

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

AUDIT AND APPROPRIATIONS COMMITTEE MEETING

July 13, 1992

12:15 p.m.

**RETURN TO CORPORATION
SECRETARY ARCHIVES FILE**

Drake University Law School
The Neal and Bea Smith Law Center
2400 University Avenue
The Law Library
Des Moines, IA 50311

Board Members Present:

Howard H. Dana, Jr., Chairman
J. Blakeley Hall
William L. Kirk, Jr.
Jo Betts Love
Thomas D. Rath
Norman D. Shumway
George W. Wittgraf
Jeanine Wolbeck

Staff Present:

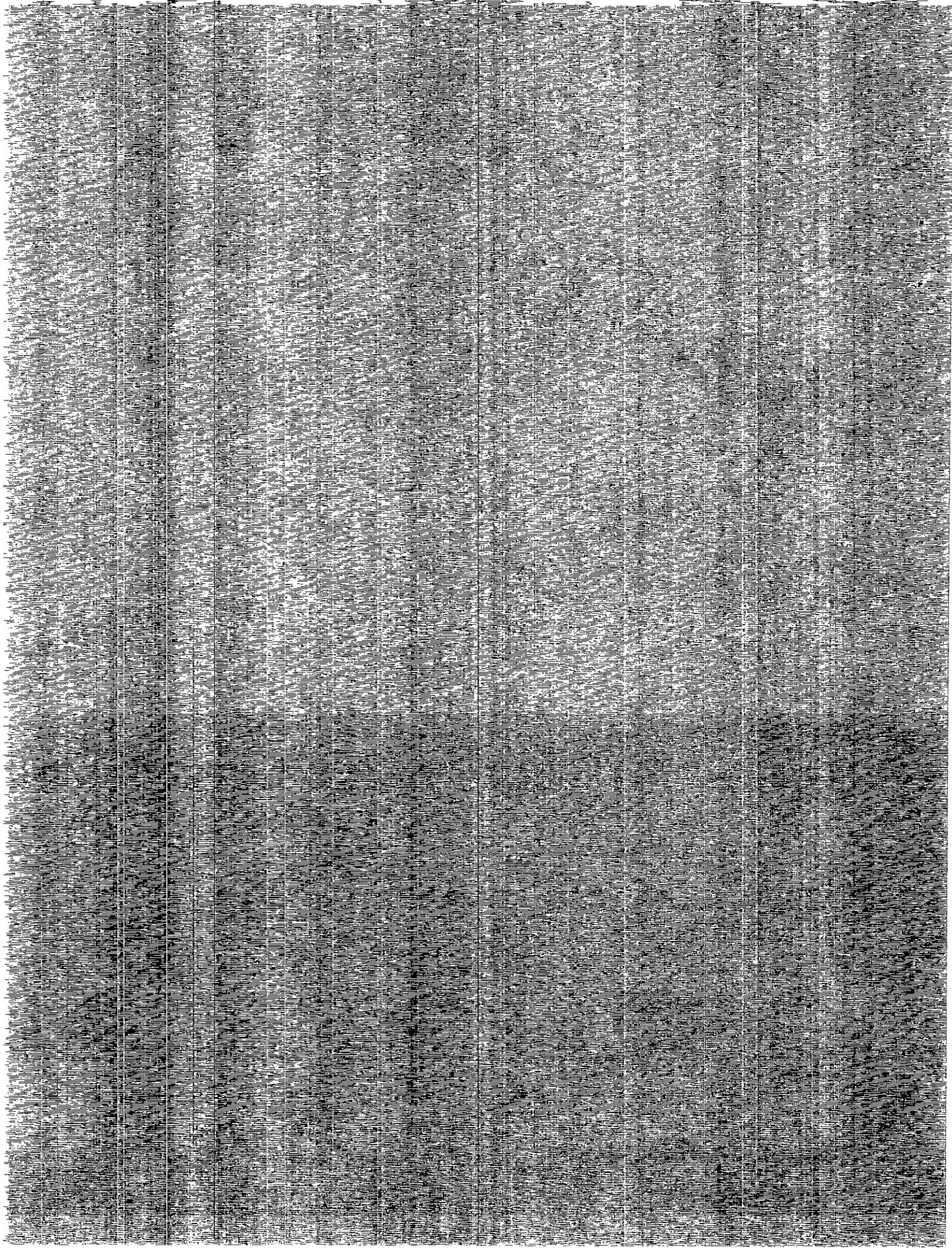
John P. O'Hara, President
Patricia Batie, Secretary
Victor Fortuno, General Counsel
Edouard Quatrevaux, Inspector General
David Richardson, Comptroller & Treasurer
Kenneth Boehm
Ellen Smead
Charles Moses
Kathy deBettancourt

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BOARD OF DIRECTORS
OFFICE OF THE INSPECTOR GENERAL
OVERSIGHT COMMITTEE MEETING

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C O N T E N T S

	PAGE
Approval of Agenda	3
Approval of 5/18/92 Minutes	4
Review of Budget and Expenses through 4/30/92	5
Consideration of Proposed Policy and Resolution on the Investment of Corporation Funds	12
Consideration of Report on the Leasing of the Corporation's Former Headquarters Office Space	15
Consideration of Proposed Guidelines for the Corporation's Annual Audit	18
Consideration of Report on Grantee Insurance Coverage	49
Consideration of Status Report on Funding of the Micronesian Legal Services Corporation	58
Consideration of Status of Management's Effort to Incorporate 1990 Census Data into Program Area Poverty Population Statistics for use by Congress and/or the Corporation in Making 1993 Grants, Including a Report from Management Concerning the Methods Used by Congress During the 1980s to Equalize Program Funding and the Impact on Programs (at various 1993 funding levels) of Instantly Equalizing Funding for 1993 Grants	62

Motions:

4, 4, 14, 29, 48, 55, 60, 90

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P R O C E E D I N G S

1
2 CHAIRMAN DANA: Welcome, everybody. It's noon,
3 Legal Services time, so we need to start the meeting of the
4 Audit and Appropriations Committee. We are here in lovely
5 downtown Des Moines, which reminds one of Maine this time of
6 year, rainy but lovely.

7 With me is Jeanine Wolbeck, a member of the
8 committee, and myself, Howard Dana, chairman. Our other
9 member Basile Uddo will not be here until this evening, but
10 the committee is supplemented by Board member Jo Betts Love,
11 and Blakeley Hall. The chairman of all chairmen, Cherokee,
12 Iowa, and parts hither and yon, George Wittgraf, has just
13 joined us.

14 MR. WITGRAF: So far from Cherokee, I left my
15 briefcase and all my papers at home. How am I going to make
16 it through two days without my briefcase and papers?

17 CHAIRMAN DANA: I think it will probably be one of
18 the best meetings we've ever had. All of you should have a
19 green book. If people don't have a book, we've got extra
20 copies here.

APPROVAL OF THE AGENDA

21
22 CHAIRMAN DANA: The first item on the agenda is to

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1 approve the agenda. I'll call for a motion.

2 M O T I O N

3 MS. WOLBECK: So moved.

4 CHAIRMAN DANA: So moved. Seconded. Any
5 discussion?

6 (No response.)

7 CHAIRMAN DANA: All those in favor say aye.

8 (A chorus of ayes.)

9 CHAIRMAN DANA: It's a vote.

10 APPROVAL OF THE MINUTES

11 CHAIRMAN DANA: The second item is approval of the
12 minutes of May 18, which is in the Board book at page 1. I
13 would note for the record that at the top of page 2 Mr. Kirk
14 appears to have moved for approval of the minutes of the
15 March 8 meeting. So maybe it would be appropriate to move to
16 approve those minutes again as well as the minutes of May 18,
17 so the record will reflect that the committee acted on it's
18 own minutes. Do I hear that motion?

19 M O T I O N

20 MS. WOLBECK: So moved.

21 CHAIRMAN DANA: There is a second. All those in
22 favor say aye.

1 (A chorus of ayes.)

2 CHAIRMAN DANA: It's a vote. Moving right along
3 to a review of the budget and expenses through April 30,
4 1992. Would our comptroller come forward and guide us in
5 that regard, David Richardson? David, the information to
6 which your report relates appears on page 9 in the green
7 book. If you would just highlight the key elements of this
8 or call our attention to anything that is or should be of
9 concern, that would be a help.

10 REVIEW OF BUDGET AND EXPENSES THROUGH APRIL 30, 1992

11 MR. RICHARDSON: For the record, my name is David
12 Richardson. I'm treasurer/comptroller of the Corporation.
13 The report in the green book is through April. I also have
14 available the May reports here on the front table. If you'd
15 like, I'll go through the April and then supplement it with
16 the May report, since they're here.

17 CHAIRMAN DANA: Would it be easier just to do it
18 once with the May report?

19 MR. RICHARDSON: That would be fine, sir.

20 CHAIRMAN DANA: All right, if those could be passed
21 out to the Board and the audience. I failed, I think, to
22 observe earlier that we are also being joined by our

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1 president, Jack O'Hara, who is sitting here at the table.

2 MR. RICHARDSON: All right, sir, with the
3 supplemental information, then, we'll go ahead and review the
4 May materials. What I'll do is highlight at the top of each
5 page. For instance, Attachment A, page 1 of 4, Roman numeral
6 1, is the delivery of legal assistance.

7 This year the revised budget thus far approved by
8 the Board is \$323 million. Spent to date is \$316.6 million.
9 The remaining funds is \$6 million-almost-400 thousand. That
10 money is set aside mainly for our month-to-month grantees.
11 Most of that money is completely allocated to the programs.

12 The special contingency fund is an exception to
13 that. Out of the \$488,000 we have spent \$6,000 to date.
14 There is some June awards that will reduce that further
15 because of the natural disasters in May that we then funded
16 some special awards.

17 Of course, the U.S. Court of Veterans Appeals is
18 moving forward, and that money, much of that, will be
19 allocated in the coming months. We have a Board that's
20 reviewing that. I think Mr. Boehm will be reporting on that
21 later as far as the progress of that particular money.

22 The program development money, that money, the

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1 \$300,000, is there and there is no expenses against that.

2 Also, I'll mention the law school grants. Those
3 have come in. They've been reviewed. This money, awards
4 will be made on those in July and August. So that money will
5 basically be spent for that program also.

6 Under Roman numeral 2, the support for the delivery
7 of legal assistance, the budget thus far is \$20.8 million.
8 We have expenses to date of basically \$18.5 million with \$2.3
9 million remaining and available. To highlight there, there
10 is the National Resource and Training Center, and there is a
11 grant in the workings for that particular money. As far as
12 I'm aware at this point, no grant has been entered into, but
13 that \$1.3 million is being reviewed and worked on as this
14 time as far as with that grant.

15 Much of the money in the other support is allocated
16 to programs. We do have \$25,000 in the national support and
17 state support that was set aside at the last meeting for
18 different meetings that Mr. O'Hara is having with the state
19 support centers and the national support centers.

20 Under management and administration, the total of
21 the budget under Roman numeral 3 is \$12 million, almost \$13
22 million. We've spent \$7.1 million, with the remaining funds

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1 of, basically, \$5.8 million. Most of that money is being
2 spent from the management and administration line. The
3 budget there at this point is \$11,459,000. We've spent
4 \$7,146,000, leaving a balance of approximately \$4,313,000.

5 Board initiatives, \$977,000. We'll be hearing a
6 report on that later. There is a process involved now that
7 that money will be allocated.

8 The special contingency, of course, was originally
9 \$97,000, and we have allocated that. The Board approved it
10 at the last meeting. So that balance is \$47,000 available to
11 support corporate management and administration.

12 The meritorious grant awards, you'll hear a report
13 on that later. But through the processes of making that
14 money available, we received over 140 requests for that
15 money. So the Corporation's internal committee will have a
16 time reducing that to come in within their budget.

17 Other funds available, we have grant recoveries at
18 this point of \$114,000. The interest income to date is
19 \$173,000. We have allocated \$50,000 of that into our
20 management and administration. So we only have \$123,000 of
21 that remaining. Then, the miscellaneous income is \$1,200.

22 I'll call your attention to Attachment B and C for

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1 a summary. This is a breakdown within our budget categories,
2 compensation, temporary employee pay, so forth. Then,
3 Attachment C is a breakdown within each office of the
4 Corporation.

5 There's nothing of significance at this particular
6 point that needs to be mentioned about these two particular
7 items, with the exception that percentage of the budget
8 expended to date is 62.36 percent. Through May it would
9 ideally be at 66.7 percent. So we are under budget at this
10 point.

11 I'd be glad to answer any questions that you may
12 have in looking through. I know many, of course, just
13 received this one. If you do have any questions about April,
14 I'd be glad to answer those also.

15 CHAIRMAN DANA: Questions from anyone? Everybody
16 should be treated as a member of the committee. So I'm not
17 going to distinguish between us.

18 (No response.)

19 CHAIRMAN DANA: I just have a couple, David. If
20 you were called upon to tell Congress what you anticipate our
21 carryover funds to be for the next year, what would that
22 number be as of right now?

1 MR. RICHARDSON: There is, at this point, the
2 \$300,000 in the program development line.

3 CHAIRMAN DANA: Do we include that in carryover?

4 MR. RICHARDSON: Yes, sir. It's a report to the
5 Congress. Then, the grant recoveries and interest income,
6 there is remaining funds of \$239,000. At this point, if they
7 would ask me today, that's the only two figures I would give
8 them. So I would estimate basically \$550,000.

9 CHAIRMAN DANA: Well, you indicated previously that
10 we appeared to be coming in slightly under budget overall in
11 the M&A line.

12 MR. RICHARDSON: That is correct, sir.

13 CHAIRMAN DANA: Do you ever estimate how much that
14 overage is going to be when Congress asks?

15 MR. RICHARDSON: Yes, sir, we do. With the August
16 meeting, of course we'll do a projection for the remaining
17 three months based on the June closing. That will be
18 reviewed by the Board and that will be presented to both the
19 House and Senate. Normally, they ask around the 20th of
20 August for a full report of the carryover. We provide it
21 after that.

22 CHAIRMAN DANA: I think I would --

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1 MR. RICHARDSON: The reason I qualify it, if you
2 would pardon the interruption, the directors of the
3 Corporation will be preparing their own office's projections
4 for the next three months.

5 CHAIRMAN DANA: I see.

6 MR. RICHARDSON: So, after I receive those,
7 incorporate them, accumulate them, and build a projected
8 budget for the end of the year, then we would sit down and
9 look at that, review it if we have to, modify operations, but
10 that would be the president's decision to make in conjunction
11 with the Board.

12 The reason I say qualify it, at this point, if you
13 asked me today, that's the only two figures that I would pull
14 out and present to both House and Senate that would be
15 available.

16 CHAIRMAN DANA: I notice that focusing on the Board
17 of Director's line, you appear to have spent 20 short of
18 \$120,000 since last October in consulting fees. That sounds
19 like a lot if we're talking Board compensation.

20 MR. RICHARDSON: We're speaking more than Board
21 compensation. The majority of it is Board compensation. We
22 also have the court reporter that's with us today and also

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1 the Board, of course, has hired an attorney consulting with
2 the Board. That money is also expended in that particular
3 line.

4 CHAIRMAN DANA: I think it might be helpful to have
5 at the next meeting a breakdown of the components of that,
6 just in case we get subpoenaed by a congressional committee.

7 Are there any other questions from members of the
8 Board or any comments or questions from the field, audience,
9 staff?

10 (No response.)

11 CHAIRMAN DANA: Thank you very much.

12 CONSIDERATION OF PROPOSED POLICY AND RESOLUTION ON THE
13 INVESTMENT OF CORPORATION FUNDS

14 CHAIRMAN DANA: At page 17, I think, in your Board
15 book is a proposed policy and resolution on the investment of
16 corporate funds. This is a matter that was brought to our
17 attention by our outside auditors and has been on the agenda
18 for at least once before this.

19 My understanding, David, and you can speak to it,
20 is that this proposed policy authorizes you to invest our
21 funds in basically securities backed by the full faith and
22 credit of the United States.

1 MR. RICHARDSON: That is correct, sir.

2 CHAIRMAN DANA: That, in addition, are eligible for
3 purchase by National Banking Association without limitation
4 under Section 24, 12 U.S.C. Section 24 (7). What does that
5 qualification give us, sir?

6 MR. RICHARDSON: In the banking industry, they can
7 deal with T-bills, mutual funds to an extent, but they can't
8 deal with stocks and bonds, per se. This lists those
9 particular items. They can also sell Ginny Mae, Fannie May,
10 some of the same things you can buy on the stock exchange.

11 However, we've limited it to this so that we can
12 have the full faith and backing of the federal government,
13 and to ensure the Board that we're not going to be doing
14 anything outside the scope of government securities. They
15 are identified in this particular section.

16 CHAIRMAN DANA: The phrase "without limitation
17 under 12 U.S.C. Section 24," when comparing ourselves to a
18 national banking association, does that increase the types of
19 securities we can invest in or decreases it?

20 MR. RICHARDSON: It decreases it. This is language
21 that has been -- of course, you're aware that we've
22 contracted with an attorney to review this issue. This is

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1 the language that he has drafted and given to us in this
2 regard for the limitations, basically to protect you as a
3 Board and me as the person with the investment policy.

4 CHAIRMAN DANA: Has the IG had a chance to look
5 this over?

6 MR. QUATREVAUX: No.

7 CHAIRMAN DANA: If there's no discussion, I would
8 entertain a motion to approve this investment policy and
9 resolution.

10 M O T I O N

11 MS. WOLBECK: So moved.

12 CHAIRMAN DANA: Seconded. By way of discussion, I
13 would like to say that I would like to have the IG's office
14 review the matter to make sure that in their judgment this is
15 consistent with where they think we ought to be and give us
16 the benefit of their thoughts should they choose to.

17 Let the record reflect that Mr. Bud Kirk has just
18 joined us. Welcome.

19 MR. KIRK: Thank you.

20 CHAIRMAN DANA: If there's no further discussion --
21 Bud, at one point you had an interest in the investment
22 policy. Have you had a chance to review the investment

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1 policy that is proposed?

2 MR. KIRK: If I had an interest at one time --

3 CHAIRMAN DANA: It's waned?

4 MR. KIRK: Yes. I don't recall the interest right
5 now.

6 CHAIRMAN DANA: Hearing no further observation,
7 I'll call for a vote. All those in favor say aye.

8 (A chorus of ayes.)

9 CHAIRMAN DANA: Opposed?

10 (No response.)

11 CHAIRMAN DANA: It is a vote and will be in the
12 form of a recommendation from this committee to the full
13 Board tomorrow. I must tell you that I'm not going to be
14 here tomorrow, so if you could carry this recommendation to
15 the full Board, I would appreciate it. Thank you.

16 CONSIDERATION OF REPORT ON THE LEASING OF THE
17 CORPORATION'S FORMER HEADQUARTERS OFFICE SPACE

18 CHAIRMAN DANA: Item 5 is a consideration of the
19 report on the leasing of the former headquarter's office
20 space. Mr. Richardson, you're still there. Are you the
21 designated reporter?

22 MR. RICHARDSON: Yes, sir. Ken may join me for

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1 additional input if he likes, Mr. Ken Boehm. Just to recap
2 as of the last meeting, Charles E. Smith was before you and
3 they talked about the different areas or different phases of
4 GSA that was involved in looking at our properties.

5 Since that time, we have allowed HUD to move into a
6 section of the second floor, and we are negotiating a lease
7 with them. We are presently negotiating for space of about
8 approximately 10,300 square feet. They have expressed an
9 interest in an additional 8,000 square feet. We've been
10 dealing with Trammel and Charles E. Smith. We've not been
11 able to get everything resolved.

12 Last week, I called the contracting officer at GSA
13 and explained our particular position. When we return
14 Wednesday or Thursday, Mr. Boehm and I will be going to meet
15 with them principal to principal to see if we can move this
16 process a bit quicker. They are interested in the space to
17 the point that not necessarily just the second floor but
18 possibly the whole space because they have some needs that
19 they're trying to fulfill.

20 There is a SFO that is in the community for up to
21 50,000 square feet.

22 CHAIRMAN DANA: SFO?

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1 MR. BOEHM: It's a solicitation for offer. It's
2 like an RFP.

3 MR. RICHARDSON: They have that because they have
4 some small requirements and they have some larger
5 requirements. We've had IRS through our space. We've had a
6 couple of divisions of FAA through. Of course, HUD is in the
7 space. We've had EPA through the space also. Also, the U.S.
8 Customs is looking for approximately 50,000 square feet in
9 that particular area.

10 So, instead of waiting for everything to go through
11 Smith and Trammel at this point, we're going to try to
12 process along and go straight to GSA ourselves. There is
13 additional interest, if I may add, outside of the GSA realm,
14 I received Thursday before we left, with Index Corporation,
15 which is a NASA subcontractor, and they are interested in the
16 4900 square feet that would be the first floor of the
17 executive office.

18 We also have the Science Application International
19 Corporation, better known as SAIC. They are in the building
20 now, but they are looking to expand an additional 13,000
21 square feet. We have offers from them. They are contract
22 dependent with NASA. So is Grumman, Raytheon, AIRINC.

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1 Most of these are contract-dependent contracts.

2 For instance, AIRINC was supposed to have been awarded April
3 1st. I was told last week it would probably be July 15th.
4 Then I got another call saying it may be as late as August
5 1st. So there is some interest. We just need to try to prod
6 the process along to get the space leased as quick as
7 possible.

8 CHAIRMAN DANA: Questions from the committee? The
9 Board?

10 (No response.)

11 CHAIRMAN DANA: Well, I think we're all very
12 grateful that our new lease requires that we do not pay rent
13 for the first year, but the accumulated benefit that normally
14 might well have been spread over the life of the lease may be
15 consumed in its very first year. But I'm sure you're doing
16 the best that you can.

17 CONSIDERATION OF PROPOSED GUIDELINES FOR
18 THE CORPORATION'S ANNUAL AUDIT

19 CHAIRMAN DANA: If there's nothing further on that
20 item, item 6 is a consideration of proposed guidelines for
21 the Corporation's annual audit. Will the IG join us? This
22 is a matter that I think was brought to our attention as

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1 early as February, perhaps, and has been the subject of
2 numerous drafts. Do we have copies of the current draft?

3 For those of you who wish to follow along in this
4 exciting discussion, you will need a document entitled
5 "Guidelines for the LSC Corporate Audit," which has on the
6 first page in two places a portion of the language in shade,
7 that portion being "generally accepted auditing standards."

8 Who would like to start off?

9 MR. QUATREVAUX: Mr. Chairman?

10 CHAIRMAN DANA: Mr. IG, I take it that this comes
11 to us as a joint recommendation except for the shaded area?

12 MR. QUATREVAUX: That's correct. The comptroller
13 and the OIG, as well as general counsel's shop, we've worked
14 together, but on the guidelines it's between Mr. Richardson
15 and my organization. This document, we agree with it with
16 the exception of -- we more than agree. We propose it with
17 the exception of the highlighted area.

18 CHAIRMAN DANA: I would ask other members of the
19 committee -- we have, happily, the chairman of the OIG
20 Oversight Committee here, Mr. Kirk. We ought to consider
21 this a joint opportunity to question you on this. So,
22 please, everybody, treat this as a committee of the whole for

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1 discussion purposes, at the very least.

2 Before we get to the highlighted area, I have some
3 concerns with the next to last paragraph on page 3. What I
4 would like to do with that is to amend it. I've discussed
5 this with Mr. Richardson, and I don't know whether he's
6 discussed it with you.

7 MR. QUATREVAUX: He has, Mr. Dana.

8 CHAIRMAN DANA: Do you have any concerns with those
9 proposed changes?

10 MR. QUATREVAUX: No, I do not.

11 CHAIRMAN DANA: Okay. Then, let me suggest what I
12 would propose to have it say. I think this was the original
13 intent, so --

14 MR. QUATREVAUX: The original intent was simply to
15 say that the committee would receive the reports from the
16 auditors and do what they thought was necessary.

17 CHAIRMAN DANA: Exactly, but realistically, our
18 committee is primarily a recommender in this area.

19 MR. QUATREVAUX: I see.

20 CHAIRMAN DANA: So I wanted to A, make sure that it
21 was clear that we were making a recommendation. Secondly, I
22 think very often when an auditor raises an audit and

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1 accounting issue, it's resolved. It's not necessary for the
2 head in this case to express an opinion. So that I would
3 make the following changes in the first line.

4 It should say "the committee will receive copies of
5 all reports from the independent public accountants
6 concerning audit and accounting issues encountered in the
7 course of the audit." Then, the balance of the sentence
8 would read "where necessary, subject to Board ratification,
9 the committee shall resolve any such issue with the advice
10 and counsel of corporate management and the OIG." If I hear
11 no objection from either the comptroller or the IG, I will
12 assume that that is part of your recommendation.

13 MR. WITTGRAF: Would you restate that, Mr.
14 Chairman?

15 CHAIRMAN DANA: Yes. The first paragraph on page 3
16 would read as follows: "The committee will receive" --
17 delete the word "any" and insert -- "copies of all reports
18 from the independent public accountants concerning" -- then
19 continuing -- "audit and accounting issues" -- insert --
20 "encountered in the course of the audit."

21 Delete the phrase "and make an appropriate
22 resolution of the" and insert in lieu thereof "where

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1 necessary, subject to Board ratification, the committee shall
2 resolve any such continuing issue with the" -- delete aid and
3 insert -- "advice and counsel" -- continuing -- "of" --
4 delete "the" and then it concludes -- "corporate management
5 and the OIG."

6 MR. KIRK: Mr. Chairman?

7 CHAIRMAN DANA: Bud?

8 MR. KIRK: As far as I can tell, that doesn't
9 change it any significant manner. Is there an intent that it
10 be changed in any significant manner?

11 CHAIRMAN DANA: Yes. Significant? No and yes.
12 The intent to change it is to make it clear in the first line
13 that all we're asking for is to be copied in. It's virtually
14 the same language as is present on page 1 at the bottom where
15 it says "the OIG will receive copies of all reports from
16 independent public accountants concerning audit and
17 accounting issues encountered in the course of the audit."

18 The second line, if not amended, would have given
19 to the committee the authority to resolve all these issues.
20 It's my view that the committee's function is really to work
21 with the details and make an informed recommendation to the
22 full Board. That's what the intent of the change is, to

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1 reduce the role of the committee to that of a recommender
2 subject to ratification by the Board.

3 Two, in some cases where an accountant raises an
4 accounting issue concerning the Corporation's statements, the
5 Corporation changes what it's doing, what the concern was.
6 It's not necessary, as a practical matter, to involve the
7 Board in that case in resolving it because it's already
8 resolved. So that was the intent, to add the language where
9 necessary and subject to Board ratification.

10 MR. KIRK: Mr. Chairman, are you saying that some
11 of these issues are going to come to you and you're not going
12 to resolve them; somebody else is going to resolve them?

13 CHAIRMAN DANA: Yes. My prediction is that many of
14 these issues will be resolved by the people involved, in all
15 probability management. If an auditor says you know, you've
16 got a real problem of internal control in monitoring the
17 expenditures of the Office of Field Service, their petty cash
18 account, my guess is that management would change that
19 quickly and to bring themselves into -- they wouldn't need us
20 to tell them they should change that. They would just change
21 it.

22 So it would not be necessary -- it's important for

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1 us to be informed of that and we are being informed. But
2 it's not necessary for us to make a decision and then take it
3 up and get it ratified by the Board. It just didn't seem to
4 be necessary in each and every case, only where the issue has
5 not been resolved.

6 MR. KIRK: So, the Office of Inspector General is
7 being -- the way it was originally written, any issue would
8 come to the committee and the committee would then receive
9 information from both corporate management and the Office of
10 Inspector General and then resolve it.

11 CHAIRMAN DANA: Right.

12 MR. KIRK: Now, the inspector general will only
13 participate in those that cannot be solved between corporate
14 management and the auditor.

15 MR. RICHARDSON: If I may, no, sir. When we go
16 back to what the OIG will be doing, receive copies of all the
17 reports from the independent accountant's concerning audit
18 and account issues, they will still get, even though it's a
19 resolved issue, they will still get those accounting issues
20 presented to them with the resolution.

21 MR. KIRK: My question was -- and I'm not taking a
22 position; I'm just trying to make sure I understand it -- the

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1 way it was written, if an issue comes up, that would come to
2 the committee and the committee would take input from
3 corporate management and the Office of Inspector General and
4 then resolve it; is that correct?

5 CHAIRMAN DANA: Right.

6 MR. KIRK: The way you're writing it now is that
7 the committee is asking not to become involved in issues
8 unless management and the auditor cannot resolve it. Only in
9 that event would the inspector general have any input into
10 the ultimate resolution?

11 CHAIRMAN DANA: No. I wouldn't read it that way.
12 I think you could fairly read it, and I guess it would be my
13 intent, that since both the committee and the OIG are getting
14 these reports of audit and accounting issues, that to the
15 extent that management doesn't agree with the outside auditor
16 and immediately accommodate their concern, certainly the OIG
17 would be aware of that and be very much involved. I would
18 think that the OIG would be involved. Does it say that?

19 MR. KIRK: Yes. I was just going by what you had
20 explained to me the first time. You hadn't mentioned OIG the
21 first time.

22 MR. QUATREVAUX: If we look forward to the footnote

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1 on the first page, first of all, that footnote defines what
2 OIG is to be advised of by the auditor in very precise
3 technical terms that may not mean too much to the committee,
4 but they satisfy us.

5 Secondly, on the second page, the top paragraph,
6 you'll see that one of the functions, audit functions, OIG
7 performs is the tracking of progress, if you will, or, for
8 that matter, disagreement/agreement with issues raised and
9 recommendations raised by the auditor.

10 So we feel like we have sufficient visibility on
11 the process. Again, the paragraph you proposed changes to we
12 just put there because we had the duty of preparing the
13 original draft. We just thought that we'd have something
14 here that said you will receive the reports and take action.

15 CHAIRMAN DANA: Fine. Are there other questions?

16 (No response.)

17 CHAIRMAN DANA: Moving back to page 1, let me see
18 if I can describe the issue that really is initially for this
19 committee and Bud's committee and then the Board to
20 ultimately resolve. That is whether the annual statements
21 are to be audited in accordance with generally accepted
22 auditing standards or whether they are to be audited by some

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1 other standard.

2 I believe that the IG is contending for generally
3 accepted government auditing standards or GAGAS. I'm going
4 to avoid all of the obvious puns --

5 MR. QUATREVAUX: The same is true of GAS, if I
6 might just add.

7 CHAIRMAN DANA: True. I had a proposed language in
8 which there is not a universal agreement at the table that
9 would tend to narrow the issue. Before I read the language,
10 let me just indicate that I think the issue is -- we have
11 able memos from our general counsel and the general counsel
12 of the IG. When the IG commissions an audit done by someone
13 other than his own shop, I believe you are required to employ
14 GAGAS.

15 MR. QUATREVAUX: The Act, as I read it, Mr.
16 Chairman, does not contain that condition, qualifying
17 condition. It simply says the IG will ensure that audits
18 performed by the IG and audits performed by the language as
19 non-Federal auditors, the IG will insure that they are
20 conducted in compliance with government audit standards.

21 CHAIRMAN DANA: Is that different than GAGAS?

22 MR. QUATREVAUX: No.

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1 CHAIRMAN DANA: However, our statute requires that
2 annually we do an audit in accordance with general accepted
3 auditing standards, something less than GAGAS. What I'm
4 proposing -- and you correctly observed that if the
5 Corporation were to go forward and do what it's statute
6 required, and you felt the need of a raised or heightened
7 level of auditing supervision that is provided in GAGAS,
8 you'd have to go out and independently retain an outside
9 auditor and duplicate much of what had already been done by
10 our auditor, and that would be wasteful and inefficient, and
11 you would have to report to Congress, and we'd have hearings,
12 and it would be annoying.

13 So it was really an efficiency problem to just --
14 and I think you recommended that we use GAGAS across the
15 board. I would like to propose the following insert at the
16 end of the first paragraph under responsibilities. I'll read
17 it quickly and then slowly: "If, in the exclusive judgment
18 of the OIG, a higher audit standard is desired, the OIG may
19 separately contract with the independent public accountant
20 for those additional audit processes."

21 The intention here is to leave general accounting
22 auditing standards, which is the statutory requirement, in

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1 our regulations but give to the IG the option of requiring
2 that difference, if it chooses to from time to time, at his
3 option.

4 It seems to me that that is an appropriate
5 compromise between an entity that has historically been
6 audited in a nongovernmental sense and an IG that is
7 understandably supportive of the government auditing
8 standards that he's required to employ when it's his audit.

9 M O T I O N

10 CHAIRMAN DANA: The language that I would suggest
11 that we add is: "If, in the exclusive judgment of the OIG, a
12 higher audit standard is desired, the OIG may separately
13 contract with the independent public accountant for those
14 additional audit processes." Questions?

15 (No response.)

16 CHAIRMAN DANA: Is there a second for purposes of
17 discussion?

18 MS. WOLBECK: I second it.

19 CHAIRMAN DANA: Are there questions? Bud?

20 MR. KIRK: You want to do committee first or are
21 you going to allow me to --

22 CHAIRMAN DANA: No, absolutely.

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1 MR. KIRK: How many DFEs are there that perform
2 only generally accepted auditing standards as opposed to
3 GAGAS?

4 MR. QUATREVAUX: We have done a survey recently, a
5 telephone survey, and there are -- we got 33 responses of
6 DFEs. We have to eliminate 15 of them who do not conduct any
7 sort of audit at all. I have to tell you that some of these
8 are very small organizations that I'm sure you've never heard
9 of before and don't have much in the way of staff or money.

10 Eighteen do conduct audits. Thirteen of those
11 eighteen, the IG plays a significant role in the audit
12 process. Six of those 13 are subject to the Chief Financial
13 Officer's Act and therefore are required to employ GAGAS. I
14 gave you a lot of data, but did I answer your question?

15 MR. KIRK: How many don't?

16 MR. QUATREVAUX: Do not?

17 MR. KIRK: Use GAGAS.

18 MR. QUATREVAUX: Well, by subtraction --

19 CHAIRMAN DANA: Twelve? Presumably, some of those
20 12 use it.

21 MR. KIRK: Let me ask Mr. Richardson a question in
22 the meantime. What are the downsides? I mean, you

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1 apparently are opposed to using GAGAS as a standard operating
2 procedure.

3 MR. RICHARDSON: Not really. I mean, in looking at
4 it, your GAS is what's required by the statute. When I was
5 talking back and forth with ED, that's the reason that I
6 suggest that we stick with the statute. Downside? I don't
7 see a downside. The government auditing standards includes
8 all the elements of GAS. It includes additional testing.

9 For instance, in our statement, presentation, it
10 says that they've reviewed internal controls. With GAGAS, it
11 says that they tested. There's some additional language.
12 For instance, they test more on materiality. Ed is much more
13 up to date on GAGAS than I. But, as far as downside, I don't
14 see a downside.

15 MR. KIRK: As I understand it, it's 20 percent
16 increase in cost?

17 MR. RICHARDSON: That's what Grant Thornton had
18 given me originally, somewhere in the neighborhood of 20 to
19 25 percent more.

20 MR. QUATREVAUX: First, in answer to your question,
21 I had it right in front of me. Of the 13, only 2 do not use
22 GAGAS. Therefore, 11 of the 13 do use GAGAS; 2 use GAS.

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1 CHAIRMAN DANA: These are the 13 in which the IG
2 has a role?

3 MR. QUATREVAUX: That's correct.

4 CHAIRMAN DANA: Of the 5 more in which the IG has a
5 role, do we know whether they use GAGAS or not?

6 MR. KIRK: The IG would have to use GAGAS.

7 MR. QUATREVAUX: Well, one of them is us. So there
8 are really four others: the National Archives, Postal
9 Service, Board of International Broadcasting, and Appalachian
10 Commission. I don't know, Mr. Chairman.

11 MR. KIRK: Mr. Richardson, why do you recommend
12 that the additional GAGAS standards be used only if the IG
13 says they should be as opposed to just automatically do it
14 and get it done and have the higher standard each year?

15 MR. RICHARDSON: As I had stated before, I have
16 only suggested in my conversations with Ed because GAS is
17 what is required by the statute. As far as performing a
18 GAGAS audit, I would have no problems with doing that. It
19 does create some additional planning that we would have to
20 sit down with the auditors to do.

21 I think it also requires that they sit down -- as
22 these guidelines contemplate, a greater role for the Audit

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1 and Appropriations Committee and then any internal reviews
2 that. For instance, the IG's office would do, they would be
3 reviewing those to incorporate in the reports also.

4 MR. KIRK: Well, having spent some time in the last
5 month learning about the difference in the audits, my
6 recommendation to the committee, and will be to the Board and
7 I guess to my committee, is that a standard GAGAS audit be
8 performed for each annual audit.

9 The basis for that is that even though the LSC Act
10 came out first and said generally accepted auditing
11 standards, I believe that the wording of the Inspector
12 General Act may have played a role in overriding that because
13 it says that the inspector general is to take appropriate
14 steps to assure that any work performed by non-Federal
15 auditors complies with the standards established by the
16 comptroller general. It says "any work."

17 The GAGAS standards themselves again state that the
18 inspectors general are to insure that audit work conducted by
19 non-Federal auditors complies with these standards. I'm
20 taking a posture different from the general counsel on this.
21 I think that it may be illegal not to do a GAGAS audit. I
22 think that for that reason I would like to do a GAGAS audit.

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1 Number two, I think the GAGAS is more thorough and
2 it's going to do all the things that we want to do and it's
3 what the government intends to have done. Any organization
4 that fell under the Chief Financial Officer's Act requires
5 that they all be done with GAGAS. I just think it's simpler,
6 Mr. Richardson.

7 I take a different position from you; I hope you
8 don't mind. But my recommendation is going to be that we go
9 through with the regular GAGAS audit and avoid the issue of
10 working through it.

11 One last question: What is the total cost of an
12 audit now?

13 MR. RICHARDSON: I think our contract this year
14 calls for \$15,500.

15 MR. KIRK: So we're looking at 18 to 20 thousand?

16 MR. RICHARDSON: Yes.

17 CHAIRMAN DANA: Bud, as long as you've rushed in,
18 let me see if I can amplify on the legal opinion you are
19 providing. Would your opinion also apply to all of our
20 grantees? Should our 300-and-umpty-ump grantees apply GAGAS
21 as well?

22 MR. KIRK: If you want me to research it, I will.

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1 CHAIRMAN DANA: You don't have a view on that?

2 MR. KIRK: No. I wasn't asked to -- I think it
3 would be very good if they did. I think the higher standards
4 are certainly something that any government entity ought to
5 try to follow. But as far as their legal requirement, I'm
6 not prepared to answer that one.

7 CHAIRMAN DANA: I guess I'm concerned that that's
8 where we may be going, or that's where the IG may be going.
9 I think if this Corporation can spend \$1 million on an IG and
10 another \$400,000 to improve or have a heightened audit
11 standards here, he can require it under my proposed language.
12 But I am not prepared to accept the notion that that is
13 required of all grantees all across this country.

14 If you add 4 or 5 thousand dollars to each and
15 every grantee's auditing costs, that's 4 or 5 thousand
16 dollars that we are not spending on legal services for the
17 poor. Based upon what is before me, I don't think that's
18 necessary.

19 I think that if, in fact, the IG feels that the
20 audit should be conducted in accordance with a higher
21 standard than is required by our statute, he can do it and
22 we'll pay it.

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1 So, as a practical matter, it's a distinction with
2 a very fine difference, and the difference is that he's
3 making the judgment that it is appropriate and that we have
4 not made the judgment that it is required of all of our
5 grantees as well as ourselves.

6 Mr. Richardson has no objection to being audited by
7 any standard. The IG currently has four auditors that some
8 of their time they use to audit the Corporation. I think if
9 our financial statement wants to be done with a higher level,
10 he may do that in accordance with the amendment that is on
11 the table.

12 So that was the reason that I urged a more cautious
13 approach. I think we can get there, for purposes of the
14 Corporation, by his just saying I want a GAGAS audit and
15 therefore it happens. He makes that call.

16 MR. QUATREVAUX: Mr. Chairman, perhaps I can
17 eliminate some of your concerns. I don't see any connection
18 between these two issues; that is to say the Corporation's
19 annual financial statement audit and that of the grantees.
20 While it is a question, and a question that someday we will
21 all need to face, this question of standards for grantee
22 financial statement audits, we're not in a position to do

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1 that and we won't be in a position to do that for several
2 years to come. I was unaware of that concern, so I just
3 thought I'd make that comment.

4 CHAIRMAN DANA: Thank you. Bud?

5 MR. KIRK: Mr. Dana, it seems that, you know, what
6 I'm doing is taking the pure wording of the statutes as I
7 read them and trying to say this is the way that we should
8 go. If the question becomes if we do it your way now, then
9 we'll be making sure the field will never have to do a GAGAS
10 audit unless the inspector general pays for it out of his
11 budget, is that what your hope would be to resolve to this?

12 CHAIRMAN DANA: No. But the rationale that you
13 provided for your recommendation, as I heard it, since you've
14 disagreed with our own general counsel on this issue, would
15 lead inexorably to the conclusion that since the LSC has
16 federal funds and since all audits, in your view, of federal
17 funds should be done in accordance with GAGAS, that,
18 therefore, that money, when it goes to the Drake Law School,
19 or to the Polk County Legal Aid, or to Pine Tree, or to
20 Orange County Legal Aid, or all over the country, if your
21 rationale is correct, those dollars would carry with it the
22 need for GAGAS audits.

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1 I mean, if the center of your universe is audits,
2 you might conclude that that's a good thing. I think it
3 sounds very expensive because CPAs around the country don't
4 have the expertise that Grant Thornton has, and they would do
5 one GAGAS audit a year and that is for this Legal Services
6 grantee.

7 So, what I wanted to do was give you everything you
8 wanted which was a GAGAS audit of the Legal Services
9 Corporation which can be called on at any time the IG wants
10 one under my language. He gets to say I want a GAGAS audit
11 and it's a GAGAS audit, but make that his call with respect
12 to our Corporation rather than our call with respect --

13 I just don't want to, frankly, accept the notion
14 that a GAGAS is required throughout Legal Services. I fear
15 that that is where, certainly, your legal analysis would take
16 us. I want to get you whatever the IG wants for us. I don't
17 want to get you where your legal analysis, I fear, would take
18 us.

19 MR. KIRK: Well, number one, the legal analysis is
20 going to remain no matter what you do. I mean, if this
21 committee does an illegal act or something like that, then
22 the legal analysis is still going to be there. Are you

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1 making a determination that GAGAS is not needed as a matter
2 of course by the field, that it's not something that would be
3 better for them to perform than not to perform?

4 CHAIRMAN DANA: I'm making the judgment -- it is my
5 belief that it is A, not required of even the Corporation.
6 It's required of the IG when he goes out and does an audit.
7 But for our annual audit, the only thing that is required is
8 generally accepted auditing standards. I think the statute
9 may speak in the same language about the field, the field
10 audit.

11 I am unwilling, as a matter of policy, to convert
12 that into GAGAS and to inexorably impose that on grantees all
13 over the country. Therefore, I propose that if in the IG's
14 judgment he wants to take us to GAGAS, fine, and we'd do it
15 for the Corporation. But that's his call with respect to a
16 given year for this Corporation. It is not an acceptance of
17 the rationale that I've heard from you and the IG's counsel.

18 MR. KIRK: Well, just for clarification sake, I had
19 never considered the impact on the field or not in the field
20 in any way. I was just looking at the plain wording and
21 making my judgment based on a plain wording.

22 The last thing I'll say is, you know, mine is based

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1 upon what I see the wording is. It's based upon what I
2 consider the safer way that this be done every year because I
3 believe it's required and you're merely just saying well,
4 this will come out of the IG's budget as opposed to the
5 general budget. Maybe that's what it should be and maybe
6 there's some budget consideration involved there.

7 CHAIRMAN DANA: No, no.

8 MR. KIRK: But at any rate, that is my position. I
9 find it difficult to say that this is not something that
10 should be done as a matter of course and that we're going to
11 put the burden on the IG to do it.

12 MS. WOLBECK: Mr. Chairman, which committee is
13 really supposed to be deciding this; OIG or the Audit and
14 Appropriations Committee?

15 CHAIRMAN DANA: I think it's ultimately a Board
16 decision. I think the OIG Committee certainly has a role to
17 play in it, but I think as soon as all of you get together
18 tomorrow in my absence, you are going to make the decision as
19 a Board.

20 So I think it's ultimately a Board decision and we
21 might make a recommendation and they might well make a
22 recommendation which might be different in this respect. The

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1 Board will ultimately decide this momentous issue. Is
2 anybody falling asleep out there?

3 MR. WITTGRAF: How longstanding is GAGAS? How
4 longstanding a compilation of standards is that?

5 MR. QUATREVAUX: At least 20 years.

6 MR. WITTGRAF: So, actually, it existed when the
7 Legal Services Act was first -- now I'm getting heads shaking
8 in different directions.

9 MR. QUATREVAUX: Early 80s is the technically
10 correct answer, sorry.

11 MR. WITTGRAF: So it is something of more recent
12 evolution, then, or devolution?

13 MR. QUATREVAUX: Well, more recent than the --

14 MR. WITTGRAF: More recent than the LSC Act, yes.

15 MR. QUATREVAUX: Right, and apparently more recent
16 than the -- well, it can't be.

17 CHAIRMAN DANA: With all due respect to the -- am I
18 not correct that GAS, GAP, GAGAS and all the other buzz words
19 that we use in this industry, are evolving, that they have
20 committees and they revise and supplement and augment and
21 they --

22 MR. QUATREVAUX: That's right, Mr. Chairman. In

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1 fact, as a result of the auditing industry's black eye in the
2 S&L crisis, the GAS are evolving very rapidly toward GAGAS.

3 CHAIRMAN DANA: It's inconceivable to me that there
4 were not government auditing standards prior to Ronald Reagan
5 coming to Washington, by way of example, to pinpoint the
6 timing. So, maybe GAGAS itself, maybe that acronym, but
7 surely there must have been government auditing standards
8 prior to the 1980s.

9 MR. QUATREVAUX: There were. In fact, that reminds
10 me of a piece of legislative history on the 1988 amendments
11 of the IG Act, which, of course, created the office here at
12 Legal Services. If you'll indulge me, I'll quote, "Congress
13 intends that any entity to which Federal appropriations are
14 made maintain adequate control over the use of Federal
15 resources to help assure that adequate controls are in place
16 and to help eliminate fraudulent and wasteful use of these
17 resources and their mismanagement.

18 "Congress intends that each designated Federal
19 entity have an inspector general." I think that, taken with
20 the charge under the IG Act that the inspector general is to
21 set policy direction for and conduct and supervise audits and
22 investigations makes pretty clear what the intent was.

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1 I very much appreciate the way the chairman, in the
2 wording of that amendment, has tried to give due notice to
3 that portion to our responsibilities. I fear that the
4 implementation would be very difficult. I'm not sure that,
5 for example, Grant Thornton could even agree to do such a
6 thing as to have a GAS audit and supplemented by elements of
7 GAGAS, that sort of thing.

8 I think to do both independently has got to create
9 some inefficiencies and some additional costs. I have to
10 add, understanding your concern, nothing in what we have done
11 here have we considered to have any relationship to the
12 grantee audits. As far as we're concerned, the issue on the
13 table is strictly corporate annual financial statement
14 audits.

15 MR. KIRK: I'm going to support you on this. I
16 mean, I understand his question. He's afraid that this is
17 setting an example that's going to be followed later. So I
18 mean, he's right to that extent. I do agree with him. It's
19 just that I don't think that should be the issue. I'm sorry,
20 but I did want to support you.

21 CHAIRMAN DANA: Thank you. If this recommendation
22 passes and it develops that there is any inefficiency, then I

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1 think we should change it to make it to solve this problem.
2 I'm concerned about precedence in this business. I think
3 we've got a \$5,000 issue here but we've got a million dollar
4 issue out there or a two million dollar issue. That's a big
5 issue.

6 That is a source of concern. So I would like to
7 give you what you want for the Corporation but not give your
8 successor or you, when you change your mind, a lever to
9 impose the blessings of GAGAS on the field.

10 MR. QUATREVAUX: I'm not sure my office would need
11 it, Mr. Chairman, but I appreciate your concern.

12 CHAIRMAN DANA: That's a battle for another day.

13 MS. WOLBECK: Mr. Chairman, based on the
14 discussion, I'm going to withdraw my second. I'm not ready
15 to vote on this. I think I need more time.

16 CHAIRMAN DANA: Fine. We have no motion pending.
17 I just thought I picked up Bud and now I've lost you.

18 MR. KIRK: No, no. You didn't pick me up.

19 MR. WITTGRAF: A point of inquiry, Mr. Chairman.
20 Can you give us a sense of timing regarding when next the
21 audit for the Corporation will have to be authorized so that
22 we have some sense of the urgency of these guidelines?

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1 CHAIRMAN DANA: Well, my understanding is that
2 we've entered into a contract previously with Grant Thornton,
3 and that the time for getting out of the audit with Grant
4 Thornton has passed for this coming year.

5 MR. WITTGRAF: Is there any eminence or urgency or
6 immediacy, then, to the adoption of such guidelines?

7 CHAIRMAN DANA: No. But if we adopted the -- in
8 effect, what we would have to do -- we can always go to Grant
9 Thornton and say we would like to raise the standard.
10 Presumably, under either resolution of this issue, we would
11 be going to Grant Thornton either as a corporation or as the
12 IG and ask him to do that for this coming year. So I think
13 there is some urgency. If it's worth doing, it's worth doing
14 this year.

15 But I guess as a practical matter, since both the
16 recommendation that I'm making that I will not be able to
17 advance tomorrow and the recommendation that Bud is making
18 that he will be able to advance tomorrow, in both cases we
19 are making it possible to get to GAGAS at the corporate level
20 for this coming year.

21 In either event, we would approach Grant Thornton
22 for the purpose of doing the cumbersome thing that our IG

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1 said would be very difficult, which is to raise their level
2 of audit from GAS to GAGAS.

3 MR. QUATREVAUX: I'm sure you'll appreciate these
4 auditing practices or partnerships. The practices usually
5 are aligned along the business lines and probably transfer
6 from one group to another, one partner to another, the
7 business.

8 CHAIRMAN DANA: I see. We would move from a
9 different principled partner to within Grant Thornton, you
10 mean?

11 MR. QUATREVAUX: Well, probably, I would think.

12 MR. WITTGRAF: The audit now being undertaken by
13 Grant Thornton is for what period of time, Mr. Chairman?

14 MR. RICHARDSON: It was a three-year contract that
15 was let to them, and they have completed one year.

16 MR. WITTGRAF: And that's a fiscal year. That's
17 the fiscal year for the period from October 1 of 1990 to
18 September 30 of 1991, is it?

19 MR. RICHARDSON: That's the first audit.

20 MR. WITTGRAF: They are now in the process of
21 preparing an audit for the fiscal year from October of 1991
22 to September 30 of 1992?

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1 MR. RICHARDSON: They're under contract to do that.
2 They've not started any field work.

3 MR. WITTGRAF: Because we have not reached the end
4 of that fiscal year. So they would still be able to utilize
5 whatever guidance we might give them, if any more?

6 MR. RICHARDSON: Yes, sir.

7 MR. QUATREVAUX: If I may add, Mr. Chairman, that
8 if that is going to be the case, if we want to do it for this
9 next audit, we should advise them of that so they can
10 incorporate that into their planning for the audit.

11 CHAIRMAN DANA: I guess tomorrow we will decide
12 whether the Corporation advises them or whether you do. But
13 apparently somebody is going to be advising them that that is
14 the heightened level of effort required.

15 MR. QUATREVAUX: Mr. Chairman, we consider
16 ourselves part of the Corporation.

17 CHAIRMAN DANA: I think that's true, but you have a
18 unique status which you are the first to remind us of. Since
19 there is not a motion, we will pass this item. Perhaps it
20 would be appropriate for our purposes to adopt these
21 guidelines except for the four words which are shaded as
22 amended and defer to the Board how this issue is resolved.

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M O T I O N

1
2 MS. WOLBECK: So moved.

3 CHAIRMAN DANA: I will second. Any further
4 discussion?

5 (No response.)

6 CHAIRMAN DANA: All those in favor say aye.

7 MR. RICHARDSON: Further clarification?

8 CHAIRMAN DANA: Yes.

9 MR. RICHARDSON: With the addendum that you have
10 read?

11 CHAIRMAN DANA: The first addendum, yes, the next
12 to last paragraph. That's been amended and our
13 recommendation is everything except those four words. It's
14 not those four words and it's not the insert. I think we
15 should present that issue to the Board tomorrow and let them
16 decide which of the two. If we had access to a typewriter,
17 it would be helpful to have that. Do we have access to a
18 typewriter here in Des Moines?

19 MR. MOSES: Yes.

20 CHAIRMAN DANA: With that clarification, all those
21 in favor say aye.

22 (A chorus of ayes.)

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1 CHAIRMAN DANA: Opposed?

2 (No response.)

3 CHAIRMAN DANA: That's a vote. Now, we're on a
4 tight schedule, but we do have lunch for all of you, I'm
5 told. With the committee's permission, I would like to
6 proceed with the meeting but encourage Board members, staff,
7 court reporter, to just get up and walk out and help yourself
8 to a lunch and come back and listen to what promises to be
9 another exciting topic, which is a report on grantee
10 insurance coverage.

11 MR. WITTGRAF: Perhaps you want to take a bit of a
12 break for the reporter's purpose, per se. I mean, it's hard
13 for her to do both.

14 CHAIRMAN DANA: I know that. With all due respect,
15 if you are able, we would like to proceed with the
16 consideration report on grantee insurance coverage.

17 CONSIDERATION OF REPORT ON GRANTEE INSURANCE COVERAGE

18 MS. SMEAD: For the record, my name is Ellen Smead.
19 I'm director of the Office of Field Services.

20 CHAIRMAN DANA: Welcome. Who is the handsome man
21 that's with you?

22 MS. SMEAD: The other person here is Charlie Moses,

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1 deputy director of the Office of Field Services. At the last
2 Board meeting and committee meeting, Board member Basile Uddo
3 expressed some concern that our emergency funds not be used
4 as a substitute for casualty loss insurance and asked staff
5 to come back with some options to address that concern of
6 his. We come back to you now with three options.

7 The first is to include a form in the refunding
8 application which would ask grantees what type of property
9 insurance they have, the levels, and whether or not it's
10 replacement cost insurance.

11 Another option is to include a grant condition or a
12 grant assurance which requires grantees to carry replacement
13 cost casualty insurance against theft, fire, or natural
14 disaster.

15 The final option is an amendment -- these could all
16 be done together or separately -- the final option is we
17 could considered an amendment to our emergency grant-making
18 procedures which just states that we would reimburse programs
19 only for the difference between the actual cost to the
20 program to replace the damaged property and the amount that
21 they would have received from reasonable replacement cost
22 insurance.

1 So, for example, if it totally cost them \$100 to
2 replace something, and if they had replacement cost
3 insurance, reasonable replacement cost insurance, and would
4 have gotten \$80, we would only pay the \$20. Those are the
5 three options.

6 CHAIRMAN DANA: Do you have a report on the extent
7 to which or whether or not there's any evidence that any of
8 the field is underinsuring on the theory that they would be
9 able to recover out of the finite fund that we have set aside
10 for hurricanes and natural disasters?

11 MS. SMEAD: We have no indication of that and
12 that's one of the reasons -- that's not the reason, but in
13 doing a survey with refunding application, we would have a
14 better idea of the level of insurance coverage. We do know
15 that certain programs have not been able to afford certain
16 levels of insurance. For example, some of our California
17 programs cannot afford earthquake insurance because it's so
18 costly. But that's related to the cost, not related to the
19 availability of funds from us.

20 CHAIRMAN DANA: It's unfortunately the case that
21 people sometimes take risks when they are low on resources.
22 I assume that is true for grantees as well as just plain

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1 folks. So your first suggestion is that we seek the
2 information, as a matter of information in our upcoming grant
3 application, to determine whether or not there is a problem.

4 MS. SMEAD: Or the extent of coverage that there
5 is.

6 CHAIRMAN DANA: I'm terrified that the field would
7 misinterpret that as a desire to further intrude for the
8 benefit of another alternate carrier. I know that's not our
9 objective, but that's how some would read it.

10 Does anyone from the field want to rush in? I
11 noticed at least one of them was sort of moving forward.

12 MR. WITTGRAF: Is there a written report, Mr.
13 Chairman, or is this an oral report?

14 MS. SMEAD: I have what I can distribute.

15 MS. ROGOFF: Just for the record, my name is
16 Regina, R-e-g-i-n-a, Rogoff, R-o-g-o-f-f. I'm the director
17 of the Legal Aid Society of Central Texas and co-chair of the
18 Funding Criteria Committee of the Project Advisory Group.

19 I don't know that an inquiry as part of the
20 refunding application would be perceived as having some
21 adverse motive, particularly since there is no comprehensive
22 insurance package for liability, for property liability as

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1 opposed to the professional liability. That was seen because
2 the National Legal Aid and Defenders Association is the
3 organization through which we acquire the professional
4 liability coverage as a potential attack on the organization.

5 But I don't see that -- if you thought there was
6 some use to be gained by that, I mean, I'm not sure there is.
7 I'm sure the programs are not opting out of insurance on the
8 belief that LSC is going to rescue them in the instance of
9 some loss. I think that, as Ms. Smead said, to the extent
10 that a program is underinsured, particularly against
11 disasters like earthquakes and hurricanes, things of that
12 nature, it's just because the cost is prohibitive.

13 It may be that the Corporation wants to be a
14 back-loss provider so that programs don't spend an inordinate
15 amount of basic field money buying insurance at very high
16 rates. That may be an appropriate use of the Corporation's
17 emergency assistance funds. I truly don't think that there
18 would be any reaction, negative, and I certainly don't think
19 that there's any conspiracy in the field not to purchase
20 insurance.

21 CHAIRMAN DANA: I'm sure that's true now.
22 President O'Hara?

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1 MR. O'HARA: Thank you, Mr. Chairman. I agree with
2 what Regina has said, but I wanted to point out for the
3 record that in the time that I've been there, we've had a
4 number of disasters, flood, hurricanes, et cetera.

5 MS. ROGOFF: More than usual, if I might add.

6 MR. O'HARA: Yes.

7 MS. ROGOFF: I hadn't thought of the connection.

8 MR. O'HARA: I had. In my following along with
9 Ellen, I can report to the Board that her office has been on
10 the phone within ours of the time that we've known about
11 anything. Generally, what has gone out is we find out what
12 the programs need, and we have included in the letter which
13 transmits the check the statement that if this is covered by
14 insurance, if you could reimburse us whatever we've given you
15 that you don't need so we can put that money back in the pot.

16 We are following that with the funds we have right
17 now. But I think your statement is quite correct, that we
18 may be spending a lot of money on insurance that may not be
19 necessary.

20 MS. ROGOFF: Or opted not to have the insurance
21 because it's so expensive.

22 MR. O'HARA: It is very expensive. It's like

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1 earthquake insurance in California.

2 M O T I O N

3 CHAIRMAN DANA: I guess my preference, given the
4 three applications you've indicated, is when in doubt always
5 inquire more knowledge. I think I would ask that you prepare
6 a proposed grant requirement for our committee's and everyone
7 else's review at a subsequent meeting that seeks information
8 in this area. It is an information-seeking grant condition.
9 I would make that in the form of a motion in the hopes that I
10 could secure a second.

11 MS. WOLBECK: Second.

12 CHAIRMAN DANA: Is there some discussion concerning
13 that?

14 MS. ROGOFF: The only comment I had is that I think
15 it's appropriate to get the information. I would be a little
16 concerned if we were to have a grant condition because the
17 definition of prohibitive might be open for debate. That
18 might be hard to pin down; when it becomes prohibitive, what
19 other things, unless there is going to be some national norm
20 about what percentage of budget could go to insurance or
21 something like that. Getting the information seems an
22 appropriate first step, you know, and then discussing grant

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1 conditions.

2 CHAIRMAN DANA: Maybe I misunderstood. Was it a
3 grant condition the way you were going to get the information
4 or just part of the funding formula?

5 MS. SMEAD: Just part of the funding application.
6 One of the forms would be a form that asks what insurance
7 they have, what property insurance.

8 MR. O'HARA: We promise not to expand the refunding
9 application. We just reduced it about 50 percent.

10 MS. SMEAD: In the past we had a form on
11 malpractice insurance. Instead of having a form on
12 malpractice insurance, we would have a form of property
13 insurance.

14 MS. ROGOFF: Programs shouldn't object to that.
15 Programs should be reviewing their insurance coverage
16 periodically anyway. It's something you should be reporting
17 to your Board. I can't imagine that there would be any
18 resistance or objection to that.

19 CHAIRMAN DANA: When we hear it, we'll refer to
20 you.

21 MS. ROGOFF: Please do. You can quote me.

22 CHAIRMAN DANA: Thank you. You're on the record.

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1 Any further discussion or clarification of the motion which
2 should not refer to a grant condition but should refer to
3 that portion of the funding application that you would
4 propose to add?

5 MR. WITTGRAF: There's still time, is there, Mr.
6 Chairman, for the inclusion of preparation and inclusion of
7 such a form?

8 CHAIRMAN DANA: Oh, yes, I think so.

9 MS. SMEAD: Yes.

10 CHAIRMAN DANA: That normally does not go out until
11 the fall sometime.

12 MS. SMEAD: Right. I don't have the draft form
13 with me. We do have a draft form.

14 CHAIRMAN DANA: So we could take it up in San
15 Francisco?

16 MS. SMEAD: Yes.

17 CHAIRMAN DANA: It seems to be an appropriate
18 place. All those in favor of the motion say aye.

19 (A chorus of ayes.)

20 CHAIRMAN DANA: Opposed?

21 (No response.)

22 CHAIRMAN DANA: It's a vote. A quick report of

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1 Micronesia, Ellen?

2 CONSIDERATION OF STATUS REPORT ON FUNDING
3 OF THE MICRONESIAN LEGAL SERVICE CORPORATION

4 MS. SMEAD: Micronesia, as you'll recall from the
5 past, the problem from Micronesian Legal Services,
6 calculating their basic field funding, is that only 25
7 percent of their population will be counted by the U.S.
8 Census; 75 percent is not going to be counted by the U.S.
9 Census.

10 Earlier this year we sought some guidance from
11 Congress. We've been discussing it here in the committee.
12 Clint Bamburger came before you on behalf of Micronesia Legal
13 Services back in, I think, March. Since that time, Charlie
14 Moses and other members of my staff have been working with
15 Clint Bamburger.

16 Mr. Bamburger has submitted some census done by the
17 Republic of the Marshall Islands and Federated States of
18 Micronesia. He's given them to certain people to analyze to
19 determine whether they are valid and be able to extrapolate
20 those figures which are from the mid to late 80s to 1990.

21 We've received that report. That was distributed
22 before the Board meeting. The conclusions were that the

1 censuses were valid. They were done very well. The
2 extrapolations are valid too. That is about the closest
3 we're going to get to anything for a U.S. Census.

4 They do show a substantial increase which would
5 translate into about 5 to 6 hundred thousand dollar grant
6 increase for Micronesia Legal Services.

7 CHAIRMAN DANA: Now, let me ask you about that.
8 We're going to be dealing with this issue in the next agenda
9 item, but when you change the poverty population in a given
10 jurisdiction, that doesn't, in and of itself, change the
11 amount of money that jurisdiction gets. The next step would
12 be funding or adjusting for this change through
13 appropriations.

14 MS. SMEAD: Right. That \$600,000 assumed that we'd
15 have the current funding level, the per capita funding level,
16 and we would have sufficient funds to maintain that level.

17 CHAIRMAN DANA: I see, the 988.

18 MS. SMEAD: Right.

19 CHAIRMAN DANA: But, as we know, the poverty
20 population has gone up by at least 15 percent nationwide.

21 MS. SMEAD: Correct.

22 CHAIRMAN DANA: And if we don't get 15 percent, the

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1 average per capita poverty expenditure will be less than what
2 it is this year.

3 MS. SMEAD: Correct.

4 CHAIRMAN DANA: I think that's been very helpful.
5 So, as far as OFS is concerned and as far as the
6 Corporation's management is concerned, Congress could take
7 the number that has been generated by these experts and use
8 it as an appropriate proxy for the U.S. Census for 1990.

9 MS. SMEAD: Correct.

10 M O T I O N

11 CHAIRMAN DANA: I don't know if there's any action
12 taken, but, for the record, I would move that the Corporation
13 urge Congress to adopt the recommendation as presented in
14 these reports for Micronesia. Is there a second?

15 MS. WOLBECK: I second.

16 CHAIRMAN DANA: There's a second. Any further
17 discussion?

18 (No response.)

19 CHAIRMAN DANA: I would like to, first of all,
20 extend our committee's appreciation to staff, but in
21 particular I would ask that you extend the Corporation's
22 appreciation to Clint Bamburger and others that have helped

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1 us deal with this issue. I think it's nice when you can get
2 that kind of assistance. We appreciate it.

3 Is there any further discussion on that matter?

4 (No response.)

5 CHAIRMAN DANA: All those in favor say aye.

6 (A chorus of ayes.)

7 CHAIRMAN DANA: Opposed?

8 (No response.)

9 CHAIRMAN DANA: It's a vote. Now, we always save
10 the best for last. The last item on the agenda is the 1990
11 Census. I'm not even going to read the agenda item, but
12 basically what we would like -- and I think it would be very
13 helpful if we could bring Bud Kirk into this meeting. I use
14 the word helpful advisedly.

15 MR. WITTGRAF: Do you want me to get Mr. Kirk to
16 defend himself?

17 CHAIRMAN DANA: At least give him the opportunity.

18 MS. deBETTANCOURT: I've got the typewriter which
19 you inquired about earlier.

20 CHAIRMAN DANA: Which you brought but not the
21 printer or which Mr. Richardson didn't bring.

22 MS. deBETTANCOURT: I'm going to go over to the

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1 business center after this and get this printed, but I can
2 tell you the results.

3 CHAIRMAN DANA: Okay, great. While the director
4 from the great state of Florida is finding his way in here,
5 let me just say that today, given the time and the importance
6 of this issue, what I would like is a report as to what you
7 have done, where we are in the process, what some of the
8 issues are, but I do not anticipate probably having an
9 opportunity for much even public comment.

10 Although, if there are people here who would like
11 to speak, I would like to hear them briefly. We will not be
12 taking any action today. I don't know which of the
13 musketeers is going to lead off on this one.

14 CONSIDERATION OF STATUS OF MANAGEMENT'S EFFORT TO INCORPORATE
15 1990 CENSUS DATA INTO PROGRAM AREA POVERTY POPULATION
16 STATEMENTS FOR URBANS , CONGRESS ONLY / REPORT CORP MANAGEMENT
17 CONCERNING THE METHODS USED BY CONGRESS DURING THE 1980'S TO
18 EQUALIZE PROGRAM FUNDING AND THE IMPACT ON PROGRAMS (AT
19 VARIOUS 1993 FUNDING LEVELS) OF INSTANTLY EQUALIZING FUNDING
20 FOR 1993 GRANTS

21 MS. SMEAD: I'll lead off again. Kathy
22 deBettancourt has joined us at the table. Kathy

1 deBettancourt is in the Office of Field Services and she
2 heads up the staff committee that's reviewing the 1990 Census
3 data and trying to answer questions that come up.

4 What we have received since the last meeting is the
5 1990 county census data for the 50 states and the District of
6 Columbia. What we don't have is we don't have data for the
7 territories. That would be like Puerto Rico or the Virgin
8 Islands. We don't have data for service areas that have
9 shared counties; for example, Los Angeles.

10 We don't have data yet for Alaska and Hawaii, and
11 that's because their poverty level is higher. Fourth, we
12 don't have Native American figures, and the reason those are
13 important is if it's decided that we continue with the
14 so-called back-out policy, we'd need to have the Native
15 American figures in order to back them out.

16 We can make some preliminary conclusions based on
17 what we do have. Those preliminary conclusions are that as
18 you said before, Mr. Chairman, the poverty population has
19 increased by approximately 15 percent. This increase has not
20 been uniform. It's increased more, say, in the south than it
21 has in the northeast.

22 CHAIRMAN DANA: Do we have copies of this report to

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1 be distributed to the audience?

2 MS. SMEAD: I don't have copies.

3 CHAIRMAN DANA: This is a 65-page report.

4 MS. deBETTANCOURT: We'll have copies made.

5 CHAIRMAN DANA: I think it would be helpful to have
6 a few of them out there. Give one to Don and let him do the
7 rest of the xeroxing.

8 MS. SMEAD: Also, based on this data, approximately
9 70 percent of the basic field programs currently receive less
10 than the so-called minimum per capita funding.

11 CHAIRMAN DANA: Say that again.

12 MS. SMEAD: Seventy-two percent of our basic field
13 programs currently receive less than the minimum per capita
14 funding using the current population figures. So taking the
15 current population figure and dividing it into their funding
16 level, their current funding level, currently 72 percent of
17 programs actually receive less than \$9.88. That's the
18 impact. Taking the 1990 Census --

19 CHAIRMAN DANA: Let's back up. You're taking the
20 new Census figures per program, dividing it into last year's
21 dollars.

22 MS. SMEAD: 1992 dollars.

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1 CHAIRMAN DANA: 1992 dollars and coming up with a
2 dollars per poor person.

3 MS. SMEAD: Correct.

4 CHAIRMAN DANA: And 72 percent of them have numbers
5 less than --

6 MS. SMEAD: \$9.88.

7 CHAIRMAN DANA: Right. Obviously, 28 percent of
8 the programs have more than that.

9 MS. SMEAD: Correct, with the lowest being about
10 \$4.70, \$4.69 per poor person.

11 CHAIRMAN DANA: What you're saying, if I understand
12 you correctly, is that if you take the dollars we are
13 spending this year in each and every program and you divide
14 the new population figures into what, in effect, are this
15 year's dollars, not next year's dollars, this year's dollars,
16 am I correct that the floor this year is 388?

17 MS. SMEAD: 988.

18 CHAIRMAN DANA: The floor is 988 and that's the
19 number you are talking about?

20 MS. SMEAD: Correct, instead of 988.

21 CHAIRMAN DANA: Instead of 988. But if we do that,
22 it means that 72 percent of the people will receive less per

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1 capita than -- if they receive the same amount next year as
2 they receive this year, it will mean that they will receive
3 less per poor person than they did this year, although we're
4 talking about the same dollars.

5 MS. SMEAD: Correct. If at this current time, we
6 were going to determine today what a program's per capita was
7 based on the 1990 Census and their 1992 funding level, 72
8 percent would be below 9.88, actually be below.

9 MR. KIRK: Can I just ask one question? If you
10 take the total 1992 Census for poor people and divide it into
11 \$350,000, whatever we have in the field, what does it come
12 out to be per poor person?

13 MS. deBETTANCOURT: Oh, well, it's 296. If you
14 take 1992 money and divide it by 296, everyone would --
15 that's the freeze budget percent. I believe it's 878 per
16 poor person. However, if you divide every poor person into
17 what we have in 1992, it would be \$8.78 per poor person.
18 That's a provisional figure, however, because I don't know
19 the increase in the territories yet.

20 MR. KIRK: Right.

21 MR. WITTGRAF: Mr. Chairman, what are the
22 consequences of the action that the committee and the Board

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1 might take? Is this essentially not a recommendation to the
2 Congress anyway and something to be, in effect, written by
3 the Congress as part of an appropriation bill?

4 CHAIRMAN DANA: My understanding is that
5 historically this has been -- the Board has played little or
6 no role in this, at least in recent memory. It has been
7 worked out by Congress and presumably will be again, although
8 I think it is important for us to explore the ramifications
9 of various different approaches which Congress ultimately
10 will resolve.

11 MR. WITTGRAF: You're looking, then, Mr. Chairman,
12 at a Board recommendation with a narrative rationale to be
13 given to the Congress to assist it in conference committee
14 and developing the appropriation for fiscal year 1993?

15 CHAIRMAN DANA: At this time, we are really
16 exploring the issue. We may conclude, as the committee did
17 on another issue today that we don't have a recommendation.
18 So at this time we're getting the report. What I think it's
19 important to understand is -- and perhaps somebody could
20 tell us how this issue was resolved during the 80s, what was
21 the experience of the -- how did Congress resolve this
22 throughout the 80s.

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1 MS. deBETTANCOURT: The issue was resolved
2 basically by the formula that Senator Rudman came up with
3 which accepted the 1980 figures. Per capita funding had been
4 based on the 1970 Census at that time. In approximately 1983
5 and 1984, this issue came up with the 1980 Census. Those
6 figures were accepted with the two-step funding formula that
7 has appeared in our appropriations language since that time,
8 which is basically to hold every program harmless.

9 The first year it was done every program was given
10 a five percent increase. So each program, say the 1983 grant
11 level, was multiplied times 105 percent. Then the second
12 step was to take all programs who then after that fell below
13 a certain minimum per capita funding floor -- and this is the
14 fill the cup step -- to take whatever was leftover and
15 distribute it among the programs who fell below the minimum
16 funding floor by the percentage by which they fell below.

17 So we have been using this two-step formula to
18 gradually equalize the funding levels since approximately
19 1984.

20 CHAIRMAN DANA: Thank you. My understanding is a
21 little bit -- and correct me if I'm wrong -- let me explain
22 it this way. In 1980, we did what you just did which is to

1 take last year's funding and come up with new numbers and
2 develop the per poor person spread from the \$4.48 in
3 Bakersfield, California, to what I think is \$16.50 in Alaska.

4 One alternative at the time was to say let's give
5 everybody the same per poor person number. Congress rejected
6 that. What they did is over the course of 10 years, on an
7 annual basis, took the new money and did one of three things.
8 It either made a per capita amount so that everybody got a
9 two or three cents per poor person amount across the board,
10 helping the lowest and the top, or a portion of it went to
11 the floor which would go down, in our case, to Bakersfield
12 and give Bakersfield enough money to bring them up to the
13 next lowest program. Then you would spread dollars to those
14 two programs until it got up. So we gradually brought the
15 floor up higher and higher.

16 The third, which is what I think is called fill up
17 the cup or never look a gift horse or something, is to take
18 the gap between where a program is and Alaska -- every
19 program has a gap, whether it be one cent or \$8.00 -- and to
20 give a percentage of that gap to each and every program.

21 I've obviously misinterpreted it because Regina is
22 jumping up and down.

1 MS. ROGOFF: Only in one way. It's not between
2 where the program is and Alaska; it's where the program is
3 and the minimum access figure. Even Alaska falls below what
4 we have used historically for minimum access. Is Alaska
5 above minimum access this year?

6 CHAIRMAN DANA: So the top is minimum access rather
7 than Alaska. So there is an alternative. This thing has
8 changed. It's changed since we have been on the Board. Some
9 goes to the floor, some goes on a per capita basis, and some
10 is used to fill up the cup. When they turn it into a
11 statute, it doesn't look that way, but that's what happens.
12 I think I'm right. Am I generally correct?

13 Some people will tell you -- and if called upon,
14 I'm sure we can get this information from the field -- in
15 1980, when this first came in, or 1982, a percent of the
16 total dollars going to the field went to the floor and below.
17 So, if this year the number if 988, a certain percentage of
18 all of the dollars that we distribute went to pay 988 to
19 every poor person, and a certain percent went to those
20 programs whose average was above that --

21 I think I have numbers in here which indicate that
22 over the course of the 80s, that percentage that was going to

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1 the floor went from about 90 to about 98-1/2; is that
2 correct? As of this year, all but 1-1/2 percent of the money
3 that goes to the field was going to programs at the floor or
4 to other programs but up to the floor. Only 1-1/2 percent of
5 the dollars we were distributing were going historically to
6 programs who received more money than not.

7 That was the extent to which the gap between
8 programs was narrowed over the course of the 80s. Congress
9 will be faced with this issue again. What I asked you to do
10 -- I think these schedules are very helpful to explore
11 various ways of approaching it.

12 But if we were to approach it in a way similar to
13 the way Congress has approached this issue during the 80s,
14 and we took all of the new money and distributed it to the
15 Bakersfield and up programs to bring the floor up from where
16 it would be with no new money, which is \$4.48, up to where it
17 would be if we got four, five and six percent money, six
18 percent increases, which are the numbers that are currently
19 being discussed, a range that is unfortunately currently
20 being discussed --

21 MS. deBETTANCOURT: I do have those numbers.

22 CHAIRMAN DANA: That would be helpful.

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1 MS. deBETTANCOURT: I will get them printed for
2 you. If no increase is given to all programs, if all the new
3 money --

4 CHAIRMAN DANA: If we have no new money --

5 MS. deBETTANCOURT: If all the new money were given
6 to raise programs, the floor, back up, with a four percent
7 increase you could raise the floor, all the programs, to
8 \$8.25. If you --

9 CHAIRMAN DANA: With four percent?

10 MS. deBETTANCOURT: With four percent. That's
11 presuming no increase in the territories.

12 MS. ROGOFF: Does that include Puerto Rico?

13 MS. deBETTANCOURT: No.

14 MS. ROGOFF: It would lower it if you --

15 MS. deBETTANCOURT: It will lower it. We've not
16 included any increase in the territories. There will be an
17 increase in the territories of anywhere from presumably 0 to
18 15 percent or higher, I would guess, and then Micronesia, of
19 course, there's an increase.

20 MR. MOSES: Micronesia was about between a 40 and
21 50 percent increase from the figures that we got from the
22 census.

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1 MS. deBETTANCOURT: That's not even the U.S.
2 Census, the other parts of Micronesia. So, anyway,
3 provisionally again with the numbers that we have now, with a
4 four percent increase it could raise the floor, all programs,
5 to 825 per poor person. That is, no program would get less
6 than \$8.25 per capita.

7 CHAIRMAN DANA: We think that number is high for
8 the reasons you've indicated.

9 MS. deBETTANCOURT: It will be more like \$8.00 or
10 less. With a five percent increase, it would only be \$8.50;
11 with a six percent increase, it would be \$8.55.

12 CHAIRMAN DANA: That's interesting.

13 MS. deBETTANCOURT: It's just a matter of the large
14 numbers of programs with the large poverty population that
15 are below the funding level.

16 CHAIRMAN DANA: I infer that a little bit more
17 money --

18 MS. deBETTANCOURT: Won't help that much.

19 CHAIRMAN DANA: -- at the 825 level or at the --
20 four percent will get us to here. One more percent takes the
21 average up 25 cents.

22 MS. deBETTANCOURT: Twenty-five cents per poor

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1 person.

2 CHAIRMAN DANA: But the next percent only takes it
3 up five cents.

4 MS. deBETTANCOURT: A nickel.

5 CHAIRMAN DANA: Because we're broadening the base
6 and there are more programs in the floor is what you're
7 saying.

8 MS. deBETTANCOURT: Right.

9 CHAIRMAN DANA: Questions? Bud?

10 MR. KIRK: It seems to me that we have one purpose
11 here and that's to furnish legal services to the poor, the
12 people that need them, need the services. Why don't we just
13 recommend to Congress that the people -- that we give it
14 straight according to what the 1990 Census is and not take
15 and penalize someone that's grown.

16 I mean, if someplace, whether it be Puerto Rico or
17 Florida Rural Legal Services or someplace like that that has
18 a substantial increase in poverty population, why isn't it
19 our obligation to take and give the money there where it's
20 needed instead of somewhere where it's not needed as much?
21 Is there a justification for this?

22 CHAIRMAN DANA: The answer is there is a lot of

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1 justification for doing most anything. But would you like to
2 provide the traditional rationale for nondisruptive
3 reallocation of resources?

4 MS. deBETTANCOURT: Well, Regina and the field
5 could make the argument better than I. I mean, if I were
6 from the field and I was going to make an argument, I would
7 say it's going to be painful to -- I mean, if you look at the
8 numbers, if you strictly equalized at whatever appropriation
9 level, then you're going to be taking up to a million dollars
10 from a program in one year. That would be, you know, a
11 serious impact for that program.

12 I mean, they have to fire people, close offices.
13 Strictly equalizing would require reducing some program's
14 budget by as much as 43 percent if there is not a large
15 increase in the appropriations. If there is a large increase
16 in appropriations, then it would be less painful and you
17 could equalize at a level up to \$13.00 per poor person and
18 not reduce funding by very much for some programs.

19 I think the one argument that the field makes
20 generally is that although they are receiving a per capita
21 funding level for all the poor people in their service area,
22 in reality they are not actually serving each person in that

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1 service area. They are only serving a certain percentage of
2 that. So, in a sense, per capita is not the best way of
3 looking at it.

4 MR. KIRK: Why not? I mean, why should you say if
5 you're only serving this many people, that's not what really
6 counts. I mean, you're trying to make the programs that have
7 the more poor people serve more poor people, aren't you?

8 MS. deBETTANCOURT: Yes, I agree. But I think the
9 argument that if you were going to use the legal need studies
10 as a basis for an argument, that if a program is only
11 serving, you know, 20 percent of the poverty population in
12 their service area, then even though they're getting per
13 capita funding for 100 percent, that's really not going to
14 serve 100 percent but only a small percentage of that. But,
15 you know, I think the field would be able to make that --

16 CHAIRMAN DANA: Would someone from the field like
17 to answer the question that Mr. Kirk has posed?

18 MS. ROGOFF: Again, I'm Regina Rogoff, by way of
19 introduction, co-chair of the Funding Criteria Committee of
20 the Project Advisory Group. It goes back to Congress'
21 original rationale for the per capita funding which was that
22 there was a minimum access level which postulated two

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1 attorneys for every 10,000 poor people and had a dollar value
2 attached to it.

3 The dollar cost of that in current dollars is
4 upwards of I think around \$17.00 a poor person. With the
5 exception of Alaska, none of the field programs are at that
6 level. In other words, there is no program that even with
7 the shift in Census would be overfunded.

8 Our rationale has been that since no program is
9 adequately in current dollars able to meet the full range of
10 need that exists in its area, that it's not good planning
11 that to every 10 years have radical shifts where offices have
12 to be shut down and staff laid off, that it's a much wiser
13 process to try to make that shift, which takes place every 10
14 years, to limit the disruptiveness that is caused by the
15 shifts of population since there's no part of the country
16 that with current dollars is fully servicing the poverty
17 population.

18 I might point out that the total population
19 increased 12 percent in the decade. The poverty population
20 increased 15 percent. So that's a substantially higher
21 increase in poor people. Some of those increases, of course,
22 are very substantial. But none of the decreases are as

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1 substantial as the increases.

2 Many programs remain the same or lost a small
3 amount in the population to take existing dollars and shift
4 them around. A program that had not lost any population
5 could lose a substantial amount of money. It just doesn't
6 seem like a rational approach to a system to have that kind
7 of dramatic shift take place.

8 So, since poor people are not served in the
9 abstract, they are served by organizations and institutions
10 that exist, it's not like each money goes to each poor person
11 to buy legal counsel for either \$9.88 or \$8.00 or \$8.25.
12 That, obviously, wouldn't purchase very much service on an
13 individual basis per poor person.

14 It's only when we pull that and create
15 organizations that are delivering the service are we actually
16 accomplishing anything. The kind of dramatic shifts -- Kathy
17 mentioned, I think you said, 40 percent but we could have
18 shifts where a program could lose up to close to 50 percent
19 of funding in the course of one year, even where there hasn't
20 been that dramatic a change in the number of poor people who
21 they are trying to serve.

22 So we would encourage, of course, in the best of

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1 all worlds that the equalization take place with new money.
2 We recognize that that's not always feasible. If there had
3 been -- should Congress have recognized this year that there
4 was this dramatic increase in poverty, and the demands on the
5 Legal Services Corporation to serve that larger poor were
6 such that an infusion of funds was necessary, it would have
7 taken roughly a 15 percent increase in funding to equalize
8 without any reductions with the hold harmless provision.

9 Nobody assumes that that is going to happen now.
10 We're talking, as the chair, Mr. Dana, mentioned, of a range
11 between maybe four percent, maybe slightly above that, maybe
12 slightly below that. So now I think that it's incumbent on
13 us to look at how to accomplish equalization with limited
14 dollars but also trying to do as little disruption -- because
15 there's really no benefit to the poor clients that we serve
16 if there's huge disruption.

17 A program can't absorb a 70 percent increase in
18 funding in one year anyway. I mean, some of these, in order
19 to do appropriate planning, would need to be phased in over
20 time. A program can't survive a huge cut dramatically and
21 not have that create terrible adverse consequences to the
22 service delivery system.

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1 Likewise, it's very hard for a program to absorb a
2 huge increase in one fell swoop and adequately expend that in
3 a way that's going to be effective. A hundred percent
4 increase in funding is very hard to absorb in a very short
5 period of time, which is, you know, Bakersfield.

6 I mean, I'm sure Bakersfield would love to have a
7 100 percent increase, but I think realistically -- my
8 program, it's interesting if you look at -- do they have this
9 list? Texas is a state.

10 MS. deBETTANCOURT: Regina is being selfless.

11 MS. ROGOFF: Texas is probably one of the only
12 states -- well, Arizona -- where every program had an
13 increase. The smallest increase in poverty was, I believe,
14 29 percent. The overall average of increase of poor people
15 in Texas was 58 percent. So we are servicing a much larger
16 population.

17 I can tell you that as much as -- my service area
18 has had a 40 percent increase in eligible clients. It would
19 be very difficult in a single year to absorb a 40 percent
20 increase in revenues.

21 MR. KIRK: Mr. Chairman?

22 CHAIRMAN DANA: Mr. Kirk?

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1 MR. KIRK: I'm glad to hear someone has agreed with
2 me because when the budget for \$525 million came out, I said
3 there's no way a program can absorb a 50 percent increase in
4 funds. I'm glad to see I've got some support on that.

5 MS. ROGOFF: We just want Congress to understand
6 what the actual cost of -- you know, you're talking about the
7 difference between \$8.00 a poor person and \$9.88 a poor
8 person or \$16.00. Obviously, you're not using \$8.00 for each
9 poor person you serve. In 1991, our program had over 11,000
10 applicants, 11,300 applicants. We accepted 7,000. So, we're
11 turning away a large number of clients.

12 We want people to understand the reality of this.
13 If we keep the numbers low, nobody recognizes the magnitude
14 of the needs that exist out there that are going unserved.

15 MR. KIRK: But to continue on with my comment, I
16 understand that dealing with the extremes, that 70 percent
17 would be difficult for any program to absorb. But 20 percent
18 is absorbable in a year and 30 percent may be absorbable. My
19 law firm absorbed that. Law firms all over the country are
20 going through metamorphosis. During the last three or four
21 years they've had tremendous effects on them.

22 But what I'm hearing is that instead of taking

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1 money and putting it where there's a greater number of poor
2 people, that we're not going to do it because we don't want
3 somebody's job to be disrupted or a program to have some
4 extra space or what have you. I don't think that's our job.

5 I think our job is to tell Congress where we have
6 the need. That's where we ought to be putting the money. If
7 there's another 100,000 poor people in a certain area, then,
8 you know, we give another \$800,000 to that area. If you want
9 to phase it in over two years or three years, that's one
10 thing. But I can't see how we can justify not giving money
11 to poor people where they are needed.

12 MS. ROGOFF: I don't think that we disagree. I
13 mean, that if we are talking about having a process that
14 allows programs to plan over a period of time, whether it's
15 three years -- I mean, in the community we're talking about a
16 three-year phase in which, of course, some people would like
17 to see it sooner; some people would like to see it take
18 longer. But, you know, we have to find a logical, rationale
19 level at which we can make that transition.

20 I mean, I survived the 25 percent cuts that we
21 experienced in the beginning of the decade. Legal services
22 history has been somewhat of a roller coaster for those of us

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1 who have been around for awhile. In the late 70s, we had to
2 absorb huge increases as we expanded to serve multiple
3 counties and as huge programs were created from scratch.

4 That's why I can speak, you know, with some
5 authority on the difficulty of absorbing a large amount of
6 new money. Then immediately after that period, we turned
7 around and had a 25 percent cut across the board. So we had
8 to go through retrenchment and the experience of shutting
9 down offices and laying off staff. That wasn't based on
10 where the poor people were or anything else. That was just
11 an across-the-board 25 percent cut.

12 Experience advises us that making those kinds of
13 dramatic changes in a phased-in planned process is, in the
14 long run, better for the clients, better for the
15 organizations.

16 MR. KIRK: Let me finish. It seems to me like
17 anything that's 20 percent or under, you know, we could tell
18 Congress let's get the money where it's needed. Let's put it
19 where the greater population of poor people are. You know,
20 we've got a plant here that's just closed down in this area
21 and there's no real hope for an improvement. Let's try to
22 put the money there where it's needed. There's been more

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1 poor people move into an area. Let's think about that.

2 You know, I can't gauge what the poor population
3 is, but any year you can tell what the population overall has
4 done in an area. You can get an idea of where you're going
5 to be by the time the next census comes out in overall
6 population. Maybe they can do the same estimates on poverty
7 population.

8 But I get a printout of every county in the United
9 States and what it's population is, male/female, average
10 income, and they project it for the current year. It seems
11 to me that what we ought to be recommending to Congress would
12 be let's get the money where it's needed right away. You
13 know, if we have to bite the bullet in some programs, we're
14 going to bite the bullet.

15 But our concern are the people in the field. I
16 mean, the poverty population, the ones that have huge, you
17 know, over 20 percent or something, we can phase that in over
18 a maximum of three years. Then, let's let people start
19 looking and trying to predict where they're going to be
20 according to the projected Census information that we have.

21 MS. ROGOFF: Well, I can tell you that having
22 looked at projected data against real data or against the

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1 final Census data, the projections weren't always right, to
2 start off with. I think that to use projected data on an
3 annual basis would create chaos.

4 CHAIRMAN DANA: Excuse me, I'm going to intrude in
5 here, if I may. I think my time has been up for about 35
6 minutes; is that correct? I think it's your committee, is it
7 not, that we're -- I think this is a helpful first step. I
8 think we are -- apparently, if I hear Bud correctly, there's
9 agreement that there should be some phase in. The speed with
10 which we seek equalization is the issue.

11 If I've done my math correctly, equalization at
12 four percent would produce \$9.09 per poor person across the
13 board. Hold harmless at four percent is looking like
14 something less than a dollar for the floor. I may have
15 the --

16 MS. ROGOFF: I'm not sure I understood.

17 CHAIRMAN DANA: Did I hear you use the number of
18 \$8.25 for the floor in a hold harmless allocation?

19 MS. deBETTANCOURT: Yes.

20 CHAIRMAN DANA: Of four percent?

21 MS. deBETTANCOURT: Of four percent.

22 CHAIRMAN DANA: Now, if you took all of the money

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1 available and equalized it --

2 MS. ROGOFF: With the four percent increase?

3 CHAIRMAN DANA: Well, I was going to say with.

4 MS. ROGOFF: With the four percent, okay.

5 CHAIRMAN DANA: You would get to \$9.09, \$8.78 plus
6 four percent.

7 MS. ROGOFF: Remembering that Puerto Rico is the
8 largest program, we don't have a figure for Puerto Rico.

9 CHAIRMAN DANA: All right, forget that. I think
10 what we need to do is somehow spend some more time with this
11 so that all members of the Board, Mr. Kirk and I, can fully
12 understand what the ramifications are of the 20 percent three
13 years. Let's equalize it, get the money where the need is,
14 Mr. Kirk's proposal, or the more gradual combination of use
15 of new money to bring up the floor that has the historic
16 approach, or some combination of the two.

17 I think the staff has been very helpful in giving
18 us some preliminary spreadsheets. What I'd like you to do is
19 respond to every member of the Board to the extent that their
20 resources permit and do runs so that people see the
21 ramifications of each policy decision. We'll hopefully come
22 up with a series of options which the Board can decide to

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1 express a view on or defer to Congress on. But I don't think
2 we're in a position to take a position today.

3 Unless there is any further business to come
4 before --

5 MR. WITTGRAF: Mr. Chairman?

6 CHAIRMAN DANA: Yes.

7 MR. WITTGRAF: Going back to my earlier inquiry, am
8 I correct, then, in my assumption that whatever
9 recommendation this committee will make to the Board will be
10 at our next meeting, approximately a month from now, so that
11 whatever wisdom this Board has to impart to the Congress will
12 get there before it finishes the appropriation process and
13 make our wisdom irrelevant?

14 CHAIRMAN DANA: I think that's my intention. Bud?

15 MR. KIRK: I don't plan to be at the A&A meeting.

16 MR. WITTGRAF: If it's on Sunday, you'll be there?

17 MR. KIRK: If it's on Sunday, I'll be there.

18 MR. WITTGRAF: I'm sure we can work that out.

19 MR. KIRK: Thank you.

20 MS. ROGOFF: I would just like to be on record as
21 stating that Ms. deBettancourt has been very helpful in
22 working with PAG to get some of these numbers. We still

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1 have, obviously, some gaps just waiting, information that we
2 haven't received yet from the Census Bureau. But it's been
3 very helpful to have shared information.

4 CHAIRMAN DANA: Well, I, for one, and I know
5 everyone else appreciates the cooperative spirit that
6 everybody is dealing with. This is very traumatic for the
7 field. As your memorandum indicates, a quick equalization
8 would produce huge decreases, huge increases, massive shifts
9 of resources for some programs. It's terrifying and
10 exciting, I suppose, depending upon your point of view.

11 MR. WITTGRAF: Mr. Chairman, may I inquire of Ms.
12 Rogoff?

13 CHAIRMAN DANA: Yes, certainly.

14 MR. WITTGRAF: Regina, am I correct in my
15 understanding that the Project Advisory Group, based upon
16 your and Mr. Steinburg's leadership, will be weighing in with
17 the Congress as to whatever you come up with as the
18 collective wisdom regardless of whatever our Board might
19 decide to do?

20 MS. ROGOFF: That's correct.

21 MR. WITTGRAF: You have not weighed in to date in
22 this area or have you?

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1 MS. ROGOFF: Weighed in with Congress?

2 MR. WITTGRAF: Yes, ma'am.

3 MS. ROGOFF: I don't believe that we have been
4 asked to provide a funding formula at this point in time.

5 MR. WITTGRAF: Sometimes, of course, you opine to
6 Congress even without being asked, not PAG specifically but
7 groups generally. But at this point you haven't shared a
8 formal position with the Congress?

9 CHAIRMAN DANA: Isn't it typically the process that
10 Congress decides how much and then you tell them how to spend
11 it?

12 MS. ROGOFF: What we try to do is have a range of
13 options at different funding levels, what the consequences
14 would be, and try to develop a consensus within the 300-or-so
15 field programs since this does impact everyone and each area
16 is different. We try to disseminate information as broadly
17 as we can to develop a consensus that if not ideal is
18 acceptable to a great majority of programs.

19 MR. WITTGRAF: In this instance, PAG may even have
20 more difficulty reaching a consensus than our 11-member
21 Board.

22 MS. ROGOFF: I doubt that. I don't know.

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1 CHAIRMAN DANA: Before this generates any further,
2 if there's no further business, I will ask for a motion to
3 adjourn.

4 M O T I O N

5 MS. WOLBECK: So moved.

6 CHAIRMAN DANA: Seconded. All those in favor say
7 aye.

8 (A chorus of ayes.)

9 CHAIRMAN DANA: It's a vote. Thank you all for
10 coming. We will see you in San Francisco.

11 (Whereupon, at 2:43 p.m., the meeting was
12 adjourned.)

13 * * * * *

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