed out. And we're also
18 looking at the visibility of having either a third
19 party or our financial system have a bank
20 reconciliation module.

21 More recently, actually today, there was a
22 beginning training on our bank system because we're

1 looking at putting in place a procedure where they can
2 give us the outstanding checks month to month through
3 positive pay; and then, of course, anything else that
4 voids or anything that we do internally, that we would
5 have to adjust that information.

6 So we're looking at different ways that we can
7 accommodate this recommendation and provide streamlined
8 information in helping our staff complete the bank
9 reconciliations.

10 We established a procedure for the steps
11 needed to void a check. We need to make sure that we
12 are following accepted practices. There's times that
13 we write a check; we hold it for -- a telephone call or
14 an email says that we should hold it.

15 We've laid out in the procedures what we'll do
16 if we hold a check into the next month, how we'll
17 either void it and reissue it or, if it's close to the
18 end of the month, we will make a journal entry to
19 increase the cash and also increase the payable to show
20 the correct balance of the cash and the payables.

21 One of the things that we're also doing is
22 we're adjusting the time that we're writing checks. If

1 there's a meeting going on or something is occurring
2 that would prevent us to go through the review process
3 for the release of checks until the first few days of
4 the next month, we're going to wait until the first of
5 the next month to write those checks.

6 We have a process that checks are entered into
7 the system. The checks are produced. They're matched
8 up to the voucher. That is reviewed to make sure that
9 the check and the invoices match properly. That's
10 reviewed by the accounting manager, and then it comes
11 to me for review.

12 Additionally, any check over \$7500 gets an
13 Executive Office review. So it goes through those
14 steps to ensure that the checks are being written to
15 the appropriate people, and we're trying to determine
16 that the checks are being written in a timely manner in
17 paying those.

18 If we see that that procedure is going to go
19 into the next month, that's when we either need to void
20 the check, which is additional work on us or, as it
21 talks about in item 2, we would simply gather the
22 checks that are sitting in the safe being held for

1 whatever reason, or because it hasn't been through the
2 review process, and enter it back into the system.

3 We hope to prevent that just by issuing the
4 checks the first of the next month. So we're trying to
5 streamline the process. I think this will help us with
6 the integrity of our cash balances and give us greater
7 control, and there certainly should be less outstanding
8 checks at the end of the month as we look at this.

9 Be glad to answer any questions you may have
10 or address any comments you may have.

11 CHAIRMAN MADDOX: Thank you, David.

12 Gloria?

13 PROFESSOR VALENCIA-WEBER: I understood the
14 memo quite completely. I do have an exploratory need.

15 On item number 3, when a direct deposit for a
16 grant payment is returned, what kind of conditions are
17 there that result in our making a payment to a grantee
18 and the check comes back?

19 MR. RICHARDSON: Grantees, recently, we've had
20 a couple who changed banks and did not notify us.

21 PROFESSOR VALENCIA-WEBER: Oh, okay.

22 MR. RICHARDSON: So we had to write them a

1 hand-drawn check, and we had to void the direct deposit
2 and get the correct banking information so that we
3 could issue it to the correct bank the next month. So
4 just another step in the process that we need to make
5 sure that we've addressed.

6 PROFESSOR VALENCIA-WEBER: Thank you.

7 MR. SNYDER: Mr. Chair, David, Paul Snyder.

8 On item 2, just to clarify, when we're
9 releasing the checks within a short time after the end
10 of the month, we're going to put them back in accounts
11 payable and cash, and then they flow the disbursement
12 ledger in the following month. Correct?

13 MR. RICHARDSON: That's correct. We will
14 reverse the entry so that we can properly reflect the
15 cash and the payable balances for the next month.

16 MR. SNYDER: Thank you.

17 CHAIRMAN MADDOX: Any other questions?

18 (No response.)

19 CHAIRMAN MADDOX: If not, thank you, David.

20 And next is Lora.

21 MS. RATH: Good afternoon. My name is Lora
22 Rath, and I'm the Director of the Office of Compliance

1 and Enforcement.

2 The Office of Compliance and Enforcement has
3 the primary responsibility for following up on reports
4 that are issued by the OIG, and also for following up
5 on findings of the independent public accountants that
6 are referred to Management by the OIG.

7 Since June 1, 2011 when I became the Acting
8 Director of OCE, the OIG's audit division has issued 12
9 reports on selected internal controls and four reports
10 on the examination of expenditures related to TIG
11 grants.

12 Of the 12 reports related to internal
13 controls, six were referred to LSC Management with
14 potential questioned costs noted. Three were referred
15 for LSC Management to follow up with the programs to
16 ensure that necessary required corrective actions had
17 been taken. And the other three reports weren't
18 referred to LSC Management because the program was
19 found to be in compliance or had been found to have
20 already taken the necessary actions.

21 The most common costs referred to LSC
22 Management through the reports on selected internal

1 controls center on either the program failing to ask
2 for LSC's approval, prior approval, before the purchase
3 personal property using LSC funds; a failure to
4 maintain adequate documentation for credit card or
5 similar payments; while, as Mr. Maddox noted, for the
6 TIG-focused reports, the most common basis for the
7 referral was that the program failed to adequately
8 document personnel and fringe benefit costs associated
9 with the grant.

10 Of the ten questioned cost referrals received
11 in that time -- as I said, six from the selected
12 internal controls report and four from TIGs -- OCE has
13 initiated or completed five questioned cost proceedings
14 on those. We resolved two of the referrals prior to
15 needing to initiate a questioned cost proceeding, and
16 we're currently still reviewing the three remaining.

17 And once OCE has a recommendation, we'll
18 consult with the Vice President for Grants Management
19 and let her know whether we recommend that a questioned
20 cost proceeding be initiated or some other steps be
21 taken.

22 For the questioned cost proceedings that have

1 been initiated, OCE has found that in most instances
2 the program is able to provide us with evidence that
3 the costs should be deemed allowable.

4 Of the five that are either finished, or we
5 have one that's going to be finished within the next
6 couple months, LSC is recouping approximately \$30,000.
7 Of that amount, almost 300,000 had been referred by the
8 OIG. So we have found that the programs, when given
9 time, can produce us the documentation that they need.

10 For the three reports that were referred for
11 us to follow up with the programs, OCE determined to
12 conduct onsite visits to two of those programs to do
13 our own investigation. And we're resolving any issues
14 through the typical draft report/program comment/final
15 report/required corrective action process that we use
16 for normal onsite visits.

17 The third, we're currently doing a paper
18 review. If we can resolve the issues without going out
19 there, we'll do that. If we need to go out, we'll make
20 that decision later on this summer.

21 Additionally, the OIG's audit division reviews
22 audited financial statements, and if they see any

1 pending issues that the IPA has noted, they'll refer
2 those to OCE or LSC Management for review.

3 Of the 2010 audited financial statements, they
4 referred 61 findings. And that process -- let me go
5 back a step -- is called the A-50 process, and it's
6 modeled on the Office of Management and Budget
7 circular, A-50 circular.

8 So as I was saying, they referred 61 findings
9 from 2010, and in 2011, they referred 33. Issues
10 referred under an A-50 process can be something as
11 simple as the program failed to get retainer agreements
12 when necessary, to more serious issues -- lack of
13 internal controls, lack of segregation of duties.

14 OCE takes all of these referrals very
15 seriously. We follow up with each of them by either
16 contacting the program to see what steps they've taken
17 or, if it's serious enough or we don't get an adequate
18 response, they get put on our list and we go out and we
19 visit them in person and do the followup process that
20 way.

21 Once OCE determines that the program has taken
22 sufficient steps, we provide that information to the

1 OIG along with a recommendation that the finding be
2 closed. Of the 94 that they referred over the last
3 couple years, we still have about 20 pending. But we
4 are working with those programs to try and resolve
5 those issues.

6 Additionally, something we do not related to
7 the OIG's referral of audited financial statement
8 findings is our staff, the fiscal compliance
9 specialists, do their own desk review of each audited
10 financial statement to see whether they see any
11 potential deficiencies in the reports.

12 For 2010 we sent out 22 letters of inquiry,
13 and for 2011 we sent out seven letters. And those are
14 usually issues such as the property accounts that they
15 reported weren't equal; or they reported attorney's
16 fees, and we want to make sure that they weren't asking
17 for attorney's fees before they were allowed to; or,
18 the most frequent one, they failed to outline their TIG
19 expenditures separately.

20 So we send them a letter asking them to send
21 us additional information. We try and cure that
22 through a desk review. But, once again, if we can't

1 cure it through a desk review, they get put on a list.

2 It's part of our risk assessment to decide where we're
3 going to go the next year.

4 So that's LSC Management's role of looking at
5 Audit Division referrals. The OIG's Investigation
6 Division also makes referrals to LSC Management, and
7 since June 1, 2011, we've received eight such referrals
8 from the Investigation Division, including four reports
9 of investigation, two referrals stemming from
10 regulatory vulnerability assessments that the OIG
11 conducted, and two complaints which the OIG had begun
12 investigating and then turned over to LSC Management to
13 complete.

14 Again, we take all of these referrals
15 seriously, too, even though they're not posted on the
16 internet like the Audit Division's. Each of the eight
17 have been assigned to an OCE staff member, and each is
18 being reviewed.

19 Two of the reports of investigation were for
20 the same program, and we determined that a questioned
21 cost should be initiated, and we're almost done with
22 that. The program just submitted their comments. So

1 that had a small questioned cost in it.

2 Of the remaining referrals, we conducted an
3 onsite visit to one a couple weeks ago to get some
4 further information. For the fourth, we have a visit
5 scheduled this summer to try and gather additional
6 information. And the other two are still, as I said,
7 under review and planning.

8 The final two of the whole eight involve
9 potential violations of 1612, which is the regulation
10 restricting lobbying activities. OCE is in the process
11 of reviewing additional information and arguments that
12 we've received from the program.

13 We've started a desk review process of those
14 two referrals, which is a good way for me to segue into
15 what OCE does to review compliance with 1612, which I
16 understand the Committee was interested in.

17 At Jim's direction, over the last two years
18 OCE has been increasing our oversight of program
19 compliance with both 1608, which is prohibited
20 political activities, and 1612, which is lobbying. And
21 the need to increase or expand our oversight of those
22 came to our attention because of a few small in dollar

1 amount but potentially significant violations that were
2 brought to LSC's attention or found while we were
3 onsite.

4 So based on our experiences in investigating
5 the ones that were brought to our attention, and at
6 Jim's suggestion, we reviewed what we were doing and we
7 decided we needed to expand our processes for reviewing
8 compliance with these.

9 So now, as a part of ever regular onsite OCE
10 review process, in addition to reviewing a program's
11 policies and making sure that they're compliant in
12 interviewing people, the staff actually goes around and
13 gathers any sorts of written materials, videos,
14 pamphlets, brochures, flyers, anything that the program
15 either creates, maintains, or somehow distributes to
16 the public.

17 We take that and we review that to see whether
18 there's any potential violations going on. We're also
19 looking around in common areas -- the waiting rooms,
20 lunch rooms, anywhere where somebody might see
21 something that's not quite in compliance with the
22 regulations.

1 It also includes reviewing the program's
2 website to see whether there's anything on there that
3 can be construed as lobbying; doing keyword searches of
4 the program's name, the names of the executive director
5 and certain key staff members, trying to see if we can
6 find anything that way.

7 So this is a much more in-depth review than we
8 were doing two or three years ago. But we're always
9 looking for ways to make it more efficient and make
10 sure that we're making the most use of our resources,
11 but still getting the information that we need to make
12 an assessment.

13 Additionally, when we're onsite, the fiscal
14 compliance staff members are looking at the program's
15 fiscal systems and procedures, making sure there are no
16 payments noted to a political organization, making sure
17 that if they are doing permissible lobbying that
18 they're keeping the separate recordkeeping notes that
19 they need to have, and making sure that no LSC funds
20 are being used for the administrative oversight that's
21 going towards those permissible activities.

22 Following up on what we've seen when we've

1 been onsite, LSC's most recent Compliance Advisory
2 Letter, which is sent out annually based on what OCE
3 has seen over the last year, we reminded programs that
4 they need to check their 1612 policies to make sure
5 it's compliant. And we reminded them about the
6 separate recordkeeping requirements.

7 But no matter how robust we make the onsite
8 process, that's only getting us to see 20 to 24
9 programs a year. So over the last two years, we've
10 also been trying to increase what we can do from here.

11 Twice a year, programs are required to submit
12 reports about what their permissible lobbying
13 activities are. They do that in the end of January and
14 the end of July. So what we've been doing is reviewing
15 those reports and sending out more inquiry letters to
16 see what they were actually asked to do and what they
17 did in response.

18 And to show you how we've increased what we've
19 done, I went back and I looked back. In 2009, 79
20 programs reported that they had done permissible
21 activities. But OCE only sent letters of inquiry to
22 nine, so a very small fraction of it.

1 In 2011, when we decided to increase our
2 oversight of this, 68 reported permissible activities,
3 and we sent out 42 inquiry letters. Same thing for
4 2012 -- 66 reported doing permissible activities, and
5 we sent inquiry letters to 44, just so that we can make
6 sure that what they are saying is permissible is
7 permissible.

8 Whether a program has complied with 1612 is
9 very case-specific, and it takes a long time. It's
10 looking at what they were requested to do and what they
11 did in response. It's document-intensive. So it's a
12 long, drawn-out process. But we think it's important
13 that we do as much as we can from here.

14 But, of course, that's now only looking at
15 self-reported activities. Both the OIG and GRPA have
16 recently, through the use of Meltwater and other online
17 news-monitoring programs, found potential violations of
18 1612 and referred them to OCE.

19 I know I keep saying these things seriously.
20 These we really take seriously. I call the executive
21 directors directly myself the day I get the referral
22 and talk to them to see what they know about what

1 happened.

2 And then we talk through the process. We talk
3 through whether they knew what was going on. And then
4 we follow it up with a written document request letter
5 and a written investigation. So we don't want to let
6 these things go. As soon as we find something, we
7 start the investigation process.

8 So far, I'm happy to say that what we've
9 learned from interacting with the programs and from
10 asking for additional information is that the programs
11 pretty much do know what they can do. But
12 unfortunately, 1612 is kind of grey in a lot of areas.

13 So in those areas, OCE has been seeking and will
14 continue to seek interpretations from the Office of
15 Legal Affairs.

16 But in the meantime, we're working on
17 developing training. Specifically, we're already doing
18 what we call program-specific executive director
19 orientation trainings, which we're doing on a
20 once-per-month basis, just about.

21 That gives new executive directors the
22 opportunity to hear about both regulatory and fiscal

1 requirements, and it also is an opportunity for more
2 experienced executive directors to get reacquainted
3 with something that maybe no one ever trained them on
4 or maybe they've just forgotten about. So we've been
5 doing those. But that's looking at the whole gamut of
6 LSC regulations.

7 We're also looking at developing
8 regulation-specific trainings -- a 1612 module that we
9 can either do onsite or do on the web or do for one
10 program, do for ten programs, and eventually have it
11 posted online. And we're going to look at doing those
12 for other regulations as well.

13 But in the meantime, while we're doing that,
14 as I said, the compliance advisory last year pointed
15 out the things that were wrong with 1612. Next year's
16 advisory will point out any other issues that we find.

17 Or if something comes up that seems to be more
18 prevalent, LSC can send out a more expedient program
19 letter discussing the deficiencies.

20 And that's a quick view of what OCE is doing.

21 Any questions?

22 CHAIRMAN MADDOX: Wow. There was a lot in

1 there.

2 (Laughter.)

3 MS. RATH: Yes. And I can talk fast.

4 CHAIRMAN MADDOX: Thank you very much. What
5 is Meltwater?

6 MS. RATH: That the OIG might be able to
7 explain better.

8 CHAIRMAN MADDOX: Well, before we do that --

9 MS. RATH: It's a clipping service. It's
10 something -- they monitor online and pull out stories
11 based on keywords, I believe.

12 CHAIRMAN MADDOX: Okay. I think -- are we
13 going till 3:15? Okay. So we don't have a lot of
14 time.

15 There's a lot in this. Where do you recall
16 reports go? For instance, you say you had eight
17 reports for your investigation team, I guess, and that
18 two of them are questioned costs. Two of them are
19 potential violations of 1612.

20 MS. RATH: Those are referrals that came to
21 OCE from the OIG. So those reports of investigation
22 are not posted on the OIG's website. They get provided

1 to LSC Management to review, and then -- there's a
2 difference between -- the Audit Division posts theirs
3 online and it says, we're referring it to LSC
4 Management with these potential costs. We want you to
5 look into this.

6 Reports of investigation aren't posted online,
7 and they sort of say, this is for LSC Management to do
8 what they see fit with. It's just a recommendation for
9 us to look into something.

10 CHAIRMAN MADDOX: Right.

11 MS. RATH: But we are looking into them all.

12 Our notices of questioned costs and our
13 management decisions we haven't been posting anywhere.

14 I don't know whether, under FOIA, they would be
15 FOIA-able. So maybe we should look into -- those are
16 not posted online on the website right now, but they
17 probably could be. We just never --

18 CHAIRMAN MADDOX: So what happens, then, when
19 these eight reports are resolved? Is that just part of
20 your annual report, your semiannual report to Jim that
21 eventually comes to us?

22 MS. RATH: Okay. So breaking it down again,

1 the 12 that I talked about first, those are part of the
2 semiannual report, yes. These eight other ones are not
3 really tracked in the semiannual report, as far as I
4 know. The first --

5 CHAIRMAN MADDOX: Where do they go? What
6 happens to them?

7 MS. RATH: That is our own tracking system. I
8 keep the OIG informed of what we did with each of the
9 referrals when they're resolved.

10 CHAIRMAN MADDOX: Yes.

11 MS. RATH: But there's not a formal mechanism
12 like a semiannual report that I know of.

13 CHAIRMAN MADDOX: Yes. I would like to know
14 if there are investigations by your office into
15 possible violations of anti-lobbying restrictions. And
16 I don't recall ever having seen a report on anything
17 like that. Maybe we have gotten them; I don't know.

18 MS. RATH: Well, actually, the 1612 referrals
19 just came out within the last few months. We haven't
20 completed any of the 1612 referrals. But I'm sure we
21 could keep the Board informed somehow.

22 CHAIRMAN MADDOX: But in your ordinary course,

1 setting aside these two, what happens? You do an
2 investigation. You either resolve it and decide
3 there's no violation, and so the case is closed. We
4 don't necessarily need to see a report on that.

5 If something is more troublesome and you can't
6 close it, do you refer it to the President? Is that
7 what happens?

8 MS. RATH: Yes. Well, depending on what the
9 issue would be, we would then go through the basics of,
10 if it was a report, a required corrective action, a
11 special grant condition, the lesser enforcement
12 mechanisms -- some way to bring the program into
13 compliance.

14 At this point, these decisions or these issues
15 have been kept in mind during the annual funding
16 recommendations that OCE makes. So if we have a
17 concern about a program -- and there aren't any at this
18 point -- that's violating something and not coming into
19 compliance, that information is brought up to both Lynn
20 and Jim during the funding application.

21 CHAIRMAN MADDIX: Martha?

22 DEAN MINOW: Well, this sounds like maybe Jim

1 may want to look into whether there's a tracking that
2 goes to you on this, and at what point that would make
3 sense. And then we'd leave it to you when to bring it
4 to us.

5 CHAIRMAN MADDOX: Yes. I think that's right.

6 MS. RATH: There is a tracking spreadsheet
7 that I have for Lynn. I should say that. There is the
8 open referrals from the OIG.

9 CHAIRMAN MADDOX: Let me ask you about a
10 specific instance that's in my area of concern right
11 now, and that has to do with an article that was in the
12 Management Information Education Journal in winter of
13 2012, basically throwing out a challenge to every legal
14 aid society in America, every grantee of LSC, to be
15 involved in the process of seeing to it that Medicaid
16 programs are expanded to the maximum extent possible
17 under the Affordable Care Act.

18 Is that an article you've seen, Lora?

19 MS. RATH: It was brought to my attention at
20 the end of last week, yes.

21 CHAIRMAN MADDOX: So is that the kind of
22 article? If you see something like that, it's brought

1 to your attention by somebody, that you then call up
2 the grantee or you do whatever informal investigation
3 you think is necessary, and then if necessary you
4 follow up more formally?

5 MS. RATH: Well, it would be rare that I would
6 not see an instance to follow up formally. The initial
7 phone call is just to let the program know that we know
8 something's going on and we want them aware of it and
9 for them to start investigating.

10 But yes, things like that that are brought to
11 my attention -- there were a few other things that were
12 brought to my attention in the last two or three
13 months, and I immediately called the executive
14 directors and then followed up with document requests.

15 CHAIRMAN MADDOX: For the board and the
16 committee members' benefit, at the last meeting I
17 alluded at the end of the session to an
18 article -- there's always at least one -- in the MIE
19 journal that has troubling implications for me to one
20 degree or another.

21 This was the most troubling I'd ever seen.
22 And it really suggests that there ought to be a

1 broad-based effort by the grantee organizations to see
2 to it that the ACA Medicaid expansion happens to the
3 maximum extent possible.

4 I, for one, was very troubled by this. I
5 thought it was plainly inappropriate, in light of our
6 restrictions on lobbying and potentially influencing
7 political processes, legislation, Executive Orders, and
8 the like.

9 So if you haven't seen the article, I'll be
10 happy to forward it to the board members. Lora, I
11 appreciate your following up on it. I know you've
12 probably been in discussions with Jim on it because
13 I've had some discussions with him. And so it's
14 something that I want to try to follow up and see where
15 it goes because I think it's a troublesome issue.

16 Any other questions? Gloria?

17 MR. HOFFMAN: Vic, this is David Hoffman. Can
18 I weigh in on that point?

19 PROFESSOR VALENCIA-WEBER: Gloria, do you
20 mind?

21 PROFESSOR VALENCIA-WEBER: Let David speak.

22 CHAIRMAN MADDOX: David, go ahead.

1 MR. HOFFMAN: Okay if I go ahead, Vic?

2 CHAIRMAN MADDOX: Yes.

3 DEAN MINOW: And then I can --

4 CHAIRMAN MADDOX: Right.

5 MR. HOFFMAN: I know we're short on time. I
6 read that article, and I don't think I had the same
7 kind of reaction that you did, Vic. I think I
8 understand the potential concern regarding where the
9 legal line could be crossed.

10 I thought that the article writer was, at
11 least on the surface, attempting to make the point that
12 explaining practical effects of a law as a factual
13 matter shouldn't be considered to cross a line because
14 it shouldn't be considered either lobbying or advocacy.

15 That struck me as true. So I wasn't troubled
16 by that if a grantee agency is explaining factual
17 implications of the law. We all know that that can, if
18 things change slightly, turn into lobbying or advocacy.

19 So I can see how this is a very difficult area to
20 enforce. And for grantees who want to comply, it might
21 be a difficult area to comply with.

22 So I see the potential concern, but I didn't

1 have the same immediately negative reaction that I
2 think you did, Vic. And I just wanted to say I think
3 that reasonable minds could disagree about how to read
4 that article.

5 I know we don't have a lot of time and there
6 could be a longer discussion on this. I am interested,
7 and maybe we could just do one or two minutes, Lora, on
8 the -- what I don't understand is the intersection
9 between IG investigations and your investigations, and
10 whether it relates to this topic that Vic raised or
11 financial concerns about questioned costs and so on.

12 When you receive these reports of
13 investigation from the IG, is that the only thing that
14 would prompt your office to do a "investigation"? Or
15 could you also launch an investigation on your own,
16 either relating to a concern about grantees' finances
17 or the 1612 issues?

18 MS. RATH: Oh, yes. OCE often initiates its
19 own investigations. We don't depend on the OIG to
20 bring things to our attention.

21 MR. HOFFMAN: So how do you know if the IG
22 isn't also investigating the exact same thing?

1 MS. RATH: Well, one of the things that Jim
2 has helped foster and bring along is we now have
3 monthly meetings, myself, the Director of the Office of
4 Program Performance, and both Assistant Inspectors
5 General, Dutch Merryman and Tom Coogan. We have
6 monthly meetings, and Lynn Jennings attends it with us.

7 They can't give us too much information, but
8 they can let us know places they're going. We let them
9 know where we're going so they can give us a heads up
10 about things. And it's become a much more cordial
11 working relationship. We are sharing information.

12 It's much better than what I remember before I
13 moved up to this position, before Jim was here. There
14 wasn't any of this sharing of information. Everybody
15 kind of stayed apart. But we really are all working
16 together to make sure we're now --

17 MR. HOFFMAN: Right. Well, a quick reaction.
18 Kudos to you guys for doing that. I think that's,
19 from my experience, critically important. I'm really
20 glad you're doing this.

21 It sounds like -- and I understand that it
22 can't be an equal two-way street sometimes because the

1 IG may have confidentiality concerns and limits on
2 their ability to share.

3 I would say that I'm hoping that the rules of
4 the road for the people having these meetings are
5 followed. I'm hoping you on the management side are
6 really sharing 100 percent of what you're doing and
7 seeing and where you're intending to go. I hope that
8 you're doing that.

9 And I hope that the IG is sharing the maximum
10 amount that they can share, which will really be case
11 by case. And I think if that dynamic is happening,
12 then it allows for both the most efficient kinds of
13 investigations, but even more importantly, for a good
14 kind of sharing of intelligence so that neither of you
15 is wasting your time on something the other's doing.
16 But also, if there's a real problem there, then both of
17 you can computer notes in the right way. So it sounds
18 like that's happening. I would just encourage both
19 offices to really do that as much as possible.

20 My only other question then is, in the
21 scenario you were describing when the IG sends you
22 reports of investigation, I just want to make sure I

1 understand it. They're finished with their
2 investigation. They send it to you for followup.

3 But it doesn't come with any recommendations
4 or findings about whether anything was wrong. It just
5 is sent to you and says, we recommend that you
6 followup? Or am I misunderstanding? Is there
7 something more specific that they say in these reports
8 of investigation regarding findings of wrongdoing or
9 problems?

10 MS. RATH: It depends, report of investigation
11 to report of investigation. There's been one or two
12 that specifically say, we think there are potential
13 questioned costs here, or we think there's a potential
14 violation. But it's not laid out as definitively as
15 the audit reports that are issued.

16 MR. HOFFMAN: Okay. So just, again, in the
17 interest of time, Vic, if I can make a suggestion for
18 next time, in my experience -- and you raised this
19 point a few minutes ago about, well, what happens with
20 these -- when OCE does something with these reports of
21 investigation and resolves it one way or another, or
22 they FOIA-able? What happens to them? Is the Board or

1 the Audit Committee notified about this?

2 I think we need a more definitive, systematic
3 approach to this. And I think we do need to talk about
4 the public nature of what comes out, especially if
5 there's a finding of a problem or a wrongdoing by OCE.

6 I think we need to talk about both how there's
7 both internal notifications at the board and committee
8 level, but also, is that FOIA-able? And arguably,
9 there's some benefit to adding transparency in this
10 regard.

11 And I'd also like to hear from -- and it might
12 be useful, again; you'll set the agenda -- but I think
13 that hearing from both Lora and someone from the IG to
14 get their perspectives at the same time about how this
15 works -- and maybe that it's better for the report of
16 investigation to be a bit more specific about findings.

17 I'd like to hear more about whether this
18 process is working as well as it can because I think
19 it's critical to making sure that if there is
20 wrongdoing going on at the grantee level, that
21 Management and the IG are more likely than anything
22 else to get it.

1 CHAIRMAN MADDOX: Thank you, David. I think
2 those are all good suggestions. We will probably need
3 to have another meeting by telephone after this and
4 before the next quarter because we're not going to be
5 able to address all those.

6 DEAN MINOW: That's a lot of stuff.

7 CHAIRMAN MADDOX: I know we're behind
8 schedule. Gloria?

9 PROFESSOR VALENCIA-WEBER: Yes. I would like
10 to join David's initial statement about the article. I
11 read it. I did not find that the Director of the Legal
12 Services of Eastern Missouri was in any obvious or
13 blatant way disregarding what we think is the
14 lobbying -- what we know to be the lobbying
15 restrictions.

16 I would like to remind that sharing what our
17 legal services attorneys know about the potential
18 impact when there are choices between policies A, B,
19 and C is what is expected in the Access to Justice
20 Commissions.

21 Those bodies, at least the one I have
22 experience with, includes groups, organizations, that

1 are advocates for people -- for autistic kids, children
2 with disabilities, other kinds of medically affected
3 groups.

4 And it is common in those conversations that
5 as these policy choice points arise, especially within
6 a state law context, that our legal services attorneys
7 are actually the people asked to explain -- not to
8 advocate and tell these organizations, go and seek A as
9 the choice, or go talk to this or that legislator.

10 But the explanation -- because many of these
11 organizations that are involved in health issues do not
12 have attorneys of their own all the time -- is
13 critical. And I think that is one of the best roles we
14 have as knowledgeable, skilled LSC attorneys.

15 DEAN MINOW: I see Charles' two fingers. And
16 where I come from, that means, I need to talk.

17 CHAIRMAN MADDOX: Charles? Thank you, Gloria.
18 Charles?

19 MR. KECKLER: Thanks for letting me
20 participate. I've had more of your reaction, Vic, and
21 I'm just reviewing that article and looking at it. And
22 it is a delicate line, as David said.

1 But the article, as I read it, clearly says
2 that the person is going to be giving factual
3 information that is the positive benefits of a
4 particular policy change. And that's what a lobbyist
5 often does, is they give truthful information but
6 they're giving one side.

7 The gentleman says, "Legal services programs
8 should treat the Medicaid expansion like any other
9 systemic advocacy project, such as major litigation or
10 a significant piece of legislative or administrative
11 advocacy."

12 There's clearly an opinion here. There's
13 clearly the factual presentations that are going to be
14 of the positive benefits of the policy change. And
15 they're not at all neutral.

16 So I am troubled by the article, and I'll be
17 interested to see what the conclusion is of Management
18 because I don't think that lobbying, or
19 legislative -- that doesn't mean you're a bad person.
20 I've done a little bit of that myself.

21 But it's something that you -- you're an
22 advocate. You're giving factual information, but

1 you're not giving it -- and no one expects you to give
2 an even-handed treatment to both sides.

3 I don't read this as an even-handed treatment.

4 I read this as it says, as an advocate. And that's my
5 problem.

6 CHAIRMAN MADDUX: Charles, I appreciate that.

7 And in partial response to Gloria, I agree with you,
8 Charles. I think the article is fairly
9 straightforward.

10 In addition to what you've just quoted, it
11 says that the sheer magnitude of the negative outcome
12 of not having Medicaid expansion under the Affordable
13 Care Act "demands that legal services programs take on
14 the challenge of ensuring Medicaid expansion in their
15 states."

16 Now, that's a perfectly appropriate activity
17 for an advocate of the fullest possible implementation
18 of the Affordable Care Act. But I don't think that
19 it's appropriate for publicly funded lawyers of legal
20 aid grantees at legal aid agencies.

21 The challenge of ensuring Medicaid expansion
22 is a highly political, highly contentious proposition,

1 as evidenced by the governors and the state
2 legislatures around the country who've already gone
3 through the process.

4 Those governors who've signed expansion in
5 states where they are considered red states have faced
6 all kinds of political pressure on both sides. And
7 this article makes explicit reference to the political
8 pressures. And frankly, I think it's highly
9 inappropriate for the Legal Services Corporation to be
10 involved in the political process.

11 So, Gloria, I fully appreciate your opinion.
12 That's why I raised it, because I wanted your opinion.

13 I think it's something that we need to wait and see
14 what Management comes back to us with. Maybe we
15 discuss it further at the board level.

16 But personally, I think that to the extent
17 that LSC gets involved in political processes and
18 political disputes and risks, the kind of adverse
19 consequences that we saw in the 1995 and '96 era.

20 MR. HOFFMAN: Vic, it's David. I think the
21 one obvious counterpoint to that is that since the
22 point of LSC is to provide appropriate legal services

1 to people who are low income, if the point is that the
2 law will or a legal change will affect people at the
3 low income side of the spectrum in a certain way, then
4 that is obviously engaging in the legislative or
5 political process because it's making a statement about
6 how the grantee agency thinks the law will affect
7 people at the low income side of the spectrum.

8 But I think that that's an important factual
9 point, about how a law will affect people on the lower
10 side of the income spectrum. As to whether that means
11 the law should be passed or changed or not is a
12 different issue.

13 So I can't believe that the line is drawn that
14 prevents engagement in the "political process" because
15 that would prevent information from being shared with
16 the legislative process ever, which I know is not what
17 you're saying and I know is not what the law provides.

18 But I think the only thing we probably can
19 agree with at this point is that it is a delicate
20 balance. And it sounds like there is a disagreement
21 about whether this article would describe something
22 that crosses it. But I just wanted to get that

1 reaction to what you said.

2 CHAIRMAN MADDUX: Thank you, David.

3 Martha?

4 DEAN MINOW: I'm the timekeeper.

5 (Laughter.)

6 DEAN MINOW: And so I'm going to ask that we
7 draw this to a close, with the recognition that there
8 is a delicate issue. David had a very good phrase
9 about that. And it's the kind of issue where ongoing
10 issue provided by LSC to our grantees is clearly going
11 to be needed, both on a case-by-case basis and also
12 more generally.

13 So I think that at the moment, while this is a
14 particularly interesting one and we should hear back
15 about it, that's where I think the Board's concern
16 should be expressed.

17 CHAIRMAN MADDUX: Yes. I agree with you,
18 Martha. I appreciate that.

19 So with that gentle prodding, I'm going to
20 move to the agenda again. And in the interest of time,
21 if I can just get my agenda to open back up
22 here -- here it is. I've got it. Thanks.

1 I'm going to move that we table the discussion
2 of future Management process reports. Paul, is that
3 okay with you?

4 MR. SNYDER: Mr. Chairman, I'd ask that
5 maybe -- you mentioned we may have a meeting in between
6 or a call?

7 CHAIRMAN MADDOX: Yes.

8 MR. SNYDER: And one of my thoughts we talked
9 about earlier was possibly having Management, the IG,
10 and external auditors help us identify what are really
11 the key risks of the organization? What are the
12 controls around that?

13 And then we schedule those, maybe as the top
14 four we cover in a given year. We keep moving so we
15 get focused and --

16 CHAIRMAN MADDOX: Can we give Paul just a
17 couple more minutes?

18 DEAN MINOW: Yes.

19 CHAIRMAN MADDOX: Okay, Paul.

20 MR. SNYDER: We have limited time. So if we
21 could do that, I think we'd have our time better spent
22 and really focused on the key areas. But I think this

1 group would be very helpful in helping us get through
2 that identification process.

3 CHAIRMAN MADDOX: Would it be appropriate
4 then, Paul, that we take that up at a meeting in about
5 a month?

6 MR. SNYDER: Yes. So we could do it before
7 the next meeting, looking at the agenda.

8 CHAIRMAN MADDOX: Okay. Then I will move that
9 we table number 6 till the next meeting that we can
10 schedule, and discuss that at that point. I also want
11 to thank you, Paul, for coming all the way from Tucson.
12 We very much appreciate it.

13 Item number 7 is public comment. Is there any
14 public comment?

15 (No response.)

16 CHAIRMAN MADDOX: Seeing none, I'll move to
17 item number 8, which is other business. Hearing none,
18 I will --

19 (Laughter.)

20 CHAIRMAN MADDOX: -- move to item number 9,
21 which is to consider and act on a motion to adjourn.

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M O T I O N

PROFESSOR VALENCIA-WEBER: So moved.

MR. SNYDER: Second.

CHAIRMAN MADDOX: All in favor?

(A chorus of ayes.)

CHAIRMAN MADDOX: So the motion is agreed to
and the meeting is adjourned, at least our public
session.

(Whereupon, at 3:30 p.m., the Committee was
adjourned.)

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