

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

OPERATIONS AND REGULATIONS COMMITTEE

Friday, May 31, 2002

2:45 p.m.

The Melrose Hotel
2430 Pennsylvania Avenue, N.W.
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

LaVeeda Morgan Battle, Acting Chair
Hewlett Askew
Douglas S. Eakeley (ex officio)

BOARD MEMBERS PRESENT:

Ernestine P. Watlington
Edna Fairbanks-Williams
Maria Luisa Mercado
John N. Erlenborn
Nancy H. Rogers

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary
Mauricio Vivero, Vice President for Government
Relations & Public Affairs

STAFF AND PUBLIC PRESENT (con'd) :

David L. Richardson, Acting Vice President for Administration, Treasurer, and Comptroller
Leonard Koczur, Acting Inspector General
Laurie Tarantowicz, Assistant Inspector General and Legal Counsel
Mattie C. Condray, Senior Assistant General Counsel
Alice Dickerson, Director, Office of Human Resources
Michael Genz, Director, Office of Program Performance
Yvonne Robertson, Office of the Comptroller
Wendy Atanga, Office of the Comptroller
Linda Perla, Senior Staff Attorney, Center for Law and Social Policy
Julie Strandlie, American Bar Association
Frank Strickland, Attorney, Strickland Brockington Lewis, LLP
Robert Dieter, University of Colorado
Michael McKay, McKay Chadwell
Jenette Studley, Member, SCLAID

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MOTIONS: 5, 6, 39, 40, 42

█ P R O C E E D I N G S

█ MR. EAKEYEY: LaVeeda is chairing the meeting
█ in the absence of John Broderick, who was planning to
█ chair it in person but has both family commitments and
█ a ruptured disk to deal with. So we thought we'd try
█ the chair by phone.

█ LaVeeda, Ernestine Watlington, Edna Fairbanks-
█ Williams, Nancy Harden Rogers, John Erlenborn, Bucky
█ Askew, and Maria Luisa Mercado are present at the table
█ with us.

█ ACTING CHAIR BATTLE: Well, great.

█ MR. EAKEYEY: And you can consider your
█ meeting called to order.

█ ACTING CHAIR BATTLE: Okay. Well, welcome to
█ all to the meeting of the operations and regulations
█ committee today, May 31, 2002. I regret that I cannot
█ join you in person, but please know that I am there in
█ spirit as we start this meeting this morning.

█ You should have with you a copy of the board
█ book, which contains a copy of the agenda for this
█ meeting. And if you've had a chance, for those members

█ of the committee that are present, to review the
█ agenda, are there any suggested changes to the agenda
█ as it's printed in the board book?

█ (No response.)

█ ACTING CHAIR BATTLE: Hearing none, then I'll
█ entertain a motion to adopt the agenda as printed in
█ the board book.

█ M O T I O N

█ MR. ASKEW: So move.

█ MR. EAKEYEY: Second.

█ ACTING CHAIR BATTLE: It's been properly moved
█ and seconded. All in favor?

█ (A chorus of ayes.)

█ ACTING CHAIR BATTLE: All opposed?

█ (No response.)

█ ACTING CHAIR BATTLE: The agenda has been
█ adopted.

█ You should also have in your board book a copy
█ of the minutes of the committee meeting that we held on
█ April 5, 2002. Are there any corrections to those or
█ changes, deletions, to the minutes of April 5, 2002?

■ MR. EAKEYEY: LaVeeda, I should note that
■ there is silence here, but Bill McCalpin had to leave
■ early.

■ ACTING CHAIR BATTLE: Oh, I was hoping that
■ Bill had left with someone his changes.

■ Okay. Hearing none, we will adopt the minutes
■ provided.

■ MR. EAKEYEY: So moved.

■ MR. ASKEW: Second.

■ ACTING CHAIR BATTLE: Yes. I'll entertain a
■ motion that we adopt the minutes as provided.

■ M O T I O N

■ MR. EAKEYEY: So moved.

■ MR. ASKEW: Second.

■ ACTING CHAIR BATTLE: Okay. It's been
■ properly moved and seconded. All in favor?

■ (A chorus of ayes.)

■ ACTING CHAIR BATTLE: All opposed?

■ (No response.)

■ ACTING CHAIR BATTLE: The motion carries.

■ The third item that we have on our agenda is a

■ staff report on the status of current negotiated rulemaking, 45 CFR Part 1626, which addresses the restrictions on legal assistance to aliens, and also 45 CFR Part 1611, on eligibility.

■ We should be receiving now a report from the staff. Who is present from the staff?

■ MR. EAKEYLEY: Mattie Condray is here.

■ ACTING CHAIR BATTLE: Mattie? How are you?

■ MS. CONDRAY: Good. How are you?

■ ACTING CHAIR BATTLE: Great. Are you at the table?

■ MS. CONDRAY: Indeed I am.

■ ACTING CHAIR BATTLE: Great. We're here to receive your report. And I would hope that as well, there was a comment in the minutes from Doug Eakeley about the things that we've learned from this whole process, since this is the first time that we've undertaken negotiated rulemaking.

■ And I hope that you will share during your report some of the things that we've learned about this process as well as the substance of where we are on the

■ current negotiated rulemaking.

■ MR. EAKEY: During your brief and succinct report.

■ MS. CONDRAY: Sure. Indeed. Not a problem.

■ Well, I don't have a whole lot of substance stuff to report inasmuch as the meetings, both ■ negotiated rulemakings, are ongoing.

■ We have had three meetings -- I'm going to take these a little out of order. We have had three meetings on 1611, the financial eligibility regulations. I do not believe that the working group ■ intends to meet face-to-face again.

■ At the working group's last meeting, what we did was we went through a draft notice of proposed rulemaking that reflected the consensus we'd achieved up to that point. We've got some -- I've got some amendments to make to that, some clarifications, plus ■ there are really two substantive issues with which the working group is wrestling.

■ A couple of subgroups, subcommittees from the working group, were appointed from amongst ourselves to

█ deal with those issues. Those groups are continuing to
█ work.

█ At the last meeting, we'd expressed a hope
█ that we might have a draft notice of proposed
█ rulemaking for the next meeting of the committee, which
█ would have been this meeting. That has turned out not
█ to be possible both from a competing responsibilities
█ perspective from amongst the members of the working
█ group having other things to do, being able to get a
█ chance to hammer out the last of the issues that we're
█ working on.

█ So we're still working on those, but we
█ couldn't complete that; combined with the fact that the
█ board chose to meet earlier in June, at the end of May/
█ beginning of June, rather than later in June.

█ So we remain hopeful, and I'm more confident
█ this time that we will have a draft notice of proposed
█ rulemaking for the committee's consideration for
█ publication at the next meeting.

█ MR. EAKEY: For both rules?

█ MS. CONDRAY: Not necessarily.

■ MR. EAKEYEY: Okay.

■ ACTING CHAIR BATTLE: Well, tell us which rule
■ you expect that we might be able to have a draft on for
■ the next meeting.

■ MS. CONDRAY: That's 1611, financial
■ eligibility.

■ ACTING CHAIR BATTLE: Okay. So it's further
■ along than 1626?

■ MS. CONDRAY: It is further along than 1626.
■ We have had a third meeting of the 1626 working group.
■ That took place May 9th and 10th. And the working
■ group at this point definitely anticipates having one
■ more face-to-face meeting.

■ The issues with that have just been a little
■ harder to deal with. I mean, quite honestly, I think
■ that's been part of the problem, is there are more
■ issues and they've been harder to deal with.

■ But we're working through them. We're at the
■ point with 1626 that we are now starting to work on a
■ draft notice of proposed rulemaking so the next meeting
■ of the working group, which I believe is scheduled for

■ the last week of June -- 26-27, 25-26, I've forgotten
■ the exact dates -- but the plan is for the working
■ group to have its first draft notice of proposed
■ rulemaking text to start working with at that meeting.

■ And then obviously there will be refinements.

■ We'll take it up again at whatever -- I don't know if
■ we'll have a meeting after the next one, but the
■ working group will presumably continue to work on that
■ in the same way the 1611 group is continuing to refine
■ its text whether or not there is a final meeting. But
■ we're sharing stuff by e-mail and we may have a
■ conference call.

■ So both groups are proceeding apace. All
■ things are possible. It's possible we could have draft
■ notice of proposed rulemaking on 1626 by the next
■ meeting. I'm not nearly as confident of that. There
■ are again some subgroups that are working on -- that
■ are really focusing on a couple of big outstanding
■ issues.

■ MR. EAKEY: Is there anything we could say
■ or do to enhance the prospects of seeing this rule

■ before we leave the scene?

■ MS. CONDRAY: No. I don't think so. You
■ know, the process goes on. And I think, you know, part
■ of it is just there are some thorny issues. Part of it
■ is trying to get everybody's time schedule together.
■ And I think the folks on the working group -- I think I
■ speak for everyone on the working group when I say that
■ we'd rather take a little longer and do it right.

■ MR. EAKEYEY: Do I infer from what you just
■ said, however, that one way to possibly streamline but
■ retain a negotiated rulemaking process would be to have
■ a smaller number of participants, to reduce the
■ logistics part of the obstacle?

■ MS. CONDRAY: Well, yes. There's a balance.
■ I mean, a smaller number of people, it makes -- you
■ know, the smaller number of people you have, the easier
■ it is to schedule meetings; although with fewer people,
■ it puts more of the work -- you know, there are fewer
■ people to spread out the work.

■ If you wanted to do subcommittees, as the
■ working group has been doing, there are fewer people

■ among whom to spread that work out for. Plus, as you decrease the number of people, you limit the number of voices.

■ Part of the theory behind negotiated rulemaking is that you have a sufficient cross-representation of interests at the table that you've really considered everything you want to consider so that when you go out for public comment, you've aired it all out.

■ So, you know, there's a balance. And I think certainly this time with both working groups we -- I don't even want to say erred, but we certainly chose to be more inclusive. Everybody who asked to be on at the outset was put on.

■ We have since had for each working group one additional person or one additional organization, and that was the ABA, ask to be put on, and we did that in an effort to be inclusive. And I say on both committees I think the ABA participation has been very helpful in both working groups.

■ But I think that's something we do want to

█ think about in the future. And I think it's been a
█ little tougher with 1626 than 1611 because 1626 is a
█ larger group.

█ So yes. And all of those things, it's a
█ balance. Some other, you know, things that I think we
█ may want to think about -- and I don't want to prejudge
█ the issue here -- I mean, one thing that I will raise
█ is, interestingly enough, we've had multiple
█ representatives from the Corporation on the working
█ group -- we have someone from the Office of Legal
█ Affairs, we have someone from the Office of Compliance
█ and Enforcement, we have someone from the Office of
█ Program Performance, and then we have an OIG
█ representative -- which I think has worked out very
█ well.

█ Because I think it's been important to have
█ all of those voices at the table because each of us
█ brings an expertise and a perspective that I think is
█ very useful to have reflected at the table.

█ There's also a school that would say you have
█ LSC, you have one rep, or maybe one representative from

■ LSC and one representative from the Office of the
■ Inspector General, one person through whom to funnel
■ all of that information.

■ Again, there are checks and balances. And one
■ of the things that we are definitely planning on doing
■ is doing kind of a process evaluation from the people
■ who have gone through it, have everybody on the working
■ group have a chance to say what they thought worked
■ about the working group, what didn't work about the
■ working group, how they would like to see future ones
■ work.

■ One thing we may want to think about is
■ whether having two simultaneous negotiated rulemakings
■ is such a great idea --

■ MR. EAKEYEY: Yes.

■ MS. CONDRAY: -- not just from a budgetary
■ perspective, but from a time perspective of the staff
■ involved. And I'm not just speaking for myself.

■ MR. EAKEYEY: Well, are you --

■ ACTING CHAIR BATTLE: I'd just like to -- if I
■ can, just listening to the very careful work that's

■ been done by the negotiated rulemaking groups that have
■ been comprised for these two particular rules, my
■ observation, having been involved, I guess, in the
■ rulemaking over the last eight or nine years, is that,
■ you know, I do believe that the 1626 restrictions on
■ legal assistance to aliens is a very difficult issue
■ that does require very careful thought, and there are
■ going to be some thorny issues that we have to work out
■ and get right in order to have the rules echo the
■ concerns that Congress had, but at the same time meet
■ the needs to represent the people who legitimately
■ should be represented by our grantees.

■ But the amount of time that it is taking to
■ get through these two rules, when I look back and
■ reflect over the number of regulations that we covered
■ and the amount of time that we had to do it, from a
■ resource standpoint of view and a cost standpoint of
■ view, on reflection there would have been no way to get
■ through all that we've done using this particular
■ model.

■ So my thought is that when we have

■ particularly difficult rules that really do require
■ that you bring to the table all of the interests and
■ carefully consider them in the process so that by the
■ time you've reached the public comment portion of it,
■ you really have carefully thought through all of the
■ myriad of interests and issues that could have been
■ raised, but that we ought to -- we ought to kind of use
■ a balance of that with going through the process
■ when -- and not necessarily using it if it's not
■ necessary based on the nature of the particular issue
■ that we've got to address.

■ Because if there are costs associated with
■ this, and if it's difficult to even handle two, I mean,
■ there have been times when we've had four or five rules
■ going at the same time that we had to get through the
■ process. And it sounds like, from a resource
■ standpoint of view and just the methodology of it, that
■ it may not work.

■ So from just hearing your report, Mattie,
■ which has been exceptionally good, my thinking is that
■ we just, on the front end of each rule, give it some

■ thought and make a decision about the judgment on the
■ substance of what we've got to address and whether it
■ requires that kind of broad coalition of interests to
■ think through all of the interests to get it done and
■ get it done right; or whether it's the kind of issue
■ that is fairly straightforward and requires knowing
■ something about how the operation of all the other
■ regulations work and where this one fits into the mix,
■ and what the policies are that the board intends to
■ implement in implementing the regulation so that it can
■ be clear from that perspective; and then send it out
■ for notice and comment and get that part of it done.

■ MS. CONDRAY: I agree completely.

■ MR. EAKEY: May I make this suggestion? I'm
■ looking now, LaVeeda, at John Erlenborn. But I think
■ we ought to design a survey or a questionnaire or
■ something that captures the experience and perspective
■ of each participant in these two processes.

■ But I think that it would be very useful
■ for -- I mean, this is our legislative function, and we
■ have a formerly professional legislator who is

■ president and a director. But I think maybe, John,
■ would it be asking too much to ask you or your staff to
■ prepare a report based on the survey at the conclusion
■ of the process?

■ It's not going to be for this board, but it
■ will definitely be for the benefit of the next board
■ and the next ops and regs committee that tries to
■ articulate criteria such as the one LaVeeda just
■ mentioned as we move along with this.

■ MR. ERLENBORN: Well, in answer to your
■ question, I'm certain we can do it. And if it has my
■ name at the head of the memorandum, be assured that the
■ staff will have done it.

■ MS. CONDRAY: I will also point out that our
■ current rulemaking protocol does call for a process of
■ review every -- at the point that the board -- the
■ outset of rulemaking is the board identifying an
■ appropriate subject for rulemaking.

■ And then the Office of Legal Affairs, with
■ input from the rest of the Corporation, develops a
■ rulemaking options paper, which -- and one of the

█ functions of the rulemaking options paper is to discuss
█ whether a particular rulemaking should be carried out
█ as a notice and comment rulemaking or as a negotiated
█ rulemaking. So we did built that into the process
█ early on, and I think we do need to consider those
█ issues very carefully.

█ I will also say that with respect to the
█ regulations review task force, when the task force was
█ asked by the committee to prioritize within the
█ prioritization to come up with, you know, of the
█ various high priority items that we thought should be
█ considered for rulemaking in the next year or so, you
█ know, moving forward, to put a further prioritization
█ on those, that was one of the issues that we considered
█ without wanting to prejudge what the decision would be
█ on each of the rulemakings.

█ Part of the way we came up with the list that
█ we came up with in the order that we came up with was
█ taking into account a balance of notice and comment and
█ negotiated rulemaking issues, both from a time
█ resource, a dollar resource, a just getting it all done

█ resource.

█ And the last thing I want to say about the
█ time it's taking is, if anything, I think, especially
█ on these first few, I think everyone on the working
█ groups has really wanted to bend over backwards and not
█ give up on achieving consensus.

█ There were times when, on any number of issues
█ that are still -- that we're still working on, that we
█ could have just said, well, we're going to agree to
█ disagree here. And, you know, you'll publish whatever
█ rule you want, and we'll -- if we don't like it, we'll
█ complain about it.

█ But none of us have wanted to give in to that.

█ I think everybody has really wanted to go the extra
█ mile, even if it takes longer, but to try to come up
█ with a product that we're all -- that we can all live
█ with to the greatest extent possible. So I think
█ that's good.

█ I wanted to mention one other item about the
█ 1626 -- the last meeting that we had. It's the first
█ time we had real public visitors. On the morning of

■ the first day of the last meeting, we had three
■ visitors, a man named Jim McDonald, a woman named Sarah
■ Hughes, and Ken Boehm.

■ They came and they observed. Sarah Hughes, I
■ believe, is with the National Association of
■ Agricultural Employers. Jim McDonald, I believe -- he
■ didn't identify himself as such, but I believe -- he
■ was identified by other people to me as having done
■ work with FAIR, which is an immigration reform public
■ action group.

■ They observed the first day. I guess we bored
■ them and they didn't come back after lunch. The next
■ morning, we were visited by Patti DeMarco of the House
■ Judiciary Committee, who stayed for the morning session
■ and she came back briefly after lunch, and then had to
■ get back to the office.

■ So they came and observed. Patti DeMarco made
■ some remarks. I think -- I hope she was favorably
■ impressed with the caliber of the negotiations and the
■ arm's length discussion we were having and the hard
■ work that was going on.

■ Subsequent to the meeting, to the working
■ group meeting, I received a phone call from Ken Boehm
■ asking about how they would go about -- how his
■ organization would go about requesting to be appointed
■ to the working group, notwithstanding the rather late
■ date. I explained to him the process, which was that I
■ needed to have a request in writing for the files for
■ such.

■ The rulemaking protocol provides that it's the
■ president in consultation with the committee chair who
■ makes the appointments. At such point after the
■ working group has already started, basically under the
■ ground rules of the working group, the working group
■ kind of gets a chance to vote on whether they want to
■ let anybody new on or not. And then that
■ recommendation then is sent on to the president.

■ And I explained this process to him, that if
■ he sent me a letter, I would then dutifully poll the
■ working group, and the working group's recommendation
■ would be sent on to the president for consideration for
■ appointment. Then I spoke to him -- I think it was --

█ the meeting was a Thursday and Friday. I spoke to him
█ early the following week, so that would have been
█ around mid-May. And I've not yet heard back from him
█ or anybody else. I've not received any further
█ requests for appointment to the working group.

█ MR. EAKELEY: Well, I think it's very healthy
█ that the negotiated rulemaking is open to the public,
█ the public is advised that it takes place, and people
█ have come in from the outside and from the government.

█ MS. CONDRAY: Yes. And we've had a couple of
█ observers from -- well, before the ABA was appointed,
█ SCLAID is actually the official representative. On the
█ 1626 working group, in addition to their official
█ SCLAID representative, the immigration committee, ABA's
█ immigration committee, has had a local Washington
█ staffer also coming regularly to just voice -- you
█ know, voice some substantive opinion.

█ MR. ERLENBORN: I'd like to say that I was
█ enamored, knowing very little or nothing about the
█ negotiated regulation process, but I was enamored of it
█ as being a good way of having people who are affected

█ making their observations and having a say in this.

█ That was my first impression.

█ My second impression came when I saw the bills
█ that we were beginning to get for the staff that we
█ have hired for that purpose. And I'm not saying that
█ their bill was exceptionally high; I think anybody else
█ could have been as much or greater.

█ But I would think that in the future, we
█ should be not too ready to go the negotiated process
█ unless we really believe that it's worth the
█ investment, which it definitely has been.

█ ACTING CHAIR BATTLE: I think that's an
█ excellent point. And it really is consistent with the
█ observation that I made about this whole process of
█ rulemaking.

█ I think before we came on as a board, there
█ had been very few regs that had actually been worked on
█ during the prior years. And we came on and ended up
█ with quite a bit of work that had to be done because of
█ restrictions that were imposed by Congress on the
█ dollars that we got for legal services.

■ And when there's a lot of regulatory work to be done, it would be extremely costly to go this route.
■ And I think, from what I'm hearing from Mattie, there is an opportunity to make a judgment early on, once the options paper is in, to determine whether this route is the way to go.

■ I do also have some concern about the amount of time that it is taking. I do know these are difficult regs, but there are judgments that are ultimately going to have to be made by the board, and my concern has been, when you're not involved in those discussions, understanding the nuances of the argument around those judgments is something that you're not as familiar with when you go through current negotiated rulemaking rather than notice and comment, when all the comments and the points are being made directly to the board.

■ But notwithstanding that, I think we have made it through these two processes with these two regs, and I think Doug's suggestion that we get some feedback on it will be extremely helpful in the judgments we have

■ to make in the future on this.

■ MR. ERLENBORN: LaVeeda, you made an
■ observation about the interest on the Hill relative to
■ 1626. And let me just make this observation: In my
■ opinion, the number of letters that we've gotten from
■ members of Congress were not very large. I mean, there
■ were some, but I don't think that there was anywhere
■ near the number that I thought there might be.

■ And secondly, unless I'm wrong, and I think
■ Victor -- not Victor, but Mauricio is here, and he can
■ tell me if I am wrong -- those letters that we have
■ gotten from the Hill were responded to, and a copy of
■ the commission report was sent with it. And I don't
■ think we ever heard from the members a second time.
■ That seemed to bring the issue to a close.

■ ACTING CHAIR BATTLE: That's excellent.

■ MR. EAKEYEY: If we're about to move to the
■ next agenda item, LaVeeda, let me back up. Forgive me,
■ but let me introduce to you and you to them the three
■ nominees to the new board who are with us today, Frank
■ Strickland from Georgia, Mike McKay from Washington,

■ and Rob Dieter from Colorado. LaVeeda Morgan Battle.

■ ACTING CHAIR BATTLE: How are you?

■ MR. EAKEYLEY: Sorry about that.

■ ACTING CHAIR BATTLE: And if I was close
■ enough to do it, and please feel -- and I also hug
■ everybody. I'm from the South.

■ MR. ERLENBORN: I miss you.

■ ACTING CHAIR BATTLE: Yes. I miss being there
■ as well. But I'm delighted that you're here with us
■ for this meeting, and I hope that I do get a chance to
■ meet you personally soon. Thank you for your presence.

■ MR. MCKAY: We look forward to a hug.

■ MR. EAKEYLEY: Mike McKay said, "We look
■ forward to a hug."

■ ACTING CHAIR BATTLE: Okay. All right.

■ Okay. Mattie, is that everything on item 3?
■ Can we move on to 4?

■ MS. CONDRAY: Yes.

■ ACTING CHAIR BATTLE: Okay. We're ready now
■ to hear the staff report on the publication of a final
■ rule at 45 CFR Part 1639 on welfare reform.

■ MS. CONDRAY: Just following up to let
■ everybody know that following the last board meeting
■ where the final rule text was okayed for publication,
■ we went ahead and did just that. And on April 19th of
■ this year, in the Federal Register, we published our
■ amendments to our regulations at 45 CFR Part 1639 on
■ welfare reform to bring the regulations into
■ conformance with both the Velazquez decision and our
■ current appropriations law.

■ The final rule became effective on May 20th of
■ this year. And it appears -- I had already sent out a
■ copy, but it appears in the board books at page 92.

■ ACTING CHAIR BATTLE: That's right. So
■ everyone should have a copy of that final rule. And
■ you are to be congratulated on taking that through the
■ entire process and getting that done for us. We
■ appreciate it.

■ MS. CONDRAY: Oh, you're quite welcome.
■ That's it for me.

■ ACTING CHAIR BATTLE: Okay. All right. The
■ next item that we have on our agenda is to consider and

■ act on changes to the title and qualifications for the
■ position of vice president for administration.

■ MR. EAKEYEY: Vic Fortuno is coming to the
■ table, LaVeeda. I might just set the background, if I
■ may, with the permission of the others present.

■ We have grappled for some time with the
■ appropriate relationship between the programmatic
■ mission of the Corporation, the delivery of federal
■ funds to grantees for the provision of access to
■ justice in civil legal matters, and with the necessity
■ of assuring accountability of our grantees and
■ accountability of the Corporation to the Congress to
■ make sure that the funds to go the purpose intended.
■ Eligibility criteria are observed, and restrictions on
■ the use of those funds are observed.

■ And I think after a lot of discussion, we got
■ to the point -- I recall two years ago OCE, the Office
■ of Compliance and Enforcement, was a part of the Office
■ of Program Performance, and it was taken out and put
■ into a reporting relationship with a new vice president
■ for administration, who at the time was not a lawyer

- and who had no field experience.
- There was some discussion of moving OCE back to OPP, or making it free-standing. And I think that ultimately, John Erlenborn and I reached a consensus that the best way to elevate compliance and enforcement to a vice presidential position coequal to program performance would be to take the current position of vice president of administration, change the title so that it really was responsive to the primary responsibility of the office, namely, compliance, so that it would be vice president for compliance and enforcement; rewrite the job description or qualifications of that office to require somebody with substantial legal experience, and preferably with civil legal services field experience as well, so that that vice president for that position would be responsible for compliance and enforcement, Office of Information Technology, and human resources.
- I think the idea is to find a way so that the organization is appropriately sized and staffed so that we can speak with one voice to grantees and to the

■ Congress in terms of serving the mission of the
■ Corporation while being faithful to the mandate of the
■ Congress in a way that reduces some of the turf
■ fighting that invariably goes on and really facilitates
■ the president mediating between these competing roles
■ or functions of compliance and enforcement and program.

■ And I think this pretty much accomplishes
■ that. I'm looking at John Erlenborn just for comment
■ on that.

■ MR. ERLENBORN: I guess LaVeeda can't see me
■ shaking my head up and down. But I do agree with Doug.
■ And let me say I think that the office of OCE has done
■ quite well over the course of the years.

■ I am happy to see this slight change in the
■ name by making it compliance and enforcement instead of
■ the other way around because I think compliance is the
■ target, getting performance and compliance with the
■ law.

■ And a lot of the efforts of the group has been
■ to educate, train, and answer questions from the
■ programs; not to be an enforcer, but to try very hard

■ to bring the programs up to the wealth of knowledge and
■ procedures so that they can comply.

■ And I believe that this new vice president,
■ with that and, in addition to that, the other function
■ that we are giving management -- I think you will have
■ a strong VP, and I welcome the adoption of this
■ resolution.

■ I might say, by the way, that my experience
■ with the executive committee of the board -- of the
■ management, which is composed of myself and the vice
■ presidents, is an excellent, excellent working group.

■ It makes my job pretty easy, because you know
■ what we do if there's an issue is I call a meeting of
■ the executive group. We talk about it, and everybody
■ there has their input. And usually we wind up
■ agreeing. And then it's an easy decision for me to
■ make. The Erlenborn answer is what you folks just
■ said.

■ And I do want to say that that staff of VPs
■ has done an excellent job.

■ MR. EAKEY: That reminds me of another

■ aspect to this. If the board adopts the change, not
■ just in title but imposes criteria for the selection by
■ the board of the vice president, as we are entitled to
■ do under our bylaws, that basically would mean that we
■ would need to bring somebody new into the position
■ because, recall, we drafted David Richardson to
■ pinch-hit when Jim Hogan left, and added to his already
■ quite wide array of duties as comptroller and chief
■ financial officer.

■ John Erlenborn has recommended to us John
■ Eidleman to serve as interim vice president for
■ compliance and administration, which would return -- or
■ mean that David would retain his position as
■ comptroller and chief financial officer, and I
■ believe --

■ MR. ERLENBORN: And treasurer.

■ MR. EAKEYEY: -- and treasurer, and stay
■ within your executive committee. And I just wanted to
■ mention that that change, because of the change in
■ criteria, is not intended in any way to diminish my
■ appreciation or I think the board's appreciation for

■ the service that David has rendered and will continue
■ to render.

■ Nancy?

■ MS. ROGERS: I would like to say that having
■ worked, as chair of the finance committee, with David
■ Richardson for some time, that he has been just a
■ wonderful financial wizard for the Corporation. He is
■ a real treasure.

■ MR. EAKEYEY: LaVeeda, you don't mind if I
■ recognize a couple of board members, since you can't
■ see them?

■ ACTING CHAIR BATTLE: Sure.

■ MR. EAKEYEY: Bucky has sort of his hand up to
■ his chin like he's deep in thought. But I was
■ wondering whether, having expressed himself on this
■ subject in the past, he has anything to say at the
■ moment.

■ MR. ASKEW: Sure. I believe strongly in
■ accountability, accountability both within the
■ Corporation and accountability by our grantees to the
■ Corporation.

■ And I think the compliance efforts that we
■ engage in are critical components of what we do, not
■ only for our credibility on Capitol Hill and for our
■ ability to say with great confidence that we are
■ enforcing the restrictions, that we're on top of what
■ is happening with our grant money, but also that we are
■ holding programs accountable in terms of our strategic
■ plan and our interest in improving quality and
■ improving the quantity of legal services.

■ What I always am concerned about is the
■ Corporation not always having that fully coordinated,
■ and that our accountability efforts don't always work
■ in conjunction or collaboration with each other, that
■ we speak with one voice, that we are all working
■ towards the same goals, that we are clear in what our
■ objectives and goals are.

■ I think this is a positive development in that
■ regard. I was concerned originally with the vice
■ president that it was not an attorney, particularly if
■ that person is responsible for supervising and holding
■ accountable attorneys who are out there enforcing the

■ Act and regulations with programs. And I thought that
■ was something that was necessary. I also felt strongly
■ it should be someone with field experience.

■ As we saw today, we have 28 special conditions
■ we put on programs. To just understand those special
■ conditions and expect to be able to supervise or to be
■ able to hold programs accountable for those special
■ conditions I think requires some knowledge of what they
■ are, how they operate, that sort of thing. So I also
■ felt strongly at the time that it should be not an
■ attorney but someone with field experience.

■ That didn't come to pass two years ago. I
■ think it's a positive development now. I agree with
■ Nancy that I think David has been a very effective
■ comptroller, a very important force in keeping us on
■ target and on track, incredible with the Congress in
■ terms of how we manage our funds.

■ And I think this is certainly no reflection on
■ him in that role in what we're doing here. I think
■ this is something that should have happened two years
■ ago. And so I'm fully supportive of it.

■ And I think it does improve accountability
■ within the Corporation, but also accountability outside
■ the Corporation in terms of our grantees to us. So
■ it's something that I also endorse.

■ I'll tell you, I spoke to our committee
■ chairman this morning, Judge Broderick, at home, who
■ asked me to send his greetings and tell you how sorry
■ he is, once again, he's not here with us. He will be
■ on the phone tomorrow. But he is aware of this and had
■ reviewed it, and also is very supportive of this change
■ as well.

■ MR. EAKEYEY: Victor, did you want to --
■ LaVeeda, Victor Fortuno has come to the table, or has
■ been at the table. He just didn't come to the table
■ because Bucky was talking.

■ ACTING CHAIR BATTLE: All right. Victor?

■ MR. FORTUNO: Good afternoon, LaVeeda. I am
■ here and available to answer questions and provide any
■ assistance which you may desire. But I really have
■ nothing to add. I think it's a matter to be taken up
■ by the committee, and I'm happy to assist in any way I

■ can.

■ MR. EAKEYEY: LaVeeda, do you have the two
■ resolutions?

■ ACTING CHAIR BATTLE: I do. And actually,
■ what we've done is to discuss together items 5 and 6.
■ So we've really had, I think, a pretty full discussion
■ on both of those items.

■ Are there any questions at all about either of
■ those -- the issues? First has to do with the changes
■ to the title and qualifications for the position of
■ vice president for administration so that the vice
■ president for administration now becomes -- that title
■ is amended and it becomes vice president for compliance
■ and administration.

■ And the second piece, I believe, Doug, you've
■ already spoken to, the appointment of John Eidleman as
■ acting vice president for compliance and
■ administration, really honoring the points that have
■ been made by both you and Bucky and by John Erlenborn
■ that we have someone in this position who is capable of
■ being able to provide guidance to the compliance

█ aspect, and with some field experience and
█ acknowledgment of what it takes to actually be in
█ compliance with all the grant assurances and other
█ requirements that legal services imposes on grantees,
█ as well as administration.

█ So we can take them up one at a time, but I
█ want to make sure that we've had a full discussion on
█ both. Are there any questions from any other members
█ of the committee about these two items?

█ MS. MERCADO: No. Just a consensus and
█ agreement. This is Maria Luisa.

█ MR. ERLENBORN: LaVeeda, let me just make one
█ statement. I'll do this for the record, and then ask
█ John Idleman to read the record. But I apologized to
█ him at the time, and I should do it again, that I woke
█ him up at 2:00 in the morning in Australia to ask him
█ if he would take this job. I hope that he was really
█ awake and remembers it.

█ ACTING CHAIR BATTLE: I hope as well that he
█ was, and I'm sure that he will serve us honorably.

█ Okay. Hearing that there's no need for any

■ further discussion, let's take up item 5, consider and
■ act on the changes to the title and qualifications for
■ the position of vice president for administration.

■ You should have before you a copy of the
■ resolution, resolution No. 2002-011, which amends the
■ title and establishes the qualifications for vice
■ president for compliance and administration. I will
■ entertain a motion that we recommend that this
■ resolution be adopted by the board.

■ M O T I O N

■ MR. EAKEYEY: So moved.

■ MR. ASKEW: Second.

■ ACTING CHAIR BATTLE: It's been properly moved
■ and seconded. All in favor?

■ (A chorus of ayes.)

■ ACTING CHAIR BATTLE: All opposed?

■ (No response.)

■ ACTING CHAIR BATTLE: That motion carries.

■ The second resolution that you should have
■ before you is a resolution which would appoint John
■ Eidleman as acting vice president for compliance and

■ administration, effective 8:00 a.m. Eastern time on
■ June 2nd. I hope he's awake then so he'll know that
■ he's being appointed to that office until such time as
■ the board appoints a successor or otherwise relieves
■ him of that office.

■ I'll entertain a motion that we recommend to
■ the board that we adopt this resolution.

■ M O T I O N

■ MR. ERLENBORN: So move.

■ MR. EAKEYEY: Second.

■ ACTING CHAIR BATTLE: It's been properly moved
■ and seconded. All in favor?

■ (A chorus of ayes.)

■ ACTING CHAIR BATTLE: All opposed?

■ (No response.)

■ ACTING CHAIR BATTLE: Motion carries. Okay.

■ Are there any other items to come before this
■ committee?

■ (No response.)

■ ACTING CHAIR BATTLE: I hear nothing. Public
■ comment? Is there anybody in the room for public

█ comment?

█ MR. EAKEYEY: If Bill McCalpin were here, he'd
█ point out that this is probably a record for brevity
█ for an ops and regs committee meeting.

█ ACTING CHAIR BATTLE: You're probably right.

█ It's only because both Bill and I are not there in
█ person.

█ MS. WATLINGTON: And we have a big audience,
█ too.

█ ACTING CHAIR BATTLE: Yes. I missed that. I
█ really hate that I can't be there. But as I said, I'm
█ there in spirit, and I will be back as soon as or if we
█ get a chance to meet again.

█ MR. FORTUNO: And LaVeeda, this is Vic
█ Fortuno. Since it appears that the meeting is about to
█ be concluded, I thought I would state on the record
█ that I'm delighted I could be of so much help this
█ afternoon.

█ ACTING CHAIR BATTLE: You have been.

█ Absolutely.

█ Okay. Hearing that there is no further

█ business to come before this committee, I will
█ entertain a motion that we adjourn.

█ M O T I O N

█ MR. EAKEYEY: So moved.

█ MR. ERLENBORN: Second.

█ ACTING CHAIR BATTLE: It's been properly moved
█ and seconded. By acclamation, I'll say, we now stand
█ adjourned. Thank you very much to all --

█ MR. EAKEYEY: Thank you, LaVeeda. Feel
█ better.

█ ACTING CHAIR BATTLE: -- for the effort and
█ all the folks that are there. I hope that I will.
█ Thank you.

█ (Whereupon, at 3:29 p.m., the committee was
█ concluded.)

█ * * * * *