

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
FINANCE COMMITTEE

Saturday, October 27, 2007

11:40 a.m.

The Portland Regency Hotel
20 Milk Street
Portland, Maine

COMMITTEE MEMBERS PRESENT:

Michael D. McKay, Chairman
Lillian R. BeVier
Thomas A. Fuentes (by telephone)
Herbert S. Garten
Thomas R. Meites
Sarah M. Singleton
Frank B. Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

Jonann C. Chiles
David Hall
Bernice Phillips

STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, President
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel and Corporate Secretary
Patricia D. Batie, Manager of Board Operations
Mattie Cohan, Senior Assistant General Counsel
Charles Jeffress, Chief Administrative Officer
Karen Sarjeant, Vice President for Programs and
Compliance
John Constance, Director, Office of Government
Relations and Public Affairs
Ronald "Dutch" Merryman, Acting Inspector General
Thomas Coogan, Assistant Inspector General for
Investigations, Office of the Inspector General
John Meyer, Director, Office of Information Management
Guy Lescault, Program Counsel III, Office of Program
Performance

Don Saunders, National Legal Aid and Defenders
Association (NLADA)
Linda Perle, Center for Law and Social Policy (CLASP)
Delinah Hankman, American Bar Association (ABA)

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1 P R O C E E D I N G S

2 (11:40 a.m.)

3 CHAIRMAN McKAY: I'd like to call to order the
4 meeting of the Finance Committee. I commend the chair of
5 the Operations and Regulations Committee for moving so
6 quickly. We are inspired. We will do our very best.
7 But as you all can see, we have a very lengthy agenda.
8 But we will do our very best get us back on schedule.

9 M O T I O N

10 CHAIRMAN McKAY: The first item on the agenda
11 is approval of the agenda. All those in favor say aye.

12 (A chorus of ayes.)

13 CHAIRMAN McKAY: Opposed?

14 (No response.)

15 CHAIRMAN McKAY: The motion passes.

16 The second item on the agenda is approval of
17 the minutes of two of our meetings. You will note that
18 we do not have the minutes. The staff got backed up.
19 And we will be presented with those minutes at our
20 January meeting.

21 The third item on the agenda is consider and
22 act on fiscal year 2007 budgetary adjustments. And I

1 recognize at the table David Richardson. Mr. Jeffress is
2 here as well. And Mr. Fortuno, I think, will be on deck
3 if needed.

4 Gentlemen.

5 MR. RICHARDSON: Good morning. For the record,
6 I am David Richardson, the treasurer/controller of the
7 Corporation.

8 I distributed to each of you in a package when
9 you arrived a memo that was dated October 25th. I have
10 written in the upper right-hand corner the page number
11 that you may refer to in the board book. So I hope
12 you've had an opportunity with your busy schedule to look
13 at it, but I will try to quickly summarize the materials
14 for you.

15 CHAIRMAN McKAY: Did everyone have a chance to
16 read that memorandum? It's entitled, as I understand it,
17 "September Financial Report." You asked that it be
18 inserted at page 38. Is that correct, David?

19 MR. RICHARDSON: That's correct, sir.

20 CHAIRMAN McKAY: Did everyone have a chance to
21 look at that memorandum?

22 MS. SINGLETON: Yes.

1 CHAIRMAN McKAY: Okay. Without summarizing it,
2 then, I'd ask you, David, to go to those key issues that
3 you think we need to focus on.

4 MR. RICHARDSON: Okay. There is -- let me
5 refer to page 2 of the memorandum, the last paragraph.
6 We had two offices that had spent or we had paid or
7 accrued items that were in excess of their budget. The
8 first one is the legal affairs budget. I understand that
9 you have received a briefing in your closed session in
10 regards to that spending.

11 We have moved some money from the areas that
12 were not spent because of open positions; for instance,
13 145,000 of our personnel compensation benefits was moved
14 to the consulting line to help pay for some legal fees.
15 Additionally, we have \$25,000 in temporary employee pay
16 that was moved, and in addition to that, 17,500 in travel
17 that was budgeted for some litigation travel that was not
18 needed.

19 That totaled just over \$187,000. We've moved
20 just a small amount, 850, for communication needs that
21 were there. So we moved \$186,650 within the Office of
22 legal affairs budget to help accommodate these legal fees

1 and the costs that we have.

2 In addition to that, we are aware that there
3 could be some additional fees. The bills that we've
4 received so far are through August. So we moved an
5 additional \$85,850 to the office from two budgets. One
6 was the Office of -- the Executive Office because again
7 of open positions. Money was available to accommodate
8 that move.

9 CHAIRMAN McKAY: And just to -- sorry to
10 interrupt. But what you're about to describe is found in
11 the second paragraph on page 3 of your memo. Is that
12 correct?

13 MR. RICHARDSON: That's correct. And there is
14 an additional amount of temporary employee pay of \$11,500
15 that was not used.

16 So the total amount that was transferred in
17 adjustment was \$93,275. The majority, the 85,850, went
18 to legal affairs; and the additional amount, \$7425, went
19 to the Office of Information Technology. You approved
20 some spending for the easy grants program that we're
21 moving to. The billings come in a little quicker than we
22 originally thought, so we had to move some money into

1 this budget to accommodate the spending that was
2 completed for the new grants process.

3 CHAIRMAN McKAY: Mr. Jeffress, any comments
4 from you? And then we'll open it to questions.

5 MR. JEFFRESS: I think David has covered that
6 well. The only other addition that is also in that memo,
7 at the last meeting you all authorized us to accept funds
8 from the State Justice Institute for additional TIG
9 grants, which we did.

10 At that point we did not know the exact amount.
11 We now know the exact amount, and one of the things that
12 you'll be asked to do is to approve retroactively the
13 budget for last year that includes that exact amount from
14 the State Justice Institute.

15 MR. MEITES: How much?

16 MR. RICHARDSON: \$336,379.

17 MR. MEITES: Well done.

18 MR. RICHARDSON: And that is actually in
19 Resolution 13, and I think Mike is passing that around
20 now.

21 CHAIRMAN McKAY: As it's being passed around,
22 it makes reference to an attachment which was not

1 attached to this resolution. Is the attachment the same
2 document that's attached to the memorandum that we've
3 been referencing?

4 MR. RICHARDSON: That's correct, sir. The
5 first column.

6 CHAIRMAN McKAY: So you have been handed
7 Resolution No. 2007-013. It is a resolution that
8 embodies the suggestions contained in the memorandum that
9 you've just discussed. Isn't that right, David?

10 MR. RICHARDSON: That is correct, sir.

11 CHAIRMAN McKAY: And when it references the
12 attachments, we're talking about the spreadsheet attached
13 to the memorandum. And that will be formalized when we
14 present it to the full board, assuming it's approved
15 today.

16 Do I hear -- first, are there any questions
17 from members of the committee or anyone else for our
18 speakers?

19 MR. MEITES: If someone could remind me what
20 the State Justice Institute is and how the determination
21 was made of the amount we --

22 CHAIRMAN McKAY: Could you speak up for Tom,

1 please?

2 MR. MEITES: The amount we received, how that
3 was determined.

4 MR. JEFFRESS: It's an institute that receives
5 funds from Congress to support the development of state
6 court systems. Part of their program has been to
7 encourage technological innovations in state court
8 systems. They've been so impressed by the work of our
9 TIG folks, they thought the TIG process was a better
10 process for supporting those innovations.

11 So they meet with our TIG staff here, the kinds
12 of applications that might be appropriate within their
13 authority, and then grant money to us for those kinds of
14 projects.

15 MR. MEITES: Thank you. And is this this year
16 only, or is there a possibility of --

17 MR. JEFFRESS: They did it last year, they've
18 done it this year, and we certainly hope they continue if
19 they continue to receive funding from Congress.

20 MR. MEITES: Thank you.

21 CHAIRMAN McKAY: Sarah?

22 MS. SINGLETON: I was going to make a motion.

1 So if Bernice has a question, she should go first.

2 MS. PHILLIPS: I was just looking at the
3 consulting column, over to legal affairs -- not legal
4 affairs, I'm sorry, executive offices. What is that
5 money for, exactly, and what does it include, that 25,000
6 that you mentioned?

7 MR. RICHARDSON: Are you talking about the
8 proposed budget or the --

9 MS. PHILLIPS: Yes, for 2008. On page 41.

10 MR. RICHARDSON: Okay. We're still looking at
11 the consolidated operating budget for 2007. And that I
12 think is the discussion now.

13 MS. PHILLIPS: Oh, okay. I misunderstood. I
14 thought you were talking about the 25,000 for travel and
15 -- not travel, consulting.

16 MR. RICHARDSON: No. We're still discussing
17 the 2007 consolidated operating budget, and the 2008 will
18 be the next agenda item.

19 CHAIRMAN McKAY: Sarah?

20 M O T I O N

21 MS. SINGLETON: Mr. Chairman, I move that we
22 recommend to the board that they adopt Resolution 2007-

1 013.

2 CHAIRMAN MCKAY: Do I hear a second?

3 MR. GARTEN: Second.

4 CHAIRMAN MCKAY: Discussion?

5 (No response.)

6 CHAIRMAN MCKAY: All those in favor say aye.

7 (A chorus of ayes.)

8 CHAIRMAN MCKAY: Opposed?

9 (No response.)

10 CHAIRMAN MCKAY: Thank you.

11 The next item is the presentation on LSC's
12 financial reports for the end of the fiscal year. Mr.
13 Richardson.

14 MR. RICHARDSON: Again, in the package you
15 received a memo dated October 24th. I had written on
16 that one page 39. And I'll be referring to that memo.
17 Again, I hope each of you have had an opportunity to look
18 at that.

19 Since we have House and Senate-approved passed
20 bills that have to go to Congress, we have used the lower
21 of each one in putting together a temporary operating
22 budget. The first page of the memo shows the --

1 MR. JEFFRESS: Excuse me, Mr. Chairman. We
2 have just moved to the temporary operating budget. You
3 announced we were going to talk about the financial
4 reports for the end of the fiscal year. I think David
5 and I kind of combined Nos. 3 and 4 on your agenda in
6 reporting to you on the budget, the consolidated
7 operating budget, which you just adopted or recommended
8 adoption of. We also reported to you on the budgetary
9 adjustments that we made.

10 So I believe we have actually covered Nos. 3
11 and 4. David was about to go to temporary operating
12 budget, No. 6.

13 CHAIRMAN MCKAY: Oh, I see. Okay. Well, we
14 were -- we are -- there's nothing more we need to hear on
15 No. 4, then?

16 MR. JEFFRESS: The attachments to the
17 resolutions you passed were the financial reports for the
18 end of the year. And they are preliminary because it's
19 only three weeks past the end of the year. But they
20 included the adjustments that David had mentioned
21 earlier.

22 CHAIRMAN MCKAY: Okay. Well, then, the next

1 item on the agenda -- and unless I hear an objection,
2 perhaps we can jump to 6 and then come back to 5. Is
3 there any objection to members of the committee -- or
4 from members of the committee?

5 (No response.)

6 CHAIRMAN MCKAY: Thank you. Let's move on to
7 No. 6, then, and then we'll go back to 5. So consider
8 and act on Resolution 2007-009, the temporary operating
9 budget for fiscal year 2008. David and Charles.

10 MR. RICHARDSON: Okay. What I've laid out in
11 the memorandum are some of the key areas within the
12 budget that we're proposing for you. I have laid out at
13 the bottom of the page the monies we have forecasted to
14 fund this budget. And the key area, of course --

15 MR. FUENTES: I hear nothing now.

16 MR. RICHARDSON: The key area that we have is
17 the appropriation projection, by taking the lower of the
18 House and Senate. And that figure is \$374,134,000. We
19 have projected carry-over, and that amount is \$6,572,000.

20 This information is quickly summarized -- if
21 you'd like you look in the board book at page 40 -- is
22 laid out in the columnar format that you're used to

1 viewing the information from me in.

2 In addition to the carryover, we have the Court
3 of Veterans Appeals, and we are expecting, hoping, an
4 increase in that particular line. But again, we have put
5 the lower amount, the amount that we received this year.
6 But I actually got word this week from our program
7 performance office that that could possibly increase.

8 And then the 400,000 in interest income, we
9 actually received \$470,000 in interest income this year
10 so I think that's still a good figure for us to forecast
11 and project into our temporary operating budget.

12 So basically, the temporary operating budget
13 that's before you is \$382,366,395. Of course, the grants
14 will be broken out based on the congressional funding
15 formula. We will address the technology and the
16 competition as we do each summer, and hopefully we can
17 get the money awarded like we did this year again in
18 September.

19 And then we'll respond to any emergencies that
20 we may have. And just to let you know, I understand that
21 there is a conference call in regards to some of the
22 issues that's going on in Southern California right now.

1 This past year we did not award any special or emergency
2 grants, and we will determine in the next few weeks what
3 can be done, what we can assist with with some additional
4 funding to accommodate the programs in the Southern
5 California area.

6 In addition to that, we have budgeted with
7 management and administration five board meetings next
8 year, two to be held in Washington and three outside the
9 D.C. area. We have forecasted or projected 111 staff, 88
10 on the management side --

11 CHAIRMAN McKAY: Excuse me, David. Did
12 everyone get a chance to read the memorandum that David
13 gave us? He'd marked page 39 at the top of the memo.

14 MS. SINGLETON: Yes.

15 CHAIRMAN McKAY: So I'm wondering, instead of
16 summarizing, David -- again, we'd normally welcome your
17 good summaries -- that we'd ask the board to take a
18 closer look at the memo, if they have more questions, and
19 ask you instead to invite to our attention those issues
20 that we should be focusing on. And perhaps we should
21 start on page 2, about two-thirds of the way down, where
22 you are talking about -- I'd suggest we start at the

1 executive office, including the hiring of a special
2 assistant as something that we're budgeting for.

3 MR. RICHARDSON: Right.

4 CHAIRMAN MCKAY: And then there are a couple
5 other issues that follow.

6 MR. RICHARDSON: As Mike said, we have in this
7 a special assistant to begin on June 1st.

8 CHAIRMAN MCKAY: And no decision has been made,
9 but you've actually -- we've set the money aside?

10 MR. RICHARDSON: We've set some money in there
11 for that. In addition, with the report that you received
12 this morning in closed session, we have budgeted \$400,000
13 in our consulting line for the legal affairs.

14 There has been a question in the past about the
15 cost for the Equal Justice magazine, and while the
16 government affairs office is planning for some special
17 reports and an annual report, there is no money in this
18 particular budget for an Equal Justice magazine.

19 The rest of the information is sort of status
20 quo except for the last bullet. And that is that a
21 national conference for our executive program directors
22 is included in this. And it's planned to be held in June

1 2008. And we have \$60,000 in the budget for that
2 particular conference.

3 CHAIRMAN McKAY: Thank you. Are there any
4 questions for -- yes, Tom?

5 MR. MEITES: I was groping yesterday for some
6 way to formulate the need, my perception of a need, that
7 our grantees have a chance to gather together and share
8 information.

9 MR. FUENTES: Is someone speaking?

10 MR. MEITES: Yeah. Yesterday I was attempting
11 to formulate my concerns that the executive directors of
12 our grantees have a chance to get together and share with
13 each other their experiences and their plans. And I am
14 thrilled to see that in the budget for next year, we are
15 planning exactly that, which shows that either I was
16 prescient or else that I had read the materials. We'll
17 leave it at that.

18 But really, that's a great idea to have this
19 national conference. And I would like to ask Helaine, do
20 you think it will be profitable if Frank attended or
21 someone from the board attended to show the flag?

22 MS. BARNETT: I think we would be delighted to

1 have all members off the board that wanted to attend
2 attend.

3 MR. MEITES: Thank you.

4 MS. SINGLETON: Where is it?

5 MS. BARNETT: We are just waiting. We're
6 hoping it will be in Washington, D.C. in June. We are
7 just waiting the final review of the contract for the
8 hotel.

9 CHAIRMAN MCKAY: And when was the last time we
10 had a conference like this?

11 MS. BARNETT: November of '04.

12 CHAIRMAN MCKAY: So it's approximately every
13 four years that we've tried to have this kind of a
14 meeting?

15 MS. BARNETT: That's what I have been planning.

16 CHAIRMAN MCKAY: Thank you. Any --

17 MS. SINGLETON: And does it change the budget
18 if members of the board do want to attend? Does it have
19 a budgetary impact that's beyond what's in this budget?

20 MR. RICHARDSON: Hopefully no. I have budgeted
21 in here additional trips for the board, and I think it
22 will support the board traveling to this particular

1 event.

2 There's one more thing within the executive --
3 or, I'm sorry, in the board's budget that I'd like to
4 call your attention to. And that is that there is
5 \$60,000 in this particular budget for an executive
6 search. And it's something that we had talked about in
7 September. It may be something that is no longer needed,
8 but it's in there at this point if the board deems
9 necessary to move forward with an executive search.

10 MS. PHILLIPS: David, in this 600,000, that
11 60,000 for executive search is included with that
12 600,000?

13 MR. RICHARDSON: There is 60,000 within the
14 board's budget, and the board's budget, as I turn here,
15 is \$337,000.

16 CHAIRMAN MCKAY: Any other questions?

17 MS. PHILLIPS: I just had a question about --
18 now are we talking about the -- okay. I had a question
19 about the travel and transportation budget category. OCE
20 budget is less than OPP. Why is that? Because I would
21 think that they would have to go out and do
22 investigations and site visits or something like that.

1 So why would it be less? Why is it less?

2 MR. RICHARDSON: Adjust my classes here. I
3 think the travel and transportation within the program
4 performance is \$165,000. Within program performance
5 (sic), it's 185,000. The program performance people do
6 travel around the year, but so do the Office of Program
7 Performance (sic). They go out and do technical
8 assistance visits and trainings, and they attend some of
9 the ABA events and the NLADA events. So they are on the
10 road quite a bit also.

11 MR. FORTUNO: David, you read the consulting
12 numbers. I understand the need for glasses.
13 Transportation is right below that.

14 MS. PHILLIPS: Transportation, yeah.

15 MR. RICHARDSON: I was actually going down to
16 that next. Sorry.

17 Within the consulting and performance, there's
18 250,000, and 240 in the compliance.

19 MR. FORTUNO: And that's the travel for those
20 folks. Right?

21 MR. RICHARDSON: That is the travel for the
22 consultants that each are using. And that's something

1 that Karen and her two offices have worked out their
2 budgets to accommodate the different initiatives that
3 they have ongoing in the next year.

4 MR. FORTUNO: And if I could add to that, you
5 asked, Bernice, why OPP is more than OCE. OPP is
6 actually a larger office in terms of more people, and
7 they do travel and program visits just like OCE. So that
8 accounts for the difference.

9 I will say this budget for the most part places
10 all of the offices of the Corporation at the same level
11 of expenditures as last year. That's because this is
12 temporary; we don't yet know what the congressional
13 appropriation will be, and we don't know what the outcome
14 is of the insurance matter on legal affairs.

15 So it is our fervent hope that there will be
16 additional income as a result of more appropriations from
17 Congress and a resolution of the insurance amount, and
18 expansion of OCE and OPP would be our first priority for
19 annual additional funds that are available.

20 Certainly by the January meeting, we hope
21 Congress will have acted and you will have a consolidated
22 operating budget to replace what you're looking at today.

1 MS. PHILLIPS: Right. Okay. And David, for
2 the number -- I'm sorry, travel -- not travel, consulting
3 for --

4 CHAIRMAN MCKAY: Speak into the microphone.

5 MS. PHILLIPS: I'm sorry. Can you hear me?

6 MR. FUENTES: Yes.

7 MS. PHILLIPS: Okay. Consulting for legal
8 affairs, does that include -- that 400,000, does that
9 include FOIA software? Did we ever get a chance to --
10 does that have anything to do with the software that we
11 purchased for FOIA, or did we purchase that?

12 MR. RICHARDSON: We have not purchased that as
13 yet, as far as I'm aware. It's not included in this
14 particular budget.

15 MS. PHILLIPS: So we're not --

16 MR. RICHARDSON: This 400,000 is strictly for
17 the outside counsel's cost.

18 MS. PHILLIPS: Okay. So we're not -- we
19 haven't -- we're not getting money for FOIA, or we will
20 not set aside any money for FOIA?

21 MR. FORTUNO: There has not been a decision
22 made on that particular software. There is money in this

1 budget for purchasing new software, as yet undefined as
2 to what we most need for the Corporation during the next
3 year.

4 OLA has some other operating expenses, but in
5 our Office of Information Technology budget in
6 particular, we have capital expenditures, if the purchase
7 is high enough to be capitalized. We have other
8 operating expenditures for smaller purchases. And when a
9 decision is made as to which software to buy, it will be
10 allocated from one of those budgets.

11 CHAIRMAN McKAY: Sarah?

12 MS. SINGLETON: My question goes back to the
13 fundamental premise. You've used the lower of the two
14 proposed figures.

15 I heard some talk that there might be a
16 continuing resolution that would last all year that would
17 fund things at the same level as this year. May I ask
18 whether you gave any consideration to doing your initial
19 budget based on that, as opposed to using either of these
20 two higher figures? Or did I just hear wrong?

21 MR. JEFFRESS: No. You heard right.

22 MR. RICHARDSON: You heard correct. Actually,

1 I had not heard that concept when we started this
2 process, and it was just actually finished a week ago and
3 has just been summarized this week.

4 So if that does occur, what we are looking at,
5 absent getting additional money back from the insurance
6 as we resolve that issue, we would have to cut \$250,000
7 from the management and administration budget. That's
8 the impact it would have on our side.

9 As far as the grants, we adjust -- and there's
10 actually a resolution that's behind here -- we adjust the
11 grants that we're making based on money we receive. So
12 if we get less money, we adjust the grants. If we would
13 get more money, we're asking that you also approve that
14 also. But we do spend within the guidelines of the
15 appropriation.

16 MS. SINGLETON: I'm not sure that answered my
17 question. Why don't you budget within the guidelines of
18 that? What were your considerations that allowed or led
19 you to budget this other way? Was it because you did
20 know that that was a possibility at the time you were
21 putting this together? Was that your answer?

22 MR. RICHARDSON: That is correct. And what we

1 did, since both House and Senate had already approved the
2 appropriation lines, we just took the lower of each of
3 those appropriation lines and created our budget.

4 MS. PHILLIPS: David, I'm sorry. One more
5 question. The vacancies in each office, can you walk us
6 through that? Because I'm not -- I don't understand it.
7 And I don't see here -- can you walk us through that,
8 tell us what offices have vacancies?

9 MR. RICHARDSON: Within this budget, there is
10 no vacancies as far as I'm aware, with the exception of
11 the special assistant that we've forecasted to begin in
12 June. We have an administrative assistant, executive
13 assistant, that's going to work for Vic, will be starting
14 within the next week. We have two people that --

15 MR. FUENTES: Is the microphone on?

16 MR. RICHARDSON: They are. I'm sorry. We have
17 two positions --

18 CHAIRMAN MCKAY: You have to get your mouth
19 right up to the microphone, David. Sorry.

20 MR. RICHARDSON: Okay. We have two positions -
21 -

22 CHAIRMAN MCKAY: Closer.

1 MR. RICHARDSON: -- in the Office of Program
2 Performance, and one of those actually started this past
3 Wednesday. And there is an offer on the table for a
4 program counsel that I understand will be starting,
5 provided everything works out with the negotiations, in
6 the next maybe two months. I mean, there is some time
7 that this person needed to close out their particular
8 affairs and move to the D.C. area, however that's
9 arranged.

10 But those are the only positions that currently
11 are in question, you might say. So there's actually one
12 --

13 MS. PHILLIPS: Just one position in --

14 MR. RICHARDSON: Program performance. Yes.

15 MR. JEFFRESS: Plus there may be some in the
16 Inspector General's office.

17 MR. RICHARDSON: I'm sorry. I always think
18 about the management and administration side. There is,
19 of course the issue -- there's a few positions in the
20 IG's office that are currently vacant. And as soon as we
21 have an IG, I think there's actually 19 staff over there
22 currently, so there will be additional staff coming in to

1 the Inspector General's office.

2 CHAIRMAN McKAY: Any other questions or
3 comments? All right. So really, what the -- I think
4 Sarah has raised a good point. What you envision is if
5 for some reason we have a continuing resolution and we
6 have to cut -- assuming we adopt this temporary operating
7 budget, which is a little higher level, at the House
8 proposed level right now, you would look to the next
9 proposed resolution, 010, which would allow the
10 management, in consultation with the chair of the board
11 and chairman of the Finance Committee, to make the
12 appropriate adjustments. Is that correct?

13 MR. JEFFRESS: That resolution is for basic
14 field grants only. For the remainder of the budget, we
15 would bring that to you in January for whatever
16 adjustments need to be made.

17 CHAIRMAN McKAY: Okay. And we could handle it
18 at that point?

19 MR. JEFFRESS: Yes.

20 CHAIRMAN McKAY: All right. Very good. Any
21 other questions or comments?

22 (No response.)

1 CHAIRMAN McKAY: Then I'd invite to your
2 attention at page 39, Resolution No. 2007-009. And that
3 resolution embodies the memorandum and the attachment
4 that has now been discussed.

5 Do I hear a motion?

6 M O T I O N

7 MR. GARTEN: So moved.

8 CHAIRMAN McKAY: Second?

9 MS. SINGLETON: What page is it, again?

10 CHAIRMAN McKAY: Page 39.

11 MS. SINGLETON: My page 39 is a memorandum.

12 CHAIRMAN McKAY: That was added. If you go
13 beyond it, if you put it in the right place, you should
14 find -- in the original binder that --

15 MS. SINGLETON: Thank you, Mr. Chairman.

16 CHAIRMAN McKAY: Yes. Thank you. Do I hear a
17 second?

18 MS. BeVIER: Second.

19 CHAIRMAN McKAY: Any further discussion?

20 (No response.)

21 CHAIRMAN McKAY: All those in favor say aye.

22 (A chorus of ayes.)

1 CHAIRMAN McKAY: Opposed?

2 MS. SINGLETON: No.

3 CHAIRMAN McKAY: Item No. 7 is consider and act
4 on Resolution 2007-010. And that's a resolution
5 authorizing basic field grants for fiscal year 2008. Mr.
6 Jeffress.

7 MR. JEFFRESS: Mr. Chairman, I think you
8 referred to this just a moment earlier. This is a
9 similar resolution to what you approved last year. In
10 the event that Congress acts between now and the first of
11 January, we would like to base our basic field awards on
12 the new number authorized by Congress. We do not yet
13 know what that number would be.

14 This would only apply to the basic field
15 grants, but it would allow us, if you were to pass this
16 resolution, to award grants for basic field for next year
17 based on whatever amount Congress authorizes as opposed
18 to having to freeze it at the level of the temporary
19 operating budget, which is this year's level.

20 CHAIRMAN McKAY: And you say first of January.
21 Isn't it before our next meeting? What is it about the
22 first of January?

1 MR. JEFFRESS: Our grantees are on a calendar
2 year basis for their checks. So they get -- actually,
3 they get two checks the first of January, and we'd like
4 those checks to be whatever the correct amount should be
5 for next year.

6 CHAIRMAN MCKAY: Thank you. Questions or
7 comments?

8 MS. SINGLETON: What are you going to pay them
9 if Congress hasn't acted yet?

10 MR. JEFFRESS: The same thing that's in the
11 temporary operating budget you just approved, which is
12 this year's money, this year's amount.

13 MR. RICHARDSON: Actually, it would have to be
14 -- because the continuing resolution is based on last
15 year's appropriation, it would have to be the lower
16 amount that was approved in 2007.

17 MS. SINGLETON: So it's not what we just acted
18 on?

19 MR. RICHARDSON: It would be lower. And that's
20 one of the reasons that we're asking for increase or
21 decrease. It goes both ways.

22 MS. SINGLETON: I understand the language goes

1 both ways. But if they haven't acted, are you paying
2 based on what was paid in 2007?

3 MR. RICHARDSON: That is correct.

4 MS. SINGLETON: But that's different than the
5 resolution that was just passed for management. Is that
6 not correct?

7 MR. JEFFRESS: You're correct. I misspoke
8 because we did take the lower of the House or Senate
9 number. So it would be based on the 2007 figures, as
10 David said.

11 MS. SINGLETON: Mr. Chairman, I would like to
12 observe that we're being fiscally conservative with our
13 grantees but not with management, and there's something
14 that doesn't sit right with that, about that.

15 CHAIRMAN MCKAY: Your mike wasn't on. So let
16 me -- you might say that again.

17 MS. SINGLETON: I said it appears to me that we
18 are being fiscally conservative with our grantees and our
19 approach to their budget, but not with our approach to
20 management's budget. And that does not sit right with
21 me. And I don't believe that the remedy is to be not
22 fiscally conservative with our grantees.

1 CHAIRMAN McKAY: Well, Charles, can we hear
2 from you on that question?

3 MR. JEFFRESS: Yes. The question you asked
4 earlier to David about why not based on the CR numbers
5 instead of on the lower of the House or Senate, since the
6 House and the Senate have both passed appropriations
7 bills for CJS that includes our budget by very large
8 majorities, and the conference is scheduled to begin next
9 week, we very much anticipate that there will be a bill
10 before the first of the year.

11 Last year, when there was not a bill, because
12 of the needs of Legal Services Corporation, we were made
13 one of the anomalies and our funds for the year were
14 actually increased above the continuing resolution level.

15 So I felt confident that either through the
16 enactment of an appropriations bill, which is well along
17 in the process for CJS, or through an anomaly in the CR,
18 as happened last year, that this level of appropriation
19 would be appropriate.

20 As David said, it is about \$250,000 above the
21 CR level. And certainly, if the CR is at last year's
22 level without our being an anomaly and the appropriations

1 bill is not passed, we will have to reduce the M&A budget
2 by \$250,000.

3 That is certainly possible. David mentioned to
4 you the two things that are in here in addition that were
5 not in last year's budget, are the executive search money
6 for the board and the June meeting for the executive
7 directors. That's \$120,000 right there. Vacant
8 positions in the course of the year normally accrue to
9 the organization, and we have had about a million dollars
10 carried forward each year as a result of unspent funds.

11 So I felt like this approach was not an
12 unreasonable approach to take in terms of projecting
13 expenses. But I acknowledge exactly what you said, Ms.
14 Singleton, that in fact the continuing resolution is a
15 lower level than what we have presented to you.

16 CHAIRMAN MCKAY: Well, we've heard discussions
17 about optics. I'm concerned about the way it appears as
18 well.

19 David, did you have something you want to say?

20 MR. RICHARDSON: No, sir.

21 CHAIRMAN MCKAY: Oh, yeah. John Constance,
22 please.

1 MR. CONSTANCE: Could I approach? Thank you,
2 Mr. Chairman. John Constance, director of government
3 relations.

4 There might have been some utility in staying
5 in regular order. And hindsight is 20/20 because we
6 could have spoken a little bit about the CR possibility,
7 I think, with a little bit more granularity here.

8 While a CR is a possibility at this point by
9 virtue of the threat of a veto from the President
10 regarding a number of bills that are going to be pending
11 before the White House in the near future, I don't know
12 that I have heard anyone suggest that there would be a CR
13 at current levels without anomalies accepted.

14 It is a little bit beyond, I think, most
15 expectations that the Congress would be willing to run in
16 2008 at complete current levels without there being an
17 acceptable increase for a variety of things in the
18 budget. And that's essentially what happened in 2007,
19 that while there was a CR, there was a recognition that
20 there were a number of programs that would need to be
21 funded at the higher level.

22 Given the fact that LSC has done as well as we

1 have in this year's appropriations process, there's no
2 reason to believe that some level of increase wouldn't be
3 available in that CR scenario. And again, you're still
4 as of this moment in Washington not hearing as much about
5 the CR as you are about the possibility of either regular
6 order, you know, or a process that would go forward to
7 some level of completion, either at the House or the
8 Senate level.

9 So from other things that were said earlier, I
10 don't want anyone to assume that it is felt that that is
11 a likely scenario at current levels without any kind of
12 anomaly increase. In the event that was the case, we
13 would obviously have to adjust.

14 But literally, this came up within the last
15 week as a possibility that has been surfaced in
16 Washington if there is the inability to reach resolution
17 in the appropriations process.

18 CHAIRMAN MCKAY: It sounds like Sarah really
19 has her finger on the pulse.

20 Remind me again. Our payments to the grantees,
21 that's twice a year. So when we -- Isn't that correct?

22 MR. JEFFRESS: Once a month.

1 CHAIRMAN McKAY: Once a month. So it's every
2 month, then. All right.

3 Well, what does the committee feel?

4 MR. GARTEN: I think we have enough assurances
5 to move forward.

6 CHAIRMAN McKAY: As we have.

7 MR. GARTEN: Yes.

8 CHAIRMAN McKAY: And we'll get another negative
9 vote from Sarah?

10 MS. SINGLETON: No. I don't really have any
11 problem with this particular resolution because it says,
12 pay as Congress authorizes, as I understand it. I guess
13 I was just a sore loser on the last motion.

14 (Laughter.)

15 CHAIRMAN McKAY: Well, mission accomplished.
16 All right. Any other discussion on this?

17 (No response.)

18 CHAIRMAN McKAY: Then let's move to the
19 consideration of Resolution 2007-010. And if you could
20 have -- perhaps you've had a moment to reflect upon this
21 now. And it does leave to management, after consultation
22 with the chairman of the board and chairman of the

1 Finance Committee to increase or decrease the annual
2 awards as necessary in reaction to the appropriations
3 process.

4 I'm sorry. Was there a motion on this?

5 M O T I O N

6 MR. GARTEN: I so move.

7 CHAIRMAN McKAY: Second?

8 MS. SINGLETON: Second.

9 CHAIRMAN McKAY: Discussion?

10 (No response.)

11 CHAIRMAN McKAY: All those in favor say aye.

12 (A chorus of ayes.)

13 CHAIRMAN McKAY: Opposed?

14 (No response.)

15 CHAIRMAN McKAY: The motion passes. Thank you
16 very much. And thank you, gentlemen.

17 And Mr. Constance, perhaps you can come forward
18 and give us some thoughts with more granularity. And I
19 do regret having gone out of order.

20 MR. CONSTANCE: That's all right. That's all
21 right, Mr. Chairman. Thank you very much for the
22 opportunity.

1 As you'll recall, on the eve of the last
2 meeting of the full LSC board in Nashville, the House had
3 passed their version of the Commerce, Justice and Science
4 bill, including an 8 percent funding increase for LSC or
5 \$377 million for FY 2008.

6 On the eve of this meeting, by a vote of 75 to
7 19, the full United States Senate last week approved
8 their FY 2008 CJS funding bill, providing a \$41.4
9 million, or 12 percent, increase for the Legal Services
10 Corporation. LSC would receive a total of \$390 million,
11 approaching the \$400 million received in FY 1995, the
12 high water mark in the Corporation's 33-year honest.

13 As part of the debate over the bill, CJS
14 subcommittee chairwoman Barbara Mikulski of Maryland
15 stated, "If we had kept funding at the 1980 levels, just
16 with inflation, Legal Services would be funded at \$757
17 million today."

18 One of the things that was added in the Senate
19 bill -- it's not been acted on by the House yet -- was an
20 amendment from Senator Jeff Bingaman of New Mexico, to
21 include H2B forestry workers as eligible clients. That
22 was also an amendment to the earlier immigration bill.

1 The Corporation had felt that that was not going to
2 significantly impact budget or number of clients. And so
3 consequently, that was supported in the earlier bill and
4 again in this appropriations act.

5 Every bit as important as the final vote, Mr.
6 Chairman, regarding the appropriations bill in the Senate
7 was the bipartisan vote of 61 to 32 to defeat an
8 amendment offered by Senator John Thune of South Dakota
9 which would have reduced LSC's Senate appropriation by
10 \$20 million. This was the first recorded Senate vote on
11 LSC funding directly since 1995. We were certainly
12 pleased by the outcome.

13 At this point, the House and the Senate are in
14 staff-level consultation as to a conference. I think
15 that it is likely that the Labor/HHS bill, a different
16 appropriations act, will be the first one to go to the
17 White House for action. CJS, I believe, is scheduled to
18 go shortly thereafter.

19 We have reached out to friends throughout the
20 process, as have the advocates, to assist in stating our
21 case for the higher Senate number. And we have done
22 everything, I think, normal in our control in that

1 regard.

2 As to the next steps and the final chapter, as
3 I hope I didn't overstate earlier, I certainly have a lot
4 of empathy at this point for the weatherman. I've got a
5 pretty good idea of the science, but stand with my fellow
6 countrymen with no impact on the outcome. I think we
7 will watch this as it proceeds.

8 The current continuing resolution runs through
9 November 16th. Another one is being prepared right now
10 that would extend funding to December 15th. If
11 conference does run its course on the CJS bill and it
12 goes to the President, CJS has been threatened with a
13 veto for several reasons.

14 The overall bill is \$22 billion over the
15 President's budget cap. The bill diverts some dollars
16 from the defense appropriations budget, and both over-
17 funds and under-funds some elements in the Justice
18 Department programs, in the opinion of the White House.

19 Our small amount of that bill is not a player
20 in regarding that veto, but we would suffer the
21 consequences. I would say that the bill passed by a
22 veto-proof majority in the Senate, and close to a veto-

1 proof majority in the House, with 55 Republican votes.
2 We are waiting anxiously to find out what obviously the
3 next steps would be.

4 I can assure you and your colleagues that we'll
5 continue to keep you fully and currently informed as to
6 next steps. And I'll be happy to answer any questions.

7 CHAIRMAN McKAY: Questions from the committee?

8 (No response.)

9 CHAIRMAN McKAY: I want to thank you very much
10 for your very good work up on the Hill. And thanks also
11 for your regular reports by e-mail. It is so nice for me
12 when I come into contact with my legal services
13 colleagues in Washington state when they say, did you
14 hear what happened on the Hill last night, I can say yes.
15 Indeed, at times I can tell them what happened what
16 happened on the Hill. So thank you for keeping us
17 apprised.

18 MR. CONSTANCE: My pleasure. Thank you.

19 CHAIRMAN McKAY: Anything else? Thank you very
20 much.

21 Item No. 8 is consider Resolution 2007-008.
22 One of our committee members asked that this be on the

1 agenda. But I want to invite the committee's attention
2 to the fact that this is a resolution that we approved at
3 our September 17th meeting. It is setting the budget
4 mark. And we will formally present it to the board this
5 afternoon.

6 Is there any further discussion or comment on
7 this resolution? We've already voted upon it.

8 (No response.)

9 CHAIRMAN MCKAY: Thank you. Then without
10 objection, I will present it to the full board this
11 afternoon.

12 Item No. 9 on the agenda is staff report on
13 financial statement standards. Mr. Richardson and Mr.
14 Merryman? And as you approach the table, I will remind -
15 - and Mr. Jeffress as well because you have now presented
16 a memo.

17 We received a memorandum from Mr. Richardson, a
18 follow-up memo from Mr. Jeffress. Dutch, did we get
19 something from you on this?

20 MR. MERRYMAN: Not a formal comment. I have
21 reviewed it, and I've been in discussions with both David
22 and Charles on this.

1 MR. MEITES: Mr. Chairman?

2 CHAIRMAN McKAY: Yes?

3 MR. MEITES: I observe it is 12:25. Our lunch
4 is scheduled at 12:30. Do you want to consider deferring
5 beginning this till after lunch?

6 CHAIRMAN McKAY: I would recommend we consider
7 this because I think we'll complete it by 12:30.

8 MR. MEITES: Excellent.

9 CHAIRMAN McKAY: And not to cut off anyone on
10 the committee.

11 (Laughter.)

12 CHAIRMAN McKAY: But I do commend Mr.
13 Richardson and his memo, Mr. Jeffress and his follow-up
14 memo.

15 And if I can summarize, there are two different
16 approaches. The approach that we embraced in 2002 is the
17 one that contains more information and not less. Is that
18 correct?

19 MR. RICHARDSON: That is correct, sir.

20 CHAIRMAN McKAY: And while I found the
21 discussion in both of your memos concerning whether or
22 not we are a governmental entity, I have come to the

1 conclusion that we are enough of a governmental entity
2 that we ought to be considered one as such for these
3 purposes.

4 And the bottom line being if we as at least a
5 quasi-governmental entity have a question as to reporting
6 more or less financial information, we ought to be
7 reporting more.

8 And since the GAO invited us to look at this
9 once again, implying we should go the other way -- but I
10 think upon reflection they decided that maybe we're going
11 the right way, if that's fair -- it seems to me that
12 without considerable discussion, we ought to be embracing
13 the reporting framework that contains more information
14 and not less. And that's what we're doing right now.

15 And so while I normally would embrace a
16 thorough discussion, I just want to make sure you all
17 know I've carefully studied the memos. I believe we
18 ought to be reporting more and not less.

19 And having said all that, I'm wondering if --
20 did everyone get a chance to read both memos, both Mr.
21 Richardson's and Mr. Jeffress's memo?

22 MR. MEITES: Indeed yes.

1 CHAIRMAN McKAY: And so I'm wondering if it's
2 necessary for us to go into any more detail than I just
3 did. I turn to the members of the committee.

4 MR. MEITES: I was satisfied with your summary,
5 and I think that that -- I concur.

6 CHAIRMAN McKAY: Is there anyone on the
7 committee or anyone else on the board that wants to pose
8 questions to any of the three gentlemen here?

9 (No response.)

10 CHAIRMAN McKAY: Do we fully embrace the way
11 we're reporting our financial information?

12 (No response.)

13 CHAIRMAN McKAY: It is now 12:28. Hearing
14 nothing, I think we'll -- again, thank you very much for
15 your good work. But because of your good work, it isn't
16 necessary for us to pursue this any further. Thank you.

17 And without objection, we can go to lunch.

18 (Whereupon, at 12:29 p.m., a luncheon recess
19 was taken.)

1 A F T E R N O O N S E S S I O N

2 (1:37 p.m.)

3 CHAIRMAN McKAY: We will call back into session
4 the Finance Committee meeting.

5 Item No. 10 is on the agenda. I would ask the
6 committee if they mind, at the risk of going out of order
7 again and paying a price -- I feel confident this will be
8 all right -- that we move to 11 and come back to 10
9 because 10 is an item I'd like us to spend time on, but I
10 don't want to spend more time than we have.

11 And so I'd propose we go from 11 down to the
12 end of the substantive issues, and come back to 10 and
13 employ the amount of time that we have to talk about the
14 audit committee issues, if that's all right with the
15 committee.

16 (No response.)

17 CHAIRMAN McKAY: Hearing no objection, we'll go
18 on to item No. 11, consider and act on proposed amendment
19 to LSC Act regarding Level V of the Executive Search
20 (sic), and a proposed resolution concerning compensation
21 for members of the board.

22 Mr. Jeffress and Mr. Constance. Mr. Jeffress.

1 MR. JEFFRESS: Mr. Constance has deserted me,
2 but I'm sure he'll be here. I asked him to join me
3 because I think part of the conversation is if you are
4 going to encourage the Corporation to go to Congress, he
5 ought to be a part of the conversation.

6 At the last committee meeting, there was
7 discussion. It came up in the context of locality pay.
8 Exactly how does our salary cap compare with other
9 similar organizations or other organizations where
10 Congress has mandated some salary fixture?

11 And so we collected, to the best of our
12 ability. And there is a list of those positions whose
13 pay is tied to the Executive Schedule. It begins on page
14 76 in your book, and it shows all of those positions that
15 we have found so far whose pay is tied to the Executive
16 Salary Schedule.

17 Most of these positions are in statute, and
18 they are laid out in statute in one place, along with the
19 Executive Schedule. So it was easy to find the federal
20 positions, the ones who are federal employees. The
21 cabinet secretaries and the assistant secretaries and
22 those kinds of folks are all listed in one place.

1 What was more difficult was to find
2 organizations that are not federal government employees
3 but, like LSC, where Congress has mandated that the
4 salary of the senior official be tied to the salary
5 scale, but they're not federal employees.

6 And you will find on that list those with
7 asterisks are the organizations where they're not federal
8 employees, nevertheless whose chief executive's salary,
9 and perhaps more than chief executive, is tied to the
10 executive salary scale.

11 So that list is there for your review. It's an
12 interesting list. I would point out that there are five
13 levels, of which Level V is the lowest. The president of
14 LSC's salary and all employees of the Corporation are
15 limited by the Level V salary.

16 And if you look at the list, certainly given
17 the other kinds of positions in Level V, you wonder why
18 in the world it got established that way initially. It
19 would seem to be very low and not in keeping with the
20 other similar types of positions.

21 Just in looking at it -- of course, you can
22 look at it and make your own judgment. But, you know, at

1 the very minimum, Level III would be a more appropriate
2 level for the president and as a salary cap for Legal
3 Services Corporation, and perhaps even higher. When I
4 see the president of the Corporation for Public
5 Broadcasting, and the president of the U.S. Institute for
6 Peace at Level I, I wonder whether LSC couldn't qualify
7 under whatever criteria was used for to also apply Level
8 I for LSC.

9 But there is no -- I shouldn't say there's no
10 rhyme or reason. There's no clearly identifiable
11 criteria by which people are assigned to these levels on
12 the Executive Salary Schedule. So I simply provide that
13 for your information and your consideration.

14 At the last meeting of the committee, you were
15 asking about this in order to consider whether or not to
16 ask Congress to change the level for the president. As I
17 pointed out, I think the level is too low.

18 One caution I would have for the committee is
19 that I think in considering the level of salary for the
20 president, you also need to take into account the
21 question of locality pay, which we've already had a
22 conversation about today.

1 The locality pay that LSC currently pays is
2 about 13 percent of salaries. The federal locality pay
3 for Washington-based employees is 18 percent. So LSC
4 still has a ways to go if it wanted to try to catch up to
5 the federal locality pay.

6 But if you add somewhere between 13 and 18
7 percent to the president's salary or to other officers'
8 salaries, then you don't want to be limited by Level III,
9 either, I don't believe. So in considering going to
10 Congress for a change in the level, I believe the
11 Corporation would be well served by not staking out a
12 position up front. It may be that the flexibility of
13 locality pay may be more important than Level III.

14 If the Corporation were to get a determination
15 that Level III is appropriate but locality pay is not,
16 then within a year or two we'd be back at the compression
17 problem that led the Corporation in 1999 to consider
18 locality pay for its staff.

19 So I provide this information to you, not
20 necessarily to inform a decision as to where the board
21 would go, but in terms of if the Corporation next year.
22 If you wanted the Corporation next year to pursue an

1 alternative salary cap for the LSC president, which is
2 advisable, you might do something like you did this year
3 where you authorized the Corporation to work with members
4 of Congress to address the locality pay issue.

5 You might authorize the Corporation to work
6 with members of Congress to address the salary cap issue
7 without specifying the cap. And that way you would leave
8 the people who are negotiating on behalf of the
9 Corporation some flexibility in terms of looking at Level
10 I, Level III, some level with locality pay, and leave
11 probably the maximum flexibility for your negotiators.

12 But this information beginning on page 76 was
13 provided as requested, and I hope that it's informative
14 for the committee.

15 CHAIRMAN McKAY: It's very helpful. And I
16 apologize to Mr. Constance. We took this item out of
17 order, and we're grateful that you're able to get in here
18 in spite of the fact we started ahead of your schedule.
19 Thank you for joining us.

20 MR. CONSTANCE: The only thing that I would
21 add, Mr. Chairman, is that I think flexibility here is
22 the advantage in terms of operating on a continual basis

1 just using the locality pay piece.

2 There is the issue -- you know, we brought this
3 up with committee staff and with members as we were going
4 forward with the locality pay issue. We made it very
5 clear that from a salary standpoint, from a compensation
6 standpoint, the Corporation is clearly disadvantaged
7 without something like locality pay to provide that
8 opportunity. I know that in recruitment for senior
9 positions, that certainly, I'm sure, has come up to the
10 board.

11 The advantage of locality pay also would give
12 us the ability to do this without opening the original
13 LSC Act, without providing the opportunity to not only
14 amend this but other things. And I think that the
15 maximum amount of flexibility -- we certainly have
16 somewhat of a time-honored tradition of attachments to
17 our appropriations bills.

18 To do this, we would have to do it on a
19 continual basis. But once you have gone through a year
20 of this, that kind of material almost becomes a preamble
21 type approach by the Congress, and really doesn't have to
22 be dealt with one way or the other beyond that. So that

1 would be the only thing that I would add.

2 CHAIRMAN MCKAY: Thank you. Your submission
3 was very helpful, the one beginning at page 76. I
4 thought the format was good. I particularly like the
5 asterisk, which invited our attention to those entities
6 that are not elements of the federal government but
7 closer to us. And so, again, I thought this was very
8 helpful for us to analyze what appears to be an issue. I
9 also hear the important role that locality pay plays in
10 this.

11 I'm going to ask Frank if he could briefly
12 comment on his experiences as we were going through the
13 IG process. And perhaps that will help us better
14 understand the problems associated with the current pay
15 structure.

16 MR. STRICKLAND: Thank you, Mr. Chairman.
17 During the IG search process, we had two applicants for
18 the position that -- is the mike working okay? --
19 applicants for the position of inspector general that
20 appeared on paper to be well qualified based on their
21 experience.

22 However, on the day we conducted our first

1 interviews, I've forgotten how it came to the attention
2 of these two applicants as to what the position pays.
3 And upon learning the level of compensation, they asked
4 that their resumes be withdrawn from the process. And it
5 didn't take but about five minutes to make that decision
6 because the way it boiled down, they were applying for a
7 position that paid less than the one they had.

8 And as I said, they had -- again, emphasize on
9 paper -- relevant experience to the LSC IG position; not
10 precisely the same because there's nothing exactly like
11 LSC, but nevertheless relevant experience. And they just
12 withdrew.

13 So that's the most recent direct experience the
14 Corporation has had in its recruitment efforts. And it
15 certainly failed with respect to those two individuals.
16 That's the latest on that, Mr. Chairman.

17 CHAIRMAN McKAY: Thank you.

18 MR. JEFFRESS: Mr. Chairman?

19 CHAIRMAN McKAY: Yes?

20 MR. JEFFRESS: I might add, to further
21 illuminate that, part of the issue is not only the
22 salary, but also bonuses. Federal employees in the

1 Senior Executive Service and many -- not the inspectors
2 general, but those who report to the inspectors general,
3 are in the Senior Executive Service often. They qualify
4 for bonuses up to 25 percent of their salary.

5 So in addition to whatever the salary may be
6 for members of the Senior Executive Service in the
7 federal government, both IG service and other career
8 service, there are significant incentives beyond just the
9 salary.

10 Last year, according to the report in the
11 Washington Post -- and I'll give you that for what it's
12 worth as my source -- the bonuses for senior executives
13 in the federal service averaged 13 percent. So they
14 qualify for up to 25, but even on the average it's 13.

15 So there are significant bonuses available in
16 the federal service that we do not use at LSC, and would
17 have further limited the consideration of potential
18 income for these IG candidates.

19 CHAIRMAN McKAY: Thank you. And do I hear from
20 you collectively, or at least Mr. Constance, a suggestion
21 that really it's important that we look at this as a
22 problem and understand the problem better; that

1 particularly in light of the fact that the locality pay
2 issue is currently in front of Congress, that we not be -
3 - that we sit back and continue to analyze this problem,
4 but wait and see what Congress does on the locality pay
5 issue, which will then give us an opportunity to come
6 back and revisit this with a little more certainty as to
7 where Congress is on that issue.

8 MR. CONSTANCE: I would say that would be true,
9 Mr. Chairman. I think that we're getting general support
10 for it. We've gotten -- as we have addressed the issue
11 of Level V of the Executive Schedule to our oversight
12 committees on the House and Senate side and our
13 appropriations committees on the House and Senate side,
14 and ask them to look at that and consider it.

15 I think everyone is aware of the problem. I
16 was met with a good degree of shock as to why the cap is
17 at Level V. But as to the solution, you know, the first
18 step in that clearly, I think, is the locality pay, to
19 move into that.

20 CHAIRMAN MCKAY: Thank you. Open it up to the
21 committee for questions or comments.

22 (No response.)

1 CHAIRMAN McKAY: Tom, questions or comments
2 from you?

3 MR. FUENTES: Not at this time, thank you.

4 CHAIRMAN McKAY: Thank you. Charles.

5 MR. JEFFRESS: Mr. Chairman, I would call your
6 attention to one final note. On the last page of this
7 handout that you have, the president's salary at Level V,
8 I also broke out the daily rate for the president's
9 salary, the daily rate for Level V, which is \$524.

10 Some board members had asked about when was the
11 last time that compensation for board members had been
12 increased, and it has not been increased for more than
13 ten years. This current rate, 320, is significantly less
14 than what would be authorized and perhaps expected by
15 folks.

16 And for the board's consideration in
17 deliberating perhaps for next year as to what the
18 appropriate thing to do is, you might want to consider
19 looking at the daily rate offered to members of the
20 board.

21 CHAIRMAN McKAY: Thank you. Any other
22 questions or comments?

1 (No response.)

2 CHAIRMAN McKAY: Hearing none, I'm assuming
3 that we want to simply accept the recommendation that we
4 wait and see what Congress does on locality pay, and then
5 perhaps come back and revisit the issue at that time.

6 MR. GARTEN: Yes.

7 CHAIRMAN McKAY: Thank you. Then we'll move on
8 to the next item. Thank you very much.

9 Staff report on the selection of a new
10 administrator for our 403(b) savings plan. Mr. Jeffress.

11 MR. JEFFRESS: Thank you, Mr. Chairman. The
12 Corporation's 403(b) savings plan is both our retirement
13 plan for employees and a place employees can contribute
14 their own money prior to taxes being taken out. It's
15 similar to a 401(k), but because the Corporation also
16 contributes in a way for his retirement, it's a 403(b)
17 plan. But for those of you familiar with 401(k)s, the
18 similarity is close enough that you can use that as a
19 guide.

20 And for our 403(b) plan, LSC does put a
21 percentage in for employees, and employees can put in
22 some of their own. And LSC will match a percentage of

1 what employees put in on their own behalf.

2 This fund, if you combine all the employees'
3 contributions and all the employer contributions,
4 currently is about \$11 million in terms of investments.
5 The investments -- the employees may self-direct their
6 investments such that you can choose which range of
7 funds, which types of funds, you want your particular
8 savings to go into.

9 We have an administrator for this 403(b)
10 program that we have had some difficulty with over the
11 past couple of years, with the Corporation not being
12 notified about withdrawals that employees have made, with
13 loans having been double-paid, and even with an
14 unauthorized withdrawal having been taken from an
15 employee's account.

16 The problems have been significant enough that
17 we believe it's time to make a change. We have solicited
18 presentations from -- I think we probably had seven
19 different companies present information to us. We
20 actually had three come in and make presentations. We're
21 getting further information from them. But we will be
22 coming back to the board with a recommendation that we

1 change administrators. Presumably, we'll be ready by the
2 January meeting.

3 A question I have for this committee, which
4 oversees this, is given the size of the fund and the
5 nature of the administrator's job, how much information
6 do you want from us or from the corporation we recommend
7 to administer this in considering whether to make a
8 change in administrators?

9 I could either have the staff that has done
10 these interviews and participated in them, David
11 Richardson and myself; you could have us make a
12 presentation to you. Or, in addition to that, we could
13 have the recommended administrator come make a
14 presentation to you. Or we could have more than one
15 potential administrator come make a presentation to you
16 in January. But I wanted to check with you all to see
17 your preference as to what level of information you would
18 like in order to consider our recommendation that we
19 change administrators.

20 CHAIRMAN MCKAY: Thank you. And I should let
21 the committee know that I met with staff and asked them
22 to set forth for me in a little more detail specific

1 examples of problems that have been encountered. And I
2 am impressed that it borders on mismanagement, if not
3 actual mismanagement. And this decision to change is
4 appropriate.

5 There is a question of how much time we should
6 be spending looking at the new administrator. I think it
7 really is up to the committee to decide. Perhaps one
8 approach is to have you folks do the interviews, come
9 back with a recommendation at the next meeting, and then
10 we can decide at that point whether or not we want more
11 detail or not. But I certainly would be willing to hear
12 from anyone.

13 Sarah first.

14 MS. SINGLETON: My question is, are we in a --

15 CHAIRMAN McKAY: Is your microphone on?

16 MS. SINGLETON: Well, the button is up. Yeah.

17 Are we in a trust position over this whatever it is?

18 MR. MEITES: The answer is yes.

19 MS. SINGLETON: It is? So this is -- I think
20 then that we need to -- the staff might vet people, but I
21 think we ought to be involved in the decision as to who
22 is hired.

1 CHAIRMAN McKAY: Okay. And what vehicle would
2 you envision?

3 MS. SINGLETON: Well, at least the committee of
4 the finance committee ought to interview the people who
5 are being considered, in my opinion.

6 MR. GARTEN: I concur on that. At least a
7 subcommittee of the finance committee should be involved
8 with an interview of these individuals, and presented
9 with their background and information because the
10 ultimate responsibility is with us.

11 CHAIRMAN McKAY: Very good.

12 MR. JEFFRESS: Do you want to hear just from
13 the one -- our top recommendation, or would you like to
14 hear from several?

15 CHAIRMAN McKAY: No. I think I hear we need to
16 be interviewing the top group. And let me -- I agree
17 with the suggestions. I think these are good ones.

18 And perhaps I could meet with staff, give it
19 some thought, and circulate a proposal. And what I would
20 kind of envision is coming up with a protocol or a
21 procedure, and that the interview would take place the
22 day before, the day after, or maybe the day of an

1 anticipated meeting of the board where either the Finance
2 Committee or a subcommittee of the Finance Committee
3 could conduct the interviews that have been contemplated.

4 MR. GARTEN: That's fine. I think we leave it
5 to your discretion.

6 CHAIRMAN McKAY: Thank you. Then that's what
7 we'll do, and thanks very much for your input.

8 Any more thoughts or comments or questions
9 about this issue?

10 (No response.)

11 CHAIRMAN McKAY: Thanks so much.

12 Item No. 13 is with Charles as well, consider
13 and act on Resolution 2007-011, increase of maximum
14 salary redirection amount for FlexAmerica health care
15 reimbursement fund. Charles.

16 MR. JEFFRESS: Thank you, Mr. Chairman. This
17 resolution is found in your books on page 81. It is
18 similar to a resolution you authorized last year.
19 Employees are allowed to contribute a portion of their
20 salary to a health savings fund, which then in turn they
21 may use to pay for their health care prior to taxes being
22 taken out of it.

1 The amount last year had been 5,000. You
2 raised it to 7500. You asked us what liability the
3 Corporation might have for higher amounts. The only
4 liability the Corporation has is should someone use their
5 entire \$7500 in allotment that they've promised to have
6 deducted from their wages and then leave the Corporation
7 before the end of the year and before all the money has
8 been deducted.

9 We have not had that problem. As a matter of
10 fact, on two occasions when people have left the
11 Corporation and have drawn more out of their health
12 savings account than they have contributed to, they have
13 agreed to have the balance of that taken out of their
14 last check. So the Corporation has never faced any
15 actual liability from people using more than they had
16 contributed.

17 The tax law allows employees to contribute up
18 to \$10,000 from their pretax dollars to this health
19 savings fund. Having had no problems with liability in
20 the past, having three employees currently at the maximum
21 in terms of 7500, we recommend to you all that you raise
22 the maximum to the IRS \$10,000 limit allowed. We believe

1 that that's a reasonable action and reasonable benefit
2 for us to extend as a corporation.

3 CHAIRMAN McKAY: Thank you. Questions or
4 comments?

5 MR. GARTEN: Have you had any problems with the
6 administrator of FlexAmerica?

7 MR. JEFFRESS: None to my knowledge. And I can
8 say from personal experience I've been very happy with
9 it.

10 M O T I O N

11 MR. GARTEN: Well, this is an important benefit
12 to our employees, and I personally would be in favor of
13 increasing the maximum. I remember the discussion we had
14 last year on this.

15 CHAIRMAN McKAY: And I take that as a motion,
16 then?

17 MR. GARTEN: Yes.

18 CHAIRMAN McKAY: Second?

19 MS. SINGLETON: Second.

20 CHAIRMAN McKAY: Further discussion or
21 questions or comments?

22 MR. FUENTES: Mr. Chairman?

1 CHAIRMAN McKAY: Tom?

2 MR. FUENTES: I'm wondering, do we have in
3 place some sort of agreement or document that one would
4 sign and that we would know that they are aware of the
5 obligation to repay in case that occasions?

6 MR. JEFFRESS: Mr. Fuentes, Charles Jeffress.
7 We don't have that in place, and it's not clear that that
8 would be appropriate. The flip side of this fact that
9 employees may leave before they have had the total amount
10 withdrawn is that at the end of the year, if an employee
11 has had \$5,000 withdrawn but has only used \$3,000, the
12 employee does not get that 2,000 back.

13 So I don't believe -- and I will have to get
14 Vic and David, perhaps, to help verify this -- I don't
15 believe we could have an agreement that only worked one
16 way, that is, if you leave before the total has been
17 withdrawn that you have used, you have to pay us; but
18 we're not going to give you anything back if it's
19 deducted and you don't use it.

20 MR. FUENTES: I don't quite follow your logic
21 there. You could well be right. But I'm wondering if we
22 could explore -- in other words, what I'm concerned is in

1 consideration of our employees, that if they are going to
2 have the obligation to repay, that they have that
3 notification and that we protect ourselves to be repaid.

4 Could we ask you to examine those two points?

5 MR. JEFFRESS: Absolutely. I'd be happy to
6 examine those. But as I say, I'm not sure that it is an
7 employee obligation to repay. The employees that have
8 done so have done so voluntarily. But I would
9 absolutely, to protect the Corporation, be happy to
10 examine that and see if it is possible to do something
11 such as you say.

12 CHAIRMAN MCKAY: Herb?

13 MR. GARTEN: There may be some tax
14 ramifications here, and this plan is set up to meet the
15 requirements of the IRS. But there's no harm in
16 following through as Tom has requested.

17 CHAIRMAN MCKAY: Thank you. Any further
18 comments or questions concerning this resolution?

19 (No response.)

20 CHAIRMAN MCKAY: All those in favor say aye.

21 (A chorus of ayes.)

22 CHAIRMAN MCKAY: Opposed?

1 (No response.)

2 CHAIRMAN MCKAY: The resolution passes for
3 consideration for the entire board.

4 Item No. 14 on the agenda is consider and act
5 on invitations to LSC meetings in January and September
6 of next year. And Charles, you're here to address that
7 as well.

8 MR. JEFFRESS: Thank you, Mr. Chairman. At the
9 September Finance Committee, the Finance Committee
10 suggested that the committee had heard for a number of
11 years from the same two organizations about what kind of
12 considerations the board should have in making a budget
13 request to Congress, and asked that management develop
14 some thoughts on inviting a broader group of
15 organizations to comment on and participate in the
16 considerations of what LSC's budget request should have
17 been or should be.

18 What we did on the management side to follow
19 that up was to look at a range of the possibilities in
20 terms of what organizations might be interested in our
21 work and might want to comment on it.

22 Obviously, the number of advocacy groups and

1 interest groups in Washington is very long. Rather than
2 attempt to sort every advocacy group, we took the
3 direction from the committee where the Heritage Institute
4 and the Cato Institute had been two that were mentioned,
5 and looked at a list of public policy institutes, not
6 advocacy groups advocating for a particular group or
7 organization or issue, but broader public policy
8 institutes with a broad focus.

9 Even looking at those, you know, if you Google
10 it you get at least 200 on the first pass of public
11 policy institutes. So we narrowed that to look at some
12 of the better known, some of the larger organizations,
13 those with a wide enough focus to include equal justice
14 issues, and a range of those from different portions of
15 the political spectrum.

16 So we have a recommendation to you. My memo on
17 it is on page 83. A little information on each of the
18 organizations follows following that. We have a
19 recommendation to you of seven public policy institutes
20 that you might consider inviting to participate in the
21 Corporation's activities.

22 One of the discussions, I believe, that

1 actually happened after the committee meeting in
2 September was that rather than just asking people to come
3 give some comments at a Finance Committee meeting about
4 what the budget request should be, perhaps we should
5 invite these people to participate in more of the
6 activities of the Corporation, more of the meetings of
7 the board, so they had a better foundation perhaps in
8 what we do and what the needs are before they are
9 actually asked to come give a recommendation on a budget
10 request.

11 Therefore, the suggestion here is that in
12 addition to inviting them to any appropriate Finance
13 Committee meeting to consider a budget, that we invite
14 them to the annual meeting in January to hear what is
15 going on.

16 I don't know whether it would be an appropriate
17 place for them to participate or not, but if so,
18 certainly under public comment if nowhere else, they'd be
19 authorized to do so, but that an invitation be extended
20 to these seven public policy institutes to participate.

21 CHAIRMAN McKAY: Well, I want to thank you very
22 much for your memo and for the collection of web pages,

1 which I read through and found very helpful. It
2 reflected a breadth of experiences and philosophies,
3 which I think is good.

4 While many of us agree with this idea, Mr.
5 Fuentes was the first one to raise it. And I'm wondering
6 if we might want to begin with Tom. Did you have any
7 questions or comments on this subject before we open it
8 to others?

9 MR. FUENTES: No. Go right ahead.

10 CHAIRMAN MCKAY: Thank you. So I think it's a
11 great idea, but I do ask what other members of the
12 committee feel about the subject itself and the groups
13 which have been proposed, which is not necessarily
14 exclusive. Questions or comments?

15 MS. BeVIER: Mr. Chairman, I think it's a
16 wonderful idea. It's part of our strategic plan, I
17 think, to make what LSC does and the needs that it is
18 attempting to fulfill part of the public consciousness.
19 And I think this is part of it, and that these
20 organizations are -- I think all of them, from their
21 various political perspectives, are thoughtful and
22 engaged.

1 And I think it would be wonderful if all they
2 did was come to our annual meeting and see something of
3 how we work and what we do. So I'm completely in favor
4 of inviting them.

5 CHAIRMAN McKAY: And when we extend the
6 invitation, do we envision -- as Charles mentioned, of
7 course they can come in at public comment. Should we
8 just leave it at that, or should we carve out time either
9 on this agenda, this committee's agenda, or another's in
10 the January meeting?

11 MS. BeVIER: Well, I think they should be
12 invited -- my own view is they should be invited to the
13 January meeting. We should make an effort to welcome
14 them. But I don't think they should be given any
15 particular place for input that is not available sort of
16 generally to the public. This is sort of the beginning
17 of perhaps an outreach or an experimental program, and I
18 don't think we should sort of jump in with both feet.

19 CHAIRMAN McKAY: Very good. Thank you. Any
20 other questions or comments?

21 MR. FUENTES: Well, Mr. Chairman, I would
22 comment here that my intent is to make this something

1 substantive and not something hollow. And we certainly
2 don't want to do less than give them the same forum than
3 the two organizations that are troubling to me as the
4 inception of this concept, that we have had two
5 organizations from the left.

6 We should have other organizations from the
7 center and the right and other perspectives to be
8 offering their opinions in a forum equal to those who
9 have been repeatedly given a voice, a microphone, and a
10 significant influence in the direction of this
11 organization.

12 So I think we need to do better than offer them
13 a folding chair.

14 CHAIRMAN MCKAY: Herb?

15 MR. GARTEN: I have no problem in issuing
16 invitations to these organizations. But at the same
17 time, we've got to realize the importance and
18 effectiveness of the ABA and the national conference.
19 And to move ahead on this without giving additional
20 thought, without hearing from our two principal allies
21 over the years to their opinions with regard to this, I
22 think we'd be moving things along too fast.

1 CHAIRMAN McKAY: And I guess what I'm
2 envisioning, what I thought I heard Lillian say, was at
3 the January meeting, as we do with our friends at the bar
4 association and NLADA and other groups, they're welcome
5 to participate in the public comment section.

6 But we're looking ahead to the September
7 Finance Committee meeting when we do have slots open for
8 everybody. And that would include not only those who
9 regularly attend, but also the newer groups that might
10 want to speak to us.

11 So what I would envision -- and I agree with
12 Tom's comments -- will be equal treatment for everybody.
13 But I'm not entirely sure we want to carve out some slots
14 for our January meeting for really anybody. It would be
15 just a public comments area.

16 And then in September, for the Finance
17 Committee meeting, it would be true carving out of
18 invitations and carving out time for everybody, including
19 our regular participants as well as those that want to
20 join in.

21 MR. GARTEN: But there may be a dozen other
22 organizations that should be included in any list. And

1 there's a limit as to how many people we want to invite
2 and hear from.

3 CHAIRMAN McKAY: Well, then, I think that will
4 be our job as a committee to decide if -- I see that as
5 an opportunity and not a problem. If we have a dozen
6 that want to talk to us, then great. And if we don't
7 have the time, then that's when we have to figure out how
8 we're going to carve back.

9 But I don't think that's been a problem up till
10 now. And I think the issue has been that we've had a
11 limited number of folks talking to us rather than the
12 opposite. So I'm assuming you're not opposing to hear
13 from other groups.

14 MR. GARTEN: No.

15 CHAIRMAN McKAY: And, you know, the Finance
16 Committee meeting, let's face it, in September we worked
17 for a couple or three hours at the most. If it ends up
18 being a day-long meeting, I can certainly live with that.

19 MR. GARTEN: I'd like to have some comments
20 from staff on this.

21 CHAIRMAN McKAY: Okay. Very good. Yeah. Now
22 or --

1 MR. GARTEN: Fine.

2 CHAIRMAN MCKAY: Sarah?

3 MS. SINGLETON: My comment doesn't go to the
4 substance of the idea of inviting people. I'm just
5 questioning the limitation of who we're inviting to be
6 public policy groups, which is fine. I don't object to
7 inviting them.

8 But it seems to me there ought to be some
9 people, actually on both the right and the left, who give
10 particular thought to things that impact low income
11 people, and that that's who we ought to be soliciting to
12 come talk to us.

13 What's the best policy way to improve, you
14 know, legal services or access to justice for low income
15 people? And I'd like to -- I don't know how you find
16 those groups, but I'd like to hear from them.

17 MR. GARTEN: My understanding originally, when
18 Lillian opposed this, and I'm very much in favor of
19 outreach, was that we intended to allow these
20 organizations to know what we're doing. And by issuing
21 an invitation to them so that they can observe what we're
22 doing, we'd be accomplishing something worthwhile.

1 What I'm hearing from the discussion today is a
2 more formalistic approach to this. And I'm not ready to
3 come to a decision on it. And I think we ought to get
4 some reports from staff, and I also would like to hear
5 from NLADA and ABA as to how they view the process. I'm
6 not saying we should do that today, Mr. Chair.

7 CHAIRMAN McKAY: Yes. Yeah. I'm just trying
8 to envision what we want to do for January. And I think
9 right now we're talking about extending an invitation for
10 people to come. I thought I heard Tom saying that he
11 wanted everyone to be treated the same. And what I
12 envision is exactly that for the January meeting.

13 But we're looking ahead to the September
14 meeting, which we have time to plan for. And unless I
15 hear an objection from Tom to simply extend an invitation
16 to the folks listed here and anyone else we want to
17 invite -- obviously, it's a public meeting -- but this is
18 getting the ball rolling.

19 But we're not carving out time for anybody,
20 again, unless we hear an objection from Tom. But we're
21 looking ahead to the September meeting where we might be
22 more formalized in our approach.

1 MS. SINGLETON: Are we inviting them to our
2 committee meeting or to the whole board meeting?

3 CHAIRMAN McKAY: Well, for the meeting in
4 January, everything. Yeah, whatever they want to attend,
5 just like anybody else.

6 Tom, is that all right with you?

7 MR. FUENTES: I think that moves in the right
8 direction. I am concerned that this does not lose its
9 direction, and that this is not, as Herb has said, an
10 opportunity to necessarily inform these groups, but
11 rather for us to be informed by what they bring to us
12 because we have had a limited source of invitation from
13 one perspective, the bar and the NLADA, who have an
14 agenda by virtue of their insider role.

15 And I want to see us have broader
16 constituencies share with us their perspective. And to
17 Sarah's comment, I respectfully say that yes, fine, let
18 us hear of those who are interested in the role of the
19 poor in America. But let us hear also from a
20 constituency called the American taxpayer and those who
21 represent them by voice and thoughtful reflection to
22 share with us.

1 There are lots of constituencies out there that
2 we should be including in our thought process and our
3 evaluation. It's too much an insider's game.

4 MR. GARTEN: Well, I think that can be
5 accomplished separate and apart from board meetings or
6 meetings of the committee. Just as I understand you had
7 a visit with one of the organizations, and perhaps you
8 ought to report on that. I'm addressing Lillian.

9 MS. BeVIER: I thought I already did report on
10 it. I actually haven't done anything else since because
11 I think this was taken under advisement. It's gotten a
12 little bit beyond what I think originally was the thought
13 that sort of drifted its way out onto the table in terms
14 of the formalizing of it and what it is that is entailed.

15 But this is -- from my point of view, it's a
16 combination of both us hearing other points of view than
17 those we customarily get and of us making sure that the
18 people who have some perhaps suspicions of what it is
19 that LSC does -- this is not in the context of sort of
20 general open debate. It is in a context of an important
21 and I think sometimes fractious political history of the
22 Legal Services Corporation.

1 And I think that what the board is trying to do
2 now and what the Corporation is trying to do now is
3 important for people who have been skeptical of the
4 mission and of the way the mission is accomplished. It's
5 important for them to hear it. That was the initial
6 thrust of this.

7 And I understand broadly while we want to
8 spread the -- and I'm perfectly happy to spread, you
9 know, the invitation broadly. But I think it's important
10 to understand what the impetus was. It's both to inform
11 us of other points of view than those we customarily hear
12 and to inform more broadly the skeptics about what we do,
13 about what we do and why we do it and how we do it.

14 So I'm rather agnostic about how we proceed.
15 But I think it's important to keep that genesis of this
16 idea in mind.

17 CHAIRMAN McKAY: And my recollection of the
18 genesis is a little different, if I understood what you
19 just said, because it was a year ago last September when
20 Tom raised the question, why are we just hearing from
21 these groups? And he said, and I agreed, that it would
22 be helpful for us when we make the decision what our

1 budget mark should be when we hear from other groups.

2 And I do believe there's an ancillary benefit
3 when they participate in that session and listen to us in
4 others, that they get a better understanding of what
5 we're doing as well. But I thought the genesis was, why
6 aren't we hearing from other groups at that September
7 meeting? And I thought that's what we were leading
8 towards.

9 I think we have time to address that issue
10 because it sounds like we're not all in agreement. But I
11 think we can talk amongst ourselves. But I guess at this
12 point I'm wondering if we could at least agree that we'd
13 extend an invitation to these groups, and any others that
14 members of the committee or the rest of the board would
15 propose, to come to our meeting to listen.

16 We could visit with them between meetings.
17 They can participate in the public comment section just
18 like anybody else. And have us continue to really think
19 in a more forthright way about who we invite and who we
20 listen to at the September meeting because we'll have
21 time to do that.

22 MR. STRICKLAND: Mr. Chairman, I would endorse

1 the concept you just suggested. And Lillian, correct me
2 if I'm wrong, but one of the reasons why you -- I recall
3 that you visited a particular organization, didn't we
4 receive a letter from that organization that seemed to be
5 operating on old information about LSC, and that perhaps
6 prompted your meeting?

7 MS. BeVIER: Yes. That was --

8 MR. STRICKLAND: By "old," I mean outdated.

9 MS. BeVIER: Yes. That's correct. And that
10 was one of the reasons that helped to prompt it. So I
11 think that's right. There was a lot of reason to think
12 that a lot of skeptics had been proceeding on old
13 information about the board -- about the Corporation.

14 MR. GARTEN: My recollection was -- and I can
15 be corrected on this one -- was that in fact, Lillian and
16 I were supposed to make a visit. We offered to visit
17 with a particular organization and bring them up to date
18 on what LSC was doing. Is that close to what --

19 MS. BeVIER: Well, I don't know. This is --
20 I'm glad I'm not married to any of you because if you try
21 to have these who said, I said, she said, we said, it's
22 not going to get anywhere.

1 MR. GARTEN: I don't think we had a discussion
2 with regard to inviting them to any meetings. They were
3 selected --

4 MS. BeVIER: I thought we did at the last
5 meeting. I thought that was what we --

6 MS. SINGLETON: It was at the committee
7 meeting, the Finance Committee meeting.

8 MS. BeVIER: Was it?

9 CHAIRMAN McKAY: Correct.

10 MS. SINGLETON: In Washington, I thought.

11 CHAIRMAN McKAY: Yes. Yes. It sure sounds
12 like we need to work on this a little more amongst
13 ourselves between the meetings. We don't need to resolve
14 this issue now as to what we're going to do next
15 September.

16 I'm wondering if we could at least agree that
17 we will invite these organizations to our next meeting,
18 unless someone wants to either add or subtract names, and
19 then let us kind of work on this issue between the
20 meetings. And then we'll readdress this meeting at our
21 next Finance Committee meeting in January.

22 MR. GARTEN: It's agreeable to me.

1 CHAIRMAN McKAY: Okay. Then we'll do that.
2 Thank you again for your report. We will -- this is a
3 beginning of a process, and we don't know what the end
4 result is going to be. But we'll start working on it and
5 we'll address it again in January. Thank you.

6 Before we return to item 10 on the agenda, is
7 there any other business that the committee wants to
8 address?

9 (No response.)

10 CHAIRMAN McKAY: Thank you. Let's return then
11 to item 10 on the agenda. That's consider and act on
12 recommendation to the board to establish an audit
13 committee or assign audit committee functions to the
14 Finance Committee. Mr. Fortuno, Mr. Jeffress, and Mr.
15 Merryman.

16 And I met with some of you ahead of time and
17 asked if perhaps you, Vic, could begin this discussion by
18 reminding us this was an issue that was raised by the GAO
19 report, and it's something that we -- it's a best
20 practice issue.

21 And this is really just a beginning of a
22 discussion. We're not going to conclude anything today.

1 I want to remind the committee as well that I spoke with
2 Nancy Davis, our outside auditor, who intends to present
3 this issue to us in a more formal way in January.

4 But we thought it was important that we begin
5 thinking about the additional functions that need to be
6 addressed. And then, of course, the final question is:
7 Is it something that the Finance Committee should take
8 on, or should a new audit committee be created? And our
9 chair has assigned that task to us to come back with a
10 recommendation to the board.

11 So this is a beginning of a discussion which we
12 won't complete today. And we'll do it with the time that
13 we have remaining. Thank you. Vic.

14 MR. FORTUNO: We did provide some reference
15 materials. I think they start at page 47 of your board
16 book. And what we hoped to do was to drive home the
17 point that while the differences may not be readily
18 apparent, that in fact there are differences between what
19 is commonly thought of as a finance committee and what is
20 commonly thought of as an audit committee.

21 I think this may be a gross over-
22 simplification. But I think the former, that is finance

1 committee, is focused on budgeting, investment policies
2 in cases where there is such, and the approval of
3 expenditures.

4 I think that the audit committee is more
5 focused on the review of those expenditures, and how
6 things are accounted for, and the safeguards in place,
7 the procedures in place. I think that the audit
8 committee provides oversight over the organization's
9 accounting and reporting policies.

10 It may oversee a broad range of other things,
11 including matters like governance and ethics, the ethics
12 code and implementation of an ethics code, and as I
13 mentioned, the adequacy of internal controls. It can
14 also address issues like compensation issues for
15 executive staff, which I think is something that the GAO
16 report recommended be addressed as well.

17 And the differences are sometimes subtle, but
18 they're real nonetheless. And I think some organizations
19 have both a finance committee and an audit committee.
20 You don't have to have two. But certainly there are
21 functions that are generally thought of as audit
22 committee functions, which if you don't have an audit

1 committee, you might want to think about adding those to
2 the functions that the finance committee has.

3 And one of the things that I think would be
4 done is attention given to the charter, so that whether
5 you have two separate committees or one committee with
6 responsibility in both areas, you have a charter which
7 makes clear what the responsibilities are of the two
8 committees, if there are two, or of the one if you have
9 just the one.

10 I don't know -- you have the background
11 materials, and I thought that I would just, maybe with
12 that quick introduction, see if there are any questions
13 or see if the others on the panel here would like to say
14 something.

15 CHAIRMAN McKAY: Hear from the rest of the
16 panel first.

17 MR. JEFFRESS: I'll limit my comments to three
18 points in addition to Vic's, endorsing what he said
19 absolutely. One, in terms of this board's consideration
20 of issues, the compliance plan, code of conduct, has been
21 before the Operations and Regulations Committee.

22 That would, I think, be considered an ethics

1 kind of issue that might conceivably be an audit
2 committee responsibility. So if the Finance Committee
3 were to take on the audit committee responsibilities,
4 you'd have to think about where you wanted that
5 compliance plan oversight to be.

6 In addition to the issues that Vic mentioned,
7 there are a couple other issues that audit committees
8 often have responsibility for. First is any kind of
9 whistleblower oversight, whistleblower rules or policy
10 that the Corporation may have.

11 And the other would be records protection, that
12 is, how our records are managed in the Corporation. What
13 happens to them? What do we do to make sure they're
14 preserved, if necessary?

15 The third and final point, and Dutch really
16 should speak more to this, is about the audit function.
17 In federal agencies, the CFO Act assigns that function to
18 the inspector general. In corporations without
19 inspectors general, obviously it's the board's
20 responsibility, and the board determines who is going to
21 do the audit and reviews the audit.

22 Since we're a hybrid, I don't know, Dutch,

1 whether there has been any review of other public
2 corporations that have IGs, how those audits are handled.
3 But you might want to look at that because I think that
4 is -- continues to be an issue for us, is what role the
5 board plays in the audit function and how much can be and
6 should be delegated to the inspector general.

7 CHAIRMAN McKAY: Thank you. Dutch?

8 MR. MERRYMAN: Thank you. In addition to
9 what's been said, I do want to try to clarify a little
10 bit on Vic's comments. Such things as like the finance
11 committee would oversee the administration, collection,
12 and disbursement of the financial resources of the
13 organization --

14 MR. FUENTES: Microphone, please?

15 MR. MERRYMAN: How's that? Is that better?

16 MR. FUENTES: Thank you.

17 MR. MERRYMAN: Where the finance committee
18 would look at the administration of the financial
19 resources of the organization, like Vic had indicated,
20 the audit committee usually takes the internal control
21 aspect. Are things in place? Are policies being
22 followed? Are things being done that need to be done?

1 While the finance committee actually looks at the
2 administration of the finances of the organization.

3 We have done some research, and one example
4 that we found of the IG not being required by law and not
5 handling the external audit is in the Corporation for
6 Public Broadcasting. That seems to be the only
7 exception.

8 The legislative history recently is as
9 organizations, government entities, federal corporations
10 have come up, their legislation has been put into similar
11 language as the CFO Act, which indicates that the outside
12 auditor is selected by the IG, but if no IG is assigned
13 to that organization, by the head of the organization.

14 That would be an essential element of the audit
15 committee, would be to, under normal circumstances,
16 evaluate, select, and deal with the external auditor. So
17 just amplifying a little bit what the other two panelists
18 said.

19 CHAIRMAN McKAY: Thank you. And before I open
20 it up to the committee, I just want to share some of my
21 thoughts. I've spent some time talking to staff and read
22 not just the materials that are in our binder; there are

1 additional materials that I received because I just
2 didn't want to swamp the committee. But I read all of it
3 as well. And I just want to let you know, and I've
4 talked to Tom Meites, our ops and regs chair, about this
5 issue as well.

6 I am concerned about -- and I certainly haven't
7 made a decision. But I'm concerned about all the things
8 that the audit committee is supposed to take on and
9 whether or not the finance committee should be taking
10 that on. And I say that -- it's not just because of
11 these other -- the recitation of things that an audit
12 committee should be doing.

13 But we didn't get into it in ops and regs, but
14 as Vic and Charles have mentioned, we do have a
15 compliance plan that we're starting to talk about. And
16 when we finally get into it, we're going to be told that
17 a good, vibrant, successful compliance plan requires
18 clear communications from the president, from the
19 chairman of the board; that this stuff, a code of ethics,
20 is very important, and that a committee of the board will
21 exist to deal with code issues and compliance issues.

22 And so that's another layer of responsibilities

1 that would, if it's part of the finance committee, would
2 be part of the finance committee. So I want to invite
3 the committee's attention that out on the horizon is a
4 lot of issues that -- a lot of functions, I think that
5 the audit committee would be -- or that fall within the
6 parameters of the audit committee. And I am initially
7 worried about whether or not it's something the Finance
8 Committee can take on.

9 I want to let you know that I -- remind you all
10 that I spoke with Nancy Davis. She's going to be
11 speaking to us in January. She's going to give us a
12 report ahead of time. It'll be in the board book. And
13 I'm hoping it'll include at least an initial kind of
14 recommendation, something a little more meaty for us to
15 get into, although this is a very good way to begin to
16 till the soil on this very important issue.

17 So having said that, I open it up to the
18 committee for questions and comments. Herb?

19 MR. GARTEN: I thought whoever put together
20 that matrix did a fine job.

21 CHAIRMAN McKAY: Your mike.

22 MR. GARTEN: Tom, I'm with you. I thought that

1 whoever put together that matrix did a fine job. But I
2 question whether -- we've got ten pages of questions and
3 responsibilities, some of them taking days and days of
4 time and committees -- is something that is really
5 relevant to an organization like this.

6 And I would like to see staff take another look
7 at that matrix and refine and really bring it and boil it
8 down to what could be reasonably expected of an audit
9 committee or a finance committee.

10 MR. FORTUNO: I think that some of the salient
11 functions have been identified -- that is, the code of
12 conduct or the ethics code, having one in place and
13 showing compliance with it. Being the body that receives
14 information and investigates, reviews, and resolves
15 issues like that is going to be a salient point.

16 I think you will also need to decide the issue
17 of the audit, that is, selection of an auditor. There
18 was a time when the board would select the auditor.
19 There came a time when that function was transferred to
20 the IG. You would presumably have to make a choice
21 whether to continue that practice, or whether you wanted
22 to have the function turned back to the board. And if

1 so, then that would go to the audit committee as well.

2 I think there are salient functions of an audit
3 committee that are easy enough to identify which we can
4 come back to you with. This was intended to be just kind
5 of general background, general reference, so as to not
6 narrow things too much for you just yet, but certainly
7 with the expectation that at some point you would look to
8 us to help narrow that some.

9 CHAIRMAN McKAY: Thank you. Tom?

10 MR. MEITES: As we can see today by the length
11 of the Finance Committee meeting, that committee is
12 already stretched, I think, about as far as we can ask it
13 to be.

14 MR. FUENTES: Microphone, please.

15 MR. MEITES: Yeah. And second, I think that
16 the audit committee, to some extent, reviews the work of
17 the finance committee, and in that capacity, obviously
18 should be a separate entity.

19 So I would lean towards thinking about it as a
20 separate committee. It can be quite small, and I don't
21 see it necessarily having a meeting at every one of our
22 board meetings. But nonetheless, I would at least

1 initially look at it as a separate entity we would
2 create.

3 CHAIRMAN McKAY: Thank you. Other questions or
4 comments? This has been a good start. I do appreciate
5 your collectively gathering these materials. And I think
6 Herb made a very good point. I think it's great if we
7 could get you to distill it just a bit, reduce it just a
8 bit, make it more appropriate for us.

9 But I think at my request, you went out and
10 found some stuff that had been generated by different
11 entities, and we recognize it was more generic. But
12 appreciate your initial effort and look forward to your
13 next product as we move along on this journey.

14 Thank you very much. Hearing nothing more on
15 this subject, at least for today, and we'll go into this
16 in more detail in January when we hear from Nancy Davis.

17 It's time for public comment. Are there
18 questions or comments from the public that's in
19 attendance today? Public comment from anybody? Yes?

20 MR. SAUNDERS: Very, very brief, Mr. Chairman.
21 I'm Don Saunders. I'm the director of civil legal
22 services for the National Legal Aid and Defender

1 Association. Sorry, I stepped out of the room real
2 quickly.

3 If I could just comment very briefly on item
4 14. And I know you're going to come back to it. I just
5 want to suggest to you that certainly we might play an
6 inside role, but that's because of our deep and abiding
7 support for the mission of the Legal Services
8 Corporation.

9 I think this committee and this board have done
10 so much to signal your support for the mission that we
11 share with you to the field and to the community that I
12 would just urge you to be careful in terms of how you
13 characterize this solicitation.

14 Certainly I really support what Ms. BeVier is
15 saying about trying to educate organizations, whatever
16 political stripe they might have. But I also recognize
17 that there is a fractious history, certainly one we all
18 know, unfortunately a partisan one in many times.

19 And the one thing that -- enduring comment I
20 think that the chairman of the board has always said is
21 you don't know who's a Republican and you don't know
22 who's a Democrat on this board. You have worked together

1 brilliantly.

2 As you begin to engage in communications with
3 organizations that have for decades opposed your very
4 existence, I think it's important that you state that in
5 a way that underscores the fundamental mission that this
6 committee, more than anyone else, through your strong
7 support in Congress has signaled.

8 At the same time, you can talk about reforms.
9 You can talk about a different vision. But I hope you
10 approach it in a way that underscores your fundamental
11 commitment to the legal needs of the poor rather than
12 trying to suggest somehow because of the narrow input you
13 have had during your discussions about funding that
14 somehow there's something wrong with it.

15 I mean, really, it's great to bring in folks.
16 It's great to educate them. But when we start talking
17 about responsibilities, I would just urge you to keep in
18 mind -- keep your eye exactly where it's been.

19 I understand the inside role we may play on
20 behalf of your grantees. But I just felt it important to
21 say that for the record. And I appreciate your time.

22 CHAIRMAN MCKAY: Thank you very much.

1 Any other questions or comments?

2 (No response.)

3 CHAIRMAN McKAY: Item No. 17, consider and act
4 on adjustment. Do I hear a motion?

5 M O T I O N

6 MR. MEITES: So moved.

7 CHAIRMAN McKAY: Second?

8 MS. BeVIER: Second.

9 CHAIRMAN McKAY: All those in favor?

10 (A chorus of ayes.)

11 CHAIRMAN McKAY: Opposed?

12 (No response.)

13 CHAIRMAN McKAY: We're adjourned. Thank you.

14 (Whereupon, at 2:39 p.m., the committee was
15 adjourned.)

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