

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS MEETING

January 27, 1989  
Commences at 11:00 a.m.

The Washington Marriott Hotel  
West End Ballroom A  
1221 22nd Street, N.W.  
Washington, D.C. 20037

BOARD MEMBERS PRESENT:

Michael B. Wallace, Chairman  
Hortencia Benavidez  
W. Clark Durant, III  
Paul Eaglin  
J. Blakeley Hall  
Pepe J. Mendez  
Lorain Miller  
Thomas F. Smegal  
Claude G. Swafford  
Basile J. Uddo  
Robert A. Valois

STAFF PRESENT:

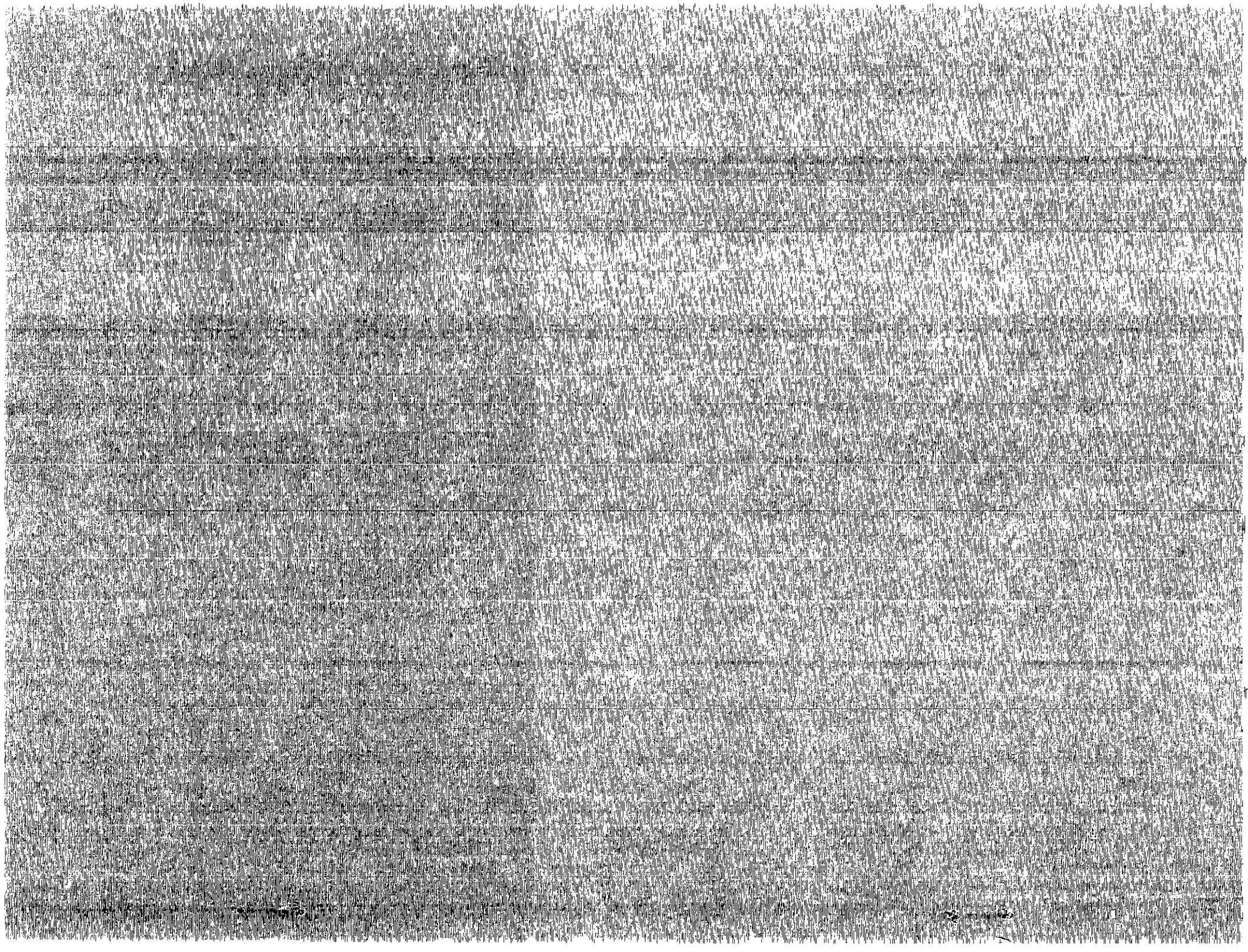
Terrance Wear, President  
Timothy B. Shea, Vice President  
& General Counsel  
David Richardson, Comptroller  
Maureen Bozell, Secretary

Diversified Reporting Services, Inc.

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WASHINGTON, D.C. 20005

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

1  
2 CHAIRMAN WALLACE: It is 11:00, and I would like to  
3 call the meeting to order at this time. This is the annual  
4 meeting of the board of directors pursuant to statute and  
5 regulation and to notice in the federal register called to this  
6 Friday, January 27.

7 The first order of business at this time is the  
8 invocation. I would like to welcome Chaplain James Shaw who is  
9 Director of the Ministry to Armed Forces Board of Missions  
10 Services for the Lutheran Church, Missouri City.

11 He put in some works here in Washington. We  
12 appreciate his being with us this morning. I would like to ask  
13 Chaplain Shaw to come forward. We will give you one of these  
14 microphones so you can be heard.

## INVOCATION BY CHAPLAIN SHAW

15  
16 CHAPLAIN SHAW: Thank you, Mr. Wallace. It is good to  
17 be here with you. How blessed we are as a nation to realize  
18 that there are times when we need God's help as we grapple with  
19 some of the great issues of our day.

20 Let us bow our heads in prayer. Gracious Heavenly  
21 Father, you have blessed us as individuals and as a nation. We  
22 thank and praise you for this. We thank you for the wealth you

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1 have given us, our national resources and industrious people  
2 committed to freedom and justice for all.

3 Even in this great country, there are those who are  
4 hurting, who are poverty stricken, discriminated against, and  
5 despairing because of lack of financial resources and perceived  
6 opportunities.

7 Lord, as a people, we want to help. Help the  
8 directors and all those working within this organization to use  
9 the funds entrusted to them, to the end that families will be  
10 strengthened.

11 Individuals, adults and children, will be given the  
12 assistance they need, that they may not only have the  
13 necessities of life, but the productive citizens who exemplify  
14 those values cherished by our people.

15 Grant those assembled here the wisdom and the courage  
16 to make the agonizing decisions which must be made that your  
17 name might be glorified and your people saved. We pray in the  
18 name of your son, who was and is concerned about the spiritual  
19 and physical welfare of all. Amen.

20 CHAIRMAN WALLACE: Thank you, Chaplain. We thought it  
21 would be appropriate as President Bush began his administration  
22 last Friday with a prayer that we begin our deliberations today

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1 the same way. Thank you so much, Chaplain, for helping us.

2 We proceed now to the consideration of the agenda  
3 which is printed in the board book. The chair will entertain  
4 the motion to approve the agenda as printed in the board book.

5 MOTION

6 MR. VALOIS: So moved.

7 CHAIRMAN WALLACE: There is a motion to approve the  
8 agenda. Is there a second?

9 MS. BENAVIDEZ: Second.

10 CHAIRMAN WALLACE: Ms. Benavidez seconds the motion.  
11 Is there any discussion or any amendments to the agenda? Mr.  
12 Smegal?

13 MR. SMEGAL: I do not know if this is entirely  
14 germane. It appears on the same page. It was my understanding  
15 that this meeting would commence either at 11:00 or immediately  
16 following the previous meeting.

17 The previous meeting ended at 10:20, and if, when I  
18 read this kind of information that I get from the corporation,  
19 the intention is "that immediately following" means later than  
20 11:00 but not earlier, I would like to know that so I can plan  
21 my day accordingly.

22 I was ready to proceed with this meeting at 10:20 when

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1 the other meeting was completed.

2 CHAIRMAN WALLACE: Mr. Smegal, there were members of  
3 the board that were not here at 10:20. If we had the full  
4 eleven members of the board, I was certainly ready to proceed.  
5 I was not ready to proceed in the absence of the people who were  
6 not here.

7 We started at 11:00 which is fairly punctual for most  
8 government agencies. I am sorry we did not gain the extra 40  
9 minutes we might have gained if everybody, including people who  
10 were not on the Appropriations Committee, had been here at  
11 10:20.

12 I do not see how we can jump the gun. The purpose of  
13 this language, I think, is to permit the board to convene  
14 earlier if all board members are here and if we can. Today, all  
15 board members got here at 11:00 and not a minute earlier.

16 MR. SMEGAL: You misunderstood my remarks. I was not  
17 intending to criticize the board members. I was just trying to  
18 clarify in my own mind what this language has intended. You  
19 have reflected certainly what I thought that we would start at  
20 10:20.

21 Maybe we should advise the rest of the board members  
22 of our understanding, Mr. Wallace, that we do intend to proceed

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1 orally through various committees and/or the board in the manner  
2 that is set forth in our public announcement.

3 CHAIRMAN WALLACE: I think that is the proper  
4 understanding in the announcement, Mr. Smegal. I appreciate  
5 your bringing it to the board's attention, and we are all so  
6 advised. I hope we will be able to start as early as possible  
7 for future meetings.

8 Are there any amendments or discussion regarding the  
9 agenda?

10 (No response)

11 CHAIRMAN WALLACE: If not, we will vote. All in favor  
12 of the agenda as printed in the board book say, Aye.

13 (A chorus of ayes.)

14 CHAIRMAN WALLACE: Opposed?

15 (No response.)

16 CHAIRMAN WALLACE: Hearing no dissent, the agenda is  
17 adopted. Let's proceed to the consideration of the minutes,  
18 December 10, 1988. Is there a motion to adopt the minutes as  
19 printed in the board book?

20 MOTION

21 MR. MENDEZ: So moved.

22 CHAIRMAN WALLACE: Mr. Mendez has moved to adopt the

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1 minutes. Is there a second?

2 MS. BENAVIDEZ: I second.

3 CHAIRMAN WALLACE: Second by Ms. Benavidez. Madam  
4 Secretary, on page 9, I think you left out the word million at  
5 the bottom, the second line from the bottom. It talks about Ms.  
6 Miller's proposal of \$331.00. We need a million in there by  
7 unanimous consent so ordered.

8 Are there any other corrections? Mr. Smegal?

9 MR. SMEGAL: Yes, I think there are several other  
10 things left out on page 9. I would like to ask that the minutes  
11 be amplified somewhat to reflect upon our discussions.

12 In the second paragraph, while it is certainly a kind  
13 term that summarizes my discussion of Mr. Durant's tenure as  
14 chairman, I would like to have some language that more  
15 appropriately reflects the discussion.

16 It reads, "Mr. Smegal then remarked." Well, I did a  
17 little bit more than remark. I would like at least some  
18 indication of a summary of the comments I made.

19 CHAIRMAN WALLACE: Do you have language to recommend,  
20 Mr. Smegal?

21 MR. SMEGAL: Well, remaining in the spirit of the  
22 language of the minutes, I would suggested maybe "remarked on"

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1 be deleted and the following language inserted: "expressed his  
2 disappointment with."

3 The sentence would read: "He praised Mr. Broderick's  
4 presentation and then expressed his disappointment with Mr.  
5 Durant's tenure as a chairman."

6 CHAIRMAN WALLACE: Without asking for agreement  
7 necessarily with Mr. Smegal's comments, is there any  
8 disagreement that fairly states the scope of his discussion?

9 (No response.)

10 CHAIRMAN WALLACE: Hearing no dissent, so ordered.

11 MR. SMEGAL: If I may, one other addition, in the  
12 third paragraph there is a brief summary of several motions that  
13 were considered by the board. There is an explanation with  
14 respect to the \$331 being essentially the budget that had been  
15 defeated in 1988.

16 It seems to me -- the transcript, I believe, will  
17 reflect -- that with respect to the \$296 million budget -- and  
18 let me just summarize what I understood that either I said or  
19 others said in that particular context.

20 What I would ask that you add is the following, that  
21 following the first semi-colon where you have referred to the  
22 \$296 million budget, "Mr. Smegal commented that the \$296 million

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1 budget was essentially the budget passed six to five in 1988  
2 that was rejected by a bipartisan Congress in favor of \$308.5  
3 million that was approved by President Reagan."

4 CHAIRMAN WALLACE: If that is what you commented, I do  
5 not have any objection.

6 MR. SMEGAL: I think you could go through them, but--

7 MS. SWAFFORD: I do not think we ought to rewrite the  
8 minutes every time. I just really do not.

9 MR. DURANT: I think the record, whatever it was then,  
10 Tom, will speak for itself. Maybe they should go back and check  
11 to see whether you said that or not.

12 MR. SMEGAL: You would like the minutes to accurately  
13 reflect the record. You went to the trouble to include in the  
14 minutes the fact that \$331 was defeated in 1988. I would like  
15 to point out that \$296 was rejected by Congress and an alternate  
16 budget that was supported by five members of this board was  
17 signed by our president.

18 MOTION

19 MR. MENDEZ: Mr. Chairman, I move that we table Mr.  
20 Smegal's statements about that until the secretary has an  
21 opportunity to review and come up with the language that Mr.  
22 Smegal stated at the time.

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1 CHAIRMAN WALLACE: Mr. Mendez, I appreciate that. I  
2 do not think we can table an amendment to the minutes. We would  
3 have to table the minutes as a whole. So, let me ask you to  
4 withhold that motion for a minute and see if there are any other  
5 changes that we will have to ask the secretary to check out.

6 Mr. Valois?

7 MR. VALOIS: Somewhere along the line on page 5, I  
8 think the minutes should reflect that I resigned as Vice  
9 Chairman. It appears as though I became acting chairman and  
10 then opened up nominations.

11 Somewhere along the line I did resign as Vice  
12 Chairman. In fact, I think somebody said something nice about  
13 me.

14 CHAIRMAN WALLACE: My recollection, Mr. Valois, is  
15 that came after the election of the chairman when you passed the  
16 gavel to me. If we are going to send these back for the  
17 secretary to check the transcript anyway, that seems to me to be  
18 one other item. We will find out exactly where that happened.

19 Any other concerns regarding the minutes?

20 (No response.)

21 CHAIRMAN WALLACE: All right. At this point, the  
22 chair will entertain the motion to table the minutes so that the

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1 secretary may check the transcript for the items raised by Mr.  
2 Valois and Mr. Smegal. Is there a such a motion?

3 MR. MENDEZ: There is.

4 MR. SMEGAL: Second.

5 CHAIRMAN WALLACE: Mr. Mendez has moved to table. Mr.  
6 Smegal has seconded. It is non-debatable. All in favor say,  
7 aye.

8 (A chorus of ayes.)

9 CHAIRMAN WALLACE: Opposed?

10 (No response.)

11 CHAIRMAN WALLACE: The minute are tabled. Thank you,  
12 Madam Secretary. We will appreciate getting those details  
13 worked out.

14 At this point on the agenda, we proceed to the report  
15 from the president. The chair recognizes President Terry Ware  
16 at this time.

17 REPORT OF THE PRESIDENT

18 MR. WEAR: Thank you, Mr. Chairman. I have really  
19 just two things to mention to the board this morning. The first  
20 is that the corporation has received the documentation from most  
21 of the programs regarding their grants during this four month  
22 cycle.

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1           Approximately 85 percent of the programs sent back  
2 their materials with no comment at all. There were some others  
3 that raised some questions. The corporation is working out any  
4 details with those few programs that had questions about the  
5 grant conditions.

6           The second thing I would mention --

7           MR. SMEGAL: Excuse me. May I comment on the first  
8 thing and ask a question, Mr. Wear. How much time were they  
9 given to respond?

10          MR. WEAR: The grant documents were due back on or  
11 before the 20th of January as I recall.

12          MR. SMEGAL: When were they sent?

13          MR. WEAR: On or about the 29th of December.

14          MR. SMEGAL: They were sent and received at some later  
15 date. Thank you.

16          CHAIRMAN WALLACE: Go ahead, Mr. President.

17          MR. SMEGAL: So, they had some three weeks minus  
18 whatever mail time it took to get the grant applications to  
19 them?

20          MR. WEAR: They had the time from the time they  
21 received them until the time they sent them back.

22          MR. SMEGAL: Yes, but if they had been received on the

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1 day you sent them, they would have had three weeks roughly.

2 MR. WEAR: Yes.

3 MR. SMEGAL: Thank you.

4 MR. WEAR: The next item that I was going to mention,  
5 Mr. Chairman, is that I have reviewed the Inspector General's  
6 act that was passed by Congress last year. Under the Act, I am  
7 obligated to appoint an Inspector General who would report to  
8 me.

9 I am in the process of reviewing that now and  
10 soliciting applications for Inspector General. We hope to move  
11 forward on this expeditiously to comply with the statutory time  
12 lines that are set forth in the public law.

13 I believe that concludes my report.

14 CHAIRMAN WALLACE: Thank you, Mr. President. Is there  
15 any other questions from the board for the president?

16 MR. EAGLIN: Mr. Chairman, I would like to indicate to  
17 the president if he has not already been made aware of it a  
18 couple of requests I made to the staff. Presumably they have  
19 either reported them to him or he has directed various ones to  
20 work on them.

21 CHAIRMAN WALLACE: All right, Mr. Eaglin, go ahead.

22 MR. EAGLIN: The first one has been a longstanding

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1 report from the Audit and Appropriations Committee. At this  
2 time the chair recognized the chair of that committee, Mr.  
3 Mendez.

4 REPORT OF AUDIT AND APPROPRIATIONS COMMITTEE

5 MR. MENDEZ: Mr. Chairman, the Audit and  
6 Appropriations Committee met this morning. We have essentially  
7 four items to bring before the board. The first item, the Audit  
8 and Appropriations Committee this morning received the audit  
9 report from Peat Marwick.

10 The Audit and Appropriations Committee recommends to  
11 the board that it accept the audit report conditional upon board  
12 review of the management letter.

13 Mr. Chairman, what the audit report indicated was that  
14 it was essentially clear that there was an Audit report and that  
15 there was a management letter to the management of the  
16 corporation.

17 The management is reviewing that and will be preparing  
18 responses to the management report -- the management letter--  
19 and will send us both the management letter and the responses  
20 thereto.

21 The only question I would have to Mr. Richardson or  
22 Mr. Wear is, do you think you could get that done in the next

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1 two or three weeks?

2 MR. RICHARDSON: Yes, sir.

3 MR. MENDEZ: The board does not require any action  
4 upon this.

5 MR. EAGLIN: Mr. Chairman, are we moving past that  
6 now?

7 CHAIRMAN WALLACE: We are unless you have got a  
8 question about it.

9 MR. EAGLIN: Not really a question. Mr. chairman, I  
10 would like for you to note that I raised an issue there that--  
11 and I have to be honest, I really was not satisfied with the  
12 response -- I was surprised that the audit report apparently  
13 made no explicit mention of, although he says they may review  
14 the matter of the congressional investigation of Mr. Durant's  
15 expenses.

16 I received an explanation from the auditors and from  
17 Mr. Richardson as well. I have to take them at their word, but  
18 I still have that concern that an audit report would not have  
19 made some mention of something as significant in the financial  
20 sense as that.

21 CHAIRMAN WALLACE: I did not hear the auditor's answer  
22 to that. Are any of the auditors here? Did they leave after

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1 the committee meeting?

2 MR. MENDEZ: Yes, they did.

3 CHAIRMAN WALLACE: All right. Can the chairman of the  
4 committee or can our comptroller tell the board what the answer  
5 was? Hearsay is admissable here.

6 MR. MENDEZ: I will see if I can take a crack at it.  
7 They said the auditors indicated that they have a duty to  
8 examine the whole picture of the corporation and that they  
9 randomly select various reports and various bills and various  
10 vouchers.

11 They randomly selected several of Mr. Durant's  
12 vouchers. There was nothing untoward (phonetic); and that Mr.  
13 Richardson further indicated that they examine each voucher on  
14 each board member specifically.

15 CHAIRMAN WALLACE: Each voucher on each board member  
16 or randomly selected?

17 MR. EAGLIN: -- sampling.

18 MR. MENDEZ: Mr. Richardson does his specifically, but  
19 the auditors randomly select vouchers. They indicated -- at  
20 least it was my understanding -- that they had done several of  
21 Mr. Durant's.

22 MR. SMEGAL: That was not my understanding. That was

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1 only because I do not think that was said. I certainly would  
2 have been --

3 MR. MENDEZ: The young man in the back did say that.

4 MR. SMEGAL: Statistically, certainly Mr. Durant's--  
5 the random sampling would have included Mr. Durant's vouchers.  
6 What I think I did not hear them say was they were directed  
7 specifically in view of the congressional investigation to look  
8 at any particular set of expense vouchers.

9 MR. MENDEZ: That is specific. That was specifically  
10 indicated that they did not specifically look at that. There  
11 was no direction from either me or our group. I must point out  
12 that no one came to me and asked me to do that or else I would  
13 have done it.

14 CHAIRMAN WALLACE: Any other questions or comments on  
15 the audit report?

16 (No response)

17 CHAIRMAN WALLACE: I thank the committee chairman for  
18 his report on the audit. Does the committee have any further  
19 reports?

20 MR. MENDEZ: Oh, we have a lot of --

21 MR. SMEGAL: If I may just make -- I am not clear what  
22 we just did or did not do. We did nothing. We did not approve

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1 the --

2 CHAIRMAN WALLACE: The committee chairman tells me  
3 that no board action is required to approve the audit. It is  
4 simply a question of receiving the report.

5 MR. MENDEZ: That is correct. We are not receiving it  
6 finally until we get the management letter.

7 MR. SMEGAL: That is fine.

8 CHAIRMAN WALLACE: Let me say this. We certainly are  
9 not receiving it finally until we get the management letter. I  
10 will ask the staff to check, once we have received the  
11 management letter and we have the full report, if there is a  
12 need for the board to vote to approve the vote?

13 If there is such a need, we can do that at the next  
14 meeting. We obviously cannot do that now anyway.

15 MR. MENDEZ: Well, Mr. Chairman, our practice since we  
16 have come on board has been not to vote on that, just to accept  
17 the audit report. That is what we have done in years past.

18 CHAIRMAN WALLACE: I will accept that because I do not  
19 recall.

20 MR. MENDEZ: I recall because the first time I came in  
21 here I said, what? They said that is all we have do and we have  
22 been doing that ever since.

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1           We are going to move to another, sort of out of order,  
2 but another issue that I think should not take any time at all.  
3 I invite the board's attention to page 29 of the Audit and  
4 Appropriations Committee.

5           We are going to start working with numbers, and I  
6 think it would be helpful if we had their attention. On page 29  
7 of the Audit and Appropriations Committee there is a -- it is  
8 captioned "Legal Services Corporation Proposed Consolidated  
9 Operating Budget for Fiscal Year '89."

10           Under the Basic Field programs that shows that we are  
11 taking out \$60,128 and we are adding it to the native American  
12 programs and components. On page 27, there is a brief summary  
13 of why we are doing that.

14           The Basic Field program is essentially terminated and  
15 it has been moved to a native American program. The motion was  
16 to move that Basic Field to native American by \$60,128. That  
17 was a unanimous vote from the Audit Committee.

18           We are recommending that to the board.

19           CHAIRMAN WALLACE: All right. What I would like to  
20 do, Mr. Chairman, is instead of voting on the recommendations  
21 piece meal, we will probably get the big picture a little better  
22 if you went through the whole picture.

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1 MR. MENDEZ: Well, I think this is the last of the  
2 simple ones. From now on it is going to be a fight.

3 CHAIRMAN WALLACE: This money is gone then. Mr.  
4 President?

5 MR. WEAR: Mr. Chairman, the reason that we made this  
6 move is really one to accommodate the DNA People's Legal  
7 Services Program. It is a native American program. This money  
8 was initially characterized as Basic Field money.

9 The program, for reasons of its own, does not want the  
10 money to be characterized as Basic Field money. It wants to be  
11 known as a native American program. We have, that is the  
12 corporation staff has just acquiescenced that.

13 I did not think it was a big deal one way or another.  
14 As far as I am aware, the program is providing the services.  
15 The issue is really whether they get their money under the Basic  
16 Field line or the native American line. They are still going to  
17 get it.

18 They prefer to receive it under the native American  
19 line because they believe it is in their interest to be known as  
20 a native American program. That is why we have done that.

21 CHAIRMAN WALLACE: I realize this is last year's money  
22 and not this year's money, so we do not have this year's

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1 appropriation bill to worry about. Is moving this money or  
2 recategorizing this money -- I guess it is still going to the  
3 same people -- is this consistent with our appropriations  
4 legislation as far as you know?

5 MR. WEAR: The appropriations language requires that  
6 the money be distributed pursuant to a particular formula and be  
7 given to particular individuals. I do not think it violates the  
8 spirit of the appropriation bill.

9 This program is getting the money. We may be not  
10 labeling it exactly correct, but I do not think it is worth a  
11 dispute over the program. It has its own reasons for wanting to  
12 be known as a native American program. So, we have just done it  
13 that way.

14 CHAIRMAN WALLACE: Let me say this, then. I will go  
15 ahead and amend it and ask for consent to approve this portion  
16 of the committee report. When we start pushing dollars around  
17 among boxes later on, these dollars are off the table if we  
18 approve this now.

19 MR. MENDEZ: That is correct. There is no --

20 CHAIRMAN WALLACE: The committee has proposed that we  
21 move the sum of \$60,128 from Basic Field to Native Americans.  
22 It is before the board as a committee report without necessity

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1 for motion or second. I ask unanimous consent it be approved.

2 (No response.)

3 CHAIRMAN WALLACE: Hearing no dissent, so ordered.  
4 Proceed, Mr. Chairman.

5 MR. MENDEZ: All right. Mr. Chairman, the committee  
6 is recommending over the objections of its chairman. Now I  
7 would invite everyone's attention to page 22 and 23 of the Audit  
8 and Appropriations program.

9 The motion from the committee is to recommend to the  
10 board that we move uncommitted carryover to Basic Field except  
11 the uncommitted carryover in state support and Native American  
12 and migrant.

13 These exceptions will keep their carryover. That is  
14 the recommendation of the committee. If I may speak, I will  
15 speak in opposition to that.

16 CHAIRMAN WALLACE: All right. Now, before you do, Mr.  
17 Chairman, let's state the committee report that is now before  
18 the board and ready to be debated, amended and voted upon.

19 The committee report is that the carryover --

20 MR. MENDEZ: Uncommitted carryover.

21 CHAIRMAN WALLACE: Where is the uncommitted carryover  
22 on page 23?

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1 MR. DURANT: Down at the bottom.

2 MR. MENDEZ: On page 23 -- 1.780059.

3 MR. DURANT: Is it 1167 or 617?

4 MR. MENDEZ: All of that is uncommitted. There is  
5 another document -- does everyone have one of these, the  
6 consolidated operating report?

7 MR. DURANT: Mr. Wallace, what was the recommendation?

8 CHAIRMAN WALLACE: Well, I am trying to figure out  
9 what the recommendation is. I apologize to the committee  
10 chairman because I am going back and forth in this handwritten  
11 document.

12 MR. MENDEZ: The uncommitted carryover is contained in  
13 a four page document that is a little bit clearer, I suppose.

14 CHAIRMAN WALLACE: That number is \$612,000?

15 MR. MENDEZ: No, look at the last page.

16 MR. SMEGAL: Page 22 is the number on the bottom.

17 CHAIRMAN WALLACE: I see. Page 22 in the committee  
18 book, the uncommitted carryover is \$1,780,059. Now, that we  
19 have found it, Mr. Chairman, what are we doing with it according  
20 to your committee report?

21 MR. MENDEZ: According to the committee report, we are  
22 taking everything -- I do not know how he has done this. The

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1 best way for me to do this is we go back over here -- we are  
2 transferring virtually everything in uncommitted carryover up to  
3 Basic Field with the exception of the line items in Native  
4 American carryovers, which is approximately \$23,000, the migrant  
5 programs which is \$267, and the 3,000 state support.

6 MR. SMEGAL: Actually, David has done us a great  
7 service here with this sheet. He has shown, if you will look at  
8 his sheet, the bottom of the second column is the \$1,780,000  
9 that appears on page 23, III.

10 What the motion was that passed either four to one or  
11 three to two is that that \$1.780 be redistributed as he has said  
12 on that column and is very clear where it is going. It would  
13 have \$1,039,000 going to the Field programs at A-1, Basic Field  
14 program; \$23,000 go to the Native Americans, which is their  
15 carryover, they keep it; \$267,700 go to migrants.

16 They keep their carryover. The \$25,000 for law school  
17 clinics is committed. That stays there for some reason.  
18 Thirteen thousand comes out of training and technical  
19 assistance. That apparently is committed in some way.

20 MR. RICHARDSON: It is committed to a program.

21 MR. MENDEZ: It is committed?

22 MR. RICHARDSON: Yes.

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1 MR. SMEGAL: The same thing then -- we got two other  
2 numbers below there, a total of 12 from 3 and 9.

3 CHAIRMAN WALLACE: Three thousand to national support  
4 and nine thousand to CALR. The 985 in recaptured funds --

5 MR. MENDEZ: Is not considered in this.

6 MR. SMEGAL: It is a separate issue.

7 CHAIRMAN WALLACE: It is a separate issue so the first  
8 part of the committee report which is before the board at this  
9 point is in Mr. Richardson's column 2. All these numbers are in  
10 thousands. All board members have a copy of them.

11 Mr. Chairman, it would not be remiss at this time if  
12 perhaps I were to recognize the proponent of this motion from  
13 the committee to speak on it. Then I will recognize you to  
14 explain the contrary position.

15 Could you tell me who the proponent is?

16 MR. EAGLIN: Mr. Chairman, my motion was designed  
17 simply to move uncommitted carryover funds to support the  
18 operations Basic Field programs. It was as simple as that.

19 CHAIRMAN WALLACE: Okay. Mr. Chairman, you are  
20 recognized.

21 MR. MENDEZ: Probably the best way for me to explain  
22 my position is to invite everyone's attention to page 29 of the

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1 Audit and Appropriations Book. If you look down there under  
2 III, it shows corporation management and grant administration of  
3 \$8.316 million.

4 I would also invite everyone's attention to the  
5 committee language where the committee language indicated that  
6 there were allocating 8.3 and then they put a parenthesis down  
7 below 1.7 and they anticipated an additional 1.7 million in  
8 carryovers.

9 There was a carryover of about 1.7 million.

10 CHAIRMAN WALLACE: Which committee is that?

11 MR. MENDEZ: That is the Congressional House.

12 CHAIRMAN WALLACE: Okay, the Appropriations Committee.

13 Okay, go ahead.

14 MR. UDDO: I do not know that everybody has seen that  
15 copy. Has everybody seen it? I do not remember seeing it. I  
16 saw it this morning, but I do not know if everyone has seen it.  
17 I think everyone should see it.

18 MR. MENDEZ: I think that by now everyone has probably  
19 see it on the committee.

20 CHAIRMAN WALLACE: Well, Mr. Uddo apparently has not  
21 seen it. I am going to ask --

22 MR. UDDO: I did see it just before the meeting

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1 started. It was not distributed as far as I know.

2 MR. MENDEZ: No, it was not. I did not know that was  
3 going to be an issue, so I did not tell them to do this.

4 MR. UDDO: As long as everybody has seen it.

5 CHAIRMAN WALLACE: I have seen it. If there is nobody  
6 else that is asking for a copy of the Appropriations Committee  
7 report, I will ask Chairman Mendez to proceed.

8 MR. MENDEZ: They indicated that they anticipated that  
9 we would have a \$1.7 million carryover. The budget that they  
10 have approved is \$8.3 with the anticipation that there would be  
11 an additional \$1.7.

12 The carryover that we were looking at is \$1.78. This  
13 is for the ladies who so often and so articulately persuaded us  
14 that we need to have a client's -- some education of clients.  
15 We need to have some money some place to do that.

16 You have \$1.7 million that goes to the management. I  
17 would suggest that that additional \$80,000 go for clients and  
18 that it is appropriately put down in management and  
19 administration for the program development for that aspect.

20 It is not appropriate, based on the congressional  
21 directives or suggestions, I should say, that this money go  
22 anywhere other than into management and administration and also

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1 be used for that \$80,000.

2 That is written out. I speak against it. I would  
3 offer a substitute motion, and I do not know what the Chairman's  
4 pleasure it.

5 CHAIRMAN WALLACE: Well, Mr. Chairman, I would suggest  
6 that you make your substitute motion at this time. We will see  
7 if there is a second, and then we will proceed to debate it.

8 Mr. Smegal, do you need to be recognized before he  
9 makes his substitute motion?

10 MR. SMEGAL: I think so. I just wanted to offer an  
11 observation. Obviously, we did not read into the record the  
12 congressional language of the congressional report. I reminded  
13 those at the committee meeting, Mr. Wallace, of your admonitions  
14 through the years regarding committee report language.

15 Certainly we have some more of that here that I have  
16 heard you speak about so eloquently in the past. In particular,  
17 I think you, Mr. Mendez, misstated what was there. What  
18 Congress has done is allocated \$8.316 million for management and  
19 administration.

20 It suggested that if other funds were necessary, maybe  
21 we could look to a carryover; that Congress was not going to  
22 give us anything more for management and administration. The

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1 language is permissive.

2           The word "may" is there among other words. One of the  
3 things that troubles me about all this is we keep getting  
4 numbers requesting management and administration budgets. I  
5 have now been asking for several years for a breakdown of how  
6 this money is to be spent, as I think I have explained to the  
7 board members in years past when I served on the Board of  
8 Governors of the State Bar of California.

9           Before we were asked to approve a budget, we were  
10 given an indication of where the personnel was and how the money  
11 was going to be spent. All I see is a summary statement that  
12 says we need, I guess, \$10.8 million.

13           I have never seen any backup material that explains to  
14 me why we have had discussions about the 220 people that are  
15 carried on our flow sheet of required personnel for the staff.  
16 We have never had more than 125.

17           I have been told along the way that our budget is  
18 based on 220 slots being filled, and we never have anywhere near  
19 that. So, I think we need some more information, Mr. Wallace,  
20 before we can possibly vote intelligently on whether we need  
21 \$8.3 or whether we should look to our carryover for some more  
22 funds.

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1 CHAIRMAN WALLACE: Are you suggesting the committee  
2 report be tabled, Mr. Smegal?

3 MR. SMEGAL: Yes.

4 CHAIRMAN WALLACE: Let me -- before I ask you--  
5 before I recognize you to make a motion if you have such a  
6 motion to make, I do not want to cut short discussion -- let me  
7 commend you for your interest in legislative history.

8 I could not agree with you more that committee report  
9 language is not binding on this board. What it says is that we  
10 may use the carryover as we deem necessary and proper. So, we  
11 certainly violate no congressional trust by using this money for  
12 management and administration if we decide we need it.

13 At the same token, if we decide we do not need it,  
14 then we can send it out to the field or anyplace else within the  
15 confines of our act if we decide that is what we ought to do.

16 MR. SMEGAL: I agree with you.

17 CHAIRMAN WALLACE: I think we are in agreement on the  
18 law.

19 MR. SMEGAL: Yes, I think if the board affirms or, in  
20 effect, revotes or votes in confirmation with the four to one  
21 vote of the committee, we would do that.

22 CHAIRMAN WALLACE: Now, the next question is whether

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1 we have enough information about management and administration  
2 to decide what we need. I think Mr. Mendez was about to address  
3 himself to that subject. I would like to recognize him to do  
4 that before entertaining any kind of a motion to table.  
5 Chairman Mendez?

6 MR. MENDEZ: Mr. Chairman, in my discussions with our  
7 comptroller and the president, it is their view that we need  
8 about \$10.8 million. I said that I thought that was excessive  
9 and said I would not suggest that to this board.

10 My calculations indicate to me that we are more or  
11 less on a \$10.5 million dollar budget for this year. That is  
12 all I can -- if you want to have specific breakdowns about that  
13 and where it would go, I assume that we can do that.

14 CHAIRMAN WALLACE: I see the staff talking to each  
15 other, and I am going to ask them to comment on the information  
16 system in just a second. I will certainly agree with Mr.  
17 Mendez' recollection that we have been running about \$10.5  
18 million a year for a long time, since you got here, since before  
19 we got here and since before President Reagan got here.

20 Management and administration budget at this level  
21 goes back a pretty long way. That does not mean, Mr. Smegal,  
22 that it is all efficiently spent. I gather that to be your

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1 question.

2           What I would like to do if we can right now is to get  
3 a dialogue or maybe a trilogue among Mr. Smegal, the comptroller  
4 and the president and find out exactly what the information that  
5 Mr. Smegal wants is and find out if we have got it today, and if  
6 we do not, what it will take to get it.

7           Mr. Richardson, why don't you come up to the table and  
8 bring a legal pad with you because I want you to write down what  
9 it is that Mr. Smegal wants before I recognize him to make a  
10 motion to table it.

11           Mr. Smegal, I would recognize you and I will ask you  
12 to tell us what it is you had in California that you would like  
13 to see here.

14           MR. SMEGAL: Thank you, Mr. Chairman. Out of respect  
15 for the chairman, by the way, I will not make a motion to table.  
16 So, let's set that aside. I think we should go ahead and vote  
17 on this matter.

18           The first option that I may respond to that you made  
19 is that it calls for \$10.8. I do not think we have been at that  
20 level before. In fact, Mr. Richardson at our committee meeting  
21 pointed out that last year's expenditures were \$9.9 plus  
22 \$150,000 on something called FERS that got included in there.

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1           So, it was about \$10 million, about three quarters a  
2 million less than this number. Now what I have asked for before  
3 and reminded you of earlier is an indication of why we need  
4 whatever the number is we need.

5           I see \$10.8 million here. I see a sheet that breaks  
6 it down somewhat. The thing that has troubled me all along is  
7 we go to Congress every year and we tell them we have got 220  
8 employees and we have not had 220 employees since long before  
9 Don Bogart (phonetic).

10           Yet, we submit a budget to Congress that reflects  
11 having 220 staff. My understanding is we have had about 100  
12 less than that for a long time. I would like to see the  
13 breakdown that somehow develops this \$10.8 million or whatever  
14 the number is this year or whatever it has been in the past  
15 years. There must be some documentation. I do not believe I  
16 have gotten it.

17           MR. MENDEZ: I think you have in the past gotten a  
18 report that indicates that over the past four years our average  
19 M&A expenditure is \$10.8 million. You have received that in the  
20 past.

21           MR. SMEGAL: I am surprised at that because why was it  
22 only \$10 million last year with all the monitoring we did? The

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1 monitoring level was \$4.2 million.

2 MR. MENDEZ: There were some deferred expenses last  
3 year, Tom. I think that that was in our report from the month  
4 before the Audit and Appropriations meeting.

5 MR. SMEGAL: Pepe, I do not think you and I should  
6 belabor this. I think the point I am making is I would like to  
7 see the backup material that says we need whatever number it is  
8 we need for management and administration.

9 MR. RICHARDSON: You have received the staffing  
10 report. We did that, I think, in October where I showed you the  
11 authorized level of 222. We do have a staffing level at this  
12 time somewhere around 170 to 175.

13 We have had 125 full time employees, but we have also  
14 supplemented that with temporary hires. The total, though, has  
15 always been over 160. We, in the last month, have hired a  
16 number of a temporary people as full time employees because of  
17 the new Section 89 requirements as a result of the '86 Tax  
18 Reform Act.

19 The \$10.8 budget that you have as a recommendation to  
20 the committee, we do have some backup documents just like you  
21 receive each month which are a consolidated operating budget. I  
22 show you a comparison between staff salaries as budgeted and

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1 what has been expended that is reported to you each month.

2 It is not this time only because you received this at  
3 a prior meeting. I did not include it with October-November  
4 expense report, although I do have it. At this point, we  
5 needed, of course, to get a budget to operate.

6 We do have supporting documentation for a \$10.8 budget  
7 that is based on, as I said, about 175 employees. It is based  
8 on the increasing rents and the other costs that we anticipate  
9 for the coming year.

10 Now, I have looked at some of the different  
11 transcripts when we presented budget. That information has never  
12 been presented at the full board level, but it has been brought  
13 forward and given to the president and then reviewed, of course,  
14 with the chairman.

15 We can certainly develop that in a format and get it  
16 to you. It is not a real concise format because we have 28  
17 departments that are combined into the nine reporting categories  
18 that we have. I am certain that could be done.

19 MR. UDDO: Dave, let me ask you about that Tax Act  
20 change. Could you explain that again?

21 MR. RICHARDSON: The '86 Tax Reform Act has created  
22 quite a number of problems for a number of corporations.

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1           CHAIRMAN WALLACE: It was in the Wall Street Journal  
2 yesterday if you had not noticed.

3           MR. RICHARDSON: It stipulates requirements that we  
4 have to abide by and to provide some pension benefits, health  
5 insurance, life insurance, normal benefits for the full time  
6 employees even though they may be short time in tenure.

7           MR. MENDEZ: I think it is 17 1/2 hours a week. If it  
8 is over that, you have to provide all those other benefits. So,  
9 it makes very little difference whether you put them on as full  
10 time employees or temporary now because you have to provide all  
11 of those.

12           MR. UDDO: Tell me a little bit about how that impacts  
13 the corporation in terms of expenses?

14           MR. RICHARDSON: Well, for instance, health insurance  
15 for a family person will cost the corporation \$250 a person.

16           CHAIRMAN WALLACE: For what period? For a year or for  
17 a month?

18           MR. RICHARDSON: For a month. For a single individual  
19 it will cost the corporation -- excuse me if I am wrong -- about  
20 \$70.

21           CHAIRMAN WALLACE: Are we on any of the government  
22 health insurance plans or are we out there in the wilderness by

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1 ourselves?

2 MR. RICHARDSON: We are in the wilderness by  
3 ourselves. As a result of the grandfathering of the CSR program  
4 and the FERS program, those that are in those programs, the CSRS  
5 offset and the regular civil service retirement, can stay in  
6 that.

7 However, any new hires cannot go into those programs,  
8 so we have to set up our own pension plan for those people. We  
9 have to go out and solicit bids, as we have done, for health  
10 insurance and life insurance.

11 Luckily, this year is actually under the federal  
12 benefits program. Many companies will do that to get their foot  
13 in the door, and then after experience it will more than likely  
14 go up.

15 MR. UDDO: You do not have any projections on what  
16 this is all going to cost the corporation in '89?

17 MR. RICHARDSON: In the \$10.8 budget, yes.

18 MR. UDDO: You do have some figures?

19 MR. RICHARDSON: I do.

20 MR. UDDO: What is the impact dollar figure?

21 MR. RICHARDSON: We anticipate \$180,000 to \$200,000  
22 impact.

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1 MR. UDDO: That you did not have in '88?

2 MR. VALOIS: Increased costs?

3 MR. RICHARDSON: Increased costs.

4 MR. UDDO: So, on top of your benefit expenses of '88,  
5 you are talking \$180,000 to \$200,000.

6 MR. RICHARDSON: That is correct. On top of that, we  
7 had a rent increase of \$100,000 this year.

8 MR. SMEGAL: How many new employees does that \$180,000  
9 to \$200,000 contemplate?

10 MR. RICHARDSON: As full time hires? It is  
11 approximately 30

12 MR. SMEGAL: Well, I think that is -- we have come  
13 down to where I am now, Mr. Chairman. I am not so sure I have  
14 got sufficient information from which to vote as to whether we  
15 need 30 new employees. That is the whole question here.

16 MR. RICHARDSON: We have been using --

17 MR. MENDEZ: Those are not full employees.

18 MR. SMEGAL: I understand, but I am still -- I still  
19 think this board should have an opportunity to determine what  
20 staff level we should have for the programs we fund, what  
21 administration there should be here by way of staff. I do not  
22 see anything in front of me that allows me to make that

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1 judgment.

2 MR. UDDO: Let me just go through a couple of more  
3 things. What about this Inspector General that we have got to  
4 hire; do you have figures on what that is going to cost?

5 MR. RICHARDSON: Until the scope of the office has  
6 been decided, no. We have talked preliminary. We estimate  
7 somewhere in the neighborhood of \$300,000.

8 MR. UDDO: To set up an office for an Inspector  
9 General, staff and whatever goes along with it.

10 MR. RICHARDSON: That is correct.

11 MR. UDDO: Anything else that is new to '89 that was  
12 not there before?

13 MR. RICHARDSON: That is the major portions of it.

14 CHAIRMAN WALLACE: All right. Let me ask a question.  
15 Congress has told us that they want us to institute competition  
16 as soon as our smiling faces are out of here. What preliminary  
17 steps are being taken to have a program to show Congress? What  
18 is that going to cost us?

19 MR. RICHARDSON: We do not have costs as yet of what  
20 that will cost us. Mr. Wootton and the Director of Office of  
21 Field Services are working on a program to establish  
22 competition.

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1           We are trying to do it internally at this point. I am  
2 not sure if there will be -- there will be a need for additional  
3 staff once it is implemented. In the developmental stages, we  
4 are trying to do it internally.

5           MS. SWAFFORD: I see a figure of \$300,000 somewhere  
6 for competition. Did I see a figure of 4300,000?

7           MR. RICHARDSON: For competition?

8           MS. SWAFFORD: Yes.

9           MR. RICHARDSON: No, ma'am.

10          CHAIRMAN WALLACE: Mr. President?

11          MR. RICHARDSON: Mr. Chairman, thank you. With regard  
12 to the implementation of competitive bidding, our staff is  
13 working on proposals now. We envision to get those proposals  
14 together.

15                 We then intend to educate the public and then to get  
16 comment from the public on the proposals but also to educate  
17 potential bidders for this. We are looking to the private  
18 sector to do these things.

19                 This is going to, in bottom line numbers, cost the  
20 corporation more to do. We are going to incur expenses to do  
21 that, both to get the information out and to meet with the  
22 potential bidders and to educate them as to how this program is

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1 going to work and what will be required of them in the way of  
2 submitting a bid.

3 So, this is not a free cost item for this year. We  
4 are moving ahead on it. It is something that we will have to  
5 take care of.

6 CHAIRMAN WALLACE: The appropriations act, as I read  
7 it, expects this to be implemented after September 30, 1989. We  
8 are on a different fiscal year from the federal government.  
9 This budget covers the last three months of 1989; does it not?

10 MR. WEAR: Yes, sir, it does.

11 CHAIRMAN WALLACE: So, presumably, we will be  
12 implementing competition at least in the last three months of  
13 1989?

14 MR. WEAR: That is certainly an option. It is one  
15 that I hope we will be able to do.

16 CHAIRMAN WALLACE: You do not have any numbers at this  
17 point that you can tell us with any degree of precision?

18 MR. WEAR: No, sir, not at this point.

19 MR. UDDO: What competitive -- we are talking about  
20 Field Services?

21 MR. WEAR: Competitive bidding of all of the grants.

22 CHAIRMAN WALLACE: What the appropriation bill says.

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1 MR. DURANT: Including management and administration.

2 CHAIRMAN WALLACE: It might not be a bad idea.

3 MR. SMEGAL: Back to where we were, if we may. These  
4 additional expenses that you contemplate that we will have under  
5 the 1986 Tax Reform Act, are these also expenses that our  
6 recipients will have?

7 MR. RICHARDSON: Yes, sir.

8 MR. SMEGAL: So, our expenses involve 170 to 175  
9 employees. What are we talking about; \$6,000 or \$7,000 among  
10 our recipients?

11 MR. RICHARDSON: Well, I say yes. If they are using  
12 temporary employees like we have done in the past and not paid  
13 benefits, it will impact them. I have no figures or any  
14 information to tell how many programs are not paying benefits  
15 for their employees.

16 MR. SMEGAL: This additional expense was not limited  
17 to our corporation.

18 MR. RICHARDSON: No, sir.

19 CHAIRMAN WALLACE: If we -- this is not a new cost  
20 that falls on federal agencies. This falls only on corporations  
21 including 501(c)3 corporations; is that right?

22 MR. RICHARDSON: That is correct. The government has

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1 So, it was about \$10 million, about three quarters a  
2 million less than this number. Now what I have asked for before  
3 and reminded you of earlier is an indication of why we need  
4 whatever the number is we need.

5 I see \$10.8 million here. I see a sheet that breaks  
6 it down somewhat. The thing that has troubled me all along is  
7 we go to Congress every year and we tell them we have got 220  
8 employees and we have not had 220 employees since long before  
9 Don Bogart (phonetic).

10 Yet, we submit a budget to Congress that reflects  
11 having 220 staff. My understanding is we have had about 100  
12 less than that for a long time. I would like to see the  
13 breakdown that somehow develops this \$10.8 million or whatever  
14 the number is this year or whatever it has been in the past  
15 years. There must be some documentation. I do not believe I  
16 have gotten it.

17 MR. MENDEZ: I think you have in the past gotten a  
18 report that indicates that over the past four years our average  
19 M&A expenditure is \$10.8 million. You have received that in the  
20 past.

21 MR. SMEGAL: I am surprised at that because why was it  
22 only \$10 million last year with all the monitoring we did? The

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1 monitoring level was \$4.2 million.

2 MR. MENDEZ: There were some deferred expenses  
3 year, Tom. I think that that was in our report from the m  
4 before the Audit and Appropriations meeting.

5 MR. SMEGAL: Pepe, I do not think you and I sh  
6 belabor this. I think the point I am making is I would lik  
7 see the backup material that says we need whatever number i  
8 we need for management and administration.

9 MR. RICHARDSON: You have received the staf  
10 report. We did that, I think, in October where I showed you  
11 authorized level of 222. We do have a staffing level at  
12 time somewhere around 170 to 175.

13 We have had 125 full time employees, but we have  
14 supplemented that with temporary hires. The total, though,  
15 always been over 160. We, in the last month, have hir  
16 number of a temporary people as full time employees becaus  
17 the new Section 89 requirements as a result of the '86  
18 Reform Act.

19 The \$10.8 budget that you have as a recommendatio  
20 the committee, we do have some backup documents just like  
21 receive each month which are a consolidated operating budget  
22 show you a comparison between staff salaries as budgeted

1 what has been expended that is reported to you each month.

2 It is not this time only because you received this at  
3 a prior meeting. I did not include it with October-November  
4 expense report, although I do have it. At this point, we  
5 needed, of course, to get a budget to operate.

6 We do have supporting documentation for a \$10.8 budget  
7 that is based on, as I said, about 175 employees. It is based  
8 on the increasing rents and the other costs that we anticipate  
9 for the coming year.

10 Now, I have looked at some of the different  
11 transcripts when we presented budget. That information has never  
12 been presented at the full board level, but it has been brought  
13 forward and given to the president and then reviewed, of course,  
14 with the chairman.

15 We can certainly develop that in a format and get it  
16 to you. It is not a real concise format because we have 28  
17 departments that are combined into the nine reporting categories  
18 that we have. I am certain that could be done.

19 MR. UDDO: Dave, let me ask you about that Tax Act  
20 change. Could you explain that again?

21 MR. RICHARDSON: The '86 Tax Reform Act has created  
22 quite a number of problems for a number of corporations.

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1 CHAIRMAN WALLACE: It was in the Wall Street Jour  
2 yesterday if you had not noticed.

3 MR. RICHARDSON: It stipulates requirements that  
4 have to abide by and to provide some pension benefits, health  
5 insurance, life insurance, normal benefits for the full time  
6 employees even though they may be short time in tenure.

7 MR. MENDEZ: I think it is 17 1/2 hours a week. If  
8 is over that, you have to provide all those other benefits. So  
9 it makes very little difference whether you put them on as full  
10 time employees or temporary now because you have to provide  
11 of those.

12 MR. UDDO: Tell me a little bit about how that impacts  
13 the corporation in terms of expenses?

14 MR. RICHARDSON: Well, for instance, health insurance  
15 for a family person will cost the corporation \$250 a person.

16 CHAIRMAN WALLACE: For what period? For a year or  
17 a month?

18 MR. RICHARDSON: For a month. For a single individual  
19 it will cost the corporation -- excuse me if I am wrong -- about  
20 \$70.

21 CHAIRMAN WALLACE: Are we on any of the government  
22 health insurance plans or are we out there in the wilderness

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1 ourselves?

2 MR. RICHARDSON: We are in the wilderness by  
3 ourselves. As a result of the grandfathering of the CSR program  
4 and the FERS program, those that are in those programs, the CSRS  
5 offset and the regular civil service retirement, can stay in  
6 that.

7 However, any new hires cannot go into those programs,  
8 so we have to set up our own pension plan for those people. We  
9 have to go out and solicit bids, as we have done, for health  
10 insurance and life insurance.

11 Luckily, this year is actually under the federal  
12 benefits program. Many companies will do that to get their foot  
13 in the door, and then after experience it will more than likely  
14 go up.

15 MR. UDDO: You do not have any projections on what  
16 this is all going to cost the corporation in '89?

17 MR. RICHARDSON: In the \$10.8 budget, yes.

18 MR. UDDO: You do have some figures?

19 MR. RICHARDSON: I do.

20 MR. UDDO: What is the impact dollar figure?

21 MR. RICHARDSON: We anticipate \$180,000 to \$200,000  
22 impact.

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1 MR. UDDO: That you did not have in '88?

2 MR. VALOIS: Increased costs?

3 MR. RICHARDSON: Increased costs.

4 MR. UDDO: So, on top of your benefit expenses of  
5 you are talking \$180,000 to \$200,000.

6 MR. RICHARDSON: That is correct. On top of that  
7 had a rent increase of \$100,000 this year.

8 MR. SMEGAL: How many new employees does that \$180,000  
9 to \$200,000 contemplate?

10 MR. RICHARDSON: As full time hires? I  
11 approximately 30

12 MR. SMEGAL: Well, I think that is -- we have  
13 down to where I am now, Mr. Chairman. I am not so sure I  
14 got sufficient information from which to vote as to whether  
15 need 30 new employees. That is the whole question here.

16 MR. RICHARDSON: We have been using --

17 MR. MENDEZ: Those are not full employees.

18 MR. SMEGAL: I understand, but I am still -- I  
19 think this board should have an opportunity to determine  
20 staff level we should have for the programs we fund,  
21 administration there should be here by way of staff. I don't  
22 see anything in front of me that allows me to make

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1 an act of passing the bill but exempting themselves from  
2 complying with it.

3 CHAIRMAN WALLACE: We can save a lot of money in a  
4 reauthorization bill but made as part of the federal government.

5 MR. RICHARDSON: Yes, sir.

6 CHAIRMAN WALLACE: Okay, so could our grantees. Any  
7 other questions for the comptroller?

8 (No response.)

9 MR. MENDEZ: Mr. Chairman?

10 CHAIRMAN WALLACE: I have never recognized you to move  
11 your amendment, Mr. Chairman. Let me ask Mr. Smegal -- I tell  
12 you what. Let me let you move your amendment and then I will  
13 ask Mr. Smegal or anybody else if they want to move to table.  
14 You go ahead and state your amendment at this time.

15 MOTION

16 MR. MENDEZ: Mr. Chairman, I move that we take the  
17 \$1.78059 million and move it into management and administration  
18 with the specific proviso that part of those funds will be used  
19 to develop the program for the client training.

20 CHAIRMAN WALLACE: Is there a second?

21 MR. DURANT: I second.

22 CHAIRMAN WALLACE: Seconded by Mr. Durant. That is an

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1 amendment in the nature of a substitute. The floor is open for  
2 debate on the substitute motion or for a motion to table if  
3 anybody wants to make one.

4 MR. UDDO: Mr. Chairman, I am sort of in between in  
5 that I do not think corporate management can operate on \$8.3  
6 million.

7 On the other hand, I am sympathetic to Tom's concerns  
8 about some more specific information about where the money goes,  
9 even though it is going to be pretty much -- if Mr. Mendez'  
10 motion passes, it is going to be pretty much in the neighborhood  
11 of what we have been doing most years.

12 I am sympathetic to his concern because I do not know  
13 that we have really seen much of the specifics of what the money  
14 goes for that we are voting on. I think that we ought to be  
15 more interested in that.

16 I do not know if I want to get into deciding whether  
17 we need to hire 30 additional people or 20 additional people. I  
18 do not think that we ought to do that. I think we ought to have  
19 some more specific accountability of what the money is being  
20 used for.

21 So, I do not know that I want to table it to get that  
22 or whether I want to just find a way that we can vote on it with

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1 an understanding that we are going to get that information. I  
2 am sort of open for suggestions.

3 CHAIRMAN WALLACE: All right, Mr. Mendez?

4 MR. MENDEZ: Mr. Chairman, we in the Audit and  
5 Appropriations Committee are always willing to have other board  
6 members come in. We are always willing to have suggestions as  
7 to what kind of figures -- we have made certain specific changes  
8 to accommodate Mr. Smegal in the past of what he desired.

9 If Mr. Uddo has some specific questions --

10 MR. UDDO: I am not coming to your meetings, so don't  
11 tell me to come to your meetings. I cannot sit through those  
12 things. I still want to see the information.

13 CHAIRMAN WALLACE: I was going to assign you to that  
14 committee.

15 MR. UDDO: I refuse.

16 MR. MENDEZ: Tell me what information you specifically  
17 want. I will give you an opportunity to just write us a letter  
18 and tell us what you specifically want to have.

19 MR. UDDO: Why wouldn't we have a sort of regular  
20 procedure whereby we saw what the money went for in more detail  
21 than a line for \$10.8 million?

22 MR. MENDEZ: You do have that. It is in the monthly

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1 budget --

2 MR. UDDO: With staffing levels and --

3 MR. MENDEZ: You tell me what you want.

4 MR. UDDO: I think what Tom is asking for is  
5 legitimate information; staffing levels for different  
6 departments.

7 MR. MENDEZ: That is the first request we had today,  
8 was the staffing level for specific departments. We will do  
9 that. Is there anything else that you want?

10 MR. SMEGAL: May I, Mr. Chairman?

11 CHAIRMAN WALLACE: Yes.

12 MR. SMEGAL: A point of inquiry, is there some reason  
13 this matter cannot be put over and the information provided? We  
14 are talking about a fiscal year allocation that is already  
15 there.

16 We are talking about carryover funds that are already  
17 there. Is there some reason why we can't get this additional  
18 information and then react to it?

19 CHAIRMAN WALLACE: I will recognize the president in  
20 just a minute to answer that question. Let me point out that we  
21 have got two things to consider and we are only on the first  
22 right now.

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1           The first is the uncommitted carryover of \$1.7  
2 million. I think that gets real close to where we have always  
3 been in management and administration. I won't quibble whether  
4 we were a little under or a little over in the last couple  
5 years.

6           That is pretty much where we have been. I will say,  
7 as I said to John Bayly every time he was up here, I do not  
8 think you are asking for enough money because I ask for things  
9 and they do not happen.

10           I do not think we have ever had enough money in here,  
11 but this is about the amount of money we have always had. Then  
12 we have a second pile of money, \$985,000, which I presume is the  
13 second part of Mr. Mendez' committee report that is available to  
14 do something with.

15           As I read this, the committee said we ought to put  
16 into Basic Fields. It may be that some of that money is needed  
17 for some of the new problems that Mr. Richardson has identified  
18 for us here today.

19           I know my own sentiment would be to at least approve  
20 the Mendez motion that is before us. I think after four years  
21 we have some sense in round numbers and what it takes to run  
22 this place.

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1           Then I am willing to be persuaded that we need more  
2 information on whether that \$985,000 is necessary for the new  
3 expenses that are up before us. Having said that, let me  
4 recognize the president and he can tell us whether there is any  
5 reason that we have to take a vote on anything at all today,  
6 which I take to be Mr. Uddo's question -- oh, Mr. Smegal's  
7 question; I am sorry.

8           MR. WEAR: Mr. Chairman, as part of our budget  
9 submission to Congress for the coming appropriation cycle, it is  
10 my understanding that we have to finalize the carryover and  
11 include that as part of our report to the Appropriations  
12 Committee.

13           That is why we were trying to finalize this here  
14 today. I think we can certainly put the so-called grant  
15 recovery funds, the \$985,000 in an account and then deal with  
16 that during the year.

17           At a minimum, I believe we are tied in and required to  
18 deal with the first issue.

19           CHAIRMAN WALLACE: Any further questions of the  
20 president on that question?

21           MR. SMEGAL: When is this report due?

22           MR. WEAR: President Bush's report, as I understand

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1 it, is going up on or about February 10.

2 CHAIRMAN WALLACE: I think in the past we have always  
3 tied our report to the president's budget. It is independent of  
4 the president's budget, but we have gotten it up there about the  
5 same time.

6 From what I understand, President Bush plans to move  
7 within a couple of weeks. I do not know if that is statutorily  
8 required, Mr. Smegal, but I know that has been the date we have  
9 shot for in the past.

10 MR. SMEGAL: But if I understand what Mr. Wear has  
11 just said, we are talking about our fiscal year 1990 budget that  
12 we voted on several months ago. If I understand correctly, we  
13 have got to send along with that an explanation of what happened  
14 in fiscal year '89, if there is a carryover, and what we are  
15 going to do with it in fiscal year '89.

16 CHAIRMAN WALLACE: Tell us what you are spending in  
17 '89 so we can evaluate what you want to spend in '90 which is  
18 information that seems to me to be reasonable and pertinent.

19 MR. SMEGAL: We tell them we have got a \$1,780,000 in  
20 carryover from 1988 that we are going to spend in 1989. That is  
21 what we tell them; right?

22 CHAIRMAN WALLACE: That is what the effect of Mr.

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1 Mendez' motion would be.

2 MR. SMEGAL: One way or another, whatever motion  
3 passes is going to be spent.

4 CHAIRMAN WALLACE: Certainly it is going to be spent.

5 MR. SMEGAL: It is going to be allocated to be spent.

6 CHAIRMAN WALLACE: The question is where is it spent?  
7 I think that is what the president thinks we ought to be telling  
8 the Congress. Is there any debate -- the item on the floor is  
9 Mr. Mendez' substitute motion. Is there any further debate on  
10 Mr. Mendez' substitute motion?

11 (No response.)

12 CHAIRMAN WALLACE: All right. Hearing none, we will  
13 proceed to vote. The order of the vote is, first we move to  
14 amend the committee report by stating -- move to amend the  
15 committee report to substitute Mr. Mendez' motion.

16 If that passes, that becomes the main motion on the  
17 table, and it would be subject to further amendment I would  
18 think. If that fails, then the committee report, which Mr.  
19 Richardson has given to us, is the main motion on the table.  
20 That would also be subject to further amendment.

21 MS. ROGOFF: Mr. Chairman, at what point will you  
22 take public comment on this?

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1 CHAIRMAN WALLACE: I am sure we had public comment in  
2 the appropriations committee. Let me ask how many people want  
3 to comment on the motions before the board so I can make some  
4 gauge of how much we intend to do here.

5 MS. ROGOFF: On behalf of the Project Advisory Group,  
6 I would.

7 CHAIRMAN WALLACE: There is one. Anybody else?

8 (No response.)

9 CHAIRMAN WALLACE: All right. There is apparently no  
10 further debate.

11 MR. UDDO: Mr. Chairman, can I ask you a question. Is  
12 the balance of the committee report only that grant recovery  
13 money? Is there anything else that you have not addressed?

14 CHAIRMAN WALLACE: That has not been addressed yet,  
15 and that we get to after we dispose --

16 MR. UDDO: Okay, I just want to know if there is  
17 anything other than that that is going to be included in the  
18 committee report. It could affect how I feel about this vote.

19 CHAIRMAN WALLACE: No.

20 MR. MENDEZ: Mr. Chairman, there is nothing else in  
21 the committee report other than these. These were the two major  
22 items that are remaining. We got all of the easy stuff out

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1 first.

2 CHAIRMAN WALLACE: All right. There is only one  
3 request for public comment. I will recognize at this time -- I  
4 have seen you at all these meetings, and I apologize for not  
5 knowing your name.

6 MS. ROGOFF: Regina Rogoff.

7 CHAIRMAN WALLACE: Ms. Rogoff, in the Project Advisory  
8 Group, please go ahead.

9 MR. SMEGAL: Excuse me. May I just ask for  
10 clarification here? What we -- Mr. Mendez has proposed that we  
11 adopt on page 29 column 3 essentially, is that not right, the  
12 printed page 29, column 3. That is what we are talking about.

13 MR. MENDEZ: That is right.

14 CHAIRMAN WALLACE: I do not think there is any problem  
15 there. Now, we understand Mr. Mendez wants to substitute column  
16 3 on page 29 for column 2 on -- is that wrong?

17 MR. MENDEZ: Page 29 is not a very clear explanation  
18 of it. What we want to do is take off of page 22 all of the  
19 uncommitted that is listed on page 22 under the uncommitted  
20 sections and put it in management and administration.

21 MR. DURANT: That is the \$1.78059?

22 MR. MENDEZ: That is correct. We are going to just

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1 put it down in management and administration and it is committed  
2 to management and administration.

3 CHAIRMAN WALLACE: That is the debate. All right,  
4 with that, Ms. Rogoff, please go ahead.

5 MS. ROGOFF: My name is Regina Rogoff. I am the  
6 Executive Director of the Legal Aid Society in Austin. I am  
7 also co-chair of the Project Advisory Group's Funding Criteria  
8 Committee. Thank you for allowing me to speak to you this  
9 afternoon.

10 On behalf of PAG, we would endorse the Audit and  
11 Appropriations Committee report to this board as an appropriate  
12 recommendation for the expenditure of the carryover funds. We  
13 would also, however, point out to other sources of funds that  
14 could be included in carryover that were not identified in that  
15 report to the board.

16 One is under program development, there is \$300,000  
17 that is currently identified as committed carryover intended for  
18 timekeeping, implementation of timekeeping. As I understand it,  
19 this \$300,000 has been carried through most of the 1988 fiscal  
20 year and has not been expended on anything.

21 I think there should be no reluctance on the part of  
22 this board to therefore consider reallocation of the entire

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1 \$300,000 as uncommitted carryover since, during the entire  
2 course of the previous year, you did not, in fact, expend any  
3 portion of that fund.

4 That might be a source of revenue for some of the  
5 things you have identified today conforming with the Tax Reform  
6 laws, your activities in the area of competitive bidding if that  
7 is your choice.

8 Another area that was not included in the Audit and  
9 Appropriations report was the \$61,300 of uncommitted carryover  
10 in the national support line item which we would ask that you  
11 also treat as uncommitted and incorporate into the ANAs proposal  
12 that all uncommitted carryover be allocated to Basic Fields.

13 I would like to make just a few comments on what I  
14 heard in the discussion just a few minutes ago. First let me  
15 say that your budget of \$10.5 million for your management and  
16 administration is about 10 times what my programs entire  
17 operating budget is for the 16 county area of central Texas that  
18 we serve.

19 You receive less than 1/10 of the budget information,  
20 the budget detail that my board receives. I think Mr. Smegal  
21 and Mr. Uddo are absolutely correct that you are entitled to and  
22 should insist upon having a much more detailed report of how

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1 your management administration funds are spent.

2           You have functional categories that simply say which  
3 division of your management and administration is spending it.  
4 It says nothing of how it is being spent. My board would never  
5 accept that as a budget committee report.

6           We provide extensive detail both as to personnel  
7 expenses and as to non-personnel expenses. You cannot tell from  
8 your proposals how much of this -- what proportion of this is  
9 going to personnel and what is going to non-personnel.

10           I understand that you have or that your management has  
11 approved a four percent cost of living adjustment to the  
12 employees of this corporation. I do not know -- to the best of  
13 my recollection, that was not approved by this board.

14           I do not know if it requires to be approved by this  
15 board. I can assure you that my staff has not received a four  
16 percent cost of living adjustment in the five years that I have  
17 been director of the program. I cannot remember in the last  
18 eight years my program staff receiving a four percent cost of  
19 living adjustment.

20           You may find some anger in my tone of voice that when  
21 you were talking about reallocating funds from Basic Field for  
22 direct services to client where program staff are being

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1 underpaid, are not receiving cost of living adjustments, and you  
2 were using that money to pay your headquarter's office a four  
3 percent cost of living adjustment that your management has not  
4 even presented, as far as I know, to this board for a vote.

5 I think that you are entitled to and should demand  
6 greater accountability on behalf of your administration. I  
7 would also point out that Mr. Richardson indicated that in all  
8 of 1988, \$10,150,000 was expended by management and  
9 administration.

10 You are being asked to appropriate or allocate \$10.8  
11 million. That is a 6.4 percent increase in funds for 1989 over  
12 what was expended in all of 1988. As you know, Basic Field  
13 programs are receiving at the most \$1.4 percent, 1.4 of one  
14 percent.

15 I would urge you that at the most you should accept a  
16 1.4 percent increase and allocate the entire balance to Basic  
17 Field. It is -- I find it shameful on your part to try to take  
18 money from the operation of Basic Field programs which provide  
19 direct delivery of clients and using it to provide cost of  
20 living adjustments to your headquarter's staff.

21 Furthermore, I would tell you -- I would ask you to  
22 inquire as to what percentage of field programs even provide a

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1 pension for the employees. One of the increased expenses that  
2 you have here is the funding of your pension.

3 I would point out that the great majority of field  
4 programs do not provide that minimal benefit to employees and do  
5 not provide even the GSA salary levels that your employees are  
6 recipients of.

7 In conclusion, I would urge you to adopt the Audit and  
8 Appropriation report, and in the alternative, to not accept more  
9 in your own management and administration than the Basic Field  
10 programs will be receiving and to demand the type of  
11 accountability that Mr. Smegal has provoked.

12 CHAIRMAN WALLACE: Thank you, Ms. Rogoff. Are there  
13 any questions for this witness?

14 MR. DURANT: I just want to make one comment. I agree  
15 and I think that the idea of competition hopefully will bring  
16 about the need for fewer people and not as much in terms of  
17 monitoring that has been going on because it will have a way of  
18 sorting out, hopefully.

19 I know that Terry has tried very hard to operate in a  
20 more efficient manner. I do think that if, as I said in my  
21 letter to the Wall Street Journal, we had competition and more  
22 diversification, that some of those costs would be less.

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1 MR. ROGOFF: I would like to disagree with you, Mr.  
2 Durant.

3 MR. DURANT: That is fine.

4 MS. ROGOFF: I would like to go on the record as  
5 disagreeing, both in the context that your president has already  
6 told you of the increased costs you are going to incur to  
7 transfer to a competitive bid basis.

8 In your own budget here, you have a report that entire  
9 private attorney clinic project is completed. It is on page 20  
10 of your program development. There is a balance of \$214,000  
11 unexpended in the private attorney law firm project.

12 This was your experimentation, this board's  
13 experimentation with competitive bids. You did not even expend  
14 the entire amount that you appropriated. I have with me from my  
15 own files records regarding the competitive bids that were  
16 awarded to my programs through this area.

17 I would like to tell you that one of the attorneys  
18 that you contracted in your private competition has been  
19 suspended for a year from the practice of law in the state of  
20 Texas which has been probated for dereliction of his  
21 professional responsibilities.

22 Our program additionally received numerous complaints

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1 against the other private attorney that your staff contracted  
2 with in our service area. I would very much like to see the  
3 report on the private attorney clinics or contracts that your  
4 staff left as the predecessor to nationwide competitive bidding.

5 Those were the models. Those were the tests. You  
6 were unable to expend the entire amount that you yourself had  
7 allocated for it. You have not issued a report, although  
8 obviously the project has been completed.

9 I will tell you that in my service area if the example  
10 of the two contracts that you let is any example of what the  
11 experience will be nationwide, you will be up to your ears in  
12 alligators.

13 The contracts were failures. Both attorneys were  
14 unsuccessful. Both attorneys had numerous complaints. My  
15 entire program handling -- we screened over 11,000 applicants.  
16 We served over 5,500 clients. I had only one complaint  
17 regarding manner and quality of service in 1988.

18 The nature of the complaints we had against the  
19 private attorneys, two attorneys, was at least -- I was going to  
20 say six-fold, but at least substantially more. All of them are  
21 documented.

22 All of them were -- that information was provided to

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1 the corporation and the corporation took no action in any of  
2 those situations. I think that your statement that that will  
3 save costs is very ill advised.

4 MR. DURANT: Regina, there are two things. One, I  
5 hope that you will share your information with the people that  
6 Terry put together on the competitive process.

7 MS. ROGOFF: It has been shared with the corporation  
8 in the last two years.

9 MR. DURANT: That is fine. The second thing is, when  
10 I talked to the Department of Aging in Texas -- and I do not  
11 know whether it covers your area -- they told me that under  
12 their particular program, that frankly they had gotten the  
13 broader base of service from some of the competitive grants that  
14 they had let out, having a broader base of people not just Legal  
15 Services attorneys. That is not from somebody who is on our  
16 payroll or anything else of that sort.

17 MS. ROGOFF: We are contracted with the Department of  
18 Aging. We receive funding under the Title 3 of the older  
19 American --

20 MR. DURANT: I understand that, but you are not the  
21 only contractor in the Department of Aging. They tell me that  
22 in cases they have had a broader base of people, that they have

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1 lowered costs and widened the counties they are serving.

2 In fact, they told me in one specific case the Legal  
3 Services program wanted to handle one county and their  
4 competitor that they awarded the contract to was going to handle  
5 three counties for less money than the program that applications  
6 was made.

7 All I am saying is, there will always be examples one  
8 way or another. I just hope, and I am glad that you will share  
9 those --

10 MS. ROGOFF: In our counties, one of the contracts  
11 goes to a lawyer's association that provides seminars about  
12 wills but does not do wills. We, on the other hand, provide the  
13 service that the client needs as opposed to just simply telling  
14 the clients about what the service is.

15 I would also point out under those contracts, those  
16 are presumptive renewal contracts. They are operated much in  
17 the way that our current grant system in LSC operates. We are  
18 informed of what the funding budget will be. We file  
19 applications and it is presumptive renewal.

20 I think that using that as a model for competitive  
21 bidding is inappropriate because if you look carefully at it,  
22 you will see that it is not work in the way that we -- I must

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1 say, since you have said almost nothing about competitive  
2 bidding other than the term competitive bidding, it is hard to  
3 argue against it.

4 On the other hand, if you look at the model as it  
5 operates in Texas, it operates on a presumptive renewal basis.

6 CHAIRMAN WALLACE: Ms. Rogoff, let me suggest one  
7 thing. I do not know a lot about competitive bidding because I  
8 am not much of an economist. I do know this. Congress has made  
9 an agreement that as soon as our predecessors are confirmed,  
10 that is what we are going to do.

11 Our successors -- I have no reason to think that  
12 anybody in Congress is going to back away from that. You may  
13 have given information to us that has gone down the memory hole.  
14 If that is the case, I apologize and you may not want to give us  
15 any more information on how we ought to set up competitive  
16 bidding.

17 I encourage you, I encourage PAG, I encourage anybody  
18 else that is interested to put together your own plan on  
19 competitive bidding. While we may never put it into effect, the  
20 law provides that our successors are going to be expected to do  
21 that.

22 If you do not trust us, I hope you are going to have a

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1 plan to show them. Sometime in the near future, we expect this  
2 program to be up and running.

3 MS. ROGOFF: Can I ask a question, Mr. Chairman?

4 CHAIRMAN WALLACE: Sure.

5 MS. ROGOFF: Has there been a report -- and you may  
6 have to defer to the president -- prepared about the private  
7 attorney clinics?

8 CHAIRMAN WALLACE: I will have to defer to the  
9 chairman because I do not know the answer to that. Maybe my  
10 predecessor knows the answer to that.

11 MS. ROGOFF: If it has been prepared, has it been  
12 released or will it be released?

13 CHAIRMAN WALLACE: I do not know the answer to that.  
14 Does the president know the answer to that?

15 MR. WEAR: Mr. Chairman, I am afraid I do not know,  
16 but I will find out.

17 CHAIRMAN WALLACE: We do not have our program  
18 development people here today. How we got into that on this  
19 budget, but this budget covers everything, I suppose.

20 MS. ROGOFF: I would ask that a copy of that be  
21 forwarded to the Program Advisory Group.

22 CHAIRMAN WALLACE: Your request is noted, but since I

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1 do not know what is there, I cannot give you an answer to it.  
2 The president notes it. I appreciate your interest.

3 MS. ROGOFF: Thank you very much.

4 CHAIRMAN WALLACE: Are there any other comments or  
5 debate from the board on the substitute motions?

6 (No response.)

7 CHAIRMAN WALLACE: All right. The substitute motion  
8 is to allocate \$1,780,059 from last year's carryover in  
9 corporate management and grant administration. That proposal  
10 would substitute for the proposal reported by the committee and  
11 summarized in Mr. Richardson's column B.

12 MR. MENDEZ: Mr. Chairman?

13 CHAIRMAN WALLACE: I recognize the proponent to  
14 demotion to make the last remarks in its favor.

15 MR. MENDEZ: Well, I do not think you quite said it  
16 completely because we are including some of the -- some funds  
17 included in that portion as the funds for the development of the  
18 client board member training.

19 CHAIRMAN WALLACE: Ms. Swafford?

20 MS. SWAFFORD: I am sorry. I am not the chairman of  
21 the Client Task Force and am not one to speak to that, but it  
22 seems to me that our actions yesterday would have some impact on

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1 this.

2 MR. UDDO: We are going to request the money.

3 MR. MENDEZ: All I am saying is I have not allocated  
4 any specific total -- under there for that.

5 MR. UDDO: We do intend to request appropriations.

6 MR. MENDEZ: Don't ask for the whole amount.

7 MR. UDDO: It won't be more than \$1.

8 CHAIRMAN WALLACE: All right. I think the motion has  
9 been stated. On Mr. Mendez' motion, Mr. Eaglin, how do you  
10 vote?

11 MR. EAGLIN: No.

12 CHAIRMAN WALLACE: Mr. Smegal?

13 MR. SMEGAL: No.

14 CHAIRMAN WALLACE: Mr. Uddo?

15 MR. UDDO: Yes.

16 CHAIRMAN WALLACE: Mr. Valois?

17 MR. VALOIS: Yes.

18 CHAIRMAN WALLACE: Mr. Mendez?

19 MR. MENDEZ: Yes.

20 CHAIRMAN WALLACE: The chair votes aye. Ms. Swafford?

21 MS. SWAFFORD: Aye.

22 CHAIRMAN WALLACE: Mr. Durant?

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1 MR. DURANT: Aye.

2 CHAIRMAN WALLACE: Mr. Hall?

3 MR. HALL: Aye.

4 CHAIRMAN WALLACE: Ms. Miller?

5 MS. MILLER: No.

6 CHAIRMAN WALLACE: Ms. Benavidez?

7 MS. BENAVIDEZ: No.

8 CHAIRMAN WALLACE: The substitute is carried by a vote  
9 of seven to four. The Mendez substitute becomes the main motion  
10 on the floor. It is subject to further amendment unless  
11 somebody corrects me.

12 Are there any proposals for further adjustment at this  
13 time?

14 MR. UDDO: Are you going to take the grant recovery  
15 money separate?

16 CHAIRMAN WALLACE: The \$985 is separate. He has not  
17 reported that yet. He is going to do that as soon as we get  
18 this off the table.

19 We are ready to vote on the committee report as  
20 amended, which means are you for the Mendez substitute or are  
21 you against it. I will take this on a voice vote unless anybody  
22 objects?

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1 All in favor say, Aye.

2 (A chorus of ayes.)

3 CHAIRMAN WALLACE: Opposed.

4 (Mr. Smegal, Mr. Eaglin, Ms. Miller, Ms. Benavidez)

5 CHAIRMAN WALLACE: The motion carries. I will  
6 recognize the chairman of the committee to make any further  
7 reports which he may have.

8 MR. MENDEZ: Mr. Chairman, our committee took up the  
9 issue of grant recoveries. I would invite everyone's attention  
10 to page 29 that indicates \$985,516 was in grant recoveries. This  
11 is subsequent to the commencement of this fiscal year.

12 The recommendation from the Audit and Appropriations  
13 Committee is that that \$985,516 be moved to Basic Field program.  
14 That is the essence of it.

15 CHAIRMAN WALLACE: That is the committee report to  
16 send it to Basic Field.

17 MR. MENDEZ: That is the report.

18 CHAIRMAN WALLACE: I will recognize Mr. Uddo.

19 MR. UDDO: I move that we table that proposal until we  
20 get the information that has been referred to with respect to  
21 corporation management and grant administration expenditures,  
22 personnel and non-personnel. I think Ms. Rogoff is right. We

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1 should see more of how the money is spent.

2 CHAIRMAN WALLACE: I will recognize you to make a  
3 motion to table which is non-debatable. Before I do that, I  
4 want to ask if anybody wants to debate it. (Laughter)

5 MR. DURANT: How is the money supposed to be allocated  
6 for the existing formula?

7 CHAIRMAN WALLACE: It depends on what the existing  
8 formula is. The committee report would send all of that to  
9 Basic Field. The staff has requested that it go into management  
10 and administration to cover some of the new expenses that we  
11 have been talking about.

12 MR. DURANT: In addition to this \$1.7?

13 CHAIRMAN WALLACE: In addition to the \$1.7.

14 MR. WEAR: Not all of it.

15 CHAIRMAN WALLACE: Well, I will recognize the  
16 president, then --

17 MR. WEAR: Mr. Chairman, we have got a non-debatable  
18 motion on the floor.

19 CHAIRMAN WALLACE: I have not recognized him to make  
20 the motion. I would like to get everybody's facts.

21 MR. MENDEZ: You did not recognize me when I talked.

22 CHAIRMAN WALLACE: You said you would like to make a

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1 motion. I am going to let you do it, Basile, but I want to make  
2 sure everybody understands the facts. I am not going to get any  
3 substitutes in here. You are going to get your table motion in.  
4 I want everybody to understand what the dispute is here.

5 Mr. President, do you want to tell us what you want to  
6 do with this money before we vote on it to table it.

7 MR. WEAR: Mr. Chairman, thank you very much.  
8 Directing the board's attention to page 29 at the bottom of the  
9 page in column 4, I recommend that the board transfer \$703,941  
10 of the grant recovery money, approximately \$985,000 into M&A.  
11 The remaining money would remain in the unallocated category.

12 The reason for that is this, as Mr. Richardson  
13 testified earlier, the corporation will incur approximately  
14 \$200,000 in additional pension and health insurance costs,  
15 \$100,000 in rent and \$300,000 for an IG, some client board  
16 member training costs.

17 The numbers that I have seen in the proposal from the  
18 client board task force has approximately \$48,000 in it as I  
19 recall. My numbers for the IG were a little higher than those  
20 of Mr. Richardson. I had estimated it at \$450,000 to \$500,000.

21 So, that is where that number came from. That is the  
22 recommendation. The reason we were putting that number in at

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1 this point rather than waiting is that we need to send a notice  
2 of reprogramming to the committee on the Hill. Rather than  
3 sending them two, I was going to send them one.

4 CHAIRMAN WALLACE: All right.

5 MR. MENDEZ: Mr. Chairman, I would agree with Mr.  
6 Uddo's --

7 CHAIRMAN WALLACE: I told him I was going to recognize  
8 him, Mr. Chairman.

9 MR. MENDEZ: Yes, but I want to make one comment  
10 before that. This is a request from everyone. If you have some  
11 specific item that you want to have listed in the budget or the  
12 allocation, some determination, please let me know. I will  
13 endeavor to have Mr. Richardson break it up specifically in  
14 those areas.

15 MR. UDDO: Let me tell you what I am thinking, Pepe,  
16 and maybe you can figure out what we need to see. The last  
17 vote, I think, made sense because I do not think there was a  
18 justification for a 20 percent cut in corporate management.

19 This is additional money more or less. I mean, again  
20 talking in round numbers, it is additional money. I think we  
21 have got to see where the money goes and see if some of it can  
22 be made up in gutting something or squeezing something or

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1 finding some other way to provide for these new expenses that  
2 are coming on line before we just chunk another \$700,000 into  
3 it.

4 So, whatever Mr. Wear thinks we need to see in terms  
5 of staffing levels, I would like to see things like salary  
6 ranges, benefit ranges. I would like to know the expenses that  
7 run in the offices themselves, office expenses, clerical  
8 expenses, the kinds of things you want to look at.

9 MR. DURANT: You want that over a period of time so  
10 you have go the comparative; don't you?

11 MR. UDDO: I do not want to burden them to go back too  
12 far, but as long as we have enough information to say that we do  
13 not see anyplace you can cut so you need \$700,000 more, that is  
14 the kind of information I want.

15 MR. MENDEZ: Okay. I would just point out one other  
16 thing. Even with the moving of the \$1.78 over, we have not come  
17 up to last year's budget.

18 MR. UDDO: But you are only off by -- what?--  
19 \$100,000?

20 MR. MENDEZ: Well, we are off by \$300,000.

21 MR. UDDO: I thought it was \$10.1 last year.

22 CHAIRMAN WALLACE: Ten-point-one is what we spent; it

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1 is not what we allocated.

2 MR. UDDO: So, we spent \$10.1.

3 MR. SMEGAL: So, we are beyond what we spent?

4 MR. MENDEZ: No, we are not.

5 MR. UDDO: No, we are right at \$10. This will put us  
6 at maybe just a touch over \$10.

7 MR. MENDEZ: No, we spent \$10.5, I think, last year.

8 MR. UDDO: I thought Dave said \$10.1.

9 MR. RICHARDSON: Ten-point-one. Ten-point-five was  
10 the budget.

11 CHAIRMAN WALLACE: Ten five is the average over four  
12 years. It was the budget. In fact, last year we overspent  
13 \$10.1.

14 MR. UDDO: So, we have appropriated right at --

15 CHAIRMAN WALLACE: Where we were last year.

16 MR. UDDO: -- where we were last year. So, I feel  
17 that now is the time to ask the questions about the additional.

18 CHAIRMAN WALLACE: I saw Mr. Valois' hand up. I will  
19 recognize him.

20 MR. VALOIS: I think Mr. Uddo has answered the  
21 question that I was asking, which was whether or not his, if he  
22 ever gets to it, motion to table was intended to exclude

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1 expenditure of the \$703,941 on M&A that Mr. Wear has said that  
2 he needs.

3 I think he has answered my question and that is that  
4 he does not have that intention. He just wants to figure out  
5 where we are going to spend it.

6 MR. UDDO: I think you have got to understand, the  
7 committee report right now is that the whole \$985 go to Basic  
8 Field. What we are tabling is a motion to put it to Basic Field  
9 to see if there is going to be any reconsideration of that  
10 motion. I am not prepared to decide until I see some of these  
11 figures.

12 CHAIRMAN WALLACE: Mr. Smegal, did you have anything  
13 further?

14 MR. SMEGAL: This has been the most unusual discussion  
15 I have ever been party to on a motion to table, Mr. Wallace.

16 (Simultaneous conversation.)

17 CHAIRMAN WALLACE: Ms. Swafford?

18 MS. SWAFFORD: Let me ask a question just about the  
19 logistics of this. In the event that the motion to table  
20 passes, could we have a voice vote without having another board  
21 meeting to decide on this. I mean, it is just so cumbersome to  
22 bring the board back and go through all this again.

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1 CHAIRMAN WALLACE: Ms. Swafford --

2 MS. SWAFFORD: Is there a plan to do it without  
3 another board meeting?

4 CHAIRMAN WALLACE: Our rules provide that we do things  
5 by mail, by phone, but it practically takes unanimous consent to  
6 do it. We have not had unanimous consent for anything since the  
7 last lobbying regulation was passed. You saw what happened to  
8 that.

9 So, it is going to be hard to do. I expect we are  
10 going to need future board meetings. I think that is part of  
11 the client training request is that we do meet around the  
12 country where clients can get to us.

13 We have some regulations that are already in the  
14 hopper. So, I think we are going to be getting together again.  
15 This might as well be on the table at that point.

16 MS. SWAFFORD: All right, so be it.

17 MR. UDDO: Plus I suspect there is going to be some  
18 discussion about it that would be hard to do over the phone.

19 MS. SWAFFORD: The other thing, you know, we keep  
20 talking about cutting down on expenses. Every time the board  
21 meets, that is quite an expense.

22 MR. UDDO: Well, that is one of the things we will see

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1 when we look at these figures.

2 MR. SMEGAL: Ms. Swafford, I think the Act requires us  
3 to meet four times a year, so maybe we can have another meeting  
4 someday.

5 CHAIRMAN WALLACE: All right. Now, I apologize for  
6 playing fast and loose, but since you would like to make a  
7 motion to table, Mr. Uddo --

8 MOTION

9 MR. UDDO: I move to table.

10 CHAIRMAN WALLACE: Is there a second?

11 MS. MILLER: I second it.

12 CHAIRMAN WALLACE: Moved and seconded that we table.

13 All in favor say, Aye.

14 (A chorus of ayes.)

15 CHAIRMAN WALLACE: Opposed?

16 (No response)

17 CHAIRMAN WALLACE: It is tabled. Does that complete  
18 your committee report, Mr. Mendez?

19 MR. MENDEZ: That completes the committee report.

20 CHAIRMAN WALLACE: I will now as the board's pleasure.  
21 We have -- and I may ask the staff on logistics -- we have no  
22 executive session planned today unless I am mistaken. I take it

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1 we have no lunch set up for the board.

2 We are on our own for lunch. We have two regulations  
3 and a task force report to work on. If I thought we were going  
4 to do that in another hour, I would suggest that we keep going.  
5 I think we are going to need to be here until 5:00 as planned.  
6 That may indicate that we probably ought to take some lunch.  
7 Mr. Smegal?

8 MR. SMEGAL: I have a different view, Mr. Wallace.  
9 Unfortunately, I have a commitment to be back in Florida with  
10 700 lawyers. I would like us to continue for another hour. I  
11 have now missed the plane that I was scheduled to be on.

12 If we continued another hour, there is another plane  
13 that I think I could catch. I am hopeful that these two items  
14 may be rather quickly disposed of, at least for this board  
15 meeting. If we do get to them, I have motions to make.

16 CHAIRMAN WALLACE: All right. Unless there is  
17 dissent, what I am going to ask that we do, because we could all  
18 use it, is to take a 10 minute recess. Don't get lunch; come  
19 back here. We will try to get moving as fast as we can.

20 Hearing no dissent, there is a 10 minute recess, a  
21 Wallace recess, not a Durant recess. Off the record.

22 (A short recess was taken.)

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1           CHAIRMAN WALLACE: Let's reconvene. The next item on  
2 the agenda is the report of the Operations and Regulations  
3 Committee. The first thing to take up is the Alien Regulation,  
4 part 1626 that has been deferred from previous board meetings.

5           The General Counsel is here. I think we have all been  
6 over this. It is a question of whether to adopt the committee  
7 report which says we cannot represent amnesty aliens for 18  
8 months or whether to go to the five year language which the  
9 General Counsel originally proposed.

10           After making my committee's report at 18, I am going  
11 to move that we go back to five years. That, I think, is going  
12 to be the main item in dispute. I am going to ask the General  
13 Counsel if he has got anything further to say.

14           Mr. Houseman has told me he has something further to  
15 say, but first I will recognize Mr. Smegal.

16           MR. SMEGAL: May I suggest that there is another  
17 alternative, Mr. Chairman. I believe the last time the subject  
18 was before the board, it was put over. One of the reasons, at  
19 least in my view, it was put over was because we had not yet had  
20 the benefit of Attorney General Thornburg's (phonetic) views on  
21 this matter through other implementation of regulations or, for  
22 that matter, the INS.

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1 I am not aware -- and I will ask Mr. Shea if he could  
2 enlighten me -- as to whether there has been any pronouncement  
3 by either of those two entities of our federal government that  
4 might help us in this deliberation.

5 MR. SHEA: Fundamentally, the status is now as it was  
6 the last time the board addressed this. That is, there is a  
7 draft regulation that has been prepared by INS. It is pending  
8 with the main Department of Justice.

9 The status of the Legal Services Corporation under  
10 that draft, as we have seen it, is that the five year  
11 disqualification applies.

12 MR. SMEGAL: That is the same draft that existed  
13 before we met in San Diego?

14 MR. SHEA: That is correct.

15 MR. SMEGAL: So, nothing is different?

16 MR. SHEA: The draft may have changed in text, but the  
17 substance still remains the same.

18 CHAIRMAN WALLACE: Let me ask the General Counsel, and  
19 make sure I understand the proceedings inside the Justice  
20 Department, I interpret what you say as meaning the INS has  
21 taken its last cut at the document.

22 They have considered that five years applies to us and

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1 they have shot it up to main Justice to get their approval. Is  
2 that right or wrong?

3 MR. SHEA: Yes, that is my understanding.

4 CHAIRMAN WALLACE: Mr. Houseman was shaking his head.  
5 I will let him answer that question when I recognize him in a  
6 minute.

7 MR. SMEGAL: Mr. Chairman, if I may understand and be  
8 clear on this, that is exactly the situation. The circumstances  
9 have not changed since San Diego. Is that your understanding?

10 CHAIRMAN WALLACE: That is my understanding.

11 MR. SMEGAL: So, nothing is different than it was when  
12 we met on stage in San Diego, is that right, other than the fact  
13 that two months have gone by?

14 CHAIRMAN WALLACE: That is my knowledge.

15 MR. SMEGAL: That is not correct.

16 CHAIRMAN WALLACE: We have got 11 board members here.

17 MR. MENDEZ: There is another thing too. In San Diego  
18 we did not have the material, all of the materials in front of  
19 us.

20 CHAIRMAN WALLACE: Mr. Shea, did you talk to the  
21 Justice Department? I gather you have been in contact with  
22 them. I realize that people don't like to be quoted on what

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1 they are saying. Is there anything you can report to the board  
2 on the Justice Department?

3 MR. SHEA: I can report that I have spoken with the  
4 INS attorney who is essentially shepherding the regulations  
5 through the process. My understanding is the status of LSC  
6 remains unchanged.

7 I am not aware that there is any sentiment to alter.  
8 As far as I know, the Attorney General has not taken any shots  
9 at this as yet, but there is no sentiment of change that I am  
10 aware of.

11 CHAIRMAN WALLACE: Is there any timetable from the  
12 Justice Department on when they might get around to approving  
13 and issuing a regulation?

14 MR. SHEA: To this matter? I think everyone would  
15 agree that the matter is long overdue, but I do not know that I  
16 predict when it will move.

17 CHAIRMAN WALLACE: That has not changed since San  
18 Diego either, has it?

19 MR. SHEA: It has not.

20 CHAIRMAN WALLACE: Mr. Mendez, do you have any  
21 questions?

22 MR. MENDEZ: Yes, I have a specific question and a

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1 specific clarification. I want to look at 1626.5(F), page 40.

2 MR. SMEGAL: Excuse me, Mr. Chairman. Before we get  
3 into the specifics, it seems to me that maybe the generalities  
4 should be dealt with. We were accepting hearsay this morning  
5 with respect to the committee that Mr. Mendez chairs, the Audit  
6 and Appropriations Committee. I would like to offer a little  
7 hearsay, if I may.

8 CHAIRMAN WALLACE: We'd love to hear it.

9 MR. SMEGAL: On my way to Raleigh last Thursday, I  
10 received a phone call as I was leaving the office and I was not  
11 able to spend the time getting the particulars.

12 My understanding from that call was that under ERCA  
13 there is an Inspector General. My understanding is it is a  
14 Lauren Sisken (phonetic) who, I think, this board at one point  
15 considered and interviewed for the presidency that Mr. Wear  
16 occupies.

17 My understanding from that conversation was that Mr.  
18 Sisken had met with Mr. Thornburg, the Attorney General, and  
19 that this matter, the way it was going to shake out was that  
20 Legal Service Corporation was not going to be included.

21 Mr. Chairman, it is strictly a conversation that I had  
22 with someone who is reporting on Sisken's conversation with the

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1 Attorney General.

2 CHAIRMAN WALLACE: Have you previously reported the  
3 conversation to the president of the General Counsel?

4 MR. SMEGAL: No.

5 CHAIRMAN WALLACE: All right. Mr. President, do you  
6 want to say something here?

7 MR. WEAR: Thank you, Mr. Chairman. In our contacts  
8 with the INS attorney and Mr. Virtue (Phonetic), he has  
9 indicated to us that the only thing that appears to be holding  
10 this reg up is some debate involving housing and urban  
11 development issues.

12 The application of this reg with regard to Legal  
13 Services and whether or not Legal Services falls within the  
14 definition that is up for debate has been settled.

15 MR. SMEGAL: Which way?

16 MR. WEAR: Along the way that this reg was initially  
17 proposed.

18 MR. SMEGAL: Mr. Houseman may have some other hearsay  
19 to add to Mr. Wear's and mine.

20 MR. HOUSEMAN: I will wait my turn.

21 MR. SMEGAL: No, I think I would like to hear from Mr.  
22 Houseman right now because I think it is a general statement

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1 rather than specifics. We are next going to get into specifics  
2 unless there is a motion that would relieve us of further  
3 discussion.

4 CHAIRMAN WALLACE: Does anybody else have anything  
5 general to say? I will ask Mr. Houseman to contribute his  
6 hearsay on this subject.

7 (No response.)

8 CHAIRMAN WALLACE: All right, go ahead, Mr. Houseman.  
9 What do you hear?

10 MR. HOUSEMAN: Well, two weeks ago, a number of  
11 hispanic leaders met with Attorney General Thornburg. He  
12 promised them at that meeting that he would take a look at this,  
13 that he had not made a decision.

14 In his view, it was very likely that LSC would not be  
15 included. That is the impression that he gave to those hispanic  
16 leaders, with whom I talked to two of them who were in that  
17 meeting.

18 I think we are not dealing with, except for saying  
19 where it is very clear, what the Attorney General is going to  
20 do.

21 CHAIRMAN WALLACE: Okay. Let me review the bidding.  
22 At this point, if I have not already, I place before the board

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1 the report of the committee I formally chaired on Part 1626. It  
2 is printed in your board book. It is before this board without  
3 the necessity for motion and second.

4 I have a motion that I will intend to make at some  
5 point to amend this procedure. I have a feeling we are going to  
6 get a motion to table it. Before we do that, I know that Mr.  
7 Mendez has a particular question he wants to ask. I am going to  
8 recognize him to ask that question that this time.

9 MR. MENDEZ: This is for the General Counsel. Page 40  
10 of the board book, 1626.5(F), here is the hypothetical I am  
11 going to give you. I want to see how you answer it.

12 I was contacted by the Legal Aid offices of Denver.  
13 They have a sort of hotline where people can call in and they  
14 give oral advice on the phone. They have had some computer  
15 experts.

16 They have done some research. The computer experts  
17 have worked with them. They now, as a result of the telephone  
18 call-ins, send out confirming letters as to what the advice was.

19 It is my understanding that they do not do any more  
20 than that. They just -- here is the advice that we give you on  
21 the phone and we are sending a confirming letter.

22 It is my understanding that brief advice and

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1 consultation by telephone does not include a continuous  
2 representation even though they send a written follow up saying  
3 this is what our advice was.

4 CHAIRMAN WALLACE: The question from General Counsel  
5 is, can you send a follow-up letter confirming the phone call  
6 consistent with this regulation?

7 MR. SHEA: I think you can unless the letter yourself  
8 would proffer some sort of continuous representation. Assuming  
9 it is not, I --

10 MR. MENDEZ: It is a letter just to confirm what has  
11 been --

12 MR. SHEA: I think it is permissible. It may well be  
13 prudent under the circumstances.

14 MR. MENDEZ: That is -- they have all sorts of advice  
15 from various groups that indicate that it is not only prudent,  
16 but most people do not really realize how it is being said on  
17 the phone, are nervous and that sort of thing. The letter is  
18 very helpful.

19 CHAIRMAN WALLACE: Mr. Smegal?

20 MR. SMEGAL: Here I am on one of those non-debatable  
21 motions to table that Mr. Uddo tried to suggest to us. I will  
22 make it now.

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1 MOTION

2 MR. SMEGAL: I move to table Part 1626.

3 CHAIRMAN WALLACE: You said the magic words. You move  
4 to table. Is there a second?

5 MR. EAGLIN: Second.

6 CHAIRMAN WALLACE: It has been seconded. It is non-  
7 debatable. At this point --

8 MR. UDDO: I want a debate. (Laughter)

9 CHAIRMAN WALLACE: You have to watch exactly how you  
10 say things. If you want to debate it, you can vote no. All  
11 right. Now, the motion is to table consideration of Part 1626.

12 Mr. Eaglin, how do you vote?

13 MR. EAGLIN: I vote to table.

14 CHAIRMAN WALLACE: Mr. Smegal?

15 MR. SMEGAL: Table.

16 CHAIRMAN WALLACE: Mr. Uddo?

17 MR. UDDO: I am abstaining right now.

18 CHAIRMAN WALLACE: Mr. Valois?

19 MR. VALOIS: I vote no.

20 CHAIRMAN WALLACE: Mr. Mendez?

21 MR. MENDEZ: No.

22 CHAIRMAN WALLACE: The chair votes no. Ms. Swafford?

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1 MS. SWAFFORD: No.

2 CHAIRMAN WALLACE: Mr. Durant?

3 MR. DURANT: No.

4 CHAIRMAN WALLACE: Mr. Hall?

5 MR. HALL: No.

6 CHAIRMAN WALLACE: Ms. Miller?

7 MS. MILLER: Yes.

8 CHAIRMAN WALLACE: Ms. Benavidez?

9 MS. BENAVIDEZ: Yes.

10 CHAIRMAN WALLACE: The motion to table fails by a vote  
11 of four to six. Part 1626 is still before the board. Does  
12 anyone have any debate?

13 MR. DURANT: Basile said he had a point

14 MR. UDDO: I wanted to discuss whether it was wise to  
15 table it or not. That has become mute now unless it comes up  
16 again.

17 CHAIRMAN WALLACE: All right.

18 MR. DURANT: Did you have anything on the marriage  
19 funds?

20 MR. UDDO: Yes. I think you have got some things that  
21 you are going to say.

22 CHAIRMAN WALLACE: Well, I am not going to say much.

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1 I am going to ask the General Counsel. We have heard this at  
2 two separate board meetings. We have gone over to hearsay about  
3 what Justice is likely to do. Have you got anything new to add  
4 to this?

5 MR. SHEA: No. My basic position is that we are  
6 perfectly capable of reading the Act on our own. I suppose if  
7 the Department of Justice does something unexpected, we could  
8 try to do it later. I think that is what the position of the  
9 Act plainly require.

10 MR. DURANT: What is your recommendation now?

11 MR. SHEA: That the regulation be adopted but that the  
12 provision that appears on page 30 of your board text, the fourth  
13 line down where it says 18 months, that that be amended to read  
14 5 years. That is, 18 months be stricken and 5 years be  
15 inserted. As so amended, the regulation be passed.

16 CHAIRMAN WALLACE: All right, I am going to make that  
17 motion in a minute. Mr. Houseman, I am going to recognize you  
18 at this point to make any further comments you may have. If you  
19 all can make a little room.

20 MR. HOUSEMAN: I can just do it from here.

21 CHAIRMAN WALLACE: All right. Go ahead.

22 MR. HOUSEMAN: First, I just want to urge you not--

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1 even though you have not tabled it -- urge you not to proceed  
2 today. In addition to the reasons that have been stated by Mr.  
3 Smegal, I do not think it is necessary to move now upon this.

4 Very few persons are affected by it at the moment. We  
5 are talking about maybe less than 1,000 potentially eligible  
6 clients at the very most. They are not going to be affected for  
7 another three or four months.

8 So, you have plenty of time to wait and see what the  
9 Department of Justice does before you move on this. At the  
10 moment, it is not illegal to represent those aliens who become  
11 temporary residents under the alien rider and the Legal Services  
12 Corporation Act.

13 It is not going to be illegal retroactively under this  
14 amendment. So, no one is being put into a position of the  
15 legality by your waiting to see what the Department of Justice  
16 does.

17 Finally, as I have urged and argued before, the  
18 statutory language is explicitly clear that only the Attorney  
19 General can decide what are programs of federal financial  
20 assistance under the particular section of the Act, not this  
21 corporation.

22 They do not have any authority under the Act to make

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1 that decision. So, I would urge you again, because I do not  
2 think we have any idea what the Attorney General is going to do,  
3 frankly, to postpone a final vote on this, the disqualification  
4 provision, until the Department of Justice has acted.

5 Now, I want to address two issues on the merits that  
6 have come up.

7 MR. UDDO: Can I interrupt you just a second? What  
8 about the situation of ongoing representation if the Justice  
9 Department does stand by its original regulation? What happens  
10 to those people who are in the process of being represented by  
11 Legal Services offices?

12 MR. HOUSEMAN: If there are any that are now being  
13 represented, which I do not know but if there are there are very  
14 few, it will very well depend on the status of that  
15 representation and what other private attorneys may be available  
16 to take over that representation.

17 If there is no other private attorney, if you could  
18 not withdraw under the withdrawal provisions of the state codes,  
19 that program would have an obligation to continue  
20 representation. It could use private funds to do so.

21 If it had no private funds, no other sources of  
22 funding, then I think it would be required to continue that

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1 representation until it was finished, that representation.

2 CHAIRMAN WALLACE: With federal funds?

3 MR. HOUSEMAN: With LSC funds.

4 CHAIRMAN WALLACE: You think that the ethical  
5 provisions embodied in the LSC Act would take precedence over  
6 the contrary provisions of ERCA in that instance?

7 MR. HOUSEMAN: Yes. I think that would be the way to  
8 read them together. Remember, most programs represent aliens  
9 with private funds not with LSC funds. So, I do not think we  
10 are talking about a situation here that is going to affect very  
11 many people.

12 I do not know how to estimate it. All the programs I  
13 know they use private funds or IOLTA funds for this type of  
14 representation and not LSC funds.

15 MR. SMEGAL: Isn't this .6 already, 1626.6,  
16 disposition of cases involving ongoing representation of  
17 ineligible aliens. That is what we are talking about.

18 MR. HOUSEMAN: Yes.

19 MR. SMEGAL: It is already here. It is already  
20 treated.

21 MR. DURANT: What page are you on?

22 MR. SMEGAL: 40-41.

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1 MR. HOUSEMAN: It has been in the reg since 1983.

2 MR. SMEGAL: Once you are an eligible, you are an  
3 eligible. You are covered by 6 here and you fall off. It is  
4 the process.

5 CHAIRMAN WALLACE: Well, what this says is you use  
6 private funds. I mean, I have not read it.

7 MR. SMEGAL: I think there are several things, but  
8 private funds are certainly one of those.

9 MR. HOUSEMAN: All that I am trying to address is I do  
10 not think delaying this until DoJ acts is going to cause a  
11 particular problem for anybody. It seems to me that wisdom  
12 suggests that you should delay it until we know exactly what the  
13 Attorney General is going to do.

14 Then this academic debate we are having about what  
15 they are going to do is going to be over with. I will not go  
16 through all the arguments. We make them in our comment, et  
17 cetera, et cetera.

18 I want to address two that have come up that we have  
19 never addressed and no one has explicitly addressed. First, is  
20 LSC a program of financial assistance furnished under the basis  
21 of financial need?

22 I do not think it is. Mr. Shea has argued, looking at

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1 our LSC Act which talks about financial assistance, that it is.  
2 The LSC Act is not financial assistance to poor people. It is  
3 financial assistance to programs, contractors and grantees.

4 It is not based on financial need as you know. I do  
5 not think this language applies to LSC. I do not think there  
6 has been any argument suggested that is persuasive that it  
7 applies to LSC.

8 Secondly, the issue has arisen in the context of the  
9 provisions in ERCA that explicitly permit representation of  
10 SAWS, RAWS and H2A workers. The argument is that because  
11 Congress explicitly permitted representation there, that -- and  
12 they did not explicitly permit it here -- somehow that means  
13 that for general amnesty aliens they meant to exclude them but  
14 meant to include RAWS, SAWS, and H2A workers.

15 Well, let's examine what happened and why it had to  
16 happen. The reason that SAWS, RAWS and H2A workers,  
17 particularly RAWS and H2A workers, had to be covered in ERCA  
18 explicitly is because if they were not covered in ERCA they  
19 would not be covered under the alien rider.

20 So, if they were going to be represented at all, they  
21 had to be covered in ERCA. Therefore, the Congress acted to  
22 make sure they were covered in ERCA. It was assumed that the

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1 people who became permanent aliens under the amnesty program  
2 under our rider would be represented.

3 The rider clearly provided that. The Congress had to  
4 act with regard to H2As and RAWs, both of which controversial  
5 issues held up the final passage of this bill in Congress. So,  
6 it seems to me that the easy way to explain this is to look at  
7 what actually happened and then understand that unless Congress  
8 acted explicitly with H2As and RAWs, they would not have been  
9 represented under our rider. That is why they did that.

10 Finally, you and others, Mr. Wallace and others, have  
11 suggested in previous dialogue with us that Congress made a  
12 deal. The deal was that amnesty aliens would be able to be  
13 citizens of this country, but they would be denied benefits.

14 Well, let's just take a look at what that deal really  
15 was. First of all, it did not deny most benefits to amnesty  
16 aliens. The only benefits that were denied explicitly were AFDC  
17 and some medicaid benefits.

18 All amnesty aliens are entitled to the following:  
19 SSI; including medicaid and medicare; social security benefits;  
20 school lunch; chow nutrition; vocational education; compensatory  
21 education; head start; job training partnership act; public  
22 health; Title XX including legal services because Legal Services

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1 is funded by Title XX; state benefits including state, general  
2 assistance benefits; and all housing assistance benefits.

3 The Housing Act that Congress passed last year  
4 explicitly provides that all housing assistance benefits are  
5 going to be -- that amnesty aliens are entitled to these. With  
6 regard to AFDC people, they are entitled to medicaid for  
7 emergency medical services and medicaid for pregnancy, post-  
8 natal, pre-natal pregnancy care which is the largest cost of the  
9 medicaid program for AFDC recipients that exists.

10 So, the deal was not you get denied certain benefits.  
11 The deal, and you had to express it correctly, was you get  
12 denied some benefits, but most of the benefits to which these  
13 aliens are entitled you get.

14 MR. MENDEZ: Mr. Houseman, was that a list in the law  
15 that you just read out?

16 MR. HOUSEMAN: Yes.

17 MR. MENDEZ: If it was a list in the law, why wasn't  
18 LSC --

19 MR. HOUSEMAN: Because there was never an assumption  
20 that LSC was denied by the provision that denied it.

21 MR. UDDO: How do you know that?

22 MR. VALOIS: Nor an assumption that they be included.

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1 MR. HOUSEMAN: No, because it was never viewed as a  
2 program of federal financial assistance.

3 MR. UDDO: I just want to know how you know that. I  
4 mean, I am not disputing that. I just want to know how you know  
5 that that is what they assumed.

6 MR. HOUSEMAN: Well, you cannot know it.

7 MR. UDDO: We have got to act on it.

8 MR. HOUSEMAN: First of all, nowhere in the  
9 legislative history is there ever a reference to legal services.  
10 The reference in the legislative history is to catalogue the  
11 domestic programs. LSC is not listed in that.

12 Throughout the entire debate there was never ever one  
13 word mentioned about Legal Services under the amnesty provision.  
14 Where Legal Services came up was an explicit discussion under  
15 the RAWs, the SAWS, the H2As when it had to be addressed in  
16 order for those people to be represented.

17 In that debate, both the committee and in the House  
18 floor there was never a suggestion that Legal Services was being  
19 denied amnesty aliens. I do not think there is any doubt about  
20 that to the degree of this paper. There is no doubt about it.

21 I have talked to a number of people, a couple of them  
22 Democrat on the committees, that considered this and they said

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1 there was never any discussion about amnesty aliens being denied  
2 legal services.

3 MR. UDDO: There was never any discussion or there was  
4 never any indication that they assumed that it would included  
5 LSC representation? These are two different things.

6 MR. HOUSEMAN: There was never a discussion that it  
7 would be excluded.

8 MR. UDDO: Never any discussion period.

9 MR. HOUSEMAN: There was no discussion period about  
10 that issue, but it came up to make it clear when H2As, RAWs and  
11 SAWS were discussed.

12 MR. UDDO: What does the legislative history say on  
13 those three things? We assume that they would be covered under  
14 the general provision --

15 MR. HOUSEMAN: No, it does not say that. What it  
16 discusses is the need to have RAWs, SAWS, and H2As covered. It  
17 does not discuss the general amnesty of the provisions at all.

18 MR. UDDO: So, in that debate, there was no reference  
19 to the general amnesty aliens eligibility for LSC?

20 MR. HOUSEMAN: No, there was a reference to our rider  
21 in that debate and what was excluded and what was included. So,  
22 in any case, it seems to me, to conclude, that the wisdom would

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1 be -- and I urge you -- to not rule on this disqualification  
2 issue until DoJ has acted.

3 It seems to me you of all people should not be denying  
4 legal assistance to potential aliens until you are forced to do  
5 so by somebody else.

6 CHAIRMAN WALLACE: Thank you, Mr. Houseman. Before  
7 Mr. Houseman sits down, are there any further questions from the  
8 board for Mr. Houseman?

9 (No response.)

10 CHAIRMAN WALLACE: Thank you. Any public comments?  
11 Yes, come forward and identify yourself, please.

12 MR. McALPIN: Mr. Chairman, my name is F. William  
13 McAlpin. It is my privilege to be here today representing the  
14 American Bar Association as a member of its standing committee  
15 on legal age and indigent defendants.

16 It is always interesting, I suppose, to revisit the  
17 scene of your crimes. I do so with some disconcerting feeling  
18 sitting at this side of the table as I am today. I had some  
19 preparation for this earlier this week when, for three and a  
20 half hours, I testified in a proceeding in a Circuit Court of  
21 St. Louis County, the question not always being friendly.

22 I survived that. However, fortified in my earlier

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1 perception, I would rather ask the questions than answer them.  
2 Nonetheless, I do appear here today. I will not trespass  
3 largely upon your time other than to say that it is the position  
4 of the American Bar Association, substantially in agreement with  
5 what Mr. Houseman said a moment ago, that it is inappropriate  
6 for this board to take a position on this matter at least  
7 pending the action of the Attorney General of the United States.

8 It is our view that the Congress committed the  
9 determination of this matter to the Attorney General in ERCA  
10 that various appropriate riders applicable to this organization,  
11 determine the eligibility of aliens under certain circumstances.  
12 Therefore, it is inappropriate for this board to intrude upon  
13 that legislative field at this time.

14 We have set out other positions due to the specifics  
15 of the regulation in a letter which went from Joanne Garvey, our  
16 chairman, to Mr. Shea under date of November 17. I will not  
17 further comment upon those matters other than to say that it is  
18 our firm position that it would be inappropriate for you to take  
19 any action on this regulation until after the Attorney General  
20 has acted.

21 Then, depending upon this action, to adjust the  
22 specific comments that we made with respect to the detail of

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1 your regulations. Thank you.

2 CHAIRMAN WALLACE: Thank you. I have got some  
3 questions, but first I will recognize Mr. Smegal.

4 MR. SMEGAL: A point of personal privilege; we may all  
5 know this, but the distinguished speaker we just had has a  
6 resume that extends for several pages of some of the things he  
7 has done in his professional life as a lawyer from St. Louis.

8 One of the more important things he has done is to be  
9 chairman of this board at a prior time. He sat at this table  
10 for several years. It is good to see you back, Bill.

11 MR. McALPIN: Thank you. I think maybe I will say I  
12 am glad to be back, although I may withdraw that after the next  
13 question.

14 CHAIRMAN WALLACE: Are there any other questions?

15 (No response.)

16 CHAIRMAN WALLACE: You say it is the position of the  
17 American Bar Association, how does the American Bar Association  
18 establish its positions on issues?

19 MR. McALPIN: The bylaws of the American Bar  
20 Association permit the president to state the position of the  
21 American Bar Association consistent with policies adopted by it.

22 The president has delegated to the Standing Committee

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1 on legal aid and indigent defendants the opportunity and  
2 privilege of stating the position of the American Bar  
3 Association.

4 I do that now in conformity with the letter which went  
5 forward in November with his approbation.

6 CHAIRMAN WALLACE: How does the committee formulate  
7 its position?

8 MR. McALPIN: By debate.

9 CHAIRMAN WALLACE: There have -- in a committee  
10 meeting?

11 MR. McALPIN: Yes, and the few I have ever attended,  
12 those committee meetings tend to be town hall meetings. We are  
13 heavily populated with people.

14 CHAIRMAN WALLACE: So, this issue has been before an  
15 open meeting of the SCLAG Committee; is that correct?

16 MR. McALPIN: That is correct. It was before the  
17 committee in San Diego two months ago.

18 CHAIRMAN WALLACE: Thank you. Any other questions?  
19 Ms. Swafford?

20 MS. SWAFFORD: I wanted to ask the size of the SCLAG  
21 Committee?

22 MR. McALPIN: There are nine members of the committee.

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1 MS. SWAFFORD: And then the whole American Bar  
2 Association accepts whatever comes out of that committee as the  
3 policy of the American Bar Association?

4 MR. McALPIN: The policy of the American Bar  
5 Association is determined by its House of Delegates which has  
6 about 475 members. In between meetings of the House of  
7 Delegates, under the bylaws of the association, the policy is  
8 determined by the Board of Governors of which there are 32 or 33  
9 members.

10 The SCLAG Committee does not establish the policy of  
11 the American Bar Association. It can only recommend, as your  
12 committees do here, to either of the policymaking bodies.

13 MR. SMEGAL: I might add, it's nine members are  
14 appointed by a series of presidents of the ABA. I believe they  
15 serve for three year terms that rotate such as this board is  
16 supposed to do.

17 CHAIRMAN WALLACE: Mr. Valois?

18 MR. VALOIS: If the SCLAG Committee consists of nine  
19 members, they do not make the policy for the ABA, Mr. McAlpin,  
20 do you think we could find nine ABA members who would take an  
21 opposite view from that of the SCLAG Committee on this subject?

22 MR. McALPIN: I suppose you could, but I think that

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1 may be irrelevant. We nine do not make the policy. Another  
2 nine do not make the policy. That responsibility is entrusted  
3 either to the House of Delegates or the Board of Governors as I  
4 have indicated. So, I think what we nine think and what some  
5 other nine may think is largely irrelevant.

6 CHAIRMAN WALLACE: I guess I am confused. I thought I  
7 understood that policymaking authority was delegated through the  
8 system. So, let me ask what I hope is a simple question. Is  
9 Ms. Garvey's letter to Mr. Shea the policy of your association  
10 or is it not?

11 MR. McALPIN: It is.

12 CHAIRMAN WALLACE: It is, but you do not make that  
13 policy?

14 MR. McALPIN: That is correct.

15 CHAIRMAN WALLACE: The House of Delegates makes that  
16 policy?

17 MR. McALPIN: Or the Board of Governors.

18 CHAIRMAN WALLACE: Have either the House of Delegates  
19 or the Board of Governors debated the issue which is before this  
20 board today?

21 MR. McALPIN: I believe that they have established  
22 policies which the president has determined this position is

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1 consistent with, yes.

2 CHAIRMAN WALLACE: All right, but they have not  
3 debated this regulation which we are considering?

4 MR. McALPIN: I do not know that they have. The  
5 president is the authorized spokesman of the policy and he has  
6 determined that this position is consistent with the policies of  
7 the association.

8 CHAIRMAN WALLACE: So, this is an interpretation of  
9 the ABA policy by properly delegated subdivision of the ABA?

10 MR. McALPIN: By a properly authorized representative  
11 of the ABA.

12 CHAIRMAN WALLACE: All right. I think I understand  
13 what you are talking about. It is sort of like us interpreting  
14 an act of Congress then.

15 MR. McALPIN: I suppose.

16 CHAIRMAN WALLACE: Okay, thank you. Anybody else have  
17 any questions?

18 (No response.)

19 CHAIRMAN WALLACE: Thank you for taking time to be  
20 with us today, Mr. McAlpin. I appreciate that.

21 MR. McALPIN: Thank you.

22 CHAIRMAN WALLACE: Are there any other public comments

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1 on this issue?

2 (No response.)

3 CHAIRMAN WALLACE: All right, hearing none I am going  
4 to move to amend the committee report as previously described by  
5 the General Counsel.

6 MOTION

7 CHAIRMAN WALLACE: If you will look at page 30 of your  
8 board book, I move to delete the words 18 months that appear in  
9 lines 4 and 5, and to substitute the words 5 years.

10 Let me ask the General Counsel, just to make sure,  
11 that is the only place that 18 months appears; is that right?

12 MR. SHEA: That is right.

13 CHAIRMAN WALLACE: All right. That is my motion to  
14 amend. Is there a second?

15 MR. UDDO: Second.

16 CHAIRMAN WALLACE: All right. It has been moved and  
17 seconded. It is available for debate at this time. Mr. Uddo?

18 MR. UDDO: I would like to ask General Counsel a  
19 question, not specifically on that but it relates to that. Tim,  
20 what do you think about Mr. Houseman's statement that the  
21 mention of LSC in respect to RAWs, and SAWS and whatever was  
22 necessitated by our appropriation rider and that is why Congress

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1 mentioned LSC in those provisions and did not feel bound to  
2 mention them in the general provisions of the statute?

3 MR. SHEA: I think that is two questions. First of  
4 all, the appropriation rider does not mandate the provisions of  
5 legal services for anybody. It has some prohibitions that says  
6 you cannot provide legal services to temporary resident aliens.

7 So, it does not mandate that everybody else must  
8 receive legal services. It presumes that if some other  
9 provision of law would otherwise prevent provision of legal  
10 services to those people, it would not contravene our  
11 appropriation act.

12 Number two, the argument that somehow it was necessary  
13 to mention legal services in treatment of RAWs is again  
14 something I have discussed in my memo. From our San Diego board  
15 meeting, this -- I just do not know how to square that with the  
16 language of ERCA.

17 As I cite in my memo, there is a provision -- I do not  
18 know what the general cite is -- disqualification for certain  
19 public assistance under what I think is Section 210(a) -- let me  
20 read the substantive provision I cited in my memo.

21 It says, "the provision of Section 245(A) of ERCA"--  
22 and I am deleting something -- "shall apply to an alien who has

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1 obtained the status of an alien lawfully admitted for temporary  
2 residence under this section during the five year period on the  
3 date the alien obtained such status in the same manner as they  
4 apply to an alien granted lawful temporary residence under  
5 Section 245(a)."

6 Now, if it were true that those people who were aliens  
7 granted local temporary residence were otherwise eligible or  
8 they had otherwise available, then there would be no need to say  
9 anything further.

10 However, this provision goes on to say, "except that  
11 for purposes of this paragraph, assistance furnished under Legal  
12 Services Corporation Act or under Title V of the Housing Act,  
13 shall not be construed to be financial assistance described in  
14 245(a) which is the provision dealing with financial  
15 assistance."

16 That would be entirely superfluous if the proposal,  
17 that is that legal services would be available to a permanent  
18 residence under ERCA would read out that provision entirely and  
19 make that superfluous.

20 I just do not -- the only way to read this -- I have  
21 argued pretty straightforward that the standard statutory  
22 construction would require plus define that this provision

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1 should not be read out. Therefore, the drafters must have had a  
2 mind that LSC was within the purview of the 5 year prohibition.

3 CHAIRMAN WALLACE: Any other questions?

4 (No response.)

5 CHAIRMAN WALLACE: I have got a couple of things to  
6 say in support of my own amendment. Let me go ahead and say  
7 those now. I do want to say that I do not think we ought to put  
8 this off any longer.

9 I think we know as much now as we are ever going to  
10 know of our devices as to what the law means. If this board  
11 thinks it does not want to act until Justice acts, let's vote  
12 this thing down and wait.

13 I do not think it needs to be coming up to us every  
14 month. I think we ought to put it to bed one way or the other  
15 right here. I do not think that we ought to wait for Justice.  
16 There may not be many people out there that are affected by this  
17 right now.

18 There may not be many people in the future that will  
19 be affected by it. I do not know how many there are and I do  
20 not know how long it is going to take Justice to act. None of  
21 the hearsay that we have heard in the last three months gives me  
22 any comfort that Justice is anywhere close to reaching a

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1 decision on this issue.

2 Our recipients have to deal with it, and I think they  
3 have to know what we think the law is. I think we have an  
4 obligation to tell that to them. What we are faced with is how  
5 to apply to this corporation an act that makes no explicit  
6 reference to this corporation.

7 So far as I know, nobody has indicated to me on the  
8 contrary, there is nothing in the legislative history to  
9 indicate that anybody in Congress ever thought about this  
10 corporation, specifically when it was passing this law.

11 What Congress did was to set up a general class of  
12 programs which amnesty aliens would not be entitled to us. That  
13 general class of programs is programs of federal financial  
14 assistance based on financial need.

15 If that is not word for word, that is pretty close.  
16 So, the question is, given that Congress did not think about it,  
17 given that we have got a program to run, do we or do we not  
18 think that we are a program of federal financial assistance  
19 based upon financial need.

20 The General Counsel has told us that he thinks we are.  
21 I tend to agree with that. That is why I intend to vote for my  
22 own amendment. It seems to me beside the point to argue the

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1 technicalities of our peculiar constitutional status.

2 In all the hearings I have ever seen on legal  
3 services, I have never heard anybody say what Mr. Houseman said  
4 today, which may be technically true. This is not a program of  
5 financial assistance for poor people and it is not based on  
6 financial need.

7 To the contrary, everybody says this is a program to  
8 help poor people and it is based on their needs. I think that  
9 is what we have. I think any congressman who did think about  
10 this would say this is right at the heart of federal financial  
11 assistance based on financial needs.

12 I want to tell you a story and I will leave it  
13 anonymous. I met with a couple members of Congress recently.  
14 We talked about peculiar constitutional status of this pseudo  
15 independent, pseudo private corporation that we run at the  
16 federal taxpayer expense.

17 I told them that the president could not fire us.  
18 They could not impeach us. It is not a federal crime to steal  
19 our money. One of the members literally jumped out of the  
20 chair.

21 He could not believe it. This is a strange  
22 organization. Most congressmen do not understand why this was

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1 set up as it is. I would not either if I had not read Mr.  
2 Houseman's book.

3 To suggest that Congress does not consider this outfit  
4 to be a program of federal financial assistance seems to me to  
5 stretch legalism to the point of breaking. I believe that is  
6 exactly what we are.

7 I believe that is why we are here. I believe the  
8 statutory language, as the General Counsel has told us, excludes  
9 us from providing assistance to aliens. That is all we are  
10 doing is interpreting a statutory phrase today.

11 We are not deciding whether we would have voted for  
12 that statutory phrase in the first place. I know my predecessor  
13 as chairman well enough to know that there is no way in this  
14 world he would have voted to make it harder for people to come  
15 into this country or harder for them to get established once  
16 they are here.

17 I am sure there are other people on this board who  
18 feel that way. I may not be as consistently liberal as Mr.  
19 Durant on these things, but I tend to agree with that position.  
20 That is not what is before us.

21 It is not a question of whether we are mean spirited  
22 or liberally spirited or some other spirited. It is a simple

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1 question of what this program of federal financial assistance  
2 based on financial need means.

3 I think it means that we are covered. Our General  
4 Counsel thinks it means that we are covered. A vote for my  
5 amendment says that we think we are covered. That is all we are  
6 talking about. That is all my amendment means.

7 Mr. Smegal?

8 MR. SMEGAL: Thank you, Mr. Chairman. I think--  
9 first I have to agree with you, Mr. Wallace. I think you are  
10 absolutely right in that this particular legislation involved no  
11 actual thought as to this program. I could not agree with you  
12 more.

13 I think what they did is very informative to us. They  
14 even said that to us. They said we are not sure what we missed.  
15 We are not sure what we have overlooked. We got a catch all in  
16 here.

17 The way we are going to handle that is we are going to  
18 leave that to the Attorney General to fill those voids, to  
19 correct any oversight we had on this particular piece of  
20 legislation.

21 That is there. We see that and we have that to guide  
22 us by. There was no actual thought to this program. There was

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1 a thought to programs that they overlooked. That thought is the  
2 Attorney General will correct it.

3 The Attorney General will take care of those  
4 oversights. It seems to me that the road map is very clear as  
5 to what we should do. That, as I suggested earlier and you put  
6 it so much more eloquently, is to vote this matter down.

7 CHAIRMAN WALLACE: Mr. Uddo, go ahead.

8 MR. UDDO: I am going to disagree with both of you. I  
9 do think Congress knew what they did. I do not believe Congress  
10 writes a statute and mentions LSC in two or three parts of it  
11 and not in another part of it, and they did not consider LSC.

12 I think they did consider LSC. I think they had a  
13 list of accepted programs and agencies and did not include LSC.  
14 So, I tend to think that Mr. Shea has done a good job of  
15 statutory interpretation, and I think he is right.

16 I would then have to say I think it is a dumb move on  
17 Congress' part. I think if it was a legislative compromise or  
18 whatever it was, it was a dumb move. I think the one program  
19 that amnesty aliens should clearly have access to is LSC.

20 To me it seems very basic. I am afraid we are in a  
21 position where, at least I think, the statutory language is  
22 pretty clear. I do not think we have got much choice on this

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1 one.

2 I tell you now, Mike, if I had to vote on it I would  
3 not have voted on it the way, apparently, Congress did. Alan,  
4 what you said concerns me because to say that we are not a  
5 program for financial assistance based on financial need, to me,  
6 is to destroy the whole history of LSC in an attempt to try to  
7 defeat this regulation.

8 I think that is ill-advised. I think the support that  
9 LSC has and that the grantees have is because it is viewed as  
10 exactly that, financial assistance based on financial need. I  
11 think it would be undercutting the whole justification of LSC if  
12 we were now to argue that we are not that.

13 We are really not that. We are just giving money to  
14 grantees and they are the ones who will be giving the financial  
15 assistance based on financial need. I think you would open up a  
16 real can of worms if you got people thinking in terms of this  
17 not being that kind of a program.

18 I would not want to endorse that kind of thinking at  
19 this point. The reason I think we have got to act now is  
20 because I think, at least the way I have read the statutory  
21 language and the materials that have been presented to us, it is  
22 pretty clear to me that the Attorney General is going to exclude

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1 LSC.

2           When he does, I think what has gone on between now and  
3 that time is going to be important. If we are acting as though  
4 there is not going to be an exclusion, there is going to be an  
5 established pattern of representation.

6           I think these folks are going to become dependent on  
7 our grantees thinking they are going to be there to help them.  
8 I think rather suddenly there may be a change and a shift in  
9 that.

10           I think we are stuck with a situation where the better  
11 part of wisdom is to start finding alternative ways to make sure  
12 these people get representation, whether it is pro bono projects  
13 or other alternative forms of representation.

14           I think the Legal Services world has got to start  
15 developing those alternatives now, because I am convinced that  
16 the Attorney General is going to say they cannot be represented  
17 by LSC.

18           We do them a disservice to pretend that the language  
19 is not as clear as it is and put off developing the alternatives  
20 that really ought to be where we start developing the  
21 representation for these folks who I think are in an unfortunate  
22 predicament here.

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1 CHAIRMAN WALLACE: Mr. Mendez has not spoken lately.

2 MR. MENDEZ: I tend to agree with Basile. I would  
3 also say this, if the Attorney General does not act as we think  
4 he is going to, I will be the first one to be bringing it back  
5 up to re-examine it.

6 CHAIRMAN WALLACE: You will have to get in line ahead  
7 of me. I think that if the Attorney General says we are wrong,  
8 and that is the way I read the statute, he wins. We have got a  
9 program to run until he acts.

10 He has not acted and I do not know when he is going to  
11 act. When he acts, I will play his ballgame. Mr. Smegal?

12 MR. SMEGAL: Well, as we have already pointed out with  
13 respect to a concern about representing unauthorized illegal  
14 aliens, we already have 1626.6. I think, Basile, there is a  
15 more salient point to what Mr. Houseman was saying.

16 I think we all agree this program is set up on the  
17 bedrock of our recipient's clients are there because of a  
18 financial need. They are not given financial assistance as a  
19 result of that need; they are given legal assistance.

20 I think there is a significant difference between  
21 those two. It is one thing to hand somebody some money. It is  
22 another to give them the opportunity for equal justice under our

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1 system of law.

2 That is what we are doing here. We are not giving  
3 them financial assistance. We are allowing them the opportunity  
4 to have legal assistance. That is perfectly clear through all  
5 this; clearly a distinction from what ERCA provides for it. All  
6 the other programs offer financial assistance.

7 CHAIRMAN WALLACE: Mr. Uddo?

8 MR. UDDO: Tom, I would agree with you except that  
9 financial assistance is funded by federal funds and taxpayer  
10 money. The way you convince taxpayers to continue to do that is  
11 to say your money is going for a very important purpose; to  
12 provide financial assistance for people who cannot afford it  
13 otherwise.

14 So, directly they are getting legal services, legal  
15 assistance. It is being paid for by federal funds and  
16 therefore, I think you have to make a real leap there to say  
17 that that is not federal financial assistance one step removed.

18 I think that is how people support this program. They  
19 are willing to pay taxpayer money to provide those legal  
20 services. I still think it is a menacing step to take to tell  
21 people that Legal Services is not a program that is providing  
22 financial assistance based on financial need.

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1 MR. SMEGAL: Let me just offer, and I do not want to  
2 prolong this, I really think there is a difference, Basile.  
3 There is 100,000 lawyers in the country as President Bob Raven  
4 (phonetic) of the ABA would say who provide pro bono legal  
5 services, legal assistance to the poor or whoever.

6 For you to suggest to them that they are providing  
7 financial assistance is just totally inaccurate. They are  
8 providing legal assistance which is different than financial  
9 assistance.

10 They are not writing a check, giving them a box of  
11 groceries. They are providing them an opportunity to avail  
12 themselves of our legal system. That is not financial  
13 assistance. That is the distinction.

14 This is not a welfare program that we are -- charges  
15 administering. This is a different kind of program. Some of  
16 the material Mr. Shea sent to me included a quote from President  
17 Nixon when he signed the bill.

18 We are not talking about financial assistance here.  
19 We are talking about a basic right under our Constitution that  
20 have access to our judicial system not financial assistance. I  
21 am not here because I think this is a financial program.

22 MR. UDDO: I agree with you. I am not disagreeing

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1 with you. If there is not some support for the funding that  
2 makes that possible, then the provision of those legal services  
3 can be done by pro bono projects and private attorneys.

4 There is a different system here. We are putting up  
5 money to provide those financial services -- those legal  
6 services, as well we should. I do not think there is anything  
7 wrong with that.

8 That is how this project, this program is justified.  
9 I think we are foolish if we do not realize that you have to  
10 maintain confidence that this is a worthwhile undertaking. I  
11 think you do it because those legal services are essential based  
12 on need.

13 MR. HOUSEMAN: Could I just clarify myself for one  
14 second? I do not disagree with what you have said. What I said  
15 was that under statute that this legal services was not a  
16 program of financial assistance furnished under federal law  
17 whether to grant loan guarantee or otherwise.

18 It was based on financial need. It was interpreted  
19 solely that statutory provision which, if you look at it, only  
20 makes reference to three programs, AFDC, medicaid and the food  
21 stamp act.

22 I suggest there is a difference between -- in terms of

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1 what is included -- those three programs and us. That is the  
2 argument I was giving.

3 MR. UDDO: I got the impression that you were saying  
4 we are not that kind of program because we really provide the  
5 money to grantees not based on financial --

6 MR. HOUSEMAN: I was addressing there an argument Mr.  
7 Shea had made when he looked at our statute which has the term  
8 financial assistance. I was pointing out in our statute the  
9 term financial assistance did not address poor people, it  
10 addressed programs. That is all.

11 MR. UDDO: I misunderstood you.

12 MR. HOUSEMAN: It was a quick response that deserved  
13 more elaboration. I just wanted to put in the record --

14 MR. UDDO: I understand you.

15 MR. SMEGAL: One further thing. If I may, I have got  
16 the congressional record for June 16, 1981. I have got a quote  
17 in here that I would like -- this was what President Nixon said  
18 in 1973 when he signed the act that created this Legal Services  
19 Corporation. I am, unfortunately, limited to the quote that is  
20 here if it is incomplete.

21 "Legal assistance for the poor is one of the most  
22 constructive ways to help them help themselves. That justice is

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1 served far better and differences are settled more rationally  
2 within the system" -- I think that is the legal system he is  
3 referring to -- "than on the streets."

4 That then was the time to make legal services an  
5 integral part of our judicial system. It has nothing to do with  
6 financial assistance.

7 CHAIRMAN WALLACE: Any further debate on the  
8 amendment?

9 (No response.)

10 CHAIRMAN WALLACE: At this point then, we will proceed  
11 to vote. The amendment is to substitute -- is to strike the  
12 words 18 months and to insert the words 5 years. We will begin,  
13 as we did before, with Mr. Eaglin. Mr. Eaglin?

14 MR. EAGLIN: No.

15 CHAIRMAN WALLACE: Mr. Smegal?

16 MR. SMEGAL: No.

17 CHAIRMAN WALLACE: Mr. Uddo?

18 MR. UDDO: Yes.

19 CHAIRMAN WALLACE: Mr. Valois?

20 MR. VALOIS: Yes.

21 CHAIRMAN WALLACE: Mr. Mendez?

22 MR. MENDEZ: Yes.

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1 CHAIRMAN WALLACE: The chair votes yes. Ms. Swafford?

2 MS. SWAFFORD: Yes.

3 CHAIRMAN WALLACE: Mr. Durant?

4 MR. DURANT: Yes.

5 CHAIRMAN WALLACE: Mr. Hall?

6 MR. HALL: No.

7 CHAIRMAN WALLACE: Ms. Miller?

8 MS. MILLER: No.

9 CHAIRMAN WALLACE: Ms. Benavidez?

10 MS. BENAVIDEZ: No.

11 CHAIRMAN WALLACE: The amendment is adopted by a vote  
12 of six to five. The committee report has amended and is now  
13 before the board. Are there any further amendments or any  
14 further debate?

15 (No response.)

16 CHAIRMAN WALLACE: All right. At this point we will  
17 vote on the committee report as amended. Mr. Eaglin, how do you  
18 vote?

19 MR. EAGLIN: I vote no.

20 CHAIRMAN WALLACE: Mr. Smegal?

21 MR. SMEGAL: No.

22 CHAIRMAN WALLACE: Mr. Uddo?

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1 MR. UDDO: Yes.

2 CHAIRMAN WALLACE: Mr. Valois?

3 MR. VALOIS: Yes.

4 CHAIRMAN WALLACE: Mr. Mendez?

5 MR. MENDEZ: Yes.

6 CHAIRMAN WALLACE: The chair votes aye. Ms. Swafford?

7 MS. SWAFFORD: Yes.

8 CHAIRMAN WALLACE: Mr. Durant?

9 MR. DURANT: Aye.

10 CHAIRMAN WALLACE: Mr. Hall?

11 MR. HALL: Aye.

12 CHAIRMAN WALLACE: Ms. Miller?

13 MS. MILLER: No.

14 CHAIRMAN WALLACE: Ms. Benavidez?

15 MS. BENAVIDEZ: No.

16 CHAIRMAN WALLACE: The committee report is adopted by  
17 a vote of six to five. I thank the General Counsel and ask him  
18 to stay right where he is because there is another committee  
19 report to be heard.

20 I did not get my ten minute break an hour ago, so what  
21 I am going to do is recognize my successor as committee chairman  
22 to present the committee report on 1609. I will turn the gavel

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1 over to Ms. Swafford to settle any disputes while they are  
2 talking. I will be back in a couple of minutes.

3 MR. SMEGAL: Mr. Wallace, may I make a motion? I am  
4 going to leave whether this motion passes or not, but I would at  
5 least like to put this motion on the table and hopefully I can  
6 have a second to discuss it.

7 MOTION

8 MR. SMEGAL: I move we send this matter back to  
9 committee, and the matter I refer to is Part 1609. If that is  
10 seconded, I will speak briefly to it.

11 MR. UDDO: I will second it.

12 CHAIRMAN WALLACE: It has been moved to recommit by  
13 Mr. Smegal and it is seconded by Mr. Uddo. I think that is  
14 debatable; proceed, Mr. Smegal.

15 MR. SMEGAL: Thank you very much, Mr. Chairman. We  
16 have before us a matter that first appeared in the federal  
17 register 31 days before a committee of five of us met in  
18 Raleigh, North Carolina last Friday.

19 At that point, we spent considerable time among the  
20 five of us -- six board members were not present. I have been  
21 handed this morning a document dated January 27 from our General  
22 Counsel which proposes substantial changes in what was published

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1 in the federal register and in what I had the opportunity to  
2 review both before and during our meeting in Raleigh last  
3 Friday.

4 I have also been handed documents that reflect on Mr.  
5 Houseman's effort in the middle of the night to try to respond  
6 to that document. In addition to that, I believe on the table  
7 over to the right of Mr. Shea we have another set of responses  
8 to the original publication of this regulation.

9 I suggest to you that this matter before us today is  
10 not what the committee considered last Friday. It is so  
11 significantly different that I believe it would be prudent for  
12 this board, particularly under the circumstances of having only  
13 given a minimum period of time in which to respond --

14 In fact, several of our respondees pointed out that  
15 the problem they were faced with is they had a regulation in  
16 which they had to respond over two holidays. The response we  
17 got in spite of the limited time period was essentially totally  
18 negative.

19 It seems to me that the only prudent act for this  
20 board at this time would be to send this back to the committee.  
21 I for one would look forward to the opportunity to go back to  
22 Raleigh, North Carolina to the home of the chair.

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1           In any event, that personal view aside, it seems to me  
2 that under these circumstances, we have got so much material to  
3 study that we should have a little more time. There is no rush  
4 to judgment here.

5           We have given those who are concerned about this an  
6 absolute minimum period of time to respond.

7           CHAIRMAN WALLACE: Before I recognize the committee  
8 chairman, let me recognize Mr. Uddo who seconded the motion to  
9 recommit.

10          MR. UDDO: I support everything Tom said. IN addition  
11 to it, I have not heard the purpose for this yet. There is a  
12 lot more information than I think we need. I do not think it is  
13 the kind of thing we should rush and vote on.

14          I mean, I think if there is a reason for doing this,  
15 it has not been fully explored yet. I mean, there is an awful  
16 lot of specific information that I do not have. For example,  
17 what are we talking about in terms of dollars?

18          Which programs? How many programs? I have seen some  
19 figures from last year. Are those aberrational figures or is  
20 there a pattern of certain projects having significant  
21 additional funding because of these attorney's fees.

22          I think it is one of those kinds of things, as Tom

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1 said, that has come up very quickly. It has moved very quickly.  
2 I do not see any reason in the world why we should not take a  
3 little more time to get more information and make sure that what  
4 we are doing makes sense.

5 CHAIRMAN WALLACE: I will recognize the committee  
6 chairman.

7 MR. VALOIS: I am pleased to do whatever the board's  
8 pleasure is on the matter. However, I do not really think it is  
9 necessary to recommit it. I understand, in fact I received Mr.  
10 Houseman's comment at about 11:00 this morning and have tried to  
11 skim it over.

12 I have also received, of course, the draft which  
13 occurred after the committee meeting. There were certain  
14 changes made at the committee and certain changes made as a  
15 result of the suggestions and criticisms at the committee.

16 At the conclusion of the committee, Mr. Chairman, I  
17 asked that Mr. Houseman and Mr. Shea get together to try to work  
18 out some differences or talk about it at least. It appears to  
19 me as though the principle concerns have been addressed and the  
20 amended regulation, which is dated January 27 --

21 The early revisions are the 27th. I am sorry that Mr.  
22 Smegal has to leave. I will do what the board pleases. We can

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1 either further discuss the matter with Mr. Shea and Mr. Houseman  
2 or whatever you prefer. I intend to vote against the  
3 postponement or recommission.

4 CHAIRMAN WALLACE: The only thing to discuss at this  
5 point is matters that would be pertinent to motion to recommit.  
6 I would think we would address the merits only insofar as to  
7 determine whether we need to recommit them. I would not want to  
8 beat the merits to death at this point.

9 MR. VALOIS: I understand that. My point, Mr.  
10 Chairman, was that the principle reason that Mr. Smegal has  
11 asked for this to be postponed was that we could not consider  
12 it.

13 I suggest to you that all the folks who can engage in  
14 that debate are present in the room. We can satisfy ourselves  
15 as to it today.

16 MR. UDDO: You do not have all the information that I  
17 want.

18 MR. VALOIS: I do not know everything you want, but  
19 some of it is available.

20 MR. DURANT: What information is it?

21 MR. UDDO: I would like to see several years of the  
22 figures that I saw for '88 with respect to whether there is a

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1 pattern or it is an abortional one or two cases that produced  
2 big attorney's fees. Most of them are not that much to start  
3 with. I do not know if it is worth the effort to fool with.

4 Secondly, I would like some more general discussion  
5 about why we are doing it. I am not so sure it is consistent  
6 with what this board's philosophy has been to start taking away  
7 the leveraging of federal funds, which might be what is really  
8 going on here instead of something else.

9 If it is something else, I would like to know. I am  
10 just not at all prepared to vote on this. It has not been around  
11 that long that I think we have got to do it today.

12 CHAIRMAN WALLACE: Any other questions? Any other  
13 debate on the motion to recommit?

14 (No response.)

15 CHAIRMAN WALLACE: All right. Well, then the question  
16 recurs on the motion to recommit Part 1609, Mr. Valois'  
17 committee for further consideration. Mr. Eaglin?

18 MR. EAGLIN: I vote yes to recommit.

19 CHAIRMAN WALLACE: Mr. Smegal?

20 MR. SMEGAL: Yes.

21 CHAIRMAN WALLACE: Mr. Uddo?

22 MR. UDDO: Yes.

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1 CHAIRMAN WALLACE: Mr. Valois?

2 MR. VALOIS: No.

3 CHAIRMAN WALLACE: Mr. Mendez?

4 MR. MENDEZ: No.

5 CHAIRMAN WALLACE: The chair votes no. Ms. Swafford?

6 MS. SWAFFORD: No.

7 CHAIRMAN WALLACE: Mr. Durant?

8 MR. DURANT: No.

9 CHAIRMAN WALLACE: Mr. Hall?

10 MR. HALL: No.

11 CHAIRMAN WALLACE: Ms. Miller?

12 MS. MILLER: Yes.

13 CHAIRMAN WALLACE: Ms. Benavidez?

14 MS. BENAVIDEZ: Yes, sir.

15 CHAIRMAN WALLACE: The motion to recommit is defeated  
16 by a vote of six to five. At this point I will recognize the  
17 chairman of the committee to present his committee's report. I  
18 am sure the General Counsel will help in that. I will turn the  
19 gavel over to the vice chairman.

20 REPORT ON 1609 FEE GENERATING CASES

21 MR. VALOIS: I think I have given about half of it  
22 already. The committee met in Raleigh, as Mr. Smegal said, on

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1 January 20. We heard testimony principally from Mr. Houseman  
2 but from some attorneys of my town and state as well.

3 The revision to 1609 which emerged from changes made  
4 that day are contained in two places in the documents before  
5 you; one attached to a memorandum from Mr. Shea to you dated  
6 January 23.

7 Thereafter, you received, dated January 27, a  
8 memorandum from Mr. Shea containing further revisions. Those  
9 revisions were as a result of some changes that I and other  
10 members of this board asked Mr. Shea to make as well as--  
11 hopefully, these constitute some compromises as a result of  
12 either a discussion with Mr. Houseman, meeting with Mr.  
13 Houseman, or Mr. Houseman's comments.

14 My report, Mr. Chairman, would have to be the January  
15 23, 1989 revision.

16 MOTION

17 MR. VALOIS: However, for the purpose of advancing the  
18 debate, I would move the board to adopt the Section 1609 on Fee  
19 Generating Cases as contained in the revision which you received  
20 under the date of the memo of January 27, 1989.

21 For the purposes of discussion --

22 MR. MENDEZ: For purposes of discussion only, I will

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1 second it. Let me just explain. I wanted to have debate on  
2 this today. I am not sure how far I am willing to go today, but  
3 I wanted to at least engage in some debate and see what it was--

4 Mr. Uddo and Mr. Smegal have made some persuasive  
5 arguments, but I want to see where we're at in that aspect. I  
6 didn't want to have it tabled without some discussion.

7 Mr. Shea, if you would give us a summary of the  
8 differences between the first revised 1609 under the memorandum  
9 of January 23, and tell the board what changes you have made,  
10 which are incorporated in the one under the memo of January  
11 27th?

12 MR. SHEA: I would like to make a reference, if I can,  
13 on the January 27, '89 memorandum, copies of which have been  
14 made available to the public in this room.

15 Briefly changes refer to --

16 MS. SWAFFORD: Are you on the January 27th, Mr. Shea?

17 MR. SHEA: Yes, I am.

18 MS. SWAFFORD: Would you just identify the page for  
19 me?

20 MR. SHEA: Certainly. I will be addressing what is  
21 identified as Attachment 1 to that. Matters that are identified  
22 with one line under them are the new material as the text is

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1 passed out of the committee from last week's meeting.

2 Number two, items or text that is identified with  
3 double underlining indicates suggested revised proposals. It's  
4 the double underlined items that I am going to be addressing at  
5 this moment.

6 MS. SWAFFORD: That's on page?

7 MR. SHEA: Beginning on page 1. We suggest deleting  
8 the word contract. That, principally first of all because the  
9 word matter would seem to assume contract.

10 Secondly, it caused a certain amount of concern by  
11 some of the commentators that the contract would assume situations  
12 where our programs had competed for the contract to provide  
13 legal services to, for instance, institutions and things like  
14 that.

15 The intention of this provision wasn't to deal with  
16 that. This was fundamentally for awards.

17 Moving on to page 2, we have added an enlargement of  
18 the definition of recipient. I'd like to address that in  
19 connection also with the description later on. First of all,  
20 the recipient, recipient to mean any grantee or contractor  
21 receiving funds made available by the corporation under 1006 (a)  
22 1 or (a) 3 of the act, which would include both so-called basic

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1 field as well as various kinds of support provided.

2 When the regulation later on describes the  
3 distribution of the sums collected, they are to be distributed  
4 to basic field recipients, which is different. Election would  
5 cover -- that is, both state and national support as well as  
6 basic field would be included in the programs from which a  
7 credit mechanism works.

8 However, the beneficiaries of the distribution would  
9 only cover basic field programs. Now, the next change is on  
10 page 3 of the draft proposal. In the middle of the page a  
11 sentence is added, "The written agreement may include procedures  
12 for referral of cases."

13 Let me back up somewhat. This provision, which is  
14 1609.3 (b) 1, provides basically that programs -- 1609.4 (b) 1,  
15 that programs sit down with the bar associations representing  
16 the majority of attorneys in their service area and they can  
17 come up with an agreement whereby certain kinds of cases need  
18 not be referred to their local referral program.

19 There was some concern expressed by Mr. Houseman that  
20 existing mechanisms, whereby pro bono providers may be  
21 advantaged in getting potentially fee-generating referrals,  
22 shouldn't be upset. The purpose of this provision is to permit

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1 those, pursuant to the agreement of the bar associations.

2 The next change is on page 4. We have stricken the  
3 definitely article "the" in line three and substituted an  
4 indefinite article to address the situation where there may be  
5 more than one referral service in a locality.

6 MS. SWAFFORD: A instead of B?

7 MR. SHEA: Correct. The next change is done by the  
8 suggested revised proposal on page 7 of your text. This was  
9 retyped. The fundamental change appears in the middle of this  
10 paragraph, two fundamental changes.

11 One, the initial proposal suggested that all sums  
12 received by recipients should be collected and redistributed.  
13 Under this provision, only 75 percent of the fees received would  
14 be collected; that is, programs then would be able to retain 25  
15 percent of the fees they receive.

16 MR. VALOIS: Debited rather than collected?

17 MR. SHEA: That is correct. I might add there was a  
18 provision, perhaps -- our initial draft provided that the fees  
19 should be collected by the corporation based on a credit or set  
20 off mechanism.

21 The amended regulations, and at the moment, frankly, I  
22 can't remember where it is, provides that it be either by set

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1 off or by other appropriate means, which means that a program  
2 could send a check, too, as well.

3           Anyway, this revised proposal permits programs to  
4 retain 25 percent of fees received. It also has a provision  
5 that's -- let's see, in the middle it says, "A quarterly report  
6 shall also include all such attorney's fees received by a  
7 subrecipient for activities affected by the subrecipient  
8 agreement."

9           That may seem somewhat arcane, but fundamentally the  
10 intent is to -- this language is intended to address purview of  
11 section 1010 (c). We got a number of comments that urged that  
12 the proposed rule would extend the corporation's authority with  
13 respect to private funds received by subrecipients.

14           We've examined the contention and this language is  
15 intended to address that. First of all, our existing  
16 subrecipient agreement provides that the subrecipient is  
17 governed by all LSC acts and regulations and instructions.

18           It provides as well, which, of course, would include  
19 section 1010 (c), the existing agreement provides that the  
20 parties agree that the attorney's fees earned by a subrecipient  
21 are the result of work performed under the agreement, will be  
22 returned to the recipient and be reported by the recipient as

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1 revenue.

2           The purport of this language, then, would be that the  
3 credit mechanism which covers both LSC funds and private funds,  
4 to subrecipients it would cover all private funds that are  
5 within the purview of 1010 (c).

6           If the subrecipient agreement were to exclude certain  
7 kinds of activities, if they were social service activities,  
8 maybe criminal representation by a subrecipient, if the  
9 subrecipient agreement carved those out, those activities out,  
10 as beyond the scope of 1010 (c), then under this provision that  
11 would equally be beyond the scope of the credit mechanism.

12           MR. MENDEZ: Do you want to go through? I don't know  
13 if you want to go through all of this, but this is one of the  
14 areas that I have major concerns.

15           Let me give you a hypothetical, and you tell me what  
16 the answer is. Legal Aid of Denver and a private attorney get  
17 together and try a lawsuit, some type of lawsuit requiring a  
18 good deal of expertise. They win it and they go in and they  
19 apply for attorney's fees.

20           Legal Aid of Denver has X hours and gets some in and  
21 the private attorney has Y hours and gets \$50,000 for his fee.  
22 Does the private attorney have to turn his fees in?

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1 MR. SHEA: If he is a subrecipient.

2 MR. MENDEZ: No, he's a pro bono.

3 MR. SHEA: I can answer it if he is or if he isn't.  
4 Let's say at the outset if that private attorney were a  
5 subrecipient, pursuant to the subrecipient agreement, it calls  
6 for return of the fees.

7 MR. MENDEZ: Let's just say that they go out and they  
8 recruit one of our Denver firms to work with.

9 MR. SHEA: Is this on a compensated basis or  
10 uncompensated? Let me assume.

11 MR. MENDEZ: They jointly represent a client and they  
12 enter into a fee sharing arrangement. I think those are  
13 probably the words.

14 MR. SHEA: If there is a recovery they'll split 50-50  
15 or prorate it for their hours, that's the usual arrangement.

16 MR. MENDEZ: Right. Here's the thing, a lot of our  
17 grantees don't have expertise in some area. They go out, they  
18 find themselves an attorney that's willing to volunteer his  
19 hours on sort of a contingency basis, if there's fees generated  
20 he gets a percentage of it. They enter into an agreement, just  
21 as Bob has said, to do this.

22 Now, what I want to know is what happens to the

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1 private attorney. I don't worry about the legal aid program, I  
2 want to know if the private attorney has to send his monies back  
3 in. It had better be no.

4 MR. SHEA: Happily the answer is no. On page 8, the  
5 top of page 8, we have a provision which was incorporated in the  
6 committee action that says, "No reporting or credit will be  
7 required for attorneys fees derived from private funds for  
8 subrecipients that are bar associations," et cetera.

9 That, of course, is private funds. I have to tell you  
10 if -- my understanding of purely pro bono providers, we don't  
11 recover fees. If there were fees that were awarded, on a purely  
12 pro bono arrangement, we wouldn't recover -- I'm describing  
13 existing practice.

14 MR. MENDEZ: We're not on the same wavelength here.  
15 What are you telling me? Give me a hypothetical.

16 MR. SHEA: If LSC were to fund, in the case of a  
17 recipient, if LSC were to fund an action to the extent that  
18 there were fees generated, those must go back to the program.  
19 That's the standard situation for a recipient. That bides as  
20 well for subrecipients.

21 That is, if a subrecipient undertakes an action, if  
22 they prevail, they would take back the attorney's fee and that

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1 would remain in the account and I think they have to go back and  
2 be made available to the recipient.

3 MR. MENDEZ: Let's make sure all we have to do,  
4 though, if we have an agreement between our grantee and an  
5 attorney and he says that if we win this and we're billing out  
6 x,y,z hours, and I prevail, that we're not going to give those  
7 funds back to you, then we don't have to worry about that, he  
8 keeps those?

9 MR. SHEA: Yes. If it is pro bono by the private  
10 attorney the answer is yes. If you were doing it on a reduced  
11 fee basis, my answer would be no. I'm assuming you're talking  
12 about LSC funds.

13 MR. MENDEZ: Reduce the -- what do you mean?

14 MR. SHEA: If you were doing it on a reduced fee  
15 basis.

16 MR. MENDEZ: Let's make sure I understand.

17 MR. SHEA: Your hypothetical is pro bono, maybe I  
18 shouldn't be changing it.

19 MR. MENDEZ: If LSC was paying him, you mean, one of  
20 our grantees was paying him?

21 MR. SHEA: Yes. Let's say he were PAI provider  
22 somehow, or doing it on a reduced fee basis, then I would say if

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1 he got fees, they should go back. If he did a pro bono, the  
2 answer is no.

3 MR. MENDEZ: Let's assume that he does it on a reduced  
4 fee basis, and they say that if you win it, you get your normal  
5 fee. Does he have to reimburse any of it back to the  
6 corporation?

7 MR. SHEA: Yes.

8 MR. MENDEZ: Why?

9 MR. SHEA: If it were LSC funds.

10 MR. MENDEZ: If what were LSC funds?

11 MR. SHEA: If you were being paid, that is whatever  
12 his reduced fee was in LSC funds, the answer is if he prevailed  
13 in the case when he got the fees those funds should be returned  
14 to the recipient or the subrecipient as the case may be.

15 MR. MENDEZ: All right, but that's an agreement that  
16 he would have with them. What if the agreement that he has is  
17 that I will take this case on a reduced fee basis, and you're  
18 going to pay me -- let me give you an example.

19 Let's say that it is a fairly speculative case, his  
20 normal hourly rate is \$100 an hour. He says that because this  
21 person needs representation, I'm going to represent him at \$50  
22 an hour, you're going to pay me because I have this special

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1 expertise, Legal Services grantee, you're going to pay me \$50 an  
2 hour. If I win, I get paid my full \$100.

3 MR. SHEA: Well, in any event, first all, presumably  
4 he wouldn't get both the \$50 and \$100. It seems to me the issue  
5 is does he give back the \$50 and then the \$100. My  
6 understanding of current practice is that that's not the case.

7 Our position is that the \$100 represents LSC derived  
8 funds and that those LSC derived funds are to be returned to the  
9 recipient or the subrecipient. Of course he can retain the \$50.  
10 If he did it pro bono, entirely pro bono, then I'd say he could  
11 retain whatever he got.

12 I'm trying to describe for you what my understanding  
13 of current practice is.

14 MR. MENDEZ: I don't care what current practice is,  
15 all I want to know is what's going to happen.

16 MR. SHEA: I don't think this would upset that.

17 MR. WEAR: In other words, what you're saying is that  
18 if this private attorney contracted with a grantee to take on  
19 this case at \$50 an hour, he then prevailed and under that  
20 agreement he got an additional \$50 an hour, that would not be  
21 covered by the reg?

22 MR. SHEA: No, I'm sorry. That's not what I said.

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1 This issue is pro bono, as I understood it..

2 MR. WEAR: I thought that's what you said.

3 MR. MENDEZ: No. I had two different ones. This is  
4 the second hypothetical I posed to you. This hypothetical is--  
5 let's use different numbers.

6 Let's say he does it \$60 an hour, a reduced fee of \$60  
7 an hour, with the proviso that if he wins, his fee is going to  
8 be \$100 an hour. So, we've got a \$40 differential here.

9 The question is, if he wins is he going to have to  
10 repay any of these funds back to the corporation?

11 MR. SHEA: Absolutely.

12 MR. MENDEZ: What amount will he have to repay to the  
13 corporation?

14 MR. SHEA: The \$100, the attorney's fees.

15 CHAIRMAN WALLACE: Since I have no idea what we're  
16 talking about.

17 MR. HOUSEMAN: Let me say I think this may be a new  
18 LSC policy, Mr. Mendez, but it's not the policy that any  
19 recipient knows about. The common practice is that these  
20 matters have, unless there is some LSC policy on it that  
21 nobody's seen, this has been left up to --

22 MR. MENDEZ: The negotiations between the parties.

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1           MR. HOUSEMAN: The negotiations between the recipient  
2 and the private attorney.

3           MR. MENDEZ: I understand that, and it will stay the  
4 same unless there is this reimbursement problem. That's clear.  
5 I want to make sure that if we're talking about reimbursements  
6 that were clear on what's going to happen, I'm going to tell  
7 you, that doesn't seem fair to me.

8           That's not what I would want. I think if a guy comes  
9 on and contracts and says I'm going to do it 50 percent, I'm  
10 willing to take 50 percent on mine and if I win then I get 100.

11           I'm going to just tell you that all I work on is  
12 contingent fees, you've got to sell me if a guy is willing to  
13 work and willing to take the risk and willing to do it less than  
14 full, he's entitled to get his money back. He's entitled to get  
15 the full amount. We've got to make sure that that's written in.  
16 I've just got to tell you that.

17           MR. WEAR: Mr. Mendez, I'm not sure that the staff has  
18 fully considered that particular example. We will certainly  
19 take a look at it. I am, I guess, in the same position as the  
20 chairman, in that I walk in in the middle of the debate. I'm  
21 not completely up to speed on it. I didn't anticipate that we  
22 would have a problem in that area, but we will certainly

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1 reexamine that.

2 MR. SHEA: I think it surely has been our general  
3 position that such fees generated are derivative funds. The  
4 issue is did the attorney have an election one way or the other  
5 of which to take.

6 MR. MENDEZ: Here's the question, though. If you have  
7 an attorney that agrees to take a case and you contract with  
8 them, and he contracts with them on a certain amount -- here's  
9 the specific problem I'm talking about.

10 A lot of these cases take six years. They've accrued  
11 a huge total of hours over six years. One year he's going to  
12 get \$100,000 or \$200,000 fee. Now, that's going to be a  
13 majority of his salary for that year.

14 He shouldn't have to -- this 20 percent better not  
15 apply to him for that year, because the year that it comes in,  
16 we're on an accrual basis here, but virtually every lawyer is on  
17 a cash basis. As on a cash basis, he can't do that.

18 MR. SHEA: There is a provision --

19 (Simultaneous conversation.)

20 MR. MENDEZ: Mr. Wallace has indicated to me that  
21 there are some things here.

22 CHAIRMAN WALLACE: I'm about to recognize Mr. Uddo to

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1 make a motion, so don't rack your brains, Mr. General Counsel.  
2 Mr. Uddo is recognized.

3 MOTION

4 MR. UDDO: Mr. Chairman, I move that this matter be  
5 tabled.

6 CHAIRMAN WALLACE: Is there a second?

7 MR. MENDEZ: Second.

8 CHAIRMAN WALLACE: That's non-debatable.

9 All in favor say aye?

10 (A chorus of ayes.)

11 Opposed?

12 (No response.)

13 Hearing no dissent, it is tabled.

14 Let me make this request of all board members for the  
15 next board meeting. We can think of a lot of hypotheticals,  
16 apparently, and we've thought of a lot of them here today.  
17 We've all got the corporation's phone number and let's call the  
18 general counsel and let's work out all the hypotheticals we can  
19 think of before the next board meeting.

20 We don't want there to be any confusion about what  
21 this regulation means. The work the committee has tried to do  
22 and that the staff has tried to do over the last week has been

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1 directed toward then end that we all know what it means and how  
2 it's going to work.

3 Then we can get to the vote on whether we are for it  
4 or against it. That's what I'd like to be able to do when we  
5 next gather on this subject.

6 So, if you're confused, if you don't understand how  
7 it's going to work, talk to the general counsel. I'm not just  
8 talking to board members, I know the general counsel will  
9 respond to questions from the public, because we work with  
10 interested parties on a regular basis.

11 So, anybody that's go hypotheticals, let's get them  
12 worked out on a staff basis so when it comes back to the board  
13 at the next meeting, we'll all know what it is we're for or  
14 against.

15 The next item on the agenda is the report of the  
16 Client Board Training Task Force. Mr. Uddo, you're the chairman  
17 of it and I recognize you at this time to present the task force  
18 report.

19 REPORT OF THE CLIENT BOARD TRAINING TASK FORCE

20 MR. UDDO: Thank you, Mr. Chairman. The task force  
21 met as a whole yesterday afternoon, and there was one prior  
22 meeting that did not involve the whole task force.

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1           It was an information session that Ms. Benavidez and  
2 Ms. Miller and myself attended in Washington with several  
3 members of the staff to try to give the staff some indication of  
4 the kinds of information we thought we needed to work up our  
5 proposal.

6           At the meeting yesterday the staff made a presentation  
7 in a proposal. We took public comment and we had several folks  
8 form the client community who did speak to us and gave us some  
9 very helpful information.

10           After all that, the committee unanimously adopted a  
11 proposal that we bring to the board today, which I will give you  
12 in the form of a motion and then be happy to explain any  
13 provisions of it that you might be interested in some  
14 elaboration on.

15           I should tell you that the history of this, I think,  
16 is known to all the board members, but if it's not to the public  
17 it should be.

18           This is a matter that has been of concern to certain  
19 members of the board from the beginning. Ms. Swafford, Ms.  
20 Miller and Ms. Benavidez were among the first to recognize that  
21 this was an issue that needed attention, and that is the issue  
22 of client board member training.

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1 available to local legal services programs a training package  
2 composed of a video tape and a written text. That one video  
3 tape be distributed to each LSC recipient and one package of  
4 written materials be distributed to each board member serving on  
5 a local board.

6 Number three, the training material cover a range of  
7 subjects in an abridged form an in layman's language. The text  
8 should number between 50 to 100 pages and the video should be an  
9 hour in length.

10 The package overall should contain information on LSC  
11 regulations, parliamentary procedure, committee structure,  
12 budgets, audits and rights and responsibilities of local board  
13 members.

14 Number four, the corporation mandate executive  
15 directors of local programs to provide training based on  
16 materials provided by LSC to all client board members on a  
17 yearly basis, and that such a mandate be in the form of a grant  
18 condition, which we have an attachment specifying what the grant  
19 condition should say.

20 Number five, the corporation designate an individual  
21 within the corporate staff to serve as an ombudsman for local  
22 client board members.

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1           Number six, the LSC Board of Directors hold its next  
2 five meetings in each of the five Legal Services regions.

3           MR. DURANT:    What was the one you just said before  
4 that?

5           MR. UDDO:    The corporation designate an individual  
6 within the corporate staff to serve as an ombudsman for local  
7 client board members.

8           MR. DURANT:    Thank you.

9           MR. UDDO:    Number six, the LSC Board of Directors hold  
10 its next five meetings in the five Legal Services regions and  
11 that the Task Force on Client Board Member Training meet at the  
12 next five meetings of the LSC Board of Directors to hear  
13 comments from clients eligible for legal services.

14           That's the motion. Let me just add a couple of things  
15 by way of explanation. That last proposal about meeting in each  
16 of the regions came about because there was some concern from  
17 our client board members and from some of the members of the  
18 public who spoke that nothing substitutes for the board or  
19 members of the board being able to hear directly from clients in  
20 the various regions as to what their problems, concerns,  
21 complaints, considerations might be.

22           There was some suggestion of a conference or meeting

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1 in Washington, at which varying proposals, either a large group  
2 of clients would be invited, or a more modest proposal where two  
3 clients from each region would be invited to this conference.

4 After some discussion it was the view of the task  
5 force, and I think the members of the public agreed, that having  
6 ten clients come to Washington would not be much more beneficial  
7 than just hearing from the few people who had spoken to us  
8 yesterday.

9 Also the idea of a conference for a large number of  
10 people struck me as more expensive than it need be to get client  
11 input.

12 So, I proposed and the task force unanimously agreed  
13 that the solution might well be that since we meet in different  
14 places form time to time anyway, that we just commit to meet at  
15 least once in each region and that the task force would use  
16 those meetings as an occasion to meet with clients and do  
17 whatever we could to get as many clients to attend those  
18 meetings as possible and to establish an opportunity for those  
19 clients to communicate directly with the members of the board.

20 The other thing that you should know is that with  
21 respect to the training materials, it's not in the motion, but  
22 it is our understanding that that task force would stay in

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1 existence long enough to review those materials, the materials  
2 that would go into the videotape and the printed materials, so  
3 that we would be able to recommend to the board the final form  
4 that those material should take, and also, of course, stay in  
5 existence long enough to hold these meetings one in each region.

6 I don't know if that's what was originally  
7 contemplated with the task force, but if we met for the next  
8 five months and in six months the task force could go out of  
9 existence, if it takes us longer than that to meet in each of  
10 the regions to filter the clients' comments back to the board,  
11 we'd be around a little bit longer.

12 We're not trying to preserve ourselves or create work  
13 for ourselves, but we thought that it was responsive to the  
14 concerns of the clients who testified.

15 Now, let me just read the proposed grant condition  
16 that we have attached, and this is part of the motion.  
17 "Recipient agrees it will provide training on an annual basis  
18 for its governing body in order to assure maximum effective  
19 participation of individual board members, especially eligible  
20 clients in decisions of that body.

21 Such training shall provide at a minimum, number one,  
22 all current board member training materials produced and

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1 provided by the corporation to the recipient for that purpose.  
2 Number two, an individual, either an executive director or his  
3 designee to explain the training materials and to answer  
4 questions."

5 Let me just stop for a second. That is because many  
6 clients, and our client board members said, that there was a  
7 concern that you can't just dump a videotape and a packet of  
8 material in people's laps and feel like they're really getting  
9 training. There was some concern that maybe the training would  
10 be skimmed on in some projects as opposed to others.

11 We are proposing that the executive director or his or  
12 her designee would have to take responsibility for working  
13 personally with the client board members with this training  
14 material; explain it, answer questions, elaborate, whatever  
15 would seem to be necessary.

16 Now, back to the grant condition. "The recipient  
17 shall be required to provide at least a 30-day notice of this  
18 event to each member of its board in order to facilitate maximum  
19 participation," again in response to client concerns that they  
20 may not get the information timely enough.

21 "The recipient shall be further required to provide to  
22 the Office of Field Service within ten business days of the

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1 conclusion of the training event, the following information  
2 concerning the training event: a, a list of participants; b, a  
3 list of trainers along with the name of each trainer's  
4 affiliated organization; c, a copy of the agenda; d, a schedule  
5 specifying the cost of the training as well as the sources of  
6 funds used; and e, a list identifying by name the materials  
7 distributed at the training."

8 That is our motion and we are happy to answer any  
9 questions that we can.

10 CHAIRMAN WALLACE: Thank you, Mr. Chairman. I don't  
11 know whether a task force report requires a second, but I'll  
12 second it to make sure it's properly before the board.

13 We appreciate the work that the task force has done.  
14 At this time I'll recognize members of the board who have  
15 questions on the report. Mr. Mendez?

16 MR. MENDEZ: Mr. Task Force Chairman --

17 MR. UDDO: It's a lot less than the \$80,000.

18 MR. MENDEZ: Harkening back to your comments earlier  
19 today about generalized line items with nothing specific  
20 contained therein.

21 MR. UDDO: We have an attachment. You didn't give him  
22 the attachment, Maureen?

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1 MS. SWAFFORD: Give the man the attachment.

2 MR. UDDO: The attachment shows that the video costs,  
3 productions, reproduction, printing costs and distribution  
4 costs.

5 MR. MENDEZ: How did you come up with those numbers?

6 MR. UDDO: Picked them out of the air.

7 (Laughter)

8 MR. UDDO: Our staff did research. Our staff has  
9 contacted video production companies to get some idea of what  
10 that would cost. We have some experience with distribution of  
11 these kinds of things. We have recent experience with printing  
12 costs, so most of that is fairly dependable information.

13 CHAIRMAN WALLACE: You were about to ask a question,  
14 Mr. Mendez?

15 MR. MENDEZ: Also, we have two numbers here. We have  
16 the low and the high. You always give me the high.

17 MR. UDDO: We're trying to give you worst possible  
18 scenario in terms of money. We may come in under budget.

19 CHAIRMAN WALLACE: We're not the government, remember.

20 (Laughter)

21 MR. UDDO: That's right. We may come in under budget  
22 and have a party with the remainder of the funds.

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1 (Laughter)

2 CHAIRMAN WALLACE: Any other questions on the task  
3 force report, any other comments on the task force report.

4 MR. MENDEZ: This number five. The one question I  
5 don't really understand, you want the corporation to have the  
6 ombudsman, but do you want our local grantees to have one, too?

7 MR. UDDO: We didn't think that we needed to mandate  
8 that at this point. Let me tell you a little bit about that  
9 concern.

10 Our client members felt very strongly that there ought  
11 to be someone in the corporation that a client board member can  
12 depend upon, that they could pick up the phone and call and say  
13 I don't think my board has given me all the information that I  
14 need, I don't think that they are informing me of what I need to  
15 know to participate intelligently, what can I do; or, they're  
16 not giving me copies of stuff.

17 Or, it may be something constructive. It may be that  
18 the local program is doing nothing wrong, but it's just a person  
19 who needs some additional information. They felt strongly that  
20 you need to identify some person in the corporation whose name  
21 and phone number could be publicized from the newsletter that we  
22 are going to begin to publish soon, as I understand it.

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1           The client board members who will receive that  
2 newsletter will know that there is a person in the corporation  
3 concerned about client board members and will help them with  
4 their problems.

5           CHAIRMAN WALLACE: Further questions or comments on  
6 the task force report? Mr. Eaglin?

7           MR. EAGLIN: Following up on the same point, will the  
8 budget then include an amount of money for an 800 line so that  
9 the clients won't have to pay for these phone calls themselves  
10 from around the country?

11           MR. UDDO: We talked about that, and as it was  
12 reported to us, I think, by Mr. Wooten, that the examination  
13 into an 800 number disclosed that it would probably be cheaper  
14 to have people call collect than have an 800 number. The cost  
15 associated with an 800 number require a volume that we didn't  
16 anticipate we'd have.

17           Now, if it got to that volume, then, of course, we  
18 could examine that, but at this point it seems that calling  
19 collect would actually be cheaper than an 800 number.

20           MR. EAGLIN: So there would be an additional amount  
21 that we should keep in mind, then, for the cost of receiving and  
22 paying for these phone calls?

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1 MR. MENDEZ: I think that they'll absorb it in the  
2 administration.

3 MR. UDDO: If it got to be burdensome, we'd have to  
4 look at it again. We're assuming that in the short run it's not  
5 going to be such a volume that it would not be absorbed in the  
6 administration.

7 MR. EAGLIN: Then on number six there, we would have  
8 to understand that that suggestion there from the task force  
9 would have to be subject to the statutory requirement that we  
10 meet in D.C. the last Friday of every January.

11 MR. UDDO: Absolutely.

12 MR. MENDEZ: We're not anticipating having more than  
13 four meetings this year.

14 MR. UDDO: You're not? We may not have more than one  
15 or two.

16 CHAIRMAN WALLACE: We'll come to Denver, you won't  
17 have to go far.

18 MR. UDDO: Let me just say that in light of that sixth  
19 suggestion, I did assure people yesterday that I would encourage  
20 the board to pick at least a couple of dates for the next couple  
21 of meetings.

22 Again, one of the problems is that people say that

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1 they don't know, clients in particular, don't know when we're  
2 coming to an area, and don't get the information until too late  
3 and maybe don't get to show up.

4 So if we could settle on a couple of dates and places  
5 and get that published pretty quickly, it would facilitate what  
6 we're trying to do.

7 CHAIRMAN WALLACE: I'd like to try to settle on the  
8 dates, anyway, as soon as we're finished with this. Places  
9 maybe we'll leave to the staff, because they've got to figure  
10 what it's going to cost to go various places. Consistent with  
11 the task force report, I'm sure the staff can do that.

12 Any other questions regarding the task force report?

13 (No response.)

14 I understand we have some public comment on the task  
15 force report. I understand that Gladys Barnes has asked for  
16 permission to address the board, which we gladly grant.

17 Ms. Barnes, please come forward.

18 MS. BARNES: Thank you.

19 CHAIRMAN WALLACE: Ms. Barnes is from region six of  
20 the National Clients Council, according to my notes; is that  
21 correct?

22 MS. BARNES: That's correct.

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1 CHAIRMAN WALLACE: Welcome to the board?

2 PUBLIC COMMENTS BY MS. GLADYS BARNES

3 MS. BARNES: Thank you.

4 President Wear, Chairman Wallace, other LSC board  
5 members, clients, ladies and gentlemen, today I bring you  
6 greetings from Gadsden, Alabama, Region Six Client Council and  
7 its membership.

8 I first would like to take this opportunity to thank  
9 both Mr. Wear and Mr. Wallace for granting my request that I be  
10 allowed to address this board today, to try to implant with you  
11 some concerns of clients, especially those in my region, Region  
12 Six, have regarding the task force and the client training in  
13 general.

14 I have prepared a statement which I shared with the  
15 task force yesterday. If time is of essence to you, I will just  
16 pass it out and maybe hit some highlights.

17 CHAIRMAN WALLACE: I think that would be best if you  
18 could, but we're happy to listen to what you've got to say.

19 MS. BARNES: First I would like to say that I do have  
20 an apology to make to he task force. I did not know that they  
21 were charged only with the responsibility of putting together a  
22 training package for client board members only. This I did not

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1 really know until after yesterday.

2 I'm sure it was told to me by Ms. Miller, because she  
3 has been really helpful to me. You know when you're wearing a  
4 lot of different hats, sometimes everything just doesn't quite  
5 sink in at the right time. So I ask your indulgence in that.

6 My concern before I left home and when I came here was  
7 that our clients felt really like we had had a slap in the face  
8 when this task force was appointed and no clients from around  
9 the region, the at large clients who are part of this task  
10 force.

11 We've been about our business of trying to develop  
12 work plans, trying to study budgets, trying to put forth efforts  
13 that would, if the plans were successful, that clients would be  
14 encouraged to reach self-sufficiency through training; through  
15 training and skills that would really help them to be advocates  
16 of the poor.

17 Now, I realize client board training is essential, but  
18 not all clients are client board members. So, we need to also  
19 deal with something that is going to be of viable use that they  
20 can become useful in the society.

21 I am concerned about several things. I spent many  
22 hours, in fact I couldn't sleep last night, I just had to put

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1 together some more thoughts for today. You speak about a video,  
2 I applaud the task force recommendation that we put forth some  
3 effort to do something for client board members.

4 I think this is a positive step, a step in the right  
5 direction. However, this video, somewhere along I don't believe  
6 I heard that clients will have active participation in making  
7 the video. If I'm wrong, please let me know.

8 MR. UDDO: The staff is really going to propose the  
9 script for the video, but it's going to be, as I said, mostly  
10 technical information; what are the rights and responsibilities  
11 of board members, parliamentary procedure, LSC regulations.

12 Our intent is a video that has information in it that  
13 really needs to come, I think, from the staff. We're certainly  
14 open to any suggestions as we were yesterday.

15 In fact, I don't think it was you, Ms. Barnes, but Ms.  
16 Martin, your suggestion about committees being one of the things  
17 that would be included in the video, we incorporate it because  
18 anything the client board members feel they need to know more  
19 about to be a good board member is what we're interested in.

20 MR. MENDEZ: Basile, I assume that you anticipate  
21 having the script and sending it out to the board members.

22 MR. UDDO: The whole board will get it. The task

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1 force will review it and make comments, and then the final  
2 script will be proposed or recommended to the board for the  
3 board's consideration.

4 MR. MENDEZ: That's what I thought. What he's saying  
5 is that the board members are going to have specific input about  
6 the video, because they're going to be inputting on what's going  
7 to be in it.

8 CHAIRMAN WALLACE: Including the client board members.

9 MR. UDDO: That's right.

10 CHAIRMAN WALLACE: I'm sorry, too much give and take.

11 MS. BARNES: That's quite all right, it's getting late  
12 in the day and I understand.

13 Secondly we around Region Six, we like to think that  
14 clients will be trained to do things for themselves. The  
15 Florida Client Council has done a very marvelous job of putting  
16 together a video of client activity.

17 In fact, I think Mr. Durant has been privileged to  
18 view that video. We are very proud of it. This is the kind of  
19 things that we're talking about to help clients reach self-  
20 sufficiency so they can do something on their own.

21 Who knows, maybe a few years from now we may not have  
22 all of this technical assistance. So, we have to take advantage

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1 of it while it's out there.

2 Now, the alternative to having a few clients come  
3 somewhere and meet together to try to develop a collaborative  
4 plan using collective ideas and putting together a draft and the  
5 work plans to present to the board on what the needs of clients  
6 are, as seen by clients throughout the geographic region is--  
7 anyway, we feel that that would be the best way to do it.

8 Because, right at that meeting that group could  
9 prioritize, break off into small groups, lay out on paper what  
10 is it that they feel, and after they could come back together  
11 and set priorities, identify the issues and present a workable  
12 draft to this board; a draft that they would have something to  
13 look, something in the matter of time tables, work plans,  
14 possible funding sources, resources and et cetera.

15 At the board if clients are going to come into the  
16 board meetings in the region, I'm really worried about how will  
17 clients get there. I give you an example, take my region for  
18 instance, the Southeastern Region.

19 This region has ten states. If the board elected to  
20 meet in Tampa, Florida, to me it would be awfully unfair to just  
21 have clients out of Tampa, Florida to represent the whole  
22 southeastern region. At least you would need, in my opinion, to

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1 bring in one or two other clients.

2           After this material is taken, I believe we said  
3 possibly at a community center or some such building like that,  
4 so many times I know in my state local clients are not fully  
5 aware of the impact of what goes into being a board member.  
6 They have never been exposed to that, so to ask them to give  
7 input on what their concerns are, I don't think would be  
8 realistic.

9           I think that you would need to bring somebody who has  
10 a track record, of having either been a board member or having  
11 been exposed to the Legal Services concept.

12           I think in order to do that, of course we could  
13 probably use a survey to get some information, but then when Ms.  
14 Miller and Ms. Benavidez get back home, they've got to worry  
15 about trying to disseminate this information, putting together  
16 some kind of packet for your review.

17           If that's the way it be, I'm going to try to make it  
18 work also.

19           I guess my last concern revolves around the board  
20 meeting in Santa Fe in march of 1988. I have with me the  
21 minutes portion of that meeting, and my particular attention is  
22 drawn to a motion that Mr. Durant made at the time concerning

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1 his feelings around client groups, client activities and some  
2 monies being set aside, I believe it was \$300,000.

3 MR. UDDO: That was Mr. Durant's personal money that  
4 he was talking about.

5 (Laughter)

6 MS. BARNES: Mr. Durant likes clients, but I think --  
7 I am concerned that here this is we're almost into  
8 February, 1989, and this motion carried according to these  
9 minutes I have in my hand.

10 MR. UDDO: I wasn't at that meeting, so I don't  
11 recall.

12 MR. DURANT: It did carry.

13 CHAIRMAN WALLACE: It carried and I thought it was  
14 reconsidered.

15 MS. BARNES: I have the written words in my hands. I  
16 think that those of you who know me a little bit know that I  
17 don't usually step out without having some documentation of some  
18 kind, especially if I feel it might be controversial.

19 The motion did carry. My question to you today,  
20 ladies and gentlemen, is: What is going to become of that  
21 motion? Is it going to be acted upon?

22 CHAIRMAN WALLACE: I've got page 145 where Chairman

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1 Durant states the motion. The motion is to ask Mr. Bayly to  
2 find within our current budget where \$300,000 can be derived  
3 from, so that it would be available to fund good ideas submitted  
4 by clients for clients on effective representation, training or  
5 whatever the status -- or whatever the ideas submitted by  
6 clients. He is to report back to the board both with the ideas  
7 and where the possibilities are for finding that money.

8 I remember that. That vote, as I understand it, did  
9 not set money aside, it was instructing the president to try to  
10 find it.

11 CHAIRMAN WALLACE: It did I do not believe Mr. Bayly  
12 ever reported to this board that he had found the money. I am  
13 sure that Mr. Wear has never made any such report to the board.

14 I think that we're about to set aside \$48,000 for the  
15 purposes we have said here, which have been carefully documented  
16 as Mr. Mendez and Mr. Uddo have established.

17 So, we never appropriated the money. We told the  
18 president to look for it.

19 MS. BARNES: I believe it was directed that Mr. Bayly  
20 report back to the board.

21 CHAIRMAN WALLACE: He didn't do it.

22 MS. BARNES: Does that not leave your new president to

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1 carry out that mandate?

2 MR. MENDEZ: I agree with you and I've just asked him  
3 to go ahead and do it and find us \$300,000 if he can.

4 MS. MILLER: Can I say this one thing? Mr. Mendez  
5 also did the say thing, and I might ask Maureen for those  
6 minutes, find the money. Why do we keep getting this find the  
7 money thing?

8 CHAIRMAN WALLACE: Mr. Durant, since it was your  
9 motion.

10 MR. DURANT: I have to catch a plane and I want to say  
11 three things. Number one, that I think certainly one area where  
12 it seems to me that money can be found is when we've got this  
13 \$900,000 that people are wondering what ought to be done with  
14 that was recovered recently that we tabled.

15 That certainly ought to be an area that Mr. Wear could  
16 look at. I certainly stand by the motion that I made in Santa  
17 Fe because I think it was the right thing to do and I would make  
18 it again at the right time.

19 Second, I have seen the tape that Ms. Barnes talks  
20 about that was prepared by the Florida Client's Council in  
21 conjunction with a grant, I think, from the Florida Bar  
22 Association. It is an excellent tape. It is not board

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1 training, it is effective advocacy training for clients, by  
2 clients, and it is a very, very good tape.

3 I had a chance to look at it a couple of days ago. I  
4 couldn't get here for your meeting, and I regret that. I will  
5 send you a copy of it.

6 I think my concern about this particular proposal that  
7 has come out of the committee, and I'm on my old soap box again,  
8 I don't think it goes far enough.

9 I know from my travels, and in fact when I came down  
10 to meet with Gladys to help a particular in Florence, South  
11 Carolina, I know from that meeting and a ton of other meetings,  
12 that it isn't just the board training that's important, it  
13 really is a focused, directed effort to try and allow clients to  
14 be effective representatives.

15 I want to tell you, Basile, you look at this tape and  
16 I know you will feel that same way. It is a quality tape. It  
17 focuses on three different areas of the law where individual  
18 clients were effective advocates. I think that there would be a  
19 way of using that tape along with other materials that would go  
20 in the direction that Ms. Barnes is talking about.

21 CHAIRMAN WALLACE: Give me number three, Mr. Chairman  
22 of Merit.

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1 MR. DURANT: Just very quickly, I think that the  
2 motion in Santa Fe, while I think you are technically correct it  
3 was directed to Mr. Bayly to find the money, it was an exercise  
4 in futility. It was to find the money so that we would have a  
5 way of trying to develop an effective, broad-based program.

6 While I think this is a good beginning, and I applaud  
7 you, Basile, for having it be unanimous, because I know there  
8 have been divisions about that before, and I'm glad that that's  
9 a good start.

10 I think if you see this tape and you see some of the  
11 work that Gladys and some her friends have done, it's very  
12 effective stuff and I think we ought to support it.

13 CHAIRMAN WALLACE: I'm going to reclaim the floor  
14 before Mr. Durant leaves, and I'm going to take this out of  
15 order, because there's \$985,000 on the table, if Mr. Durant  
16 wants to get \$300,000 out of it, he needs to be at the next  
17 board meeting.

18 So, pull out your calendar and let's talk about when  
19 we can have a board meeting. Ms. Barnes, we'll get back to you.  
20 If we're going to talk about where this money is, we've got to  
21 talk about when we're going to find it.

22 We need to meet at the end of February or at the

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1 beginning of March, because we have to have a budget. We've got  
2 our first Budget Committee hearing on March 23rd. We've got to  
3 know what we're doing with the \$985,000 so we can give the  
4 committee a little advanced warning before we show up.

5 Any time before the 14th of March. I would say we can  
6 do it the 23rd and 24th of February, but that's only four weeks  
7 from now. I would think our real choices are the second and  
8 third of March or the 9th and 10th of March.

9 Is there anybody here that can't come on either of  
10 those days?

11 MR. EAGLIN: Not on Thursdays.

12 CHAIRMAN WALLACE: You can't come on Thursdays. I  
13 would think that we would have the board meeting on Friday as  
14 usual. It is probable that we will have a committee meeting or  
15 two on Thursday. Certainly the board meeting itself would be on  
16 Friday.

17 You can't come on either Thursday, Paul; is that  
18 right?

19 MR. EAGLIN: Any Thursday. Tuesdays and Thursdays in  
20 the morning I teach 8:00 to 11:00.

21 CHAIRMAN WALLACE: The 2nd and 3rd of March or the 9th  
22 and 10th of March, all those are fine?

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1 MR. DURANT: Either one.

2 CHAIRMAN WALLACE: I will tell the staff to find  
3 someplace we can go on one of those two weekends, the cheapest  
4 consistent with this report we're about to pass and get back to  
5 us next week if possible and let us know which of those weekends  
6 it's going to be.

7 MR. DURANT: One thing that's out of order here, but  
8 I've got to go.

9 Mr. Wear, I want to thank you for -- I understand you  
10 have promoted or whatever Jim Wooten into Office of Policy  
11 Development and Communication. I just want to say for the  
12 record that I think Jim is a good man and I think he'll do a  
13 good job for you and I'm glad that you've made that promotion.

14 If there's anything I can help with, let me know.

15 CHAIRMAN WALLACE: Thank you, Mr. Durant. Before we  
16 leave we'll probably try to schedule some more board meetings.  
17 I wanted to get that one down before we lost folks.

18 Ms. Barnes, I think I've indicated to you that we do  
19 have money, we've got that \$985,000 to talk about. If there are  
20 concrete proposals that people have for spending some of that  
21 money on behalf of clients, then we need to have those ready to  
22 go by whichever of those first two weekends in March that we

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1 meet, because there's some money there and if they're good ideas  
2 we'll see about funding them. That's when the train's pulling  
3 out of the station, it seems to me.

4 MS. BARNES: I certainly appreciate that and certainly  
5 I will be doing whatever I can to help produce or present  
6 additional proposals. I need to just touch on one thing.

7 CHAIRMAN WALLACE: Please go ahead. We've been rather  
8 rude jumping around on you, but we're trying to be responsive.

9 MS. BARNES: That's all right. Clients around the  
10 country realize that LSC will probably never fund anything else  
11 under the auspices of National Client Council, we accept that.  
12 We have not qualms with that. I just want to lay that out,  
13 coming from a client, that's the way we feel.

14 We understand that, but at the same time we feel that  
15 there are client groups out here who daily work to try to  
16 promote the Legal Services concept, to try to be good client  
17 board members. Whatever it takes, there are clients out here  
18 trying to do it.

19 One of the things that we had looked forward to that  
20 may happen if we were able to bring representatives to a central  
21 meeting place, like two or even one from the region if it would  
22 come to that, would be that that could be kind of considered a

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1 steering committee or a task force to develop into another major  
2 client group.

3 Since I'm always scribbling and trying to look at  
4 things, I even thought about what I thought might be an  
5 effective name for such a group, and that is "Client Training  
6 Coalition for Self-Sufficiency."

7 Now, these are the things that I'm trying to throw out  
8 and I appeal to you. I know that each of you have in your heart  
9 a sensitivity for clients that they may raise up by their own  
10 bootstraps. I'm appealing to you to seriously look at some of  
11 the things that I tried to outline.

12 Again, I thank you for the opportunity of coming  
13 before you.

14 CHAIRMAN WALLACE: Thank you, Ms. Barnes. We  
15 appreciate your patient with us today.

16 MR. MENDEZ: Mr. Chairman?

17 CHAIRMAN WALLACE: Yes, Mr. Mendez?

18 MR. MENDEZ: Mr. Uddo, what's the turnaround time on  
19 this?

20 MR. UDDO: We had talked about four months to get the  
21 materials written and produced. That may be optimistic, but we  
22 think we're going to do the scripting in-house.

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1 MR. MENDEZ: Should we put that in your motion?

2 MR. UDDO: No.

3 CHAIRMAN WALLACE: Any further questions comments?

4 (No response.)

5 I'm going to do something I said today hadn't been  
6 done since the lobbying regulation, I'm going to ask unanimous  
7 consent that the task force report be adopted as presented.

8 Hearing no dissent, so ordered. I thank Mr. Uddo and  
9 the members of the task force for the good work they've done. I  
10 reiterate my invitation about further ideas for expenditures on  
11 behalf of clients.

12 The next board meeting is the time if you've got  
13 ideas, let's hear them, because there's almost a million  
14 uncommitted dollars we have to figure out what to do with.

15 MR. UDDO: Mr. Chairman, could you give me just ten  
16 seconds.

17 CHAIRMAN WALLACE: I'd be delighted.

18 MR. UDDO: I said it on the record yesterday, I want  
19 to say it on the record again today, the input of the client  
20 members whose public comment yesterday was invaluable. It was  
21 important to hear from them. I would also like to say that our  
22 own client board members have done an extremely good job of

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1 forcing us to deal with what's an important issue.

2 They've been very helpful, very articulate, very well  
3 informed, and they've been extremely important to make this  
4 thing succeed to the point where we've got a unanimously  
5 approved proposal.

6 In addition, I think the staff that worked on this did  
7 an outstanding job. Maureen Bozell worked very hard on it,  
8 Charlie Moses worked hard on it, very good people to work with.  
9 Jim Wooten spent a day with us with the clients talking and  
10 helping us work out some ideas.

11 I'd just like to say on the record that we had some  
12 outstanding cooperation and I'm particularly appreciative to all  
13 the people who made it work.

14 CHAIRMAN WALLACE: Thank you, Mr. Chairman, and the  
15 board expresses it's appreciation as well.

16 Let me go back to the subject of scheduling. Let me  
17 ask the president whether he anticipates -- I know there are two  
18 regulations out there which, three since we've tabled -- which  
19 we may or may not be able to resolve at the March meeting.

20 Do we need to try to schedule an April meeting at this  
21 point?

22 MR. WEAR: Mr. Chairman, my suggestion would be to

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1 hold that in abeyance. At the moment I'd like to, if I may,  
2 confer with Mr. Valois as far as the schedule at which his  
3 committee would consider the other regs that are out there.

4 MR. UDDO: Terry, we've got nothing to lose blocking  
5 out the dates. If we don't block them out now, you know what's  
6 going to happen, we're going to get in one of those situations  
7 where we can't get everybody. If we don't need it, we don't  
8 need it.

9 CHAIRMAN WALLACE: Let me propose then, I am shot the  
10 last two weekends in April. I would propose that we block out  
11 the 14th. That would be either five or six weeks between  
12 meetings.

13 Is anybody out of pocket on the 14th?

14 MS. ROGOFF: If I might point out, that's the American  
15 Bar Association's Pro Bono Conference in Miami.

16 CHAIRMAN WALLACE: Well, let me ask whether that's a  
17 good idea or a bad idea. We just went off to San Diego where  
18 SCLAG (phonetic) was meeting, would we rather not meet that  
19 weekend or would we rather meet in Miami?

20 MR. WEAR: What input, if any, will we get from that  
21 interest group?

22 CHAIRMAN WALLACE: I have no idea.

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1 MR. WEAR: It may not matter whether they're meeting  
2 that weekend.

3 MR. UDDO: I think some people that come to these  
4 meetings do go to those meetings.

5 CHAIRMAN WALLACE: I'm asking the board's pleasure on  
6 this.

7 MR. UDDO: We could do what we did with San Diego, and  
8 if we meet, meet in Miami; try to coordinate the effort.

9 CHAIRMAN WALLACE: Let us go ahead and block out the  
10 14th because the board can do it. Miami is an expensive place  
11 to go, so even if --

12 MS. MILLER: So is D.C.

13 CHAIRMAN WALLACE: That's true, too. So, we may be  
14 able to do it, we may not be able to do it. Block out the date  
15 and whether we have it and where we have it, we'll ask, as with  
16 the March meeting, we'll ask the staff to work on that.

17 Remember that we do want to spread these around to the  
18 various regions.

19 MR. UDDO: If we would go to Miami, that would Region  
20 Six, so the March meeting should be somewhere other than Region  
21 Six.

22 CHAIRMAN WALLACE: I think that's probably all the

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1 scheduling we can reasonably, but I hope that in the next few  
2 weeks the staff will try to look down the road and give us a  
3 proposed schedule that we can all live with. If we don't need  
4 it, we don't need it.

5 I have a request from Michael Mellon to speak to the  
6 board on behalf of the Region Seven National Client's Council,  
7 is he here?

8 MS. BOZELL: He was never here, he asked that that be  
9 put on the record.

10 CHAIRMAN WALLACE: I appreciate the secretary  
11 correcting me. The Region Seven Client's Council has adopted  
12 two resolutions of appreciation, I'm not going to read them into  
13 the record.

14 The first is in honor of Mrs. Miller and Mrs.  
15 Benavidez, the second is in honor of Mr. Uddo, Mr. Eaglin and  
16 Mr. Smegal.

17 I'll ask unanimous consent that these resolutions be  
18 inserted into the record as if read in full. Hearing no  
19 dissent, so ordered.

20 Is there any other business to come before the board  
21 today?

22 (No response.)

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