Monday, April 15, 2013
3:40 p.m.

Legal Services Corporation
McCalpin Conference Center
3333 K Street, N.W.
Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:
Robert J. Grey Jr., Chairperson
Sharon L. Browne
Laurie Mikva
Martha L. Minow
Father Pius Pietrzyk, O.P.
Robert E. Henley Jr. (Non-Director member)
Allan J. Tanenbaum (Non-Director member)
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:
Charles N.W. Keckler
Victor B. Maddox
Julie L. Reiskin
Gloria Valencia-Weber
STAFF AND PUBLIC PRESENT:

James J. Sandman, President
Rebecca Fertig, Special Assistant to the President
Lynn Jennings, Vice President for Grants Management
Katherine Ward, Executive Assistant, Office of Legal Affairs
David L. Richardson, Comptroller and Treasurer, Office of Financial and Administrative Services
Jeffrey E. Schanz, Inspector General
Carol Bergman, Director, Office of Government Relations and Public Affairs
LaVon Smith, Office of Information Management
Eric R. Jones, Office of Information Technology
Herbert S. Garten, Non-Director Member, Institutional Advancement Committee
Frank B. Strickland, Non-Director Member, Institutional Advancement Committee
David H. Hoffman, Non-Director Member, Audit Committee (Sidley Austin) (by telephone)
Jeanne Philips-Roth, Associate Director for Client Services, Legal Services of Eastern Missouri

Don Saunders, National Legal Aid and Defenders Association (NLADA)
Terry Brooks, American Bar Association
Dominique Martin, Law99.com
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Motions: 4, 4, 14, 31
CHAIRMAN GREY: I'd ask for approval of the agenda, please.

MOTION

FATHER PIUS: So moved.

DEAN MINOW: Second.

CHAIRMAN GREY: It's been moved and seconded.

All in favor say aye.

(A chorus of ayes.)

CHAIRMAN GREY: Opposed, no.

(No response.)

CHAIRMAN GREY: I would also ask for approval of the minutes from the January 26, 2013 meeting. Is there a motion?

MOTION

FATHER PIUS: So moved.

DEAN MINOW: Second.

CHAIRMAN GREY: All in favor say aye.

(A chorus of ayes.)

CHAIRMAN GREY: Opposed, no.

(No response.)
CHAIRMAN GREY: Thank you.

Mr. Treasurer.

MR. RICHARDSON: Agenda item 3 is to consider and act on the Consolidated Operating Budget. This material was not originally in your materials because we've been working with OMB and the Treasury on our funding as a result of the Consolidated and Further Continuing Appropriations Act of 2013.

And just to provide a little background, we received a CR this year. The CR was last year's funding plus .612 percent. And that ran through March 27th.

However, because there was not a full year appropriation in place and because of the appropriation process, there was a 5 percent rescission that took effect on March 1st. Later in April, we did get the Appropriation Act, which provided us with a $365 million appropriation.

However, it did keep the sequestration in place. But before we applied the sequestration, we had to apply a 1.877 percent rescission. And then on top of that, because they didn't get enough of a cut, they
implemented a second rescission of .2 percent.

CHAIRMAN GREY: "They" is? "They" being?

MR. RICHARDSON: Congress. What I have done with the memo is laid out where we were budgetary-wise in January. At the board meeting, you approved a budget of $364,790,000. The budget that is now before you, because of the funding, is reduced to $355,343,000.

I have laid that out further in the spreadsheet in the back. And it does show the appropriation that we received, which was 365 million. We added to that a million dollars for the Hurricane Sandy disaster relief funds, and then we also added to that the U.S. Court of Veterans Appeals, which we're a pass-through for.

So the first column shows, without any of the cuts, a $368,726,000 amount. The rescission, the 1.877, reduced our spending by $6.9 million. The 2 percent cut reduced it an additional $721,000, 722 rounding.

FATHER PIUS: That's .2 percent, not 2 percent?
MR. RICHARDSON: Point 2 percent. And then the sequestration was based on the CR funding, which was the 350 million. So it goes back to the funding we had through March 27. And that was the $17,692,800.

So the total funding from Congress this year, the pass-through with the U.S. Court of Veterans Appeals, and the hurricane supplemental, is $343,409,000. We add to that the carryover, which was $11,900,000. And the budget that's before you is $355,343,000.

In addition to that, coming to you today, each quarter we look at our operating experience. We look at the expenditures for the period so that we have enough time for our directors to do their review and project. We stopped and did it based on January.

They then projected their spending for the eight months. As a result of that, we have a couple of small adjustments and one not-so-small in regards to the funding.

Page 2 lays out that there was an additional amount needed for a temporary employee pay to basically fund an agency hire that supports the President and the
Vice President for Grants Management and the two
special assistants. This is needed because the
executive assistant for the area did depart from the
Corporation, resigned in March.

CHAIRMAN GREY: David, let me suggest this to
you. I want to make sure we've got time for questions,
but also get us out of here in time to do what we need
to do for preparation for the next item on our
calendar.

So on these items, I think we've read these
things. I think it would be helpful for us if you
pointed out anything that you consider extraordinary,
not ordinary, and then allow us to act on this
accordingly.

MR. RICHARDSON: Okay. At the bottom of page
2 is the only one that I would really call to your
attention, and that is the Office of Program
Performance. There's $50,000 that was moved within the
budget to account for some additional temporary
employees. And all of this money is covered within the
budget.

There's additional money needed for visits,
and the $70,000 that was needed there is available from
the personnel compensation line because of the open
positions that we have. And basically the same thing
in the Information Technology, a realigning of the
budget with the new director to his priorities to be
able to do the spending that he needs for the year.

There is no adjustments for the Inspector
General. They go through the same process of review
and projecting. So what we have before you then is the
Consolidated Operating Budget and Special Circumstance
Operating Authority.

The reason that I have labeled it as such,
when we did this there was discussions that there may
be a small amount of money that could be added back to
our budget. We've certainly gotten information since
that time that we're not going to get an add-back.

The amount of money that is shown for the U.S.
Court of Veterans Appeals, I have based that on what we
have done in getting our money together. I have
contacted the U.S. Court of Veterans Appeals. They've
not responded to what the final funding for the year
is, so there may be a small adjustment there.
So this just gives us authority to come back to, Mr. Grey, as Chairman of the Committee, and John Levi to approve that within our budget cycle. So I ask that you consider the adoption of this resolution.

CHAIRMAN GREY: Any comments? Father Pius?

FATHER PIUS: Just a question. Obviously, in terms of our own MG&O account, it looks like what we're doing is we're taking the cut entirely out of the contingency funds. But it's not clear, looking at it immediately, that that's what we're doing.

Just the thought behind that, and should we make the accounting a bit clearer that we're taking this hit not from the operating part, essentially, but we're just taking the contingency and replacing anything that was lost in the cutbacks with whatever was in the contingency funds? Because I think that's what we're doing.

MR. RICHARDSON: Yes, it is. When we look at --

FATHER PIUS: And should we account for that much more explicitly?

MR. RICHARDSON: Well, when we look at
Attachment A, you'll see that the MG&O budget, the 17 million in the carryover, was reduced. We have 2.4 million.

Originally we had carryover or money of 5.8. We still do. But 3.1 of it was from -- we put in the contingency. We've subtracted that, so when you look at 2 through 6, you'll see -- actually, when you look at 5 and then you subtract, we've subtracted $1.2 million from the MG&O contingency line to come up with the new balance for the contingency of $1.9 million.

We've done the same thing in IG. So tried to make that clear, but yes, it is coming completely out of our contingency funds at this point.

FATHER PIUS: Because at first I was looking at it thinking, why isn't MG&O being cut? Everything else is. And then it took me a little bit to realize.

But we are. We're not putting in that line item; we're taking it out of the contingency line item. So it just struck me as a little odd at first until I figured out what was going on.

CHAIRMAN GREY: I think Father Pius raises a good question. Maybe one of the ways, David, that we
can do that is in the narrative, to make that explanation clear, as opposed to learning about it by looking at the numbers. That would then support the review of schedule A more clearly, I think.

MR. RICHARDSON: Yes.

CHAIRMAN GREY: Do you agree?

FATHER PIUS: Yes.

MR. RICHARDSON: I will do that.

CHAIRMAN GREY: Alan?

MR. TANENBAUM: Just a question about the -- we took $50,000 in the Office of Program Performance. We found it because of the delayed hiring and the open positions. And the money was essentially used to hire temporary folks to deal with grant applications and some of the recommendations made by the consulting group.

Is it reasonable therefore to believe in that next year's budget, we will have that $50,000 additional cost in next year's budget to review these temporary applications? And if these open positions are filled, we're going to be expecting to see $50,000 more in the budget proposal from Office of Program
Performance?

PRESIDENT SANDMAN: I can answer that question. Yes, assuming that the Office of Program Performance continues to operate in the way it currently does. But we have a reorganization plan in the works. So what the relative staffing is between the Office of Program Performance and the Office of Compliance and Enforcement and the Office of Information Management is all subject to change.

But this is additional expense, the $50,000, compared to the status quo, to implement the recommendation of the consultants that we bring more eyes to bear on the applications, that they not be reviewed simply by the single person in the Office of Program Performance who is also the liaison to the program whose application is under review.

MR. TANENBAUM: One other question. Is it reasonable then to presume that this reorganization will result in efficiencies that you won't have that, or that we'll just be doing economic efficiencies so we won't have that extra money? Or is it that it'll become reorganized so that we'll do a better job but
still have those expenses?

    PRESIDENT SANDMAN: I think the answer is it's too soon to tell. I do think we need some realignment of responsibilities. I think that we do need to beef up our fiscal capability; what the cost of that will be and what the tradeoffs might be, we haven't finally decided yet.

    CHAIRMAN GREY: There is a recommendation by the Treasurer for the adoption of the resolution that's contained in your materials by the Committee to the Board. Is there a motion?

    MOTION

    MR. TANENBAUM: So move.

    DEAN MINOW: Second.

    CHAIRMAN GREY: All in favor of recommend the resolution as proposed say aye.

    (A chorus of ayes.)

    CHAIRMAN GREY: All opposed say no.

    (No response.)

    CHAIRMAN GREY: Thank you.

    Mr. Treasurer.

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MR. RICHARDSON: The next item is the report on the February spending that's found on 141 through 144 in your book, and actually, the charts that are attached.

To be expedient, let me just say that there is nothing out of the ordinary here. Spending is consistent from month to month. What I have seen, and I reported on our telephone call, is the spending has started increasing slightly.

In October, we had $1.28 million in spending. In November, it was 1.29, almost 1.3. December was 1.27, down because of light travel during the holiday season. And then January it went to 1.36, and in February it's 1.36. So we do see our spending trending upward a little bit because of the additional hires, being on the road a little more, and being out visiting our grantees.

We are well within budget, as the report shows. We currently have variances in each line under budget, which is good for us. And I'll be glad to answer any questions that you may have.

CHAIRMAN GREY: Alan?
MR. TANENBAUM: Yes. I had one. If all of the open positions were filled, we would then be moderately over budget?

MR. RICHARDSON: No. Even with the sequestration and the cuts, we have enough money this year with our carryover that we would not be over budget. The future, though, is where our problem is going to be.

Once we start staffing up, if we don't get additional money back, then later I think we have enough money for next year. We should be able to ramp up and do okay. The year after that is when I project we'll have a problem with staffing and the amount of money that we have for MG&O operations and being able to support the full staffing load that is currently proposed.

CHAIRMAN GREY: Other questions?

(No response.)

CHAIRMAN GREY: David, thank you very much. I'll ask Carol Bergman from the Office of Government Relations and Public Affairs to report on 2013 appropriations.
MS. BERGMAN: Thank you very much. Hopefully I can provide a little clarity on where things are at between FY '13 and FY '14.

So as Dave mentioned, we finally have a final budget for the current fiscal year, 2013. The second CR that was passed on March 26 included, as Dave mentioned, the 365 million for LSC. It would be annualized over the year. That's the number prior to the sequestration and the two rescissions.

And the number matters between it's the midway point between the House Appropriations Subcommittee and the Senate Appropriations Subcommittee from last year. So if things had moved in regular order and there had been a bill passed by October 1st, we would have gotten the midway point between those two -- that's the 365 -- with the Senate having started with the White House ask last year of 402.

So it's a very positive number. It gets reduced to the number we're facing now on the annualized basis, which is 340.8, because of the 5 percent sequestration. The two rescissions, the 1.877 that Dave referred to, was across the board for the CJS
subcommittee under whose jurisdiction LSC falls.

The .2 percent rescission was across the board to bring the numbers of the Senate appropriations bill in line with the House appropriations bill. This is the way the House and Senate leadership were trying to move forward on the final CR right before the spring recess.

That conversation about a credit or not had to do with whether or not an agency's final number under the second CR after the sequestration and first rescission was higher or lower than the number in the first CR for the first six months.

And since our number at the 340.8 was higher than the number in the first CR, that's why we were hit with the .2 percent rescission and didn't get a credit for that. So just to put a little bit of clarity on that.

Excuse me?

DEAN MINOW: And that's final?

MS. BERGMAN: Yes. This is a final number now, okay? And that number does include the funding for Hurricane Sandy.
And again, I just want to clarify for the record, the IG spoke earlier about that being a one million dollar amount. That was what was originally appropriated. But of course, the sequestration is applied to that, so there's only 950,000 for the Hurricane Sandy supplemental. So that is now included when we look at the final number of the 340.8. So this ends up being approximately 8 million. It's actually 8.2 million more than was in the original CR for the first half of the year. So that's why we get hit by the .2. So we have been attempting to inform our grantees as this has been progressing, which has been a little bit challenging, as you can imagine. We just sent out a spreadsheet for folks to show them what the May numbers were going to look like, which is obviously different than the April numbers, which were the first ones to show the impact of the March 1 sequestration that went into effect.

The other thing to point out that was in the legislation in the final CR was regarding the census data. This CR included language that directs LSC to
change the distribution of grants based on the updated census data.

You'll recall that the original language refers us to the Census Bureau's decennial collection of data. They no longer collect it decennially. We have been waiting for a congressional authorization to do this differently.

This changes now to be phased in over two years, which is the remainder of FY '13 and '14. And it directs us to use the updated census data every three years.

So what this means is that the Census Bureau has been asked to provide us new data in an expeditious way. We expect to get that by early May, at which point we will then recalculate what payments look like based on the new data.

So we are going to implement 50 percent of that change in 2013 and 100 percent of that change in FY '14. The idea is that there's some level of a phase-in for our grantees.

The challenge, as you can imagine, is that this is based on the percentage of the poverty
population, not the hard numbers. When you look at it, poverty numbers and eligible population has increased virtually throughout the country.

So the reaction from many grantees, of course, is they're seeing an increased number of eligible clients, but now they're in the position that the actual dollars are going to go down. So it's very hard for folks to reconcile what that's going to look like.

Of course, the other side of it is that many grantees have been underfunded during this period as their eligible population has grown exponentially. So we are hopeful that we can get this out, with some clarification, by mid-May before the June payments.

This will then be the payments that are June through December, remembering that we pay our grantees on an annual basis, not on a fiscal year basis. So it will be phased in over six months of payments for our grantees in this fiscal year, and then the full year in 2014. And the analysis we'll make will be, of course, on the assumption that 2014 continues at this same number because we don't know yet, of course, what the 2014 numbers are going to look like.
So that's it on the --

FATHER PIUS: One quick question. I'm sorry.

MS. BERGMAN: Yes?

FATHER PIUS: Does that mean we'll be updating these numbers every three years then instead of every ten years?

MS. BERGMAN: Yes. Yes.

FATHER PIUS: And how --

MS. BERGMAN: The Census Bureau is going to be updating the numbers.

FATHER PIUS: And so we'll just take the Census Bureau numbers?

MS. BERGMAN: Yes.

FATHER PIUS: Does the Board need to be involved with approving that, or does that just go through --

MS. BERGMAN: No. This is statutorily now the Census Bureau is directed to give us those numbers.

FATHER PIUS: And when will the first change take place, then?

MS. BERGMAN: We are hopeful that we will have all of the data in May so that --
FATHER PIUS: I mean after this one. The next one.

MS. BERGMAN: June. It will affect the June payments.

PRESIDENT SANDMAN: No, no. '16.

MS. BERGMAN: Oh, I'm sorry. 2016.

PRESIDENT SANDMAN: Well, it'll be -- yes.

FATHER PIUS: That's when we'll get the numbers?

PRESIDENT SANDMAN: What the statute says is triennially. So it'll be three years from now.

MS. BERGMAN: Correct.

PRESIDENT SANDMAN: But one other points I wanted to make. Once we know what data sets the Census Bureau is using to compute their numbers, we will be able in the intervening three years to notify grantees of the trends so they won't be blindsided three years from now. We'll do our best to give them ongoing notice of where they stand so that they can plan accordingly.

CHAIRMAN GREY: Further questions about the 2013/2014?
MS. BERGMAN: Well, that was just 2013. Now I was going to talk about 2014.

(Laughter.)

CHAIRMAN GREY: I'm trying to help you, Carol.

MS. BERGMAN: I know. I know. You're trying to move ahead. Then Dave's going to start talking about 2015. You know that.

CHAIRMAN GREY: No, '16. I'm sorry, go ahead.

MS. BERGMAN: Okay. So as you know, the Board voted for the request of 481 million, which was then increased with the 5 million for the 486 that went to Congress. Our budget request -- there should have been a copy for everybody; there are extra hard copies in the back if anybody wants one. Please let me know, obviously, if you need hard copies. We sent out a PDF.

So LSC submitted its budget request to Congress concurrently with the Administration's request, which went up on April 10th. Now, the White House number, the White House recommended 430 million in funding for LSC.

This is an increase of 90 million over our current funding and 28 million more than the White
House recommended in FY 2013. That recommendation includes 400.3 million for basic field grants. So that's 93 percent of what the budget request looks like.

We have begun meeting with House and Senate appropriations staff about our budget request and the White House budget request, and we do not anticipate hearings this year. Obviously, Congress is working on a very truncated schedule for appropriations hearings.

The challenge with the timing this year, as folks may have noticed, the House and Senate passed budget resolutions before the White House budget was sent up for the next year, so it's really changed the whole dynamic.

Appropriations committees were not prepared to do hearings until the White House budget had come up. So we are not expecting it. We're just having meetings at this point.

What's interesting is that in our meetings on the Senate side, it's been made very clear to us -- Senator Barbara Mikulski is now Chair of the Senate Appropriations Committee, both the full
committee and the Appropriations Subcommittee with
jurisdiction over Legal Services. And Senator Shelby
is ranking in both the full committee and subcommittee.

Staff have made very clear that both Senators
Mikulski and Shelby are of the old school. They
believe in returning to regular order in the budget
process, and they are looking to work very closely with
each other.

So they are moving forward and intending to do
a budget on time and appropriations process on time
before the start of the new fiscal year, at least on
the Senate side, and they expect that the CJS
subcommittee, our appropriations subcommittee, will be
the first to probably move forward.

What's interesting is that Senator Mikulski
has created a budget in the overall budget resolution
of $1.058 trillion. She is ignoring the sequester.
She's moving forward with a budget without
sequestration, and anticipating that they're going to
take the appropriate action with regard to whatever
cuts are needed in that process.

Needless to say, the House is doing it a
little differently, and the number that they are starting with, with the sequester, is 967 billion. So there is quite a gap between the two in terms of how things are going to move forward.

So as much as the Senators may want to do regular order, the challenge is going to be what that's going to look like, assuming bills move through the House as well in terms of what the negotiation and the conference process is going to look like. If there's no overall budget agreement that's reached, the lower House numbers would govern under the authority of the Budget Control Act of 2011.

So that's the overarching scenario of how it looks right now. Questions?

MR. MADDOX: Carol, what were those numbers?

The one trillion and the --

MS. BERGMAN: Those are for the Senate and House budget resolutions, the overarching budget proposals for the year. So in other words, it's before the appropriations numbers of the Senate and House Appropriations Committees. It's the budget numbers, Budget Committee numbers.
FATHER PIUS: Just the Justice numbers, though?

MS. BERGMAN: No. No, no, no, no, no. That's the whole thing.

MR. MADDOX: But the budget's like 3-1/2 trillion.

MS. BERGMAN: Trillion. That's what I said.

FATHER PIUS: I think that billion --

MS. BERGMAN: No, no, no. The House is working with billion. The House has got 967 billion. The Senate is working with 1.058 trillion.

MR. MADDOX: That's why I'm confused because that's not even close to the total federal budget.

MS. BERGMAN: No. That's just the piece that was under -- yes.

MR. MADDOX: Thank you.

MS. BERGMAN: No. It's not the overarching.

MR. MADDOX: No. I was thinking we'd gone back two decades.

MS. BERGMAN: No. No, we would have gone back a couple decades.

CHAIRMAN GREY: That was an audit question.
(Laughter.)

MS. BERGMAN: Other questions on FY '14?

(No response.)

CHAIRMAN GREY: Carol, thank you.

It is also about that time when we, as the Finance Committee, recommend to you for consideration a timetable for the 2015 budget request, as we have done in the past. We've sort of worked backwards into a proposed timetable.

Committee members have the previous timetable, and with dates that would match up on the calendar dealing with weekends and holidays, we have another timetable set up. And I think what I'd like to do is, if the Committee is comfortable with that, I'd like to just circulate that to the board members to consider, not for action but to review and comment on and give us some guidance as we look forward to this next process.

We'll probably work on this at our next meeting, so any thoughts that you have as you look at this tomorrow and in the future will be helpful to us.

David?

MR. RICHARDSON: That's all I have, sir.
CHAIRMAN GREY: Carol, anything else?

MS. BERGMAN: No, thank you.

CHAIRMAN GREY: Members of the Committee?

(No response.)

CHAIRMAN GREY: Sharon?

MS. BROWNE: I have no questions. Thank you.

CHAIRMAN GREY: Thank you. Alan and Bob?

MR. HENLEY: No.

MR. TANENBAUM: No.

CHAIRMAN GREY: Mr. President?

PRESIDENT SANDMAN: No.

CHAIRMAN GREY: I'd like to open the discussion for public comment. Anyone from the public has any comment about any of the discussion so far, please feel free to let us hear from you.

(No response.)

CHAIRMAN GREY: Hearing none, I'd like to consider and act on any other business that might come before the Committee.

(No response.)

CHAIRMAN GREY: Hearing none, I'd like to consider a motion to adjourn.
MOTION

FATHER PIUS: So moved.

DEAN MINOW: Second.

CHAIRMAN GREY: All in favor say aye.

(A chorus of ayes.)

DEAN MINOW: But first we congratulate you for an expeditious committee meeting.

CHAIRMAN GREY: Madam Chair, with your encouragement, I move to expeditiously --

DEAN MINOW: Well done. Thank you.

CHAIRMAN GREY: The meeting is adjourned.

(Whereupon, at 4:13 p.m., the Committee was adjourned.)

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