

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

AUDIT AND APPROPRIATIONS COMMITTEE MEETING

December 8, 1991

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The Clarion Hotel  
200 South 4th Street  
The Eugene Field Room  
St. Louis, Missouri 63102

Board Members Present:

Howard H. Dana, Jr.  
Basile Uddo  
Jeanine E. Wolbeck  
Jo Betts Love  
J. Blakeley Hall  
George W. Wittgraf  
William Kirk, Jr.

Staff Present:

John P. O'Hara, President  
David Richardson, Comptroller  
Emelia DiSanto  
Patricia Bätie  
Lauren Fuller  
Victor Fortuno, General Counsel  
Ken Boehm  
Leslie Russell  
Charles Moses  
Kathy deBettancourt

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MOTIONS: 3, 4, 17, 58, 64, 72, 106

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

1  
2 CHAIRMAN DANA: Good afternoon, ladies and  
3 gentlemen. This is what's becoming the monthly meeting of  
4 the Audit and Appropriations Committee, and we're here in St.  
5 Louis, and with me, the full committee, Jeanine Wolbeck and  
6 Basile Uddo and fellow Board members Blakeley Hall and Jo  
7 Betts Love.

8 I anticipate that the chairman of the Corporation  
9 will be with us shortly, and it's possible that other board  
10 members will be arriving throughout the afternoon. As you  
11 came in, there was a green committee book outside, and if  
12 everyone has a copy of that, they can turn to the proposed  
13 agenda, which is on the unnumbered first page. Do I have a  
14 motion to approve the agenda as proposed?

## M O T I O N

15  
16 MS. WOLBECK: So moved.

17 MR. UDDO: Seconded.

18 CHAIRMAN DANA: It's been moved and seconded. All  
19 those in favor say aye.

20 (Chorus of ayes.)

21 CHAIRMAN DANA: Opposed?

22 (No response.)

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1 CHAIRMAN DANA: It is a vote. The second item on  
2 the agenda is approval of minutes of November 17, 1991,  
3 meeting. They appear in the Board book next. Are there any  
4 additions or corrections to the minutes as proposed?

5 (No response.)

6 M O T I O N

7 MR. UDDO: I move the minutes be adopted.

8 MS. WOLBECK: Second.

9 CHAIRMAN DANA: It's been moved and seconded that  
10 the minutes be adopted. All those in favor say aye.

11 (Chorus of ayes.)

12 CHAIRMAN DANA: Opposed?

13 (No response.)

14 CHAIRMAN DANA: It is a vote. Item 3, our  
15 negotiator has just arrived. Would this be a good time to do  
16 that, or would you -- fine. Ken Boehm, who has been working  
17 on these terms this morning and has flew in for this  
18 appearance today is here. Welcome, Ken.

19 MR. BOEHM: Thank you, Mr. Dana.

20 CHAIRMAN DANA: For the record, members of the  
21 committee, pages 9 of the Board book, 9 and 10, are  
22 comparisons of our existing lease arrangement extended for an

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1 additional six years with additional space added with the  
2 proposed space at 350 First Street, N.W.

3 If you would, Ken and David Richardson, who is with  
4 you at the table, if you would like to help us understand  
5 this exhibit and the issues that we are here to discuss, my  
6 hope is that we will be in a position to, if possible, to  
7 make a recommendation to the Board for action on Tuesday.

8 MR. RICHARDSON: Yes, sir, and, for the record, my  
9 name is David Richardson. I'm the treasurer and comptroller  
10 of the Corporation. On page 9, the exhibit that you're  
11 looking at does represent the prospects of adding 4,000  
12 square feet of space at 400 Virginia Avenue.

13 This space, by way of additional background, is  
14 needed to house the IG's office, newly established office,  
15 from the 1988 IG Act where we were made a cognizant agency.  
16 At this time, with Mr. Quatrevaux coming as the IG, the  
17 office getting geared up, hiring employees, we're needing  
18 additional space.

19 Our present rent is based on 49,000 square feet of  
20 space. This year, that rent would be approximately \$1.3  
21 million. The new space that we have looked at in 400  
22 Virginia Avenue is about 4200 square feet. That would cost

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1 us approximately \$150,000 additional to rent.

2 The Board, of course, early last year asked the  
3 Corporation to look into additional space in Washington. Ken  
4 and I, Dave Martin, the then president, looked at a number of  
5 properties in Washington. We've seen net leases. We've seen  
6 the triple net, which is the one we have in front of us. The  
7 net leases that we were seeing were running as much as \$36,  
8 \$38 a square foot.

9 The lease at 750 First Street is for 61,000 square  
10 feet, and that's an approximate at this time, but that is  
11 based on \$22 a square foot cost, triple net being the  
12 operating costs will be added on top of that. It's of  
13 particular advantage to us in that this property does not  
14 have real estate until the sixth year of operation, no real  
15 estate taxes.

16 Also, in the negotiations, and we have been  
17 negotiating with Tramell Crow, is who not only the property  
18 manager of the property that we're now in at 400 Virginia  
19 Avenue, but they're the property manager of the new building.

20 In talking with them, they have offered us up to  
21 one year of free rent. Based on the \$22 a square foot, that  
22 is going to be approximately \$1.342 million. On top of that,

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1 there is approximately a \$6 a square foot in operating cost.

2 They have also, because this building is a shell on  
3 the top floors that we're looking at, they've offered us \$10  
4 a square foot for moving cost -- let me back up, \$10 for a  
5 build-out, which we could use for new furniture, building the  
6 space, putting the walls in, the phone, computers.

7 We have looked, it's been represented to us that  
8 there is the American Psychological Association going in the  
9 building, College Career Association. There is a National  
10 Association of Social Workers. National Association of  
11 Social Workers billed their space out for \$23 a square foot.  
12 So we feel that we can come in at that or below, because  
13 we're not having some of the requirements that they do.

14 CHAIRMAN DANA: I think you may have misspoke.

15 MR. RICHARDSON: I'm sorry, at \$33 a square foot.  
16 We feel that the \$10 we can use for additional furniture,  
17 computers, or additional rebate.

18 CHAIRMAN DANA: Let me see if I understand what  
19 you're saying. The space we're looking at now needs to be  
20 finished, and there is an allowance provided of \$33.50 per  
21 square foot times 61,000 square feet. That sum of money will  
22 be used to finish out the space, and you feel that that

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1 should be done for approximately \$23, which would leave us an  
2 additional \$10 to do what with?

3 MR. RICHARDSON: We could buy furniture, computers,  
4 anything that we would need as far as moving into the new  
5 space, or it could offset of the first months of rent. If we  
6 take all the furniture, if we decide not to buy any  
7 furniture, any new equipment, then the first approximately  
8 four months of rent would be free, because it would offset  
9 the first month's rent until that is captured.

10 CHAIRMAN DANA: Is there a moving allowance in  
11 addition to the 33?

12 MR. RICHARDSON: Yes, there is. There is an  
13 additional dollar and a half per square foot moving  
14 allowance, and, again, we have talked with people that -- we  
15 have not got to a stage yet where we have contacted moving  
16 companies, but it's been represented to us that National  
17 Social Workers are being moved for about \$1.20, \$1.25.  
18 We have negotiated that that also could be returned to the  
19 Corporation in the way of rent abatement.

20 CHAIRMAN DANA: It looks to me -- and correct me if  
21 I'm wrong, in comparing the two -- the existing quarters with  
22 the expansion and the new one, that we go from 54,000 square

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1 feet to 61,000 square feet, that the gross rental over the  
2 period appears to be very close to 19,000,000 in the existing  
3 space and slightly more than that in the new space, but the  
4 present value of that amount is \$13,367,000 in the existing  
5 space, but \$13,179,000 in the new space.

6 So given the fact that we'd be paying more rent,  
7 but we'd get rent free for a year, when it's all factored  
8 into present value dollars, we pay less money for the new  
9 space than we are paying now for less space. Have I  
10 correctly summarized that?

11 MR. RICHARDSON: Let me correct one thing. It's  
12 not what we're paying now, but it's what we would pay by  
13 moving into the additional 4200 square feet.

14 CHAIRMAN DANA: We now have 49,000 square feet.

15 MR. RICHARDSON: That's correct.

16 CHAIRMAN DANA: It is clear that if we stayed put,  
17 we would need more space.

18 MR. RICHARDSON: That's correct, sir.

19 CHAIRMAN DANA: So you have compared the 54,000  
20 square feet with the 61,000 square feet in the new space on  
21 this chart?

22 MR. RICHARDSON: That's correct, sir.

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1           CHAIRMAN DANA: And that the comparison is  
2 favorable on a present value basis even before you take into  
3 consideration the potential for additional savings, should we  
4 choose not to use all of the wonderful furniture that we have  
5 in our existing place. If we use all that, we'll have  
6 another \$600,000 or thereabouts to reduce the rent even  
7 further?

8           MR. RICHARDSON: That is correct, sir.

9           CHAIRMAN DANA: My one concern that you and I have  
10 talked about is that we have four years to run on our  
11 existing lease. You have indicated that sometimes in the  
12 past that we may be actually able to sell our rental position  
13 to someone for perhaps as much as \$250,000; is that correct?

14           MR. RICHARDSON: That is correct, sir. I'll back  
15 up a little bit in that when we first started talking with  
16 Tramell Crow about this particular property, the 750 First  
17 Street, Lasalle Partners was the management firm in our  
18 building.

19           They represented to me that -- the building is  
20 owned by Pension Fund -- that they would be very interested  
21 in looking at purchasing our lease, because the rents in our  
22 particular neighborhood, because of the NASA move in and the

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1 transportation, they felt that they could make additional  
2 money on it.

3           When Tramell moved into this building, they, again,  
4 have suggested that they would be amenable to purchasing our  
5 lease. I have talked to two people in particular; however,  
6 both of them have deferred to another individual who said  
7 that he would be speaking with me. To date, we've not yet  
8 been able to hook up to discuss this transaction.

9           He is telling me, both Tramell, Charles E. Smith,  
10 our brokers, that we should net at least \$5 a square foot.  
11 Now, we would have to back out of that, of course, the  
12 broker's fee. So about \$3 a square foot for the remaining  
13 lease term profit on the space that we now have.

14           CHAIRMAN DANA: Are there any questions, members of  
15 the Board?

16           MR. UDDO: I have a question, Dave. Have you all  
17 calculated the risks of this triple net and what sort of  
18 downside risk there is?

19           MR. RICHARDSON: I believe what we have in front of  
20 you on page 10, on the opposite page, is, basically, a worst  
21 case scenario. The rent goes up --

22           MR. UDDO: Are you talking at the top of the page?

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1 MR. RICHARDSON: Yes, sir, I'm sorry. When you  
2 look at the rent across the top, you see 11. That's for six  
3 months with the space, moving in in June, if it's approved,  
4 and then \$22 for four years, and then the 23, again, is the  
5 June half year of 22, half at 24, and then 24 for the  
6 remaining term.

7 The CPI escalation in here is at 2 percent. Let me  
8 double check, here, 2.7. We have changed this. We've left  
9 this being the worst case scenario, but what we've done in  
10 the leasing negotiations, we have gone in and said, "We will  
11 take 40 percent of the CPI, not to exceed 2.5 percent." They  
12 have agreed to that. This year, for instance --

13 MR. UDDO: It says 2.5 percent cap on the CPI  
14 escalation?

15 MR. RICHARDSON: That's correct. And this year, of  
16 course, the CPI is running less than 4 percent, so it would  
17 not go up that much. Of course, in future years, it could go  
18 up higher, but you would have to go to 7.5, 8 percent, but  
19 then it would be capped at 2.5 percent.

20 CHAIRMAN DANA: And this has been computed at 2.5?

21 MR. RICHARDSON: 2.7.

22 MR. UDDO: 2.7 for these figures.

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1 MR. RICHARDSON: So, again, worst case scenario,  
2 we've gone to. I've also talked to them, because I was  
3 concerned, and rightly so Mr. Kirk was concerned at the last  
4 meeting, in regards to the operating expense. They have  
5 calculated these, and let me refer back a moment, at a 15  
6 percent increase a year.

7 In talking with the people again, they represent  
8 this being worst case scenario. They say that the buildings  
9 that they're operating now in the Washington area are  
10 operating at much less than that. They've even represented  
11 to me that there are a couple of buildings with no increase.  
12 Again, I think it's worst case scenario.

13 MR. UDDO: But there is no cap in operating  
14 expense?

15 MR. RICHARDSON: There is not.

16 MR. BOEHM: There is some additional protection in  
17 this sense, that one of the chief tenants is the American  
18 Psychological Association, and they have their headquarters  
19 there. They have more than five floors. Whatever would  
20 apply to them would apply to us, in terms of operating costs,  
21 so that there is some built-in disincentives for them as well  
22 as, in the last week, there has been a lot of negotiations as

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1 to all kinds of scenarios.

2 Yesterday, they accepted our attorneys' language  
3 for the gross-up clause, you know, what would happen down the  
4 road if there were significant vacancies. So we've tried to  
5 go even beyond what these figures reflect in putting further  
6 brakes on increases down the road.

7 MR. UDDO: And in real estate taxes, it's exempt  
8 the first four years from real estate taxes?

9 MR. RICHARDSON: First five years.

10 MR. BOEHM: And then it would go to 50 percent for  
11 the years six through ten. It wouldn't be until the 11th  
12 year, which is actually beyond the term of this lease, that  
13 we'd be paying the full amount, and we're paying  
14 approximately \$12,000 a month now in real estate taxes, which  
15 pass through to us.

16 MR. RICHARDSON: This is one of the few properties  
17 in the Washington, D.C. area that was set up through the D.C.  
18 Redevelopment Authority with reduced real estate taxes.  
19 There are real estate taxes on the land that's built in the  
20 \$22, but there will be none on the first five years of the  
21 building, and then, again, it will be assessed at 50 percent  
22 of that value through the remaining five years.

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1 MR. UDDO: So you're projecting the assessed value  
2 as well as the real estate tax, in a sense.

3 MR. RICHARDSON: Yes, sir.

4 MR. UDDO: So where are we? I mean, is there a  
5 lease?

6 MR. BOEHM: We have draft 4. We probably spent  
7 about 20 hours over the last week negotiating. Our attorney,  
8 Mr. Swendeman, has done extensive work with commercial  
9 tenants and is extremely thorough. Everyone who is working  
10 on this from the General Counsel's office, myself, Dave,  
11 Jack, have been very pleased with his thoroughness.

12 CHAIRMAN DANA: Is this the famous Allen Swendeman.

13 MR. BOEHM: He said to say hi. And he also knows  
14 Legal Services, because some point in the past, years before  
15 I got there, he had served as General Counsel, I guess  
16 outside General Counsel.

17 CHAIRMAN DANA: He was my lawyer in the famous case  
18 of McCalpin of St. Louis against Dana.

19 MR. BOEHM: In any case, in his new life, he is a  
20 commercial real estate attorney specializing in tenants  
21 rights. He is exceptionally thorough, and the lease itself,  
22 we have draft 4 here, and they have accepted most of what

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1 we've put forward. Right now, there are remaining issues to  
2 be negotiated.

3           Some of them, we agreed in principle, but they have  
4 to get approval from their lender as to the exact language.  
5 That's not seen to be any big problem, but we were rushing to  
6 get it done, but we didn't want to sacrifice any accuracy or  
7 didn't want to sacrifice any of our interests to get it done  
8 today, if we could take a couple more days to work out the  
9 language and some of the other things. I think it would be  
10 helpful to us.

11           MR. UDDO: So there really is nothing for us to  
12 approve right now?

13           MR. BOEHM: Not totally, although I would guess  
14 this is about 95 percent of where we would be.

15           MR. UDDO: And yet you're probably going to need to  
16 do something before we meet again.

17           MR. BOEHM: Yeah.

18           MR. UDDO: That's what that is?

19           MR. BOEHM: Yeah.

20           CHAIRMAN DANA: For the record, I think both of you  
21 have done a terrific job, and I think that if we ultimately  
22 do make this move that there will be lots of people both

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1 within the Corporation and without who will say, in the years  
2 to come, "Whoever put us here deserves a lot of credit," and  
3 I hope they remember the names of Jack O'Hara, Ken Boehm, and  
4 David Richardson.

5 My only concern is that when people see this space  
6 they're going to say, "I thought this was an anti-poverty  
7 agency." It is very, very nice, and what we must remind  
8 people is that it is costing us less in this space than the  
9 existing lease would cost us, even if we take some or all of  
10 the \$600,000 that might be available and improve the caliber  
11 of the furniture and equipment that I'm sure you've come to  
12 know and love at Virginia Avenue.

13 Is there a motion?

14 MR. UDDO: Yes. Before I make the motion, the form  
15 of the lease, you're Draft 4 there, reflects what's in our  
16 Board book?

17 MR. BOEHM: Oh, yes.

18 M O T I O N

19 MR. UDDO: Then I would move that the committee  
20 recommend to the Board that the Board authorize the president  
21 of the Corporation to execute a lease in substantially the  
22 form of the attached, and I think we should attach that to

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1 the motion, on behalf of the Corporation, such lease being  
2 for the property located at 750 First Street, N.W.,  
3 Washington, D.C., which is intended to house the main offices  
4 of the Corporation in the future.

5 The lease for 750 First Street, N.W., Washington,  
6 D.C. is contingent upon, or the execution of the lease is  
7 contingent upon Tramell Crow purchasing the existing lease on  
8 400 Virginia Avenue, S.W. from the Corporation for not less  
9 than \$3.50 per square foot net of real estate brokerage fee  
10 over the current lease value for all of the remaining lease  
11 term. We just know in the record that Tramell Crow is the  
12 manager for both the new facility and current facility.

13 CHAIRMAN DANA: Is there a second for that motion?

14 MS. WOLBECK: I'll second it.

15 CHAIRMAN DANA: Any discussion?

16 (No response.)

17 CHAIRMAN DANA: Hearing none, the Chairman would  
18 like to just make the observation, as a matter of record,  
19 that there are a few remaining items to be ironed out. I  
20 gather the list has been reduced within the last 24 hours to  
21 about five?

22 MR. BOEHM: Yes, from about 170.

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1 CHAIRMAN DANA: This is in no sense a directive to  
2 management to enter this lease unless they are satisfied with  
3 the terms and conditions. It really authorizes management to  
4 do it, not direct, so that you have plenty of flexibility to  
5 turn it down if the remaining details are not satisfactorily  
6 ironed out.

7 Having said that, and hearing no dissent, is there  
8 any further discussion concerning this matter?

9 (No response.)

10 CHAIRMAN DANA: Hearing none, all those in favor  
11 say aye.

12 (Chorus of ayes.)

13 CHAIRMAN DANA: Opposed?

14 (No response.)

15 CHAIRMAN DANA: It is a vote. Congratulations  
16 again.

17 MR. RICHARDSON: Thank you, sir.

18 CHAIRMAN DANA: Could we have this typed up and  
19 available for the Board on Tuesday?

20 MR. RICHARDSON: Yes.

21 CHAIRMAN DANA: The next item on the agenda is the  
22 consideration of Fiscal Year 1992 M&A budget. The

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1 significance of this for the Corporation is this is the  
2 operating charter that management has. It is where the  
3 staffing levels are determined.

4 The significance of it for those in the field is  
5 that after we determine how much is to be spent on the M&A  
6 line, we then have to look at the carryover, available funds  
7 in carryover, to determine whether or not we can afford what  
8 we think is appropriate.

9 Since our last meeting, management has continued to  
10 work, and, again, the budget itself, the budget documents  
11 itself have been in a state of flux so that we do not have  
12 lots of copies. Do we have the summary page that is Exhibit  
13 G in my large notebook? Is that in the book?

14 MR. RICHARDSON: No, it is not, sir.

15 CHAIRMAN DANA: Well, for purposes of the  
16 committee, do other members of the Board who are here have  
17 this full book?

18 MR. RICHARDSON: Yes, sir.

19 CHAIRMAN DANA: I hate to do this to the audience,  
20 because they asked in a nice way to not be left in the dark  
21 the last time. Pat, what kind of Xerox facilities do we have  
22 access to today?

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1 MS. MCCOLLUM: Right now they're down -- we're  
2 awaiting copies.

3 CHAIRMAN DANA: Okay. I'm sorry to do this to you,  
4 but right now, members of the Board Committee, in the front  
5 of your book you have Attachment C, which is the original  
6 proposal of the directors of the Corporation, not us, but the  
7 directors of the various departments. That shows a total M&A  
8 line of \$12,418,000.

9 The next attachment is Attachment E, which was the  
10 management's -- that is to say, the Executive Office's  
11 boiling down of these requests, weighing them, and that came  
12 to \$11,490,350, or, essentially, \$11,500,000. And the last  
13 page in the summary section is Attachment G, which is the  
14 current proposal of management, which is \$11,409,850, or,  
15 essentially, \$11,400,000.

16 What you have behind that is by department; that is  
17 to say, Board of Directors, Executive Office IG, you have a  
18 summary sheet which weighs out the expenditures of the  
19 revised budget for last year, the actual expenditures in  
20 column 2, the proposed budget that the directors of the  
21 various offices proposed, and management's current proposed  
22 budget. That's the December 5 budget.

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1           One of the things that we asked management to do at  
2 the last meeting was to provide us some support or some  
3 understanding of why additional positions were being  
4 requested. In a memo that is dated December 7, from the  
5 president, from David Richardson through the president, in  
6 Attachment 1, he had summarized for us where we have come  
7 from.

8           In 1991, we had approved a staff budget, staffing  
9 level of 137 employees. That was for last year. At the  
10 beginning of this year, the Corporation had 124 employees, 13  
11 employees less than we had budgeted. Management is proposing  
12 to go from 124 employees to 142 employees, and the breakdown  
13 of that increase is set forth in the last two columns. It  
14 was actually a column you have to generate in the middle  
15 showing where the 18 new employees are.

16           Appended to the balance of this memo are individual  
17 justifications for each of the proposed increases. It's  
18 actually more than that, because, in two or three cases, the  
19 directors involved have asked for more than the comptroller  
20 and the president have recommended to us, and my  
21 understanding is they have asked permission to take an  
22 appeal, well, the president, to the Board, which shows the

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1 level, commendable level of openness and candidness on the  
2 part of management.

3 So these recommendations that you have before you  
4 are, in some cases, for many more employees than were  
5 ultimately authorized. I read this material, and I know the  
6 committee has had an opportunity to read it. What is the  
7 committee's pleasure? Would you like to hear from those  
8 directors who are here who have requests in excess of or in  
9 addition to what management has authorized, or would you like  
10 to limit them to what management wants?

11 MR. UDDO: That would be beyond this?

12 CHAIRMAN DANA: Yes.

13 MR. UDDO: How much beyond?

14 CHAIRMAN DANA: Well, in some cases, well beyond  
15 it.

16 MR. UDDO: How many directors want to tell us about  
17 this?

18 CHAIRMAN DANA: Are there directors here who would  
19 like to take an appeal from David Richardson and Jack O'Hara?  
20 And you're encouraged to. Sometimes you may get lucky.  
21 Sometimes you may soften us up for another year.

22 MR. UDDO: Which ones are they?

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1 CHAIRMAN DANA: They all want --

2 MR. RICHARDSON: There are three in particular, the  
3 Monitoring and Audit and Compliance, Office of Field  
4 Services, and then the General Counsel's Office.

5 MR. UDDO: Well, I wouldn't mind hearing briefly  
6 them. You're not prepared to do this?

7 MR. FORTUNO: We have written submissions. We were  
8 asked that they be brief, and I think they are brief. So you  
9 may have questions, and I think that maybe we can use this  
10 opportunity to, if nothing else, answer some questions.

11 MR. UDDO: Are these the written submissions from  
12 you, or are these the written submissions from --

13 CHAIRMAN DANA: Their written submissions are  
14 attached. For instance, Attachment 3 is a memo from Vic  
15 Fortuno to David Richardson in which he, if I understand it,  
16 asks for two more lawyers and a staff person.

17 MR. FORTUNO: Yes.

18 CHAIRMAN DANA: And the budget that management is  
19 proposing I think provides, authorizes one additional lawyer  
20 and a staff person. I think maybe, at the outset, I think  
21 we're in agreement here that this isn't so much an appeal  
22 that we're dissatisfied with what management has planned and

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1 that we want to appeal to the Board management plans.

2 It was simply calling to the attention of  
3 management what we felt our needs were and just making one  
4 last appeal not to the Board over management, but we didn't  
5 see it that way. We didn't intend for it to be that way. I  
6 may have misspoken. Mr. President.

7 MR. O'HARA: Mr. Chairman, if I might add to that,  
8 I've encouraged the directors to do this. I think it's  
9 important that they advise the Board of what it looks like  
10 not only now but what it looks like down the road, because of  
11 the workload that's increasing upon the staff. I encourage  
12 you to touch on all that, especially with regards to the  
13 interaction between your offices with all of the things we  
14 have going on right now.

15 CHAIRMAN DANA: Thank you.

16 MR. FORTUNO: I think, speaking for General  
17 Counsel's office, it seems to me that we are down. We are  
18 down five staff members from where we were two or three years  
19 ago. Of those five, three are attorneys and two are support  
20 staff. We're now running, essentially, a law office with one  
21 secretary.

22 As I noted in my submission, she's a single parent.

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1 She's got four children. Unfortunately, because of that  
2 situation, she is out more often than she or any of us would  
3 like, but that's unavoidable, and, in any event, when she's  
4 in, it seems a bit much for her to handle on her own.

5 Friday, for example, she was out doing photocopying  
6 in connection with this board meeting, unavailable. I had  
7 calls coming in from lawyers around the country, in one  
8 case --

9 MR. UDDO: Who is this?

10 MR. FORTUNO: This is my secretary. She is the  
11 secretary for the Office of the General Counsel. She  
12 supports the entire office. She does the photocopying. She  
13 does billing for outside firms. She answers phones. She  
14 does filing. We keep her busy. It's difficult.

15 Friday, for example, we're negotiating a settlement  
16 in a case, and we kept missing each other, because every time  
17 I got a call from counsel for the plaintiffs in that matter,  
18 there was no one there. It would flip over to our front  
19 office receptionist who would take the message and put it in  
20 a bin, and we'd get it within a couple hours or so, and it  
21 created some difficulties.

22 I think it certainly would be helpful to have a

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1 second person, not necessarily go back up to where we were  
2 before. Not that long ago, we had three secretaries and an  
3 administrative assistant.

4 We don't need to have all four of those. We  
5 certainly would like it. I think it made life a lot easier  
6 for us, but I think we can do with two secretaries. We  
7 certainly need that second secretary.

8 As for lawyers, we don't need to be up to the same  
9 level we were at before. Again, I think it would make life  
10 easier for us, and we'd be able to do that much more. In any  
11 event, I think we certainly need more than we've got now, and  
12 I think that we really should have, at the very least, one,  
13 preferably two.

14 Part of what we do is work for -- do a lot of  
15 support work for counsel on the outside when we retain  
16 somebody. Much of the work -- and it varies from case to  
17 case. In some instances, we do relatively little, and in  
18 other cases we do virtually all the work.

19 You need to consider that it certainly costs a lot  
20 more to have somebody on the outside to do the work than it  
21 would be to have somebody on the inside do the work. On the  
22 average, we pay staff persons, it would be somewhere in the

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1 low 20s; that is, low 20s, dollars an hour. You add  
2 approximately 20 percent benefit package to that, that gives  
3 you an idea of what we're paying our own people.

4 You hire a firm on the outside, you may be looking  
5 at somewhere in the range of \$150 to \$200 an hour. In  
6 addition, you develop the expertise in-house. You don't have  
7 to bring folks on the outside up to speed. We will always  
8 need to retain outside counsel. We're not going to get away  
9 from that, but we can reduce the cost of the outside counsel  
10 by having the necessary number of people with the necessary  
11 expertise in-house.

12 In addition to that, this Board knows, I think  
13 well, that it hasn't been engaged in rule-making as of late,  
14 but assuming that that's something that comes about again at  
15 some point in the future, that's going to require additional  
16 manpower in-house, because the General Counsel's Office has a  
17 very significant role in the Corporation's rule-making  
18 function.

19 So I don't see the situation being ameliorated much  
20 in the near future in any way other than having some  
21 additional help. We've had people putting in some long  
22 hours, nights and weekends, and I've got people back at the

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1 office right now at this moment.

2 It just seems to me that in order to be able to  
3 produce the work we need to produce on a timely basis, we  
4 need to have additional help. We will need to have  
5 additional help if the Corporation's rule-making function is  
6 restored, if I may use that term, and certainly, in order to  
7 control the spiraling costs of outside counsel, I think it  
8 would be helpful to have folks in-house who could absorb more  
9 of that.

10 I don't want to take up too much of the Board's  
11 time but thought that if I could maybe touch on some of the  
12 saving points and be prepared to answer questions, that might  
13 be best.

14 CHAIRMAN DANA: Questions?

15 MR. UDDO: Yeah, I have a couple questions. Your  
16 written presentation, Vic, sounds more like you're proposing  
17 to do more litigation in-house. Is that your proposal, or is  
18 it that you would give better support to outside counsel?

19 MR. FORTUNO: We can give better support. As to  
20 how much litigation we can do, we'd do all of the  
21 administrative litigation so that if there was administrative  
22 litigation to be conducted, it has, in the past,

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1 traditionally been done by the General Counsel's Office, the  
2 lion's share if not all of it. Those things continue to come  
3 up. We need to be prepared to do that.

4 In addition, we need to be able to devote more time  
5 to the cases that we have being handled, in the first  
6 instance, by outside counsel. Without getting too specific,  
7 we have found it necessary to -- we have found that we didn't  
8 have the necessary resources in-house to back up our outside  
9 firms, and, in some instances, have had to go again to  
10 outside to obtain additional resources.

11 I think that some of that could be dealt with by  
12 having greater resources in-house. Certainly going outside  
13 is going to cost us substantially more than handling it  
14 internally.

15 MR. UDDO: I guess my only problem is that this is  
16 sort of betwixt and between. It's not really taking more  
17 litigation in-house, which probably would be cost-effective.  
18 It seems more to support outside counsel, and I'm not sure  
19 how much --

20 MR. FORTUNO: Well, we do handle some of the  
21 litigation in-house. We could certainly do that which takes  
22 place in the District of Columbia. Once it's outside the

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1 District, we're going to have to have local counsel.

2 MR. UDDO: But do you need additional attorneys to  
3 support outside counsel, or is that something that clerks and  
4 paralegals can do? I mean, if it's a matter of helping pull  
5 together information for outside counsel, what legal work  
6 would they need to do in-house?

7 MR. FORTUNO: In many instances, we will draft the  
8 pleadings, do the research, draft the memoranda in support of  
9 various motions then forward them to outside counsel who will  
10 review them, and, if satisfied, will go ahead and sign them  
11 and file them.

12 In many instances, we have a more formalized  
13 arrangement where we enter appearances where appropriate or  
14 service of counsel. Support is a prophylactic term, and it's  
15 very flexible. In some instances, it's simply, "What do you  
16 need? Do you need us to get documents for you? Do you need  
17 us to do some research for you? Do you need us to get things  
18 in order for you?" That we can do. That's very easily done.

19 In other instances, the role is a far more  
20 extensive one. What happens currently is, in our office, we  
21 have two lawyers, myself and John Penzinger. We've tried  
22 cases. We've tried a fair number of cases certainly between

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1 the two of us, but outside the two of us there isn't that  
2 much depth.

3 We've certainly got some bright people, and hard-  
4 working people, but I have but so much time. I've been  
5 traveling all around the country, and I've got but so much  
6 time to devote to any one case. While I'm away, John  
7 Penzinger has to see to the day-to-day operations of the  
8 office.

9 We don't really have the people with the necessary  
10 litigation experience to absorb more and more of the work.  
11 All we can do, under the current setup, is to provide that  
12 support, to provide the "All right. We'll get the documents  
13 together. We'll review them. We'll comment on them for you.  
14 We'll help with the discovery," but you don't have the  
15 necessary depth to be able to absorb that much more.

16 When we do have cases in the District, again, John  
17 and I can handle those, the problem is, with the situation as  
18 it is now -- for example, in the past, with Tim Shay as  
19 General Counsel, it was easier for John to be involved in  
20 something or for me to be involved in something.

21 Nowadays, it's more difficult for me to become that  
22 deeply involved in any one case. Any one case of litigation

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1 could absorb, as I'm sure many of the members of this Board  
2 know, a great deal of your time, and we just don't have the  
3 resources for that.

4           Since the two people who have the litigation  
5 experience in-house are now, for all intents and purposes,  
6 administrators, devoting most of -- I know it's certainly  
7 true of me, and I think in large part of John, too --  
8 devoting most of our time to administrative matters, it makes  
9 it difficult to assign people to litigation matters in a way  
10 that will effectively reduce the cost of litigating the case.

11           MR. UDDO: Do you use clerks and paralegals? Do  
12 you hire clerks and paralegals?

13           MR. FORTUNO: No paralegals, but we do hire law  
14 clerks. We currently have two part-time law clerks.

15           MR. UDDO: And you don't think paralegals would be  
16 useful for you?

17           MR. FORTUNO: Paralegals would be helpful. You  
18 certainly couldn't give them as much responsibility as we do  
19 lawyers. There is a limit to what they can do. I don't  
20 know, for example, in a situation I've been describing, where  
21 I'm talking about having lawyers take a greater role in  
22 litigation, for example, I don't know that having paralegals

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1 or law clerks would necessarily enable us to assume a  
2 substantially greater role.

3 It gives us more bodies and allows us to process  
4 more paper but doesn't necessarily give us the depth to  
5 become more deeply involved in litigation itself.

6 I've got some very bright people yet junior people  
7 with little if any trial experience doing research, drafting  
8 pleadings, and have to, of necessity, send them, in many  
9 instances, to court to make sure that -- the firms that we  
10 use are sometimes better prepared to represent us than other  
11 times. In some instances, it may be a firm that's never  
12 represented us in the past.

13 CHAIRMAN DANA: Excuse me. Could I ask all of the  
14 witnesses here today to keep their answers brief? It was  
15 almost a yes or no question, and I know you're trying to help  
16 us, but it's also true that the longer the answer the fewer  
17 questions that will be asked.

18 MR. FORTUNO: I guess the answer is paralegals and  
19 law clerks would be helpful but within significant limits.

20 CHAIRMAN DANA: Legal Assistant Taylor is not a law  
21 clerk?

22 MR. FORTUNO: Mr. Taylor, who is a 1991 graduate of

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1 Georgetown Law School, Law Center, I guess it's called, has  
2 been admitted to practice and been moved up to staff  
3 attorney, and he's still on staff. He's not legal assistant.  
4 He's a staff attorney now.

5 MR. UDDO: How many attorneys do you have right  
6 now?

7 MR. FORTUNO: Eight counting myself and John  
8 Penzinger.

9 MR. UDDO: And your high water mark was 11?

10 MR. FORTUNO: High water mark may have been one up  
11 above that, but while I've been here and under Tim Shay, I  
12 think the high water mark for attorneys was 11.

13 MR. UDDO: I just think that all firms are using  
14 paralegals very effectively these days, and most of our  
15 grantees are using paralegals very effectively these days,  
16 and it sounds to me like some of the stuff you're talking  
17 about paralegals can do.

18 I mean, drafting pleadings, paralegals do that, and  
19 good ones do a good job of it. I mean, I think that maybe  
20 you need to --

21 MR. FORTUNO: Although, in Washington, a good  
22 paralegal who can do that would probably be paid not much

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1 less than we're talking about paying a lawyer. Paralegals  
2 get paid very well in Washington.

3 MR. UDDO: Well, something is wrong in Washington,  
4 if that's true. Something is very wrong in Washington. That  
5 doesn't make any sense at all.

6 MR. FORTUNO: Actually, legal secretaries are paid  
7 not substantially less than we pay -- certainly, in many  
8 instances, are paid more than we pay our junior lawyers.

9 MR. UDDO: Washington is a great place for lawyers.

10 CHAIRMAN DANA: Any other questions?

11 (No response.)

12 CHAIRMAN DANA: Let me say that, from my point of  
13 view, I think your request for an additional legal secretary  
14 is certainly terrific and long overdue. I do think that we  
15 are working -- the Board is putting a fair amount of pressure  
16 on all departments within the Corporation; that ebbs and  
17 flows.

18 I don't know how long this is going to last, maybe  
19 a long time. We can always hope, but I think that until we  
20 get our regulatory authority back, when your work is going to  
21 take on another whole overtone, I think that management has  
22 struck the right balance here.

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1 MR. UDDO: I was going to say, I would propose  
2 amending the management proposal to include an additional  
3 secretary. I know how difficult it is to function without  
4 sufficient secretarial support, and I think that's certainly  
5 a reasonable request.

6 The additional attorneys, I'm a little hesitant for  
7 the same reason I think Howard is, and I really would like to  
8 see some thought given to paralegals and clerks. You're  
9 getting a secretary?

10 MR. FORTUNO: I believe we were talking about one  
11 attorney and one secretary, and I'd asked for, possibly, a  
12 second attorney.

13 MR. UDDO: Okay. So this is not a written  
14 justification for what you didn't get? This was a written  
15 justification for your total request?

16 MR. FORTUNO: That's right.

17 MR. UDDO: Okay. Well, then, I misread it. So you  
18 got your secretary?

19 MR. FORTUNO: Yeah. Is it Charley or Emelia?

20 MS. DISANTO: I'll defer to Charley for a moment,  
21 because I'm trying to figure out who proposed what when. So  
22 I will defer for a moment.

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1 MR. MOSES: Actually, I think mine is relatively  
2 simple. Originally, my understanding is that we had been  
3 discussing the addition of six new spots throughout the  
4 entire Office of Field Services, and, in fact, it was my  
5 understanding that the Board, management has tentatively  
6 agreed to four of those six spots.

7 So I don't think that I don't necessarily need to  
8 go into those that have already been approved. If you would,  
9 however, like to know which spots have not been approved and  
10 what the impact of that not being approved is, that's what  
11 I'd like to address very briefly.

12 CHAIRMAN DANA: This is the impact that you will do  
13 your damndest to mitigate?

14 MR. MOSES: That's correct. Obviously, we can  
15 operate within whatever staff the Board gives us. It's just  
16 going to mean there might be some things that take longer  
17 than others, and there might be some things that,  
18 unfortunately, are not --

19 MR. UDDO: Are you responding to Board requests?

20 MR. MOSES: We've been pretty good in getting those  
21 out.

22 MR. UDDO: I know, but if you wanted to impress the

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1 Board, that might be the one to slow down there.

2 MR. MOSES: Can I take that as a suggestion from  
3 the Board? Basically, the two positions that we had  
4 originally planned on trying to fill that are not going to be  
5 filled are both located in the Program Support and Technical  
6 Assistance division. The first position was to have been a  
7 Native American coordinator.

8 This has a little bit of history going back in the  
9 Corporation. The Corporation had traditionally had a Native  
10 American coordinator and a Native American office operating  
11 out of the Denver regional office. That regional office is  
12 now closed.

13 We were proposing to bring a Native American  
14 coordinator in-house into the Office of Field Services to  
15 basically concentrate exclusively on the special needs of  
16 Native American field programs.

17 Generally, for each of our specialized types of  
18 grants, we have one professional point person for each type  
19 of grant. Now, those people might overlap in some instances.  
20 For example, the same individual works right now with  
21 training and with computer assisted legal research grants.  
22 The same individual works with national and state support

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1 grants, but at the same time we have tried --

2 MR. UDDO: Charley, let me just, to try to keep the  
3 Chairman happy, to be brief here. What's the practical  
4 effect of not having it?

5 MR. MOSES: The practical effect of not having it  
6 is that all of those duties that the Native American  
7 coordinator would have fulfilled, things such as coordination  
8 with each of the Native American projects for training  
9 purposes, coordination of things such as the Native American  
10 grant that we're trying to work with at Fort Apache, which is  
11 still not yet been annualized, coordination of things such as  
12 a Native American forum that we are trying to set up with  
13 Mr. O'Hara and all of the Native American programs.

14 Coordination of these types of programs are going  
15 to have to be accomplished by one of the current professional  
16 staff in probably the Technical Assistance Division, although  
17 I --

18 MR. UDDO: Is somebody doing it right now, or has  
19 it just not been done since the Denver office has been  
20 closed?

21 MR. MOSES: We have, obviously, been trying to meet  
22 the immediate needs as best we can. That has meant that

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1 there are some things that have not gotten the attention they  
2 should have gotten. For example, this year, we did have  
3 someone that worked on trying to get \$68,000 worth of  
4 specialized grants out to Native American programs, and that  
5 was done.

6 It was not done as quickly or expeditiously as we  
7 might have liked, but it was done, and it's been  
8 accomplished. At the same time, I think that there are still  
9 some other problems with, for example, the Fort Apache grant,  
10 which we have been trying to work with and which does need  
11 some specialized attention.

12 In fact, we have also been trying to work on  
13 getting a Native American forum organized since this summer,  
14 and that has not yet occurred. So there are some projects  
15 that will get done more quickly than others because of this,  
16 but at the same time that's not saying that eventually we  
17 won't get to everything within our ability to get to that.

18 The second position, and unless you have any other  
19 questions about that position --

20 MR. UDDO: No. I think that answered that  
21 question. Thank you.

22 MR. MOSES: The second position that is going to go

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1 unfilled was a proposed research assistant position for the  
2 Program Support Technical Assistance division. At this point  
3 there is no research position. This is a low level position.  
4 Primarily, it's almost the bridge between a support position  
5 and a professional position.

6 It was designed to have been a computer support  
7 position and a research position, because, quite frankly, we  
8 have a variety of different professional people, who, instead  
9 of doing some things which they could do, are having to do  
10 things such as computer design for the fact book. They're  
11 having to do input and tracking of logs rather than analysis  
12 of logs, all sorts of administrative support functions.

13 That's not to say that those functions, which are  
14 very important, will not get done. It just means that it's  
15 going to be done at a different level, which is then going to  
16 impact on the analysis and the furtherance of additional  
17 grants or additional ideas in those areas.

18 MR. UDDO: That's the only two?

19 MR. MOSES: That's the only two. All the other  
20 four positions that we requested, it's my understanding that  
21 Board has agreed with.

22 MR. UDDO: Or management --

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1 MR. MOSES: And management has agreed to it.

2 MR. UDDO: Okay.

3 CHAIRMAN DANA: Management is proposing a clerk  
4 receptionist at the central office?

5 MR. MOSES: That is correct.

6 CHAIRMAN DANA: A grants programmer and a grants  
7 researcher in Grants and Budget and a PAI coordinator in  
8 Program Support?

9 MR. MOSES: That is correct, and, in fact, what is  
10 going to happen -- I'm sitting here trying to think how the  
11 office is going to function with that, and, obviously, we can  
12 make it function. It might not be as smoothly as it would  
13 be, and there will be some, again, some blurring in between  
14 divisions.

15 That can be done. It will not be as effective as  
16 it otherwise would have been, but we can certainly operate  
17 within that and then possibly reserving the right at some  
18 later time, if we need to, to come back to the Board if there  
19 is a problem.

20 CHAIRMAN DANA: Let me just say that there is  
21 probably nothing new under the sun, and I understand that we  
22 are moving -- it is the current effort to divide larger

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1 departments into little departments, to develop  
2 specialization.

3           The obvious down side of that is you create a whole  
4 sea of bureaucratic empire building, and you have the  
5 potential for vulcanizing the whole operation, and everybody,  
6 all of the managers who are managers beneath managers beneath  
7 managers, want to keep their turf, and they don't share their  
8 staff.

9           I'm not talking about what happens at Legal  
10 Services. I'm speculating as what happens elsewhere, and I  
11 think that the challenge for management under that situation  
12 is to force a minimization of that.

13           My hope is that we can share personnel and cross-  
14 specialization, and when we got the grants out or while we  
15 are getting the grants out, the people all help in that  
16 endeavor, and then, when that's over, they come out of their  
17 grant cycle and help in other areas, and that will require a  
18 constant effort to fight the natural tendency to, sort of,  
19 protect your own.

20           MR. MOSES: And within the Office of Field  
21 Services, within our divisions, that's exactly what happens.  
22 It's an office-wide project to get the grants out. So for

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1 the months of November and December, for the majority of work  
2 that we're doing, the distinctions between the divisions in  
3 the Office of Field Services are relatively minor, because  
4 everyone is working to make sure we can get those grants out.

5 That can include, however, everything from  
6 potential bylaw amendments to make sure that there are no  
7 problems with Board compositions. It includes things such as  
8 subgrants and so forth and so on.

9 So each of these things impact in other areas of  
10 more daily operation. Again, I think that we can make plans  
11 to operate within this. It's just going to mean that some of  
12 the things -- you have to bear in mind that there are a lot  
13 of additional specialized projects that have been thrust on  
14 us for this fiscal year, not the least of which is the \$1.3  
15 million grant that is going to the training center in Iowa.

16 There is, as you and I discussed last night at  
17 dinner, an additional grant, possibly, for -- all right. But  
18 there are a variety of other projects that are going to take  
19 attention, staff attention.

20 To the extent that current staff are busy, and they  
21 are, it's going to mean that either some things are going to  
22 take more time, or some things are not going to get done, and

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1 frequently, on many of the things that people do in regular  
2 course of business in the Office of Field Services, we have  
3 very specific time deadlines imposed by our regulations. So  
4 those cannot be delayed.

5 CHAIRMAN DANA: It sounds to me as though, at least  
6 within your division, you are on top of that issue. I think  
7 it might be helpful -- well, I just think that, in any  
8 bureaucracy, turf battles are sort of the thing to watch for  
9 and minimize if at all possible.

10 MR. MOSES: And once again, I would reiterate that  
11 as far as I'm concerned, I'm sure that we can operate within  
12 what management agrees with, and I don't think that will be a  
13 problem.

14 CHAIRMAN DANA: I, too, am confident of that.  
15 Emelia?

16 MS. DISANTO: Good afternoon. I think, for the  
17 Office of Monitoring Audit and Compliance, over the last five  
18 years, there has been a challenge, and that challenge has  
19 been, in fact, to become more effective and efficient with  
20 less resources.

21 Over the last five years, MAC has had a 25 percent  
22 decline in the amount of funds that have been authorized to

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1 it. We are now 35 percent below the number of on-site  
2 reviews that we once did, and, in fact, over the last five  
3 years, we have become more efficient and effective.

4 As Charley said, of course, we'll operate as we  
5 have, within any of the resources provided. At the same  
6 time, I'd like to share with you just a few, I think, of some  
7 of the effects that I am seeing as far as long-term effects  
8 that I see, that I have been seeing over the last two years  
9 and are slowly beginning to culminate as you try and maintain  
10 some type of long-range plan as to what it is you want to do  
11 in the future and how you adjust that.

12 I think some of the effects that we're seeing is  
13 that there are less on-site reviews, and by less on-site  
14 reviews, I'm not only talking about less on-site monitoring  
15 reviews, I am also talking about less on-site compliance  
16 reviews, which are more for a specific purpose. Depending on  
17 who you're talking to, that can be a good thing or a bad  
18 thing.

19 The next thing that I see occurring is that there  
20 is an increase in the amount of time in the reporting time to  
21 programs. I think that's not good for programs.

22 I think, if we conduct a monitoring review and we

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1 go there, I think the program should know what we found, get  
2 our recommendations, and correct any deficiencies as soon as  
3 possible, and they should have that opportunity, because the  
4 more time that goes by, the less valuable the information is  
5 to them, recognizing that, of course, during an on-site  
6 review, we do give people a preliminary review during our  
7 exit conference of what we saw, what they might want to look  
8 at, what they might not want to correct, what's working well,  
9 but it's much better to have it in writing, because then at  
10 least you have a document to work from.

11 CHAIRMAN DANA: Emelia, what is it about a reduced  
12 staffing level that causes you to -- I understand why it  
13 would stretch out the time between audits so that you might  
14 go for two years instead of a year and a half, but why does  
15 it necessarily stretch out the time to respond to -- or to  
16 write the report for a given audit?

17 MS. DISANTO: Just to clarify, we have not been on  
18 an 18-month cycle in monitoring, I would say, in about three  
19 years. We're currently looking at 24 to 26 months, and we  
20 probably have some programs, I guess, for lack of a better  
21 word, where a comfort level is high. We're probably reaching  
22 even higher levels than 26 months, that are 26 months plus.

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1           We have a staff of 13 individuals that conduct all  
2 of the on-site monitoring reviews. Some of these individuals  
3 have been on a cycle of constant travel of about 30 percent  
4 for about 15 or 16, 18 months.

5           Because of the nature of the reports, and as we  
6 continue to put more and more time into ensuring the reports  
7 are thorough, are accurate and well-written, the time lags in  
8 between, because, when you consider the amount of prep time  
9 that a team leader is going to do before they get on site,  
10 which is considerable, the amount of time needed on site,  
11 which we have been slowly moving toward even less time on  
12 site then we once did -- I mean, we are at the point of some  
13 visits being only three and a half days.

14           Considering that an average program receives  
15 \$980,000 a year, you're talking about looking at almost \$2  
16 million in three and a half days and producing a report to  
17 that particular program. You stretch out the amount of time  
18 that is even available.

19           So that's why one of the requests was for having  
20 some additional people in-house that can conduct the on-site  
21 reviews, because I'm sure, as many of you know, it's  
22 inevitable that sometimes someone becomes unavailable.

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1           CHAIRMAN DANA: So is what you're saying that we  
2 have 13 people, and every monitoring team contains one them?

3           MS. DISANTO: Yes. About three years ago, what we  
4 did is that -- each team leader is a staff person. The  
5 reason for that is that it allows us internally to have  
6 access to that resource and information about a particular  
7 program.

8           So if you call tomorrow and said, "I want to know  
9 about Legal Services of X," I can actually give you the  
10 individual who knows the ins and outs of that particular  
11 program, and you also take that individual and couple them so  
12 that they understand even regionally, and they could examine  
13 things on a more regional basis as what's going on in an  
14 area.

15           CHAIRMAN DANA: So, if I may jump in, each of these  
16 team leaders is the person who is primarily responsible for  
17 getting the report out?

18           MS. DISANTO: Yes. The team leader will write his  
19 own individual report. Ten days from the last day of the on-  
20 site review, the team leader is responsible for writing an  
21 individual report. At the same time, each member of the team  
22 is responsible for submitting to the Corporation their own

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1 individual reports.

2 Those individual reports are then reviewed by the  
3 team leader to ensure that the people on the team did what  
4 they were supposed to do. Any gaps that might be found are  
5 then filled. A team report is then prepared, and it is  
6 provided to the supervisor.

7 CHAIRMAN DANA: The supervisor?

8 MS. DISANTO: The supervisor who, this case would  
9 be the manager of Program Monitoring and Evaluation.

10 CHAIRMAN DANA: The boss of one of the 13?

11 MS. DISANTO: Yes. Now, also we have that of the  
12 people that are team leaders, four of them are not in-house  
13 people. So you have four team leaders, three which are in  
14 the Pacific Regional office and one which is in the Atlanta  
15 Regional office.

16 From there, then, it goes through a review period.  
17 You have all the administrative things that are involved in  
18 producing the report and providing it to the grantee.

19 CHAIRMAN DANA: I don't want to take any more time.  
20 You have not persuaded me why the time period between the  
21 monitoring visit and the final report is being stretched out  
22 as a result of insufficient staff. I can understand why the

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1 number of visits would be, but I don't understand why the  
2 whole process is stretching out, but I don't want you to take  
3 more time now.

4 MS. DISANTO: I think that another effect that  
5 we're seeing is that the amount of time in order to respond  
6 to complaints that we receive is increasing substantially.  
7 That is very much the effect of the following: Within the  
8 Corporation, we have tried to promote from within. As a  
9 result of doing that, at one point in time, there were six  
10 attorneys who would deal with complaints and enforcement-type  
11 actions.

12 In the recent past, three of those attorneys were  
13 promoted into management-type positions. As a result, the  
14 number of attorneys dealing with complaints has gone down by  
15 50 percent, and now we're seeing the increase in time to deal  
16 with the same number of complaints that continue to come in.

17 In addition, we have the various enforcement  
18 actions that I just got a number that are also beginning to  
19 back up, as far as whether it be 1630 actions that we see  
20 coming forward and also just responding to inquiries that we  
21 receive.

22 So that's kind of another effect that we're seeing

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1 right within, which is the Review and Analysis division, that  
2 we lost three attorneys and now the three remaining attorneys  
3 are left doing the job of six attorneys, and now there are  
4 just three.

5 So now we're seeing an increase of close to another  
6 65 to 75 percent more time to respond to the same complaints  
7 of which I think, as you know, can deal with questions from  
8 members of Congress or members of the public or from  
9 individuals within the Corporation, within the program  
10 itself.

11 CHAIRMAN DANA: Excuse me. Mr. President.

12 MR. O'HARA: Thank you, Mr. Chairman. Emelia, we  
13 should also make some comment on the other responsibilities  
14 which these staff that you're talking about have. I think  
15 it's important that the Board know, and especially the  
16 committee know and understand they do have other functions  
17 they have to fulfill.

18 MS. DISANTO: Oh, yeah. The individuals who are  
19 dealing with complaints are not only dealing with complaints.  
20 We also have other functions which can range from 1630  
21 requests that we receive from the programs.

22 CHAIRMAN DANA: 1630?

1 MS. DISANTO: 1630 requests are, basically, we have  
2 a regulation that says if a program is going to spend in  
3 excess of \$5,000 for a consultant or they're going to buy  
4 property in excess of \$10,000, or they're going to buy real  
5 estate, we have to provide approvals.

6 We also review retainer agreements. We also  
7 provide responses to programs, when they ask us questions.  
8 Our fiscal support division probably, on the average, talks  
9 to the inside bookkeepers and independent auditors of  
10 programs on the average of 10 or 15 a week to get them  
11 through, for lack of a better word, to get through our audit  
12 guide.

13 I have one attorney who has probably spent over the  
14 last month close to 60 percent of his time on outside  
15 litigation in preparing briefs, supporting Vic's office for  
16 outside litigation, and I see -- I, myself, have probably  
17 spent in the last month 25 percent of my time on outside  
18 litigation.

19 We also see something I am resisting, which is  
20 turning more to independent consultants to do the work of a  
21 team leader, which I don't think is in the best interest of  
22 the Corporation or the best interest in the monitoring

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1 effort. Having someone in-house who knows the program, is  
2 trained and we have constant contact with to ask questions is  
3 a valuable resource internally.

4 Probably even one of the most important things is  
5 that there is now less time to initiate and implement new and  
6 creative ideas. We have some ideas on the table that I think  
7 would be extraordinarily helpful to programs, to this Board,  
8 and to the Corporation itself with regard to the monitoring  
9 process and the assessment process that we do not have the  
10 resources to devote to reviewing them, to designing them, and  
11 to ultimately implementing them, which, in my opinion, is not  
12 good for anybody.

13 I think some time has gone into it, but new ideas  
14 in order to do them properly need design time, need testing  
15 time, and need implementation time, and there are a few  
16 things that are on the burner that really shouldn't be on the  
17 burner. They should go up front, but right now they don't  
18 have priority because the day-to-day operation simply becomes  
19 more important of your daily responsibilities.

20 MR. UDDO: Is any of this going to be affected by  
21 the expansion of the IG's office?

22 MS. DISANTO: From my discussions with the IG, they

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1 will not be. MAC will continue to review the 350 audits by  
2 the nature of the statute. We do refer many cases to the IG  
3 office, and the IG office will keep some and returns many,  
4 depending on the nature of the issue, and then we pursue it  
5 from there.

6 So I can say, in the last, probably in the last  
7 three or four months, we have probably referred, maybe, 25 or  
8 30 cases to the IG office of which 15 or 20 have been  
9 returned, which we now need to develop.

10 MR. UDDO: Why are they returned?

11 MS. DISANTO: Because they're not within the scope  
12 of the IG Act --

13 MR. UDDO: I sense, from what Mr. Quatrevaux said,  
14 that he may be viewing that differently as to what sorts of  
15 things his office would look at and pursue. The current IG  
16 has told you that he doesn't think that many of those that  
17 will refer back would be things that would stay in the IG's  
18 office?

19 MS. DISANTO: Well, some of the matters are -- I  
20 can't speak on behalf of the IG as to what criteria the IG  
21 uses for various cases. I could just, perhaps, give you one  
22 or two examples, that recently a program had a theft of

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1 several computers. That is something, because of the  
2 potential criminal violation, is sent down. It was something  
3 that was returned back to our office that they are not going  
4 to pursue criminally.

5 I would probably take some further action with  
6 regard to that, with regard to the program, because the  
7 program -- I have not been in contact with the program with  
8 regard to that, but that is my understanding as it stands at  
9 the moment.

10 MR. O'HARA: I'd like to add my comment to Emelia.  
11 We are not in a position to discuss what we have talked about  
12 in-house, but I expect that sometime during the coming year  
13 we'll see a change in the type of monitoring that the  
14 Corporation has been doing.

15 We are moving to implement another approach, and I  
16 think it will be a better way to do it, and I think it would  
17 be receptive to the field and to the Board.

18 MS. DISANTO: The hope is just to do that, but,  
19 again, to devote the resources to do it properly has become a  
20 question, and the fact that decisions are made to evaluate  
21 programs for longer lengths of time, let's just say you go  
22 through a three year, not everyone fits into the three year,

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1 because there are some programs you may find yourself  
2 visiting every six months because of the specific  
3 circumstances of that program.

4 CHAIRMAN DANA: Let me just say that I hope that  
5 before management gets to the point of implementation of its  
6 new approach that it make a presentation to the Board or an  
7 appropriate committee of the Board so that we and the field  
8 and the public have an opportunity to react to your thinking  
9 so that it's not entirely a product of the pressure cooker  
10 that we know to be 400 Virginia Avenue, that we get some  
11 other views expressed.

12 MR. O'HARA: I think that will happen,  
13 Mr. Chairman, and we'll also be consistent with the  
14 requirements that have been placed on the Corporation through  
15 legislative process.

16 CHAIRMAN DANA: Great. Thank you very much. I  
17 think it is true that management has recommended the addition  
18 of three additional people in MAC, one in Program Monitoring  
19 and Evaluation, one in the fiscal department, and one in  
20 Review and Analysis, bringing your staffing level to either  
21 50 or 51, depending upon where you put one person.

22 With that, members of the committee, is there a

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1 motion or a recommendation concerning the management's  
2 proposed COB set forth on Exhibit G?

3 M O T I O N

4 MR. UDDO: I would move its adoption.

5 CHAIRMAN DANA: Is there a second?

6 MS. WOLBECK: Second.

7 CHAIRMAN DANA: It's been moved and seconded. Is  
8 there any discussion from the Board?

9 (No response.)

10 CHAIRMAN DANA: Any comments from the field? I did  
11 not say this, I should have earlier today. If at any time  
12 anybody out there wishes to speak on any matter, they should  
13 just raise their hand and be recognized. Seeing no one and  
14 hearing no one, all those in favor say aye.

15 (Chorus of ayes.)

16 CHAIRMAN DANA: Opposed?

17 (No response.)

18 CHAIRMAN DANA: It is a vote. Thank you. I'd like  
19 to also thank the president and David Richardson for bearing  
20 with the committee and, in particular, its chairman so that  
21 we understood what we were recommending to the Board.

22 MR. UDDO: Mr. Chairman, let me just say something.

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1 As I understand our vote, it was to accept Attachment G and  
2 the \$11,409,050 fee; is that correct?

3 CHAIRMAN DANA: It is to recommend the COB  
4 represented by Attachment G.

5 MR. UDDO: Okay. Let me just say on the record,  
6 with respect to the presentations we heard from the three  
7 division directors, as I understand what we're doing is we've  
8 taken no action on that, that that is still the matter for  
9 management to decide how it would spend that money. If these  
10 presentations persuaded the president that maybe somebody  
11 made a good case for a change, it would be made within the  
12 amount of money that's been approved.

13 I don't understand Attachment G to necessarily mean  
14 that decisions within each office couldn't be changed to some  
15 extent by management.

16 CHAIRMAN DANA: Well, my understanding of  
17 Attachment G is that we are, in a sense, adopting this  
18 overall budget and the allocation of that budget as set forth  
19 in the matrix, which is Exhibit G. I think there have been  
20 substantial numbers of decisions. Over \$1 million worth of  
21 cuts have been made in what was Exhibit G. Exhibit C is what  
22 all of the directors, three of whom we just heard from,

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1 proposed.

2 MR. UDDO: I understand. I think maybe I could  
3 just make this quicker for us. I understand there are  
4 differences in the line amounts for each office; for example,  
5 personnel compensation on each of the three attachments is  
6 different from what the directors requested and what  
7 management ultimately proposed.

8 All I'm saying is that the figure that we adopted,  
9 say, for personnel compensation for Monitoring, Audit, and  
10 Compliance is not a statement by us that the exact  
11 configuration of that money has been reviewed and approved by  
12 us.

13 If management decides that instead of one  
14 professional person they should make a decision that they  
15 should hire two secretaries, that's not something that we've  
16 really spoken on.

17 So if something happened here today to persuade  
18 management that maybe on that personnel line things need to  
19 be done a little bit differently, we've approved that number  
20 but not the exact use of it with respect to who they hire and  
21 how they hire. Maybe I'm wrong. Maybe you wanted us to  
22 adopt a specific number of staff slots for each one of these,

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1 and I didn't understand it that way.

2 CHAIRMAN DANA: No. I mean, I agree with you. I'm  
3 not sure what we've done goes any much further than  
4 Attachment G. If, for instance, the General Counsel wanted  
5 to fire all his attorneys and hire twice as many people and  
6 call them paralegals, he could do that within the context of  
7 spending \$575,000 for personnel.

8 MR. UDDO: Okay. That's all I was saying.

9 CHAIRMAN DANA: I think that's right.

10 MR. UDDO: Okay.

11 CHAIRMAN DANA: And I think it also should be said  
12 that if there are additional changes that management wants to  
13 make, they want to move someone from one department to  
14 another, there are processes, guidelines, ways to accomplish  
15 that without necessarily going back either to the committee  
16 or the Board.

17 MR. UDDO: I understand.

18 CHAIRMAN DANA: Additionally, I think it's fair to  
19 say that there is \$97,000 that was appropriated by Congress  
20 as a special line item in the management account, which is  
21 pursuant to guidelines that are being refined with all  
22 deliberate speed will be available to management to do things

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1 in an emergency.

2 MR. UDDO: Okay.

3 CHAIRMAN DANA: We are now presented with an  
4 unbalanced or a COB that is composed of \$11,409,850, and  
5 Congress has given us how much towards M&A for this year?

6 MR. RICHARDSON: In the appropriations language,  
7 the Management and Administration line received \$9,774,000.

8 CHAIRMAN DANA: That leaves what kind of a deficit?  
9 My understanding is that we need to find \$1,635,850 somewhere  
10 in order to have the funds to carry out the COB; is that  
11 correct?

12 MR. RICHARDSON: That is correct, sir.

13 CHAIRMAN DANA: And that is typically done by  
14 carrying over or moving monies from one line to another?

15 MR. RICHARDSON: That is correct.

16 CHAIRMAN DANA: How much of the \$1,635,850 is  
17 already available in the M&A account?

18 MR. RICHARDSON: The carryover, and I'll refer to  
19 page 18 and 19 in your green books, the amount of carryover  
20 for Management and Administration was \$746,683. Again, a  
21 part of that, which is included in the \$11,400,000 figure  
22 that you've just approved, is your \$46,000 for the Board

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1 video. So that has been included in both places.

2 Additional money that's available, that is  
3 unencumbered, is the "Other Funds Available." That amounts  
4 to \$671,655.

5 CHAIRMAN DANA: And we have those in effect within  
6 the M&A account, M&A line? Do we have to reprogram these  
7 Other Funds Available?

8 MR. RICHARDSON: The Other Funds Available would  
9 have to be reprogrammed, really, as a point of clarification  
10 with the Congress.

11 CHAIRMAN DANA: If we do that, what is the  
12 deficiency then?

13 MR. RICHARDSON: It's approximately \$217,000.

14 M O T I O N

15 CHAIRMAN DANA: All right. Now, I have prepared an  
16 analysis with the assistance of management, which I've  
17 distributed to the Board, and what this indicates is that  
18 after we've moved the money from other funds available into  
19 the M&A line, we still have \$1,158,010 in carryover funds  
20 spread throughout the lines, as indicated on this exhibit.

21 We have basic field funds from '90, '91, and '92;  
22 Migrant funds in '90 and '91; national support funds, '91 and

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1 '92; state support, '91 and '92; and timekeeping funds that  
2 were set aside by the Board many years ago that we are still  
3 holding, then, is really subject to Board action.

4 I guess it would be in the nature of my  
5 recommendation that we consider recommending to the Board  
6 reprogramming of half of the '91 national support funds, half  
7 of the '91 state support funds, and slightly more than half  
8 of the '90 migrant funds, and, if we do that, we will have  
9 sufficient funds and move those funds into the M&A line to  
10 complete the funds necessary to carry out that function.

11 MR. UDDO: I so move.

12 MS. WOLBECK: I'll second.

13 CHAIRMAN DANA: Is there discussion? Yes, Andy  
14 Steinberg.

15 MR. STEINBERG: I'm Andrew Steinberg, Western  
16 Massachusetts, and project advisory group co-chair of Funding  
17 Criteria Committee. I have also reviewed the consolidated  
18 operating budget from this year with the anticipation of  
19 looking at next year, and there is one concern that I want to  
20 express on behalf of the Project Advisory Group to what has  
21 just been proposed.

22 Congress appropriates funds each year for specific

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1 functions, the largest amount for delivery of services and  
2 for the support of the delivery of services. Project  
3 Advisory Group has and continues to strongly urge that  
4 congressional intent be adhered to and that the funds remain  
5 in the categories for which they were originally appropriated  
6 for expenditure.

7 Therefore, we're concerned about a proposal that  
8 funds the additional Management and Administration amounts  
9 from national state support and migrant.

10 We would also point out that there is the  
11 additional \$300,000 for timekeeping, which has not been  
12 expended for a great number of years, that is also available  
13 to meet the additional Management and Administration request  
14 for this current fiscal year, which would then accomplish the  
15 request from management without taking money from any of the  
16 particular lines.

17 CHAIRMAN DANA: Andy, I appreciate your comments,  
18 and you are correct in that monies that have been  
19 appropriated for these various functions must be spent for  
20 those functions unless the Corporation votes to do otherwise  
21 and complies with the reprogramming requirements of Congress;  
22 am I correct?

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1 MR. STEINBERG: Yes.

2 CHAIRMAN DANA: So it would be our intention to  
3 notify the appropriate committees of Congress that it is our  
4 intention to spend some of the carryover funds that appear in  
5 the lines indicated to carry out our M&A function.

6 I think it is also true that when we presented this  
7 budget we notified Congress that we would have carryover  
8 funds from these, and that Congress anticipated using  
9 carryover funds in just this way.

10 So I'm not sure that the committees of Congress  
11 will be surprised that we are making a reprogramming request,  
12 since they've basically directed us to find the deficiency  
13 between what we indicated what we were going to spend and  
14 what they gave us from these funds.

15 MR. STEINBERG: An early version of the Senate  
16 report which we have seen anticipated \$1.5 million in  
17 carryover to be available, which generally would be  
18 Management and Administration and the Miscellaneous Income  
19 lines. It would not necessarily mean going into the  
20 reprogramming of funds from other line items that are  
21 originally appropriated.

22 CHAIRMAN DANA: It's true, but I think in March of

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1 last year we said 1.5, but it is also true that was nine  
2 months ago, and we are now talking about 1.6 and that we have  
3 only 1.4 available in other funds and imminent carryover. So  
4 we need to find \$200,000 from somewhere.

5 We might have had to find only 100 if we had been  
6 right on the button, but even then we would have had to take  
7 some money from other than M&A, and since the only other  
8 money we have, setting aside the timekeeping money for a  
9 moment, comes from other lines that Congress has appropriated  
10 money for.

11 I understand that it has been a long-standing and  
12 vigorously espoused view of the Project Advisory Group and  
13 the National Legal Aid and Defenders Association, and you  
14 have dutifully reminded us of that.

15 MR. STEINBERG: Thank you, Mr. Dana.

16 CHAIRMAN DANA: Thank you.

17 MR. RICHARDSON: Mr. Dana, if I might, Charley  
18 Moses has asked that if he could speak to you in a moment in  
19 regards to a couple of proposals that we received just in the  
20 last week in regards to migrant money.

21 CHAIRMAN DANA: Yes.

22 MR. MOSES: I apologize. I was out of the room

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1 when you started this conversation, so you might have said  
2 something that would make this pointless, but I just wanted  
3 to make sure that the Board was aware of what had come in  
4 concerning these '90 and '91 migrant funds.

5 Just in the past week we have had correspondence  
6 from at least three different entities requesting parts of  
7 these '90 or '91 funds. One of those entities is the Migrant  
8 Legal Action Program, which is trying to interest the  
9 Corporation in a proposal to assist in training our new  
10 grantees for migrant assistance in Arkansas, Mississippi,  
11 Alabama, and Tennessee.

12 We are currently working with them on a specific  
13 proposal. I'm not exactly sure how delayed that might be as  
14 to whether or not we're going to have to do it through an  
15 unsolicited process that might have been approved yesterday  
16 for the committees to look at or whatever, but nevertheless,  
17 they're requesting a total of \$90,000.

18 In addition, we have received correspondence from  
19 the programs that received the migrant grants in both  
20 Arkansas and Tennessee requesting the full amount of their  
21 '90 money for the basis of start-up.

22 Both of those grantees have now completed or are in

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1 the final stages of completing what were their need  
2 assessments. They have identified certain needs for start-up  
3 costs. You will recall that both of those grantees got  
4 substantially all of their '91 money, so that there is very  
5 little if any '91 money left that had originally been  
6 allocated.

7 I will say here that as far as the migrant grants  
8 are concerned, I've talked with Dave Richardson, and he  
9 assures me that there is no specific dollar amount that had  
10 been set in stone for any specific grantee or any specific  
11 state, that at this point it is migrant money, and it is not  
12 set to a specific grant.

13 So we have some leeway, and there has been some  
14 staff discussion which we have not yet had a chance to  
15 discuss it with President O'Hara yet, but just this past week  
16 we discussed whether or not we might be able to create a pool  
17 of money for use of start-up costs in these migrant grants  
18 using part of this '90 and '91 funds.

19 I believe, if I understand what your proposal was,  
20 that you would leave a total of about \$295,000 from the '90  
21 and '91 funds?

22 CHAIRMAN DANA: Correct.

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1 MR. MOSES: Okay. We can probably work within  
2 those limits, I think, to the degree that everyone would  
3 understand that no one at this point has any fast rights to  
4 any specific amount of money for start-up costs, but at the  
5 same time I think everyone needs to understand that we're  
6 trying to work with four grantees, all of whom are going to  
7 have start-up costs, and we recognize that and want to help  
8 fund them.

9 CHAIRMAN DANA: Thank you, and I'm also glad to  
10 hear that you anticipate that we may be able to accommodate  
11 their requests to a degree within the remaining \$295,000,  
12 recognizing that we are now in 1992, and that we have some  
13 more monies, only some of which has been granted.

14 MR. MOSES: That is correct, and because we'll have  
15 the '92 funding, I think that between the '92 funding used  
16 for operational expenses and the '90 and '91 funding used for  
17 both training expenses, potentially training expenses, we  
18 have not come to final agreement with them yet, but if we  
19 were to do that, then that would certainly leave a  
20 substantial sum of money that could be used for initial  
21 start-up costs.

22 I can say this: I think that the individuals at

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1 the four programs in question each would prefer if this board  
2 would give them the entire amount of their '90 and '91 funds;  
3 however, I think that working with them that we would  
4 probably be able to make sure that they get funded what they  
5 definitely need funded and still would be able to continue  
6 operation.

7 CHAIRMAN DANA: I hope that they are understanding.  
8 I think this Board has been responsible for getting us to  
9 move on their being funded at all, and I think that it's my  
10 hope that all of the '92 funds will be used to fund programs  
11 in those areas, that some of the '91 and '90 funds would be  
12 available to assist with start-up, and that there will be  
13 additional funds available for training and support, if the  
14 Corporation feels that that's an appropriate use of these  
15 funds, training and support of these migrant programs.

16 M O T I O N

17 MR. UDDO: I call a question.

18 CHAIRMAN DANA: A question has been called. All  
19 those in favor of the allocation as proposed say aye.

20 (Chorus of ayes.)

21 CHAIRMAN DANA: Opposed.

22 (No response.)

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1           CHAIRMAN DANA: It is a vote. It will be a  
2 recommendation.

3           Additionally, please note in column 2 that we could  
4 preserve all of the funds we've just been talking about; that  
5 is to say, the remaining migrant, national, and state support  
6 funds for migrant, national, and state support grants and  
7 still have \$423,213 for other board initiatives that the  
8 Grants and Regulations Committee, Operations and Regulations  
9 Committee is considering to supplement in a competition area,  
10 or, frankly, in any other area.

11           It would require reprogramming, if you will, the  
12 timekeeping funds and using the funds left over in the basic  
13 field area. Those funds also are available for one-time  
14 grants, but that's the population of funds that we have  
15 available to us before we look at the funds that are being  
16 generated in this year in the Other Funds Available and other  
17 lines.

18           CHAIRMAN WITTGRAF: Mr. Chairman, just as a matter  
19 of clarification, if I'm following your comments correctly,  
20 we take the \$977,000 that is available for Board initiatives  
21 by virtue of congressional action and take this \$423,213. We  
22 then have some \$1.4 million that could be used for

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1 competitive fundings initiatives, or, yet, even for  
2 consolidation initiatives or funding initiatives during  
3 Fiscal Year 1992 subject to the recommendations of the  
4 Operations and Regulations Committee of the Board?

5 CHAIRMAN DANA: That is correct, or anything else  
6 that the Corporation or Board wished to do. It's relatively  
7 free money.

8 CHAIRMAN WITTGRAF: Thank you.

9 CHAIRMAN DANA: The next item on the agenda is  
10 consideration of public comment on the proposed Fiscal Year  
11 1993 budget of the Legal Services Corporation, and in the  
12 Board books that are with you, there have been, on pages 23,  
13 24, 25, 26, 27, and 28, there are six proposals.

14 Blissfully, they're just out there. They have not  
15 been identified as whose proposal it is, but, in fact, these  
16 are suggestions and comments that Board members have made to  
17 the comptroller.

18 I think what I'm going to suggest is that we not  
19 come up with a committee proposal today but that we maybe  
20 receive comments and suggestions or discuss it among  
21 ourselves and maybe hear from the chairman of the Provisions  
22 Committee or members the Provisions Committee who had a

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1 hearing on issues relating to this budget yesterday and just  
2 compare and contrast to get a feel for what these are.

3 Before we do that, we'll take a five- or ten-minute  
4 recess.

5 (A brief recess was taken.)

6 CHAIRMAN DANA: David, the next item on the agenda  
7 relates to the proposed budget for Fiscal Year '93. There  
8 are six proposals in the Board book. Without identifying the  
9 authors, any of them, could you please describe for all of us  
10 the salient features of each proposal so that we could get a  
11 sense of what other Board members are thinking about without  
12 having had the benefit of dialogue between them?

13 MR. RICHARDSON: Yes, sir. In Proposal 1, of  
14 course, we're starting with each of these as a base of \$350  
15 million, the appropriation for '92, and Proposal 1 is  
16 requesting an increase of 49.57 percent or \$173,487. This,  
17 basically, was attained by increasing the delivery of legal  
18 assistance 50 percent in the existing lines and the support  
19 for delivery assistance of 25 percent in each line.

20 There are a couple of new initiatives that are  
21 included. Under 1B(3) there is a loan prepayment program.  
22 There are new funds there that amount to \$5 million.

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1 CHAIRMAN WITTGRAF: Would that be a prepayment?

2 MR. RICHARDSON: Repayment?

3 CHAIRMAN WITTGRAF: Yeah, probably repayment, not  
4 prepayment, I would guess.

5 MR. RICHARDSON: With the exception of under 2A(2),  
6 the National Resource Training Center, the lines in the  
7 support were increased 25 percent. This particular line was  
8 decreased 23 percent to \$100,000. Under 2B(5), we have a  
9 National Client Advocacy Program. This is new funds  
10 amounting to \$1 million.

11 The Management and Administration was increased  
12 22.77 percent. Under 3B, Board Initiatives, this individual  
13 has broken it into two categories, one being competitive  
14 initiatives, basically new funds of \$2 million, and under the  
15 Board initiatives, reducing the \$977,000 to \$500,000.

16 I say reducing. Of course, the Board initiatives  
17 that this Board is looking at are competitive in nature. So,  
18 basically, they'll offset each other, and then the Special  
19 Contingency Fund was just rounded to \$100,000.

20 In Proposal 2, this increase is 42.86 percent, or  
21 \$150 million. The increase to the basic field programs was,  
22 basically, 42.38 percent. There are new funds here. The

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1 Innovative Grant proposals is \$2 million, and the Special  
2 Emergency Funds that did not receive the full 42 percent  
3 increase we, just again, rounded to the \$500,000.

4 Under 1B(3), this individual has included a Reggie  
5 loan forgiveness program, \$5 million. Under the Support for  
6 Delivery Legal Assistance, again, the increase is  
7 approximately 41.8 percent, with the exception of the  
8 National Resource Training Center, which was zeroed. There  
9 was no additional funding requested for '93.

10 There is a new caption here, also, the National  
11 Client Advocacy, of \$1 million. The Management and  
12 Administration, again, is 22.77 percent. The Board  
13 initiatives was increased 53.53 percent, going from \$977,000  
14 to \$1.5 million, and, again, the special contingency was  
15 rounded to \$100,000.

16 Proposal 3 is, basically, the same proposal as  
17 Proposal 2 with the exception of the Innovative Grant funds  
18 the Reggie and Loan Forgiveness funds, and the National  
19 Client Advocacy funds were left zero, and that \$8 million was  
20 spread to all the programs.

21 Basically, the field programs would then receive a  
22 44.19 percent increase. Again, the Special Emergency Funds

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1 was rounded to \$500,000, and the support for delivery of  
2 legal assistance, they were, again, 44.9 percent increases,  
3 thereabouts.

4 Proposal 4, this increase was, again, from \$350 to  
5 \$418,250,000. That's a 19.5 percent increase. There is no  
6 new lines in this particular budget, just each line was  
7 giving the same increase.

8 CHAIRMAN WITTGRAF: What was the percent,  
9 Mr. Richardson?

10 MR. RICHARDSON: 19.5.

11 CHAIRMAN WITTGRAF: Thank you.

12 MR. RICHARDSON: Proposal 5 is basically the same  
13 proposal, but instead of 19.5, it's 15 percent. Page 28,  
14 Proposal 6, this individual is increasing the budget  
15 approximately 14 percent in each line -- in total, I should  
16 say. The majority of the money is going to the field  
17 programs. There is a 20 percent increase in the law school  
18 clinics, taking it from \$1.229 to \$1.45 million.

19 In the support, this individual has chosen to,  
20 basically, round the regional training centers from \$697,000  
21 to \$700,000. The National Resource Training Center was left  
22 zero.

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1           As you see with the other support, the national  
2 support, state support, clearing house, they were basically  
3 rounded to the next thousand. And in the corporate  
4 management administration, again, basically the same figures  
5 we've been looking at with increases, basically 22.78  
6 percent.

7           The board initiatives was increased 100 percent.  
8 Then the special contingency funds was just rounded to  
9 \$100,000.

10           CHAIRMAN WITTGRAF: Mr. Chairman?

11           CHAIRMAN DANA: Yes, a question?

12           CHAIRMAN WITTGRAF: I have a question for you and  
13 Mr. Richardson. Two questions. First, will your committee  
14 be receiving additional information from interested groups?  
15 There was a presentation, of course, last month on behalf of  
16 the Project Advisory Group.

17           Do you anticipate additional presentations on  
18 behalf of interested groups such as the American Bar  
19 Association or the National Legal Aid and Defenders  
20 Association?

21           CHAIRMAN DANA: My understanding is that the ABA  
22 and the NLABA will be arriving at their recommendation to

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1 Congress at the February meeting or January meeting. I'm not  
2 sure which.

3 MR. STEINBERG: ABA, I think, was February.

4 CHAIRMAN DANA: It's late January, and so would not  
5 be available to speak to us before our February meeting. I  
6 do anticipate receiving -- I'm hoping to receive additional  
7 comment from the Provisions Committee that undertook some  
8 testimony yesterday and is, as I understand it, going to have  
9 at least one meeting between now and the next meeting of this  
10 Board.

11 CHAIRMAN WITTGRAF: Thank you. That leads me to  
12 the second question, then, for you and for Mr. Richardson.  
13 Will Mr. Richardson be serving Board members again between  
14 now and the next meeting of your committee to see how our  
15 individual thinking may have evolved, either in light of the  
16 discussion we had yesterday at the provision for delivery of  
17 Legal Services Committee meeting or just because of other  
18 information or ideas we've had?

19 CHAIRMAN DANA: I certainly hope so, and I think  
20 the answer is yes.

21 MR. RICHARDSON: Yes, sir.

22 CHAIRMAN WITTGRAF: Third question, specifically

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1 for Mr. Richardson. What's your understanding, Mr.  
2 Richardson, of the time line or any requirements we have, in  
3 terms of our relationship with the Office of Management and  
4 Budget and any information or guidance we need to give the  
5 personnel there?

6 MR. RICHARDSON: The OMB deadline has passed. That  
7 was October 15th. Our normal course of action is to have, of  
8 course, the budget approved and to both House and Senate the  
9 first week in February. Last year that was delayed somewhat.  
10 As soon as we can get it up after that the better they like  
11 it so they can start their analyzing it.

12 CHAIRMAN WITTGRAF: If I'm understanding you  
13 correctly, we would anticipate the Appropriations  
14 Subcommittee hearings of the House and Senate Appropriation  
15 Subcommittees later in the spring, March or April, but the  
16 staff members there would like the information by early  
17 February?

18 MR. RICHARDSON: That is correct, sir. If nothing  
19 else, of course, you see the package we send them, when this  
20 Board decides on a budget figure and a breakout, we normally  
21 supply that beforehand before the full package goes up. So  
22 they do have the figures before.

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1           CHAIRMAN WITTGRAF: Well, refresh my recollection  
2 on what guidance you gave personnel at OMB, then, in October.

3           MR. RICHARDSON: We gave them no guidance. When  
4 they called, I had reminded them that this board had  
5 requested \$355 million the prior year. I had not spoken to  
6 the issue for FY '93.

7           CHAIRMAN WITTGRAF: Thank you.

8           MR. UDDO: Mr. Chairman.

9           CHAIRMAN DANA: Sir.

10          MR. UDDO: Mr. Richardson, what if we don't tell  
11 them anything in February?

12          MR. RICHARDSON: If it's delayed, of course, it  
13 pushes the appropriations hearings further back. They do get  
14 quite antsy and will get antsy if they don't get something by  
15 at least mid-February. You're talking about waiting,  
16 possibly, until the ABA or somebody else speaks to the issue?

17          MR. UDDO: Well, I might like to wait for the ABA  
18 and NLADA and whoever else wants to speak to it. But I'm  
19 more concerned, because this is an unusual year because of  
20 the 1990 census, and as I understand it, we may not know what  
21 those numbers show until February would be the earliest, and  
22 I'm concerned about all these budgets just being numbers on a

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1 piece of paper.

2 I would really like to know something more about  
3 the specifics and what that census shows so that we can tie  
4 our decisions to that information.

5 MR. RICHARDSON: One thing, if I could speak to  
6 that, that could happen -- has happened in the past -- and  
7 that is that we do try to develop some type of budget  
8 framework for the appropriation committees to look at. It  
9 can be amended. Certainly our appropriation was not approved  
10 this year until mid-October.

11 If, after the census comes out, and we have  
12 opportunity to look at that along with the interested  
13 parties, and you decide to amend the budget, that's certainly  
14 doable.

15 MR. UDDO: What do we know about when those figures  
16 may be available? I mean, I've heard February. I've heard  
17 March. Do we know any more?

18 MR. MOSES: We have been in contact with the Bureau  
19 of the Census, and because of the very specific nature of the  
20 figures that we need, the poverty population figures are the  
21 last thing that the Bureau of the Census does, and we're in  
22 the position of needing to have them -- basically, they need

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1 to be able to have done them by county for us to be able to  
2 calculate various things concerning per capita funding.

3 Even though it's my understanding that they will  
4 begin to release figures, probably as early as February, the  
5 problem is they're going to be released piecemeal. So my  
6 understanding originally was it would probably be late spring  
7 or early summer, possibly even later before we would have all  
8 of the poverty population figures.

9 The reason why that's important is because, until  
10 we have all of the figures, it's very difficult to do the  
11 recalculation for any of the per capitas.

12 CHAIRMAN DANA: Mr. Chairman.

13 CHAIRMAN WITTGRAF: Thank you, Mr. Chairman. I'd  
14 like to respond to the comments made by Mr. Uddo. I  
15 certainly agree with him very much, particularly as I realize  
16 some of us from the Board and the president are going to have  
17 to appear before the appropriations subcommittees, I agree we  
18 need to be able to make our case as effectively and  
19 persuasively as possible.

20 On the other hand, it seems to me that we probably  
21 need to do something by January so that we have, for purposes  
22 of staff members of those committees, given them something

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1 fairly tangible and meaningful by the first of February,  
2 because I think the six alternative proposals that  
3 Mr. Richardson has summarized do, to varying degrees,  
4 represent if not quantum leap thinking at least catch-up  
5 thinking much more so than the incremental recommendations of  
6 the last two fiscal years before them, the last two Fiscal  
7 Years '91 and '92.

8 I think we need to be sensitizing the staff members  
9 by the 1st of February to the fact that while this is a very,  
10 very small piece of either the puzzles that those  
11 subcommittees are working on, or that the whole committees in  
12 the Congress are working on, we want them to be aware that we  
13 are thinking in those terms.

14 So it seems to me it's going to be difficult to  
15 wait for the ABA and its mid-year meeting and its thoughts  
16 and recommendations before acting. And maybe, as Mr.  
17 Richardson has suggested, it would be possible to amend our  
18 thinking. But I think it's pretty important, because our  
19 thinking is more dramatic -- I'm anticipating it to be more  
20 dramatic than in recent years -- that we do share that by the  
21 1st of February with the staffs of those subcommittees.

22 Thank you, Mr. Chairman.

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1           CHAIRMAN DANA: Thank you. Are there other  
2 comments, Board members?

3           MR. UDDO: Well, let me just comment that I  
4 appreciate what the Chairman has said. Nonetheless, I think  
5 this quantum leap is something that has to be taken, as he  
6 has indicated, carefully and with the appropriate support for  
7 the much higher recommendation.

8           So I continue to be concerned about how we go about  
9 doing that, given the unusual time constraints that we're  
10 placed under, and I'm open for suggestions from anyone and  
11 everyone who has suggestions, but I'm not comfortable with  
12 just numbers, putting numbers on the paper.

13           I've gotten the material from Peg about how they  
14 did their computer projections on the census. That's of some  
15 help, because it's at least an effort to try to attach some  
16 significance to the numbers on the paper, but for all the  
17 folks who have proposed budgets here, I'd find it very  
18 helpful if, in support of these proposals, they were able to  
19 give me some of their thinking on how they arrived at the  
20 numbers that they arrived at.

21           MS. WOLBECK: Mr. Chairman.

22           CHAIRMAN DANA: Yes.

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1 MS. WOLBECK: I'm not so sure there is any reason  
2 to drag our feet on this, because we all know that the need  
3 is much larger than any amount of money we're going to get  
4 anyway, and I think we just need to -- I mean, whatever the  
5 census says and what Peg says and everyone else, the need is  
6 tremendous, and we're not going to get close to the -- I  
7 mean, we can ask for it, but these budgets aren't close to  
8 the need, even, so why not go forward with something?

9 CHAIRMAN DANA: I thank you. Blakeley, would you  
10 like to report on your meeting of yesterday and to the extent  
11 to which some of these items are reflected in the discussions  
12 that were had in your meeting?

13 MR. HALL: Thank you, Mr. Chairman. I'm so close  
14 to the reporter, I probably don't need that. We did meet  
15 yesterday with the Provisions Committee and looked at a  
16 number of ways to recruit and provide services, and I think  
17 the way that what we did fits in with what we're talking  
18 about today is that we do have the census coming up that's  
19 going to show an increase, and it's a good opportunity to get  
20 an increase.

21 So we want to look at some of these old programs  
22 that have been dropped in the past. If they were dropped

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1 without good cause, this would be an excellent time to ask  
2 for a line item or for more money to get those programs going  
3 again, specifically loan repayment, the Reggie program, and  
4 then, perhaps, something for innovative grant proposals.

5 I suppose what our committee wants to do is to  
6 study those and to see if we can validate a reason for  
7 bringing them back, and, if we can, it would be a good time  
8 to ask that they be included in the budget and to bring them  
9 back.

10 The Reggie program, for instance, seems to me it  
11 was dropped because the folks that ran it did a poor job, not  
12 because it didn't work, at least I haven't seen any studies  
13 that said it didn't work, and it just seems like no one  
14 wanted to pick it back up and go with it.

15 It may be a very good thing to have, and if we can  
16 determine that it is, we may want to ask for it again. I  
17 suppose the same thing might hold true with some of the loan  
18 repayments, the National Clients Council, things of that  
19 matter.

20 CHAIRMAN DANA: That's very helpful. And do I  
21 understand that your committee will be meeting before the  
22 next board meeting to further explore these matters?

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1 MR. HALL: That's correct.

2 CHAIRMAN DANA: I have a couple of questions. The  
3 National Resource Training Center appeared almost like magic  
4 this year at \$1.3 million. I have understood that was to be  
5 a one-time capital expenditure and not a recurring item. Did  
6 I misunderstand that?

7 CHAIRMAN WITTGRAF: Mr. Chairman, Mr. O'Hara and  
8 I -- as well as Mr. Moses -- have had an opportunity to visit  
9 a little bit about this matter with Dean Walker of Drake  
10 University Law School and also with Professor Dan Power, who  
11 oversees the Neal B. Smith Law Clinic.

12 The \$1.3 million was an estimate made by the House  
13 Appropriation Subcommittee staff in consultation with the  
14 congressmen and the personnel at the Drake University Law  
15 School. I think the sense that the president, Mr. Moses and  
16 I received -- in early November, I guess that was, when we  
17 were there visiting with them -- was that \$1.3 million would  
18 probably take care of the capital needs but may not take care  
19 of the equipment needs and that an additional amount, perhaps  
20 a half million, perhaps a different amount, will be necessary  
21 to equip the facility with the technical equipment it needs  
22 to -- I'll call it the hardware that it needs -- inside the

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1 facility and that the \$1.3 million is apt to be used  
2 primarily for capital expense, in a bricks and mortar sense.

3 So my impression, at least from our preliminary  
4 discussions, were that some more funds may be necessary.

5 CHAIRMAN DANA: But it's certainly not contemplated  
6 that this would be an ongoing and ever-increasing  
7 expenditure?

8 CHAIRMAN WITTGRAF: That's correct. I think it  
9 would be an amount less than the amount appropriated for the  
10 current fiscal year.

11 CHAIRMAN DANA: And presumably a second time, but  
12 that might be it?

13 CHAIRMAN WITTGRAF: Yes, although the development  
14 of that center is something that remains to be seen, in terms  
15 of the need that it meets and the utilization of it.

16 Certainly the president, Mr. Moses and I encouraged  
17 the Dean and Professor Power to be thinking in terms of truly  
18 national utilization of the facility by people who have the  
19 need, and I don't know. We challenged them, and only time  
20 will tell how they respond to that challenge.

21 CHAIRMAN DANA: Thank you. I have another question  
22 for, and I think it may be Charley. This last year,

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1 Congress, in its wisdom, chose to provide state support funds  
2 for the seven states that didn't have it?

3 MR. MOSES: That is correct -- well, for seven of  
4 the jurisdictions that don't have it, yes.

5 CHAIRMAN DANA: Yes, and I gather there are some  
6 that --

7 MR. MOSES: There still would be jurisdictions that  
8 we fund that do not have state support, yes.

9 CHAIRMAN DANA: And those grants have gone out or  
10 will go out?

11 MR. MOSES: We're working on getting those grants  
12 out. I anticipate that -- in fact, before I left this week,  
13 we had letters that went out to the majority of the people.  
14 We are anticipating that they would go out as a one-time  
15 grant for the first year, meaning beginning in January would  
16 go out as a one-time grant with some direction to develop  
17 what they want to do as their program.

18 We're already talking with them about exactly what  
19 they need as state support in their individual states, and  
20 then, at the end of the first year of the grant, it would  
21 move into an annualized grant.

22 CHAIRMAN DANA: Why would it be one time if it

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1 was -- Congress, I think, was quite specific about the amount  
2 of the dollars that goes to each state.

3 MR. MOSES: That's correct. Congress was quite  
4 specific about the amount for this year. It was not  
5 necessarily, however, put into the annualized grants. The  
6 Corporation has not and never has had a grant with these  
7 states for state support.

8 So at the end of a one-year period during which  
9 they actually developed the program and have something up and  
10 running and functioning, at that point it becomes annualized  
11 into their existing money.

12 Mr. Dana, all of the grants, when we first give out  
13 a grant, for example, the migrant grants that were just  
14 given, which are going to move into annualization, were given  
15 as one-time grants to facilitate the creation of the project  
16 and the start-up of the project.

17 Similarly, in some recent Native American grants,  
18 they have been given on a one-time basis. The reason for it  
19 is we want to make sure we can get the project up and  
20 functioning prior to actual annualization of the project,  
21 because at the point we annualize it, obviously, it's a  
22 functioning project not just an idea.

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1           CHAIRMAN DANA: When we first issue regular grants,  
2 the 325 regularized grants, approximately, that we have now,  
3 in the first year that those were issued, were they all  
4 issued as one-time, one-year grants, or could you possibly  
5 get -- without some assurance of continuity, I'm not sure why  
6 anyone would go to work for a one-time grant recipient,  
7 unless, of course, we were having hard times economically.

8           Sometimes, I know it's not in recent memory, this  
9 corporation has been accused of jerking programs around. I  
10 hope aren't going to do that to Congress. I thought they  
11 were very specific about wanting to get state supports,  
12 grants up and running in those places.

13           MR. MOSES: Well, and, in fact, that's what we're  
14 doing. We're trying to get those grants up and running and  
15 operational so that they can be annualized into the  
16 Corporation regular grant process.

17           CHAIRMAN DANA: And it is your understanding that  
18 they would be annualized at the end of this year?

19           MR. MOSES: Moving into next year's budget, that's  
20 correct. Then there would be an annualized grant process.

21           CHAIRMAN DANA: Other than Charley Moses' saying  
22 so, what assurance do these grantees have that that will

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1 happen, that somebody won't change their mind or that you'll  
2 be moved into another position and somebody else will come in  
3 and say, "Well, you'll have to apply again, because we're not  
4 going to protect you"?

5 MR. MOSES: The one instance in recent memory, and  
6 as far as I've been there this has been the Corporation  
7 procedure for new grants, the one instance in recent memory  
8 that I can recall, there has been one grant that we are  
9 trying to get to an annualized state.

10 We have not been able to get it to an annualized  
11 state, meaning there was still significant problems. We  
12 continue to try and fund it to help them take care of the  
13 problem until the point where they are functioning as a  
14 viable entity. We do not want to get the Corporation into a  
15 position of the annualizing a grant for an entity that might  
16 or might not be viable.

17 CHAIRMAN DANA: Congress made the judgment that  
18 these grants were to go to the largest program in the state  
19 involved; is that correct?

20 MR. MOSES: Well, I believe that's in the  
21 conference report, yes. It's the largest basic field-funded  
22 program.

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1                   CHAIRMAN DANA: And my assumption is, am I wrong,  
2 that those are not all viable programs?

3                   MR. MOSES: Well, we're working with some technical  
4 difficulties on some of those states right now. For the most  
5 part, I don't think there will be any problem with any of  
6 those states or with any of the programs in those states.  
7 There are one or two instances in which we're trying to work  
8 to decide between the language that Congress has crafted and  
9 the actuality of what's going on in the state to make sure  
10 that it's a viable program, yes.

11                   In some instances, that language probably should  
12 have been crafted a little more artfully, and it has created  
13 some problems, yes.

14                   CHAIRMAN DANA: I hope that what we don't have is a  
15 repeat of the slow but deliberative process that has been  
16 followed to get these migrant programs underway. I  
17 understand that Congress has directed the Corporation to put  
18 out this money to seven programs, and I trust we'll do that.

19                   MR. MOSES: That is correct, and, in fact, as I  
20 said before we left here, there has already been  
21 correspondence going out. This is not being done as part of  
22 the regular grant process for those programs because it's a

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1 new, one-time grant.

2 It's the first instance in which this particular  
3 thing has been funded for those seven states, and that's why  
4 it's being treated differently. They could not apply for  
5 refunding for a grant that did not prior to this time exist.

6 CHAIRMAN DANA: The issue that I'm struggling with  
7 is whether or not they would be entitled to this money again  
8 in 1993 as a matter of course, and the answer you're telling  
9 me is no.

10 MR. MOSES: To the extent that Congress puts it in  
11 the budget, I think that's correct. My understanding is that  
12 at this point -- and I might be wrong in this -- but I think  
13 that because of the way they allocated the money, they didn't  
14 necessarily allocate it in the line item budget. They  
15 allocated it in a separate allocation in the appropriation, I  
16 believe. Is that correct? Is it in the line item as well as  
17 in the half-a-million discussion?

18 CHAIRMAN DANA: It's in the line item for state  
19 support. And Congress said, "We want you to fund those  
20 programs in those seven states, and we want -- "

21 MR. MOSES: And they are being funded.

22 CHAIRMAN DANA: And they took the decision away

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1 from this Corporation as to which program should be funded  
2 and said, "Put it with those programs."

3 MR. MOSES: And they are being funded. There are  
4 some technical problems in several of those states that we're  
5 trying to work out right now.

6 CHAIRMAN DANA: I just want to be assured that we  
7 are not demonstrating any peek that Congress has asserted  
8 jurisdiction over an area by directing the Corporation to do  
9 what otherwise the Corporation would have had the discretion  
10 to do.

11 MR. MOSES: No, we are not, and, in fact, we've  
12 already met with the National Organization of State Support  
13 units. We have, in fact, had correspondence going out to the  
14 various states on this matter, and we are working with those  
15 states to develop an effective program.

16 You have to understand that these are going into  
17 states that have never had state support before. So they are  
18 still grappling with the issues of what they want state  
19 support to do in their state. Simply saying that someone is  
20 a state support grantee does not necessarily mean that that  
21 directs what they will do with their state support money.

22 There are as many as 20 or 30 different options

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1 that even existing state support grantees have used, and  
2 we're trying to make sure that these grants before they  
3 become annualized are able to become up and running and  
4 viable and know what they want to do with the money.  
5 However, they're getting the full amount of the money this  
6 year, I might hasten to add.

7 CHAIRMAN DANA: Any other comments from members of  
8 the committee or the audience on this or any other subject  
9 relating to this matter?

10 MR. HALIBERT: My name is Richard Halibert.

11 CHAIRMAN DANA: Richard, come up and sit down and  
12 tell us where you're from.

13 MR. HALIBERT: I just want to ask something very  
14 quickly. Mr. Moses, I'm the Director of Legal Aid at Western  
15 Missouri, which is presently the largest program in the state  
16 of Missouri and would be the recipient of this grant. I just  
17 wonder what criteria would be looked at in the second year to  
18 determine whether it would be annualized at that point, or  
19 can you tell me?

20 CHAIRMAN DANA: Well, the predicate is in doubt.

21 MR. TEITELMAN: Yes. We are presently merging. We  
22 are merging with a program north of us from East Missouri.

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1 Kansas City has 176,000 poor people. St. Louis has 170,000,  
2 171,000.

3 The Hannibal program, which is a smaller program,  
4 which we're trying to work with and merge with, voted at the  
5 end of November to merge with our program as quickly as  
6 possible. That would give us 197,000 people. And also the  
7 census comes out in June of 1992, and we don't know what that  
8 says.

9 So we don't know, in Missouri -- we don't know what  
10 the timetable, what timing is used, frankly, by the Senate as  
11 to when that becomes effective or, making a long-term  
12 decision on that -- the long-term decision. Do you make it  
13 on the basis of January 1, or when do you make that decision  
14 about state support? So there is a question mark, as Charley  
15 Moses mentions. There are some technical --

16 CHAIRMAN DANA: Difficulties.

17 MR. TEITELMAN: Yes.

18 CHAIRMAN DANA: I see. Now, having said all that,  
19 I --

20 MR. HALIBERT: Having said all that, yes, I have  
21 the same questions.

22 CHAIRMAN DANA: What was your question?

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1 MR. HALIBERT: Well, assuming that it's determined  
2 which program gets the money at this point, I mean, are there  
3 further technical difficulties, or what other criteria are  
4 looked at to determine whether it would be annualized after  
5 that point, and how do we answer the question?

6 CHAIRMAN DANA: It's not at all clear to me, and  
7 that was the reason that we've had this colloquy, and I'm not  
8 sure how it is that you organize a program that is going to  
9 have some continuity if the Corporation is withholding its,  
10 at least, stamp of approval that this will be an ongoing  
11 matter. I guess that's the reason we're talking about it  
12 now. You have some concerns in this area as well, I take it?

13 MR. HALIBERT: Well, yes. I mean, obviously, if  
14 the money comes to us, and there is some possibility of some  
15 criteria that's going to be looked at that might cause the  
16 money to shift to another program, it's, obviously, very  
17 difficult, as we've already discussed, to hire permanent  
18 staff, to make any kind of permanent plans for the program.  
19 I'm just trying to get these questions answered as quickly as  
20 possible.

21 MR. TEITELMAN: I don't think this forum may be the  
22 place to iron these things out. I think that Mr. Moses

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1 indicated an interest in meeting with Missouri programs --  
2 there are more than just our two programs as well -- and iron  
3 out, basically, how, frankly, \$70,000 for 585,000, we're the  
4 largest state that's got this little bit of money.

5 How are we going to handle \$70,000 for 585,000 poor  
6 people? I think it's something we need to meet about. This  
7 is not the forum, if I can respectfully say so. This may not  
8 be the forum in which --

9 CHAIRMAN DANA: I think that's unquestionably true.  
10 I would observe, though, Mr. Chairman, that this appears to  
11 be, perhaps, an unintended example of principle that you wish  
12 to reserve some funds for. If this is a carrot that is  
13 causing programs directly or indirectly to merge in order to  
14 achieve the carrot --

15 CHAIRMAN WITTGRAF: Are you speaking of the  
16 consolidation initiative?

17 CHAIRMAN DANA: I was, yes. It's interesting.

18 MR. TEITELMAN: And that is one of the  
19 considerations of a smaller program that wants to merge with  
20 us, and that they feel from the state support entity we may  
21 be able to provide even more services.

22 CHAIRMAN DANA: I thought consolidation was

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1 supposed to simplify things rather than complicate things.

2 Now, I understand that these are fluid proposals  
3 that Board members are going to be communicating with you,  
4 and you with them. The Provisions Committee is going to be  
5 meeting concerning some of these matters. There may be other  
6 considerations that influence. We may get preliminary census  
7 material.

8 I tend to fall on the side of the Chairman and Ms.  
9 Wolbeck on the notion that we really should look to January,  
10 our January meeting, as a time to at least preliminarily vote  
11 on a budget mark for this coming year, but events may dictate  
12 that we do otherwise. Is there anything else dealing with  
13 this item? There is no action necessary. We can turn,  
14 briefly, to the last item on the agenda, then, which is  
15 consideration of adequate funding for the Micronesia Legal  
16 Services Corporation.

17 CHAIRMAN DANA: Mr. Moses, can you tell us what  
18 this is all about?

19 MR. MOSES: Certainly. We've been talking  
20 generally about some of the difficulties that the Corporation  
21 might face as a result of the 1990 census. In the particular  
22 case of Micronesian Legal Services, it has been brought to

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1 our attention that we might have a very particular problem  
2 that we're looking into.

3 As a way of background, Micronesian Legal Services  
4 is one of the entities that the Corporation funds using basic  
5 field funding, that is based on per capita funding the  
6 poverty population as assessed by the United States Census.

7 In the last year, we funded Micronesia with  
8 slightly over \$1 million. That was still based on the 1980  
9 poverty population, which was at that time 113,000 people.

10 Since the 1980 census, two of the four states of  
11 Micronesia have become independent nations; that is the  
12 Federated States of Micronesia and the Republic of the  
13 Marshall Islands have both become independent. But, in the  
14 Compact of Free Association entered into between the United  
15 States and those sovereign states in 1987, it guaranteed that  
16 social services or services funded by the government, such as  
17 legal services, would continue in those two states.

18 The problem now has become that when the U.S.  
19 Census Bureau did its census for Micronesia in 1990, it  
20 focused only on two of the four island groups that were still  
21 U.S. territories; that is, they only did a census of the  
22 Commonwealth of the Northern Marianas and the Republic of

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1 Palau.

2           Consequently, there is no U.S. Census for half of  
3 the service area of the Micronesian Legal Services area. We  
4 have been in contact with Micronesia. They have provided us  
5 what they purport to be censuses done by the two independent  
6 states that we've been examining to see if those might be of  
7 any use.

8           We have been in touch with the United Nations to  
9 see if they have any information that might be of use in  
10 helping us to establish some type of benchmark for the  
11 poverty population in this area. At that point we are still  
12 continuing to try and come up with a viable alternative to  
13 use of the U.S. Census.

14           The one thing that this Board should probably,  
15 however, be aware of, it's my understanding that because of  
16 the wording of the LSC Act and the Appropriations Acts, that  
17 for per capita funding, generally the Legal Services  
18 Corporation is bound to use the U.S. Census Bureau data.

19           To the extent that we do not have Census Bureau  
20 data for two of the four states confederated in Micronesian  
21 Legal Services, we, conceivably, might have to make sure that  
22 whatever source of population statistics that we choose to

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1 use, that that is then acceptable with their congressional  
2 oversight committees.

3 CHAIRMAN DANA: And, presumably, the statute, the  
4 appropriation language would have to reflect that?

5 MR. MOSES: That is a possibility. I think that we  
6 would have to talk to the staff at the appropriations  
7 committees.

8 CHAIRMAN DANA: Do I understand that you are in  
9 touch with --

10 MR. MOSES: Ron Kirschenheiter, exactly. We have  
11 been in touch with the executive director of the program on  
12 several occasions, and, in fact, we have correspondence going  
13 back and forth to him.

14 It's a little difficulty simply because of the time  
15 distance to maintain constant contact, and he first contacted  
16 us when he was in the United States on a recruiting trip and  
17 on other business, but we are trying to maintain contact, and  
18 he is aware of what we found on this issue, and we are trying  
19 to elicit from him additional information to help us assess  
20 the statistics that he's given us.

21 CHAIRMAN DANA: Questions?

22 (No response.)

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1 CHAIRMAN DANA: Questions from the audience?

2 (No response.)

3 M O T I O N

4 MR. UDDO: I move that we adjourn.

5 CHAIRMAN DANA: It's been moved that we adjourn.

6 Is there a second?

7 MS. WOLBECK: I second it.

8 CHAIRMAN DANA: Bud, did you want to talk? We'll  
9 hold up the -- all those in favor say aye?

10 (Chorus of ayes.)

11 CHAIRMAN DANA: It's a vote. Thank you.

12 (Whereupon, at 3:09 p.m., the Audits and  
13 Appropriations Committee meeting was adjourned.)

14 \* \* \* \* \*

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