

LEGAL SERVICES CORPORATION  
Board of Directors  
Provison for the Delivery of Legal Services  
Committee Meeting

April 5, 1992  
1:40 p.m.

The Hilton Palacio Del Rio Hotel  
200 South Alamo  
The La Condesa Room  
San Antonio, Texas 78205

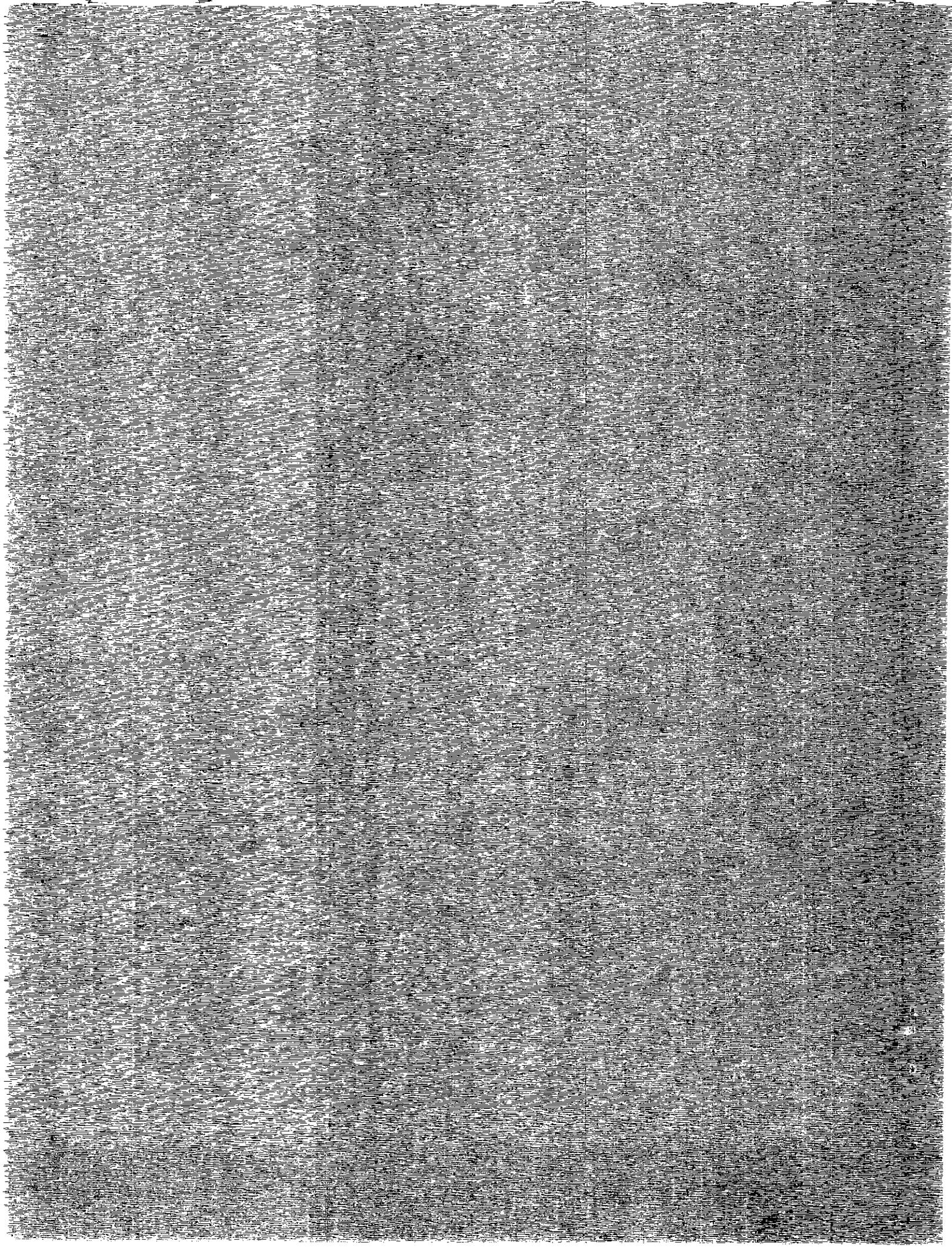
Board Members Present:

J. Blakeley Hall, Chairman  
Jo Betts Love  
Jeanine E. Wolbeck  
William L. Kirk, Jr.

Staff Present:

John O'Hara, President  
Emilia DiSanto, Acting Vice President  
Patricia Batie, Secretary  
David Richardson, Treasurer and Comptroller

Diversified Reporting Services, Inc.  
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WASHINGTON, D.C. 20006  
(202) 296-2929



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

1  
2 CHAIRMAN HALL: Have a seat, please. I will call  
3 to order this meeting of the Provisions for the Delivery of  
4 Legal Services Committee. Today is April 5th. It is  
5 approximately 20 minutes to 2 o'clock. Seated at the table  
6 are the committee members, Jo Betts Love, to my right, and to  
7 my left, Jeanine Wolbeck.

8 I will begin by asking for a motion to approve the  
9 agenda as it is printed in our board book.

## M O T I O N

10  
11 A PARTICIPANT: So moved.

12 CHAIRMAN HALL: Jeanine?

13 MS. WOLBECK: Second.

14 CHAIRMAN HALL: Is there discussion?

15 (No response.)

16 CHAIRMAN HALL: I will call for an approval. All  
17 in favor, say aye.

18 (A chorus of aye.)

19 CHAIRMAN HALL: Opposed, nay.

20 (No response.)

21 CHAIRMAN HALL: Approved. Moving on to Item 2,  
22 approval of the March 8th, 1992, meeting minutes for this

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1 committee, has everyone had an opportunity to read those? If  
2 you have, would someone give me a motion to approve those?

3 M O T I O N

4 A PARTICIPANT: So moved.

5 MS. LOVE: Second.

6 CHAIRMAN HALL: And a second from Ms. Love. All in  
7 favor, say aye.

8 (A chorus of aye.)

9 CHAIRMAN HALL: Opposed, nay.

10 (No response.)

11 CHAIRMAN HALL: The minutes are approved. We will  
12 move on to the third topic, Consideration of Procedures for  
13 Proposal for Corporation Grants, which is the Meritorious and  
14 Innovative Grant Award topic, and I think Ellen Smead is  
15 going to come forward and speak to us on that today.

16 I wanted to say, too, that on this topic, where we  
17 are, we have learned that the corporation has been making  
18 some of these grants for some time now both to field programs  
19 and to others. Ellen Smead provided -- or the staff provided  
20 an excellent chart at our last meeting that showed all the  
21 past grants that have been made in this manner. We have made  
22 grants for pro bono, for materials development training,

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1 emergency self-help, and student internship.

2 We learned that the corporation had never actually  
3 taken steps to make the availability of these funds known,  
4 although they were obviously known to many, and we learned  
5 that the funds that were used came from various sources in  
6 the corporation, and decided that we should have a policy  
7 concerning these grants, whether we should disfavor them or  
8 whether we should favor them, and we should certainly make it  
9 known that they were available.

10 And I think that's what Ellen is going to speak to  
11 today, that we have prepared some type of notice to be  
12 published in the Federal Register that would make it known  
13 that these are available to all. Ellen.

14 CONSIDERATION OF PROCEDURES FOR PROPOSALS  
15 FOR CORPORATION GRANTS

16 MS. SMEAD: Thank you, Mr. Chairman. Since the  
17 last meeting -- at the last meeting we distributed two draft  
18 Federal Register notices. The difference in those notices  
19 were that one said that there was an amount up to, and then  
20 it left a blank, a dollar amount to fill in. The other one  
21 did not refer to what the total amount available was.

22 Since the last meeting, we have determined that for

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1 this fiscal year we have about \$500,000 available for  
2 meritorious, up to \$500,000. This funding would be composed  
3 of the grant recoveries to date -- that is where we fund  
4 balance recoveries or question cost recoveries -- plus the  
5 amount that has been left over at each of the grant lines  
6 except the migrant grant line, after the grants were awarded  
7 earlier this year.

8 The draft notice was distributed and it is  
9 available to the public through Pat Batie.

10 CHAIRMAN HALL: Do any of the members have any  
11 questions? I see that we are joined by President Jack  
12 O'Hara. I may have just missed you last time.

13 I had a question or two, Ellen. Where is the  
14 \$500,000 coming from?

15 MS. SMEAD: Okay. Specifically, it would come from  
16 -- there would be about \$100,000 from the basic field line,  
17 about \$20,000 from the Native American line, about \$95,000  
18 from the state support line, and about \$190,000 from the  
19 national support line, and to date, from October '91 through  
20 March '92, there has been about \$130,000 in total grant  
21 recoveries, and that's a total of about \$540,000.

22 CHAIRMAN HALL: But the other figures, the \$100,000

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1 from the field, why was the \$100,000 -- how was that figure  
2 arrived at? Do you know?

3 MS. SMEAD: Not off -- this is an amount that tends  
4 to be left over after we apply the formula, and so I am not  
5 quite sure where.

6 CHAIRMAN HALL: And I wanted to ask a couple of  
7 questions on the -- probably some questions I should have  
8 asked you last time, but it was basically on this procedure  
9 that the staff uses to, I think, in the past, make the grants  
10 to the laws schools, and you plan to use it, now, to make  
11 these meritorious grants?

12 MS. SMEAD: Right. It is a very similar procedure.

13 CHAIRMAN HALL: Okay, and you presented that to us  
14 with this flow chart that the other members may recall.

15 MS. SMEAD: Right.

16 CHAIRMAN HALL: There was a section on there where,  
17 after an application was made, if something wrong was found  
18 on the application, or it was incomplete, it appeared that  
19 the applicant had five days to correct that, and if they  
20 don't correct it in that five days, does that kill that  
21 particular proposal?

22 MS. SMEAD: Correct. There might be a little bit

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1 -- it's five business days, or if somebody said they couldn't  
2 do it in five, and said they could do it in seven business  
3 days, we would take that. We would be flexible on the number  
4 of days. The only reason to put in days was just to give  
5 some time for them to correct the application but not hold up  
6 the process too much.

7 CHAIRMAN HALL: I guess my position on this thing  
8 has always been that the board should want to have some type  
9 of policy, and that is what we are to do, to recommend, and  
10 we have done that, and I think the full board has embraced  
11 the idea of making these grants, and the procedure, and the  
12 way you do it, and which ones you do are up to the staff, and  
13 up to Jack in the end, but I had a problem with that five  
14 days on there.

15 It seems to me like a better way would be to have  
16 no days, and I was going to see what you thought about that.  
17 I mean, after all, if it is a good idea, why put that type of  
18 thing in there that might kill it, and that is just something  
19 you all might talk about.

20 So if it takes them 10 days to resubmit it, so  
21 what? If it takes them three months to resubmit it, I mean,  
22 so what? It seems like the desire to get it submitted would

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1 be -- they would have that desire, so there is no need to  
2 push them with any kind of a deadline, but maybe I have just  
3 missed why that was in there.

4 MS. SMEAD: The reason for some sort of a deadline  
5 is that we want to have the committee, the Merit Review  
6 Committee meet. We want to be able to set a time when they  
7 will all meet to review all the applications all at once.

8 So, all we are trying to do is make sure that we  
9 have all the applications ready for review by the Merit  
10 Review Committee, so we can be flexible on -- there is some  
11 flexibility on getting a revised application in, and what we  
12 are looking at here usually is, somebody forgot to sign, or  
13 sent us in the wrong -- they meant to send us in the signed  
14 form, and it wasn't the signed form.

15 They have to telecopy us the signed form. Or they  
16 didn't send in the right number of copies, or there is a  
17 question on their budget.

18 Also, not this year, but in the future we are  
19 hoping that we would have two times a year, two deadlines a  
20 year, so even if somebody didn't make it on the first  
21 deadline, there would be the option of resubmitting it on the  
22 second deadline.

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1           CHAIRMAN HALL: You had some type of -- or at least  
2 in some of the testimony last time, when they were talking  
3 about a one-time-only, or one-time-per-year type of  
4 application.

5           MS. SMEAD: You could only get one grant per year,  
6 is what I think we were intending to mean.

7           CHAIRMAN HALL: Okay. Well, that's what I was --

8           MS. SMEAD: But then, even again there we might be  
9 flexible. We are not trying to -- what we are trying to do  
10 is make sure that everybody has a chance for the grants, but  
11 not overload the system so much that it takes forever to  
12 review the applications.

13           CHAIRMAN HALL: Well, again, I don't think that is  
14 our territory, but those were a couple of things that I saw  
15 that might make it a better process. Having said that, I  
16 think that we have pretty much completed this topic. We have  
17 a proposal on the procedure. It has worked before in other  
18 grants.

19           I know the full board has discussed it, and  
20 everyone seemed to be in favor of it, and I see no need for  
21 this committee to have any motions to recommend anything on  
22 it.

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1 I think we have gone as far as we can go on that.  
2 Unless there are any more questions or discussion from  
3 committee members or staff, I am going to move on to the next  
4 topic. And you all are going to publish that now. Is that  
5 correct?

6 MS. SMEAD: Yes, we will go ahead and publish that  
7 very quickly now.

8 CHAIRMAN HALL: That is my understanding. Is there  
9 anything further on this topic from the committee members,  
10 from the staff, or from the public?

11 (No response.)

12 CHAIRMAN HALL: All right. We will move on, then,  
13 to our forth topic, which is consideration of vehicles  
14 through which the corporation could assist LSC-funded  
15 grantees to recruit and retain staff attorneys, attorney  
16 retention. Ellen, you have something on that as well?

17 CONSIDERATION OF VEHICLES THROUGH WHICH  
18 THE CORPORATION COULD ASSIST LSC-FUNDED  
19 GRANTEES TO RECRUIT AND RETAIN STAFF ATTORNEYS

20 MS. SMEAD: Thank you. At the last meeting Leslie  
21 Russell, of my staff, made an extensive report on what he was  
22 looking at, the various options that they were looking at for

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1 attorney recruitment and retention, and he indicated at that  
2 point that we intend to do a survey and to review the surveys  
3 that have already been done by other people at NLADA and at  
4 NACO.

5 We have been in contact with both of those  
6 entities, and they are looking for that data at this point,  
7 and we will review that as soon as it is available and then  
8 decide whether or not to send out our own survey.

9 CHAIRMAN HALL: Have they given you any time frame  
10 on when they think that might be available?

11 MS. SMEAD: Not at this point. We will be  
12 following up with them, though.

13 CHAIRMAN HALL: We are joined by Bud Kirk. Bud, do  
14 you have question?

15 MR. KIRK: I have a question.

16 CHAIRMAN HALL: Please.

17 MR. KIRK: Ms. Smead, I haven't done any survey of  
18 any depth but in talking to some of the grantees I heard some  
19 of them saying that their average cost per attorney are  
20 fairly high because the people have been with them so long,  
21 and they are in the higher range, and it was almost a desire  
22 to be able to get some young blood in and infuse their

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1 programs with a bigger range of salaries.

2 And then I am also aware that unemployment among  
3 attorneys is as high as it has ever been in the last 50  
4 years, probably, with the exception of the Depression, and I  
5 am wondering, is this a real problem in your opinion, the  
6 recruitment and retention of attorneys?

7 MS. SMEAD: My understanding from talking to  
8 programs is, there is a problem with recruitment, that their  
9 salaries, their starting salaries are often so low that it is  
10 hard to recruit. Starting salaries are often about \$25,000,  
11 give or take a few thousand, depending on the locality.

12 Some are as low as 20, some are as high as 30,  
13 depending the locality, and they do see this as a problem,  
14 and I have heard from other people in my talking to other law  
15 students who have indicated to me that they would sometimes  
16 like to go into public service but with the amount of student  
17 loans that they have it would be difficult.

18 CHAIRMAN HALL: So, it is just anecdotal. There is  
19 no real --

20 MS. SMEAD: Right, and we haven't -- that is why we  
21 want to look at this survey, surveys that have been done in  
22 the past, and to try and do our own survey.

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1           CHAIRMAN HALL: I would be interested to know what  
2 the average length of time for a cross-section of programs  
3 the attorneys are that have been there, and what the rate of  
4 turnover is.

5           I suspect that the rate may be high among the newer  
6 people, and that may be where the turnover is, and I'm not  
7 questioning, I'm just seeking more information, because I am  
8 beset by things I have heard from the field and then what I  
9 know to be a very high unemployment rate.

10           And I can see it at another period of our history,  
11 where attorneys -- maybe seven, eight years ago employment  
12 was fairly high, there might have been some real problems. I  
13 would be surprised to find those today. That's all I have.  
14 Thank, you, sir.

15           CHAIRMAN HALL: Ellen, can you speak to what you  
16 expect these surveys to show? Will they show any of the  
17 things that Bud is concerned with, or do we not know?

18           MS. SMEAD: I don't really know at this point. I  
19 haven't seen the survey instruments that NLADA and NAPA used.  
20 And ours will depend on -- ours will depend on what we find  
21 in those surveys. But we can ask some of those questions.  
22 There is no problem with that.

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1 I think that we might also be able to get some of  
2 that information from what we have in-house in terms of  
3 -- from the refunding application. We ought to be able to  
4 get some of that information for you.

5 CHAIRMAN HALL: Also, in response to Bud and so  
6 that he can consider these things as he speaks to different  
7 representatives, it seems like a lot of this issue focuses on  
8 retirement, pension, things other than just paying attorneys  
9 higher salary, and, of course, the Reggie program was one  
10 thing that we had looked at earlier and really not gone into,  
11 which was a little bit different than that.

12 What other things were there? There were things  
13 other than just pension and retirement. There were a number  
14 of things that could be grouped in this category.

15 MS. SMEAD: For recruitment purposes, some programs  
16 might need help just paying the expenses of recruitment, for  
17 example, bringing people to the program or going to the law  
18 schools to recruit. Maybe some programs need that  
19 assistance.

20 CHAIRMAN HALL: Regina, would you come forward,  
21 please?

22 STATEMENT OF REGINA ROGOFF

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1 MS. ROGOFF: My name is Regina Rogoff, and you all  
2 know me as the co-chair of the Funding Criteria Committee of  
3 the Project Advisory Group, but actually I'd like to just  
4 respond to Mr. Kirk's comments as a project director from the  
5 Central Texas area. I know some of you will be visiting my  
6 program on Monday, and I look forward to having you come and  
7 meet some of our staff people.

8 I am one of the programs that has substantial  
9 tenure. Fortunately, we are able to retain people. Lawyers  
10 find Austin very desirable to live in. We have a law school  
11 from which we are able to recruit very qualified, competent  
12 attorneys. Our problem is recruiting and retaining minority  
13 lawyers.

14 A talented minority lawyer is going to be, even in  
15 this job market, recruited vigorously by both private firms  
16 and the public sector, and where I lose lawyers most  
17 frequently are in our group of minority lawyers.

18 I just received notice two days ago or the end of  
19 last week that one of my young up and coming minority lawyers  
20 has just been recruited away to the Attorney General's office  
21 by one of our former minority lawyers who now heads the  
22 state's Child Support Enforcement Division, and so, I think

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1 this is a complicated issue.

2 It is not just attorney recruitment. It is  
3 targeted attorney recruitment, and it is also, as you say,  
4 retention. My program only just instituted a pension with  
5 the influx of IOLTA funding about three years ago, and we  
6 have many staff members who have been with the program,  
7 attorneys who have been there 15 or more years, support staff  
8 who have been there 20 or more years.

9 And I know that our board just never foresaw that  
10 there would be that type of tenure, and when they realized  
11 it, it was at a point when there was no money available to do  
12 anything about it without greatly reducing services, and so  
13 it wasn't until there was new money through IOLTA that there  
14 was a window of opportunity to introduce those kinds of  
15 benefits, which I think most of us who are employers believe  
16 that our employees are entitled to and should receive in  
17 order to protect them in their advanced years.

18 I will also say that one of the things that we are  
19 now looking at as you have an aging population of employees,  
20 whether they are lawyers or not, are other kinds of benefits,  
21 short-term disability, employee assistance programs.

22 Our employees are now entering the stage of life

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1 where they have families that they are responsible for, and  
2 looking at the issues about educating their children as well  
3 as the responsibilities they have for their aging parents,  
4 and so, as you have a more mature work force you also face  
5 the issues that employees face as they -- more diverse.

6           Legal Services for many years was just young  
7 lawyers, and that is no longer the case. It is much more of  
8 an institutionalized situation.

9           CHAIRMAN HALL: Mr. Kirk?

10           MR. KIRK: Ms. Rogoff, welcome to the club on  
11 recruiting minority lawyers, and I don't think that you are  
12 in any special position than any other firm that really seeks  
13 to recruit minority lawyers. It is very, very difficult, and  
14 it goes right up to the very top. I mean, the top firms are  
15 losing them to judgeships and what have you.

16           When we talk about -- I am probably wasting some  
17 time, but just a couple of questions. When we talk about  
18 pensions, I hope we are talking about funded pensions and not  
19 unfunded.

20           MS. ROGOFF: We are talking about funded pensions.  
21 We are talking about not targeted payouts, but putting in a  
22 percentage of payroll each year, and in our case that is 4

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1 percent of payroll, which is a very low percentage. Most  
2 governmental entities put in 6 to 8 percent.

3 MR. KIRK: I have another question that probably  
4 will create -- it is just thrown out for something to think  
5 about. Are the poor better off with a bunch of older, aging  
6 attorneys?

7 MS. ROGOFF: Well, are you coming to Austin on  
8 Monday? I have put together some statistics. I mean, I  
9 believe that in our service area, it is not so much just that  
10 they are older and aging, but they are more competent and  
11 able to handle higher volume. Our case load has increased  
12 over the decade from '81 to '91 almost 100 percent. We have  
13 fewer lawyers.

14 In the late seventies we had 26 lawyers serving one  
15 county. We have 16 lawyers now serving 16 counties, so the  
16 combination of more experience, better use of paralegals,  
17 technology, use of pro bono lawyers. We have increased the  
18 service capacity by almost 100 percent. The total funding  
19 has increased during that period roughly 30 percent. So, I  
20 think that, yes, when you have more productive --

21 MR. KIRK: Do you miss some of the -- I mean,  
22 really, I am just throwing this out. I am not taking a side.

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1 I am just saying do you miss the spark of having some young  
2 in there, and some wild-eyed people?

3 MS. ROGOFF: Well, I'm not saying that we don't  
4 have any youth. I mean, we do have. I describe our program  
5 kind of as a double hump, you know. What we don't have are  
6 people who have been in the program starting from '81 and  
7 through about '86, so we have a double hump. We have people  
8 who have started with the program in the seventies and have  
9 continued with us who are very experienced.

10 Our housing specialist, our public housing person  
11 is one of the national experts in public housing. He has  
12 written the manual on public housing that is distributed  
13 through the clearinghouse, and his articles on -- well,  
14 actually, recently his articles appeared in the ABA's pro  
15 bono -- what's it called? The Exchange, I believe, PAI  
16 Exchange.

17 We then have had a period where, with declining  
18 resources, we did not have any new blood, and then, in the  
19 late -- toward the latter part of the eighties and  
20 particularly with IOLTA money coming in we have been able to  
21 bring on new people, and we have been a little bit of  
22 turnover, so we have -- I mean, I call it two hump. It is

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1 not your standard bell curve that you would expect to see in  
2 most situations.

3 It is a different configuration, but, yes, you want  
4 to keep some young blood. You want to have new people coming  
5 in. You want to be creating new ideas. But the old -- the  
6 people who have been there for their professional careers can  
7 be productive, very dedicated, and I don't know that they are  
8 any less creative or have fewer new ideas.

9 It is just like I look at the classroom that my  
10 kids are in, and some of those teachers have been doing it a  
11 long time and are still coming up with new ideas every year,  
12 and are still -- you know, if you are still enjoying what you  
13 are doing, you can be bringing new ideas, regardless of your  
14 age.

15 MR. KIRK: But I hear you saying that you don't  
16 have trouble recruiting, except for the minorities.

17 MS. ROGOFF: Not in our Austin office. Our Belton  
18 office is a little different because it is a rural setting,  
19 and I think rural programs do have more difficulty. It is  
20 less -- you know, if you are not married, and pretty well  
21 come with your own pre-packaged social life, a lot of people  
22 don't want to move out to some of those offices where it is

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1 very isolated, and so those rural programs have a different  
2 set of problems, but in Austin, with the law school, no, we  
3 don't have problems recruiting.

4 We have problems -- and I know that the public  
5 sector and private law firms have the same problems, but I  
6 truly believe that there are young minority lawyers who want  
7 to be in Legal Services, and because of the debt load that  
8 they come out of law school with, that unless they have a  
9 spouse who is working and is able to substantially supplement  
10 the income, it is very hard for them to come in, and often  
11 what we experience is that the minority lawyers tend to be a  
12 little older.

13 They have had other work experience before they  
14 went to law school, and so, for us to start them out as entry  
15 level lawyers puts them even further behind, because we don't  
16 have a way, a mechanism of crediting them for their life  
17 experience, so it is not an easy issue. I wish there were  
18 more minority lawyers. We need to talk to the law schools.

19 CHAIRMAN HALL: Regina, may I ask you a question,  
20 please? What do you do to retain lawyers in your Austin  
21 office and in Belton? Do you do anything special for the  
22 minority lawyer retention problem?

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1           MR. ROGOFF: No, we don't do anything special.  
2           Actually, I have just been recently thinking about how do I  
3           credit people for their life experience so that they don't  
4           enter as a baby lawyer at a starting salary. Even though  
5           they may be in their 30s with a family and paying off their  
6           school loans, we treat them like we treat all the other  
7           lawyers. Basically, we have a very good administration and  
8           it is a great place to work.

9           CHAIRMAN HALL: I know that. Thank you. Yes?  
10          Come forward. I didn't see you back there. As you come  
11          forward, I will say that I have been handed a note to tell  
12          everyone here, the staff and the members of the public, that  
13          lunch is available behind you all there, right outside the  
14          door.

15          MR. SUMMERLIN: Well, in that case --

16          CHAIRMAN HALL: Go ahead. We all have our  
17          priorities. Bring me a plate back.

18                               STATEMENT OF EROL SUMMERLIN

19          MR. SUMMERLIN: My name is Erol Summerlin. I am  
20          with Coastal Bend Legal Services in Corpus Christi, Texas. I  
21          just wanted to make one further comment. Of course, we all  
22          have the same problem with minority recruitment. I have a

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1 rural office, and my most difficult offices to place  
2 individuals are in the rural offices, such as in Victoria,  
3 and Senton, and Robstown.

4           However, Mr. Kirk's comments regarding the  
5 unemployment of attorneys throughout the United States, I'd  
6 just like to comment on that for a moment. It is true that  
7 there is a lot of high unemployment, but we are not only  
8 interested in minority recruitment, but we are interested in  
9 individuals who want to do the work, and it is very easy for  
10 us to hire unemployed attorneys.

11           I mean, I get oil and gas attorneys who have been  
12 displaced, who are applying for a job with Legal Aid. They  
13 are taking a cut in salary of some \$30,000 to \$40,000, but  
14 they want to work.

15           The problem with hiring those individuals is that  
16 when you do that, within six months they are gone. They have  
17 created a case load of maybe 100 active cases, 150 active  
18 cases, and then they leave you, and those cases are placed  
19 upon the remaining attorneys, so we are not -- although  
20 minority recruitment is a key here, we are also looking at  
21 people who want to do the job and who want to do the type of  
22 work that we ask them to do, and there are many unemployed

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1 attorneys out there who we could hire for six months to a  
2 year, but that is not what we are looking for.

3 No sooner do you start educating them and training  
4 them in poverty law issues and social circuit matters and  
5 food stamps and other issues than they leave you because they  
6 don't want the work or they have found a higher paying job.

7 CHAIRMAN HALL: So when you get someone like that  
8 and you see his resume, that he's had all this other  
9 experience, you all don't hire him?

10 MR. SUMMERLIN: Oh, we interview them. We  
11 interview them. The question as to whether or not we will  
12 hire him will depend upon the individual, and what his or her  
13 plans are. I mean, we have to go into that just as any other  
14 law firm would go into a thorough interview with the  
15 individual to determine whether or not they are right for the  
16 firm.

17 We have to look at who is right for our firms as  
18 well, and we look for people who want to do the work, who  
19 care about poor folk, who have lived amongst poor folk, who  
20 have done things in the past related to poverty issues or  
21 working in client communities.

22 So, the fact that we have a great pool of

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1 unemployed attorneys out there does not necessarily mean that  
2 they are the best ones to do the job any more than if I were  
3 to go for my job, if I were to become unemployed and try to  
4 get in with an oil and gas firm, I know nothing about oil and  
5 gas law, and I am going to be rejected by that firm no matter  
6 what I look like or how many years' experience I've got.

7 That is a secondary issue that a lot of us are  
8 facing, and I have hired those kinds of individuals. I have  
9 hired a tax lawyer, because I thought that he could be good  
10 for the program, and he wanted to go to one of my rural  
11 offices. Within nine months he was gone. And I was left  
12 with a ton of cases out there. So I think there is that  
13 other issue that we are looking at, or people who are  
14 interested in public service work and not just looking for a  
15 job.

16 CHAIRMAN HALL: Well, do you feel like money from  
17 the corporation would make those people become interested in  
18 public service work? I mean, that is either something they  
19 have or they don't.

20 MR. SUMMERLIN: Well, I think that money from the  
21 corporation to assist in the recruitment of individuals who  
22 have that interest is what we are looking for, at least what

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1 I am looking for. That is the only comment I had.

2 CHAIRMAN HALL: Okay. Yes, sir?

3 STATEMENT OF ROBERT ANGUAINO

4 MR. ANGUAINO: I don't want to make everybody late  
5 for lunch. My name is Robert Anguiano. I am from the  
6 National Organization of Legal Service Workers, and I am a  
7 resident here from San Antonio, and I welcome you all to San  
8 Antonio. Unfortunately, the weather is not very nice.

9 CHAIRMAN HALL: Thank you.

10 MR. ANGUAINO: But just to add to what Mr. Kirk is  
11 saying, I think it goes beyond just the salary issue, because  
12 I met a lot of young attorneys, and I met a lot of mature  
13 attorneys, and these attorneys, I have a lot of respect for  
14 because they are very committed to their work. They are out  
15 there practicing law instead of practicing a business, and  
16 they are providing that service to the poor, like the  
17 communities in San Antonio.

18 But just to start of with what Ms. Rogoff also  
19 said, it also goes sometimes to the management and the way  
20 they are treated and they way like I respect some of the  
21 attorneys so that is how come you lose some of them, so when  
22 you do your survey, it should go beyond just the salaries. I

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1 think it should look into areas why people stay, why people  
2 leave, and unfortunate, sometimes there is an attitude that  
3 because you want to do public work that along with public  
4 work is charitable wages, and that is not so. That is all I  
5 have to say. Thanks.

6 CHAIRMAN HALL: Mr. Kirk?

7 MS. KIRK: Let Ms. Love go first.

8 CHAIRMAN HALL: Ms. Love. I'm sorry.

9 MS. LOVE: I find in my home town the majority, be  
10 they whatever color, have never heard of Legal Services.  
11 When these kids graduate from high school, they are going to  
12 school from a scholarship for sports, or to be a school  
13 teacher. They ask me, what is Legal Services? So they  
14 really need to be educated or someone to go to the different  
15 schools.

16 It is not that they don't want to be attorneys,  
17 because they are poor anyway, so \$25,000 is a lot of money to  
18 these kids when they have never had that in their lives. So,  
19 if they go to the schools, most of the schools don't go  
20 -- the people don't go to the schools to recruit kids to be  
21 attorneys. So, the minority kids are dumb when it comes down  
22 to the law. They don't know what Legal Services is. They

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1 have never heard of it. Black or white, they have never  
2 heard of Legal Services.

3 MR. ANGUAINO: To a large extent that is probably  
4 true. But if you are just speaking specifically about  
5 minority students, whether it be attorneys, teachers,  
6 doctors, any profession that a minority goes into, there is  
7 still that need among minorities in that particular  
8 profession, simply because we are still climbing up that  
9 ladder.

10 But the lawyers -- I am not only talking about  
11 minority lawyers. I am talking about lawyers in general that  
12 do discover what Legal Services stands for, I mean, are  
13 committed individuals to provide Legal Services to the poor.  
14 They enjoy their work, and they take gratification in doing  
15 their work.

16 I have seen it, but I have also seen young  
17 attorneys that come with high ideals to work in Legal  
18 Services, and then they are embarrassed publicly among their  
19 peers so as soon as the opportunity comes they take off to  
20 the attorney general's office, to be the legal representative  
21 of students at the local universities, so that is why I say,  
22 when you do the survey it should be, you know, all-

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1 encompassing.

2 CHAIRMAN HALL: Mr. Kirk?

3 MR. KIRK: I promise this will be the last one.

4 CHAIRMAN HALL: Go ahead with as many as you  
5 please.

6 MR. KIRK: Ms. Smead, why is it that we are having  
7 some special program do to this? Why don't we just give the  
8 money to the field, let the field say, the way I can serve my  
9 people best, the poor people that I am charged with serving,  
10 is to pay higher salaries, provide for pensions, do X, Y, and  
11 Z, and let them make those decisions instead of us sitting up  
12 here trying to decide that this program may be good for so  
13 and so's program but not for Ms. Rogoff's program, or  
14 something like that.

15 MS. SMEAD: Well, in one sense we hope some of that  
16 will happen this year with the publishing of the meritorious  
17 grant award announcement. It may be that some programs will  
18 apply to use some of that money for their recruitment and  
19 retention.

20 MR. KIRK: Why don't they just use their regular  
21 money? Why don't we just take the money that we would be  
22 giving to them on these special programs and say, hey, we are

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1 going to put that in the field? And just increase your grant  
2 by that. You folks that are right there, and you know what  
3 is going on, you know what is best for the people.

4 You know, if you think you need to raise salaries  
5 you can do it here. If you need to forgive some loans, you  
6 can do it, you know. Why not do it that way?

7 MS. SMEAD: That is always one of the options.

8 CHAIRMAN HALL: I think basically, Bud, you are  
9 saying get as much money to the field as you can, which, you  
10 know, is not a bad idea.

11 MS. ROGOFF: Also, some programs may not have as  
12 much of a need as other programs do for it. Some of the more  
13 -- for example, some of the more rural programs may have more  
14 of a need for -- may need more money than some of the urban,  
15 or vice versa. I really don't know which way it would go,  
16 but the needs may vary by locality.

17 CHAIRMAN HALL: And to echo what you have said in  
18 answer to Bud, I certainly lean toward favoring letting the  
19 recipients make their meritorious grant proposal and use some  
20 of the money for those purposes.

21 It seems to be exactly the type of unsolicited  
22 award we would make, and it fits it perfectly, because they

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1 can -- those that know that they need it, they can apply for  
2 it and those that don't, won't.

3 MR. KIRK: I'm not real up on meritorious grants.  
4 So I am not going to say anything.

5 CHAIRMAN HALL: Jack?

6 MR. O'HARA: Thank you, Mr. Chairman. There is one  
7 other thing that I didn't want to overlook, and that is the  
8 ongoing concern that we have in the corporation from talking  
9 to the individual program directors, the executive directors.  
10 Salary is not always the thing that is going to keep the more  
11 mature and experienced attorneys on the job.

12 A lot of these attorneys have been around for 25,  
13 27 years now, and at the end of the rainbow there isn't that  
14 pot of retirement money that a lot of them are going to need  
15 to carry them through, so we are looking into that part of it  
16 also, in addition to the salaries.

17 There has got to be more. A lot of these people  
18 have expertise, as Regina said, you can't buy it. They can  
19 turn out cases by the trainload, whereas it take time to  
20 train a new one. We don't want to lose these more  
21 experienced attorneys. So I would want to add that, that we  
22 are following up on that.

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1 MS. SMEAD: And programs do always have the option  
2 of using their current funds for this. We aren't trained to  
3 preclude their using the current funding they have for these  
4 efforts.

5 CHAIRMAN HALL: Are there other questions or  
6 comments from anyone?

7 (No response.)

8 CHAIRMAN HALL: If not, we will go to our last  
9 topic, concerning the subgrants, consideration of the  
10 corporation of LSC's policy on making interstate subgrants.  
11 I think where we are on that is that Legal Services  
12 Corporation currently has an unwritten policy that disfavors  
13 making the subgrants, although there is no absolute  
14 prohibition against them.

15 I think at our last meeting we had testimony on all  
16 the different things in the Act that seems to disfavor making  
17 them. I think where we left off was that I know what Mr.  
18 McIver had asked us to look at it on a case by case basis to  
19 look to the future, and not at the past, and to make these  
20 where appropriate. I am not sure where we are on this topic  
21 now. Ellen?

22 MS. SMEAD: Mr. Chairman, I believe Mr. McIver did

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1 provide a memo to members of the Committee.

2 CHAIRMAN HALL: Ellen, do you have anything else to  
3 say on this topic?

4 MS. SMEAD: I really don't have anything else to  
5 say. We don't dispute many of the things that he has in his  
6 memorandum. For example, we do know that services do cross  
7 state lines. For example, right here in Texas, the program  
8 at East Texas Legal Services serves part of Arkansas. And  
9 Native American programs will follow where the tribe is, and  
10 the reservation may cross state lines.

11 But there is still the strong presumption of local  
12 control. In both of those cases, the representatives -- the  
13 board have to be appointed by local bar associations, or  
14 other local appointing organizations, so there is still the  
15 presumption under the Act and in the McCollum Amendment for  
16 local control.

17 We always do look at particular circumstances in  
18 any subgrant that we receive, including interstate subgrants.  
19 We are looking at whether it is economical and efficient.  
20 That means that we are looking at the budget. We look at the  
21 current and proposed operations of the subgrant or and the  
22 subgrantee.

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1           And we also look at whether there are other  
2 economical and efficient means to satisfy the goal of the  
3 subgrantor. And we have not set anything that we want to  
4 discontinue looking at these on a case by case basis.

5           CHAIRMAN HALL: Harrison, did you want to speak to  
6 this matter or did you want to your paper to speak for you?

7                           STATEMENT OF HARRISON MC IVER

8           MR. MC IVER: Harrison McIver, Product Advisory  
9 Group. We don't dispute the fact that local control has been  
10 and continues to be a hallmark as reflected in the Legal  
11 Service Corporation Act.

12                       We just disagree that necessarily to award  
13 interstate subgrants would in some way be inconsistent with  
14 that theory or that hallmark, and I think my memo speaks to  
15 that. We also say, and she did make reference to this, that  
16 economic and efficient delivery of Legal Services is an equal  
17 significant tenant within the Legal Service Corporation Act,  
18 and that by looking at it on a case by case basis, we would  
19 submit that should be one of the primary driving forces, and  
20 that is all I would say, and let the paper speak to that.

21           CHAIRMAN HALL: Would it be a fair question to ask  
22 you, do you favor or disfavor it? Or do you look at each

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1 one?

2 MR. MC IVER: We would submit that you should look  
3 at each one on a case by case basis. Obviously, the  
4 corporation does that, when it looks at other subgrant  
5 arrangements, and we say interstate subgrants should not be  
6 treated any differently, but there shouldn't be a presumption  
7 or a policy disfavoring. We think it should be looked at,  
8 each case, in terms of whether it is an appropriate subgrant  
9 to provide the services to clients.

10 CHAIRMAN HALL: What I am thinking is that that is  
11 what the staff does right now, and if there is a way to  
12 provide those services from local providers, that is what  
13 they try to do first, and in effect that is a policy that  
14 disfavors it when they approach it from that angle, but it is  
15 not a bad approach, and it may not be inconsistent with what  
16 you all --

17 MR. MC IVER: Well, usually the local situations  
18 that -- the local program in that particular area expresses  
19 through a proposal or through a subgrant that it cannot or  
20 doesn't feel it does have the resources or the necessary  
21 staff to achieve or to provide services in that particular  
22 community or the particular area, and that is a statement

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1 -- and we would submit that that particular program is in a  
2 better position to appreciate what its resources are as well  
3 as what its needs are, and to engage a neighboring program to  
4 do it is a statement of, on a local level, that that program  
5 doesn't feel it can at this particular time. And rather than  
6 that -- well, that would be my response.

7 CHAIRMAN HALL: Okay, and I guess you would have  
8 some type of time limitations to gradually phase in a local  
9 provider, bring in somebody from the outside to show them?

10 MR. MC IVER: Right. Usually in this sort of  
11 arrangement, except for, I guess, the Connecticut-  
12 Massachusetts situation, if you look at the original proposal  
13 on the part of, I guess, Mississippi and Alabama, was to  
14 request on a temporary basis that the Florida Rule would  
15 provide the services, because the law, migrant law is very  
16 technical.

17 And it requires a certain amount of expertise, and  
18 those programs manifested by requesting Florida Rule to  
19 provide the services at least on a subgrant basis to assist  
20 them in gaining that type of expertise, and I think on that  
21 -- in that instance, that was as situation where a temporary  
22 was to be a temporary subgrant arrangement, and in most

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1 instances I would submit that is what really happens.

2 But I think you have to look at each situation on a  
3 case-by-case basis in order to make some assessment, and  
4 obviously, the corporation has the authority to approve  
5 subgrants on a year-by-year basis, and programs, at the same  
6 time, have that wherewithal to make some assessment of  
7 whether it has a responsibility as a recipient to ensure that  
8 the clients in a given area are being provided quality Legal  
9 Services in an economic and efficient manner.

10 A lot of the local -- going back to local control  
11 and using this statute as well as the appropriation riders.  
12 In those instances those provisions apply to the recipients,  
13 and not to subrecipients in most instances. From our legal  
14 counsel, they assess it that way. She was just alerting me  
15 that she was going to send me a letter on it disagreeing to  
16 some extent, and even using the McCollum amendment as well as  
17 the LSC Act regarding government bodies.

18 The memo does provide that -- it talks about  
19 members of a bar of a state in which legal assistance is  
20 being provided rather than the state, and the McCollum  
21 amendment requires a majority -- speaks to requiring a  
22 majority of local boards to be composed or comprised of

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1 attorneys who are appointed to practice in one of the states.  
2 So, I mean, we can go point by point, and probably it would  
3 be a matter of -- it would be in dispute as to whether we  
4 would agree, but if you look at the tenet or the hallmark of  
5 the Act in terms of local control, we would support that  
6 local control is a viable thing that we all support, but  
7 local control can be turned around, and say programs which  
8 are at the local level.

9 And even picking up from where Mr. Kirk spoke, we  
10 were talking about local decision-making, and in this  
11 instance local decision-making should have some priority in  
12 terms of consideration.

13 CHAIRMAN HALL: Mr. Kirk always says local  
14 accountability, too.

15 MR. MC IVER: And we don't dispute, Mr Kirk, that  
16 the corporation has that responsibility to ensure that it is  
17 accountable and that the programs are providing that type of  
18 high quality legal service in and economic and efficient  
19 manner. So we don't dispute that either.

20 CHAIRMAN HALL: So your position would be that if  
21 there is a particular service needed in a particular area,  
22 that that particular service provider could not provide --

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1           MR. MC IVER: Well, I think it is an admission on  
2 the part of the service provider by it submitting a subgrant  
3 proposal to the corporation that it is saying that it lacks  
4 some resources or lacks some expertise in terms of providing  
5 the services needed in that particular area.

6           CHAIRMAN HALL: And you feel they are in the best  
7 position to decide who should come in and provide those  
8 services for them?

9           MR. MC IVER: I am saying it should be a  
10 consideration, given strong consideration. Obviously, the  
11 corporation has a responsibility to ensure according to the  
12 Act, to ensure that Legal Service programs are accountable,  
13 and we are not -- I think it is a balancing that you should  
14 take in that instance.

15           CHAIRMAN HALL: Ellen, do you have anything to add,  
16 a response?

17           MS. SMEAD: Mr. McIver made reference to the  
18 Alabama and Mississippi subgrants or proposals, and I think  
19 what we should understand here is, those were not dismissed  
20 out of hand.

21           Those were reviewed by the staff and given serious  
22 consideration that we would talk to the programs themselves,

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1 and we went through the factors I discussed earlier, looking  
2 at the budgets, looking at the operations of the current and  
3 the proposed grantee, subgrantee.

4 And in our balance, we decided that what the goal  
5 of the program was could be better served by allowing them to  
6 contract with the services rather than subgrant the full  
7 amount.

8 CHAIRMAN HALL: And was it?

9 MS. SMEAD: And they did do it. We did approve  
10 contracts. So we recognize that the program felt that they  
11 didn't have the total expertise to do it. And we developed  
12 with the program a mechanism to help them out short of the  
13 subgrant, and it was because of various facts which I don't  
14 think would be appropriate for me to discuss here. These are  
15 factors that we can talk to with the programs individually,  
16 and since they are not here I don't want to get into  
17 specifics.

18 CHAIRMAN HALL: I understand. Harrison?

19 MR. MC IVER: We wouldn't dispute that. It might  
20 have been appropriate for a contract in this instance to be  
21 used, but if that kind of analysis went on I am not here to  
22 dispute that, and if the programs are satisfied, so be it.

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1 But I just happened to use that because I think that is what  
2 precipitated this policy being presented. The experience  
3 with the subgrant situation between Mississippi, Alabama, and  
4 Florida Rule, there may be other instances where those same  
5 factors would lead the other way, where a subgrant would be  
6 the more appropriate.

7 You have barriers. You can have geographical  
8 barriers. You can have other barriers that would in these  
9 instances require, if you look at the facts, that a subgrant  
10 arrangement might be more appropriate.

11 MS. SMEAD: We recognize that. That is why we go  
12 through this analysis.

13 MR. MC IVER: I think we agree that we should look  
14 at it on a case by case basis. I think our presentation  
15 supports that. I think to have a policy saying disfavoring  
16 it is what we are concerned with. We don't dispute the  
17 responsibility of corporation owners to in fact make those  
18 examinations and evaluations and come to a reasonable  
19 conclusion based upon the facts, and that is all we are  
20 saying, and not have a policy with disfavoring in it. Treat  
21 all subgrant arrangements the same way.

22 CHAIRMAN HALL: I guess there is a fine line, but

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1 basically the corporation, if they can find somebody locally  
2 to do it, that is what they want to do.

3 MR. MC IVER: And they are willing to do it if we  
4 don't dispute that.

5 CHAIRMAN HALL: I was going to ask our president if  
6 he had any comments on this.

7 MR. O'HARA: Yes. Does the corporation have such a  
8 policy disfavoring interstate subgrants?

9 MS. SMEAD: There has been an administrative  
10 practice disfavoring them.

11 MR. O'HARA: Okay. I remember when this came in  
12 because I think I was fairly new in this position at the  
13 time, and I wanted that reviewed, if you will remember, when  
14 I came in.

15 MS. SMEAD: Right.

16 MR. O'HARA: Harrison, have you gotten a letter  
17 form either one of these programs on this subject?

18 MR. MC IVER: Have I gotten a letter from them?

19 MR. O'HARA: Yes. On this matter from either one  
20 of the programs.

21 MR. MC IVER: No, I have not gotten a letter. I  
22 pretty much talked to one program, a former program of which

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1 I was director.

2 MR. O'HARA: I know you were.

3 MR. MC IVER: And so I am talking quite frequently  
4 about their experience, but again, I am not here to authorize  
5 the discussion about it.

6 MR. O'HARA: I understand. Ellen, have you gotten  
7 anything from the program since you made that decision which  
8 would indicate that may not have been the best way to go?  
9 That is what I am looking at.

10 MS. SMEAD: We were able to work with them and  
11 agree on the contracts so that they were able to fill what  
12 they wanted to do short of a subgrant.

13 MR. O'HARA: And as far as we know, it is working  
14 and it is being done in an efficient way?

15 MS. SMEAD: Correct. At this point they have been  
16 doing needs assessments and we will be looking at the  
17 proposals now for what they intend to do in the future, once  
18 those needs assessments are completed, and would be working  
19 with them at that point. We are assuming that they are going  
20 ahead with the recruitment. That seemed to be one of the  
21 major things, was being able to recruit in time to serve the  
22 area. We understand that they are going ahead with

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1 recruitment efforts to recruit people.

2 MR. O'HARA: If something comes out of this that  
3 would indicate the other way was the way to go, would you go  
4 that way in the future?

5 MS. SMEAD: Yes, if there was a particular  
6 circumstances that indicated there was a reason why to have  
7 an interstate subgrant, there would be no problem with it.

8 CHAIRMAN HALL: Jack, the question I wanted to ask  
9 you was the same as you asked Ellen. We don't have a written  
10 policy per se on that, do we?

11 MR. O'HARA: I have not found one.

12 CHAIRMAN HALL: Is anyone formulating one or  
13 preparing one?

14 MR. O'HARA: I think we are waiting to see. The  
15 reason I ask the question is, we want to know what happens  
16 with this, see how this works out, but you know, we will  
17 consider what Harrison has said in his memorandum, too.

18 CHAIRMAN HALL: Sure. Any other comments,  
19 questions from anyone?

20 MR. MC IVER: Mr. Hall, I just wanted to put on  
21 record, I think that Ellen mentioned that she believed that a  
22 memo had been submitted by me. I just want it of record that

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1 a memo was in fact submitted to the committee as well as  
2 copied to Jack O'Hara.

3 CHAIRMAN HALL: Yes, it was. In fact, we have all  
4 three received ours. That is dated March 31st of '92, and to  
5 be made a part of this record at your request.

6 If there is nothing further, we are going to end  
7 this, and I will ask for a motion to adjourn.

8 M O T I O N

9 MS. WOLBECK: So moved.

10 CHAIRMAN HALL: Any second?

11 A PARTICIPANT: Second.

12 CHAIRMAN HALL: All in favor, aye?

13 (A chorus of aye.)

14 CHAIRMAN HALL: Opposed, nay?

15 (No response.)

16 CHAIRMAN HALL: We are adjourned.

17 (Whereupon, at 2:40, p.m., the committee was  
18 adjourned.)

19 \* \* \* \* \*

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