

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING
OPERATIONS AND REGULATIONS COMMITTEE MEETING

January 13, 19921

8:40 a.m.

The Washington Court Hotel
525 New Jersey Avenue, N.W.
The Ballroom Center
Washington, D.C. 20001

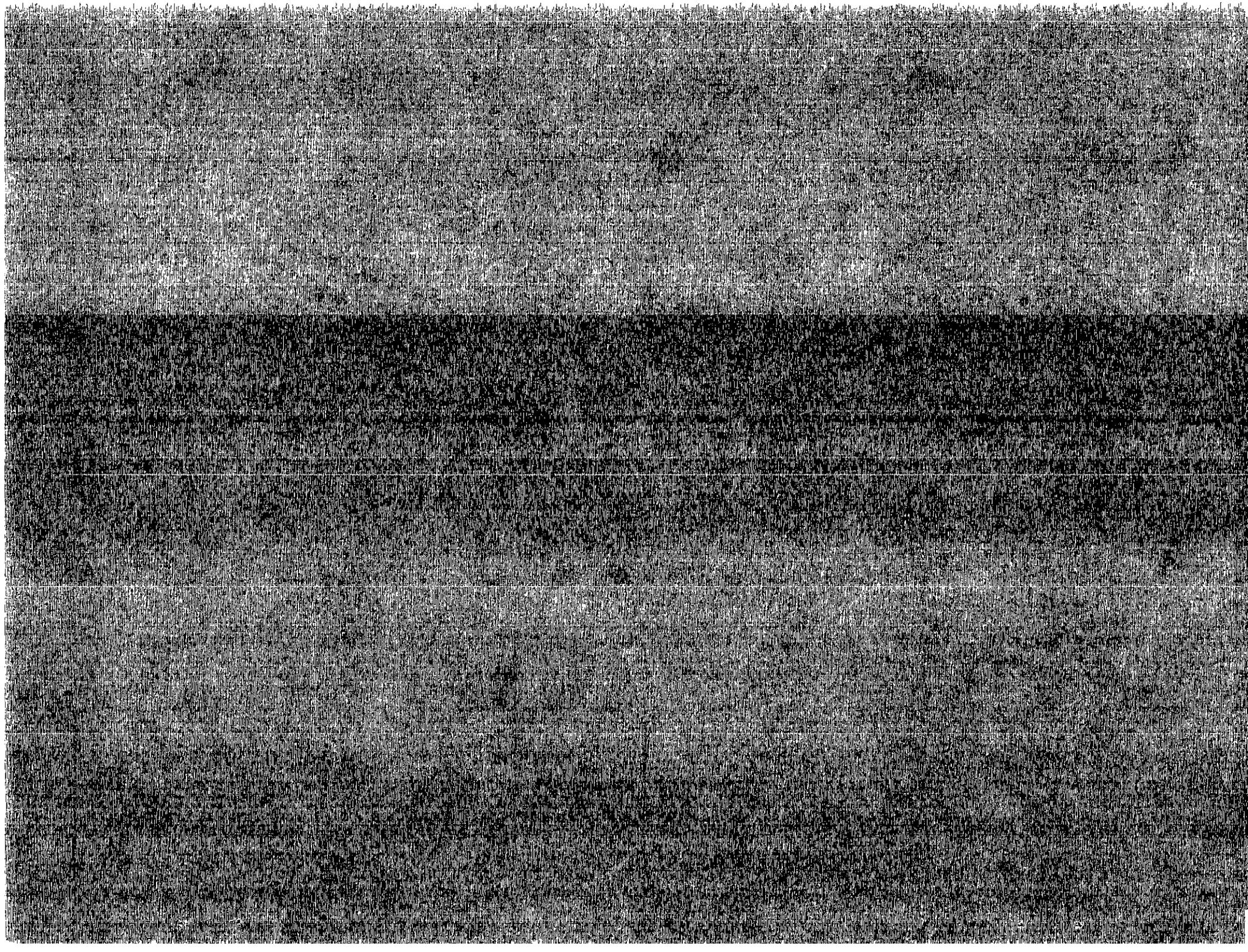
Board Members Present:

Thomas Rath, Chairman
Howard H. Dana, Jr.
Jo Betts Love
George W. Wittgraf

Staff Present:

John P. O'Hara, President
Patricia Batie, Secretary
Kathy deBettencourt
Emilia DiSanto
Lauren Fuller

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



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C O N T E N T S

	PAGE
Approval of the Agenda	3
Approval of the Minutes of 11/13/91	5
Consideration of Matters Related to the Design and Development and for the Use of Competition in Funds Granted by the Legal Services Corporation	6

MOTIONS: 3, 5, 32

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P R O C E E D I N G S

1
2 CHAIRMAN RATH: We're going to begin the meeting of
3 the Operations and Regulations Committee now, if we can. I
4 realize it's been a little -- there are a couple of different
5 notices of this. It was posted apparently in the hotel at
6 8:30, so we've waited until the latest hour so that we have
7 everybody here that we can.

8 For the record, I'm Tom Rath, and I'm the chairman
9 of the committee. Mr. Dana is here, who is a member of the
10 committee. The president, Mr. O'Hara, is here. Mr. Wittgraf
11 is here. My understanding is that Messrs. Kirk and Shumway,
12 who are committee members, will not be here. Ms. Love is in
13 the hotel and will be joining us momentarily.

A P P R O V A L O F T H E A G E N D A

14
15 CHAIRMAN RATH: With that in mind, I guess what I
16 need to do is get the rather terse agenda approved. We're
17 going to correct one aspect of the agenda as soon as I find
18 it to tell you how we're going to correct it. It is Item 3,
19 I believe. Ms. deBettencourt has a suggestion as to how we
20 might alter that.

M O T I O N

21
22 MS. deBETTENCOURT: Item 3 reads, "Considerations

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1 of Matters Related to the Design and Development of a
2 Demonstration Project for the Competitive Bidding of Funds
3 Granted by the Legal Services Corporation." I would propose
4 to simply delete "demonstration project" and have "for the
5 Use of Competition in Funds Granted by the Legal Services
6 Corporation.

7 MR. DANA: I'm not sure I understood the change.
8 What was the proposed change?

9 MS. deBETTENCOURT: The language reads, "for the
10 use of competitive bidding." That is not what we've been
11 discussing. So I proposed to change it to "the use of
12 competition in the funding of grants."

13 CHAIRMAN RATH: It's not simply the issue of
14 competitive bidding, i.e., the lowest number; it is really
15 more how programs relate to each other and what's the most
16 effective -- the feeling that that was too narrow.

17 Note that Ms. Love has joined us. Good morning.

18 Will you accept that?

19 MR. DANA: Absolutely.

20 CHAIRMAN RATH: All right. Any further questions
21 or comments with that?

22 (No response.)

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1 CHAIRMAN RATH: Suggestion? Can we approve the
2 agenda? All in favor?

3 (A chorus of ayes.)

4 CHAIRMAN RATH: Contrary minded?

5 (No response.)

6 CHAIRMAN RATH: So moved.

7 APPROVAL OF THE MINUTES OF NOVEMBER 13, 1991

8 CHAIRMAN RATH: Next, we would ask for the approval
9 of the minutes of the November 13 meeting, which appear in
10 our book. Someone want to move to approve those minutes?

11 MOTION

12 MR. DANA: I so move.

13 MS. LOVE: Second.

14 CHAIRMAN RATH: Moved by Mr. Dana. Seconded by Ms.
15 Love. Further questions or comments?

16 (No response.)

17 CHAIRMAN RATH: All in favor?

18 (A chorus of ayes.)

19 CHAIRMAN RATH: Contrary minded?

20 (No response.)

21 CHAIRMAN RATH: So moved.

22 All right, let's go to the heart of where we are.

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1 As you know, in our last full committee meeting in Chicago,
2 we had asked that an effort be put in place to engage and
3 discuss these kinds of concerns and this whole approach to
4 measurement with the field programs.

5 At our request, an advisory group was put together.
6 There have been several meetings. As I understand it, the
7 reason we didn't meet at our meeting in December, full Board
8 meeting in December, was because we had not had sufficient
9 opportunity to deal with the field. Since then, there have
10 been meetings.

11 I'd ask Ms. deBettencourt, with the agreement of
12 the committee, to go forward and give us a report as to where
13 you see us. I want to note, just for the record, that I
14 don't see the committee today taking any action because we're
15 clearly missing two members that are critical to us. I see
16 this meeting more in the form of an update in keeping us
17 current.

18 Go ahead, Kathy.

19 CONSIDERATION OF MATTERS RELATED TO THE DESIGN AND
20 DEVELOPMENT AND FOR THE USE OF COMPETITION IN FUNDS
21 GRANTED BY THE LEGAL SERVICES CORPORATION

22 MS. deBETTENCOURT: At this committee's request, as

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1 you've stated, we convened and have met twice with an
2 advisory group. We invited members to the advisory group
3 after some discussion with various interested parties and
4 after we had received suggestions from those who have been
5 working in the field for a long time.

6 As you can see, it's a very experienced and
7 prestigious group consisting of program directors from all
8 around the country. We have directors from Seattle,
9 Washington; Pat McIntyre from Evergreen, an assistant program
10 director.

11 MR. DANA: Excuse me, Mr. Chairman, is there a
12 handout that permits me to see --

13 MS. deBETTENCOURT: Yes.

14 CHAIRMAN RATH: There's a sheet in front of us that
15 says Legal Services Corporation Competitive Demonstration
16 Project Advisory Group. Do you have it, Mr. Dana?

17 MR. DANA: I do. Thank you.

18 CHAIRMAN RATH: Go ahead.

19 MS. deBETTENCOURT: I was saying Pat McIntyre from
20 Evergreen and Ben Kohl from Arkansas. We've made some
21 attempt to have geographic representation. Several of the
22 program directors have 15 to 20 years' experience. Dick

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1 Taylor, John Asher, and others have worked for a long time in
2 the legal services community.

3 Others, such as Dee Miller and Leona Vote and Alan
4 Houseman, have been involved with demonstration projects
5 before and bring a wealth of experience to the table. Leona,
6 particularly, and Dee Miller have been very helpful in moving
7 us through the process.

8 We have Marion Hathaway, who is a client Board
9 member from Harlem Legal Services. We have some individuals
10 who come from other fields. Doug Rosenthal is a lawyer and a
11 Ph.D. who has written some of the best articles on the
12 competence of attorneys and the quality of legal services and
13 peer review.

14 We have also invited two gentlemen from private
15 industry: Jim Durkin who is the assistant general counsel of
16 General Motors; and Jim Building who has some experience in
17 cutting cost and still maintaining quality as he oversees a
18 very large budget for the American International Group; and
19 Jim Newhart, of course, in the Michigan Public Defender's
20 office, who has worked hard on providing some standards in
21 the public defense sector. We've tried to convene a
22 representative, diverse but very knowledgeable, group, and

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1 they are impressive.

2 During our first meeting, we spent a considerable
3 amount of time just in a general discussion about: What is
4 the purpose of the project and what do we mean by
5 competition? Is it to improve troubled programs? Is it to
6 provide or to encourage improvement in all programs?

7 One argument was made during the first meeting that
8 programs won't compete in one area because there's more than
9 enough clients to go around. So it would be very difficult
10 to have a head-to-head competition in the same area.

11 Another argument was made that particularly in
12 areas where there's a trouble program, competition shouldn't
13 be the first response, that technical assistance should be
14 offered first, and that would be the more effective approach
15 to improving a weak program.

16 One alternate model was suggested in which the
17 Corporation has two areas, one in which the Corporation tried
18 head-to-head competition to try and improve a weak program,
19 alongside with another in which the Corporation provided
20 technical assistance to see which was more effective.

21 Through the discussion, we tried to clarify that
22 the purpose of the project is to improve all programs, not

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1 simply weak programs. The decision was made by the group
2 that it was very important to clarify the areas of
3 performance, the basis on which programs would be compared.

4 How are we going to define a good program? What is
5 going to be the standard? So, there was general agreement, I
6 think, at the first meeting that the field would be more
7 comfortable with supporting such a project if at the next
8 meeting we devoted some time to developing performance areas,
9 even in a general way.

10 The second meeting, therefore, focused on
11 developing a consensus on the areas in which programs would
12 be compared. What I have given you is -- we did a general
13 discussion. Charlie took notes on flip charts. I have typed
14 these with some editorial changes. I will discuss those in a
15 moment.

16 One of the most interesting parts of the second
17 meeting, I think, was that after we had begun to develop
18 these performance areas with surprising comity and speed, the
19 discussion again raised the question: What is the purpose of
20 the project? What is the purpose of competition?

21 We struggled for some time to clarify what it is
22 that we are doing. Then, Jim Durkin from General Motors

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1 talked about his experience with competition and his attempt
2 to lower costs while maintaining quality. He gave a
3 discussion about how he had developed some indicia.

4 He had done a profile of law firms. They are
5 looking at both cost and quality, how they were structured,
6 how much paralegals were billing, how much time junior
7 associates were billing, how did that result in a win-loss
8 record, the amount of settlements.

9 He called in the law firms who were working for
10 General Motors, and he compared one to another. He said look
11 at how your operation compares to this other law firm, see
12 their cost, how efficient their operation is. His argument
13 was, although it was merely based on the bottom line: How
14 can you cut cost while maintaining quality? He argued that
15 at some point you have to say there are options.

16 He would give the law firms a window of opportunity
17 into which to improve their performance. But then at a
18 certain point, if they didn't improve, you have to say we're
19 going to find someone who can do it better. There was some
20 agreement that this is the sort of competition that the
21 Corporation should look at.

22 If we can define standards, if we can define ways

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1 in which to compare programs, ways to define a good program,
2 then, at that point, we can bring in programs and say this
3 program is doing a really good job in this area. What are
4 you doing? Then, give them a window of opportunity in which
5 to improve. Then, at that point, say well, we need to look
6 at other options.

7 Let me turn to the performance areas. I should say
8 that these are general areas. We made some attempt to define
9 in each area what would be the indicia for what we would look
10 at to see whether that program is performing at an optimum
11 level.

12 I must say that the most painful part will be the
13 next step in actually developing the measures for each of
14 these. How are we going to measure a program's performance
15 in each of these areas? The next step will also require that
16 we refine these areas, that we take into account what is left
17 off and also to rank each of these to see which measures are
18 most important. We realize that we can't measure everything,
19 but we have to make sure that we're measuring what is most
20 critical to the success of a program.

21 The first of the five areas is effectiveness in
22 meeting the most pressing needs of the target community.

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1 This would include the program's assessment strategy,
2 including adequacy of client involvement and analysis of
3 unmet need, how they target their resources towards a client
4 community, how they set goals to meet the priorities that
5 they've identified, the comprehensiveness of the services
6 including the appropriateness of the methods.

7 This would mean, for example, not just legal
8 services but community education, self-help, various programs
9 to address needs other than legal representation. Also, we
10 have a great deal of interest in trying to assess outcomes,
11 what is the result of this service and, again, including the
12 extent to which the assistance provides long-term results for
13 the client community.

14 Two is effectiveness in legal representation. This
15 is basically quality of legal work, but it includes also, as
16 you'll see, recruitment in training of qualified staff and
17 informed client satisfaction.

18 Three is thoroughness of access and utilization of
19 the program by the target community, how well are they
20 covering the service area, how well have they undertaken
21 strategies to reduce barriers, to reach out to the elderly,
22 to the physically disabled, an outreach, how well have they

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1 advertised their program services.

2 Four is effectiveness of program management and
3 governance. This is a large category, but it is a very
4 important one. It goes to basic management of the program.
5 Is the Board actively involved? Are the management systems
6 in place? Are they adequate? But it also involves stature
7 in the community. Are they successful in working with the
8 local bar, with other community organizations? What is their
9 status in the community?

10 Five is efficiency. How cost effectively are
11 programs doing in each of the first four areas? There is a
12 lot here that can't be outlined, but it would include
13 basically an assessment of the program's use of its
14 resources, including staff time, the efficiency of its case
15 handling, and the program structure and staffing.

16 CHAIRMAN RATH: As I understand this, what you've
17 just given us, which we have in memo form before the members
18 of the committee, is essentially a synthesis of the
19 discussion areas that have gone forward in the various
20 meetings with the field?

21 You're basing it on the basis of flip charts and
22 meeting notes that you've distilled down. This is a result of

1 the dialogue that's going on at the current time?

2 MS. deBETTENCOURT: Yes.

3 CHAIRMAN RATH: All right, now, how do we get from
4 here to the next stage in terms of a work product, in terms
5 of a continuum of effort?

6 MS. deBETTENCOURT: Well, the advisory group has
7 scheduled a third meeting on February 6th. As I said, this
8 was relatively easy because it's fairly comprehensive. These
9 are the areas. The more difficult part will be to go through
10 each one of these and reassess them and develop measures.

11 We plan to have another meeting in early February
12 to do that. I should say Dee Miller has been extremely
13 helpful in providing suggestions for these five and focusing
14 our group.

15 CHAIRMAN RATH: It's clear to me -- and I'm not
16 speaking for any other members of the committee -- that until
17 this effort is complete, it's terribly difficult to craft
18 some kind of an RFP. Until we know what we're asking people
19 to propose to do, we can't ask them to propose. That seems
20 rather elemental.

21 But in the process that you're going through, while
22 I think painstaking, it's one that is essential to the

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1 validity of the tests that we're ultimately going to run.
2 Unless there is consensus and agreement upon what we're
3 measuring and what that measure means, I'm not certain how
4 legitimate the test can be.

5 So I think that what you're doing is
6 extraordinarily essential to the core responsibility this
7 committee has. Do the committee members feel differently?

8 MR. DANA: No, Mr. Chairman. I completely agree
9 with you, but I also would like to observe that this is a one
10 and a quarter page memo which is remarkable in that I
11 understand most of it.

12 CHAIRMAN RATH: Does that speak to the memo or to
13 the members?

14 MR. DANA: No. It absolutely speaks to me. I just
15 think that what we are -- we've used this analogy before, but
16 I think it was Potter Stewart that talked about pornography,
17 being able to know what it was but having a hard time
18 describing it.

19 Well, it seems to me that you've come a very long
20 way in one or two meetings in actually describing what it is
21 that we hope to focus on. I think your explanations are
22 clear. I must say with the exception of paragraph 5. I

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1 don't understand that.

2 But I usually don't understand much of what I read,
3 and I understood most of this. So I think it's great. I
4 think your committee is distinguished. I think you're doing
5 God's work.

6 CHAIRMAN RATH: I guess I'm tempted to observe that
7 whichever Justice said it never stayed in a hotel with
8 Spectravision. (Laughter) Moving on, let us get some sense,
9 because I know our distinguished overall Chair is with us
10 this morning. We're honored by his presence and privileged
11 to have him.

12 He has gently prodded me, and lately not so gently,
13 as to the timing of our efforts. I think, as I understand
14 his concern, which is a legitimate one, as we get ready to go
15 to the Congress with a new appropriation, they are going to
16 clearly look to see what we've done with the old one.

17 This was one aspect of that that we felt was
18 important to it. We need to be able to give them, as we go
19 forward, some indication of how we're proceeding and are we
20 doing things in a timely fashion. Is that correct, Mr.
21 Chairman?

22 MR. WITTGRAF: Yes, Mr. Chairman. Thank you.

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1 CHAIRMAN RATH: I guess I want to get some sense of
2 a time line to action, if I could be so bold.

3 MS. deBETTENCOURT: On February 6th we will meet to
4 work on the measures. I cannot say for sure that that can be
5 done in one meeting, although we will try to schedule as many
6 as possible as quickly as possible to do that because that is
7 the most important work at this stage.

8 One thing I should say is that we are, I think,
9 building a consensus. I'm not sure that we have a consensus
10 yet, but we're working. We have a lot of people in the group
11 who are very interested in building that consensus. It can't
12 be done precipitously, but it can be done.

13 By February, I think we will have a good handle on
14 the measurement of these and the ranking of the measures.
15 Then we can start to talk about models. Since we are still
16 talking about using Legal Services programs, then we will not
17 have a long start-up period.

18 So I think that within two or three months of that
19 we can still have a start-up date. By March 25th, when the
20 Chairman goes to testify on how we've spent this money, at
21 that point I think you will be able to report that we will be
22 putting that money out into the field within a month or two

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1 following your visit.

2 I think Congress would be appreciative of the fact
3 that this is an effort that will take some time at the
4 outset, particularly since we're doing something that hasn't
5 really been done before; that is, developing a comprehensive
6 notion of what a quality legal service program is.

7 CHAIRMAN RATH: It was my charge to the staff, and
8 I think reflected the committee's feeling at our meeting in
9 Chicago, that because of what Ms. deBettencourt has just
10 described as the comprehensive nature of this, because it
11 entailed some really basic concepts about the delivery
12 process, that it not be undertaken as a unilateral measure,
13 that it not be simply the opinions of two or three people
14 either on this committee or on the staff sitting around the
15 room saying this makes sense to us, but that the only way it
16 could indeed have validity and work was if we were able to
17 build in extensive input from the field and indeed agreement
18 from the field.

19 It's been our charge to the committee that if it
20 took us a little bit longer because we were going to engage
21 the field directly in this process, that was not just a side
22 benefit but indeed something which was good, which could

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1 drive the whole process.

2 I think I speak for all the members of the
3 committee, including Mr. Kirk and Mr. Shumway, that we have
4 made a commitment to the field which we intend to honor in
5 terms of bringing their views into play and into making them
6 partners and colleagues as we go forward on this.

7 I commend the process that's going on. It is a
8 delicate thing. It is a very difficult task to build this
9 kind of consensus around fundamental principles because
10 everybody will look at it slightly different. The critical
11 thing is that the process continue and that you continue to
12 discuss and try to distill some basis to go forward.

13 As I've explained, meetings that I've had with
14 members of the various constituencies, we are going to go
15 forward. There is no question. This question has been
16 funded and I think we have an obligation to the Congress to
17 bring it forward. But it's going to be done in a way, as far
18 as I'm concerned, that's not inconsistent with the goals of
19 the various programs and projects.

20 That's what you're about. I think this is a
21 valuable first step. I realize that not infrequently there
22 are concerns that there are other agendas operating or that

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1 there are other sort of pieces of history that come into
2 play.

3 But on a going-forward basis, this is the way I
4 would like to see this go. I think it's the way the
5 committee has felt comfortable with it in terms of building
6 field input in. We're just going to get it done. So, that's
7 sort of our apologia, Mr. Chairman.

8 MR. WITTGRAF: Mr. Chairman?

9 CHAIRMAN RATH: Yes, sir. I love these titles.
10 I'm puckish this morning.

11 MR. WITTGRAF: We assume that you're just
12 practicing for your role as commentator as it evolves over
13 the next four weeks between now and February 18th, is it?

14 CHAIRMAN RATH: Yes.

15 MR. WITTGRAF: Those of us who won't be in New
16 Hampshire on February 18th will hope that by benefit of
17 national news media we'll be able to see further puckish
18 comments from you.

19 CHAIRMAN RATH: We shall certainly try.

20 MR. WITTGRAF: Regrettably, the challenge may be
21 even greater for you than some of us would like it to be.

22 CHAIRMAN RATH: It appears to be this morning.

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1 MR. WITTGRAF: On the subject at hand, Mr.
2 Chairman, I commend you and the committee and the Corporation
3 staff for the efforts to date. I think we've come a long way
4 since we began, and I think particularly since the discussion
5 the Board had with our staff and with others this past
6 September in Jackson, Mississippi.

7 It appears to me that the Comparative Demonstration
8 Project Advisory Group -- I don't know if CD PAG comes into
9 play here or what. I don't know if PAG is the best acronym
10 to be stuck here with or not. But the Project Advisory Group
11 does seem to represent a good cross section.

12 I agree with the Chairman that be it from the
13 standpoint of the optimists about this effort or the
14 pessimists or the skeptics of this effort, it has to be a
15 credible effort. I think it is appropriate that you and the
16 staff and the members of this advisory group are going
17 forward together. I think that's essential.

18 On the one hand, as Ms. deBettencourt indicated, I
19 do think it's important that we have some pretty specific
20 ideas on timing by March 25, or thereabouts, when we begin to
21 make fiscal year 1993 requests of the House Appropriations
22 Subcommittee and soon thereafter the Senate Appropriations

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1 Subcommittee.

2 I would also say to you, Mr. Chairman, that I think
3 what you're doing here has consequences even beyond this
4 specific initiative. That is, as we look at other
5 initiatives in the area I call consolidation, as we look at
6 initiatives in the area of timekeeping, and others beyond
7 that, that hopefully this can be a model for how we will
8 approach our experimentation in those areas as well;
9 hopefully, a constructive model and one that we'll be able to
10 utilize and to go more quickly into those areas.

11 I think it's going to be very significant as we
12 deal with the Congress both on appropriations and perhaps
13 even on the reauthorization legislation that we're able also
14 to hold up this example of cooperation as indicative of what
15 can be accomplished and the fact that all concerned are
16 working together to try to accomplish the ends at hand.

17 I have one question for Ms. deBettencourt, if I
18 might, Mr. Chairman.

19 CHAIRMAN RATH: Mr. Wittgraf?

20 MR. WITTGRAF: We did yesterday, as you know,
21 discuss requesting \$2.5 million of the Congress for fiscal
22 year 1993 in the area of competition initiatives or for that

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1 type of demonstration funding. Do you or Mr. Moses or do you
2 think that any of the members of the advisory group have any
3 different thoughts or more specific thoughts as to what
4 funding is necessary and appropriate for fiscal year 1993 in
5 light of the projections you're making, especially how the
6 timing comes into play?

7 MS. deBETTENCOURT: Well, we have envisioned the
8 first stage of grants as that, a first stage. We have only a
9 limited amount of funding, so that we can only look at a few
10 programs. I think there are more variables that we need to
11 look at so that we envision a second stage in which we look
12 at more programs and their operation.

13 The second stage of grants should be able to be
14 engaged in more quickly because we're doing the building work
15 here and developing the model at the outset. This is the
16 study period. That will not have to be duplicated. There
17 will be a reassessment necessarily, but that will be ongoing.

18 So, the second level of grants, depending on how
19 much Congress gives us, we would be able to grant as early as
20 possibly we get the money.

21 CHAIRMAN RATH: I think that I share Kathy's
22 perspective on that. If we've done our work right and if we

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1 do bring to closure our work correctly on this aspect of the
2 process, the next stage, whatever it is, whatever the number
3 is, should go more smoothly.

4 To be honest with you, not to sort of portray my
5 Yankee heritage, a million dollars doesn't go very far in
6 terms of testing, the way we see it going.

7 MR. WITTGRAF: As you may know, Mr. Chairman, the
8 figure that was discussed yesterday in the Audit and
9 Appropriations Committee for fiscal year 1993 is \$2.5
10 million.

11 CHAIRMAN RATH: That's what I'm saying. In the
12 first stage, the million doesn't go very far.

13 MR. WITTGRAF: The question then is: Is \$2.5
14 million in the next congressional appropriations cycle
15 adequate, inadequate, or excessive?

16 MS. deBETTENCOURT: If I may address that, in the
17 next stage, or as soon as the money is available, we are
18 going to need more money. I mean, we're looking at peer
19 review. We're going to be paying travel costs. We can't
20 divide this \$900,000 up and just give it to six programs. We
21 need some money for probably software, for a lot of these
22 things we're going to be developing. So there are costs.

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1 MR. WITTGRAF: Okay. I think the Audit and
2 Appropriations Committee, in looking at \$2.5 million,
3 expected that you needed more money for this during the next
4 fiscal year. Again, is \$2.5 million adequate, inadequate, or
5 excessive?

6 CHAIRMAN RATH: Mr. Dana?

7 MR. DANA: Mr. Chairman, I think what might be
8 helpful to us is if this committee sometime between now and
9 our next Board meeting develop some views on that subject,
10 both in terms of dollars for grants and dollars for peer
11 review and analysis.

12 I think we are at the stage where that kind of
13 information would be very helpful. As the Chairmen know, we
14 are just picking numbers out of the air. But if you have
15 better handle on what it is that you would like, and not
16 feeling confined by the numbers that Congress has provided us
17 for just this year, which is now half over, soon to be half
18 over, I think we'd have time to be flexible in our ultimate
19 presentation to Congress.

20 CHAIRMAN RATH: I don't have a precise answer for
21 you, George, this morning in terms of what it ought to be. I
22 doubt it is excessive. I don't know that we have looked

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1 prospectively at budgets.

2 Mr. President?

3 MR. O'HARA: Thank you, Mr. Chairman. You were not
4 present yesterday when I talked about what has been
5 happening. I think I'd like to repeat one comment that I
6 made to Mr. Dana's committee and to Mr. Hall's committee.
7 That is that the staff is not used to getting an exchange
8 like this where you're asking whether or not they can use the
9 money.

10 As I pointed out yesterday, we've been running in
11 place for a number of years. I think this is the first Board
12 they've had that has indicated the willingness to go out and
13 do some of these things. In the four months that I've
14 had -- I'm not saying whether it's pleasurable or
15 whatever -- of being in this position, I've had an earful
16 from the people in the field. I think that's something.

17 The people that run the programs are really going
18 to be the source of a lot of the suggestions to us. So, even
19 if we don't use the money in the competitive demonstration
20 project, there are probably other projects lurking out there
21 that we don't know about, that somebody out in the field is
22 going to come up with.

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1 I'll go along with another thing I said yesterday.
2 If we try something and it doesn't work, it doesn't mean it's
3 a failure. It means we learned that particular way doesn't
4 work, but there's probably a way to amend that and do
5 something different and come up with another workable
6 project. Thank you.

7 CHAIRMAN RATH: Thank you. I have nothing further
8 in terms of what I had planned for this meeting. Ms. Love or
9 Mr. Dana, feel free to comment. But we've discussed sort of
10 where we go from here.

11 Ms. deBettencourt?

12 MS. deBETTENCOURT: I have one comment that wasn't
13 addressed before. It's a very practical issue. We are
14 expecting programs at this stage at any rate to volunteer for
15 this project.

16 MR. WITTGRAF: You are not?

17 MS. deBETTENCOURT: We are, I mean, with some
18 incentives, of course. To the extent that we have that
19 expectation, I think that it's necessary and good that we are
20 developing or in the process of developing a consensus on
21 what it is we're doing and how we're going to do it. So that
22 will be very important to the success of the project.

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1 CHAIRMAN RATH: Howard?

2 MR. DANA: You asked or you indicated that at both
3 meetings members of the committee, not surprisingly, asked
4 the question: What are we doing this for? I suppose
5 everybody has a different answer to that, but it's at least
6 my perception that the reason we are doing this is to test a
7 thesis that competition generally is good for legal services.

8 True or false is what we're attempting to
9 establish. I suppose a subsidiary thesis is: What are the
10 pluses and minuses of it? Can we minimize the minuses while
11 we take advantage of the pluses? I'm not sure that we
12 are -- since you're correct that we are in a voluntary mode,
13 I think that's really what this committee member is seeking
14 to obtain guidance and knowledge of.

15 CHAIRMAN RATH: Fine. Any other business to come
16 before the meeting?

17 MR. DANA: I don't know whether the public has any
18 observation.

19 MR. WITTGRAF: Mr. Chairman?

20 CHAIRMAN RATH: Yes, sir.

21 MR. WITTGRAF: I would support the suggestion made
22 by Mr. Dana a few moments ago that by our next Board meeting,

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1 when we may refine our budget recommendation to the Congress
2 for fiscal year 1993, that we have the benefit of some cost
3 projections from if not this committee of the Board at least
4 the advisory group or our staff, so that while you say the
5 \$2.5 is not excessive, on the other hand we can learn whether
6 or not it happens to be inadequate.

7 CHAIRMAN RATH: The staff is aware of your
8 concerns. There appears to be agreement that that will be
9 attended to.

10 Hearing nothing further, does any member of the
11 public want to comment on what we've done so far? I've had a
12 chance to talk with several people who have been involved.
13 Everyone is consistent that we are making progress, which is
14 good to know.

15 MR. DANA: Just as a matter of my information, I
16 think it would be helpful, and we've probably been given this
17 information before, to be kept up to date as to who the
18 members of the Competition Committee are at the staff level.
19 At some point, could you just let me know?

20 MS. deBETTENCOURT: I have that, but I didn't bring
21 extra copies. Would you like for me to read them into the
22 record?

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1 CHAIRMAN RATH: No, that's not necessary. Just
2 incorporate it by reference at some point. I think the sort
3 of last item of business would be to set a date for our next
4 meeting. I'm not sure I'm ready to do that yet. I sort of
5 want to see what happens when they get together with the
6 project teams on the 6th of February.

7 It may be that the next -- we ought to tentatively
8 set a date around the next Board meeting in New Orleans with
9 the caveat that the Chair cannot be there at that meeting.
10 But we may have to meet some other time.

11 MS. deBETTENCOURT: That would be critical to the
12 timing of this.

13 CHAIRMAN RATH: Well, I think we ought to
14 tentatively set it for that time. If I can't be there, maybe
15 I can attend by phone. But I know I cannot preside. I
16 simply cannot be out of the state at that point.

17 MR. DANA: Mr. Chairman, at some point it might be
18 helpful to have a meeting in connection with one of the
19 meetings of this committee.

20 CHAIRMAN RATH: Well, I had thought that. I don't
21 rule that out. What I had wanted to do was not -- I really
22 see the committee, in essence, as a broker or an arbiter and

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1 not wanting to get involved as long as there seems to be
2 progress at the levels being made. I think we can do it, but
3 I think it adds an element to those meetings which have not
4 been necessary to date. So I would not rule that out, Mr.
5 Dana, but I don't know that it's necessary at this point.

6 So we'll tentatively plan for a meeting around the
7 next Board meeting, which I think is like the 15th or 16th or
8 17th of February in New Orleans. Regrettably, and I mean
9 regrettably, the Chair will not be there, but we'll do the
10 best we can.

11 Hearing that, motion to adjourn this meeting?

12 M O T I O N

13 MR. DANA: So moved.

14 MS. LOVE: Second.

15 CHAIRMAN RATH: So moved and seconded by Ms. Love.

16 Questions or comments?

17 (No response.)

18 CHAIRMAN RATH: All in favor, say aye.

19 (A chorus of ayes.)

20 CHAIRMAN RATH: Contrary minded?

21 (No response.)

22 CHAIRMAN RATH: So moved.

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1 (Whereupon, at 9:23 a.m., the meeting was
2 concluded.)

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