

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS
AUDIT AND APPROPRIATIONS COMMITTEE MEETING
OPEN SESSIONS
VOLUMES I AND II

January 6-7, 1994

Washington Court Hotel
The Sagamore Hill Room
525 New Jersey Avenue, N.W.
Washington, D.C. 20001

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS
AUDIT AND APPROPRIATIONS COMMITTEE MEETING
OPEN SESSION
VOLUME I

Thursday, January 6, 1994

5:56 p.m.

Washington Court Hotel
The Sagamore Hill Room
525 New Jersey Avenue, N.W.
Washington, D.C. 20001

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

BOARD MEMBERS PRESENT:

Maria Luisa Mercado, Chairperson
LaVeeda M. Battle
John T. Broderick, Jr.
Douglas S. Eakeley
F. William McCalpin
Thomas F. Smegal, Jr.
Edna Fairbanks-Williams

STAFF PRESENT:

Alexander D. Forger, President
Martha Bergmark, Vice President
Patricia D. Batie, Secretary
David Richardson, Comptroller and Treasurer
Victor Fortuno, General Counsel
Edouard Quatrevaux, Inspector General

* * * * *

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

C O N T E N T S

	PAGE
Approval of Agenda	4
Approval of Minutes of December 19-20, 1993 Meeting	5
Consider and Act on Proposed Fiscal Year 1994 Consolidated Operating Budget for the Corporation	6
Consider and Act on Staff Recommendations on Fiscal Year 1995 Budget for the Management and Administration Line Of the Corporation's Budget	8

MOTIONS:

4, 5, 128

* * * * *

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

P R O C E E D I N G S

(5:56 p.m.)

1
2
3 CHAIRPERSON MERCADO: If I might, why don't we go
4 ahead and call the meeting of the Audit and Appropriations
5 Committee for the Legal Services Corporation to order? I
6 would, at this time, like to thank our guests for being here,
7 especially those of you that are here from out of town and
8 particularly the long distance from Alaska, I understand. We
9 welcome you. And we definitely welcome our interim president
10 for being here, Mr. Forger.

11 At an any point in time that you feel that you
12 would like to have some input, please feel free to do so, or
13 any of you, for that matter, on any particular item that we
14 discuss, if you feel a particular point that needs to either
15 be clarified or you want to have some input, please do so.

16 What we are going to do at this time is go ahead
17 and approve the agenda for this evening, and I would
18 entertain that motion.

M O T I O N

19
20 MR. SMEGAL: So moved.

21 MR. BRODERICK: Seconded.

22 CHAIRPERSON MERCADO: All those in favor?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 (Chorus of ayes.)

2 CHAIRPERSON MERCADO: Opposed?

3 (No response.)

4 CHAIRPERSON MERCADO: Abstentions?

5 (No response.)

6 CHAIRPERSON MERCADO: The motion carries.

7 If everyone has had time to review the minutes of
8 the December 19-20 meeting, are there any corrections or
9 additions to the minutes?

10 MR. SMEGAL: I have none.

11 MR. BRODERICK: None.

12 CHAIRPERSON MERCADO: Is there a motion to accept?

13 M O T I O N

14 MR. SMEGAL: So moved.

15 MR. BRODERICK: Seconded.

16 CHAIRPERSON MERCADO: All those in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON MERCADO: Opposed?

19 (No response.)

20 CHAIRPERSON MERCADO: Abstentions?

21 (No response.)

22 CHAIRPERSON MERCADO: The motion carries.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Item Number 3 is to consider and act on proposed
2 fiscal year 1994 consolidated operating budget for the
3 Corporation. Mr. Richardson, if you could just address us on
4 this point.

5 MR. RICHARDSON: For the record, my name is David
6 Richardson. I am the Treasurer-Comptroller of the
7 Corporation. Mr. Forger joined the Corporation on Monday.
8 We are in a period of transition and Mr. Forger is assessing
9 the performance of the Corporation and other activities.

10 We are not in a position tonight to present a
11 revised consolidated operating budget to you from the meeting
12 that we had in December. We will, with Mr. Forger, with the
13 final decisions that are being made, we will have a budget
14 for you at the annual meeting at the end of January.

15 CHAIRPERSON MERCADO: Mr. Fortuno, did you have a
16 resolution that dealt with this particular subject, the COB
17 for 1994?

18 MR. FORTUNO: No, I -- resolution concerning the
19 consolidated operating budget? No, I didn't.

20 CHAIRPERSON MERCADO: Or was that to be handled at
21 the next meeting?

22 MR. FORTUNO: I can prepare one in short order.

1 I'm not sure what you would like to say, other than, once we
2 have specific numbers, we can prepare something that says
3 that the Board adopts those numbers. We can do that in short
4 order.

5 CHAIRPERSON MERCADO: We already have a resolution
6 that allows the Legal Services Corporation to spend up to no
7 more than the \$10 million appropriated with the division to
8 the IG and then to the Legal Services Administration, and
9 then the particulars as far as the resolution that were
10 passed by Mr. Askew's committee and this committee.

11 Other than that, you don't see a necessity for us
12 to do that and we can just deal with it at the latter January
13 meeting?

14 MR. FORTUNO: that's correct. I think the
15 resolution was adopted the last time that provided management
16 authority to expend funds with a ceiling sufficient to allow
17 the Corporation to continue to operate pending adoption of
18 the COB by this Board.

19 CHAIRPERSON MERCADO: Okay. Yes, Mr. Forger?

20 MR. FORGER: Madam Chairperson, I am Alex Forger,
21 interim president. I just wanted to at least make notice of
22 the fact that it is likely that the COB would exceed the \$10

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 million figure that was resolved as the maximum at your last
2 meeting.

3 Obviously, it's in your discretion but, in light of
4 costs of transition and other factors, it seemed to us that
5 it may very well exceed, though we would seek to come within
6 or as close as we could to that \$10 million.

7 CHAIRPERSON MERCADO: Was there any discussion in
8 looking at that as to whether or not we ought to decide
9 whether the deficit would be done over a two-year period of
10 time versus a one-year period of time?

11 MR. FORGER: I think that is still a matter of
12 discussion and costing out the various alternatives that are
13 available for the reduction of the M&A budget.

14 CHAIRPERSON MERCADO: Thank you. Now, we're going
15 to deal with Item 4 on the agenda, consider and act on staff
16 recommendations on fiscal year 1995 budget for the management
17 and administration line of the Corporation's budget. Mr.
18 Richardson.

19 MR. RICHARDSON: Distributed to you this evening is
20 the budget that was prepared in the last two weeks, however,
21 with the same caveat that we have just heard. The
22 Corporation is in a period of transition. There will be a

1 number of changes to this document.

2 If you would like, we can walk through some of the
3 aspects of it. It was prepared basically with the
4 Corporation as it stood a month ago. We have added the
5 elements of, as we discussed at the last meeting, some
6 dealing with the 1994 budget. We have a budget before you
7 that was a freeze in salary, changing some of our benefits,
8 for instance a vacation from an accrued vacation to an
9 eligible leave status.

10 This document goes back to an accrual basis for
11 vested leave and, therefore, the benefits line has been
12 increased accordingly. The one that you also have before you
13 does not spread out the disability costs, dental costs,
14 workers' compensation.

15 There is another spreadsheet that I do have that
16 was completed today that does that but it will not change the
17 bottom line of the budget. It will give you a better
18 presentation of what it does cost each office. Let me get
19 that at this point.

20 The second document that you have you see will
21 equal the same bottom line but what it does do is share those
22 costs through the Corporation, through each budget. We've

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 also allocated the square footage of the rent. We've also
2 allocated the commercial liability insurance, those items
3 that we discussed at the last meeting that could easily be
4 done.

5 There is some work still going on, for instance,
6 that will be involved with the telephone, that we will try to
7 issue, crunch some numbers and do a shared costs there.

8 Some of the other items, such as we talked about
9 displaying how we might share the cost or distribute the cost
10 of supplies. We have no historical data, any empirical data
11 that we could do that with. However, we can build that this
12 year and, at the Board's pleasure, we could, for instance,
13 make distributions of supplies to particular offices and then
14 charge that office for the supply, but we would also have to
15 move the budget along with it for this first year and then we
16 would have a historical basis, then, to make those shared
17 costs in the next year.

18 Let me go ahead and venture into some of the
19 documentation, and I will be as detailed as you require. If
20 I get too detailed, if you will just stop me and we will do
21 it in a more summary form.

22 In the 1995 budget presentation, we have put aside

1 \$304,700 for the Board of Directors. That does contemplate
2 two meetings in October-November of next year on the first
3 line. And you'll see this \$320 a day. There's ten Board
4 members accepting the attendance fees and a two-day meeting.

5 At the annual conference, we are contemplating a
6 three-day event, and that's based on what we did last year.
7 And then we are anticipating again ten Board meetings over
8 the next nine-month period. Now, it's a possibility that
9 once the Board gets acclimated and educated to the system
10 that we -- to the Corporation -- that budgeting 13 Board
11 meetings will not be needed. But we are basing it basically
12 on what it appears is going to happen this year.

13 We also have budgeted some meetings for Board
14 members with staff and we have also budgeted the court
15 reporting and some expert witnesses, if you would bring a
16 panel in, so forth, that you would need to pay a particular
17 individual. The consulting is for your fees. The attendance
18 fees that you receive are charged to the Corporation.

19 The next page will go into the airline and, as you
20 see, we have again budgeted those meetings. We have budgeted
21 five meetings out of town. This you would not be able to see
22 from this particular document because what we have done is

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 estimated.

2 Your costs to the Corporation for the meetings
3 would not make a difference basically as to where we go
4 unless it is closer to one of the Board members' residence.
5 We have in the past had meetings in Board members' home
6 cities so we would save a hotel fee here, there. Certainly,
7 if we would go to San Francisco it would be, of course, Mr.
8 Smegal's home; if we could go to Los Angeles, there would not
9 be the full cost of the airline travel.

10 This is an estimate that we have just put together
11 trying to work with the hotel costs. What we pay here in
12 Washington is about the worst-case scenario that we have, and
13 then the meals and miscellaneous expenses at \$40 a day.

14 MR. SMEGAL: The page that you're presently
15 referring to, Mr. Richardson, it's indicated at the bottom
16 right as total travel requirements of \$150,000. You've got
17 some entries on the left that do not correspond, in my view,
18 to what the item is. You've got Board members' air travel
19 and then you've got court reporter, I guess. Shouldn't that
20 be Board members all the way down?

21 MR. RICHARDSON: No, sir, because the court
22 reporter does travel with the Board when we go to an away

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 meeting, so her costs are a part of the Board's budget.

2 MR. SMEGAL: Yes, but the description of what --
3 oh, I see; it's a separate item.

4 MR. RICHARDSON: Yes.

5 MR. SMEGAL: I see. You don't have enough entries
6 on the lefthand column; that's what it is. You've got the
7 Board member charges interspersed with the court reporter
8 charges.

9 MR. RICHARDSON: Right. We tried to do that to
10 show the different relationship there.

11 MR. SMEGAL: Okay.

12 MR. RICHARDSON: And, of course, you see that the
13 annual conference and award expert witnesses \$25,000, that's
14 approximately what we spent last year.

15 MR. SMEGAL: Okay.

16 MR. BRODERICK: David, how does this compare with
17 what was estimated for fiscal year 1994?

18 MR. RICHARDSON: 1994 --

19 MR. BRODERICK: And I don't need it by individual
20 entry, but the total estimated costs for Board activities
21 were \$304,000?

22 MR. RICHARDSON: \$363,000 basically for Board

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929

1 activities has been set aside at this point for the 1994
2 budget. The reason that's a little high, of course is, we
3 are anticipating a presidential search, reauthorization, some
4 additional travel, and so forth.

5 The other items, the telephone, Federal Express,
6 are sort of historical items. That's basically what we've
7 paid in prior years. Outside printing is for the printing of
8 the invitations to the annual conference and some of the
9 items there.

10 In the other category, you'll see that there is
11 some miscellaneous supplies, awards, plaques and so forth,
12 that we pay out of the Board's budget. The occupancy there
13 is a meeting such as the one we're having here tonight. We
14 were charged a small rental fee. The majority of that money
15 will be for the annual conference, because you have breakout
16 rooms where we have small meetings and those rooms do get
17 costly.

18 The documentation for the Executive Office you'll
19 see is \$914,000. That does not correspond to the last sheet
20 because of the shared costs that we did allocate throughout.
21 The total is \$987,662. So the differences would be in the
22 temporary benefits and the other operating costs.

1 The other items, such as salary, temporary employee
2 pay, and the travel, communications, have not changed, so the
3 documentation would be true there.

4 Do you want to go through salary lines? How
5 detailed do you want to be on this review at this point?

6 MR. BRODERICK: Let me just ask you, the entry for
7 Executive Offices, the 987, is that assuming a hiring freeze?

8 MR. RICHARDSON: No, sir, it does not, not for
9 1995, it does not.

10 MR. BRODERICK: Does it assume that additional
11 people will be added to the budget?

12 MR. RICHARDSON: At this point, that's one of the
13 reasons I caveated the original, the beginning of this, is
14 this was prepared under the prior president. With Mr. Forger
15 entering, we are in a period of transition and, quite
16 honestly, I would think there would be some additional staff
17 in some of these areas.

18 The Board has passed, of course, the \$848 million
19 budget that included \$15 million for the management and
20 administration. The total of this budget is only \$14
21 million, basically. So I think there would be additional
22 staff. I would think there would be additional initiatives.

Diversified Reporting Services, Inc.

918 18TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Whether we come up with a \$15 million budget or not is just
2 something we'll have to work toward.

3 Basically, we work on a zero-based concept. We
4 work from the bottom up. We establish the position, we know
5 the salary, and then we see the historical costs. We don't
6 add a percentage in a lot of cases. We try to relate it to
7 historical perspective and see what the costs would be for a
8 future operation and not just across the board a 5 or 10
9 percent increase as some people might do.

10 MR. BRODERICK: Does this proposed budget, in
11 whatever form it currently exists, assume a salary freeze?

12 MR. RICHARDSON: It does not. It assumes -- let me
13 back up. It assumes a salary freeze through December 31st,
14 because the proposal in the 1994 budget is a complete year
15 salary freeze and then, this budget, we would contemplate
16 salary increases being given January 1, 1995, and it would be
17 in step with the anniversary date of each employee.

18 MR. BRODERICK: Thank you.

19 CHAIRPERSON MERCADO: This budget doesn't, at this
20 point it doesn't really contemplate that you would have the
21 two-year deficit that you would be dealing with in 1995 as
22 well, right?

1 MR. RICHARDSON: It does not. We've not looked at
2 it in that light and, certainly, if we had a two-year plan,
3 then the million-dollar different gap here would go toward
4 that deficit.

5 MR. SMEGAL: David, is there some way to number
6 these pages when we look at these things in the future?
7 There are no numbers on it. I guess I'm on the third page in
8 and I -- you've got a cover sheet and then, underneath that,
9 you have the individuals in the Executive Office, a number of
10 which are vacant and, of course, need to be filled. Then I
11 turn the page and I have another page, and I don't understand
12 what this is.

13 MR. RICHARDSON: The second page, it says "Merit
14 pay and total direct salary costs."

15 MR. SMEGAL: Right.

16 MR. RICHARDSON: It relates back to the total
17 increase that's eligible for the Executive Office during this
18 period. Basically, we calculate the increase of 6.2 percent
19 and the existing pay that's the maximum that any one employee
20 can receive in the Corporation, and then they are eligible
21 for merit pay equal to 2 percent.

22 MR. SMEGAL: So these numbers represent -- well,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 let's just pick out one here, Ken Boehm, who's salary is XXX,
2 and you've got a XXX over here. What is that? Is that 6
3 percent?

4 MR. RICHARDSON: That's 6.2 percent. The 10
5 percent indicates that his --

6 MR. SMEGAL: His anniversary is in October?

7 MR. RICHARDSON: Is actually September.

8 MR. SMEGAL: September.

9 MR. RICHARDSON: That's one month, basically.

10 MR. SMEGAL: Okay. Thank you.

11 MR. RICHARDSON: And, as you see, there was -- the
12 only thing that's indicated here is the president, you'll see
13 that there is a step there because the president normally
14 gets an increase with the Executive Office schedule on
15 January 1 of the next year.

16 MR. SMEGAL: Beyond the salaries, all the other
17 pages here follow along, just on normal accounting
18 procedures, I guess?

19 MR. RICHARDSON: Yes.

20 MR. SMEGAL: You've made some estimates as to the
21 cost of travel to six of the Board meetings.

22 MR. RICHARDSON: That's correct.

1 MR. SMEGAL: Assuming six of the 12 if we were to
2 have that many would be out of DC?

3 MR. RICHARDSON: That's correct.

4 MR. SMEGAL: And these are just numbers,
5 projections based upon current costs of travel and per diem
6 expenses?

7 MR. RICHARDSON: That's correct. You see, for
8 instance, staff travel, \$20,000. That's basically \$7,000
9 projected for the meetings and you'll see the breakout there,
10 and that's for the additional four individuals that travel
11 through the Executive Office.

12 There's also other meetings that are
13 contemplated -- NLADA, ABA meetings -- and, in the past, the
14 president has gone to different programs, to look at a
15 migrant camp, look at a Native American area. So this would
16 give the president the ability to do that.

17 The postage and Federal Express or telephone, I
18 should say, and federal express, again are basic. They are
19 estimates based on people traveling and needing to call home
20 or, in some cases, where a Board member -- you call a Board
21 member and then that would be shared with that particular
22 office.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 This is one of the costs that we'll be looking at
2 to break out, and each office will have a bigger piece of the
3 pie, you might say, because in the administration budget
4 there is an amount allocated for communications which is the
5 total telephone cost as it has been in the past for the
6 operations.

7 Outside printing. Most of the time when you see
8 that in a very small dollar amount, \$200, it's mainly for
9 business cards and for meetings such as this, if we need to
10 run upstairs and make a quick copy, the Business Office would
11 have money set aside for that.

12 In your other operating, you'll see that the
13 president, we usually contemplate paying ABA dues, state bar
14 dues, and that's for the president and vice president and
15 counsel to the Board.

16 There have been some subscriptions, such as the
17 "Congressional Quarterly." Those type of things are what we
18 will see there. The employee lectures, mainly coffee
19 supplies and, again, such as a meeting like this, purchase of
20 coke, coffee, and so forth.

21 CHAIRPERSON MERCADO: We don't pay state bar dues
22 for the other attorneys?

1 MR. RICHARDSON: Only the position. If the
2 position requires an attorney to be hired, then we would pay
3 the dues. But basically, if a director, such as in my case,
4 I'm a CPA and the Corporation does pay my \$80 ASCPA dues.
5 But if I were an attorney, they would not pay my ABA dues or
6 license.

7 MR. BRODERICK: David, under the column on PEAR,
8 can you explain to me how you derived the \$252,000 number for
9 on-site reviews? Where is that coming from?

10 MR. RICHARDSON: You're referring to the consulting
11 fees that are shown there?

12 MR. BRODERICK: Yes. I have one page here, but it
13 doesn't give me any detail.

14 MR. RICHARDSON: Actually, that is the director's
15 estimate of what the consulting costs might be.

16 MR. BRODERICK: What is it carried at in fiscal
17 year 1994?

18 MR. RICHARDSON: 1994, basically, which is still
19 under consideration, I think is \$200,000. But of course, we
20 are operating -- that budget, of course, is still being
21 reviewed.

22 MR. BRODERICK: I understand.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929

1 MR. RICHARDSON: And it could be cut an additional
2 amount of money.

3 MR. BRODERICK: And tell me, in the same column,
4 the travel and transportation amount is \$669,000?

5 MR. RICHARDSON: In the 1994 budget, as I recall,
6 it's \$250,000.

7 MR. BRODERICK: How much?

8 MR. RICHARDSON: \$250,000. One of the reasons that
9 you'll have a larger increase there, of course, is if we go
10 to -- in going to a peer review concept, if executive
11 directors, managing attorneys are traveling, we would still
12 have to pay their travel costs.

13 Quite honestly, in looking at the \$252,000, that's
14 something that will have to be looked at also, because, at
15 this point, I'm not sure as to if an executive director pays,
16 if they will be entitled to an attendance fee or a consulting
17 fee. I believe they would be. And, in that case, this
18 figure would be increased in the coming year.

19 MR. BRODERICK: Whatever the benefits of more peer
20 review in the field, it's not going to be an economic benefit
21 to the Corporation.

22 MR. RICHARDSON: No, because I think from listening

1 at the last Board meeting, there is -- there was some
2 discussion about having the executive director travel and pay
3 the travel costs but not pay them an attendance fee or an
4 consulting fee. I also heard discussion that they would
5 travel and receive the consulting fee. So that's something
6 that we will have to flesh out and provide for if it goes
7 that way.

8 CHAIRPERSON MERCADO: And I think that for sure one
9 of the things that we wouldn't want to see happen is that,
10 whether it's directors or other attorneys or staff in the
11 field programs that would come to do the peer reviews, that
12 at least they wouldn't be penalized for doing that and they
13 would continue to receive their salary while they're doing
14 the monitoring or peer review, but that the travel would be
15 paid by the national office rather than their program.

16 MR. RICHARDSON: Yes, absolutely.

17 CHAIRPERSON MERCADO: Okay. Let's see. We're on
18 the inspector general unit; is that right?do

19 MR. RICHARDSON: Okay. I might recognize Mr.
20 Quatrevaux at this point, and I do apologize to him and to
21 you. He has just received the allocation also of these
22 number crunching and seeing the difference for the first

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 time, but he can speak to the majority of his budget.
2 Actually, this is just adding to his budget at this point;
3 and certainly during the year, as we look at this closer,
4 these figures may be revised a little bit and sharpened a
5 little.

6 MR. QUATREVAUX: For the record, my name is Ed
7 Quatrevaux. I'm inspector general of the Corporation.

8 CHAIRPERSON MERCADO: Have you had an opportunity
9 to look at this budget estimate, or your office?

10 MR. QUATREVAUX: Well, we did submit to the
11 committee a 1995 budget request --

12 CHAIRPERSON MERCADO: Right.

13 MR. QUATREVAUX: -- which is sort of, it's got a
14 range to it based on the Board's preferences for consulting
15 projects.

16 MR. SMEGAL: This is the line we have in the -- the
17 cover documented dated December 28 is the one you submitted,
18 isn't it, the one that has the total of \$1,436,000?

19 MR. QUATREVAUX: That's correct. I've looked at
20 this allocation on the occupancy costs. I have no reason to
21 believe it's not accurate. I think I would refer you to the
22 operations plan for discussion, FY 1995 -- well, 1994 and

1 1995 but specifically 1995.

2 I guess the principal differences in the budget
3 from 1994 are requests for five additional personnel. This
4 is primarily to perform the quality assurance reviews of
5 grantee independent audits. I didn't submit such a request
6 in fiscal year 1994 for obvious reasons. However, we did,
7 earlier in fiscal year 1993, make a similar request.

8 So that the two principal variables in the OIG line
9 there, I guess, besides the occupancy costs and anything else
10 that's there, the five additional personnel, plus a fairly
11 substantial figure of \$155,000 which is for consulting,
12 \$25,000 of that is intended for the Corporation's annual
13 financial audit.

14 Beyond that, it's a matter of the projects that
15 were identified in the operations plan, first and foremost, a
16 review to improve delivery capability through technology,
17 which I believe I described to you earlier. There are also
18 other optional projects.

19 If you'd like, I'll mention one was the grant
20 recipient employee benefits analysis and the other would be
21 an analysis to determine the potential for reducing legal
22 needs through federal agency policy changes. That one, I

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929

1 think I mentioned before, would be a joint project more than
2 likely with the HHS -- that is, Health and Human Services --
3 Office of Inspector General and perhaps some other agencies
4 as well.

5 But those are, you know, that's -- that I need the
6 Board's feedback on. I very much want to take on this
7 technology spreading, if you'd like to look at it that way,
8 technology transfer project, because I think there's a real
9 potential out in the field for increases in capability
10 through technology, both communications and automation, and I
11 say that based on the conversations I've had with field
12 people.

13 CHAIRPERSON MERCADO: Is this particular dealing in
14 the area of the fiscal and financial aspects of the
15 individual programs or just with everything in general?

16 MR. QUATREVAUX: Everything. Any application that
17 adds to the capability or reduces cost.

18 MR. BRODERICK: Mr. Quatrevaux, let me ask you a
19 question if I might and you may or may not know the answer
20 and it may or may not be a fair question.

21 With those qualifications, if the positions that
22 you are requesting were filled, as I read this, there would

1 be 18 people working in your department --

2 MR. QUATREVAUX: That's correct.

3 MR. BRODERICK: -- to serve as inspector general
4 for the Corporation, which has an annual budget of about \$400
5 million. Do you know, in the other offices that are
6 performing functions similar to or comparable to the ones
7 that your office is performing in other federal entities or
8 departments or agencies, whether those numbers are
9 consistent?

10 It seems to me like 18 people is a very high number
11 of folks to be doing that work, but maybe you can help me on
12 that.

13 MR. QUATREVAUX: Well, I think, first of all,
14 there's a great range. Let me just say that, for example,
15 among the designated federal entities, the 33, or 32 in
16 addition to us, you have the giants -- the Postal Service,
17 the Tennessee Valley Authority. The Postal Service, I think,
18 has several thousand people in the OIG.

19 So it's a matter of when you look at the resource
20 requirements, what you have to look at is the type of
21 activity the organization performs. In that group you have
22 service providers like the two I mention. You have

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 regulatory organizations like the Securities & Exchange
2 Commission.

3 As you change the function that the agency
4 performs, you have a different OIG focus. In regulatory
5 agencies, they focus on the rulemaking process more than
6 anything else.

7 Other considerations, primary considerations,
8 derive from what is referred to as an audit risk assessment.
9 And that is -- there are lots of elements to that, one of
10 which is the number of people receiving the funds, the
11 quantity of the funds, the nature of the recipients, where
12 they're individuals, nonprofit organizations, colleges and
13 universities or state and local governments. There's a risk
14 ladder associated there.

15 We've analyzed these factors. It's my opinion that
16 to do the job, for example, that the Clinton Administration
17 expects of the OIGs or hopes that the OIGs would perform,
18 that these 18 is what would be required. Can we do with
19 less, which is the next question? Sure, and we're going to
20 give up something. It's a simple trade there.

21 MR. BRODERICK: What is the principal need for the
22 new people that underlies your request for additional

1 personnel? What is the principal area where you say you need
2 more bodies?

3 MR. QUATREVAUX: We want eventually to do 33
4 quality assurance reviews per year.

5 MR. BRODERICK: What are you doing now?

6 MR. QUATREVAUX: We have done two and had hoped to
7 do eight for the remainder of 1994 and whether or not we do
8 any more is a budget-driven matter. We base the 33, it's 10
9 percent of the population, which makes for what is sometimes
10 referred to as a 10-year audit cycle.

11 CHAIRPERSON MERCADO: Ten percent of which
12 population?

13 MR. QUATREVAUX: The grantee population.

14 CHAIRPERSON MERCADO: Okay.

15 MR. QUATREVAUX: 323 at the moment grantees, and
16 that's roughly, 10 percent would be roughly 33 per year.

17 MR. SMEGAL: If I understood what you were just
18 saying in response to Mr. Broderick's question, there is some
19 data that you used to extrapolate from to determine that five
20 additional people in your OIG activity was appropriate. I
21 think it would be helpful to us to either have that kind of
22 information before us at some point or something equivalent

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 to it, because it seems to me we're kind of throwing darts at
2 a wall in a dark room.

3 As I recall, and I wasn't on the Board then, didn't
4 Mr. Wilkinson have two or three people?

5 MR. QUATREVAUX: That's correct. But let me just
6 say --

7 MR. SMEGAL: I'm not suggesting he had enough.

8 MR. QUATREVAUX: No, he certainly didn't.

9 MR. SMEGAL: I don't even know what he was doing,
10 and that isn't the point. I think it would be helpful to us,
11 because we are supposed to certainly pass on your budget and,
12 depending on which of these two sheets I look at that Mr.
13 Richardson gave us, you represent 12 percent of the M&A
14 budget for fiscal year 1995.

15 MR. QUATREVAUX: We have discussed the
16 appropriateness of that percentage with your predecessors
17 and, in fact, we have responsibilities that other staff
18 elements do not have.

19 MR. SMEGAL: Well, the COB 1994 we're looking at
20 would have you at about 9-1/2 percent.

21 MR. QUATREVAUX: Right. One of the things I'd like
22 to point out to you, if I could, on that is that this is an

1 extremely low overhead grant-making organization.

2 There are seven other grant-making designated
3 federal entities and this one has the smallest overhead of
4 them all, which is to say -- well, let me make the point that
5 if the overhead were larger, we would be a smaller
6 percentage, a rather obvious point. But I think there are
7 reasons for our low overhead, extremely low overhead.

8 MR. SMEGAL: My recollection is, over the years
9 I've served on this Board, there have always been concerns
10 that the M&A budget was too high and we spent a lot of time
11 trying to cut it down and we're sitting here right now trying
12 to stuff 10 pounds into a nine-pound sack.

13 MR. QUATREVAUX: I understand. I'm just saying
14 that in comparison to the other government agencies, grant-
15 making organizations.

16 MR. SMEGAL: Yes, I appreciate that they all have
17 different functions. The LSC has a different responsibility
18 in terms of how much of it needs to be management and
19 administration. I understand that distinction. But, just
20 looking at raw numbers, you've got 12 percent of Mr.
21 Richardson's January 6th sheet where, as I had suggested and
22 others had suggested, he distribute the cost of the occupancy

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 and other things across the Board.

2 Anyway, it would be helpful if we could have the
3 benefit of the data from which you determined that five would
4 be an appropriate number.

5 MR. BRODERICK: I also ask you here, you have an
6 entry of \$155,000 for consulting and I have the page with the
7 detail. Can you give me a little more than is on this page?
8 It says, "Improving delivery capability through technology,
9 \$75,000 and additional review topics \$55,000." Can you --

10 MR. QUATREVAUX: This particular submission was
11 made when I was not available, and the \$55,000 -- let me turn
12 to it, first of all. The \$55,000 is an averaging sort of
13 figure; is that correct? That is an attempt to come up with
14 a single number, an expected value based on the expectation
15 of the Board's decision is what you would wish to do with
16 these projects that were outlined in the operations plan.

17 The additional review projects were the two that I
18 just mentioned a few minutes ago -- the reducing legal needs
19 via federal policy changes and the grantee employee benefits
20 analysis. The \$55,000 -- we think, in all of these, what
21 we're talking about is some number and, very possibly,
22 someone from the field as well, supplementing our in-house

1 staff to do these analyses.

2 It's not a 100 percent contracting for an analysis;
3 it's an in-house operation but supplemented with consultant
4 assistance. Is that helpful?

5 MR. BRODERICK: And if you had the additional
6 employees you were suggesting, you would still have to
7 supplement it?

8 MR. QUATREVAUX: I think so.

9 MR. BRODERICK: And improving delivery capability
10 through technology, what specifically are you talking about?

11 MR. QUATREVAUX: Well, let me give you an example.
12 I listened to a fellow named Wayne Moore describe a very
13 innovative approach to securing pro bono assistance here in
14 the Washington area. He's managed to set up a system whereby
15 he essentially takes cases over the phone, reduces it to
16 electronic print.

17 The case summaries get faxed out automatically to a
18 fax list of thousands of attorneys or hundreds of
19 attorneys -- I don't want to exaggerate here -- in the area
20 and he runs it like a direct mail operation and he gets, you
21 know, he gets, like direct mail, a certain percentage say
22 yes. And he's increased the pro bono participation in his

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 area significantly.

2 So, the logical approach to this thing would be to
3 identify these innovations, to determine what benefits they
4 have, and determine why others are not using them and, in
5 that process, identify what would be required to achieve the
6 same increases in capability and delivery effectiveness.

7 CHAIRPERSON MERCADO: When you do that, are you
8 evaluating what the effectiveness of the delivery of legal
9 services is or isn't?

10 MR. QUATREVAUX: I think we would be looking more,
11 in this sort of analysis, for changes in capability as
12 opposed to some sort of bottom line grade of effectiveness.

13 MR. BRODERICK: Why is that in the parameter of the
14 Office of Inspector General?

15 MR. QUATREVAUX: Because our mission is to promote
16 economy, efficiency, and effectiveness in the operations
17 administered or financed by the Corporation, everything.

18 CHAIRPERSON MERCADO: That's where my effectiveness
19 question came from.

20 MR. QUATREVAUX: We would like to see what we could
21 do in that way to improve delivery capability because, based
22 on the conversations I've had, I think there is a real

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 potential there.

2 MR. SMEGAL: It seems tome there's a dichotomy
3 right there, though, that the Legal Services Corporation Act
4 sort of gives some of that responsibility to this Board.

5 MR. QUATREVAUX: Primary.

6 MR. SMEGAL: Do you have any trouble drawing the
7 line between what this Board should be doing and what the
8 inspector general should be doing?

9 MR. QUATREVAUX: No, I don't. The responsibility
10 is totally yours. We hope to contribute to that effort. We
11 hope to assist you.

12 MS. BATTLE: Is what you stated what improving
13 delivery capabilities through technology is all about, and
14 how did you derive this number in order to accomplish that,
15 the \$75,000?

16 MR. QUATREVAUX: Well, we thought about what would
17 be required to do such an analysis. We thought -- and I may
18 have to call on some help here, maybe not. The figure was
19 based on acquiring someone with both systems analysis
20 capability and knowledge of the field, and there are some
21 people around that you may know who have those combined
22 talents. That's what it was based on.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. BRODERICK: You would be contracting that
2 service out to a third party?

3 MR. QUATREVAUX: No, we would be training that
4 person to join our review team.

5 MR. BRODERICK: Would they be coming in-house?

6 MR. QUATREVAUX: Correct.

7 MR. BRODERICK: So is that somebody beyond the five
8 additional slots that we were looking at?

9 MR. QUATREVAUX: That's correct. You see, you can
10 never have -- regardless of the size of an OIG staff, we will
11 always end up doing some analysis where we don't have all the
12 requisite skills, whatever it might be, whether it's
13 personnel management -- suppose we did an audit of personnel
14 management. We might very well hire someone with personnel
15 management experience to join our review team.

16 MR. BRODERICK: Did anyone do an analysis? If
17 you're asking to get an additional appropriation for that
18 kind of a function, which may be very valid -- I'm not
19 passing judgment on it -- did you do an analysis as to what
20 the cost benefit is of spending that money?

21 MR. QUATREVAUX: That's a difficult one, as you
22 know. The question is what's it worth to increase the

1 delivery capability X percent? I don't know, frankly. But
2 it seems to me if we're in the business of investing money to
3 improve delivery capability, that that has the potential to
4 significantly increase capability without necessarily any
5 particularly large increase in cost.

6 CHAIRPERSON MERCADO: Part of the problem seems to
7 be that if you're looking -- I think that one of the
8 recurring concerns, I think from the field, is they're not
9 even -- many programs are not even in Stage 1 of technology
10 within their own offices in providing just the most basic of
11 legal services. Many of them are not even up to having
12 computers to work with.

13 So I guess part of the confusion from some of us is
14 in trying to see how do we get the programs that are already
15 on board to do their legal work much faster and more
16 economically? And obviously, that's one formula that you're
17 talking about. But we're not even at the point where people
18 even have computers to do that, to begin with.

19 Does your analysis include looking at that
20 provision of legal services and some of the basic needs in
21 some of these programs or are you talking about something
22 more innovative, assuming that everybody has got --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: It's to identify -- benchmark, if
2 you will -- these very good applications, these very high
3 productivity applications of technology, and to identify what
4 prevents the rest of the grantees from having that same
5 capability, and that would necessarily entail, in a grant
6 organization that has no computing capability, to identify
7 what would be required.

8 CHAIRPERSON MERCADO: Because another factor that
9 I'm not sure that this would do, at least from the example
10 that you've given me, if their efficiency or their capability
11 is going to be based on numbers, you're going to say they
12 handled 100 cases in a month or a week, versus five cases or
13 ten cases that maybe some other program did, and then you
14 look at the complexity of the cases and the impact that those
15 cases have on how it affects poor people in the long run,
16 because there are different types of cases. It's not just a
17 number of persons or individuals.

18 So I don't know how you quantify or how it is that
19 you do that analysis. Is it based only on numbers or is it
20 based on what the ultimate result of people helped or
21 assisted will be?

22 MR. QUATREVAUX: I think the entire legal services

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 community is attempting to work toward client outcomes
2 measurement. But no, we wouldn't do it that way and we're
3 quite aware that simply counting number of cases is
4 simplistic and not a valid measure. But there are various
5 methodologies to estimate changes as a result of changes in
6 investments and equipment and people and procedures and that
7 sort of thing.

8 CHAIRPERSON MERCADO: Now, on the other page, we
9 have investigations and audits and, for some reason, I
10 thought that that went as part of the consulting cost that
11 you had. Let's see. The audits that you're talking about
12 where we have \$44,000 on audits --

13 MR. QUATREVAUX: Right.

14 CHAIRPERSON MERCADO: -- are these the same ones
15 that you're talking about?

16 MR. QUATREVAUX: Let me say what kinds of
17 activities, to help you out.

18 CHAIRPERSON MERCADO: Yes, because it's not real
19 clear to me. It seems like we're duplicating on the budget,
20 unless I'm just misunderstanding the way that this is
21 outlined. It seems like it's already been accounted for and,
22 if it hasn't been, then tell me why it hasn't been.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: No, it hasn't. It hasn't. First
2 of all, of the 44,000 -- I'm trying to come up with the
3 number now -- a good piece of that is for the quality
4 assurance reviews that I mentioned earlier. This is where we
5 send two auditors out to the independent audits worksite and
6 review the work papers.

7 CHAIRPERSON MERCADO: How many of these would be
8 done?

9 MR. QUATREVAUX: Our objective is to do 33 a year.
10 This budget is based on doing 25. We had hoped to do ten
11 this year.

12 CHAIRPERSON MERCADO: So the 44,000 is based on 25
13 audits?

14 MR. QUATREVAUX: Twenty-five quality assurance
15 reviews. We also do audit work in support of investigations.
16 We do also audit assistance work. We, for example -- and
17 you'll get a copy of it -- we've just issued a report to the
18 Board of Directors of a subrecipient. We performed audit
19 work there and we've provided a number of recommendations to
20 them that they apparently appreciate. They've indicated that
21 they have implemented them or plan to.

22 CHAIRPERSON MERCADO: When you do the quality

1 assurance review, is the number that's incorporated for
2 investigations combined with the audits?

3 MR. QUATREVAUX: No.

4 CHAIRPERSON MERCADO: Is that separate?

5 MR. QUATREVAUX: The investigations include
6 investigations in the field, they include testimony by
7 investigators to grand juries and at trials.

8 CHAIRPERSON MERCADO: And does that \$21,000 -- what
9 are we averaging? What's the number of investigations that
10 we're averaging?

11 MR. QUATREVAUX: The total last year, not for
12 investigations, but the total OIG travel expenditure in a
13 constrained environment last year, was \$36,000 or \$37,000. I
14 can't remember exactly which. Some of that travel money -- a
15 very small amount -- would be targeted to training. We try
16 to do as much training here in the Washington area as
17 possible.

18 CHAIRPERSON MERCADO: See, we have travel and
19 transportation of \$77,000 that you're saying includes the
20 investigation and the audits.

21 MR. QUATREVAUX: Correct.

22 CHAIRPERSON MERCADO: And does the consulting not

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 include --

2 MR. QUATREVAUX: No, the consulting is payment to
3 consultants.

4 CHAIRPERSON MERCADO: Okay.

5 MR. QUATREVAUX: It's personnel, I suppose --

6 CHAIRPERSON MERCADO: Okay.

7 MR. QUATREVAUX: -- is the way to characterize it
8 best.

9 MR. BRODERICK: Mr. Quatrevaux, I have a question.
10 I don't know, some of the times I don't know where the
11 chicken is and where the egg is on this. Let's see if I can
12 approach it this way. Does your personnel need correlate
13 with the amount of money available to this Corporation to
14 extend to grantees or is it largely unrelated to that?

15 MR. QUATREVAUX: It's related more to the number of
16 grantees and their locations.

17 MR. BRODERICK: Than the amount of money?

18 MR. QUATREVAUX: Than the amount of money. We have
19 submitted to the Board our view that the changes, potential
20 changes in the Corporation's appropriation, don't really
21 materially affect our needs. It's very slight.

22 MR. BRODERICK: Does the budget proposal that we

1 have here for your office assume that the number of grantees
2 will increase substantially?

3 MR. QUATREVAUX: No, it does not.

4 MR. BRODERICK: But the dollar amount sought is a
5 substantial increase over past years?

6 MR. QUATREVAUX: Over fiscal year 1994, not over
7 what was requested in fiscal year 1993.

8 MR. BRODERICK: One of the questions I have -- and
9 your office is rather unique, and I expressed my sense on
10 that and so forth the last time and I won't do it again -- my
11 question to you is, if this Board determines that you
12 shouldn't have additional personnel or the financial
13 constraints on this Board are such that additional personnel
14 can't be justified, can you perform your statutory
15 obligations as inspector general for this Corporation?

16 I'm not asking you to cut your own throat here.
17 I'm not suggesting that your answer is going to tell me that
18 you don't need more people. I'm asking the question in good
19 faith.

20 MR. QUATREVAUX: Well, in good faith, it depends on
21 what you think the OIG should do in the environment in which
22 it operates, and that is a subject of disagreement between

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the Administration and, apparently, the key figures in
2 Congress.

3 The IGs, you should know, in the National
4 Performance Review, have been criticized as being auditors
5 and investigators who focus only on compliance aspects and
6 ignore the broader questions of program effectiveness and
7 doing analyses that improve program effectiveness. The
8 example that's always given out is the Department of Health
9 and Human Services where they have over 100 people in an
10 organization that does nothing but rapid assessments for the
11 leadership of that department.

12 They've done very interesting work. Their reports
13 in 1993 included such topics as hospital closures in rural
14 areas, use of emergency rooms by Medicare patients, and all
15 the implications for the department and the government, and
16 just so on and on and on and on -- teenage alcoholism for the
17 Surgeon General.

18 This is what the Administration, backing the
19 National Performance Review, says it wants us to do more of.
20 The people, I suppose, most closely associated with the IG
21 function in the Congress seem to place more emphasis on the
22 combatting of fraud and abuse and see, to some degree, this

1 move by the Administration as detracting from the capability
2 to perform those sorts of duties.

3 MR. BRODERICK: Your increase here is largely
4 related to program effectiveness?

5 MS. BATTLE: I'm sorry. John asked a question and
6 I'm not sure that I heard the answer to it as to whether or
7 not you envision that you would be able to perform if, in
8 fact, the new positions were not granted.

9 MR. QUATREVAUX: I was saying that some of the
10 important parameters are the functions of the OIG which,
11 sure, we have the statutory basis but we also have what we
12 know the Administration is seeking from the IG communities.
13 I think that's important.

14 It's very interesting, your reactions to OIGs
15 performing what amounts to studies and analyses, because the
16 presumption throughout the National Performance Review is
17 that this is what top management really wanted and that the
18 IGs were dragging their heels because they much preferred to
19 go out and do contract audits and investigations and that
20 sort of thing.

21 MR. EAKELEY: Can I just butt in here?

22 CHAIRPERSON MERCADO: Sure.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. EAKELEY: I think we are collectively having
2 some difficulty (a), because we haven't worked with inspector
3 generals before and (b), there is an, I think, truly
4 intrinsic ambiguity about the role of the IG in an agency
5 such as this which is a funding conduit and is charged
6 statutorily with both the monitoring and the compliance and
7 evaluation functions.

8 I don't want to repeat the debates of the last
9 Board. I've read all the minutes of all of the executive
10 sessions and I've also read the entry that led up to the
11 changing of the reporting head. But, obviously, there is a
12 key function that you're charged with upon which we depend,
13 which is the fraud and abuse function as it relates to the
14 management and administration portion of our budget.

15 There's a second one, as I see it, that goes beyond
16 that, that is a supplement to what we do with field programs
17 and grantees, although I'm not sure whether I buy into the
18 appropriateness of your doing quality assurance reviews.
19 That's a subject for further discussion, I think.

20 I am intrigued by the possibility, though, of
21 making better use of the Office of Inspector General as the
22 Board's management consultants in some interactive ways; and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 I think one of the problems that we're having right now is
2 that -- my sense of it, again coming in new -- is that there
3 haven't been that many opportunities for the inspector
4 general and management to try and work together to develop
5 some team approaches to some of the things where we think
6 we'd like to be going, in part because we haven't really
7 identified, much less articulated, that sense of direction
8 ourselves.

9 But my own thought would be, with new management,
10 to throw some of this back, gain a better understanding of
11 where we would like to -- we need a better sense of where
12 we're going with the delivery of legal services in general,
13 and I think that, as we develop that, we should be asking you
14 to identify where you think you can enhance that priority and
15 perhaps suggest some proposals that don't require reporting
16 relationships with management but working with management or
17 complementing management initiatives in this light, that may
18 make sense for the inspector general to do rather than an
19 operating division of the Corporation.

20 I'm not sure I know where those are, but I do think
21 there are places to go on the management
22 consulting/performance enhancement side of things as well as

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 on the compliance side.

2 MR. QUATREVAUX: Let's see how to respond to that.

3 MR. EAKELEY: I don't think that requires a
4 response. It was just an observation that we're sort of
5 still in this developing stage and that we're not going to
6 come to any consensus, I think, tonight or tomorrow, about
7 what an appropriate number is because we don't know what the
8 appropriate functions are yet and we don't really know that
9 because we don't know what our priorities and initiatives are
10 going to be yet, and here we are getting close, dangerously
11 close, to midway in a budget year when we're doing it, but
12 we're talking about next year's budget, too. We have some
13 more time to develop that, quite a bit more time within the
14 overall management and administration.

15 But we really have to look at that line and, all
16 right, we can't do much with the rent, but everything else
17 we've got to prioritize and try and pull it all together in a
18 way that makes the whole greater than the sum of its parts.

19 CHAIRPERSON MERCADO: The key to all of this,
20 though, is that, as you're looking at some new analysis of
21 how to make the delivery of legal services more effective and
22 efficient, that we in fact look at people who have the

1 capability to analyze that particular delivery of legal
2 services as opposed to just a numbers person that can look at
3 numbers and what is that equal to in real terms of services
4 that are actually delivered to people, because my guess is
5 that a lot of times when we see some of those analyses,
6 they're not taking that into account, at least some of the
7 reviews that I've looked at.

8 MR. QUATREVAUX: Well, we are a little more
9 sophisticated in evaluation capability and I assure you that
10 we have the capability to measure the probable impact of
11 changes, in one way or another. They're usually estimation
12 techniques. But if you're getting, I don't know, 300 -- if
13 you're placing, if a grantee is placing 100 pro bono case a
14 year and you make some changes and now it's 500, you don't
15 have to go to client outcomes to derive a conclusion about
16 the value of that sort of thing.

17 I mean, I'm hard-pressed, given our ability to
18 discuss what we do in great detail with you, I'm hard-pressed
19 to attempt to explain everything in sound bytes.

20 MR. BRODERICK: Mr. Quatrevaux, let me just ask
21 you, in followup to Mr. Eakeley's statement, which I agree
22 with, I'm interested in your observations, briefly, as to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 what this Board could do as it relates to the function of
2 your office that past Board's, from your observation, have
3 not done.

4 MR. QUATREVAUX: I'd prefer to answer that in
5 closed session. I would like -- excuse me. Seated next to
6 be is Renee Szybala, the OIG counsel. She points out that
7 what we would really like is input from you. We did not get
8 that from your predecessors. We didn't know what they
9 wanted. We didn't know where they were headed.

10 CHAIRPERSON MERCADO: I think, though, at the last
11 Audit and Appropriations Committee, we specifically asked
12 whether or not this Board had the authority to set what areas
13 you would or wouldn't delve to, and you said that we didn't.
14 And so, consequently, what is the purpose of the Board being
15 the overseer for the OIG if, in effect, we have no sayso in
16 what you decide to prioritize in your expenditures, in your
17 budget?

18 MR. EAKELEY: When there's an indication of fraud,
19 there's an independent obligation to investigate.

20 CHAIRPERSON MERCADO: Right.

21 MR. EAKELEY: And that protects us as well as the
22 Administration. I think that was the limited context.

1 Clearly, discretionary items that are related to enhancing
2 the performance of the Corporation or its grantees are
3 discretionary and have to be compared to the other programs
4 that we're trying to evaluate and prioritize.

5 But I took it at the time not to indicate that
6 whatever budget requests came in had to be approved because
7 we're just on the receiving end of whatever the IG proposes.
8 I took it that way, anyway.

9 MS. BATTLE: I agree with what Doug has said and
10 the point that Maria has raised and, in fact, I think that
11 one statement that has been made at least or is being
12 proposed to be made about the mission of the OIG's office is
13 to assist management in identifying ways to promote economy
14 and efficiency and, when you get to a statement of what it
15 means to assist, that means that there is a cooperative
16 relationship, it seems to me, where management is identifying
17 for the IG what area that that kind of work may need to be
18 done.

19 And it seems to me that what we're dealing with
20 right now is a budget projecting into the future, that before
21 we could get to identifying which direction we're going to go
22 into in identifying what needs to be done to promote economy

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 and efficiency, there needs to be some communication as to
2 what the goals are.

3 MR. QUATREVAUX: Let me very carefully, if I may --

4 MS. SZYBALA: The IG Act is a balancing act. It's
5 got numerous anomalies in it and no agency is really
6 comfortable with figuring out how to work it out, so it's
7 done on an accommodating basis differently in every agency
8 across the government, and there are some 60-some-odd
9 agencies that have statutory OIGs.

10 But the way the statute is set up, the head of the
11 agency may not stop any OIG activity. You can't prevent us
12 from starting an audit; you can't stop us from completing an
13 investigation. But that is done. I mean, in any agency
14 where you're working well and cooperatively and you have a
15 good relationship, that is done to allow the OIG to
16 investigate the head.

17 MR. EAKELEY: But Renee, investigate doesn't mean
18 quality assurance review.

19 MS. SZYBALA: No, no. I'm getting to that.

20 MR. EAKELEY: Okay.

21 MS. SZYBALA: I'm getting to that. Quality
22 assurance review is really separate.

1 MR. EAKELEY: Okay. And that's what we're talking
2 about. You said "any activity." I just wanted to stop you
3 right there for a moment, because I know some people on the
4 Board heard you say "any activity."

5 MS. SZYBALA: That's what the statute says.

6 MR. EAKELEY: Well, okay.

7 MS. SZYBALA: Any audit or investigation. That is,
8 basically, any OIG activity because everything we do
9 essentially falls into one or the other kind of categories.
10 But what Mr. Eakeley said is true, too.

11 That is, on the efficiency and effectiveness side
12 we can do nothing; we can have no affect at all except to
13 make recommendations. We have no program operating
14 responsibilities. That is, the only way anything we do is of
15 any good to anyone, is if management wants what we're doing,
16 management is going to look at our recommendations.
17 Management may accept some of them if they're good, that is,
18 if it's totally cooperative.

19 If we undertake to promote efficiency in away that
20 makes no sense to management, to the Board at all, it's no
21 good to anyone. Go ahead.

22 MR. EAKELEY: you finish, and then I'll go ahead.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. SZYBALA: I'm kind of done, because I wanted to
2 move on to quality assurance reviews and see if I could
3 straighten that out.

4 MR. EAKELEY: Can I ask another question, Maria
5 Luisa?

6 CHAIRPERSON MERCADO: Yes? Go ahead.

7 MR. EAKELEY: I think, in large part, we're at a
8 momentary impasse, because we need more input from the
9 Provisions Committee and we need, as a Board, to develop more
10 of a consensus on how we evaluate, monitor, and enhance the
11 effectiveness of the delivery of high-quality legal services
12 around the country with whatever level of funding we have;
13 and that needs to go hand-in-hand with the other things we're
14 evaluating.

15 If, however, we're going in a direction of peer
16 review or substantial reliance on peer review for the
17 evaluation part of the function, then there's a real question
18 in my mind, at least, about the extent to which funding
19 decisions should or could be separated out from the peer
20 review process so that you get a maximum support, you get a
21 maximum interaction between grantees and peer review teams so
22 that there can be a full and fair exchange of views without

1 fear that that review process will lead to a defunding or a
2 reduced funding, which means some of what we used to know as
3 monitoring, auditing, and compliance might not be appropriate
4 for peer review.

5 I'm just speculating, but my speculation leads me
6 to the question, might it be possible for the Office of
7 Inspector General to pick up the extreme sort of what we
8 would know as the auditing function and that would be where I
9 could see you backing into quality assurance reviews, for
10 example?

11 MR. QUATREVAUX: Two points. The first is, we have
12 actively underway and are awaiting a draft report, which we
13 expect in two weeks, that should contain recommendations as
14 to the future of the grantee oversight function. I look
15 forward to receiving that report and passing it on to you.

16 MR. EAKELEY: Will that include suggestions on what
17 the appropriate role of the OIG should be, if anything?

18 MR. QUATREVAUX: It may or may not. I don't know
19 at this point. I think it's inescapable that some aspects of
20 it may be related, simply because -- well, let me just move
21 beyond that and let's wait until we get that report and see
22 what it says.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 The other thing, the quality assurance reviews are
2 a type of audit and the quality assurance reviews do two
3 things for us. They do, first of all, they allow us to
4 satisfy a statutory obligation to ensure the quality of the
5 audits of the grantees. That's a function we have under the
6 law.

7 The other aspect is, we believe that it is a
8 cornerstone of our strategy of deterring fraud. We believe
9 that effective annual audits are very important and we
10 believe that effective annual audits would detect material
11 levels of --

12 MR. EAKELEY: I don't have a problem with the
13 second point. That is something that should be made by
14 proposal or recommendation to the Board just as you've done,
15 perhaps, because that's something that we can then work into
16 the other action plan and priorities.

17 I have a little bit more pause with the first point
18 because I don't think that the debate was resolved entirely
19 in your favor that you had oversight responsibility of
20 reaching every grantee, which I think is implicit in what you
21 said just a minute ago.

22 MR. QUATREVAUX: I don't think it is implicit. I

1 don't see it as the same thing.

2 MR. EAKELEY: Okay.

3 MR. QUATREVAUX: We are, as we see it, we are
4 responsible for making sure those audits are done properly,
5 not because they're grantee audits; they could be contract
6 audits.

7 MR. EAKELEY: But we have the statutory obligation,
8 in the first place.

9 MR. QUATREVAUX: Indeed.

10 MS. SZYBALA: The Corporation has the statutory
11 obligation to ensure that audits are conducted annually. The
12 LSC Act is completely silent about how you use or what you do
13 with or the quality of those audits.

14 The IG Act, while telling the OIG that it has to
15 conduct audits and investigations and make recommendations to
16 promote efficiency and effectiveness, also requires some
17 specific activities because Congress decided that that
18 promotes efficiency and effectiveness.

19 One of those is to ensure that particular standards
20 are followed in any audit that isn't performed by a federal
21 government employee. That is, non-federal audits have to
22 follow particular standards. And the IG Act gives to the IG

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the specific responsibility of ensuring that standards are
2 met, of ensuring the quality of non-federal audits.

3 That is, the drafters of the IG Act mistrusted
4 independent public audits of federal grantees and functions.

5 MR. EAKELEY: We're not talking about federal
6 grantees. We have a separately incorporated Corporation --

7 MS. SZYBALA: You have a federal OIG.

8 MR. EAKELEY: -- set up to distance itself from the
9 political process that is a conduit for delivery federal
10 funds. And, yes, there is a very important public trust that
11 goes with that and yes, we want to do everything possible to
12 make sure that those funds are properly applied. I'm not
13 sure where -- I just don't --

14 MS. SZYBALA: But that debate is --

15 MR. EAKELEY: This is why we have learned IG
16 counsel on the Board here, who is rapidly coming up to the
17 point where he can advise us, as you are advising us, so that
18 we can figure out what's required and then, beyond what's
19 required, what's permitted and, within what is permitted,
20 what is desirable.

21 MS. SZYBALA: There are numerous problems we
22 experience because we are a federal, we are a federal office

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in a non-federal entity and that creates all kinds of
2 problems. But Congress kind of knew it was doing that when
3 it passed the inspector general amendments of 1988. It gave
4 federal inspector generals to AMTRAK, for example. I mean,
5 we are not the only ones in this very weird situation.

6 But, in view of the Inspector General Act, this is
7 federal money, I mean, obviously, the money in the hands of
8 the grantees is federal money. And our obligation to follow
9 that money is the same as that of the inspector general of
10 the Department of State, of HHS. There is no difference in
11 duties between your establishment IGs in federal departments
12 and your DFE IGs in weird organizations like LSC.

13 CHAIRPERSON MERCADO: But then are we saying that,
14 if, in effect, we were to have federal auditors do the
15 auditing of all the LSC grantees, then there really would be
16 no need for you to audit? Because you're only auditing non-
17 federal auditors so, if LSC somehow could contract with
18 federal auditors, and met all the requirements, all their
19 standards and qualifications, then you wouldn't need to audit
20 that particular grantee; is that correct?

21 MS. SZYBALA: It's a legal question.

22 MR. QUATREVAUX: The federal auditor, the term as

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 we use it, referred to a federal employee, not a contractor.

2 MR. BRODERICK: How do you fulfill a duty which you
3 say you have now on an annual basis?

4 MR. QUATREVAUX: Well, our approach is a sampling
5 one and that's why we're choosing to do it this way.

6 MR. EAKELEY: You have a desk review by OPEAR, and
7 a sort of a danger signal, as I understand it, when there
8 when there does seem to be a problem with a particular audit,
9 and there is a referral to you then. And then you have a
10 hotline and bells and whistles, I would say.

11 MS. SZYBALA: QARs, though, in terms of audit
12 quality, are accepted throughout the OIG community --

13 MR. EAKELEY: I'm sorry to prolong the evening,
14 having just arrived, but this for me represents a perfect
15 example of an area that (a), we need to discuss a lot more
16 but (b), the discussion needs to be informed by a better
17 sense from our standpoint of what's legally required and
18 legally permitted, as I mentioned before.

19 That's something that isn't going to happen
20 overnight, but it's something we're going to have to depend
21 to a large extent upon you to help us achieve while
22 recognizing the internal tensions in all of this.

1 I just raise it now because I flag it for further
2 discussion and study.

3 MR. QUATREVAUX: Let me just say it's essential
4 that the head understand the functions of the OIG in great
5 depth because, ultimately, the entity head could be held
6 responsible for the proper function of that organization.

7 It is absolutely critical. I recognize it's a
8 complex function, it's got lots of history and sensitivities,
9 all of which come into play. I'll close now. I just want to
10 say about desk reviews that desk reviews are essentially a
11 check to see that all the blanks are filled in. It's not a
12 particularly qualitative sort of thing.

13 CHAIRPERSON MERCADO: Ms. Battle and then Mr.
14 Smegal.

15 MS. BATTLE: I just wanted to say -- and I come
16 back again to John's point because I think where we are is in
17 a budgetary process of trying to determine exactly, with all
18 of our divisions that we will have a fiscal responsibility
19 for, how many dollars does it take to do this job given the
20 limited resources that we have?

21 And, at some point in that process, of course,
22 we're going to have to decide what it is that each of these

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 divisions' functions are. We certainly do want the OIG to be
2 able to fulfill its statutory responsibility given that
3 parameter, but I think that's going to be the bottom line and
4 we need to know that from an operational point of view, what
5 it's going to take and everyone is going to have to take into
6 account the fact that we've got limited funds in making that
7 assessment and that decision.

8 So I just wanted to make that statement to bring us
9 all the way around. I think we are going to have to discuss
10 and we are going to become completely fully aware of what the
11 IG's responsibilities are and what our relationship is to the
12 IG and what our duties are as a Board with the oversight that
13 we have fiscally and budgetarily for the OIG.

14 But, in that process, I think we have to take into
15 account our limited funds and make some decisions, some hard
16 decisions, not only that will affect the OIG but that will
17 affect all of the divisions that we'll have to look at.

18 MR. QUATREVAUX: In addition to those things, if I
19 can just add, I hope to also make you aware of the value of
20 our activities for you. I think that's very important.

21 MR. SMEGAL: Since I asked you earlier about the
22 data about which you came to the conclusion that you needed

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 five more on your staff, I now understand that you see your
2 responsibilities as doing an annual audit of all 329 of the
3 programs, 10 percent of which you propose to do next year.

4 MR. QUATREVAUX: No. What we propose to do is to
5 review the work of the independent auditors hired by grantees
6 to make sure that they are doing the job that the grantees
7 paid them to do, to make sure that those audits are
8 effective.

9 MR. SMEGAL: And you're going to do 33 of those?

10 MR. QUATREVAUX: That's the objective target and
11 we, in our own planning, had hoped to hit that in 1996,
12 fiscal year 1996. We hope in this budget, the 1995, it's
13 based on doing 25.

14 MR. SMEGAL: Okay. Following up on another
15 question I asked earlier, do you see the distinction between
16 our responsibilities and monitoring? I served on a Board
17 where we had a president, a staff president, who ran around
18 the country looking for fraud, abuse, and other things like
19 that. He thought that was the full responsibility of
20 management and administration.

21 Now, I hear you saying the same thing and I'm still
22 concerned that we've got a duplication of activity here and,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 somehow or other, we've got to understand as a Board where
2 that line is drawn. You understand it. I'm not sure that I
3 understand it.

4 MR. QUATREVAUX: Let me say with respect to fraud
5 that we obviously have the primary statutory function. The
6 Corporation has the responsibility to take the kinds of
7 actions management normally does to minimize those kinds of
8 problems, and we hope to help you very much in that regard by
9 providing recommendations from time to time.

10 MS. SZYBALA: I don't want to belabor this, but can
11 I help out a little bit here on this overlap problem?

12 MR. SMEGAL: Please.

13 MS. SZYBALA: The IG Act tries, it really tries to
14 prevent that problem. It doesn't do so, but it tries. And
15 it says that OIGs can have no program operating
16 responsibilities. That is, anything that is the major
17 program that the organization, the entity, whatever it is, is
18 doing, cannot be transferred to the OIG but, outside of that,
19 the OIG Act requires that all activities that relate to OIG
20 functions be transferred to the OIG.

21 And to give you a kind of snapshot of how that
22 works, Justice, the Department of Justice just got its IG --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 he laughs. I come out of Justice so I understand Justice and
2 I know what went on there. It got its OIG only when we did,
3 only when LSC did. That is, it wasn't immediately done. And
4 that's because they couldn't figure out how to transfer to
5 the OIG all the functions they would need to.

6 The bottom line is they've done it. The entire
7 Justice Management Division, the Office of Professional
8 Responsibility, the budgeting offices, all these things were
9 transferred to the OIG at Justice so that, in terms of fraud
10 and waste and abuse, the ultimate responsibility is yours.
11 The ultimate responsibility for us is yours. But we are this
12 weird little organization where Congress tells you which part
13 of your functions we're suppose to perform, that is, under
14 you, on a subordinate level.

15 MR. EAKELEY: Which are non-programmatic functions.

16 MS. SZYBALA: Which are non-programmatic functions
17 that relate to fraud and abuse and --

18 MR. EAKELEY: Right. Which are they?

19 MS. SZYBALA: I don't know. But when you suggested
20 that if peer reviewers are doing evaluations of performance
21 and outputs, then maybe the rest of it, which relates more to
22 compliance, could be shifted more towards us.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. EAKELEY: That's programmatic. You can't do
2 that.

3 MS. SZYBALA: That's illegal, right. So how
4 exactly you draw the line I don't know. On the other hand,
5 certain things are clear that, since there is no real
6 programmatic responsibility for LSC in terms of audits,
7 except to make sure they're conducted, that entire side of it
8 could be sent to the OIG. It's arguable that it should have
9 been as soon as one was formed.

10 So some things are clearer than others. Fraud is
11 another one. Absent an OIG, obviously, this Corporation had
12 to do something about fraud. It was taking fraud reports and
13 doing what it could with them. But then Congress put an OIG
14 here and gave it a real fraud focus, among other things, so
15 that that's where any fraud activities that were ongoing in
16 the Corporation at the time belonged and those, to the extent
17 they existed, were transferred, never formally, but through
18 MOUs between us and PEAR, basically.

19 MR. MCCALPIN: It seems to me that the most
20 significant program we have is disbursing 300-odd million
21 dollars to 325 grantees. Does that mean you keep your nose
22 out of that?

1 MS. SZYBALA: Well, it means we keep our nose out
2 of disbursing it and getting it out there, but it doesn't
3 mean we keep our nose out of looking into how it's done. We
4 are completing a revenue audit which follows that money to
5 the field, seeing whether -- I don't know. The audit side is
6 not mine and I don't want to state the objectives of that
7 audit which they're on the cusp of being issued to
8 management.

9 But that audit tracks the drawdown of that
10 appropriation and the sending of it out to the field, that
11 is, checks the controls and --

12 MR. McCALPIN: Why isn't it a point of the program
13 of disbursing that money for us to follow it?

14 MS. SZYBALA: Well, you don't have -- you can do
15 that, but --

16 MR. EAKELEY: I can see where the Congress would
17 want somebody to look at whether or not the Corporation, in
18 this case, is siphoning off funds before they're distributed
19 or disbursed, or being lax in making sure that the funds get
20 to their intended destination, or the like.

21 MR. McCALPIN: Let me just -- I'm just trying to
22 explore what's the program for us?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: There's a GAO report on the
2 implementation of the IG Act with the designated federal
3 entities that was just issued. We've ordered sufficient
4 copies for all of you. But we are, in fact, criticized in
5 there for not having yet audited the grant award process, so
6 it's kind of ironic. "Criticize" may be too strong a word,
7 but it was cited perhaps.

8 MR. SMEGAL: It seems to me we have a dilemma. If
9 you tell us that the IG Act requires, by law requires you to
10 do certain things, and you tell us you need five more people,
11 ten more people, 50 more people, I mean, how can we say no?
12 We're going to violate the law, aren't we?

13 MR. QUATREVAUX: It's a mix of -- obviously, the
14 law doesn't say how to do everything. No law does. Part of
15 it is clear, very clear. Part of it is judgment. We're here
16 to do these things for you. We perform that revenue audit to
17 make sure that the money that was coming from the Congress
18 and the controls on that whole process was sound, as that
19 money was received and tracked through Treasury and to the
20 banks and out to the field. That's a typical internal audit
21 function and that's exactly --

22 MR. EAKELEY: But is it typical for 10 percent of

1 an entire management and administration budget to go for that
2 function?

3 MR. QUATREVAUX: The problem is, with that
4 analytical approach, the problem with it is that we have
5 these fraud responsibilities that the Corporation, per se,
6 does not. I mean, we have to do these things. We have to
7 conduct investigations, and no one else in the Corporation
8 can.

9 MR. SMEGAL: Actually, Doug, it's 12 percent.

10 MR. EAKELEY: Actually, if you take rent out --

11 MR. SMEGAL: If you put the rent in, it's 12
12 percent.

13 MR. EAKELEY: Okay.

14 MR. QUATREVAUX: On the other hand, if the
15 Corporation had a policy analysis and development
16 organization, if it had a corporate communications
17 organization, if it had an information management
18 organization, and lots of other things you can probably think
19 of, it would be much larger and our percentage would be much
20 smaller.

21 I really believe that one of the primary reasons
22 why the overhead at LSC is low is because the grant award

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 process is done according, for the most part, to mechanistic
2 formulae whereas, at the National Science Foundation, you
3 have people receiving tens of thousands of grant proposals a
4 year. We are also dealing with the same set of grantees year
5 after year, whereas other grant makers have a lot of turnover
6 -- National Endowment for the Arts, National Endowment for
7 Humanities -- where there are also OIGs.

8 So I'm trying to get back to your question and I
9 think it's a matter of probably what reasonable people think
10 is, you know, informed and people believe is appropriate.

11 CHAIRPERSON MERCADO: I guess part of the concern,
12 I think, from some of the committee members, we're talking
13 about what does it take for you to do your job under the Act
14 versus, you know, a situation of where if you had everything
15 you wanted to have again, because when we look at what number
16 of personnel and budget you had three years ago versus what
17 you have now and what you want to have a year from now, I
18 mean I think it's almost like tripling or quadrupling the
19 staff.

20 So were you not performing the functions of an OIG
21 at that time or --

22 MR. QUATREVAUX: Well, I wasn't here. You're

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 talking about 1991. I arrived in late 1991. The office was
2 established, I think, in late 1989, which is to say one
3 person was hired and perhaps a secretary. When I arrived,
4 there were no auditors on the staff. Obviously, the audit
5 function was not being performed. And that was well known
6 and that was, among other things, motivation for the request
7 from the Senate Governmental Affairs for special review by
8 GAO of the implementation here of the Act here at LSC.

9 I haven't read all the executive session
10 transcript, but I would not be surprised if the prior Board's
11 assessment of our needs to grow as I arrived and studied for
12 two months and presented them with a concept, I think their
13 approval may have been based on the understanding that the
14 audit function was not being performed and that it is
15 important that it be.

16 So all I'm trying to say, in a very long way, is
17 that the baseline is not a good one. The baseline was not,
18 clearly not -- so clearly that it was obvious to anyone
19 looking in from the outside, that it wasn't being performed.

20 CHAIRPERSON MERCADO: Okay. Any other questions?

21 MR. EAKELEY: I think it's very helpful. It may
22 not feel like it to you, but I feel it is helpful. I think

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 another answer to Maria Luisa's question is, it really
2 depends on what the Board wants to ask of the inspector
3 general's office also. And I don't think we know that yet.

4 CHAIRPERSON MERCADO: Are there any other
5 questions?

6 (No response.)

7 CHAIRPERSON MERCADO: Are there any other comments
8 that you wish to add to your budget request?

9 MR. QUATREVAUX: No. I understand, I heard what
10 Mr. Richardson had to say with regard to the fiscal year 1994
11 budget for the management and administration line. I am
12 prepared to give you some information, however, if you would
13 like to take it at this time, with regard to 1994 as opposed
14 to 1995.

15 MR. SMEGAL: Different than what we have been
16 presented with?

17 MR. QUATREVAUX: Yes, it is. It's not a new set of
18 budget numbers. It's just an analysis.

19 CHAIRPERSON MERCADO: Yes, go ahead.

20 MR. QUATREVAUX: Okay. Now I have to locate it.
21 Here they are. What you see is a review -- excuse me. Let
22 me review some numbers. You asked me to produce a budget at

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 \$950,000, and we've exchanged some correspondence about some
2 prior-year funds and I understand that.

3 However, no matter how you look at it, to me that
4 is a net budget of \$838,000 for 1994. If we pay people, if
5 we meet the payroll --

6 CHAIRPERSON MERCADO: The current staff, right?

7 MR. QUATREVAUX: Current staff, meet the payroll --
8 I'll have personnel costs of approximately \$850,000, which
9 leaves something of a deficit. However, in the first
10 quarter, we spent some money. We spent almost \$20,000.
11 Travel, all the different budget categories, other than
12 personnel.

13 MR. EAKELEY: You mean you spent that much more
14 than an annualized --

15 MR. QUATREVAUX: No, in absolute terms we spent
16 \$20,000 in the first quarter for things like travel and
17 software and whatnot. All this, by the way, almost all of it
18 was done prior to your swearing in and certainly prior to
19 your requests, your continuing resolution to us. I just want
20 to make that clear.

21 What it means is that if I meet the payroll, I've
22 got to find 34 or 35 thousand dollars, and I can do that. I

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 can do that by freezing salaries. And that's just almost a
2 one-for-one cover. But what it means is I don't have a
3 dollar for travel. I don't have a dollar for training. I
4 don't have a dollar for anything. And that's the grim news,
5 I'm afraid. But I wanted to make it clear to you where I am
6 at this moment.

7 MR. MCCALPIN: What's the \$112,000 in 1993
8 obligated funds?

9 MR. QUATREVAUX: \$105,000 of that is for the audit
10 of the grantee monitoring function that's being performed by
11 contract by Cotton and Company.

12 MR. MCCALPIN: It was not provided?

13 MR. QUATREVAUX: It was originally approved as 1993
14 funds and we signed a contract last August. One can debate
15 which year it should be placed in but, regardless of that
16 technical argument, the fact remains there are only so many
17 dollars here. I have to pay for that audit. \$60,000 of it
18 has already been paid for and we owe another \$45,000 in
19 February. If all I do --

20 MR. MCCALPIN: When was the \$60,000 paid?

21 MR. QUATREVAUX: November.

22 MR. MCCALPIN: This year or last?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: November, based on a contract that
2 was signed in August.

3 MR. EAKELEY: I don't understand what you mean by,
4 when you say "minus FY 1993 obligated funds" --

5 MR. QUATREVAUX: Let's say apart from the Cotton
6 contract, which we have to pay -- that has to be paid.

7 MR. EAKELEY: I understand that.

8 MR. QUATREVAUX: Okay. Apart from, you know,
9 taking that out of the 950 --

10 MR. EAKELEY: Right. That's not 112, is it?

11 MR. QUATREVAUX: It's 105, 104, 5, 6, something.

12 MR. EAKELEY: Payable this year?

13 MS. BATTLE: I thought I heard you say \$60,000 of
14 the 105 has already been paid and was paid in 1993?

15 MR. QUATREVAUX: No, in November.

16 MR. MCCALPIN: November of fiscal year 1994.

17 MS. BATTLE: Fiscal year, all right.

18 MR. MCCALPIN: Does this mean that you didn't
19 budget anything for travel?

20 MR. QUATREVAUX: No.

21 MR. EAKELEY: He indicated he had a carryover
22 figure in the budget that --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: I requested \$1,062,000 that
2 assumed that the \$112,000 was already paid --

3 MR. EAKELEY: As a carryover.

4 MR. QUATREVAUX: -- as a carryover, a designated
5 carryover.

6 MR. EAKELEY: What bare bones travel, what bare
7 bones training, what bare bones other --

8 MR. QUATREVAUX: Last time we met, I gave you two
9 numbers. And I'd like to put them, if I could, in the terms
10 of the 838, or we can do it the other way if you like, add
11 the 112. It doesn't matter. But we want to be consistent.

12 I gave you a number of 861 and a number of 887,
13 which are, respectively, 23,000 and 49,000 more than the 950.
14 At the 861 level, I have to release staff. At the 887 level,
15 besides no raises and some other personnel actions which --
16 well, some other personnel actions -- I'll have to cut the
17 travel so that we could not do any quality assurance reviews,
18 the eight additional ones that were planned, as well as lots
19 of other severe cuts in travel. We would have to get down to
20 probably a third less than we spent last year on travel which
21 was, itself, constrained.

22 MR. BRODERICK: Let me ask you something.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: Sure.

2 MR. BRODERICK: I'm sorry. It's not so much the --
3 it's not that I don't care about the money; I do care about
4 the money. But what I care most about is your opinion as to
5 what that impact is on your legal obligations. Is it your
6 view that if that budget number of 950 is firm that you can
7 perform your legal obligations --

8 MR. QUATREVAUX: No.

9 MR. BRODERICK: -- as an IG?

10 MR. QUATREVAUX: No, I cannot.

11 MR. BRODERICK: You cannot.

12 MR. QUATREVAUX: I think it's questionable at 861
13 and certainly would not have -- I would not be fulfilling the
14 obligations in terms of ensuring audit quality and going
15 everything I believe that we should do to prevent and detect
16 fraud.

17 CHAIRPERSON MERCADO: I guess the followup question
18 to that would be that if you have all these staff and
19 personnel that can't travel then, in essence, we're paying
20 people to just sit around and do nothing? Is that what
21 you're telling me?

22 MR. QUATREVAUX: I'm not saying that that's the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 decision that I would make. I don't know how to answer
2 your -- no, I certainly don't want to do that because what
3 I've got is in effective organization. I wouldn't be able to
4 do that.

5 So in order to get some capability, I'd have to
6 trade off personnel costs to get travel money. Of course,
7 there's an impact there, as you lose the personnel, but it's
8 better than not being able to do anything. I'm saying the
9 838 figure, from my perspective, does not allow me to come
10 close to doing the job.

11 MR. EAKELEY: Does the 887 include that total
12 deficit of 30?

13 MR. QUATREVAUX: Yes, it would. And if you wanted
14 to add the 112 to it, the figure would be --

15 MR. EAKELEY: Yes. I'm just, with the 112, we're
16 talking about --

17 MR. QUATREVAUX: Yes. It would include that.

18 CHAIRPERSON MERCADO: 49,000, also.

19 MR. QUATREVAUX: Because I would cover that by
20 not -- you know, through no raises, in part.

21 CHAIRPERSON MERCADO: Essentially, the 49,000 would
22 be for travel, basically, wouldn't it?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: No, it would be in part for
2 travel, in part just to meet payroll.

3 MR. McCALPIN: Mr. Quatrevaux, let me ask you, we
4 have, as I recall, imposed a freeze on the Corporation in
5 terms of raises and new hires. Does that apply to you?

6 MR. QUATREVAUX: It does and it doesn't. It
7 certainly does from a fiscal point of view. But the OIGs all
8 have independent personnel authority. So the application of
9 some dollar figure is still within our discretion.

10 MR. McCALPIN: What you're saying is that, even
11 though nobody else in the Corporation can get a raise, you
12 can give raises?

13 MR. QUATREVAUX: That is true. But, on the other
14 hand, on the other hand, being concerned about the efficiency
15 and effectiveness of the organization in recognizing impacts
16 that might occur through disparate treatment, I would
17 certainly be sensitive to that.

18 All of these odd constraints are there simply to
19 ensure that the concept works when there's an adversarial
20 situation. They shouldn't be part of day-to-day life. I
21 certainly don't want it to be.

22 MR. BRODERICK: The question I have, and the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 question Mr. Smegal asked you a few minutes ago and I still
2 haven't resolved it in my own mind, as the inspector general
3 for this Corporation, if you come before this Board and say,
4 "I need \$1,400,000 to meet my legal obligations," what are we
5 to say? "That's not what you need"? I mean, at some point
6 aren't we held hostage to your budget request?

7 MR. EAKELEY: Don't we have other legal obligations
8 too, John?

9 MR. QUATREVAUX: Well, sure, sure. That's true.

10 MR. BRODERICK: I don't know. I don't know, Doug.
11 I wonder whether this Board, if the IG comes before us -- I
12 don't know the answer -- and says, "I need X dollars to meet
13 other legal obligations that are imposed on me as inspector
14 general of this Corporation," we say, "There isn't enough
15 money available for you to meet your legal obligations;
16 therefore, we're not going to appropriate it"? I don't know
17 the answer.

18 MR. QUATREVAUX: I think in any situation there's
19 an absolute minimum that everyone would agree that, below
20 that, the job couldn't be performed.

21 MR. BRODERICK: That's what I was trying to get at
22 with my question a minute ago. I'd like you to cut to the

1 quick with me, which is, are you saying to this Board that a
2 budget number of 950 as outlined here, backing out the 112,
3 is inadequate -- I'm not talking about --

4 MR. QUATREVAUX: Not even close, that's correct.

5 MR. BRODERICK: Not even close to allowing you to
6 perform what you consider your legal obligations?

7 MR. QUATREVAUX: That's correct.

8 MR. BRODERICK: And 887 is a number that allows you
9 to do that plus the 112?

10 MR. QUATREVAUX: I'd say that the 887 is something
11 that can be rationalized as a temporary measure in an austere
12 fiscal situation. We are just in the process of developing
13 this QAR program. Whether we did the additional eight that
14 we hoped to do in the next nine months as opposed to starting
15 the program, spending some more time developing, starting the
16 program on the first of October.

17 MR. BRODERICK: Respectfully, the difference
18 between what we're proposing and what you're proposing is
19 doing some additional QAR?

20 MR. QUATREVAUX: No, that's not the only thing.
21 It's --

22 MR. BRODERICK: That's the principal item?

Diversified Reporting Services, Inc.

918 18TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. QUATREVAUX: That's the principal item.

2 MR. BRODERICK: All right.

3 MR. EAKELEY: But the 887 would give you some
4 ability to travel and some ability to do training and some
5 planning, I would assume?

6 MR. QUATREVAUX: That's correct.

7 MR. EAKELEY: I mean, when we reached the 950 last
8 month, we actually had thought we were coping without totally
9 eliminating your ability to function, and had really not had
10 the opportunity at that time to deal with the obligated funds
11 or the carryover or whose funds the carryover funds were.

12 CHAIRPERSON MERCADO: We did the carryover funds in
13 that number, the 950, though.

14 MR. EAKELEY: Yes. Yes. Well, I mean, we just
15 said, "That's what you get." But really, I think, David had
16 pointed out that if we had come in at 850, then the Cotton
17 contract would pay out and there would be even less there.

18 CHAIRPERSON MERCADO: Didn't we also look at the
19 fact that last year, I think, your actual expenditures were
20 like \$758,000?

21 MR. QUATREVAUX: It depends on whether or not you
22 count the 112. But yes, but also --

1 CHAIRPERSON MERCADO: Well, we weren't including
2 the 112.

3 MR. QUATREVAUX: Right. No, no.

4 CHAIRPERSON MERCADO: We were only looking at aside
5 from the Cotton and Company contract.

6 MR. QUATREVAUX: I understand. Last year, when we
7 received the budget cuts, we were able to meet those cuts
8 because we had some turnover and I was able to keep vacancies
9 open for an extended period of time. And counsel's position
10 was one of them. And that's how we met that deficit
11 reduction target. I don't have that option available to me
12 now, except to release people.

13 I just wanted to give this to you. It's sort of
14 a -- you know, we didn't have, last time we spoke, first
15 quarter experience, and --

16 MR. EAKELEY: It's really 50, it's really
17 49,000 -- it's a request for a \$49,000 worth of relief.1

18 MR. QUATREVAUX: Yes, it is.

19 MR. EAKELEY: Or for a request to take \$49,000 off
20 of somebody else's line.

21 CHAIRPERSON MERCADO: Well, that's what it's going
22 to have to come down to. Stay tuned for the next meeting.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. EAKELEY: I think we understand.

2 CHAIRPERSON MERCADO: Yes.

3 MR. EAKELEY: We needed to talk through this a
4 little bit further. This has been a good start, a better
5 start.

6 MR. QUATREVAUX: I would appreciate -- let me just
7 say that, you know, as you pointed out, the clock is ticking
8 and the calendar pages turning. The sooner we have a
9 picture --

10 CHAIRPERSON MERCADO: You don't have any vacancies
11 at this point; is that right?

12 MR. QUATREVAUX: That's correct.

13 CHAIRPERSON MERCADO: Okay. Which you did have
14 last year?

15 MR. QUATREVAUX: Yes, that's correct.

16 MR. EAKELEY: I think, obviously, we can't decide
17 on individual line items without going through everything --

18 MR. QUATREVAUX: The whole.

19 MR. EAKELEY: -- and then listening to management
20 and getting ourselves into a position where we can make those
21 judgment calls.

22 CHAIRPERSON MERCADO: Does anyone have any other

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 questions of Mr. Quatrevaux? Any other questions?

2 (No response.)

3 CHAIRPERSON MERCADO: Thank you.

4 MR. QUATREVAUX: Please, should these questions
5 occur to you at some other time, please just call, and we'll
6 do what we can to answer them.

7 CHAIRPERSON MERCADO: Okay. Thank you. You're
8 back on, Mr. Richardson. We're in the general counsel line
9 of your budget book at this point. Mr. Fortuno said that you
10 were getting all the free law clerk from all the law clerks
11 to do the research.

12 MR. RICHARDSON: Since most of the directors are
13 not here tonight, I will go ahead and speak to the budgets
14 and, if Mr. Fortuno would like to add something later, feel
15 free to do so.

16 The budget that is before you again is for
17 \$1,500,000, again adjusted for those costs that we talked
18 about before in regards to the disability and the rent and so
19 forth. You'll see that there are some lines in the budget
20 where Mr. Fortuno has asked for additional staff, additional
21 attorneys. We have a deputy general counsel, a new position,
22 an additional assistant general counsel, and paralegal.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 We see an annualized cost of how much they should
2 be if they were hired October 1, and each of these salaried
3 positions, I should have stated earlier, would be a full line
4 if we were aware that we were going to get the full amount of
5 the appropriation, had full authority that we would do the
6 advertising and so forth, and have the people hired October
7 1st. If you hire them further in the year, of course, it
8 does create the carryover situation where you're not using
9 all the money in the personnel line.

10 Again, you look at the step increases, which
11 amounts to \$11,743. The next page under that shows the
12 salaries that we are projecting to begin January 1, 1995.
13 You'll see a number of those items are zero. That's because
14 they've gotten increases in the last quarter of this year so
15 they would not be eligible for increases until after 1995.

16 They would not fall in the January 1, 1995 to
17 September 30, 1995, so they would receive no raises during
18 this period. The rest you'll see that they're either 50
19 percent of the year, which means their review is due in
20 April. Thirty-five percent you would back up, of course to
21 February and so forth as we go down.

22 Any time you have a new position, of course,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 there's no salary increases for that year for that person so
2 that line is zero in each of those cases.

3 The summer law clerk, we have included some money
4 there. Traditionally, we have had some law clerks. And, Mr.
5 Fortuno, when we were building the budget, as you had
6 suggested, had talked about possibly going to the local law
7 schools in the area and trying to get some free legal,
8 paralegal, summer law clerks coming in, where they can
9 possibly receive credit for the work in their education. So
10 we'll be working along those lines trying to do that.

11 The other litigation matters, this last year we
12 spent I think it was \$125,000 to \$130,000 in legal matters.
13 There were some refunds in that, so the 150 is basically how
14 much was spent last year absent those refunds. And then you
15 see a one-line total, \$20,000 and, as you see the explanation
16 here, it's for court appearances, bar association meetings,
17 conferences, and training events.

18 MR. EAKELEY: Can I ask a question?

19 CHAIRPERSON MERCADO: Yes.

20 MR. EAKELEY: This is partially for Ops and Regs
21 But I think it would be helpful for us to see in one place
22 what we're spending on legal counsel and advice.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: Does this include -- we
2 discussed this at the last committee meeting, about
3 incorporating all counsel from the different divisions into
4 just the general counsel's office and then, within the
5 general counsel's office, particularly attorneys would be in
6 charge of, you know, whether it's OPEAR or something else to
7 deal with, but they still, the general overseer would be the
8 general counsel.

9 I'm assuming that this budget doesn't include that;
10 is that right?

11 MR. FORTUNO: Yes, it does.

12 CHAIRPERSON MERCADO: Oh, it does?

13 MS. BATTLE: This includes counsel from the other
14 divisions as well?

15 MR. FORTUNO: The budget that's proposed there is
16 one which I like to think would allow us to perform those
17 services, yes.

18 MS. BATTLE: But now, I guess the question is does
19 this budget, with the names that we've got and the positions
20 that are included, is it inclusive of the attorneys that are
21 now assigned to other divisions or is it only inclusive of
22 those that are presently in the general counsel's office?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. FORTUNO: Those that are presently in the
2 general counsel's office. We currently have five vacancies.
3 Four are attorney vacancies and one is secretarial. What we
4 were looking to do was not necessarily fill all of those
5 vacancies but make the most effective use of the people that
6 we have and a number of additional people, meaning two
7 attorneys and one paralegal.

8 I'm hopeful that, with two additional attorneys and
9 a paralegal, we can do the work that we're currently
10 performing and the work that's being performed by counsel for
11 the individual directors and take in the additional work
12 that's going to be generated by the rulemaking.

13 I think that the stepped up rulemaking activity by
14 the Corporation requires a fairly substantial amount of time
15 on the part of our staff. So I'm taking all of this into
16 account and coming up with the figure we have here and with
17 the numbers that we're proposing.

18 CHAIRPERSON MERCADO: Okay.

19 MR. EAKELEY: Can we ask an unfair question of Mr.
20 Richardson? Do the other lines for the other divisions
21 assume that the legal functions will be subsumed within the
22 Office of General Counsel?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. RICHARDSON: They do not, sir. And certainly,
2 in the transition and the assessment that is occurring now,
3 those areas will be looked at.

4 MS. BATTLE: Let me see if I understand what you're
5 saying, Mr. Fortuno. You've got five vacancies. What I see
6 listed are positions for deputy general counsel, paralegal,
7 assistant general counsel, and two senior counsel positions.
8 Are those the five that you're referencing?

9 MR. FORTUNO: No, there's a couple above. To be
10 filled are the vacant ones.

11 MS. BATTLE: Okay. I'm sorry. So I see two staff
12 attorneys, two senior counsel positions. That's four, and a
13 secretary. Okay.

14 MR. FORTUNO: And instead of proposing a filling of
15 all of those positions as they're currently designated, what
16 I'm proposing is fewer people arranged a little differently.
17 It would still be two senior attorneys, two senior-level
18 attorneys. The titles may vary.

19 But instead of two junior attorneys, two senior
20 attorneys, and a secretary, I think that we're at a point now
21 where, what with everyone having his or her own PC, we don't
22 need secretaries as heavily as we did in the past and I think

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 we can do without the additional secretary and would rather
2 see that be a paralegal.

3 I think we can make heavier use of a paralegal,
4 especially since we no longer have the numbers of law clerk
5 that we did in the past. In the past, when we were fully
6 staffed, we also had a handful of paralegals at one point --
7 not paralegals, law clerks, as many as six. We now have
8 none. We have no law clerks and we're down five people --
9 four lawyers and one secretary.

10 What I'm saying is that rather than coming to you
11 and saying I need to be at the point where the Corporation
12 was once before and have six law clerks, four more attorneys,
13 and a secretary, I think we can do the job with two senior-
14 level attorneys and one paralegal. It's an austere budget
15 for us but I think, if we handle our resources properly and
16 manage them properly and effectively, I think we can do the
17 job with that.

18 The one variable in there, of course, significant
19 variable, is litigation, the consulting line. That is
20 substantially reduced over what it was several years ago. I
21 think our high-water mark was in excess of \$600,000. We're
22 substantially below that. I'm comfortable that, even with

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that substantially reduced figure, we can do our job.

2 MR. BRODERICK: Mr. Fortuno, looking at the packet
3 here -- and I don't know, it's the second page beyond the
4 blue divider, and there's no number on it -- it lists senior
5 counsel positions which you described as vacant, but it
6 doesn't indicate -- that's what I'm unclear on -- it doesn't
7 indicate a salary for them, so I don't know what that would
8 be unless I'm missing it, and are their salaries carried in
9 your proposed budget?

10 MR. RICHARDSON: If I can direct your attention to
11 the page in front of that, you'll see there that the deputy
12 general counsel, there is a salary proposed there for the
13 full year along with an assistant general counsel and a
14 paralegal. On the second page is the amount of increase that
15 those employees would be given during the year.

16 The reason you see that blank, of course, if you
17 hire them October 1, 1994, they're not eligible for an
18 increase until October 1, 1995, so there's no increase
19 budgeted for them.

20 CHAIRPERSON MERCADO: You're on two different
21 pages.

22 MR. BRODERICK: Okay, that's the problem.

1 CHAIRPERSON MERCADO: Yes. What this means is this
2 is what the office would need in order for it to be an office
3 that goes back to the 1981 level or at least prior to where
4 you would be comfortable. But he's saying that he doesn't
5 really need these two; if he can get these two senior people
6 over here, that we can do without it. So we did not
7 appropriate funds for them in the budget. They're not
8 accounted for because he thinks he can do without them.

9 MR. RICHARDSON: The new positions are designated
10 to be filled.

11 MR. BRODERICK: All right. I'm with you now.
12 Thank you.

13 MS. BATTLE: let me see if I understand what you're
14 saying -- that with an internal LSC reorganization, those two
15 positions would come from the line items in other budgets
16 where you've got attorneys that are now assigned and they
17 would be moved to general counsel's office; is that why
18 they're blank here?

19 MR. FORTUNO: What I didn't do was, I wasn't so
20 presumptuous as to look at the overall budget and make
21 assumptions as to where this would be coming from. What I
22 did was look to see what our resources are, try to anticipate

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 what our needs are going to be, and then made a realistic
2 assessment of what we would need to get the job done.

3 I didn't come to you with a wish list and say, "I'd
4 like to be where we were before; I'd like the five positions
5 and the six law clerks." What I did was simply looked at it,
6 thought, "What can we expect in the future; what are we going
7 to need in the way of resources to be able to get the job
8 done," and came up with, "I need two experienced attorneys
9 and a paralegal," and think that, with that increase to our
10 current staff, we should be able to get the job done which,
11 as I said, I anticipate additional work so I think the work
12 force is to do principally, two components to that additional
13 work.

14 One is starting to perform the functions that are
15 being performed elsewhere in the Corporation for the
16 directors of those offices and also the stepped-up rulemaking
17 activity. I think those two components themselves are
18 significant and they will contribute for the most part for
19 the increased work I anticipate.

20 In addition, there's a third component, not quite
21 as significant, but that is, as I said just a few years ago,
22 our litigation budget was a little over \$600,000. One of the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 ways we've been able to get it down to where it is now is we
2 do more of our own work, so that would be the third component
3 contributing to the increased workload.

4 CHAIRPERSON MERCADO: Any other questions of the
5 general counsel? Okay.

6 MR. MCCALPIN: I'd like to ask a question. I don't
7 know how to describe the page, but it has D.C. license taxes,
8 annual license fees, of \$2,900. What are they?

9 MR. FORTUNO: Actually, that is a little bit of a
10 wish list and the wish here is that the fees that our
11 attorneys pay would be covered by the Corporation, which they
12 currently aren't. We, in addition, paying bar dues -- that
13 is, what everyone is accustomed to paying to their state, a
14 fee to retain their license, the annual dues or the annual
15 fee -- in D.C. there is an additional tax imposed.

16 In D.C., all professionals -- that is,
17 professionals that hold a local license, whether they be
18 attorneys, doctors, architects, engineers, CPAs -- have to,
19 in addition to paying, for example, lawyers paying their
20 license fee, they have to pay this professional license tax.
21 And the Corporation --

22 MR. SMEGAL: It's \$250 by the way, Bill. It's \$250

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 a person.

2 CHAIRPERSON MERCADO: Yes. Texas has that, too.

3 MR. FORTUNO: So that that is, in addition to, in
4 order to maintain your license in D.C., you have to pay your
5 license, your annual license fee, plus pay this additional
6 tax, so that it amounts to a little bit more than it does in
7 most jurisdictions.

8 MR. McCALPIN: The \$2,550, are they both the same
9 thing, D.C. license tax, annual license fees? Are those the
10 same thing?

11 MR. FORTUNO: No. The annual license fee is what
12 is paid by an attorney in every jurisdiction to that
13 jurisdiction. The D.C. license tax is this new add-on that
14 we've only had in place for the past two, three years and
15 that's over and above the annual license fee. This is a tax
16 imposed by the District of Columbia and it's imposed on all
17 professionals. And attorneys, as do other professionals in
18 D.C., have to pay this tax.

19 CHAIRPERSON MERCADO: Renee.

20 MS. SZYBALA: I have an economy suggestion. I
21 have, as just a lawyer, employed in a legal capacity by LSC,
22 been exempt from those fees for two years.

1 MR. FORTUNO: We have asked for exemption. In
2 fact, not only are we not exempt, but I believe that our
3 grantees are likewise not exempt, something which, frankly, I
4 find manifestly unfair since government lawyers are exempt.

5 But we have submitted on behalf of the Corporation
6 and on behalf of each individual attorney, we've prepared a
7 form, a request for exemption, which was to be used by every
8 attorney at the Corporation who is license in D.C. And the
9 Corporation didn't receive a response and neither did any
10 attorney in the Corporation, other than did you get some sort
11 of exemption?

12 MS. SZYBALA: I did, because I called them as the
13 next fee was due. I didn't pay. The difference is they all
14 paid the fee with their exemption request. I didn't pay the
15 fee with my exemption request because you aren't required to
16 and, when the next round came and it was due again I called,
17 and I said, "No one ever decided my exemption request," and I
18 got my answer.

19 MR. FORTUNO: In fact, we did have someone call and
20 actually go down and discuss it with them and we were told
21 that we, the attorneys at the Corporation who are subject to
22 this tax, needed to pay it because, if you didn't, you were

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 then subject to the tax, penalties. And we were paid it. We
2 were told that along with your payment you submit your
3 request for exemption and, if it's granted, then your funds
4 will be reimbursed to you.

5 CHAIRPERSON MERCADO: I do think that part of
6 the -- because I know in other states they've tried to do
7 that and the LSC non-profit was not considered to be a
8 government employee. And perhaps if the IG is under the
9 government Act and is considered a federal employee, that
10 might be the difference. I don't know.

11 MR. FORTUNO: But, at any rate, that's the
12 explanation for those two figures there and, you know, we
13 would, of course -- we, of course, will follow up on that and
14 inquire again as to whether we can -- whether our attorneys
15 can be exempted from the tax.

16 But, as things stand now, we've been told no and
17 we've been paying them, and what this figure represents is
18 what it would take to pay those license fees and license
19 taxes for attorneys which we're currently not doing, but
20 that's what I mean by that item is a bit of a wish item.
21 It's not something we're doing, but something I'd like to see
22 us do.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: And this is the same item
2 that we looked at under the executive branch, which is being
3 paid.

4 MR. RICHARDSON: That is correct. We've made
5 allowances to pay the ABA and the bar dues for the president
6 and vice president, who are required to be attorneys. But it
7 is not the D.C. licensing tax.

8 CHAIRPERSON MERCADO: Right, right. Any other
9 questions?

10 (No response.)

11 CHAIRPERSON MERCADO: No questions? Okay. Thank
12 you, Mr. Fortuno. Congressional affairs.

13 MR. RICHARDSON: This is drafted in response to
14 what I felt was, after talking with Ms. Mercado and a couple
15 of the other Board members, as to a beginning of a
16 congressional affairs office. At this point, you know, I'll
17 describe my input, my budget that I've put together here, and
18 it may be that it's not generous enough, that you would feel
19 that there would be additional people that would be needed
20 here.

21 I've put four people in the office: a director; a
22 legislative affairs assistant, which I would assume would be,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 of course, an attorney; a public affairs assistant; and, of
2 course, an administrative assistant for the office.

3 This is sort of a beginning, beginning the dialogue
4 and, certainly, this can be changed during the year as we see
5 the need developing, and move forward from there.

6 CHAIRPERSON MERCADO: I think, for the benefit of
7 other members, who are not members of the Audit and
8 Appropriations Committee, this came about because, based on
9 the history of the last ten years or so, there have been a
10 variety of people from within the legal services
11 administration that deal with Congress.

12 There's never a unified strategy or purpose of
13 planning of what the priorities for legal services problems
14 ought to be. It's just different people going up to the Hill
15 based on whatever particular pet projects they have or didn't
16 have, and it really ought to be a coordinated effort that is
17 thought about and legislated or done within that office, and
18 that was why we had requested Mr. Richardson to look at a
19 possible office of that nature.

20 MR. McCALPIN: In ancient history, there was such a
21 function.

22 CHAIRPERSON MERCADO: In ancient history? Okay.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. RICHARDSON: Actually, as ancient as just two
2 years ago, there was an Office of Policy Development
3 Communication, which did have an element of congressional
4 affairs in it.

5 CHAIRPERSON MERCADO: I know that we're probably
6 going to have to discuss it among the Board, but I wanted to
7 at least have a figure of that for us to start discussing and
8 working on.

9 MR. RICHARDSON: In addition to the regular staff
10 that we have here, I have also put a temporary in here as far
11 as a summer intern. We did have three through the White
12 House last year. Fortunately, they did not cost us any
13 money, but there is a possibility if we want additional staff
14 that that would be available again with the law schools in
15 the area who could help us there. Again, I've put the
16 director traveling to the Board meetings and the public
17 affairs assistant attending possibly to the annual
18 conference.

19 Telephone and communication. Those are again just
20 working figures that we can draw from. I did include a data
21 processing element, the Westlaw, because a lot of the
22 research that's done is much easier handled through the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Westlaw program and we felt it would be easier.

2 MR. EAKELEY: One thing I was interested in that
3 relates to the inspector general's technology proposal and to
4 this data processing was the potential for creating an
5 electronic network with all the grantees. I guess some
6 programs use Handsnet. Do we have Handsnet?

7 MR. RICHARDSON: The Corporation currently does not
8 have Handsnet but we do have bulletin board capabilities.

9 MR. QUATREVAUX: The OIG is proud to be a new
10 member of Handsnet.

11 MR. EAKELEY: We've also had a pro bono offer that
12 is sort of intriguing from Steve Brill on the "American
13 Lawyer" for their new service. And I'm just intrigued
14 because one of the things we need to do better as a
15 Corporation is to communicate with the grantees and help make
16 a sharing of information possible. I was just wondering
17 whether or not anyone had costed out creating this sort of
18 network among and between all of the grantees.

19 CHAIRPERSON MERCADO: I know we had asked for some
20 of that information when we were looking at perhaps at least
21 starting at the state level, where you would have all state
22 programs that would be able to exchange not only

1 communication about what's going on but pleadings, motions,
2 all those kinds of things, that would make it easier when
3 you've got a jurisdiction.

4 You know, the laws, I don't think would -- unless
5 it's a federal case -- in a lot of cases, wouldn't transfer
6 to other states. But on a statewide basis, maybe looking at
7 some of those areas where there's a lot of programs to do
8 that kind of networking -- and I can't remember for the life
9 of me at this point who it was that we had wanted to do some
10 of the analyses.

11 It may have been when we were just getting the
12 general presentations about the justifications for our 1995
13 budget on incorporating that aspect of it. And, of course,
14 you're talking about a much broader national scope as far as
15 information.

16 MR. EAKELEY: But at least starting with the
17 Corporation, having the Corporation have the capacity to
18 interact with those grantees, state support centers, and
19 whomever, who are on line, so that there's -- the tendency, I
20 think, is that the more people who have access and who are on
21 line, the greater the others will feel encouraged to do
22 likewise.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. BATTLE: Our Low-Income Advocacy Council has
2 the Handsnet and we're going back and forth now between Larry
3 Lavin in California and the help in California and so on.
4 We've had Handsnet for oh, six or eight months.

5 MR. RICHARDSON: If I might just interject here, we
6 do transmit information to ABA Clearinghouse, other grantees,
7 on an as-need basis. We do have that capability. It's not
8 Handsnet, but it is another full-service bulletin board
9 system. They would contact Eric Hagerstrom. He would put
10 the information up on the system and any grantee would be
11 able to pull it down using their modem.

12 So we do have that capability. So we did advertise
13 it in the newsletter, probably two or three newsletters back,
14 and we could certainly get that out and make sure it's
15 available again, remind people.

16 CHAIRPERSON MERCADO: Any other questions for Mr.
17 Richardson on congressional affairs?

18 (No response.)

19 CHAIRPERSON MERCADO: Again, as I say, I think the
20 Board is going to need to have some dialogue on this as far
21 as really fleshing out the particulars on how we envision it
22 and with the interim president and new management that comes

1 in to look at that. Okay.

2 MR. RICHARDSON: Okay. I might just, as we go
3 through, the next one is the grants, the administration, and
4 this is one of the areas that we have spread charges. You'll
5 see a budget in your book of \$4.7 million. By moving the
6 rent and some of the other costs out, it's down to \$3.462
7 million. I'll try to highlight those as we go through, also.

8 The rent that you'll see here is the main item, is
9 2.7. It's down to \$1.5 million. You'll see that that
10 amount, the difference there, \$1.2 million, basically, was
11 spread to the different areas. Let me go through the salary
12 computation. You'll see that there is a situation here where
13 you have a director, a manager, which is listed as vacant,
14 again to be filled.

15 All the other positions are filled at this point,
16 so there is only one additional person contemplated in this
17 particular budget.

18 The next page shows the increases. You'll see the
19 percent of the year. And there's an amount of \$18,000 there
20 for the raises. Those would begin January 1, 1995.

21 In the transportation line, you'll see \$5,000.
22 That's when we receive supplies and goods into the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Corporation and that's an estimate of how much that would
2 cost.

3 Telephone, postage, Federal Express. This is one
4 of the areas that we'll be working on, trying to spread the
5 costs out during the year, and those are estimated at this
6 point at \$108,000.

7 To give you a little bit of an update in regards to
8 the subletting, which is the next page, which we are sharing
9 or moving approximately \$1.2 million to different offices, we
10 do have the GSA lease that will run through the end of our
11 term. In the last, I think it was December 15th, they took
12 an additional 500 square feet, so we have an additional
13 \$15,900 to offset the rent at 400 Virginia Avenue.

14 CSAP there, they took over the executive office. We
15 are in negotiations with them at this point and hope to have
16 a lease in place for an additional 6,700 square feet. That
17 proposal went to them before Christmas. Their executive
18 director will be back tomorrow, actually, he was back today
19 from his holiday and, hopefully, we will be able to give you
20 some more on that tomorrow. If not, very shortly thereafter,
21 we'll update you as to the progress of those negotiations.

22 The next page is the printing. This is just the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 cost to operate the repro-graphics machine. We have a
2 DocuTech and a press, a one-sided, basically two-color press
3 that is 15, 16 years old. It's the first press that was
4 brought into the Corporation. It's still functioning and
5 we're still maintaining it and keeping it up.

6 In looking at the wish list, I did not develop the
7 budget for the capital expenditures, but that is one area if
8 we're going to continually press operations that we need to
9 put about \$40,000 in. The machine that we have now is, like
10 I say, 15, 16 years old. And if you want to copy something
11 on both sides, you've got to run the top copy through, wait
12 24 hours to let it dry, and turn it over and print the other
13 side. With new copiers, certainly, you can do it all in one
14 process -- or new repro-graphics machines there, presses.

15 On the next page under "Other operating," the
16 \$95,000 is a shared cost that we moved throughout the budget.
17 The office equipment and rental and maintenance is mainly for
18 copiers and computers and it's also the heating and air
19 conditioning equipment, of the two free-standing units in our
20 space.

21 A lot of those just parts, we are very fortunate
22 that we have two people who can actually take a computer

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 board apart, identify a chip. Instead of paying somebody \$75
2 an hour, they can identify the chip that a lot of times will
3 cost you under \$1 or thereabouts, and put a computer back in
4 operation.

5 Some of the additional costs here, we've got
6 Westlaw, of \$20,000. We have the private files, which is the
7 cost that the Corporation underwrites in the CALR program for
8 the uploading of information and then, of course, we have
9 advertising of public notices for these meetings are charged
10 in this budget and there is also some advertising for
11 positions.

12 Subscriptions, those are the subscriptions through
13 the law library for the most part and that's mainly to keep
14 the library current, as current as possible.

15 The lecture and activities, mainly the supplies for
16 the kitchen activities at this point.

17 MR. SMEGAL: Can I ask a question?

18 MR. RICHARDSON: Yes, sir.

19 MR. SMEGAL: How many Boehms do we have in the
20 Corporation -- B-o-e-h-m?

21 MR. RICHARDSON: There is only one.

22 MR. SMEGAL: Okay.

1 MR. RICHARDSON: The reason that you found his name
2 in two places, of course, is we contemplate that you will
3 eventually want a director in the administration area. And
4 it would not necessarily be him at this point.

5 MR. SMEGAL: So you are anticipating there's
6 another person who will -- because you've got him with two
7 salaries at the present time?

8 MR. RICHARDSON: Right. Actually, it should be "to
9 be filled" in this particular area.

10 MR. SMEGAL: Okay.

11 MR. RICHARDSON: I'm basically dividing the hats
12 that he wears.

13 MR. SMEGAL: You might want to footnote the page in
14 1411.

15 MR. RICHARDSON: Yes, sir. Actually, when we do a
16 presentation of this, that will be changed to a "to be
17 filled" area.

18 MR. SMEGAL: Okay.

19 MR. RICHARDSON: In the capital area, you'll see
20 that we have provided for computers to replace some of the --
21 this is a wish list. We have -- we purchased 80 computers,
22 if I recall correctly, in 1987 when we went away from the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Wang system that we had to the personal computers.

2 We were trying to replace those five, ten, 15 a
3 years, just to try to keep as current as possible and we
4 have, of course, gotten behind. While the computers, we are
5 very fortunate, as I said, to have the staff to be able to
6 repair them, they are old, they do break down quite often,
7 and we do need to upgrade to get a faster, more efficient,
8 more reliable machine.

9 The laptop computers, we purchased -- we have
10 purchased 15 of those in the last three years, of course none
11 last year, but the year before. They've been very helpful
12 for people who travel. We've taken them to Board meetings.
13 We also have an inkjet printer. So if we go to a situation
14 where we know that we're going to need printing capabilities,
15 we can actually carry those to a board meeting to help us.

16 The rest of it is software that's needed, some of
17 the upgrades, the local area network, \$20,000. We have a
18 local area network now. There's one in the IG's office.
19 There's a hub there and we are -- we have a small one also
20 and we're just hoping to integrate and connect more computers
21 throughout the Corporation who need to share data.

22 Everybody will not be on the network. There are

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 certain individuals who don't need access, for instance, to
2 general counsel files but yet we will try to share and make
3 those provisions as much as necessary to have people who can
4 share data and be able to link together.

5 Furniture and chairs, most of the furniture that we
6 have of course is very old, too, so we're just looking to
7 upgrade some of those. The same thing with the copier.
8 You'll see that we've put some money in there, because the
9 copiers were again purchased in 1987 and we just want to get
10 upgraded, more reliable printers and so forth.

11 MR. EAKELEY: Excuse me. I was out during the
12 occupancy costs. But are their capital expenditures
13 projected for the Oakland office?

14 MR. RICHARDSON: Capital expenditures for Oakland?
15 No, sir.

16 MR. EAKELEY: And what about occupancy costs?
17 Those are in here, right?

18 MR. RICHARDSON: Those are in here. When we review
19 the PEAR budget, I think it's \$28,000.

20 MR. EAKELEY: I think that's another operations and
21 regulations question in terms of organizational structure but
22 I think -- maybe you've already done it and, if you have,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 forgive me. But I don't understand what the Oakland office
2 does and whether we should have a regional office and what we
3 should be doing. If it's already been explained --

4 CHAIRPERSON MERCADO: It's only been explained in
5 private. I don't think it's been explained in a committee
6 meeting. Maybe it needs to be explained.

7 MR. RICHARDSON: Certainly in the late 1970s, early
8 1980s, there were many more regional offices that were in
9 Boston, Philadelphia --

10 MR. EAKELEY: This is the only regional office
11 left?

12 MR. RICHARDSON: The only purpose of these
13 gentlemen who are in the office now is to provide assistance
14 to PEAR. They are monitors, attorneys, management
15 specialists, who go out into the field and travel, and do the
16 monitoring function. They support the total PEAR budget.

17 MR. EAKELEY: I think we need to ask the Provisions
18 Committee to look at that, just in terms of rationalizing
19 functions.

20 MR. RICHARDSON: I said \$28,000. There's \$30,000
21 included in this budget. There's 28 in the 1994.

22 MR. EAKELEY: But just can you briefly summarize

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 what is the total cost of maintaining that office --
2 personnel and occupancy and supplies?

3 MR. RICHARDSON: Last year, as I recall, it was in
4 the neighborhood of \$180,000.

5 MR. EAKELEY: 108 or 180?

6 MR. RICHARDSON: Eighty.

7 MR. EAKELEY: To support PEAR?

8 MR. RICHARDSON: Yes, sir. And tomorrow I will
9 give you a more exact figure.

10 MS. BATTLE: How many people are in that office?

11 MR. RICHARDSON: There are three currently. There
12 were four for a part of the year last year. I should mention
13 the last thing on the capital acquisitions is library.
14 There's a need not only of books but for some additional
15 shelving there.

16 The other element of the administration budget is
17 also human resources. In this particular budget, it is
18 budgeted for \$282,000, almost 283, in salaries. There is a
19 request to fill one position that is not currently -- that is
20 currently vacant and not filled, and that is for an
21 administrative assistant for some support help for the area.

22 This budget also has the corporate receptionist

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 budgeted there and the supervisor for this particular office.
2 The same thing with the salaries. You'll see that there is a
3 percent of year and, for those that came in late, the most
4 that a person can receive in a raise under our particular
5 personnel manual is 6.2 percent and they can receive a 2
6 percent one-time payment.

7 We in the past have provided a secretarial pool.
8 For instance, we currently have a situation where the
9 president, we had to search out some secretarial help for him
10 because his secretary was out on sick leave. In the past,
11 we've had a pool of two or three people that were available
12 who would be able to go in and perform that function. When
13 they are not available, when they are not needed for that, we
14 have other filing functions and things throughout the
15 Corporation that we can have them do.

16 We also have people, where they are not actually in
17 the Corporation, each day they're on call. If we find out
18 the day before that we need them, we can call them in. That
19 has been done. So there are many different ways that we can
20 operate that. This is just providing some money for that
21 particular need, when there's an occasional sickness, that we
22 can fill in and help.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 In the traveling, under the human resources area,
2 Ms. Dickerson does routinely handle some technical assistance
3 to the grantees regarding EEO matters. She receives calls
4 occasionally. Already this year, there has been some
5 trainings in Pennsylvania, I think with regards to the ADA,
6 and Ms. Dickerson has been trained and is a designated
7 trainer with the ADA and we, as a Corporation, have allowed
8 her to train and provide assistance to not only our grantees
9 but some of the local areas here in Washington, also.

10 There is training for the staff. Management
11 training is something that has routinely been completed
12 through this office. For instance, this I think contemplates
13 two trainings where the directors, managers, key supervisors,
14 would be brought together and receive management skills
15 training, how to deal with people and so forth, in the
16 particular offices.

17 CHAIRPERSON MERCADO: You mean managers from the
18 field?

19 MR. RICHARDSON: This particular case, it's the
20 internal managers.

21 CHAIRPERSON MERCADO: \$30,000 to do that?

22 MR. RICHARDSON: It in the past has cost as much

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 as, as I recall, about \$12,000 for some of these trainings
2 and this is contemplating, for instance, an expanded staff
3 and new directors and bringing them up to the skill levels
4 needed to supervise the staff.

5 I might ask, Ms. Dickerson is here, she's the
6 director of the area, if she would like to add and maybe
7 broaden some of the training that she has conducted.

8 MS. DICKERSON: For the record, my name is Alice
9 Dickerson. I'm director of the Office of Human Resources of
10 Equal Opportunity.

11 The training that we have conducted most recently
12 was for Pennsylvania Legal Services and it was an ADA
13 training that dealt with how the ADA applies to programs both
14 as employers and as public accommodations. We had about 22
15 project directors that were in attendance and we thought that
16 it was a very productive program.

17 The program lasted about three hours one afternoon
18 when a group of project directors were going to be together
19 for other meetings.

20 We have advertised in the LSC newsletter that ADA
21 training is available if programs are interested in having
22 such training and we have suggested that that be in

1 conjunction with meetings of project directors so that we can
2 try to reach the largest group possible for the money that we
3 expend in doing that training.

4 As far as the management training that's in the
5 budget, what Mr. Richardson was referring to is that in the
6 past it had been the Corporation's practice to try to conduct
7 at least two management trainings for LSC management
8 personnel. Those have, as he said, cost as much as \$12,000
9 per training. It also includes, I think, about \$10,000 for
10 other training that staff would be sent to, for instance,
11 seminars and workshops and that sort of thing, that the
12 Corporation funds.

13 I think, David, doesn't that also include some
14 educational assistance in that training line?

15 MR. RICHARDSON: It does.

16 MS. DICKERSON: Yes. Generally, our educational
17 assistance had been budgeted at \$5,500 per year which, for a
18 corporation of some 120 to 130 people, was not really very
19 much to fund educational assistance. In this budget, we're
20 asking for \$10,000 for that purpose so that we can try to
21 promote educational assistance a little bit more.

22 We have not promoted it to a great extent simply

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 because we didn't have enough money to fund it. People are
2 aware that it's there. It's explained at their orientation
3 sessions. It's certainly mentioned in our handbook and in
4 our personnel manual, but we don't publicize it a great deal
5 because it may cause expectations that we could not meet.

6 If you have any other questions, I would be glad to
7 answer them.

8 CHAIRPERSON MERCADO: Are there any questions?

9 (No response.)

10 CHAIRPERSON MERCADO: No, thank you.

11 MR. SMEGAL: David, at Level U do you max out on
12 merit raises at some point?

13 MR. RICHARDSON: Yes, sir, you do.

14 MR. SMEGAL: When is that?

15 MR. RICHARDSON: It varies, of course, per level.

16 MR. SMEGAL: At the U level?

17 MR. RICHARDSON: At the U level?

18 MR. SMEGAL: At Level U.

19 MR. RICHARDSON: The maximum that anybody can pay
20 in the Corporation is based on the Senior Executive Schedule.
21 Currently, that is \$108,200, and we only have one person at
22 that level now.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: There are several U level people who
2 you have in this budget receiving no merit raise in fiscal
3 year 1995 and they are not at 108.

4 MR. RICHARDSON: No. In looking at that, that's
5 because of the cycle. If we have a freeze between January 1,
6 1994 and December 31, 1994, the raises would fall in that
7 area and, therefore, they would not be eligible for a raise
8 in this fiscal year. They would be in the following year.

9 They, for instance, got one prior to December 31st
10 of this year so they would not be eligible because what we
11 have put together in the 1994 budget is a freeze in salaries
12 for one year and that would include, basically, in my
13 proposal, so it would be equitable that everybody in October
14 1 through December 31st of this year would not be eligible
15 for a raise. They would be evaluated, their performance
16 would be reviewed, but they would not receive additional
17 compensation.

18 MR. SMEGAL: In fiscal year 1994 for the first
19 quarter? And that includes yourself and Mr. Fortuno?

20 MR. FORTUNO: To come to Dave's defense, it may
21 also be that the individual director said, "I'd like to work
22 up a budget that doesn't include a raise for me," and that's

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 not anything that was imposed on the director but something
2 the director voluntarily did.

3 MR. McCALPIN: Could I ask a question? You said a
4 moment ago something about the maximum salary that could be
5 paid in the Corporation tied to the executive pay level.
6 What is it?

7 MR. RICHARDSON: Currently, it's \$108,200. Next
8 January, it does receive an increase. That's the reason I
9 said "Caveat, now." January 1, 1995 it can go up. We're
10 just trying to anticipate how much that would be.

11 MR. McCALPIN: I wasn't here at the time. I've
12 just gone back to the executive-level thing and I see you
13 have two lines for president, one at \$110,600 and one at
14 \$115,250.

15 MR. RICHARDSON: Yes, sir. The 108 figure --

16 MR. McCALPIN: I have some interest in that because
17 I have to publish a number.

18 MR. EAKELEY: That's next year's number.

19 MR. RICHARDSON: When this was being prepared, and
20 OMB is still looking at it, in looking at the paper, there is
21 a cost of living increase that the federal government gives
22 that does associate to the SES schedule. That was 2.2

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 percent. There was also the locality increase. That was 4.2
2 percent.

3 When this budget was being put together, we were
4 told by OPM that anybody in the GS scale, they have done away
5 with the 2.2 percent COLA. They will be getting a locality
6 increase of 4.2 percent except those that are in the SES.
7 They are freezing their wages.

8 MR. MCCALPIN: In the what?

9 MR. RICHARDSON: They're freezing their wage.

10 MR. MCCALPIN: Those are in the what?

11 MR. RICHARDSON: The SES schedule, the Senior
12 Executive Schedule. However, the same individual told me
13 that President Clinton is looking at that and feels that
14 there will be a minimum of a 2.2 percent increase, but it
15 could be given February 1st; it could be given April 1st.
16 All we're trying to do is set some money aside anticipating
17 that for the last three months of 1994.

18 MR. EAKELEY: But all Mr. McCalpin is authorized to
19 offer a new president at the moment is the \$108,200?

20 MR. RICHARDSON: \$108,200 subject to changes in the
21 SES schedule because we pay at the Senior Executive --

22 MR. EAKELEY: And were proposing the budget for

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 them.

2 MR. SMEGAL: David, now I'm confused. I glossed
3 over this. The two categories of president to be filled,
4 this is fiscal year 1995. This starts --

5 MR. RICHARDSON: October 1.

6 MR. SMEGAL: -- in October 1 --

7 MR. RICHARDSON: 1994.

8 MR. SMEGAL: -- 1994.

9 MR. RICHARDSON: Right.

10 MR. SMEGAL: Oh, I see. It's the same person; it's
11 just that you anticipate. Okay.

12 MR. RICHARDSON: One is 25 percent of the year, the
13 other is 75 percent of the year.

14 MR. SMEGAL: Now, I got you.

15 MR. RICHARDSON: Okay.

16 MR. MCCALPIN: But they have different bases.

17 MR. RICHARDSON: Right, because we anticipate there
18 would be an increase January 1, 1995.

19 MR. SMEGAL: This is three months of president
20 income in 1994, Bill, October, November, December. Okay.

21 MR. MCCALPIN: Yes, I understand.

22 MR. SMEGAL: All right.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. MCCALPIN: It's the difference between the 110
2 and the 115, which is almost \$5,000, which is about 4
3 percent, or a little over 4 percent.

4 MR. SMEGAL: A little under 4 percent.

5 MR. MCCALPIN: Right.

6 MR. SMEGAL: Let's move along.

7 CHAIRPERSON MERCADO: David, we'll quickly review
8 the other areas.

9 MR. RICHARDSON: Okay. Ms. Dickerson has corrected
10 me here. It's not the Senior Executive Schedule, it is the
11 Executive Schedule. Level 5 is what the president's salary
12 is based on.

13 The last major item in the Office of Human
14 Resources is the \$18,000 for advertising and that, of course,
15 is with new positions, people coming in, leaving. We always
16 advertise for positions. And if we have a director, as we do
17 at Congressional Affairs, there could be nationwide search,
18 whatever, to estimate those.

19 In my particular office, under the comptroller's
20 shop, the next one, there's a budget of \$432,525. Salaries,
21 I am looking hopefully for one junior accountant to come in
22 to help. The raises you'll see there are only for two people

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 because their evaluations are due at a time in the year when
2 they would be eligible for them. Let me back up.

3 They are at the highest level to answer, to go back
4 to Mr. Smegal's comments before. A level 4 employee in the
5 Corporation, the highest level that a Level 4 can attain as
6 far as the salary is \$34,008. So if they get a raise, it
7 will be in the form of a one-time cash payment. They would
8 be eligible for the full amount as a payment, but their base
9 wage would not increase.

10 CHAIRPERSON MERCADO: Hadn't we talked about, in
11 this budget, about getting a budget officer or budget
12 director?

13 MR. RICHARDSON: We had not. I do have a lady who
14 is a budget analyst who handles the majority of that work
15 for us.

16 CHAIRPERSON MERCADO: Does she? Okay.

17 MR. RICHARDSON: I have included \$5,000 for a
18 summer intern. It always helps to have someone come in,
19 usually in the summer, to try to help prepare, get ready for
20 audit schedules and some special projects, someone who is
21 just learning the accounting functions. It's a teaching
22 process and gives them on-job experience and does help us out

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in the long run.

2 Upgrades to the financial management system, I've
3 included \$1,500. It seems like there's always something
4 there that needs to be upgraded. My travel to the Board
5 meetings and some staff trainings available there. And the
6 rest of it is telephone, Federal Express. That's mainly for
7 shipping payroll checks, checks out where they have to be on
8 a quick basis.

9 And the other operating, the main charge there is,
10 with all of our money now drawing interest, we're paying
11 about \$15,000 a year in bank service charges. But that
12 accrues to us, should this year, approximately \$250,000 in
13 income.

14 The PEAR budget is next.

15 MR. BRODERICK: David, can I just back up for a
16 second?

17 MR. RICHARDSON: I'm sorry. Sure.

18 MR. BRODERICK: The Comptroller's Office budget
19 which is set forth here does not anticipate adding any new
20 people, it just includes filling a position that's currently
21 open?

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

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 one person.

2 MR. BRODERICK: Is that adequate for your needs for
3 this Corporation?

4 MR. RICHARDSON: At this point, I believe it is.
5 We are short-staffed now, I believe, by that one person.
6 There's a possibility that we need two but, at this point, I
7 would ask for one and go into a transition if we need it,
8 come back in the next year.

9 When I came into the Corporation, there was 13 in
10 the Comptroller's Office and it was way too many, and we've
11 been able to pare down, and I think we're more efficient. We
12 do as much work or more with these people because we've been
13 able to cross train. We have one lady who handles payroll,
14 but I have a senior, the accounting supervisor, who backs her
15 up. I can also work on payroll.

16 Grant checks, the same thing. We had a person who
17 did grant checks, one who reviewed them. We've combined that
18 function. So I think it's a more efficient, it's a more
19 effective use of the money at this point because I think the
20 scarce resources can be used elsewhere.

21 MR. BRODERICK: All right. Thank you.

22 CHAIRPERSON MERCADO: Mr. Richardson, I know that

1 we're fixing to get into OPEAR; and I was just being reminded
2 that Mr. Askew's committee had some recommendations on how
3 that budget was going to look, and I know he's not here and,
4 Ms. Williams, I don't know whether you guys have had a chance
5 to meet yet and discuss those priorities, and perhaps it
6 would be better to wait for the January meeting, the latter
7 meeting, to make those discussions where they would be more
8 viable and you might have some communication with Mr. Askew's
9 committee on that input and also have input from people who
10 are currently there in OPEAR. Okay?

11 So if the other committee members don't have a
12 problem with that, we'll just wait to deal with that
13 particular item in a future meeting.

14 Let me see. I think that all the rest of the items
15 were dealing with OPEAR, weren't they? I didn't see any
16 other ones here.

17 MR. EAKELEY: Program services.

18 MR. RICHARDSON: Program services.

19 MR. EAKELEY: And technical assistance.

20 MR. RICHARDSON: Yes.

21 CHAIRPERSON MERCADO: Did you want to have an
22 opportunity to review that? Okay. We'll do the same thing.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Ms. Battle would like to have her committee review that. So
2 we'll just have those committees review those functions and
3 then come back to us.

4 MR. EAKELEY: Actually, with Mr. Forger and --

5 CHAIRPERSON MERCADO: Yes, well, with all the
6 interim management and Mr. Richardson.

7 MR. EAKELEY: Management.

8 CHAIRPERSON MERCADO: I believe that, for this
9 evening, that's pretty much the items that we have for the
10 agenda. We will start up in the morning at 9 O'clock, at
11 this same place -- it is the same room, isn't it, Ms. Batie;
12 okay -- with some public comments. We have to conclude by
13 12:30 because the Research Committee will have to be starting
14 right up after that.

15 I would at this time entertain a motion to recess
16 this meeting until the morning.

17 M O T I O N

18 MR. SMEGAL: So moved.

19 MR. BRODERICK: Seconded.

20 CHAIRPERSON MERCADO: All those in favor?

21 (Chorus of ayes.)

22 CHAIRPERSON MERCADO: Opposed?

1 (No response.)

2 CHAIRPERSON MERCADO: Abstentions?

3 (No response.)

4 CHAIRPERSON MERCADO: The motion carries.

5 MR. RICHARDSON: If I may just add, each of you has
6 a draft of the proposed language. It is in a rough draft
7 form. I would appreciate your review of that, any comments.
8 And this, of course, will be the basis that will go to the
9 Congress and to OMB, and we would just like to have your
10 input as much as possible. We will get further updates to
11 you as quick as possible.

12 (Whereupon, at 8:48 p.m., the meeting of the Audit
13 and Appropriations Committee was adjourned.)

14 * * * * *

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

AUDIT AND APPROPRIATIONS COMMITTEE MEETING

OPEN SESSION

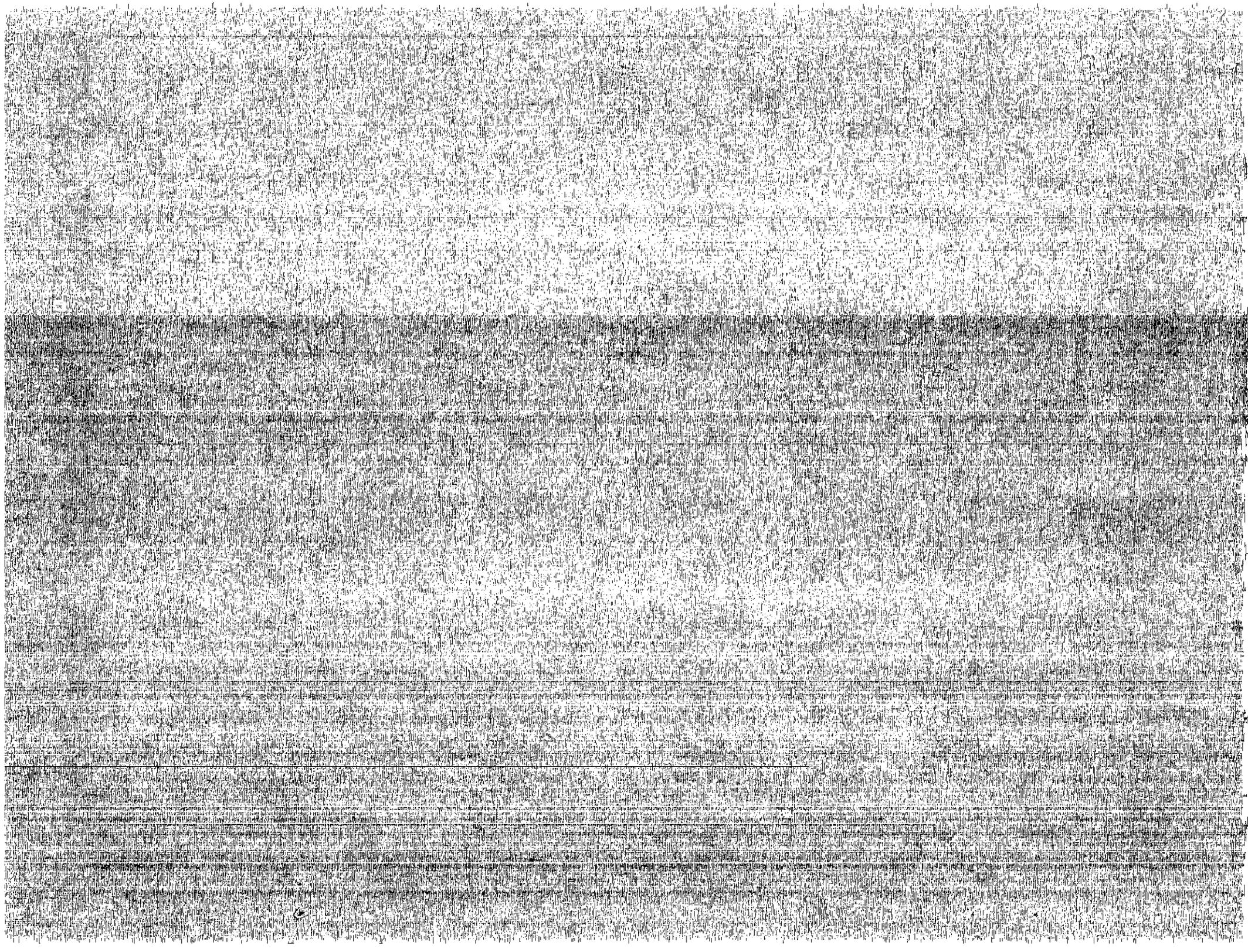
VOLUME II

Friday, January 7, 1994

9:34 a.m.

Washington Court Hotel
The Sagamore Hill Room
525 New Jersey Avenue, N.W.
Washington, D.C. 20001

Diversified Reporting Services, Inc.
918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929



BOARD MEMBERS PRESENT:

Maria Luisa Mercado, Chairperson
Thomas F. Smegal, Jr.
John T. Broderick, Jr.

STAFF PRESENT:

David Richardson, Treasurer and Comptroller
Ruby McCollum
Charles Moses
Leslie Russell
Maetha Bergmark, Exec. Vice President

* * * * *

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

C O N T E N T S

	PAGE:
MIGRANT LEGAL SERVICES:	5
BILL BEARDALL, Texas Rural Legal Aid; ROGER ROSENTHAL, Migrant Legal Action Program; and MIKE HANCOCK, Farmworker Justice Fund	
ATTORNEY RECRUITMENT and LOAN FORGIVENESS PROGRAMS:	70
KATHLEEN WELCH, National Association for Public Interest Law; DON SAUNDERS, Project Advisory Group and NLADA; HARRISON McIVER, Project Advisory Group; and ANDREW STEINBERG, Western Massachusetts Legal Services	

MOTIONS:

118

* * * * *

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

P R O C E E D I N G S

(9:34 a.m.)

1
2
3 CHAIRPERSON MERCADO: If I might, why don't we go
4 ahead and get started, since we have all our committee
5 members here. Good morning, everyone. What we would like to
6 do at this time is go ahead and resume our meeting of the
7 Audit and Appropriations Committee.

8 I would like to note for you, on the items in the
9 agenda, Item 5 will be presented by Bill Beardall from Texas
10 Rural Legal Aid and Roger Rosenthal from MLAP; and Items 6
11 and 7 we are going to take together with Don Saunders,
12 Harrison McIver, and various other people in the audience.
13 Please feel free to comment on those different areas. We're
14 going to have a floating microphone to take your comments,
15 since all of you can't fit at that little table.

16 Then, an additional Item 8 will be Andy Steinberg.
17 When he presented testimony to us in the 1995 budget request
18 and justifications at the last Audit and Appropriations
19 Committee there were several questions that the committee had
20 asked him and he went back and brought more in-depth
21 information for us, and we would like to go ahead and get
22 that on the record.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Then if there are any other items that people have
2 on any of the areas that we've presented, then we'll go ahead
3 and take them at that time.

4 We would like to conclude by around Noon, because
5 we do have another meeting at the Legal Services office at
6 that time, just to sort of give you a time frame before we go
7 on this morning.

8 Mr. Beardall and Mr. Rosenthal, if we could go
9 ahead and get started with you.

10 MR. BEARDALL: Good morning. My name is Bill
11 Beardall. I am the litigation director for Texas Rural Legal
12 Aid's Farmworker Division and the director of the migrant
13 program at Texas Rural Legal Aid. I appreciate the
14 invitation to appear this morning.

15 With me is Roger Rosenthal, who is the executive
16 director of the Migrant Legal Action Program here in
17 Washington, which is the national support center for the
18 migrant programs and, as I understand, what you would like us
19 to address is a little bit about the background of the
20 migrant programs, how they came to be funded and structured
21 as they are, and how the special appropriation for the
22 specialized migrant programs, what are the dimensions of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that.

2 So we have put our heads together and prepared some
3 thoughts that we wanted to share with you on those topics but
4 we would welcome being guided by your questions into the
5 specific things that may be of interest to you that might not
6 have occurred to us.

7 In some ways, it's easiest to begin in the
8 beginning here with the Legal Services Corporation Act in the
9 mid-1970s contained a provision which has come to be called
10 the 1007(H), Section 1007(H), by those of us in the migrant
11 community, which directed the Legal Services Corporation to
12 study the several special sub-populations of legal services
13 clients to determine whether there were unmet legal problems
14 that faced these groups or whether they faced special access
15 barriers restricting their ability to get legal services.

16 Among those groups were Native Americans, whom I
17 think you heard a little bit about at your last meeting;
18 migrant and seasonal farmworkers, which is what we'll talk
19 about today; and a few other sub-populations. That prompted
20 the Legal Services Corporation, then, in 1977, to undertake a
21 study which has come to be known as the 1007(H) Study and one
22 part of that study -- in fact, I think the largest part of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that study in terms of sheer number of pages -- was devoted
2 to the question of migrant and seasonal farmworkers.

3 It was a fairly thorough study. In fact, it
4 remains today the most thorough study that the Corporation
5 has done of the special problems facing migrant and seasonal
6 farmworkers and, as we will discuss going along here today,
7 it remains a fairly vital document and policy statement by
8 the Corporation.

9 In that study, the authors of the study, after a
10 fairly thorough review, issued a thoughtful analysis of the
11 legal problems facing migrant and seasonal farmworkers and
12 did conclude that, indeed, there were certain special
13 barriers restricting the access of migrant and seasonal
14 farmworkers to legal services through the regular, basic
15 field program mechanism which has been used for the vast bulk
16 of poor people.

17 Without trying to go through all of those but to
18 give you sort of illustrative examples, one of the most
19 obvious is language barriers. So many migrant farmworkers
20 speak Spanish and, as well as, increasingly, some other
21 languages -- Haitian, Creole.

22 In recent years, we've been finding that there are

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 a number of farmworkers who speak various indigenous
2 languages, farmworkers who grew up in the highlands of
3 Mexico, for example. But Spanish, in particular, is the
4 predominant language among migrant farmworkers and many of
5 the regular, basic field programs who are in an area where
6 there is otherwise not a Spanish-speaking population wouldn't
7 be equipped to deal with that client from the moment they
8 walked through the door because of that special access
9 barrier.

10 Some of the other access barriers include the
11 problems caused by migrants typically being isolated off in
12 remote rural areas where, on the other hand, for logical
13 reasons, the basic field programs will locate their offices
14 in population centers where they are centrally located among
15 the bulk of their client community.

16 An even more extreme example of that is the common
17 problem of migrants who are isolated in labor camps that are
18 operated by an employer. They may even be imprisoned in the
19 labor camp by their employer who, for reasons of disciplining
20 the labor force, making sure they stay there and don't go
21 work for someone else who may offer them higher wages, some
22 of these more unscrupulous employers make sure that the

1 farmworkers can't leave the labor camp which, of course,
2 makes it that much harder for them to get access to legal
3 services through the normal channels.

4 A couple of the other access barriers, some of
5 which, again, are fairly obvious, the high mobility of
6 migrants. If, for example, the program that they might
7 otherwise get legal assistance from is in the area where
8 those migrants live, well, the migrants may be based there
9 for a certain portion of the year and that's where they have
10 their permanent residence, but they may be gone for a major
11 portion of the year, maybe even most of the year, which makes
12 it difficult to carry on a normal attorney-client
13 relationship with those clients when you may not know where
14 they are and they could be anywhere in the country for a
15 significant portion of the year.

16 On the other hand, if a migrant has a legal
17 assistance need in the locale to which they have migrated,
18 which we often call the "stream states" or the "stream areas"
19 -- they are upstream in the migrant stream as opposed to
20 their home base area -- they may initiate a legal
21 representation agreement and transaction with the legal
22 services program in that area but, as soon as the work in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that area has been completed, they have gone on to another
2 area or gone back to their home base, making it difficult for
3 the legal services program in that stream area to maintain an
4 on-going relationship with them.

5 The lack of information about legal rights was
6 found by the Corporation to be much more acute among migrant
7 farmworkers even then among other categories of poor people.

8 One last access barrier that I'll mention is fairly
9 mundane, but it turns out to be pretty important. During the
10 work season, at least, the migrant farmworkers are likely to
11 be working during the day, during the normal business hours
12 of the legal services office.

13 In fact, one of the most urgent needs of migrant
14 farmworkers is just to get enough work. So if they can get
15 12 hours of work a day, they will be delighted, but it makes
16 it hard for an office that is structured to see clients by
17 appointment on an 8:00 to 5:00 basis to then be available to
18 provide services to those clients.

19 The other category of things that the 1007(H) Study
20 looked at with respect to migrant farmworkers was whether
21 they face specialized kinds of legal problems which the
22 regular basic field program might not be equipped to handle.

1 And the 1007(H) Study did find that there were quite a number
2 of those in the case of migrant farmworkers. And I will run
3 through, again, just a few of the examples.

4 The most immediately apparent is a range of
5 employment-related problems. Most of the problems that we
6 see with migrant farmworkers are the kinds of employment
7 problems that are unique to not just any employment but
8 employment in agriculture.

9 For example, one of the main kinds of things we do
10 for our clients is represent them in minimum-wage cases where
11 they have been paid less than the minimum wage but it's not
12 in the normal circumstance that they have been paid an hourly
13 rate that is less than the minimum wage. Instead, they are
14 paid on a piece-rate basis, so much, 30 cents per bucket of
15 tomatoes or 60 cents per sack of cucumbers, so that,
16 evaluating whether there is a minimum wage violation involves
17 certain specialized approaches and a specialized, substantive
18 law.

19 They are still entitled to the minimum wage but you
20 have to evaluate whether or not they've received the minimum
21 wage by averaging out their earnings over the hours that they
22 worked and averaging out these piece rate earnings in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 comparison to those hours. That becomes even more difficult
2 for agricultural employees because it is routine for
3 agricultural employers to keep no pay records or, even worse,
4 to falsify the pay records in order to hide the minimum-wage
5 violations.

6 I don't want to belabor this too much but, just to
7 give you an idea of the kinds of problems that migrants face
8 and that we deal with every day, a common practice among the
9 agricultural employers -- these would be crew leaders or
10 growers or vegetable packing companies -- is to take these
11 workers who are paid on a piece-rate basis and combine the
12 wages.

13 Often, migrants work in family groups -- a mother,
14 a father, two children -- and they take all of the earnings
15 earned by that family, lump them into a single paycheck or a
16 single cash payment, give that to the head of the family and,
17 if they keep any pay records at all, they keep a pay record
18 in the name of the one household head, showing all the
19 earnings of that family, so that they may have earned \$40 on
20 a particular day and this household head worked eight hours
21 so it appears that he made \$5 an hour but, in fact, that's
22 the \$40 earned by everybody in the family so that they really

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 made a fourth of that and their hourly earnings were \$1.25 an
2 hour. That's one form of very common falsification of
3 records.

4 The other one which we commonly see is where
5 workers are paid on an individual basis but the wage record
6 that is kept either has no record at all of the hours that
7 they worked so it's very difficult to prove whether or not
8 they received the minimum wage or the hours are falsified so
9 that the worker who made \$20 an hour, the employer will
10 divide -- I mean \$20 in a day, the employer will divide that
11 \$20 by the minimum wage, \$4.25 an hour, and enter the result
12 as the number of hours that they worked.

13 We even have a phrase for that. It's called
14 "backing into the hours" as a way of hiding the minimum wage
15 violations.

16 The only reason I go into that in such detail is
17 that ferreting out those kinds of violations, representing a
18 client who has faced those kinds of violations, involves a
19 very specialized knowledge of the farm labor practices, a
20 very specialized body of substantive law that has been built
21 up by the courts, largely by migrant legal services programs,
22 to deal with those types of problems -- burden-of-proof kinds

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 of rules and that sort of thing -- and specialized techniques
2 which the migrant programs have learned how to use in order
3 to combat those particular types of problems.

4 These are the kinds of things that aren't within
5 the normal range of expertise of your regular, basic field
6 program which is dealing with the more typical range of
7 domestic and consumer and public benefits issues and so
8 forth.

9 Some of the other unique employment problems faced
10 by migrant farmworkers include violations of particular laws
11 that are designed to assist migrant farmworkers, such as the
12 Migrant Seasonal Agricultural Worker Protection Act.

13 Another one that we deal with day in and day out is
14 specialized scams, I guess you would call them, that
15 agricultural employers have used to pretend that the employer
16 is not the employer. Before you can bring a minimum wage
17 claim against an employer, you have to show that there was an
18 employer-employee relationship.

19 Agricultural employers historically have resorted
20 to a variety of schemes to pretend that the field worker who
21 is out there picking vegetables on a stoop-labor basis is not
22 an employee at all but is some sort of self-employed,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 independent contractor. So they may have 40 people out in
2 the field and be pretending that all of them are self-
3 employed independent contractors.

4 Or they may create a scam designed to take the
5 field foreman or crew leader and pretend that he is the
6 workers' employer, this judgment-proof, fly-by-night field
7 foreman, that he is the employer and, therefore, the grower
8 or the packing company that is really employing these workers
9 has no responsibility under the law.

10 A large part of the work that has been done in the
11 courts by the migrant legal services programs has been to
12 develop the substantive law and the legal interpretations of
13 the Fair Labor Standards Act, the Migrant and Seasonal Worker
14 Protection Act, the Social Security Act, to develop judicial
15 interpretations that will cut through those kinds of scams
16 and place the responsibility on the real employer that
17 Congress, when it passed those laws, intended to place on
18 those employers, and make it hard for them to evade the law
19 through those kinds of scams.

20 Again, that's just an example of a very specialized
21 type of legal problem that doesn't really arise very much
22 outside of the agricultural context and isn't within the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 normal range of things that basic field program specialists
2 would be trained to handle.

3 Pesticide exposures is a common problem among
4 migrants that is fairly unique to them and the kind of work
5 they do. Legal problems involving the quality of their labor
6 camp, of their housing in these remote labor camps, is
7 another example.

8 Yet another example that is very familiar to us in
9 Texas is the problems created when workers are recruited in
10 one state. Farm labor contractors or growers will come from
11 let's say Kentucky, will come to Texas and recruit workers
12 from the large base of unemployed farmworkers in Texas,
13 recruit them there with promises of good wages and good
14 housing and lots of work, lure them up to Kentucky and then,
15 when they get there, now 1,000 miles or more away from home
16 and without money or any way to get back, they find out that
17 the wages were much less than what was promised, the amount
18 of work was much less than what was promised, and there will
19 be a deduction made from their paycheck for their housing.

20 In fact, sometimes the deductions that are made
21 from these workers' paychecks exceed the amount they earn and
22 so they are put into a kind of debt peonage where they're in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 debt to the employer and not permitted to leave that employer
2 until they have worked off their debt which, of course, never
3 happens, and the result is that you have a modern-day version
4 of indentured servitude.

5 When that happens, then, those workers, when they
6 are able to get out of that labor camp or the work is
7 finished, they will come back to Texas and need legal
8 assistance there and we are faced with the specialized
9 problem of obtaining long-arm jurisdiction over the Kentucky
10 employer based on their contacts with Texas to recruit the
11 workers there, asserting long-arm jurisdiction so that that
12 migrant worker can have access to the courts in the place
13 where they live and the place where they were recruited.

14 We have developed a special expertise in the areas
15 of long-arm jurisdiction and venue and other personal
16 jurisdiction issues which normally don't come up for your
17 regular basic field program because they're not involved in
18 the kinds of transactions that typically raise those
19 problems.

20 Before I leave these specialized legal problems
21 that migrants have, I ought to mention a couple of examples
22 that are in the non-employment area as well.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Public benefits issues, for example. Migrants
2 experience a range of specialized public benefits problems
3 that the regular basic field client doesn't experience. In
4 the case of food stamps, for example, a common problem for
5 migrant farmworkers is the irregularity of their income.
6 They may earn \$100 one week and then they'll be out of work
7 for two weeks while they look for another job and they'll be
8 making no money and then the fourth week they'll make some
9 more money. Their income, in other words, is highly
10 irregular and highly unpredictable.

11 The food stamp program normally is set up to
12 predict and assume what someone's income will be on an
13 ongoing basis and to set the amount of food stamps that
14 family is entitled to based on what their regular income flow
15 is.

16 Well, if the client goes into the food stamp office
17 after they have had three weeks of work where they were
18 working 12 hours a day and making a fair amount of money, the
19 food stamp office may determine that they are ineligible or
20 that the level of food stamps, of benefits for which they are
21 eligible, is much lower because, gee, they've got all this
22 income, and fail to take into account the fact that, for the

1 next three weeks, they're going to have no income.

2 The result of that is that, largely through the
3 work of migrant legal services programs, certain specialized
4 rules have been developed for anticipating the income of
5 migrant farmworkers to average out their earnings over a
6 broader period of time and give them a more appropriate and
7 predictable level of food stamp benefits; and those are
8 things that are now firmly within the expertise of these
9 specialized migrant programs that probably wouldn't be within
10 the substantive expertise of basic field programs who are
11 dealing with food stamp problems of a different type.

12 One last example I'll mention just maybe because
13 it's so close to my heart or such a vital part of what we at
14 TRLA and some other programs are working on right now is a
15 range of Social Security problems.

16 We have begun to see that migrant farmworkers are
17 routinely excluded from Social Security, participation in the
18 Social Security safety net programs because employers either
19 ignore their obligation to pay in Social Security taxes and
20 to deduce the employees' share of those taxes or, in the
21 worst cases, employers do deduct Social Security taxes from
22 the workers' earnings but then, instead of paying that into

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the Social Security Administration, they pocket it,
2 essentially ripping off 7.5 percent of the workers' wages.

3 Well, the worker assumes that he's been getting
4 Social Security credits all this time and, when that worker
5 becomes disabled or retires at the end of a difficult life
6 and goes in to apply for Social Security benefits, they find
7 out that they're not eligible or, if they are eligible, the
8 kind of coverage they have is much more limited and the
9 benefits they are eligible for much lower because most of
10 their earnings were never reported to the Social Security
11 Administration.

12 Again, it's an area where we have developed a
13 specialized kind of expertise in dealing with the Internal
14 Revenue Service and the Social Security Administration to go
15 back and try to reconstruct the earnings record of these
16 workers just to get them through the Social Security door to
17 establish their eligibility.

18 We have also begun a number of projects designed to
19 make sure that that problem gets caught before the worker
20 reaches the end of his or her work life and is applying for
21 benefits because, at that point, it's often impossible to
22 reconstruct someone's earnings over the previous 10 or 20

1 years.

2 So we've developed a number of specialized projects
3 to try to catch these employers who are stealing the workers'
4 Social Security money at the time it's occurring and to then
5 bring to bear on them through the courts and through the
6 Internal Revenue Service the kinds of enforcement measures
7 that will make sure that those practices don't continue.

8 Again, even though you have a lot of basic field
9 programs with an enormous amount of expertise in dealing with
10 Social Security problems and Social Security applications,
11 the specialized versions of that faced by migrant farmworkers
12 don't normally come within their purview and so they are not
13 necessarily equipped at the outset to deal with those kinds
14 of migrant problems.

15 The result of this, that is of the specialized
16 legal problems faced by migrants and the specialized access
17 barriers that face migrants, require three things. And I'm
18 still going through kind of the findings of this 1007(H)
19 study done by the Legal Services Corporation back in the late
20 1970s.

21 One is, it means that in order to serve migrants
22 you need to have a specially-trained staff who specialize in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the unique kinds of problems that migrants have, specialized
2 in certain areas of the substantive law, people with
3 specialized capabilities like a Spanish-speaking staff, and
4 so forth.

5 The second thing that's needed is a practice and a
6 delivery system that is structured differently from the way
7 you would want to structure your regular, basic field
8 practice. For example, because the migrants are likely to be
9 located in more remote rural areas, the offices will be
10 located in those places where migrant farmworkers are
11 concentrated, rather than in those urban centers where the
12 bulk of poor people are concentrated.

13 The nature of the practice is different in terms of
14 the amount of travel and outreach that is required. You
15 can't run a migrant legal services offices by appointment
16 where the clients call in, set an appointment, and come in at
17 the designated time for their appointment. They don't have
18 transportation; they are isolated off in labor camps, for
19 example; their work schedules are highly unpredictable, they
20 will work whenever they can get it.

21 So that it becomes much more important for the
22 legal services staff to get out of the office and to go deal

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 with migrants in the labor camps where they are living, in
2 the colonias, the little home-base areas where they are
3 concentrated, and to do that kind of outreach to bring the
4 services to the clients.

5 A very common thing for us in our practice, we at
6 TRLA and many legal services programs, migrant programs,
7 maintain 800 numbers and blanket the countryside with cards
8 and leaflets, being sure that clients have our 800 number.
9 We may get, then, a phone call late at night that comes into
10 that 800 number from someone who has sneaked out of their
11 labor camp and gotten to a pay phone at a crossroads grocery
12 store and said: "We got a whole bunch of people here who
13 can't get out of this labor camp. We're not making any
14 money. They won't let us leave because they say we owe them
15 money. Can you help us?"

16 We have established systems set up so that we can
17 get those calls whenever that worker can get to a telephone
18 and then we don't say, "Well, let's make an appointment for
19 you next Wednesday at 9 O'clock. Can you come in?" We,
20 instead, assemble a team of people who will go out to where
21 those migrants are and try to provide assistance to them at
22 the time they need it on the kind of crisis basis that they

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 may need it or tailor the contact with those clients to meet
2 the specialized circumstances that they are facing.

3 One of the things that's discussed in the 1007(H)
4 Study is, because these clients are so mobile, the delivery
5 system has to be structured in ways that will follow those
6 clients wherever they are, so that, for example, you want to
7 have some migrant legal services capability in offices in
8 those places where the workers work for the obvious reasons
9 that, when they are there, they are going to have certain
10 kinds of problems that the legal services providers need to
11 respond to on the spot.

12 On the other hand, you also have to include in your
13 network legal services, migrant legal services offices in the
14 home base areas where the migrants reside because of the need
15 for an ongoing relationship with those clients in cases that
16 may take a year or two to wind their way through the courts
17 and also to deal with the typical migrant client who may be
18 working for minimum wage, may have a variety of illegal
19 deductions taken out of their wages, but they need the work
20 more than they need anything and so, while they are working
21 in the stream state, like Iowa, to take an example, they will
22 just work as much as they can, earn as much as they can and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 then, when the work is over, they need to get back home as
2 quickly as possible, so they will come back home to Texas,
3 for example and then, at that point, they will come into the
4 legal services office in Texas, because they know where it
5 is. They know who we are and have had a relationship with
6 us. They will come to us with this problem that they had in
7 Iowa.

8 So, in order to adequately serve that client, you
9 need to have the legal services office there in Texas that
10 can pick them up at the time and in the place where they're
11 going to seek the assistance, but we also need to have the
12 legal services presence in Iowa who can work with the Texas
13 migrant office to make sure that the services provided in the
14 case that you pursue for that client are adequately pursued
15 in both the place that the employment took place and the
16 place where the client lives and will continue to reside.

17 Those are some examples of how these factors
18 require a different structure than the normal, basic field
19 structure.

20 The third thing that these special factors
21 affecting migrants requires or the third limitations that it
22 imposes is, it's just flat more costly to represent migrant

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 farmworkers than the regular, basic field client. Many of
2 the cost factors are probably obvious, from what I've said.

3 The amount of travel that's required -- since
4 clients don't have telephones and, often, you have to go
5 where the clients are, migrant programs tend to have a fairly
6 hefty travel budget. In that case I mentioned, that let's
7 say there is a minimum wage case filed in Kentucky by the
8 legal services program in Texas on behalf of these clients
9 who live in Texas.

10 Well, you're either going to have to, at some
11 point, travel to Kentucky to take depositions of the
12 important witnesses who are there in Kentucky, for example,
13 the employer, or. if you filed the case in Kentucky, at some
14 point you're probably going to have to bring the clients up
15 to Kentucky to give them access as witnesses in a trial to
16 present their claim in Kentucky.

17 All of those things involve, it involves both added
18 cost and it requires a high level of coordination between a
19 legal services presence in Kentucky and a legal services
20 presence in Texas, for example. And these examples play out,
21 whether you're talking about Texas and Kentucky or Florida
22 and North Carolina or California and Washington and all of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the permutations that these things may take.

2 Okay. Now, having made all these observations in
3 the 1007(H) Study, realizing that there is a kind of
4 specialized legal assistance that's needed and a more costly
5 brand of legal assistance that's needed to reach migrant
6 farmworkers, the result of that was the migrant line, which
7 you see before you in the budgets and appropriations that you
8 have been looking at.

9 As a result of the 1007(H) Study, the Corporation
10 concluded we need specialized migrant funding to address this
11 particular need and to fund specialized migrant legal
12 services programs of which I am one representative and Roger
13 works with as the national backup center for the migrant
14 programs. So that's why there is this migrant line.

15 The 1007(H) Study also is the source from which a
16 number of the policies that the Corporation has flows,
17 policies related to migrant legal services delivery. Again,
18 this has really not been done, this is the only time the
19 Corporation has done this, now, 15 or more years ago, really
20 sat down and examined the problems of migrants and figured
21 out what is our policy on serving migrants.

22 Among the other policy determinations that were

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 made and continue to be followed from the 1007(H) Study are
2 one that I've alluded to already, and that is that you need
3 to have, the delivery system needs to be structured so that
4 legal services are available in a coordinated network in all
5 those places to which migrants travel as well as in those
6 places where the migrants reside and, secondly, that it needs
7 to be structured so that those programs are communicating
8 with one another.

9 There are instances that we use where we even have
10 legal services staff that follows the migrants, so to speak.
11 There are particular areas within a state or within the
12 country where migrants appear in large numbers for a fairly
13 short work season where it doesn't make sense to have an
14 office there all year around but TRLA, for example, may open
15 up a temporary office in Pecos, Texas because, during a short
16 onion and melon season, there is an extraordinary number of
17 our clients who migrate to that area, so we will open up a
18 temporary office there for the duration of that season and
19 send some staff to go staff that office.

20 We also send, on occasion, some of our staff to
21 Virginia or Michigan or Wisconsin or Iowa for short seasons
22 to work with those programs and with our clients who are

1 there. We're not the only program that does that kind of
2 thing. But all of those approaches flow from the 1007(H)
3 policy determination that you need that kind of coordinated
4 legal services presence.

5 Another essential policy determination which lives
6 on today that was made in the 1007(H) Study is, it makes
7 sense to have, to designate one program in each state where
8 you have a substantial number of farmworkers, designate one
9 program to be the migrant specialist in that state.

10 In Texas, for example, we have a dozen legal
11 services programs covering different geographic regions of
12 the state, but Texas Rural Legal Aid has a special
13 responsibility for representing migrant farmworkers
14 throughout the state. We even have an office or two that are
15 migrant offices.

16 Maria Luisa will be familiar with this because the
17 West Texas Legal Services Program, where she has worked in
18 the past, serves the northwest part of the state, what we
19 call the Panhandle-South Plains area, for basic field
20 purposes, but Texas Rural Legal Aid has an office in Hereford
21 and Plainview which is in that region because there is also a
22 concentration of migrant farmworkers there and we have

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 statewide responsibility for representing those migrants.

2 It doesn't make sense to have a migrant presence
3 duplicated 12 times among all 12 legal services programs that
4 are in the state of Texas, so there is one program in each
5 state that is designated to be the migrant specialist for
6 that state.

7 This might be a good juncture to ask Roger to kind
8 of paint a little bit of a picture of how many of these
9 programs there are and how they range in size and so forth, so
10 that you would have some picture of that.

11 MR. ROSENTHAL: This will be a very brief interlude
12 before Bill starts again, but there are 47 statewide programs
13 that serve migrants and there is one in the Commonwealth of
14 Puerto Rico, as well. There are currently three states that
15 are unserved: Kentucky, Alaska, and Hawaii.

16 The programs range in size, but the vast majority -
17 - I didn't bring the exact number today, but I believe that
18 there are approximately 30 which are funded under \$100,000
19 per year to serve the migrant population of that entire
20 state.

21 There are three free-standing programs. All the
22 rest of the programs are housed within what we term a parent

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 program which provides basic legal services to the general
2 population of poor people within its service area and then
3 they have a separate migrant component that performs the
4 functions that Bill was just describing.

5 The three free-standing programs are Michigan and
6 New York, which are their own programs that directly receive
7 funds from the Corporation, and then the Pennsylvania
8 program, which is free-standing but receives its grant
9 through a sub-grant from the Philadelphia program, Community
10 Legal Services.

11 MR. BEARDALL: One thing we thought we would flag
12 for you also is, this one program per state policy
13 established in the 1007(H) Study and continuing on today is
14 under some review within the migrant legal services programs.

15 In an effort to evaluate whether an alternative
16 mechanism might be appropriate in certain particular
17 geographic regions of trying to provide one legal services
18 program for a region or a multi-state region, it's not clear
19 whether that's a good idea or whether it's not a good idea
20 and it's not clear whether it's a good idea some places and
21 not others.

22 But this is something that the migrant programs

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 have been talking about and trying to evaluate, and we just
2 wanted to flag that issue, because it's one that, as the
3 issue evolves, we might, in fact, get some very valuable
4 assistance from the Board and LSC staff in trying to address
5 those problems.

6 Another issue which was part of the original
7 1007(H) evaluation and continues to be probably the hottest
8 issue currently among the migrant programs, is once you have
9 the migrant legal services line appropriation, now do you
10 distribute that among the various migrant programs in the
11 various states?

12 At the time of the 1007(H) Study, there was a
13 companion study called the Lillesand Study, named after a man
14 named David Lillesand, who completed the study, which tried
15 to evaluate how many migrants are present in the various
16 different states on an average kind of basis and then to
17 allocate the money among the states, the migrant money among
18 the states, on the basis of those findings.

19 Realizing that that study was getting a little long
20 in the tooth and that migrant patterns, employment patterns,
21 had shifted some over the last 10 or 15 years, dramatically
22 in some places, the legal services programs, migrant

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 programs, realized that there was a need to update that.

2 And so, over the last couple of years, with the
3 generous assistance and funding from PAG, a study was
4 commissioned which has come to be known as the Larson-
5 Plascencia Study, named after the two researchers who were
6 retained to try to update our sense of where migrants are,
7 and they came up with a new distribution.

8 The reason I say this is kind of a hot issue is
9 because anytime you're shifting money around among programs
10 and changing the settled distribution, there are going to be
11 competing interests among those migrant programs. There are
12 some unresolved issues on the Larson-Plascencia study, and it
13 doesn't seem like the appropriate time here or even the
14 appropriate body to get into what those are, and we don't
15 really want to do that.

16 But some people feel that the study is complete
17 enough as it is and ought to just become the new basis for
18 redistribution, other people feeling like there are some
19 significant holes in that study that were not completed
20 because of time and money pressures that ought to be
21 evaluated and completed.

22 But, in any event, the current distribution of the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 migrant money among states is moving incrementally, year-by-
2 year, from the old Lillesand basis to the Larson-Plascencia
3 basis. It's being done on a gradual basis to avoid major
4 dislocations within the migrant delivery system, and that's
5 an ongoing discussion within the migrant programs and one
6 that probably Board members and staff members may hear
7 something more about as it evolves.

8 There was another policy determination that we
9 wanted to flag for you that has its origins in the 1007(H)
10 Study and is the subject of ongoing discussion, and that is
11 what to do about these small state grants that Roger alluded
12 to. As I think there was a fair amount of discussion at your
13 last meeting about the basic model for minimum access as
14 being a two-attorney office with appropriate support staff
15 and administrative funding, and that \$200,000 or so is one
16 estimate of sort of the minimum amount you need in order to
17 provide that kind of access.

18 The same issue arises in the migrant programs, only
19 it has a little bit different twist. If the entire grant to
20 a particular state is \$50,000, for example, its share of the
21 migrant money, well then you arguably don't have enough money
22 in that state to even fund a minimally-viable program.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Now, I say that's arguable because that's the whole
2 question, is what do you do about those states who, under the
3 distribution formula, have relatively small grants? The
4 1007(H) Study grappled with that and made a policy decision
5 that grants less than about \$75,000, if I remember correctly,
6 that was the minimum access kind of figure used in those
7 days.

8 They wouldn't make a grant of less than that to a
9 particular state. Instead, the money for those states that
10 would otherwise have that small a grant, the money for all
11 those states was pooled into what was called the "Small
12 States Fund," put under the jurisdiction of the Migrant Legal
13 Action Program, the national backup center, to administer and
14 to find ways to be sure that migrants in those states
15 nevertheless had access to legal assistance.

16 In 1981, the Corporation changed that policy
17 judgement and decided that it would make more sense under the
18 circumstances of that day to just take that small state's
19 money and go ahead and distribute it out to all those various
20 states regardless of the size of that grant, even in the case
21 of these small grants, and that's where things have been for
22 the last 12 years.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Again, this is the subject of some ongoing
2 discussion and debate, I should add, among the migrant
3 programs: is that an effective way to serve those migrants
4 in those states and are there ways we can structure that to
5 make sure that the grants are large enough and the legal
6 service presence is significant enough to get service to
7 those clients in those states in spite of the small grants?

8 Another policy determination dating from the
9 1007(H) Study is that not only do the migrant workers
10 themselves face these specialized access barriers and
11 specialized types of legal problems but their dependents, as
12 well, face those same barriers and have those same problems.
13 Children who are tagging along with their migrant parents are
14 obviously going to have the same problem with mobility or
15 relating to mobility. They have specialized legal problems,
16 for example, specialized migrant education kinds of problems.
17 And so that's the reason that the funding base for migrant
18 programs takes in to account not just the number of migrant
19 workers but the number of dependents, as well.

20 The 1007(H) Study also determined that the group of
21 migrant workers who have these kinds of specialized, face
22 these specialized access barriers and have specialized

1 problems is not just limited to those who work in the fields,
2 but there are also a range of workers who work in
3 agricultural processing kinds of entities, migrant workers,
4 who are essentially in the same position as the migrant
5 fieldworkers, so that the funding base for migrants includes
6 workers working in cotton gins, vegetable packing houses, and
7 processing plants, and that sort of thing, for that reason as
8 a result of that policy judgment.

9 There are several other aspects to the 1007(H)
10 Study and the original policy determinations made by the
11 Corporation that I don't think we need to get into at this
12 point. We just wanted to give you a flavor of the kinds of
13 policy judgments that have been made and that they live on
14 and where those date from.

15 One thing we did want to bring to your attention
16 was some of our history in the last 12 years regarding these
17 migrant policies. Those policies were more or less set and
18 determined on a carefully thought-out, deliberate basis in
19 the late 1970s.

20 What happened then in the early and mid-1980s was
21 the Boards of the Legal Services Corporation and the staff in
22 those days, which was not as sympathetic to the needs of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 migrant farmworkers as we might have wished, on various
2 occasions undertook initiatives to undermine the migrant
3 legal services programs, essentially changing the policies
4 that had been thought out and established previously.

5 For example, at one or, I think, several points,
6 the suggestion was made or formal proposals were made to just
7 eliminate all the migrant funding. "We don't need
8 specialized migrant legal services programs."

9 Fortunately, those initiatives were never justified
10 with any kind of carefully thought-out rationale and, on the
11 other hand, because the Corporation in the 1007(H) Study had
12 carefully evaluated that and had articulated a reasonable
13 basis and a thoroughly-considered basis why there ought to be
14 specialized migrant funding, because that had been done,
15 those efforts to eliminate all the migrant funding were
16 disregarded because of the work that had been done
17 previously.

18 At another point, the suggestion was made, "Well,
19 we don't need these migrant programs in these stream state
20 areas. Let's just let these workers be served by the legal
21 services and migrant programs in the base states because
22 they'll always come back to the base states."

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Again, we were able to turn back those initiatives
2 by pointing to the thorough consideration that had been given
3 to that issue by the framers of the 1007(H) Study and to show
4 that those were still valid considerations and that that
5 would be a bad idea and to prevail on that.

6 Then, ironically enough, the next suggestion was,
7 "Well, let's eliminate all of the services in the base state
8 programs and just provide these migrant programs in the
9 stream states." Again, the work that had been done
10 previously was sufficient to demonstrate why that would be a
11 bad idea.

12 There was an effort in there, too, to come up with
13 a new distribution formula by study commissioned in secret by
14 the Corporation by two researchers named Martin and Holt --
15 It's come to be known as the Martin-Holt Study -- that would
16 have drastically redistributed money among the migrant
17 programs and eliminated quite a few of them.

18 That effort was ultimately prohibited by the
19 Congress because Congress could be shown how the Martin-Holt
20 study had not counted migrants in the places where they lived
21 but only where they worked. It left out migrant dependents;
22 it had left out the migrant processing and packing workers.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 In other words, it was based on a set of assumptions that
2 were inconsistent with the policies that had been shown to be
3 important for migrant legal services.

4 The next phase that I just want to bring to your
5 attention without discussing much, in the mid-to-late 1980s,
6 the attacks on the migrant programs and the whole concept of
7 migrant legal services funding shifted away from trying to
8 undermine the funding basis and, instead, shifted to various
9 proposals to restrict the type and quality of legal
10 assistance that the migrant programs could provide to their
11 clients.

12 For example, there were proposals, and they may
13 still be alive, to require that migrant farmworker clients
14 would have to go through mandatory arbitration and mediation
15 before they could get the normal access to judicial processes
16 that every other class of client has. It is probably not
17 within the bailiwick of this committee to get into these kind
18 of non-appropriation/non-funding-related restrictions but,
19 because those are the ones that are more commonly proposed
20 now, we wanted to flag that for you because these are issues
21 that may still arrive.

22 At some point, we hope that the full Board or the

1 Provisions Committee or whatever is the appropriate committee
2 might want to have panel of migrant legal services people
3 present what those issues are that are out there now, some of
4 the restrictions that have been proposed in the recent past
5 and that may be proposed in the future, and discuss why those
6 are or are not a good idea.

7 We might also want to get into a more thoughtful
8 kind of discussion of why it is that the migrant programs
9 have, in particular, been a lightning rod for criticism from
10 some quarters, particularly agricultural employer
11 organizations and so forth. But again, it's just something
12 we wanted to flag at this point without getting into a
13 discussion of more than that.

14 I think sort of the last, the way we wanted to end
15 this presentation to you was to discuss just briefly how our
16 experience in serving migrant farmworkers over the last 16,
17 17 years has, in a fairly remarkable way, affirmed the
18 prescience of the framers of the 1007(H) Study. Most of the
19 judgments, the policy judgments, the analyses done by the
20 Corporation in the 1007(H) Study remain as valid today and
21 our experience in serving migrants tends to confirm that they
22 were right about most of those things.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 As I've discussed, there are a few issues where we
2 may want to revisit and re-evaluate or refine the kinds of
3 migrant legal services policies that the Corporation is
4 pursuing. The Corporation has not reviewed in a systematic
5 way, the migrant policies since 1977.

6 There was, however, an investigation by the ABA
7 Subcommittee on Legal Aid and Indigent Defense that has taken
8 place over the last few years, where they've evaluated some
9 of these issues, and Roger was going to say a few words about
10 that SCLAID study, because it's something you will probably
11 hear about at a later point, and we wanted you to know a
12 little bit about that.

13 MR. ROSENTHAL: In great part because of the
14 controversies that Bill referred to in the mid-1980s and late
15 1980s between agricultural employers and migrant legal
16 services, SCLAID determined that it was going to embark on a
17 study of migrant legal services; and it began that study in
18 1990.

19 The study had three goals, as expressed in the
20 report itself. The first was to evaluate whether the living
21 and working conditions of migrant farmworkers continued to
22 warrant special federal funding for migrant legal services

1 and then the other two related more to the ongoing
2 controversies, to make an assessment of the systemic problem
3 cited by agricultural employers and their advocates
4 concerning migrant legal services, and the third to evaluate
5 recent proposed changes to the law, namely, within the LSC
6 reauthorization process, of an migrant legal services
7 programs.

8 The committee did a very wide solicitation of
9 groups on all sides of the issue, private bar groups and
10 others, and got a very respectable number of comments and
11 then undertook to analyze the results of their investigations
12 and do independent research, and it was done in a very, very
13 thorough manner and, in 1993, as Mr. Smegal knows, the report
14 was delivered and I have it in front of me and would highly
15 recommend it to any members of the LSC Board who are
16 interested in these issues, and perhaps we can obtain some
17 additional copies. I know they were very limited in number.
18 But I would hope that SCLAID might have them or we can even
19 photocopy them, with their permission.

20 There were nine conclusions at the conclusion of
21 the study, and three of them relate to some of the issues
22 that were raised in the 1007(H) Study. In sum, what the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 report did was to confirm and update some of the
2 recommendations and findings of the 1007(H) Study, again
3 showing that it was an enormously viable living document and,
4 in spite of the number of years that had passed, there were
5 many, many things that had not changed.

6 The three main recommendations, that did not deal
7 with some of the ongoing controversies, were, number one,
8 that there is still an urgent need for separate federal
9 funding for migrant legal services programs; number two, that
10 migrant farmworkers have as much difficulty obtaining and
11 utilizing legal services as they did 13 years previous when
12 the analysis was ongoing through the 1007(H) Study; and
13 finally, that it would be preferable to retain the current
14 funding distribution system, and rejected three different
15 alternatives.

16 This was a fairly broad finding with respect to
17 distribution. They said, number one, that migrant legal
18 services should not be distributed to individual programs
19 based on the decennial census because that was not usable,
20 given the extraordinary undercount, even way beyond what is
21 normally attendant to undercounts in a poverty context.

22 Number two, they rejected, the committee rejected

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 potential funding limiting services only within the base
2 states and, number three, rejected any proposition that there
3 be any reduction in the funding levels, finding that there
4 was an extraordinary need for this set of services and that,
5 in fact, as with legal services in general, an extraordinary
6 unmet need that was crying out there to be met.

7 So that was basically the core of the issues that
8 the committee dealt with, and there are quite detailed,
9 annotated discussion of each of these issues in their report.

10 MR. BEARDALL: Just in concluding, let me say it is
11 our hope -- we have all been so impressed with the energy and
12 thoughtfulness with which this Board already has been
13 approaching the various legal services issues out there that
14 it is our hope that the Corporation, during the tenure of
15 this Administration, will be able to again reassess, re-
16 evaluate and, probably, reaffirm a lot of the policies that
17 have proven so vital to us, building on what was done in the
18 1007(H) Study and in the SCLAID Study.

19 Our experience has shown us that that kind of
20 thoughtful analysis was so helpful in turning back ill-
21 considered and arbitrary proposals to undermine legal
22 assistance to migrants that an updated version of that would

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 be likely to be very helpful to us for the next 10 or 15
2 years and would enhance the kind of services that we provide
3 to clients by making us all get back in there and evaluate
4 what is it we're really doing and trying to do and what's in
5 the best interests of these clients.

6 One thing, the very last thing I would like to do
7 is, there is with us today one gentleman I wanted to
8 introduce to you, and that is Mike Hancock with the
9 Farmworker Justice Fund.

10 The Farmworker Justice Fund is not funded by the
11 Legal Services Corporation but it is a farmworker advocacy
12 group here in Washington that, because it tries to protect
13 the interests of migrant farmworkers, has played a vital role
14 in protecting the migrant legal services programs in
15 promoting the migrant legal services programs through some
16 very difficult times.

17 He is someone who has worked closely with the
18 Corporation Boards and the PAG and the Congress and been a
19 very valuable ally, and I just wanted to introduce Mike and,
20 if he has anything he wanted to say, give him an opportunity.

21 MR. HANCOCK: Thank you, Bill. I'll be brief,
22 because I don't think that I have much to add to what Bill

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 had to say.

2 I think it's important to point out to this body,
3 and I think the Board generally, one of the issues that Bill
4 really underplayed, that I think has become vitally important
5 to farmworkers everywhere, is the expertise and the level of
6 skill and competence that has been developed among the
7 migrant legal services programs on the broad range of issues
8 affecting farmworkers.

9 They have become, through dint of perseverance and
10 their own dedication, a very knowledgeable and skilled group
11 of lawyers who not only represent farmworkers successfully
12 and in court, but have developed a body of knowledge and
13 expertise about a broad range of farmworker policy issues
14 that have informed policymakers, advocates, everyone in the
15 United States who has an interest in improving farmworkers.
16 I think that is an asset that we cannot afford to lose.

17 As you're deliberating over delivery systems and
18 all the rest, I would just urge you to consider the
19 implications of really breaking up -- if this is one of the
20 things under consideration; I don't think it is. But I think
21 one of the interests I want to see protected here is to keep
22 this core of dedicated, skilled, knowledgeable farmworker

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 attorneys who inform everybody's decisions -- federal, state,
2 local -- about the interests of farmworkers. I would like to
3 see that preserved and maintained and enhanced to the extent
4 we can.

5 As you go around the country, I think you'll meet
6 this core of dedicated lawyers and can't help but be
7 impressed with the job they do under very difficult, very
8 trying circumstances and, particularly over the last 12
9 years, under almost constant attack by a range of people who
10 don't have the interests of farmworkers at heart. Anything
11 you can do to support and encourage the work, I think, would
12 be greatly appreciated.

13 MR. BEARDALL: We know that you have other items on
14 your agenda and we want to be sure we don't monopolize all
15 your time. If there are any questions that we can answer, we
16 would be happy to. Otherwise, we will look forward to
17 working with you and the rest of the Board.

18 MR. BRODERICK: I just have an observation and then
19 a question.

20 First of all, I'd like to thank both of you for
21 coming. It's been highly informative for me and you were
22 both very articulate and informed, and I have enjoyed

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 listening to both of you and I genuinely hope that we can be
2 as supportive as I think the needs require. So thank you for
3 coming and I hope this isn't the last we're going to see of
4 either of you. I feel assured that it will not be.

5 Can you give me an idea as to what your funding is
6 for fiscal year 1994 and how that has changed or not changed
7 over the last five or ten years?

8 MR. BEARDALL: Yes. The 1994 line for migrants
9 is -- you have it in front of you -- is around \$12 million
10 now, I think, or \$13 million I believe, and that is then
11 distributed among legal services programs. The largest
12 programs are somewhere around \$2 million of that, in
13 California and Texas, for example.

14 MR. ROSENTHAL: Total.

15 MR. BEARDALL: Yes, the total funding for those
16 states. And that ranges down to some of the state grants
17 which are in the neighborhood of 10, 20 thousand dollars.

18 MR. ROSENTHAL: Actually, even less, under 10.

19 MR. BRODERICK: How many migrant farmworkers are
20 there, by best count?

21 MR. BEARDALL: Boy, that is the \$64 billion
22 question. One of the things that has bedeviled migrant

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 services, not just legal services but migrant education,
2 migrant health, the whole range of things, is the essential
3 impossibility of calculating very precisely the number of
4 migrant farmworkers.

5 However, interpolating among the studies that have
6 been done that seem to be of the best quality, those
7 estimates range from 1-1/2 million to 2 million. They go
8 higher in some cases. But somewhere in that 1-1/2 to 2
9 million area seems like a reasonable area to, a reasonable
10 range, as a minimum, of migrants and their dependents, to
11 think is probably about right.

12 MR. BRODERICK: The per capita allocation to
13 migrant farmworkers is pretty de minimis.

14 MR. BEARDALL: Well, that's true. We confront that
15 every day in decisions we make, and pretty agonizing
16 decisions, I have to add.

17 The hardest thing we do -- and we're not unique
18 among legal services programs in this regard -- is
19 prioritizing our services, having someone who comes in -- we
20 sit down at intake meetings at the end of each week and
21 review all the cases, the requests for assistance that have
22 come in that week and determine which ones we can do and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 which ones we just don't have the resources to do.

2 Every week, we turn away some meritorious cases for
3 people who have really serious needs, but we realize that we
4 just don't have the resources to handle them all and we try
5 to use the resources that we have for those that seem like
6 the most pressing needs involving the largest numbers of
7 people and the greatest merit. So that's a tough thing to
8 say to those clients, "I'm sorry, we just don't have the
9 resources to help you."

10 MR. ROSENTHAL: When I came to MLAP 13 years ago, I
11 was astounded at both the breadth and the depth of the
12 problems that each migrant family faces, so well beyond what
13 you expect in the poverty context, because there are so many
14 complications in their daily lives. They're mobile. They
15 travel 1,500 miles sometimes just to work off and on for a
16 month and they take their whole families along and they don't
17 even know what housing they're going to get at the end.

18 Poverty is an extraordinarily painful thing to be
19 suffering and, when you're struggling like this for your
20 family and with your family, there are so many problems that
21 they face it's just overwhelming.

22 MR. BRODERICK: How many lawyers in the United

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 States approximately do you consider to be qualified to be
2 representing and advising migrant workers?1 What kind of a
3 population base are we talking about among lawyers?

4 MR. ROSENTHAL: There are currently, in migrant
5 legal services, about 130 or 140 attorneys and there are
6 really a handful of private attorneys nationally, maybe 20 at
7 most.

8 MR. BEARDALL: Part of what we've tried to do, in
9 an effort to stretch these resources as far as possible, is
10 training as many willing people as possible in the private
11 bar to take on some of these cases. In many cases, there are
12 former migrant legal services lawyers who have gone into
13 private practice where, because of their interest and our
14 continued work with them, they have maintained and built on
15 that expertise.

16 In other cases, it's concerned employment lawyers
17 or labor lawyers who would like to help out and, through
18 private attorney contracts, our private attorney involvement
19 programs, and so forth, we've been able to help them get the
20 kinds of resources to co-counsel with us or to take on some
21 of these things.

22 But, as Roger said, it's a very small group because

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 these are otherwise folks, these clients, who can't afford
2 legal assistance and they are just hard to represent. I
3 mean, even a private attorney who represents clients on a
4 contingent fee basis, it's awfully hard to represent a client
5 who doesn't have a telephone and who is gone nine months of
6 the year and doesn't speak English and has a sixth-grade
7 education. So it's not an attractive kind of case for the
8 ordinary plaintiff's attorney because of all the costs
9 involved in representing that client.

10 MR. BRODERICK: I have a lot of questions I could
11 ask, and I won't this morning. I don't want to monopolize
12 the time here. But I do have one question for you.

13 Obviously, the purpose of this Board and this
14 Corporation, as I understand it, is to promote and hopefully
15 realize equal access to justice in this country. That's a
16 wonderful aspiration or goal, and there are some that share
17 it, I'm sure, on Capitol Hill, and there are some that really
18 don't, I'm sure.

19 From a crasser analysis -- and that is to say,
20 economic analysis -- has anybody attempted to study, to
21 determine the social consequences, economically, of an
22 underrepresented, inadequately represented migrant

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 population, as opposed to investing money on the front end to
2 ensure adequate representation? Someone is paying for this
3 at some point, particularly with the number of dependents and
4 children that you're talking about.

5 Has anyone done that kind of an analysis in any
6 study so that, not only can you make aspirational arguments
7 but you can make economic arguments as well? Has anyone done
8 that?

9 MR. BEARDALL: I'm not really familiar with
10 anything that's done that on the kind of hard-nosed economic
11 basis that you are pointing to. Mike might know of
12 something.

13 MR. HANCOCK: If I may, this isn't by any means a
14 comprehensive study, but there was a recent study done in
15 California, for instance, which is a huge ag. labor-intensive
16 state, on the cost to the state till of things like Bill
17 pointed out -- underpaying of Social Security, underpaying of
18 taxes, underpaying of Workers' Compensation obligations.

19 It was estimated that, in the most recent year -- I
20 think it was 1992 -- that it cost the state about \$102
21 million in lost revenue because of the employers' cheating on
22 these employer-related obligations. And California, frankly

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 is probably one of the better states for compliance. So if
2 you take that and try to somehow nationalize that, it's
3 substantial money.

4 MR. BEARDALL: Our anecdotal experience certainly
5 tells us that there is an enormous cost, as your question
6 recognizes as well. I'm just not sure that that's ever been
7 reduced to economic analysis.

8 MR. BRODERICK: It's just of interest to me because
9 my life experience has shown that, if you can take someone's
10 wallet, their hearts and minds will often follow.

11 (Laughter.)

12 MR. BRODERICK: And, if you can save people money,
13 their hearts and minds will often follow. So, while I think
14 we need not do that in some abstract sense, I think in the
15 real world, people who are going to fund these programs would
16 like to see some economic return. It seems to me, based on
17 the comments that were made here, that there are enormous
18 consequences of not pursuing these rights adequately.

19 MR. ROSENTHAL: When you have the employment
20 context, there is a demonstrable loss to the public till in
21 terms of support of lots of programs that workers normally
22 put money into. So Corporation is a good, demonstrable

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 example of that.

2 MR. BEARDALL: You can rest assured we have not
3 neglected that argument in our presentations to
4 administrative agencies and legislative bodies. Mike and I
5 are going to go over and meet with some folk at the
6 Department of Labor a little bit later this morning.

7 You have captured the essence of one of our
8 principal arguments to them, that if you can get better
9 compliance with the law on the front end, you will save
10 yourself and the taxpayer and migrant farmworkers a world of
11 trouble on the opposite end.

12 MR. ROSENTHAL: Also, Dave Richardson did pass us
13 the funding levels, if you wanted it specifically. In 1993,
14 it was 11.056 million for the migrant line and, for 1994, if
15 I'm reading this correctly, it is 12.759 million.

16 MR. BRODERICK: Thank you.

17 CHAIRPERSON MERCADO: One of the things that I just
18 wanted to clarify for our purposes, when we're talking about
19 migrant legal services, in that client community that gets
20 represented, are we talking also about year-round farmworkers
21 and seasonal farmworkers that are also included in that
22 population?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 When you gave us the number of 1-1/2 to 2 million
2 migrant farmworkers, did that include, in that number, the
3 seasonal and year-round farmworkers? Because in the
4 agricultural states, you've got people who do farm labor all
5 year round, and that's particularly true in the Panhandle.

6 MR. BEARDALL: The number is just migrants, defined
7 as those who migrate away from home overnight to perform
8 work, and the funding, there is an analysis of this in the
9 1007(H) Study. The funding base is the migrants and their
10 dependents because of the judgment made at that time that
11 they face the most severe access barriers and specialized
12 legal problems.

13 However, the 1007(H) Study did recognize that the
14 seasonal farmworkers -- the local farmworkers who don't
15 migrate but perform agricultural work locally -- are, in many
16 ways, very much like the migrant workers. In fact, it's the
17 same workers. They migrate some years and other years they
18 don't. And they still face many of the same kinds of access
19 barriers and specialized legal problems.

20 The way 1007(H) Study dealt with that question
21 was -- and it dealt explicitly with the question, "Should
22 these migrant programs also represent the seasonal workers or

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 should the seasonal workers be represented by the basic field
2 program?" It's a lengthy analysis and I'll be happy to go
3 through it, but I don't think that's necessary at the moment.

4 Where the 1007(H) Study left that is, "Well, let's
5 leave that to each migrant program and its parent basic field
6 program to decide what is the best way to reach those
7 seasonal workers." It might be having the migrant program go
8 ahead and also represent the seasonal workers, at least on
9 the specialized problems that are within the expertise, the
10 employment problems for example, that are within the unique
11 expertise of the migrant programs, and they may or may not
12 get a subsidy from the basic field program to help the
13 migrant program represent those seasonal workers, but they
14 would leave that to experimentation by each program.

15 The way it in fact works out is almost all the
16 migrant programs do represent seasonal workers on those
17 unique farmworker kinds of issues like the employment issues
18 for the obvious reason that they're the ones with the
19 expertise already in hand to do that and it's just simply far
20 more cost-effective to do that.

21 CHAIRPERSON MERCADO: But the funding formula,
22 though, is not based on including the seasonal farmworkers?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. BEARDALL: That's correct. And the migrant
2 line in the overall legal services budget is based just on
3 migrants and their dependents and not the rather -- the huge
4 number of seasonal workers who also utilize these services.

5 MR. ROSENTHAL: Also, the focus of representation,
6 the core of the representation, is clearly on the migrant
7 status issue. It may occasionally and in different
8 proportions include seasonal.

9 Also, just to comment on the 2 million figure, in
10 my sense, one shouldn't be too tied and plant that too firmly
11 in your consciousness because I think it's a fairly
12 conservative figure. There are a variety of numbers that
13 range quite high when you're including dependents and, while
14 there are different ways of measuring, the Larson-Plascencia
15 Study did show more than 3 million migrants and dependents in
16 its methodology, which may not even be complete.

17 So I just wanted to caution you not to focus too
18 much on that 2 million figure, because I think that's fairly
19 low. There is very clearly accepted a vast oversupply of
20 labor in the agricultural context in this country and even
21 the Commission on Agricultural Workers, which was dominated
22 by employers, when it issued its report several years ago,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 confirmed the oversupply of labor among the migrant
2 community.

3 MR. BRODERICK: Can I ask you something? Is the
4 Department of Labor, the Social Security Administration, or
5 the Department of Agriculture involved in or interested in
6 the problem that you're talking about here? Has their
7 history shown that?

8 MR. BEARDALL: Mike and I smile at each other
9 because one of the things, one of the walls we feel like
10 we've been butting our heads against a lot lately is trying
11 to get the Department of Labor to improve its enforcement
12 efforts. They have an enforcement mandate for the minimum
13 wage laws, the Agricultural Worker Protection Act, so forth.
14 The IRS is supposed to enforce the Social Security tax
15 deductions or non-deductions and fraud, tax fraud kinds of
16 problems.

17 It's a constant frustration that we face that those
18 administrative agencies either do nothing or do woefully
19 little with the kind of enforcement resources that they have.
20 What we try to do is prod them as much as possible to do as
21 much as we think we can get them to do but really expect to
22 shoulder most of that burden ourselves as the advocates for

1 the workers themselves.

2 MR. ROSENTHAL: More than 30 years ago, Edward R.
3 Murrow said that the U.S. government does a better job of
4 counting migratory birds than it does counting migratory
5 farmworkers and, unfortunately, in enforcement of farmworker
6 rights, there is somewhat of an analogy there.

7 CHAIRPERSON MERCADO: Thank you.

8 MR. BEARDALL: Thank you.

9 MR. SMEGAL: I do have a question.

10 CHAIRPERSON MERCADO: Oh, of course. Go ahead.

11 MR. SMEGAL: Roger, Don Saunders was kind enough to
12 provide us with a report of the Funding Criteria Committee of
13 which you were a member, that was dated September 5, 1991. I
14 can't find any reference in this report to the Larson study.
15 Is that because it came along later after you did this?

16 MR. ROSENTHAL: What was the date again?

17 MR. SMEGAL: September 5, 1991 is your report date.

18 MR. ROSENTHAL: That was prior to it being
19 completed and I think there were some delivery and
20 programmatic issues that we were dealing with prior to the
21 actual numbers coming out.

22 CHAIRPERSON MERCADO: I think one of the questions

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that wasn't answered, I think that you alluded to, and I just
2 thought about it when you mentioned the Larson study, was
3 that you didn't say how the Larson study counts the
4 distribution. I think we talked about it being a new
5 distribution formula versus the one that was done under the
6 1007(H) Study. How is that different?

7 MR. ROSENTHAL: The methodological difference?

8 MR. BEARDALL: The methodology that they use is
9 different from the methodology used in the Lillesand Study.
10 To describe that in great detail gets into these areas, these
11 hotly-debated areas among the migrant programs, and I think
12 we feel like it's important for us to be careful not to try
13 to characterize the arguments one way or the other. I don't
14 think you want to get into that.

15 That's the kind of thing, because it's so closely
16 contested among the migrant programs -- and I want to be
17 clear that there are principled arguments on most of these
18 contested issues by one group of migrant programs versus
19 another set versus another set, so that this isn't -- self-
20 interest obviously is involved, as it is in most political
21 things but, at the same time, there are principled arguments
22 that are made, each of which involves a slightly different

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 vision of what the migrant delivery policy ought to be. And
2 those are things where I think the Corporation Board and
3 staff may be helpful as these issues evolve, in helping
4 resolve some of those issues and find the compromises in
5 there.

6 So some of the debates over the Larson-Plascencia
7 Study and what should be done with it now raise those very
8 kinds of issues. It's complicated a little bit by the fact
9 that part of the study that has not been completed is writing
10 of the final report in which the researchers have been
11 commissioned to spell out in detail the methodology that they
12 used and the shortcomings of that methodology.

13 Some of those shortcomings were pointed out by a
14 panel of experts that they convened as part of their study to
15 review the work that they were doing. We know what the
16 methodology is because the legal services programs worked
17 closely in making sure that the methodology didn't fall into
18 certain pitfalls that researchers often do when studying
19 migrants.

20 We look forward to completing of that final report
21 which will then lay out the methodological decisions, the
22 policy choices that are implicit in counting one way versus

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 another and then leaves out there the policy questions that
2 remain in how we utilize that study: do we utilize it in
3 Fashion A or, because of a particular policy decision about
4 delivering assistance to migrants, should we implement that
5 study in Fashion B?

6 MR. ROSENTHAL: Let me say that I think, even
7 though Lillesand was the primary basis for distribution for
8 so many years, there is probably no one in the migrant legal
9 services community who would say it's perfect. In fact,
10 quite the opposite -- there were significant deficiencies in
11 that. And, as Bill rightly pointed out early in our
12 conversation today, when you go and look at a funding
13 distribution and you make a change, there will be some
14 winners, there will be some losers.

15 In the basic field, there was not always unanimity
16 with respect to certain procedures. There is certainly not
17 unanimity in the migrant field. But I think, on many, many
18 issues, there is consensus and there are remaining issues to
19 be decided. But I don't want to leave the impression that
20 everything is up in the air, either.

21 I think everybody would love to have a perfect
22 study. Everybody, in a winner program, in a lower program,

1 to use a crass phraseology there, can find defects in not
2 only their state's analysis but in the overall analysis,
3 because there is no way to do this in a way that you can be
4 entirely happy.

5 But I think pretty much everybody in the community
6 of migrant legal services has accepted the fact that there
7 are going to be flaws and the question is, are some of the
8 flaws so great that it means that things really need to be
9 substantially reworked? That's part of the ongoing
10 discussion right now which we're hoping to resolve fairly
11 soon internally.

12 MR. BEARDALL: I don't even think it's so much a
13 question of substantially reworking, but refining the work
14 that's already done there. Part of my the migrant community
15 has agreed to go ahead and begin the incremental transition
16 from Lillesand to Larson-Plascencia is a recognition of the
17 valuable work that has been done already.

18 The question and the debate within the community is
19 certainly not about starting over or scrapping it and doing
20 something different, and I don't even think it's correct to
21 characterize it as reworking the Larson-Plascencia study but,
22 those programs that feel like it's still incomplete, I think,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 would characterize it more as completing, filling in gaps or
2 certain holes and completing the study.

3 Everybody recognizes that you will never have a
4 perfect and flawless count because this is such a difficult
5 population to count and evaluate. So, somewhere in there,
6 you reach a point where you feel like you've done a
7 reasonable effort and done the best you can and I think
8 everyone, at some point, realizes we need to live with a
9 number of uncertainties.

10 CHAIRPERSON MERCADO: Thank you.

11 MR. SMEGAL: I have just one further question of
12 Roger.

13 CHAIRPERSON MERCADO: Okay. Sure.

14 MR. SMEGAL: Your recommendation in this study. or
15 this report you made in 1991 comes out with a recommendation
16 that you would use the Migrant Health Atlas national migrant
17 estimates in determining the distribution. Am I hearing you
18 now say that you would substitute the Larson statistics for
19 that here?

20 MR. ROSENTHAL: There is actually a two-pronged
21 system here which perhaps bears very brief explanation. You
22 can tell me if you want to go into further detail today or

1 just reserve it. There's the migrant line, the total migrant
2 line amount, which is analogous to what Dave was giving you
3 here, and then there's the distribution among the migrant
4 programs.

5 MR. SMEGAL: I understand that, yes.

6 MR. ROSENTHAL: And the Migrant Health Atlas
7 number, the 1.66 million, was the best readily available
8 number at the time where a number had to be proposed with
9 respect to the migrant line.

10 So it was felt, by both the Project Advisory Group
11 with the consultation of the migrant community, that we would
12 take a more conservative number because that was already
13 increasing the migrant line so very substantially above the
14 approximately 1 million people who were the basis for the
15 funding under Lillesand, basically a 66 percent increase.

16 So there was a decision made there to say:
17 "We'll go with the 1.66. There are numbers to indicate that
18 it may be very much higher, but we will take that number
19 right now and we'll live with that number because we don't
20 want to appear to be asking for too much and we want to be
21 reasonable. We don't want our increase to go so very high
22 that it creates political problems for the community as a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 whole with the Hill or with the Board." Is that fair?

2 MR. BEARDALL: I think so. I think there is both,
3 there is a political, a practical political, and a
4 methodological reason why the 1.66 number was used.

5 Then I would just add to what Roger said, which I
6 agree with, that the practical political one is that that is
7 based on a government study adopted by the Department of
8 Health and Human Services so it's easier to take that to
9 Congress or to the LSC Board and say, "Here's something
10 that's an official document," and it's easier to explain and
11 get that number accepted.

12 The methodological reason is the Larson-Plascencia
13 Study wasn't designed to count all the number of unique
14 farmworkers in the United States. It was designed to
15 estimate the distribution among the states. So what it
16 really counts is migrant jobs in each of the different
17 states, so there is some double counting there, where a
18 farmworker who works in Texas and then migrates to Michigan,
19 those jobs that he or she is working would be counted in both
20 places.

21 On the other hand, just to give you a flavor of how
22 difficult this task is, in Texas there is such an oversupply

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 of labor and in many other states as well, that you may have
2 one job out there but two or three people working it. One of
3 the serious problems our clients face is when they go out to
4 a field to harvest broccoli, for example, as they are doing
5 right now, the workers will show up at the field, the work
6 will start at 8 O'clock.

7 There is such an oversupply of labor that has shown
8 up to work at that field on that day that you have two or
9 three people sharing a single job and, in three hours, the
10 work is done and they've only gotten three hours of work that
11 day and go home. To the employer, that's fine. They've
12 gotten their crop out of the field that much more quickly.
13 It hasn't cost them any more. But, to the worker, of course,
14 the problem is their earnings have been very meager for that
15 day.

16 So, on the other hand, you have multiple people
17 sharing those jobs, and that's part of what makes this hard
18 to do, but it's also part of why the 3 million figure which
19 is the sum total of the Larson-Plascencia number isn't
20 necessarily reflective of the unique farmworker individuals.

21 MR. ROSENTHAL: The other thing about the HHS
22 study is that it literally didn't count farmworkers in a fair

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 number of states. I believe seven were left out completely.
2 And so again we felt that it was a conservative approach.

3 MR. BEARDALL: We are confident that that's a
4 number that is justifiable and, if anything, is low, but it
5 seems the most reasonable approach to take.

6 CHAIRPERSON MERCADO: I really must go to the other
7 items on the agenda. Thank you.

8 If we could have Don Saunders and Andy Steinberg.
9 At this time, we're going to deal with Items 6 and 7
10 concurrently, of the agenda, dealing with the public comment
11 on recruitment of attorneys and on the loan forgiveness
12 programs. I think that, when we're talking about recruitment
13 of staff attorneys, there is also the issue of whether we're
14 talking about recruitment of staff attorneys in general or
15 recruitment of minority staff attorneys in the legal services
16 programs. So that might be something you might want to
17 clarify for us.

18 MS. WELCH: Let me introduce myself. My name is
19 Kathleen Welch and I'm the executive director of the National
20 Association for Public Interest Law. We are a coalition of
21 law student organizations on 123 campuses around the country
22 who work to promote opportunities for law graduates and legal

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 services and to promote sort of a professional commitment to
2 public interest law more generally.

3 I come today with a great appreciation that the
4 Board is looking at these issues and want to provide you with
5 two perspectives, both the perspective of law students and
6 recent graduates and what they're looking for in legal
7 services and what the problems they're facing are and,
8 secondly, as an organization that serves as a clearinghouse
9 in the very issues that you're looking at -- loan repayment
10 programs and fellowships.

11 I hope very quickly to give you a sense of the
12 magnitude of the problem facing recent law graduates in the
13 legal services programs and also to share with you some of
14 the innovative programs that have been created over the last
15 few years that I think may serve as models for the Board and
16 staff as you look at what the Corporation should do.

17 First let me just tell you that there is some
18 really good news on law school campuses that I think was not
19 there as recently as five or six years ago. There is an
20 incredible surge of interest among law students and law
21 graduates to go into legal services work. I think that is
22 shown through the growth of my organization, which was only

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 15 student groups in 1986 and is now 123.

2 The law schools have begun to develop programs to
3 train law students in providing services to poor people.
4 There are internship programs that didn't exist before. And
5 we're finding, on all the existing fellowship programs and, i
6 think, many of your programs are finding, that there are a
7 lot of people who want to do this work but they're running
8 into two huge barriers.

9 Number one, and I think at the last meeting Ramon
10 Arias perhaps stated it more eloquently than any of us can,
11 is the issue of educational debt burden. When the LSC staff
12 did a survey last year looking at recruitment problems faced
13 by your programs, they found that about 57.5 percent of the
14 respondents were still experiencing recruitment difficulties
15 in spite of the tight job market. 82.9 percent of those
16 programs were experiencing difficulty recruiting minority
17 applicants and 88.2 percent of those programs said that the
18 major reason is because of educational debt levels.

19 I think if you haven't been a law student, been on
20 a law school campus, or looked at law school tuition in a few
21 years, you would be surprised. Law school tuition has really
22 skyrocketed just in the last couple of years. In 1989 and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 1990, about 29 percent of law school graduates were coming
2 out of law school with debts ranging between \$40,000 and
3 \$79,000. In 1991 and 1992, 52.4 percent of law graduates
4 were experiencing in the range of \$40,000 to \$80,000.

5 Last night as I was thinking about this
6 presentation, I took a look at some surveys that we've
7 recently received from law schools. We do a study every
8 couple of years looking at existing loan repayment programs
9 on law school campuses. And, in that study, we asked the law
10 schools, "What is the average debt of your graduates?" We've
11 done this before. So we went out the previous survey and
12 said, "Just make the changes by hand."

13 In virtually every survey, they scratched out the
14 debt level and the range has gone from \$20,000 to \$35,000 to
15 well over \$40,000. I mean, virtually every school that
16 reported, they were talking about over \$40,000 average debt
17 of their law students, law graduates.

18 Then if you take a look at salary levels, you're
19 probably familiar with your program salary levels, which
20 averaged, in 1990, \$23,000 a year. For all public interest
21 jobs, it's about \$25,000 a year. The bottom line is that law
22 school graduates facing those kinds of debt burdens simply

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 are prevented -- it's impossible to take legal services jobs
2 for many of them.

3 The Law School Admission Services, which provides
4 many of the loans and much of the analysis about debt
5 burdens, says that, for a \$40,000 debt, it's going to cost
6 about \$500 a month over ten years for a law graduate. They
7 state that the safe threshold for debt burden versus salary
8 is about 10 percent and, according to LSAS, you have to make
9 about \$60,720 per year in order to repay your loans at the
10 \$40,000 level.

11 MR. SMEGAL: Are these loans at special interest
12 rates fixed by some government program?

13 MS. WELCH: Yes, they're roughly 9 percent, most of
14 these loans, and many of them are federal loans. This debt
15 burden issue becomes a particular problem for minorities and
16 other people from disadvantages backgrounds who typically
17 tend to have higher levels of loans.

18 The second problem faced by many recent law
19 graduates is the number of entry-level jobs. Everyone in
20 this room is probably more aware than I am what happened over
21 the 1980s when legal services, the number of staff attorneys
22 dropped by about a third. What we're finding right now is

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that there is incredible competition among the law graduates
2 for the limited number of legal services jobs and for the
3 limited number of public interest jobs more generally.

4 The other piece of good news -- and, in many ways,
5 it's sad for this community -- is that the quality of the
6 applicants for the fellowship programs, for the existing
7 legal services positions, is incredible. I mean, we are
8 looking at people who have been doing public service work
9 since their high school days, who spent their law school
10 summers and many of their law school semesters working in
11 legal services programs. The quality of these applicants is
12 higher than it's ever been, and I think you would find that
13 that's the truth for many of your folks in this room who you
14 would ask about, the applicants they're getting.

15 There are a lot of things that have happened on the
16 law school level, on the state level, and beginning to happen
17 on the federal level, to begin to address these problems.
18 Let me just quickly tell you what is out there, and I'm happy
19 to provide you with more information about it after the
20 meeting.

21 Right now, there are 44 law school campuses who
22 have some form of loan repayment assistance programs and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 approximately six states or regions who have loan repayment
2 assistance programs. Typically how these programs work is
3 that they provide either loans that are ultimately forgiven
4 or direct grants to the graduate to help them repay loans if
5 they take a job in qualifying employment, which legal
6 services virtually are always included in those programs, and
7 if they make below a certain salary ceiling, which is usually
8 around \$30,000 to \$35,000.

9 The programs are pretty dramatically different in
10 the way in which they provide benefits. In 1991, which was
11 the last complete survey we did of these programs, when there
12 were 32 programs, they were serving approximately 700
13 graduates and spending about \$2 million a year in loan
14 assistance. You may also be aware that 21 LSC grantee
15 programs also have some kind of loan repayment assistance
16 program on the local level.

17 On the state level, several bar associations or
18 IOLTAs have gone forth and created loan repayment assistance
19 programs in Arizona, in Florida, in Minnesota, North
20 Carolina, and Tennessee. The state of Maryland has also
21 implemented a program on a state level for a number of
22 different professions that is funded through state

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 appropriations.

2 It sounds like we've had a lot of progress in the
3 area but the problem is that most of these programs are
4 grossly underfunded and cannot keep up with the incredible
5 student demand for the loan assistance.

6 On the federal level there has recently been -- let
7 me back up for just a minute. The other problem is that all
8 of these benefits are taxable income so, even if you're
9 receiving loan assistance, \$2,000, \$3,000, \$4,000 a year, all
10 of that is considered taxable income. PAG and NLADA and
11 NAPIL have worked quite closely together to help promote
12 legislation on the federal level that would change the way in
13 which those benefits are treated.

14 Don, do you want to speak for a minute about the
15 federal legislation?

16 MR. SAUNDERS: Certainly. Good morning. My name
17 is Don Saunders. I'm jointly employed by PAG and NLADA to
18 work on congressional relations and other governmental
19 affairs. I just very briefly want to bring you up to date,
20 because PAG and NLADA are very interested in both of these
21 issues and Andy and Harrison are here to talk about some of
22 the specifics.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 But there are a couple of issues before both the
2 Congress and the Administration that tangentially relate to
3 this issue. I don't think any of them will solve it but you
4 just might want to be aware of them. We're working on all
5 three and would certainly welcome the chance to work with the
6 Corporation on them.

7 Under both the higher ed. reauthorization and the
8 direct student loan provisions that passed the last Congress,
9 there is a provision providing for income-contingent loan
10 repayment. The basic thrust of the program is to deal with
11 defaults on student loans. But one of the areas of
12 eligibility under this program is economic hardship as
13 currently defined by ratio between your debt to your income.

14 The legislation is very broad in this area. A lot
15 of authority was left to the Department of Education in the
16 rulemaking process. We are trying to discuss with them some
17 of the ways in which we can turn this economic hardship
18 approach into something that might encourage public interest
19 practice.

20 Certainly the 20 percent income-debt ratio is much
21 too high. We're trying to get then down to 10 percent or
22 something in that area. Another issue that we're struggling

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 with is to try not to put the graduate in worse shape two or
2 three years down the road than he or she would have been in
3 by not participating because the issue of what happens to
4 that interest while it's not paid is essential.

5 There are programs for deferral and forbearance.
6 But what we're trying to do is to prevent the accrual of
7 interest and thus the capitalization of it for payment down
8 the road, and that's a big issue as far as making this kind
9 of program work. We're trying to convince DOE that that's
10 the way they should go.

11 Finally, there is some discussion about forgiveness
12 for a certain commitment to public interest practice. There
13 is not a lot of support in the department at this point
14 because, again, their mindset is collecting debts in default.
15 But if we can get them thinking about public interest, they m
16 may well be willing to say, "In exchange for five years of
17 practice, we will forgive a third of your debt," or something
18 like that.

19 The encouraging thing about the DOE process -- and,
20 of course, this only applies to federal loans such as the
21 Stafford Loan Program and others -- is that the person who is
22 probably going to be in charge of the regs this time was

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Kennedy's staffer on the higher ed. reauthorization bill, and
2 we worked with her in trying to get loan forgiveness programs
3 included in that. She's not only very knowledgeable about
4 it, she's very supportive of it, so we think that we really
5 caught a break in this person going over to DOE.

6 The other area -- and this one is before the
7 Congress, and this really applies to non-federal or state
8 loans -- under the current tax code, which was developed in
9 the 1970s under an initiative particularly to get doctors to
10 practice in rural areas, there is a provision that says
11 federal or state loan forgiveness programs are not taxable
12 income to the recipient. That does not apply to particularly
13 law school programs or other kind of non-public programs.

14 What we are trying to do is two things, through
15 legislation introduced by Senator Bumpers from Arkansas and
16 Ben Cardin, Representative Cardin from Maryland, both of whom
17 are very strong supporters of legal services, is to get the
18 same kind of treatment for non-state or federal kinds of loan
19 forgiveness programs so, in other words, law school programs
20 or programs of that sort would not be treated as taxable
21 income.

22 The legislation has a real good chance of passing.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 There is one problem with it, as we get into what Andy is
2 going to talk about. There is no provision for applying that
3 to employer-provided benefits. So if you were to look to
4 developing a loan forgiveness pool at the Corporation, the
5 fear is, of course, that the employer would, rather than
6 calling it wages and income, would call it debt forgiveness
7 and somehow abuse the program.

8 We are going to try very hard this year to get some
9 kind of exception into that which ties it into the public
10 interest practice to say that just because law schools are
11 providing it, you know, they are in no better position than
12 if what we're really doing is paying educational debt for the
13 public interest, that the employer shouldn't be able to do
14 that in certain well-defined and limited contexts. I don't
15 know if we'll be successful in that, but I do think the tax
16 bill, as it applies to law schools, is likely to pass.

17 Finally, the other issue, that really is not
18 relevant to what you're looking at but you probably think it
19 might be, is the national service bill, which passed and
20 which we're working very closely with the Provisions
21 Committee on. There are some debt forgiveness there.

22 But clearly that program is designed not to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 supplant ongoing institutional operations, so it's not in a
2 situation where you could look at the needs of the legal
3 services delivery system and somehow find this as a real
4 depository of resources. They're looking very much to an
5 identified core of service delivery people working under the
6 National Service Program, and it's just not going to provide
7 enough resources, really, to deal with the larger issue that
8 you're looking at but, certainly, it impacts upon the
9 question and we're going to be working very closely with your
10 staff and with the Board in pursuing that.

11 MS. WELCH: The other new development that you
12 should be aware of is the growth of post-graduate fellowship
13 programs which share, in some respects, similarities to the
14 Reggie program that I'm sure you're all familiar with.

15 But in the last probably five or six years, the law
16 firm of Scadden, Arps has created a program that funds about
17 25 new graduates per year. Covington & Burling here in D.C.
18 funds four. You're probably aware of the Earl Johnson
19 Fellowship in California that funds one person. And there
20 are a number of student groups, members of our organization,
21 who have created student-funded post-graduate fellowships,
22 again, only funding a small number of people.

1 About three years ago, NAPIL decided to take a look
2 at this whole issue of loan repayment and the need for more
3 entry-level positions, and decided that we would launch a new
4 effort to create a fellowship program that had, hopefully,
5 the best pieces of all the existing and pre-existing
6 programs.

7 We went out and we surveyed about 2,000 public
8 interest organizations, many of them LSC grantees, and asked
9 them, "What would you like in a fellowship program? What
10 makes the most sense?" And some of the issues that we were
11 concerned about are, on what level are the placement
12 decisions made, how do you set a salary level, and what are
13 the selection criteria?

14 We came up with a program and a model that we think
15 is very good and we're in our second year right now, about to
16 choose our second class of fellows. The goals of this
17 program, which is called NAPIL Fellowships for Equal Justice,
18 are to, number one, create new entry-level jobs for public
19 interest attorneys serving underrepresented communities; two,
20 is to make these jobs available to everyone.

21 To ensure the most diverse pool of applicants we've
22 made a decision that we are going to provide full-debt

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

1 assistance during the course of the fellowship so there's a
2 full loan repayment program to ensure that minority
3 applicants and other people from disadvantaged backgrounds
4 with heavy loan burdens can take a legal services job.

5 Secondly, we encourage innovation, sustainability,
6 and replicability.

7 And, finally, I think we're redefined the infamous
8 term "best and brightest" to look not just at traditional
9 measures of academic success but also to look at demonstrated
10 commitment to public interest law and demonstrated experience
11 working with the communities they propose to serve.

12 The ways in which this program is likely the Reggie
13 program -- and Harrison may want to step in at some point to
14 talk a little bit about his experience with Reggie -- is that
15 it's a very community-based program, there's a national
16 competition, and we send fellows largely to legal services
17 organizations.

18 Where it's different than the Reggie program is
19 that our model allows the decision making to be done on the
20 local level. A law graduate and a local program get
21 together, put together a package for an innovative new
22 program or a program that is consistent with the legal

1 services program's agenda, and come to us with both a
2 proposal for a project and a candidate and we make the
3 selection based on the innovation of the project, how good
4 the applicant is, and what the reputation is of the local
5 program.

6 In terms of salary, as opposed to setting a certain
7 salary for all projects, we will fund up to the starting
8 salary of the local program. So it varies for different
9 fellows. As I said before, we pay all of the loans during
10 the two-year fellowship and we ask the local programs to pay
11 the second half of the second year's salary in an effort to
12 try and wean them off funding and to encourage a look at
13 additional funds for new sources.

14 We do a national competition and national
15 recruitment and we do heavy emphasis on, in the second year,
16 on looking at funding for rural programs and also funding for
17 minority applicants.

18 What we found is this issue of repaying loans and
19 providing new jobs go hand-in-hand, that if you want to
20 recruit minority graduates, if you want to recruit people who
21 want to serve the communities from which they come, you need
22 to help take care of that debt burden. We've had a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 tremendous experience in attracting people, for example,
2 Native American people, who want to go back to their
3 reservations and provide legal services, because we're making
4 it possible for them to do that.

5 The other thing that we've found is by encouraging
6 the graduates themselves to come up with the projects in
7 conjunction with the program, is that we've gotten terrific
8 innovation. For example, one young woman went to a legal
9 services program in Atlanta and proposed a community economic
10 development project that is going to be done around, if she's
11 funded, done around the Olympics, of assuring that priority
12 funding for housing, for jobs in Atlanta around the Olympics
13 is done in low-income communities.

14 We have another fellow who, right now, is from east
15 L.A., proposed to go out and deal with home equity fraud
16 issues with Bet Tzedek Legal Services. He wanted to return
17 to his community. He's an unbelievable young man who is a
18 veteran, while in law school created a veterans' legal
19 services program, wanted to go back to his community. He has
20 \$80,000 in debt. The only way he could go back there and do
21 that project was if we provided debt service to him and
22 created the job, because Bet Tzedek couldn't fund this new

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 project without him.

2 Basically, what we've been able to do is allow for
3 new strategies, new ideas, with the right people, people who
4 could really go back and make these projects a success. I
5 would be happy to talk more about these and provide you with
6 information on what it's costing to run this program. I
7 should say that we like to call our fellowship program a
8 domestic Peace Corps for lawyers and conceptually I think
9 it's terrific, but the reality is we're only funding seven
10 people in the first year and probably seven or eight in the
11 second year.

12 I also want you to know that the funding for this
13 program comes from a pretty innovative source. We were able
14 to secure a little over \$3 million in settlement reserve
15 funds from two antitrust cases to create an endowment for the
16 program and are now running essentially a national
17 fundraising campaign which we think is a pretty innovative
18 collaboration between the federal judiciary, the private bar,
19 law students, and the public interest community, to create a
20 constellation of fellowships around the country working on a
21 variety of issues. I hope it's a model that you folks will
22 take a close look at.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Finally, I just want to follow up from what Don
2 said about national service. Although it is a separate
3 initiative, it certainly, the fact that Clinton's initiative
4 is in place and that there are going to be sending up to
5 20,000 young people to the field in the next year I think
6 sets a nice stage for what you're trying to do. I think
7 there are opportunities to supplement what legal services
8 programs are doing through the National Service Program but
9 it's certainly not a substitute for the kinds of programs
10 like loan repayment assistance and fellowship programs.

11 I brought for you and will leave with you a small
12 briefing paper on national service. I'm happy to answer any
13 questions.

14 MR. BRODERICK: I just have one question. In
15 relationship to federal loans, so to speak, is there any
16 effort nationally to, as opposed to loan forgiveness or that
17 sort of thing, to institute a program of interest-free
18 deferred loans, so that if I go into a public interest
19 practice, the federal government says, "For the first three
20 years, you don't owe us any money during that period of time
21 and, when you start repaying the money, it's been interest-
22 free for that period of time," so it's not loan forgiveness

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 but it's loan deferral; has anybody looked into that?

2 MS. WELCH: Some of the programs that Don was
3 referring to are relevant. There are some programs under the
4 Higher Education Act and others like Vista where there are
5 provisions that allow for deferral. There are also the
6 hardship forbearance opportunities, that if your loans are
7 more than 20 percent, your loan payments are more than 20
8 percent of your salary, you can get a forbearance.

9 There's nothing comprehensive and there's been
10 nothing really looked at in a comprehensive way to do that.
11 One of the issues that I've raised in the national service
12 debate is, and I hope will be successful in changing the way
13 the program works now, is that if you are going to bring
14 people in on these very low salaries, under \$10,000 in some
15 instances, you're not going to get a diverse pool of people
16 unless you provide loan assistance. So do a deferral, do a
17 national deferral in this program, because that's the way to
18 really encourage public interest practice.

19 The other piece is the income-contingent loan
20 program. Nobody really knows how that's going to work. This
21 is part of the whole Student Loan Reform Act. Theoretically,
22 they're going to allow you to repay your loans as a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 percentage of your salary so that if you're receiving a very
2 low salary you only have to pay a small percentage of your
3 loans. It's unclear how interest plays into that. What I
4 believe is going to happen right now is that you will simply
5 end up paying much more over a longer period of time if you
6 choose that option for two or three years.

7 MR. BRODERICK: I just have two very brief
8 questions. Is there any information, any survey data
9 nationally, that would suggest the percentage of law school
10 graduates who forego what they perceive as an opportunity to
11 work in public interest areas because of debt problems? And,
12 secondly, are there any statistics to indicate how many
13 people who secure those jobs in the public interest sector
14 have to leave them prematurely because of debt repayment
15 problems?

16 MS. WELCH: I'm not aware of any surveys that have
17 been done nationally. I'm asked this question a lot about
18 whether or not you can tell me how many people are not doing
19 this. I can tell you anecdotally that we get calls, you
20 know, several a day from law students who want to know how
21 they can do this, and they couldn't do it without loan
22 assistance. So I don't think anything has been done.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: I have a question. When you say loan
2 forgiveness, you're talking about the monthly payment during
3 the period of time of employment?

4 MS. WELCH: Right.

5 MR. SMEGAL: Not, in effect, wiping out the bottom-
6 line residual obligation?

7 MS. WELCH: Yes. A more consistent way is saying
8 loan repayment assistance.

9 MR. McIVER: I'm Harrison McIver, executive
10 director of the Project Advisory Group. There is a brown-bag
11 lunch group of public interest law students who got together
12 during the summer, and I had the opportunity to make
13 presentations about legal services and my work in legal
14 services. And we started talking about salaries and the
15 like.

16 These folks are inclined to go into public
17 interest-type work and they heard what the salary levels and
18 the salary ranges were, and they said, "It's no way possible
19 I could afford to go into legal services-type work and I'd
20 have to look closely at whether I can go into public
21 interest. As an alternative, we might consider what many
22 people are doing now, saying we ought to do pro bono work in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that area, but get a job that pays a good salary."

2 So anecdotally, that was something that I learned
3 this summer, that you have good people who are committed and
4 work very hard during the summers but are not prepared,
5 because of debt and other obligations, to go into legal
6 services and public interest work.

7 MS. WELCH: There have been some surveys done at
8 the law schools. For example, many of our organizations
9 survey the exiting student bodies, the graduating class, to
10 ask them where they're going and, unfortunately, the fact is
11 that less than 3 percent of law school graduates are going
12 into public interest work right now. And when I say that, I
13 don't include government work, but nonprofit work.

14 Many of those surveys that they have done have
15 shown that most of the graduates who said they entered law
16 school with an interest in doing public service work are not
17 doing it because of their debt level. I can't provide you
18 with statistics, but I know they've done these surveys
19 locally.

20 MR. BRODERICK: I'm sure it's a very real problem.
21 I'm just, in a sense, talking as a trial lawyer, you know.
22 Give me the exhibits, I guess. It's not that I doubt what

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 you're saying but to try to persuade another group at another
2 time it would be nice to have the exhibits.

3 MS. WELCH: Mm-hmm.

4 MR. STEINBERG: My name is Andrew Steinberg. I'm
5 executive director of Western Massachusetts Legal Services.
6 I'm just going to relate very briefly, because I'm well aware
7 of your time constraint, two experiences in Massachusetts
8 that I've had that relate to the subject matter of this
9 presentation, and sort of emphasize the inter-relationship
10 between recruitment among assistance and fellowship programs.

11 In both of these were things that arose, one
12 statewide in Massachusetts and the other in my program,
13 around trying to recruit more non-white attorneys into legal
14 services work because it was an issue that we were addressing
15 at Western Massachusetts Legal Services and was being
16 addressed at the same time at other programs across the
17 state.

18 About five years ago, the Massachusetts Legal
19 Assistance Corporation gave a very small grant to the group
20 of all of its grantees to see what we could do towards the
21 goal of increasing participation of non-white attorneys in
22 legal services. And there was a steering committee of three

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 designated, of which I was a member.

2 We began our work by consulting a professor at
3 Northeastern University Law School in Boston who was a good
4 friend of legal services and his advice or information was
5 very simple. He counsels a lot of students who are
6 interested in working in legal services and public interest
7 and sees that one of his roles at the law school is to try
8 and facilitate and encourage work in public interest after
9 graduation. He alerted us that we had a problem that we were
10 not confronting.

11 One was, and I think that we've talked about this a
12 whole lot and this is just another statement of the same
13 thing, is the anxiety about loans. The second thing that was
14 sort of an additional layer to that was that he pointed out
15 that one of the results of the anxiety of loans is that
16 students feel a need to make a commitment early to get a job,
17 that by the beginning of their third year they are really
18 anxious for some kind of employment commitment, that unlike
19 when I graduated from law school in 1973, law students now
20 cannot afford to graduate unemployed if they can help it and
21 then try and see what they can do because the clock is going
22 to start ticking six months after graduation on those loans

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that are going to come due whether they're employed or not
2 and that, therefore, students who are interested in public
3 interest and might even be able to make the money work have
4 the problem that they will get out there and go through the
5 employer cycle of interviews in the fall and, if public
6 interest programs are not there, they will make a commitment
7 to an offer that comes along and cannot afford to turn it
8 down and wait to see if public interest comes in.

9 He pointed out, which was correct, that most legal
10 services programs advertise positions as they become open
11 and, if we wait until then, we are missing the cycle that
12 allows us to be competitive for some of the people that we
13 most want to get.

14 The thing that we did in Massachusetts was to try
15 and work on coordinated recruitment as a result of that
16 which, of course, is something that a fellowship program in a
17 way can do as a coordinated recruitment effort. There were
18 problem with it but, in any event, it was a valiant effort.

19 The other thing was, on the local level, Western
20 Mass. Legal Services appointed a committee of staff and board
21 members to look into the same issue and decided to do two
22 things. One was we decided to hold positions open that,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 because of what this professor had advised and I related to
2 the committee, that one thing that we should try and do is,
3 if a vacancy occurs, to try and fill it on a temporary basis
4 or to postpone hiring if at all possible, recognizing that
5 there are client service issues in doing that, in order to be
6 able to bring the position into the cycle of law school
7 needs.

8 It doesn't necessarily mean that we can be out
9 there as easily in the recruitment effort but one of the
10 things that it enabled us at least to do is to be able to
11 have the positions start in July or August, which is when law
12 students can start jobs. They can't just start a job when it
13 becomes available.

14 The other thing that Western Massachusetts Legal
15 Services did was to start a loan repayment assistance
16 program. We are one of those programs that is doing it
17 locally. Our program is very modest. We are only helping
18 during the first three years out of law school when the
19 student, new attorney, is in the lowest steps of our salary
20 scale. It is limited right now to \$2,000 a year. We offset
21 it by anything that the law student receives from the law
22 school so that we want to be a loan repayment program of last

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 resort.

2 It has not been costly, as a result of that. We
3 have never had more than three people participating. It is
4 not limited to any group of new attorneys. All new attorneys
5 are eligible if they have law debts that are not covered by a
6 law school or other program. It has helped us tremendously
7 in recruitment. It has been a very good buy. If more
8 programs did it, it wouldn't be quite as good from that
9 perspective, but we still recommended to others because what
10 it does is it enables us to advertise that we have a loan
11 repayment assistance program. There are a lot of law
12 students that see that and respond to our job notices sent to
13 law schools that might otherwise not respond. And then we
14 have a contact that we can follow up on.

15 I think that that was sort of the sum of my
16 experiences. I think that what I would recommend to the
17 Legal Services Corporation, though, is that ultimately some
18 of these decisions need to remain local. One of the
19 strengths of legal services is that this is a locally-driven
20 program with independent local boards of directors. So
21 policies need to be local.

22 On the other hand, there's a lot that can be done

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in the way of information sharing; there is a lot that can be
2 done in the way of facilitating programs, in developing it, I
3 think, if we move towards a higher level of funding where the
4 resources will be available. And the other thing that I
5 would hope that we could get some help with from everybody --
6 NAPIL and you and others -- is to have everybody advocate
7 with their law schools because a lot of law schools are not
8 instituting these programs and I think, you know, we're all
9 law school graduates and we all can go to our own law schools
10 from where we graduated, those of us who are attorneys, and
11 encourage them to participate, if they are not doing so, by
12 creating such a program.

13 I guess my last point is that these are very
14 important issues because, while the number of new attorneys
15 coming into legal services has not been great in recent
16 years, unfortunately, and as NAPIL's experience has been, if
17 we are successful in the effort of moving towards, again,
18 minimum access or beyond to an equal justice approach, it is
19 going to create a tremendous additional need for people
20 providing the service and, as a part of allowing that to
21 happen, we have to be in a position to work on recruitment,
22 and this, what you're talking about right now, is a very

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 important part of that recruitment.

2 MR. McIVER: Harrison McIver again. I think
3 they've covered so much of what I was about to say -- I was
4 listening to Kathleen -- but there are a couple of points. I
5 happen to have been 1 lucky enough to be a Reggie and I can
6 tell you that the Reggie program, the fellowship program,
7 served to solidify my commitment and belief in legal
8 services, delivery of legal services to the poor, and to
9 impact my commitment to stay in legal services.

10 I also was the beneficiary of the loan repayment
11 program that legal services offered in the mid-to-late 1970s
12 and, for those three years, I was making probably \$12,000 a
13 year and, for those three years, that \$1,000 was very
14 helpful. While PAG has not gone on record supporting loan
15 forgiveness on a national basis, at least administered on a
16 national basis, I can say personally that that had a lot of
17 impact, especially with the few dollars that I was making at
18 that time in terms of my staying those three years. And
19 subsequently, I've been in legal services for approximately,
20 what, 14 to 17 years. Sometimes I forget.

21 There are two very important components of the
22 Reggie program that NAPIL has adopted, if you will, in some

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 ways, and that's community lawyering. As a Reggie, I had the
2 opportunity and I had projects that really, I thought, had a
3 great impact in terms of the community. That was in the
4 delta part of Mississippi, some 15 years ago.

5 There was no recognition of Hill/Burton, per se, in
6 terms of defense, used as a defense in litigation there, and
7 I was one of the field lawyers that took it as a project to
8 make sure that that defense was recognized. As a part of
9 that, I would go around the delta and educate poor people
10 about the opportunity to ask for Hill/Burton to have some
11 debts absorbed.

12 In addition to that, I worked on a number of
13 projects, litigation projects, employment discrimination and
14 police misconduct cases, that gave me an opportunity to gain
15 much-needed legal experience and opportunities early on in my
16 career.

17 The minority recruitment component, I think, served
18 a great purpose. It is clear that the need for that
19 continues based upon statistics that your own Corporation has
20 gathered. Close to 83 percent of the respondents indicated
21 that they had problem with minority recruitment. I would
22 urge that, if some form of fellowship program is adopted

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 allowing that, if there are funds available, that that
2 emphasis be retained as a part.

3 I would also suggest -- I know time is running --
4 that you might look at the January 13, 1992 transcript which,
5 at that time, I testified along with Steve Gottlieb about his
6 experience with loan forgiveness and the like. There were
7 certain characteristics that I articulated at the time, and
8 I'll just run through them quickly, that any fellowship
9 program -- and I'm pleased to find that the NAPIL fellowship
10 program has adopted many of these, but there are some things
11 that I would additionally share.

12 Obviously, with 848 million, there would be
13 adequate funds to achieve those two goals of community
14 lawyering as well as having minority recruitment as a
15 component and retention as a component. We would urge that
16 the program should be administered by a law school or another
17 entity but, if it's a law school, it should be a law school
18 with a positive reputation of supporting diversity on its
19 faculty and within the student body and having strong
20 clinical programs targeted to the poor would be something
21 that should be considered.

22 The target fellows should have solid academic

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 achievement but at the same time, as you relayed, Kathleen,
2 community commitment and involvement, and have expressed
3 preference to be involved in poverty law advocacy.

4 The fellows should reflect diversity of the
5 community, including ethnic, cultural, and gender diversity
6 and that should also include the elderly as well as the
7 disabled.

8 The program's recruitment, selection procedures,
9 and the like should incorporate steps to attract, as I've
10 said, to attract and to hire minorities, women, the elderly,
11 and disabled persons.

12 And it's one important point in terms of community
13 lawyering that the person should not live 100 miles away.
14 That person needs to live within that community, and I think
15 that's a very important part of any fellowship program you
16 should have. That should be a part of that community.

17 I felt, as a young lawyer, as a Reggie, that it was
18 important that I did do that and I, in fact, did that and I
19 became perceived as an advocate in that community because I
20 would not deal with the issues from a perspective of
21 representation of my clients but I also felt that those
22 issues were affecting me. You can imagine, in the late 1970s

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in the delta, what kinds of issues would affect young African
2 American living in the Mississippi delta.

3 So I will end with that and, if you have any
4 questions, I'm here.

5 CHAIRPERSON MERCADO: I was just real curious about
6 the current status of the Vista lawyers, you know, what is
7 their percentage, if any?

8 MS. WELCH: There are very few right now, but I
9 know both Don and I have met with the acting director of
10 Vista and I actually met with some recruitment folks last
11 week and there's a real interest on the part of Vista to
12 revive lawyers' participation in the program.

13 In fact, I know there's a legal services program in
14 Texas -- Bexar County?

15 CHAIRPERSON MERCADO: Bexar County.

16 MS. WELCH: Bexar County, yes, who has actually
17 proposed to involve a number of lawyers in Vista. So I think
18 in the next year there is going to be a real effort on their
19 part to recruit lawyers into the Vista program. But, as you
20 probably are aware, the salary level or the stipend level is
21 very, very low and it would be difficult, I think, for most
22 lawyers.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: Okay. In the overall
2 picture, aside from the recruitment, I'm assuming that part
3 of what you're looking at -- and I haven't heard this and I'm
4 just making an assumption -- but part of trying to recruit
5 lawyers aside from loan forgiveness programs, and this would
6 be for any lawyer, is looking very seriously at the salary
7 levels commensurate with other public interest-type jobs as
8 well as the benefits.

9 I think part of the discussions that we've had is
10 that lack of pension and retirement benefits for legal
11 services attorneys and, in many cases, lack of health care
12 for them, is incorporated into the recommendation for
13 recruitment and retention of attorneys. Is that something
14 that you've looked at and, if it is, what, percentagewise, or
15 what increase are we looking at as far as those salary levels
16 and benefits are concerned?

17 MR. STEINBERG: I don't think that it's something
18 that we have, at this point, quantified which, I think, is
19 what you're really looking for.

20 MR. TEITLEMANN: My name is Rick Teitlemann and,
21 before I speak, I want to say that these are all my very dear
22 friends and colleagues and I may be in disagreement, but they

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 understand, as well.

2 MR. McIVER: We love you, too.

3 MR. TEITLEMANN: Okay. I pay \$29,500 starting,
4 which is comparable to the Attorney General's Office and the
5 Court of Appeals. I do not lose attorneys.

6 CHAIRPERSON MERCADO: What state are you from?

7 MR. TEITLEMANN: St. Louis, Missouri. Missouri. I
8 do not lose attorneys. I do have an opportunity to hire
9 someone this year and I hire during the hiring season. I see
10 that as the market to hire. That's when the people are there
11 looking for jobs.

12 But I believe in local control. I mean I believe
13 everyone's programs are run by local boards that understand
14 their programs. I am not critical of anyone else. We just
15 have a different philosophy. If I can have an attorney with
16 18 years' experience who teaches Social Security in the
17 Missouri Bar and knows all the judges, and in my area there
18 may be eight or ten ALJs, \$50,000, she gets much more done
19 than two new lawyers who have to train and turn over. I have
20 no turnover, so I don't end up with a lot of training
21 expenses. My philosophy is to keep that attorney who deals
22 out three times the cases because she knows the system

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 perfectly. That's our philosophy.

2 But at \$29,500, and we have a pension plan that's
3 averaging 6.5 percent a year -- it's a nonprofit plan -- and
4 we are considering a loan repayment plan, I think we will go
5 into that this year with our new hire or new hires. But I do
6 think this is a local control issue and I think before the --
7 a local control local direction issue and, as Harrison said,
8 the PAG has not taken a position on loan forgiveness on a
9 national level.

10 I do believe, however, when you look at things, you
11 have to look at what is the national purpose? I see a
12 different story with respect to the Scadden, Arps Reggie kind
13 of fellowship. I see an incredible need nationally for
14 people like Harrison McIver to get into legal services and
15 Ada Shun Jaffie and other wonderfully skilled people, and
16 Ramon.

17 I think we need to look at funding substantially a
18 Reggie kind of program which will bring a directed resource
19 into the community and look at maybe 50 or 100. It's a
20 seriously funded program and I think it's a good program. It
21 is focused on diversity for legal services now and in the
22 future. A loan forgiveness program that goes across the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 country does not focus on who is going to get the jobs. We
2 can talk about minority, we can talk about encouraging that,
3 but it's still a local decision.

4 The number of minorities in legal aid programs
5 across the country is far too low. My program, 11 percent of
6 my correctional staff are minorities. I want to raise that
7 this year and that's why I'm going to a loan forgiveness. I
8 just think you have to look at the national purpose, why you
9 would be setting it up, and what is the purpose for Legal
10 Services Corporation to do it, and what are the different
11 management decisions.

12 My management decision is I'd rather not pay these
13 people \$18,000 and turn over 30 percent of my staff and go
14 through all this training every couple years. And I get the
15 production out with the attorneys I have. I have less
16 attorneys than some of the programs, but they are far more
17 experienced. That's our local decision. I'm not critical of
18 anyone else's. Everyone else gets a different perspective
19 and different localities, and I think that's the genius of
20 local boards, local programs making the decisions.

21 We've been hiring in the hiring season when we
22 could hire for the last 15 years. It may be some pain to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 begin with but, when you hire an attorney, we're looking for
2 a long-term, lifelong commitment to equal justice. If you
3 start with loan forgiveness also, you do it like Head Start,
4 you do it two or three years, what happens then when the
5 bills start hitting? The key is raising the salary.

6 You hit on the right point. If we raise the level
7 of salaries, that's going to make a big difference. If we
8 can be competitive in the marketplace, I think that will make
9 a difference, not with large law firms, but competitive with
10 the Attorney General, with prosecutors, with public
11 defenders. That's my thoughts. And again, I have the utmost
12 respect for everyone else's position.

13 We've been able to retain people. We have a good
14 percentage of minority attorneys. We want to increase that.
15 I think it is critical to be focused, if you're going to put
16 money into this, to put it into getting more and critically
17 more, to be more in control of getting more diversity, the
18 kind of programs that produced Harrison McIver.

19 CHAIRPERSON MERCADO: Don?

20 MR. SAUNDERS: Very quickly, and I love Rick and I
21 understand he paid his dues last week, so I'm not going to
22 differ with him too much. Just one point, and it's clearly a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 statement of our policy and our understandings over the
2 years.

3 But you have to understand the Reggie program has
4 been off campus for a long time and, as we're beginning to
5 look more seriously into the current reality in law schools,
6 we're trying to determine whether or not a fellowship
7 program, absent some kind of loan assistance, can work to
8 level the playing field for minorities, and we're not
9 prepared at this point to make a recommendation.

10 It's clearly our long-stated policy to not earmark
11 some kind of loan forgiveness program up here separate and
12 apart. However, as you design a national priority to address
13 minority recruitment, we may find that, if we don't have some
14 capacity to address the student debt problem, that we can't
15 meet the goals that Rick and I and everyone else would agree
16 that we really want to meet.

17 MR. TEITLEMANN: And a Reggie kind of program could
18 have a loan forgiveness program there. It could be much more
19 -- it could be studied easier; it could be dealt with easier,
20 have the long-term commitment to legal services, to public
21 interest, so we can see do people, after two or three years,
22 stay in legal services.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 With the present kinds of structures, if someone
2 bets paid \$30,000 a year, which is still not a lot of money
3 given these loan problems, they wouldn't qualify for many of
4 the loan forgiveness programs, or loan repayment, as the term
5 is better spoken.

6 So I think the incentives, the training, the status
7 -- maybe it's Thurgood Marshall's fellowships; maybe it's
8 Leon Higenbottom fellowships; maybe it's different ways they
9 give people pride. And that's talking about the national
10 agenda. We're talking about a lot of different things here.
11 You're our leaders. I'm a local program in St. Louis.

12 But you're our leaders and we're looking for
13 national leadership and that kind of breadth and that kind of
14 pride that would come back in legal services where everyone
15 in the country would know what we're doing, not just law
16 schools, but everyone in the country knows the great work.
17 We're looking to you for that leadership. Thank you.

18 MR. STEINBERG: I guess the only thing that I would
19 want to do in response to your question is amend my response.

20 In the Equal Justice for People in Poverty paper
21 that I presented on behalf of the Project Advisory Group at a
22 full Board meeting in early December, at End Note 8 there was

1 a discussion of salary and pension issues, and we did a
2 survey which is reflected in there that indicated that we
3 need to have a 30 percent general adjustment in salaries in
4 order to achieve comparability goals with other public
5 interest employers, though we recognize that the situation
6 varies on the local level for the obvious reasons that you've
7 heard just now. So I would refer you to End Note 8 of the
8 December paper.

9 CHAIRPERSON MERCADO: Yes, Mr. Rhudy.

10 MR. RHUDY: Just very briefly, because I know your
11 time is short, but in response to the questions about loan
12 forgiveness and fellowship programs and salary -- I'm sorry.
13 I'm Bob Rhudy. I'm the executive director of the Maryland
14 Legal Services Corporation and I'm the representative to the
15 LSC Board from the National Association of IOLTA Programs. I
16 guess I'll speak briefly in terms of both capacities'
17 positions.

18 There has been a fair degree of experience by IOLTA
19 programs across the United States in fellowship programs, in
20 loan forgiveness programs. Some programs have used IOLTA
21 funds to encourage programs or make funding available to
22 programs for salary increases, for retention, recruitment of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 attorneys, paralegals, other staff people.

2 There are new developments, fairly new developments
3 with IOLTA programs to try to help legal services programs
4 and their other grantees to look at these policies, bring new
5 people into legal services, allow them the resources to
6 undertake legal services jobs. And I think, as you look at
7 these questions, some of that experience may be something
8 you'd like to look at.

9 I think these are interesting questions. There
10 obviously needs to be national leadership. Whether or not
11 that encourages programs to develop, to look at these
12 approaches, your grantees, and develop plans for
13 consideration as a part of the grant process, I don't know
14 how I could make any recommendation at this point of how such
15 programs should be encouraged or how you should or if you
16 should earmark funding for these purposes. There is a
17 longstanding tradition within the Act and in the operation of
18 the Corporation for local control over such issues.

19 I'll speak very briefly. In Maryland, we have a
20 state-created loan forgiveness program for legal services
21 attorneys, other public interest attorneys, paralegals,
22 persons in other kinds of career areas that we helped get

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 established in 1988 and 1989 as a result of our action plan
2 for legal services to Maryland's poor.

3 That was created by the Maryland General Assembly
4 and it's funded through the state scholarship fund and we've
5 got some experience with that and that's been very helpful to
6 allow attorneys that come out of law school with substantial
7 debt or paralegals that have educational loans from Maryland
8 colleges and institutions, a bit parochial, that went through
9 the political process to undertake these jobs.

10 We also made funds available as a result of the
11 increase of IOLTA funding, encouraged our programs, the grant
12 programs, including the Legal Aid Bureau, the LSC grantee, to
13 look at their salary levels and ask us, in developing their
14 grant applications, ways to increase their salaries to
15 address the problem they had for recruitment and retention.

16 As a result of that, the Legal Aid Bureau, the LSC
17 grantee in Maryland increased starting salaries approximately
18 25 percent, and this was 1989 or 1990, from about \$21,000 to
19 about \$27,000. I wish we could get up as high as St. Louis.

20 I think the point that Rick made in terms of local
21 issues, it needs to be determined locally in terms of what is
22 the cost of living in a given area? It varies a great deal

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 across the country. It varies within states in many
2 instances.

3 What are the problem with retention? The problem
4 with legal aid right now is not so much starting salaries.
5 There are attorneys looking for jobs that, if you have loan
6 forgiveness, attorneys can take jobs at that level. Can they
7 stay in those jobs for five years, ten years, 15 years, as
8 they have families, as the families go to school and things
9 like that? And we need to look at the retention-level
10 salaries for upper management and attorneys.

11 You need to bring new attorneys in, but you very
12 much need to have a program, administrative salary structures
13 within your programs to retain quality managing attorneys,
14 and that's a critical need.

15 The Reggie program is an excellent program. I
16 don't have any position on that and I'm just speaking in
17 response to the question that you asked. Thank you.

18 CHAIRPERSON MERCADO: Thank you. And I do want to
19 thank you, Mr. Rhudy, for sending us the packet on the
20 comparative studies of other countries that provide free
21 civil legal services. I still haven't read everything. It
22 was a huge, huge package. But, in any event, I think that

1 that is very helpful for us in the discussions, in the
2 justification to minimum access to justice in the United
3 States compared to Canada or Britain or other countries, and
4 I think that's very helpful since we always think that we're
5 ahead of the game and it seems like we're not.

6 MR. RHUDY: I haven't read all of, either, but I
7 think it is shocking when we realized that, as you're saying,
8 Canada, England, Quebec, the Scandinavian countries are
9 spending two, four, five, six, seven times per capita more
10 than we are in the United States for what we believe as a
11 nation and as a government that we have an obligation to do,
12 and we're not doing nearly as well as some of our colleague
13 countries as you indicated. Thank you.

14 CHAIRPERSON MERCADO: Sure. Thank you. Mr.
15 Steinberg, I know that you had given us a memorandum last
16 night on some of the questions that we raised in your general
17 presentation that you made last time, and, maybe in the
18 interest of time, since we have the other meeting scheduled,
19 if you could just briefly summarize, but we would like to
20 incorporate that into part of our record, that memorandum, as
21 far as the questions that were presented.

22 MR. STEINBERG: I can do this in about 30 seconds,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 unless you have questions. I would offer for the record a
2 memorandum that I gave copies of to the Chair yesterday that
3 was directed to you from me and had responded to a question
4 that was raised at the last meeting, which was what kind of
5 verification that we had for the determination that \$20.27
6 per poor person is the cost of providing civil legal
7 assistance through field programs.

8 What the memorandum does is it explains the PAG
9 methodology and then uses two sources of information. One is
10 a 1991 fact book sent to me by the Legal Services Corporation
11 and the other is a 1992 salary analysis, to try to verify the
12 general correctness of the data. And the paper speaks for
13 itself. It explains two different verification methodologies
14 that were used based upon the information provided and
15 recognizes a number of weaknesses in the approach

16 It shows in both analyses the variation was no
17 greater than 10.4 percent but, with a caveat in saying that,
18 and the caveat is that it doesn't recognize inflation because
19 it was using 1990 and 1992 data. When we're talking about
20 those numbers you really need to do a bump because of
21 inflation between 1992 and 1995.

22 So the real conclusion out of all of this is that -

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 - and this substantiates what I actually said at the last
2 committee meeting -- the \$20.27 number is a low number. It
3 is a conservative estimate. If it is anything, it is a
4 justification that should help you to feel comfortable using
5 the \$20.27 number and recognize that you are not too high in
6 doing so. If anything, you are too low.

7 I guess the last point stated in the final
8 paragraph is that we have not had the opportunity over the
9 last 13 years to venture out and do a real cost analysis from
10 the beginning and PAG would welcome the opportunity to work
11 with the Legal Services Corporation to undertake such an
12 analysis and to do that over the coming months or years.

13 CHAIRPERSON MERCADO: Good. Thank you. Do we have
14 any more questions?

15 MR. BRODERICK: No. But I appreciate your doing
16 that. I just received that last evening. I haven't had a
17 chance to read it in detail, but I will and I think it's
18 helpful that it's in the record.

19 MR. STEINBERG: Thank you.

20 CHAIRPERSON MERCADO: Thank you to all of you. We
21 will be dealing with other issues as far as the budget, both
22 for 1994 and 1995, in the coming Audit and Appropriations

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Committee meeting, I guess in a couple of weeks or so. But,
2 at this time, if there are no other items on the agenda, I
3 would entertain a motion to adjourn this meeting.

4 M O T I O N

5 MR. BRODERICK: So moved.

6 MR. SMEGAL: Seconded.

7 CHAIRPERSON MERCADO: All those in favor?

8 (Chorus of ayes.)

9 CHAIRPERSON MERCADO: Opposed?

10 (No response.)

11 CHAIRPERSON MERCADO: Abstentions?

12 (No response.)

13 CHAIRPERSON MERCADO: The motion carries. And
14 thank you, all of you, for your testimony.

15 (Whereupon, at 12:17 p.m., the meeting of the Audit
16 and Appropriations Committee was concluded.)

17 * * * * *

