

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE DELIVERY
OF LEGAL SERVICES COMMITTEE

OPEN SESSION

Monday, April 7, 2014

10:43 a.m.

Legal Services Corporation
3333 K Street, N.W., 3rd Floor
F. William McCalpin Conference Center
Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:

Father Pius Pietrzyk, O.P., Co-Chair
Gloria Valencia-Weber, Co-Chair
Sharon L. Browne
Victor B. Maddox
Julie A. Reiskin
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Robert J. Grey, Jr.
Laurie Mikva
Martha L. Minow

STAFF AND PUBLIC PRESENT:

James J. Sandman, President

Lynn Jennings, Vice President for Grants Management

Richard L. Sloane, Special Assistant to the President

Rebecca Fertig, Special Assistant to the President

Ronald S. Flagg, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

Katherine Ward, Executive Assistant, Office of Legal
Affairs

David L. Richardson, Comptroller and Treasurer,
Office of Financial and Administrative Services

Wendy Long, Office of Government Relations and Public
Affairs

Daniel Sheahan, Program Evaluation Analyst, Office of
the Inspector General

Lora M. Rath, Deputy Director, Office of Compliance
and Enforcement

Janet LaBella, Director, Office of Program
Performance

Glenn Rawdon, Program Counsel, Office of Program
Performance

Reginald J. Haley, Program Analyst, Office of Program
Performance

Evora Thomas, Office of Program Performance

Peter Campbell, Chief Information Officer, Office of
Information Technology

STAFF AND PUBLIC PRESENT (Continued):

Eric Jones, Office of Information Technology

Nancy Glickman, Legal Services Corporation

César Torres, Executive Director, Northwest Justice
Project

Steve Pelletier, Financial Director, Northwest
Justice Project

Ed Marks, Executive Director, New Mexico Legal Aid

Lisa Schatz-Vance, Development Director, New Mexico
Legal Aid

Calvin Harris, Jr., CPA, President-Change Management,
Harvin Consulting LLC

Herbert S. Garten, Non-Director Member, Institutional
Advancement Committee

Thomas Smegal, Non-Director Member, Institutional
Advancement Committee

Frank B. Strickland, Non-Director Member,
Institutional Advancement Committee

Allan J. Tanenbaum, Non-Director Member, Finance
Committee (General Counsel, Equicorp Partners)

Don Saunders, National Legal Aid and Defenders
Association (NLADA)

Robin C. Murphy, NLADA

Terry Brooks, American Bar Association Standing
Committee on Legal Aid and Indigent Defendants
(SCLAID)

Dominique Martin, Law99.com

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

2 (10:43 a.m.)

3 CO-CHAIR FATHER PIUS: Just for the record,
4 this is Father Pius Pietrzyk, and we're opening the
5 Committee on the Delivery of Legal Services.

6 If I can have a motion for approval of the
7 agenda?

8 M O T I O N

9 CO-CHAIR VALENCIA-WEBER: I move approval of
10 agenda.

11 CO-CHAIR FATHER PIUS: Do I have a second?

12 MR. LEVI: Second.

13 CO-CHAIR FATHER PIUS: All those in favor?

14 (A chorus of ayes.)

15 CO-CHAIR FATHER PIUS: Any opposed?

16 (No response.)

17 CO-CHAIR FATHER PIUS: Next, the approval of
18 the minutes for the open session on our last meeting,
19 January 24th.

20 M O T I O N

21 CO-CHAIR VALENCIA-WEBER: I move the approval
22 of the minutes of January 24th.

1 MS. BROWNE: Second.

2 CO-CHAIR FATHER PIUS: Is there any
3 discussion?

4 (No response.)

5 CO-CHAIR FATHER PIUS: Then I'll move to a
6 vote. All those in favor?

7 (A chorus of ayes.)

8 CO-CHAIR FATHER PIUS: And any opposed?

9 (No response.)

10 CO-CHAIR FATHER PIUS: The motion carries.

11 So we'll move then to discussion, a brief
12 discussion, I think, of the Committee's evaluation and
13 goals for 2014, which is -- the evaluation form with
14 the summary is on page 110 of your Board book.

15 This evaluation was done some months ago, so
16 we've had a little bit of change, I think, in the
17 Board, and it certainly was before we redid the charter
18 for the Committee. So this was before that. So we
19 certainly have changed our focus a little bit.

20 But I think there has clearly been some -- the
21 whole reason that we did the change in the charter was
22 there was a sense, I think, among many people about

1 questioning what the focus of this Committee was and
2 whether it even should continue. I think we've
3 addressed that the best we can with the charter, and
4 we'll address that continuing forward.

5 But I'd just see if there are any comments
6 from people about the evaluation other than what's
7 here.

8 CO-CHAIR VALENCIA-WEBER: I appreciate the
9 evaluation, and moreover, it does reflect what
10 especially in the last -- well, I would say now nine
11 months. The Committee has begun to deal with, first,
12 the grantee boards and the kind of training we provide
13 for them, especially our non-lawyer members of grantee
14 boards; and also, the inclusion of when those board
15 members attend our meetings, that we recognize them,
16 acknowledge them, for their service.

17 And I think that with implementing the new
18 charter, it will make our work more productive in the
19 coming year.

20 CO-CHAIR FATHER PIUS: Yes. I agree with
21 that. I think one thing that we've discovered, even
22 among our grantees, is the difficulty sometimes with

1 the client board representatives in just recruiting
2 them.

3 And I think we had discussed before, and I
4 just want to make sure to follow up at least
5 informally, about the idea, when we give pro bono
6 awards at our meetings, that if there are opportunities
7 to recognize particularly long-serving or diligent
8 client members, that that should be -- we should not be
9 just recognizing lawyers, but we should be recognizing
10 client members, not perhaps at every one but from time
11 to time.

12 So I would like at least, maybe, the Chairman
13 to keep that in the back of his mind, and the
14 President, about whether we can continue to do that as
15 a way to continue to encourage client board members.
16 So I think if we have to discuss that formally, we can,
17 but just informally for now.

18 The other thing is if there are any thoughts
19 on recommendations for going forward in the work of
20 this Committee. I can give you some of mine, but I'll
21 hear yours, too.

22 MS. BROWNE: I thought the Committee's charter

1 now has set forth, I think, six different items for us
2 to consider as a Committee. And I notice that we're
3 already looking at the performance criteria, which was
4 number 1 on our list of items to examine. And so I
5 think we're moving forward. I think this is going to
6 be an exciting year for this Committee.

7 CO-CHAIR FATHER PIUS: Any other comments?

8 (No response.)

9 CO-CHAIR FATHER PIUS: Thank you. And I agree
10 with Sharon, and I think I may have been informed,
11 informally, at least, about a couple things that I
12 think we need to do.

13 One is the performance criteria, to get more
14 information about these performance criteria, with the
15 possibility, thinking forward, about whether or not
16 there should be a more thorough examination into the
17 revising of them.

18 The second is, especially as we continue with
19 the grant from the Public Welfare, as we begin to think
20 about data collection and those issues, that once we're
21 in a position to get a more formal report from the
22 Management on that, that that's something that we

1 should identify and put in place as soon as we have
2 something worth reporting on.

3 So that, I think, would definitely need to be
4 a future action item for the Board. So those are my
5 thoughts going forward.

6 Any more discussion on that?

7 CO-CHAIR VALENCIA-WEBER: It's not an action
8 item, is it?

9 CO-CHAIR FATHER PIUS: No. It's not an action
10 item.

11 Then I'll turn things over to you, Gloria, for
12 the introduction for our panel discussion. I thank the
13 panel members for their patience as we handled some
14 business before that.

15 MR. HALEY: Good morning, everybody. My name
16 is Reginald Haley. I'm with the Office of Program
17 Performance. It is indeed a pleasure to be with you
18 this morning and with this distinguished panel to talk
19 about financial planning in the face of unpredictable
20 and fluctuating funding.

21 The panel members have experience in leading
22 and managing organizations, in budgeting and financial

1 management, and resource development. The panel
2 members -- to my immediate right are Ed Marks, who is
3 the Executive Director of New Mexico Legal Aid, which
4 is a statewide program. To his right is Lisa Vance,
5 who is the Director of Resource Development at New
6 Mexico Legal Aid.

7 Next is César Torres, who is the Executive
8 Director of the Northwest Justice Project. To Mr.
9 Torres's right is Steve Pelletier, who is the Director
10 of Finance at Northwest Justice Project. And last but
11 not least is Calvin Harris, who is an independent
12 consultant who is also a CPA. And I would like to
13 mention that Steve Pelletier is also a CPA. You'll
14 find the panel members' bios in your Board books on
15 pages 125 and 126.

16 The panel presentation will focus on the
17 following topics. First we're going to talk about the
18 purpose, the challenge, and the benefits of nonprofit
19 budgeting, particularly in times of funding
20 uncertainty. The next topic will be mitigating funding
21 uncertainties through the budget process.

22 Next the panel will talk about the importance

1 of involving stakeholders and having open
2 communications in the budget process. The panel will
3 also discuss integrating resource development and the
4 budget process with program goals.

5 In addition, we're going to cover the purpose
6 and the constraints of building a reserve. And the
7 panel will conclude with a discussion on the LSC
8 performance criteria s it pertains to financial
9 administration.

10 We have allowed approximately 40 minutes for
11 discussion and 20 minutes for comments and questions,
12 but I understand that we may need to curb that back
13 just a little bit. We have an aggressive and an
14 ambitious presentation, so let's get started.

15 Our first panel member to speak will be Mr.
16 Calvin Harris, who will address the purpose,
17 challenges, and benefits of budgeting in times of
18 funding uncertainty.

19 MR. HARRIS: Good morning, and thank you for
20 having us.

21 One of the things I always like to remind
22 people when you're considering budgeting and how to

1 even think about budgeting is to ideally consider it as
2 not just a once-a-year sort of process that those
3 accountants in the corner are doing, but something that
4 is more of a global process that really is an offshoot
5 of your strategic plan, where your strategic plan
6 involves your board and your executive team and your
7 various divisions and departments, and the budget
8 really falls out from that.

9 Now, that said, many accountants -- and I'm
10 happy to call myself one -- have challenges with that
11 concept. But ideally, that's where you want to be, to
12 where you can look at a budget and see, this is how
13 we're going to meet our strategic goals and our
14 obligations.

15 But, now, when you're looking at it that way,
16 it does also encourage organizations to make an even
17 more challenging move to look at items in a multi-year
18 sort of way. If you think of your strategic plan, your
19 strategic plan is rarely for one year. It's three
20 years. Five years. In some cases, people go a little
21 bit longer. And similarly, your budget should try to
22 follow that pattern.

1 Now obviously, for your first year, that's
2 going to be the one that's really spot-on, very, very
3 detailed, and the further you go out the more
4 assumptions and estimates have to occur. But that's
5 okay.

6 What I end up finding in so many cases, the
7 biggest challenge is not necessarily with those that
8 are pulling together the strategic plan, but people
9 like myself in terms of accountants. We're generally
10 trained extremely well in terms of telling you what's
11 already happened. You give us information, we can tell
12 you exactly what happened, how much money you made,
13 where things landed.

14 In terms of looking out into the future, it's
15 not always one of our strongest areas, admittedly. But
16 when it comes to really being able to see where your
17 organization is going, that ends up being a really
18 critical piece.

19 So again, I would encourage, when you're
20 thinking about a budget -- and I know our title is "in
21 times of uncertainty." But I would say even if you're
22 fairly certain where things are going, you're fairly

1 certain how much money is coming in, you want to have
2 that more global approach to how you're looking at your
3 budget.

4 Now, the other thing I would say, because
5 typically what happens is the moment I mention
6 something about multi-year, even if I'm talking to
7 colleagues, they say, well, how are we going to do
8 that? We don't know how much money you're receiving
9 next year let alone two years from now.

10 And that's okay. Well, ideally you do know,
11 but generally you won't. But your strategic plan, you
12 still know where you want to go. And in a strategic
13 plan, you ideally have priorities A, B, C, and so on.

14 And when again you have your strategic plan
15 and your budget in alignment like that, when you do
16 know what your funding will be or for certain other
17 organizations that may be more reliant upon other
18 program activities or even unrestricted donations, as
19 you get a better feel for what that inflow will be, you
20 can then see what items will occur.

21 But conversely, if something happens to your
22 funding that is unfortunate -- it suddenly gets reduced

1 -- when you have your budget focused on that same sort
2 of concept, you can say, okay. Well, unfortunately,
3 because we received less than we expected, we only can
4 do A, B, and C. And it's ideally an easier transition
5 for organizations. So once again, that's one of the
6 things I would encourage.

7 Similarly, when you're thinking about your
8 budget, you are looking at not just the revenues and
9 expenditures, but also any of your capital items.
10 You're considering your cash position, your investing
11 position, pretty much anything that leads into your
12 strategic plan.

13 That's really the overarching thing here, is
14 that you're trying to not make the budget a one-time,
15 once-a-year activity, as it's so easy to be, but
16 something that is just something that occurs just as a
17 natural part of the budgeting -- I'm sorry -- a natural
18 part of the strategic planning process.

19 So that's actually all I had in terms of that
20 component.

21 MR. HALEY: Next we are going to hear from
22 Steven Pelletier, who's going to talk to us about

1 proactive funding and the importance of establishing a
2 reserve. But before you get into the specifics of
3 that, I think it might be useful to give the Board some
4 context about your program. So please, go right ahead.

5 MR. PELLETIER: Hello. I'd like to first
6 thank the Legal Services Corporation and the Delivery
7 of Legal Services Committee for bringing the panel
8 together, and your interest in the budgeting and fiscal
9 challenges of the recipients and the grantees out
10 there.

11 Northwest Justice Project is the LSC grantee
12 in the state of Washington. We cover the full state of
13 Washington, and we have a \$22 million annual budget.
14 Currently, about 28 percent of our funding is LSC
15 funding, 54 percent is the state of Washington Office
16 of Civil Legal Aid financing, and then about 18 percent
17 is a host of small grants, contracts, cy prè awards,
18 fellowships, and some private donations. We call that
19 "soft funding" because it is usually year-to-year and
20 short-term in nature.

21 We have 200 staff in our budget for this year,
22 and of that, 130 are advocates spread across 17

1 locations around Washington state. We operate our
2 accounting function out of Seattle, and we have four
3 people in accounting -- myself, who's the Director of
4 Finance; I'm a CPA. We're fortunate to have an
5 assistant controller who's also a CPA. And then we
6 have a payroll specialist and an accounts payable
7 specialist.

8 Having said that, the finance, the budgeting,
9 the whole internal control structure, is not built just
10 around that group. It's built around the whole
11 executive management team and the board. So a lot of
12 different players have different roles in our finance
13 and our fiscal and our internal control structure.

14 The first topic I wanted to cover today or
15 that I'm assigned to cover today relates to proactive
16 budgeting and financial management. We at Northwest
17 Justice Project have several phases in our budget.

18 The first thing we do, and I think most
19 grantees would be doing this, is preparing an annual
20 financial budget. And at the same time, we develop an
21 FTE staffing budget as well. That's a key component to
22 our cost structure. We're 80 percent people and

1 personnel costs.

2 The fiscal oversight committee of our board is
3 the audit/budget committee. Its responsibilities
4 include working up the budget and recommending that
5 budget to our board annually. We do thought in the
6 fall each year for the coming calendar year.

7 Once the budget is prepared and approved by
8 the board, it's built around a host of assumptions. So
9 it's certainly not set in stone. And then we move into
10 sort of the rolling budget stage, and that is where the
11 Executive Director and myself and others are gathering
12 changes in the assumptions to the budgets that occur.

13 An example of that would be this year, in
14 January, we found out that our LSC award was \$375,000
15 more because of congressional action and sequester
16 relief, basically.

17 That then is now processed through the
18 committees and the board for amendments to the budget
19 and potentially additional expenses related to that
20 additional funding. So as we move through the years,
21 significant shifts and changes are processed through
22 these board committees and through the board for

1 amendments.

2 The next phase of our cycle is really the
3 budget-to-actual comparison phase. We prepare
4 financial statements, a statement of financial
5 position, which is cash and fixed assets and reserve
6 balances, as well as a statement of activities that
7 shows what our revenues and expenses have been year to
8 date. We compare that to a budget number, and we see
9 where we stand as we move through the year.

10 That is posted on our board website. We have
11 an intranet website for the board, and we post all of
12 those monthly financial statements as we move through
13 the year. And we have actually several years there for
14 the board to compare. The audit/budget committee then
15 reviews those in more detail at their scheduled
16 meetings.

17 Calvin had mentioned the long-term projection
18 cycle, looking out further into the future. That is
19 another sort of detached phase of our process. We are
20 state-funded on a biennial basis. We are currently
21 planning now for the period July 1, 2015 to June 30,
22 2017.

1 So with the final year of the current biennium
2 and the two years of the next, we're looking out three
3 years, and the first pass goal of this is quite simple
4 for us.

5 We're taking our existing footprint and
6 staffing and costs, projecting out what those will be
7 three years from now based upon steps and the like, and
8 then we're also layering in at first flat funding.

9 Let's say it's flat funding. What does that
10 mean to us three years out? And what do we need for
11 maintenance funding, basically? What do we need to
12 keep the organization moving along as it is?

13 Once we've got that in place, we have a number
14 to provide the state funder for legislative purposes
15 and their own budget purposes, as well as we have a
16 framework to lay in what ifs.

17 Unfortunately, the last several years, we've
18 been laying in, what if we have a 10 percent cut? What
19 does that mean to us, and how many people and staff
20 does that mean? And it gives us a chance to look at
21 what our options would be under certain circumstances.

22 That is pretty much, in a nutshell, what our

1 process is for the budgeting cycle, if you will. In
2 addition to that, also there's the notion of operating
3 reserves, and that's something that we at Northwest
4 Justice Project have worked hard on over the year to
5 build prudent reserves.

6 It's taken us about ten years to get from 30
7 days' reserves to 75 days, and our target is 90, which
8 by not-for-profit standards is a modest reserve, but
9 that provides us a way to address a host of issues that
10 come up.

11 One of the reasons we need reserves is we have
12 a sta-funded component that's over half of our
13 resources that's cost-reimbursable. And I suspect most
14 grantees have a number of cost-reimbursable grants and
15 contracts.

16 Those are cash flow difficulties. We've got
17 to expend the money, or basically fund the activities,
18 and then we're reimbursed down the road. For us, we
19 have about \$2 million outstanding with the state in
20 receivables at any given time, so \$2 million of our \$4
21 million reserve is really for managing the state
22 contract.

1 Also, if organizations have loans, oftentimes
2 there are covenants in the loans that require a certain
3 amount of equity or net asset fund balance. New
4 funding sources -- when we go out and pitch new funding
5 sources, they're looking to see that you're financial
6 stable, that you can fulfill your obligations, and that
7 you're not living on a shoestring.

8 Funding swings, of course -- when we find out
9 into the new budget cycle that we're taking a hit in
10 funding or the like, it's extremely nice -- and I don't
11 know whether to call it a luxury, but it's nice to have
12 a certain amount of fund balance to be able to
13 prudently and diligently plan how you're going to
14 adjust rather than have to do quick cuts or office
15 closures or the like.

16 And then I talked with our auditors before.
17 They were in doing our annual audit here, and I talked
18 with our auditors a little about what their thoughts
19 were on fund balances. And the audit partner indicated
20 that one of the things they look for is if an
21 organization has enough resources to adequately
22 restructure itself if it loses a chunk of funding, or

1 to wind down in a prudent manner if it needs to.

2 There's responsibilities to clients to either
3 complete the cases or refer the cases; to staff,
4 typically we're faced with policies where we're
5 committing to staff if we need to have layoffs and the
6 like.

7 Union organizations -- we're not a union
8 organization, but union organizations usually have very
9 well-defined costs, basically, to reduce staff. And
10 then you've got leases and other vendor situations that
11 need to be renegotiated. So they say they look to see
12 that an organization has enough in reserve to manage
13 restructuring and downsizing effectively.

14 Lastly, for organizations like ours,
15 increasing reserves is extremely difficult. Most
16 funders don't allow for it. A vast majority of them
17 are cost-reimbursable. LSC, fortunately, does allow
18 for a 10 percent carryover, and up to 25 with approval.

19 And that's actually not the norm for our grants that
20 we're getting elsewhere.

21 For us, we have strategically worked with our
22 IOLTA funder over the years, and they have actually

1 allowed us to carry over a portion of our small IOLTA
2 grant each year we can add to our reserves. So that's
3 how we built it from 30 to 75 days, for the most part.

4 And then some of our reserves are
5 transitional. You get a grant, and it just happens to
6 be that at the end of the year, you've got reserves
7 there, but they're really earmarked to be spent in the
8 next cycle.

9 Just a side note. A 10 percent LSC carryover
10 is about 37 days of LSC reserve. A 25 percent
11 carryover is about 90 days.

12 MR. TORRES: It's 28 percent, of only the
13 federal portion.

14 MR. PELLETTIER: Of only the federal portion.
15 Correct. Any questions anybody have of me?

16 CO-CHAIR FATHER PIUS: Actually, if you're
17 offering questions, the idea of a contingency fund, do
18 you think that's universal among grantees, or is
19 Northwest Justice Project unusual in that? Would you
20 consider that an absolute requirement for sound
21 financial management?

22 MR. PELLETTIER: I think it varies depending on

1 the organization.

2 CO-CHAIR FATHER PIUS: It varies in terms of
3 the size or it varies in terms of its existence?

4 MR. PELLETIER: I think size matters to the
5 whole equation. But also, I think that they way
6 they're funded matters. When I started with Northwest
7 Justice Project, we were 90 percent LSC-funded. So a
8 10 percent LSC fund balance, given that LSC provides us
9 our funding literally the first of the month rather
10 than after the fact, was adequate at the size we were
11 back then.

12 Now, we're in a position where really we have
13 to have fund balance in order to really go out and
14 garner new resources and to be able to support those.

15 CO-CHAIR FATHER PIUS: The reason I ask, and
16 following up on it -- this is an issue I've talked
17 about before -- it sounds like, listening -- I know we
18 have time for discussion later, but I'm going to do it
19 now, just briefly -- is some of the things that are
20 vital are alignment of the budget to the strategic
21 plan, the role of the board in financial oversight and
22 planning, having a contingency fund and risk management

1 with a contingency fund, transparency in disclosure and
2 financial issues, and the question of carryover, which
3 is related to contingency funding.

4 All of these have been described as very
5 important issues, none of which are described in
6 criterion 4, financial administration, and so just
7 bringing, I think, to the fore whether we should
8 reconsider the way in which we address performance
9 criteria with regards to financial management because
10 these things that you mentioned as fairly vital are not
11 mentioned at all in this criterion. So that's my
12 point, and comment as you wish.

13 MR. PELLETTIER: Just one comment to that. I
14 participated back in 2009 on the committee that revised
15 the accounting guide for recipients. And it actually
16 has a wealth of information about some of these items
17 that we're discussing here.

18 CO-CHAIR FATHER PIUS: Like the board -- I was
19 just surprised. In the areas of inquiry, it mentions
20 effective financial oversight by management, but it
21 doesn't mention the board anywhere. And the fact that
22 you would have an inquiry into financial oversight that

1 does not question the board's involvement or a
2 committee's involvement in that just seems to me a
3 glaring hole in our inquiry on this. So I'll continue
4 to beat that drum a bit more.

5 MR. HALEY: So, Calvin, was there something
6 you wanted to add to the discussion on reserves?

7 MR. HARRIS: Really just I think even adding a
8 bit more to what Steve was just saying, it's funny.
9 Steve and I were just talking in the hallway before we
10 came in about reserves because that's the kind of thing
11 that CPAs would do.

12 But I would say that you would generally
13 consider a reserve especially a best practice in
14 general. And I was giving the example to Steve when he
15 and I were talking that when I was the controller at
16 Naval Works America -- congressionally funded, lots of
17 affiliates -- we posed the idea of a reserve and it was
18 not looked at favorably at all.

19 The phrase I remember is, well, we're the
20 federal government. If you need a reserve, we're it.
21 But I would say for most organizations, having a
22 reserve, whether it's three months or even as much as

1 six months, ends up being part of your risk management
2 plan.

3 And to Steve's point, many funders -- I might
4 even say most funders -- will not fund a reserve, and
5 in so many cases, you're looking at unrestricted funds.

6 And understanding that LSC allows some of that is
7 pretty unusual -- in a good way, but definitely
8 unusual.

9 MR. HALEY: All right. So next we're going to
10 hear from César Torres, who's going to speak with us
11 about involving the board in the budget process and the
12 importance of finding a balance in diversification in
13 terms of funding, as well as resource development
14 constraints as it pertains to Northwest Justice
15 Project.

16 MR. TORRES: Good morning, and I, too, want to
17 both thank the Committee and LSC for having us here and
18 able to engage in this dialogue that is so important to
19 grantees all over the country. I also do want to thank
20 Janet and Reginald. They've done a wonderful job of
21 supporting us and helping us focus in preparation for
22 this presentation.

1 I don't mean to belabor the point, but just to
2 make it dramatic, we cannot have 50 cents left over on
3 our state grant at the end of the fiscal year or we
4 have to give it back. There is no room at all
5 whatsoever for reserves, and up until recently, they've
6 comprised 65 percent of our funding.

7 So the reserve problem is a really fundamental
8 one. And Steve and I go back and forth on this issue
9 because I don't think we have a reserve. I mean, we
10 just have cash flow management, for the most part. And
11 I'd love it if we could have 90 days, at least, of
12 that.

13 With regard to board involvement in the budget
14 process, we place a very high priority on involving our
15 full board in the budgeting process. I think, in
16 response to some of Calvin's comments, Steve noted that
17 the director of finance is fully integrated into the
18 management team. His role is not limited to crunching
19 those numbers by any means.

20 And we extend that relationship as much as
21 possible to our board in terms of really promoting a
22 meaningful understanding so that they understand the

1 challenges that we're facing as we approach financial
2 planning and the difficult environment that we face.

3 And I think in recent years, certainly since
4 the fiscal crisis, I think that the role of the board
5 has been very important in helping us manage the
6 challenges, particularly when it comes to our biggest
7 item on our budget, which is staff, staff compensation,
8 and issues around that -- maybe I should say lack of.
9 We have not been able to do very much with staff
10 compensation over the last five years.

11 What I mean, on like LSC where the
12 audit/budget committee really -- it's almost like the
13 whole board is able and available to come and
14 participate throughout. Our committee meetings by
15 itself. Our audit/budget committee meets by itself.
16 Theoretically they're open to any board member, but
17 it's rare that any other board member comes to the
18 committee meeting.

19 But we go through a great deal of effort to
20 ensure, at the committee level, that the committee is
21 really prepared and briefed. And that means oftentimes
22 that Steve will spend time ahead of the meetings with

1 the committee chair. We provide materials, very
2 in-depth materials, in advance. And we brief on all of
3 the assumptions and so on.

4 And the committee's action and recommendation
5 on any particular item is not -- there's no rubber
6 stamp when it goes to the board. Because the board
7 doesn't participate, we make it clear and we insist
8 that the committee -- we present this as a full item
9 for the board.

10 So at a board meeting, we will go over every
11 single assumption, every single amendment, the bases,
12 the rationale, the projections, and so on. And really,
13 it's almost like a full audit/budget committee meeting
14 of the board when we do have these meetings.

15 And again, it's in order to ensure that they
16 have that kind of understanding. And the discussion
17 will go on as much as necessary so that they're
18 satisfied and we're satisfied that they understand the
19 particular question that might be existing.

20 And it can be complicated. We've got these
21 overlapping fiscal years. We've got a state fiscal
22 year that begins in July and it runs two years, and we

1 have a supplemental session in the middle, and so on.

2 So it's a very -- we do want them to understand.

3 And we also share with the board, as we face
4 some of these moments of imminent losses of funds and
5 so on in the past five years, we engage staff in a
6 dialogue and a conversation about the kinds of concerns
7 they have, the kinds of priorities we want to have, and
8 every single one of those surveys and responses is
9 fully shared with the board. And they have that in
10 front of them as they consider and address these kinds
11 of financial questions.

12 So speaking certainly for our whole management
13 team, we really embrace the greater accountability and
14 transparency that flows from that. And it's both with
15 respect to external, the audit, but also in terms of
16 the organizational integrity.

17 I also want to say that we do appreciate and
18 welcome LSC's guidance that Steve referred to earlier
19 in terms of the accounting guide, that board members
20 have at least one member of the board, or access to a
21 member of the board, with financial expertise so that
22 they have independent perspective.

1 Our board's recruitment efforts have -- we
2 immediately focused on that. Right now, in our third
3 year, we have a president of our board who has an LLM
4 in taxation, a BS in finance and economics, has worked
5 as a senior tax associate at Pricewaterhouse, and in
6 her legal practice, her work focused on complex
7 business and financial transactions for both profit and
8 nonprofit entities. She currently teaches
9 international tax law at one of the law schools in
10 Seattle.

11 And we continue to look at this. We have now
12 brought on a new board member who has in the past been
13 part of the Legal Foundation of Washington and the
14 Campaign for Equal Justice, and is very immersed in the
15 financial concerns of our delivery system.

16 I'm going to turn now to the issue of balance
17 between funding diversification and the changes to
18 mission and service delivery.

19 In 2008, at the outset of the crisis, like
20 many of our sister legal services programs, we were not
21 meeting our day-to-day demand for services. And we
22 certainly were not in a position to increase staffing

1 and to adjust and respond to the growth in poverty and
2 the growth in eligible client population, much less
3 even take on a whole new project in terms of
4 foreclosure.

5 It was just not -- nobody saw this coming.
6 Well, maybe some people did, but didn't pay attention.

7 But when the fiscal crisis happened, that's the
8 situation we were in.

9 In fact, as you all know, rather than having
10 increased resources, our resources have both stagnated
11 on both state and federal sides or been actually cut so
12 that we have not only been unable to meet the rising
13 costs that have continued over these five years, from
14 our 2008/2009 baseline we've suffered a 20 percent
15 reduction in our core attorney staffing, the core state
16 and federally-funded programs.

17 So we have tended to be very flexible and try
18 to take advantage of as many opportunities, that it
19 turns out to be fairly small opportunities, to cobble
20 together program enhancements. But in every instance,
21 we've been very careful that they be consistent with
22 our core mission and the needs of our client community.

1 We are trying to supplement the core work.
2 We're not trying to go off in different directions that
3 really will get to mission drift and the problems
4 associated with that.

5 I want to really quickly talk -- we have three
6 attorneys in medical-legal partnership. We went from
7 zero Equal Justice Works/Americorps fellows to four,
8 and now they're all part of a veterans project. We
9 have six attorneys doing veterans projects; we had zero
10 attorneys doing veterans work in 2008.

11 We have a brand-new grant with a social
12 service program to target and provide holistic services
13 to at-risk homeless families or families at risk of
14 homelessness. We have a wonderful that came in; it was
15 a postgraduate fellowship, and now we've been able to
16 continue with cy prè funding to provide reentry
17 assistance and reunification to previously incarcerated
18 mothers, who have tremendous challenges with housing,
19 employment, and also trying to get back with their
20 children.

21 And we've also gone into a partnership, which
22 is a sexual assault resource center in King County,

1 which we had never had that relationship. And they
2 were able to get funds that now allow us to have
3 someone. Again, this is a population that we hadn't
4 dealt with directly, which I want to come back to in a
5 second.

6 But the biggest growth that took place in the
7 last five years was as a result of the AG settlement,
8 the national foreclosure settlement. So we went from
9 zero attorneys in 2008 doing foreclosure work to one
10 attorney, 1.5 in 2009. By 2012, we had five. And as
11 of 2013, we have 17.5 attorneys doing dedicated
12 foreclosure work.

13 Yes, Jim?

14 PRESIDENT SANDMAN: César, you mentioned a 20
15 percent reduction in your attorney count. Is that
16 after taking account of all these additional --

17 MR. TORRES: No. This is the response that --
18 as these reductions were taking place, we immediately
19 began attempting, seeking out, different opportunities.

20 So my next line in my presentation was that
21 today we've actually added more attorneys than we've
22 lost. In terms of the core -- now, remember, the hard

1 funding as opposed to the soft funding, the hard
2 funding we've lost 20 or so attorneys. We've added
3 roughly 30 soft-funded attorneys in the process, which
4 presents significant challenges of their own, fiscal
5 planning challenges which we talk about every day.

6 But I'm very pleased to say that this growth,
7 because of our focus on client services and
8 supplementing our core services, hasn't really posed
9 significant actual challenges as far as mission drift.

10 We did have concerns by staff -- what are we
11 doing ramping up with all these veteran attorneys and
12 all this foreclosure work and so on and so forth? And
13 there was a perception problem, which we engaged in a
14 dialogue with staff.

15 And the bottom line is, you know, we should
16 have been serving veterans more, but we couldn't, given
17 the fact that we couldn't meet the basic demand. We
18 are dealing with very low-income veterans who are
19 facing basic issues around human needs, homelessness,
20 health, and so on and so forth.

21 This is our client population. This is core
22 service. It's not what you've been doing in the past.

1 It's not what we had been -- now we have the capacity
2 to do it. It's supplement. It's not a mission drift.

3 There was one area where we did have more
4 concern, which is that the AG money, the foreclosure
5 money, does allow us to represent and provide legal
6 assistance to individuals who are over LSC income
7 eligibility guidelines.

8 And the question is, who are we going to be
9 serving? This is a lot of resources, a lot of money
10 going in that direction. And we're very careful about
11 that. We're watching it very carefully, I should say.

12 We were not going to say no to the money, given the
13 crisis, on the one hand.

14 On the other hand, over the years we've seen
15 that repeatedly, year after year, 50 percent of the
16 work that the foreclosure group has been doing has been
17 for LSC-eligible families, LSC-eligible households. So
18 at the end of the day, it's really been a supplement,
19 again, and it has allowed us to address a significant
20 need without taxing our core diminished resources.

21 So again, I don't feel like the mission drift
22 has been a problem in that regard. And I think,

1 though, we have now a situation where we are working
2 much harder at trying to figure out how we're going to
3 sustain these projects.

4 The Equal Justice Works are one-year projects.

5 The rise was a postgraduate fellowship; well, that
6 ended, and luckily there was a cy près grant involving
7 some litigation, which allowed us to continue it for
8 three years. So now that project has continued.

9 Some serendipity. A lot of flexibility and
10 creativity. But we've managed to actually grow during
11 the time when the core funding has diminished. The
12 long-term prospects, well, they are challenging, and
13 the jury's out on just how we're going to be able to
14 sustain a significant amount of that work.

15 The last comment I want to make concerns the
16 issue of resource constraints, resource development
17 constraints. In Washington, NJP is a relatively new
18 program. We're only getting to our 18th birthday. But
19 we suffer from some of the history of LSC programs that
20 were 100 and 95 percent dependent on federal funding,
21 which is that there was not a lot of development,
22 resource development capacity work that was done.

1 In Washington, we have an additional
2 complication, which is as a leader in the equal justice
3 communities and having integrated delivery systems, we
4 do have -- Washington took leadership in that. And one
5 of the manifestations of that has been the development
6 of a unified campaign for civil legal aid services.

7 What the unified campaign did was also place
8 an emphasis on taking the resource development function
9 outside of the organization. The unified campaign does
10 two things: It targets the legal community, on the one
11 hand, and on the other hand, we receive significant
12 benefits in terms of lobbying support for our state
13 funding. Our state funding has grown tremendously
14 during this time. So the unified campaign has been
15 very good in that respect.

16 On the other side, it has again contributed to
17 our not having a well-developed resource development
18 capacity, in part because of the issues having to do
19 with competing -- the unified campaign is to avoid
20 competition among programs.

21 And so there has been a lot of strain in
22 recent years around these issues, and I think the

1 programs and NJP were committed to developing and
2 putting in place dedicated reserve development
3 capacity.

4 There are areas where we can explore and work
5 on that do not bring us into competition with raising
6 funds from the legal community, and that's one of my
7 big projects for this year. Thank you.

8 MR. HALEY: Thank you, César.

9 Next we're going to hear from Lisa and Ed.
10 The next topic that's coming up is very important. It
11 talks about the importance of involving stakeholders in
12 the budget planning process because you want
13 stakeholders to buy into the success of the program or
14 the activities of the program.

15 They're also going to talk about their budget
16 planning process. They're going to talk about
17 something that's really important to me, and that's
18 integrating the resource development process into
19 budget planning. They're going to, if you will,
20 connect the dots between resource development and
21 budget planning and financial management.

22 Lastly, they're going to talk about

1 communications and how important that is to maintain
2 morale of staff. So with that --

3 MR. MARKS: Thank you, Reggie. And I would
4 like to thank LSC and the Committee for having us here
5 today to speak about these issues. This is just of
6 vital importance. It's a conversation about financial
7 planning and budgeting, but it's also a conversation
8 about the strength of our advocacy work, our capacity
9 to be here for the long haul to deal with the issues
10 we're dealing with.

11 To that end, I'll give you a quick benchmark
12 comparison. Our program, New Mexico Legal Aid, and
13 what you heard about Northwest Justice Project, we have
14 a roughly \$6.2 million budget projected for the year
15 ahead. We've got 67 staff, 34 of whom are attorneys,
16 spread over ten offices across the state of New Mexico.

17 And it's been, frankly, a struggle to stay at
18 that level the past few years, largely because of the
19 budget cuts that have happened at both the federal and
20 state level since 2009. We're very grateful for what
21 Congress did this year; we're headed back in the right
22 direction. But still, both the LSC and our state

1 funding level, we're still not caught up to where we
2 were back in 2009 or even in 2011.

3 So what we're talking with our board about is
4 that this is not a back office function. It's not
5 something that somebody's going to bring a spreadsheet
6 to you, and here's the answers, and you just have to
7 vote yes or no. We need them engaged more from the
8 beginning.

9 We need our staff leadership more engaged, and
10 we need our community partners -- as we explore
11 opportunities for joint collaborative projects with
12 joint collaborative funding, we need them more engaged
13 as well.

14 So one of the key steps we took this past year
15 was the board was part of developing a strategic plan
16 for the advocacy work of the organization, for the
17 board's role in that organization, for the fundraising
18 and development goals, and for the community
19 involvement and community engagement that we need to do
20 to make ourselves more of a visible player that sources
21 that typically might not think about supporting legal
22 aid as a priority would then realize that we are trying

1 to achieve the goals that they want to achieve with
2 their funding.

3 And what we're trying to do is set a tone that
4 we don't want to be overly risk-taking. But at the
5 same time, we want the board and our partners to know
6 that we need some ambition here.

7 We need to push the normal boundaries of what
8 we may have felt comfortable with in exploring how
9 we're going to do this financial planning and resource
10 development in a way that is not overly timid, but is
11 balanced appropriately to achieve the goals that we
12 want to achieve in the strategic plan.

13 You'll hear from Lisa Schatz-Vance in a few
14 minutes more about what we're doing to more actively
15 engage the funding community and to reach out to donors
16 who traditionally may not have had legal aid high on
17 their radar.

18 The budget planning process that we're using,
19 we're trying to do the best analysis we can of our
20 five-year history, which if you look back at these past
21 five years to 2009, it's quite a challenge, with lots
22 of ups and downs.

1 We want to take that five-year information and
2 try to make the best guess that we can for what's ahead
3 for the two years immediately in front of us, and as
4 César pointed out, we have the same issue with our
5 state funding. We're on a calendar year with LSC
6 funding, but we're on a fiscal year that begins and
7 ends July 1st of each year for the state funding.

8 We have another wrinkle in New Mexico, that
9 every other year in an election year, which includes
10 this year, we only are going to get a six-month funding
11 commitment from the state, from July 1st to December
12 31st this year, because they want the legislature that
13 takes its seat in January to have the option to cut our
14 funding if they so choose. So that makes it even more
15 of a challenge; every other year, we have to go through
16 that wrinkle.

17 But what we do after we come up with those
18 numbers, we're trying very hard -- I'm not trying to be
19 overly flippant with this comment, but sometimes legal
20 aid, in my experience -- I've been working for legal
21 aid programs for 25 years, and sometimes they've tended
22 to operate on the manna from heaven theory, that

1 somehow it's just all going to work out. Somehow, the
2 money is just all going to be there at the end of the
3 process.

4 We're trying very hard to move away from that.

5 And at the same time, when we make our projections,
6 we're projecting conservatively, largely because of the
7 reserve issue that Steve and Calvin and César touched
8 on.

9 One way we try to preserve an adequate reserve
10 fund is to project conservatively and try to control
11 our expenses as tightly as possible so we have some
12 breathing room at the end of the year. We don't want
13 to over-commit ourselves in ways that we're not going
14 to be able to sustain.

15 We do have a union in our program. The
16 National Program of Legal Services Workers represents
17 our entire non-management staff, paralegal support
18 staff, attorneys included.

19 If we have to look at the three-year union
20 contract that we have, it sometimes makes these
21 projections difficult because if the costs are built
22 into the contract in ways that we're looking at a

1 volatile environment, we're trying to make a two-year
2 projection, but we have three-year costs built into the
3 contract, sometimes we have to go through the process
4 of renegotiating with the union or dealing with those
5 issues that that situation may present.

6 We're looking at another step. We want the
7 board to develop an advisory committee that if every
8 member of the board does not want to be engaged in
9 financial planning as their first priority, we want to
10 have an advisory committee that will work with
11 especially me and Lisa and our counterpart to Steve,
12 whose name is Joe Gonzales; especially work with us to
13 develop these financial planning recommendations and
14 analysis so it's not just a small group of us sitting
15 in a back office coming up with recommendations, but we
16 want the board to be invested in what we're trying to
17 do.

18 And I'm going to let Lisa talk to you for a
19 few minutes about some of the steps and some of the
20 challenges we face. But I wanted to preface this, we
21 had never had a development director before, and this
22 was not a universally, immediately-embraced concept,

1 when I came in in November of 2011, that this is what
2 we needed to do.

3 The second day I was on the job in November
4 2011, about 4:00 that afternoon my phone rang and I
5 found out that we had the 14.8 percent cut that was out
6 of the congressional negotiations for the 2012 budget.

7 It meant about \$530,000 gone overnight for our
8 budget, and so there I was on the second day on the
9 job, trying to figure out how I was going to revise all
10 the budget projections that we were set to present to
11 our board three weeks later.

12 It was quite a challenge. So one of the first
13 conversations I had with the board, we brought in a
14 national fundraising consultant, Dennis Dorgan, that
15 many of you may know, and we talked with other folks
16 around the country that were doing similar efforts.
17 And it was clear to me that we needed the development
18 director.

19 I told the board, in this environment if we
20 want to hire one more attorney, scrape our dollars
21 together and hire one more attorney. If we want to get
22 to a point where we can hire ten more attorneys, which

1 is really about what we need in New Mexico right now,
2 we need the kind of work that the development director,
3 Lisa, will do for us.

4 Lisa, I'll turn it over to you now to talk a
5 little bit about the steps we're trying to take.

6 MS. SCHATZ-VANCE: Thank you, Ed. I do want
7 to take a moment and say thank you. Thank you to
8 Reginald and to Janet for recognizing the vital role
9 that resource development truly does play in the
10 overall budget planning process.

11 As Legal Aid's first development director,
12 understandably that did come with some challenges;
13 notably, the organization didn't have already in place
14 an infrastructure for fundraising. That's something
15 that has been a priority for me. I've only been in
16 this position now for about a year and a half.

17 The other challenge was education,
18 understanding what resource development is, that
19 fundraising is one component of resource development,
20 and certain expectations were not necessarily realistic
21 in terms of how quickly could Lisa bring in the money.

22 And so that has been an ongoing process, not only, of

1 course, with our board, but also with the staff as well
2 in understanding the role that I play.

3 And third, because my role is to primarily
4 focus on cultivating new funding sources, developing
5 relationships with funding sources that hadn't
6 previously understood the critical role that legal
7 services plays in assisting our clients with pathways
8 out of poverty, was the need for visibility, bringing
9 awareness to the role of civil legal aid.

10 Fortunately, when I came on board, there was
11 this really exciting development going on with LSC and
12 with the Public Welfare Foundation and Kresge. And so
13 I've been able to benefit -- Legal Aid's been able to
14 benefit -- from that incredible research that came from
15 their work to aid us in how we go about approaching the
16 larger non-lawyer community when it comes to bringing
17 awareness to the critical services that we provide.

18 The fourth element is that in bringing
19 resource development into the legal services
20 organization, the development component necessitates
21 its own line item in the budget. The old adage is
22 true: You need to spend money to make money. And so

1 that's been a process for New Mexico Legal Aid to
2 understand and implement.

3 I touched upon cultivating funding
4 opportunities. And where it intersects with the budget
5 planning process is of course -- and being informed as
6 to the budget gaps that have been identified and how we
7 go about filing those gaps.

8 I love that since I've been here, in less than
9 24 hours I've learned so much from both César and from
10 Steve, particularly with terminology in terms of hard
11 funding and sort of funding. And so what we're
12 focusing on, I would say, is predominately soft funding
13 in terms of filing those gaps, but of course respecting
14 and being mindful of our underlying mission.

15 Then, of course, there's identifying the
16 barriers within the larger community in terms of the
17 willingness to support a legal services organization.
18 In the larger community foundation environment -- at
19 least it holds true in New Mexico still -- many
20 foundations are apprehensive to support attorneys.

21 And so we've had to be very mindful of how we
22 message when we are meeting with these prospect funders

1 in terms of focusing on the outcomes, our clients, what
2 we've done for our clients, how they're better off.

3 Then lastly is also in looking at these new
4 funding opportunities, realistically the likelihood of
5 even having success in securing those new funding
6 sources in relation to the costs related to the
7 investment of my time, but as well as being able to
8 carry out the deliverables.

9 And I'm going to turn back to Ed for a few
10 minutes as he further expands upon connecting the dots.

11 MR. MARKS: I may jump around just briefly
12 because I think we're probably getting to the end of
13 our time. We've got a few minutes? That's great.

14 One thing we're trying very hard to do is make
15 sure that -- it's an old cliché, but it's accurate --
16 that the tail doesn't wag the dog. We don't want to be
17 in a position where we're chasing every dollar that's
18 out there just to have the dollars come in.

19 So we're telling the board that's why the
20 strategic planning document is really a financial
21 management document. We want to make sure if we're
22 going for resources that it fits with the mission of

1 what we're trying to do.

2 We have to involve the development process
3 integrally with the planning process, and Lisa will
4 talk for a few minutes here about the essential steps
5 we're taking to diversify our income sources so that
6 we're less vulnerable to volatility in any one major
7 source.

8 Right now, with LSC basic field, migrant,
9 Native American funding, and money we were getting from
10 some TIG grants, we're at about 53 percent of our
11 funding that's coming from LSC alone, which we're
12 grateful for. We are very grateful for that money.
13 But yet representing that large a percentage of our
14 budget, if we don't diversify some more, it's going to
15 leave us vulnerable to political winds.

16 MS. SCHATZ-VANCE: Some of the areas that
17 we've been focusing on is looking at particular needs
18 of populations or with particular legal issues. So
19 Legal Aid was fortunate to be one of the beneficiaries
20 of our Attorney General settlement when it came to
21 foreclosure work.

22 What we've most recently been able to secure

1 is funding from both state and nonprofit entities with
2 respect to launching a veterans project. So that's our
3 newest entry into developing a specific initiative
4 focusing on a population that, as César appropriately
5 pointed out, they are our clients.

6 They are dealing with issues that our staff
7 assists with day in and day out. And so it was a
8 pivotal moment for New Mexico Legal Aid to be able to
9 expand its delivery structure to target veterans.

10 In terms of building that predictable funding
11 base, we of course are looking at identifying long-term
12 donors. Too many of our soft funding sources are
13 short-term, and that brings its own host of challenges
14 in terms of just getting up to speed to get the project
15 in place to then be able to carry out the deliverables,
16 while of course some funders are requiring monthly if
17 not quarterly reports.

18 And in New Mexico, it's not uncommon for these
19 soft funding sources to have caps on their funding.
20 And so there are a number of foundations where the max
21 that New Mexico Legal Aid would be eligible to receive
22 is \$10,000.

1 And so then that begs the question, do we
2 spend the time, the resources, to pursue that funding
3 source when we may very well end up having to, in
4 essence, subsidize to actually fulfill the deliverables
5 under that particular grant?

6 I touched upon it earlier, but I just wanted
7 to highlight that the latest component to our resource
8 development plan is specific as to targeting non-lawyer
9 donors. And we're doing this through a new initiative
10 called Together for Justice.

11 The focus the first year, if not possibly the
12 second year, into this new initiative is and primarily
13 needs to be on public awareness, raising visibility.

14 And so that's where we are at at this
15 juncture, while at the same time helping to have the
16 board understand that the money will not come in the
17 first year. And it's unlikely we will see a
18 significant source of money being raised even in the
19 second year.

20 MR. MARKS: I just wanted to wrap this section
21 up by talking just briefly about the effect this has
22 also had on our staff as we try to explain these ups

1 and downs of the budget resources and how it fits into
2 our financial planning, especially when staff gets
3 concerned about why are we not going after the \$5,000
4 and \$the 20,000 grant when it's going to generate
5 sometimes more costs than it's going to bring in, and
6 it's going to also stray us away from our mission and
7 our strategic plan.

8 So what we're trying to do is be as open as
9 possible, that when we know something, we're posting
10 the details on our SharePoint site. We're talking with
11 the union leaders. We're trying to make sure that the
12 staff knows what we know when we know it. And it's not
13 always an easy thing. Sometimes it makes us walk a
14 fine line between being clear in sharing the
15 information or being alarmist.

16 The story that sticks in my mind, the first
17 year I was Executive Director for New Mexico Legal Aid,
18 there was a brilliant young attorney, one of the best
19 I've ever seen in any legal aid program, and I thought
20 that she would be a prime candidate to follow in my
21 footsteps and take the executive director's job one
22 day.

1 But she came to me when the budget news was
2 bad, had an offer from a private firm, and she looked
3 me in the eye and said, can I tell her her job is
4 secure? Because she's low in seniority. And I
5 couldn't tell her that, and we ended up losing her to
6 the private firm.

7 So that's one way that these situations affect
8 our staff morale. But we're trying to make sure the
9 staff feels engaged so even if we don't have immediate
10 answers to all the challenges, they know that they have
11 a voice. They know that they're participating in a
12 role to help us with these financial management and
13 budget planning issues.

14 And we're emphasizing as well the steps that
15 we're taking to control costs as we also look for new
16 resources. But we want the staff to be not just an
17 afterthought in this process; we want them to be
18 engaged from very early stages, to tell us what their
19 ideas are about how we can reach out to bring more
20 stability and a better financial future for our
21 program.

22 CO-CHAIR FATHER PIUS: All right. I do want

1 to leave some time for questions, and we've got about
2 15 minutes left. So unless there's anything else,
3 Reginald, you wanted to bring up, I'd like to leave it
4 to the Board for some discussion.

5 MR. HALEY: We're happy to take question. We
6 did want a couple minutes to talk just a little bit
7 about performance area 4.

8 CO-CHAIR FATHER PIUS: Yes, because that's one
9 I want to talk a little bit about. But we have about
10 15 minutes left, so why don't we talk about that for
11 five minutes or so.

12 MR. HALEY: Great.

13 CO-CHAIR FATHER PIUS: And then if there are
14 any questions or followup on that. Keep in mind that
15 we only have about 15 minutes left.

16 MR. HALEY: Got it. Ed Marks and Steve
17 Pelletier --

18 CO-CHAIR FATHER PIUS: And actually, Lisa, if
19 you've looked at criterion number 7 because it relates
20 to development, a few words on that would also be
21 appreciated.

22 MR. HALEY: So Steve, would you like to start?

1 MR. PELLETTIER: Sure. In our discussions, we
2 certainly reviewed and looked at the criterion number 4
3 related to financial administration. And my comments
4 -- I've thought that in general, what's in there is
5 fine. It's pretty high level. There's not a lot of
6 detail in it, but I think that's by design to some
7 extent.

8 But I felt that as a suggestion, consideration
9 might be to add an indicator to that that's focused a
10 little bit more on what Father Pius -- and I'll just
11 say Pius P. because I go by Steve P. a lot, too -- had
12 suggested, that there wasn't really mention of board
13 involvement.

14 And so my suggestion was that an indicator be
15 considered, something like the program has established
16 a financial oversight committee or committees of the
17 board in compliance with the LSC Accounting Guide for
18 LSC Recipients.

19 And then for the areas of inquiry, the way
20 that that is structured in the criteria add, does the
21 financial oversight committee or committees of the
22 board perform budget-planning related activities that

1 include the following?

2 And then there's just a list of things:
3 review and recommend the recipient's annual budget for
4 full board approval; review and recommend any
5 significant budget revisions during the year;
6 regulatory monitor and review with management interim
7 statements of financial position, statements of
8 activities, and budget-to-actual comparisons; and then
9 support and engage with management in longer-term
10 financial planning, as necessary. Those are all part
11 of the guide's overview of what an oversight committee
12 should do.

13 CO-CHAIR FATHER PIUS: And if you just get a
14 chance, if you could write that up and email it, maybe
15 send it to Reginald, and Reginald can forward it on.
16 Because I'd like to collect a lot of these as we
17 continue to think in the future about these performance
18 criteria.

19 MR. PELLETTIER: Sure.

20 CO-CHAIR FATHER PIUS: I absolutely agree with
21 you, and the fact that it's not in this performance
22 criteria I think is an oversight or a lacuna, and a big

1 one.

2 MR. PELLETTIER: All right.

3 MR. MARKS: In the interest of time, I wanted
4 to just touch on one key point. As I looked at the
5 criterion 4, it's very good at highlighting which
6 fundamental aspects we should have in place in our
7 program.

8 But it didn't give me much guidance when I'm
9 trying to assess what core financial training and
10 competencies should I have and should our CFO have in
11 order to manage the increasing complexity of a
12 multi-source budget that we are faced with now.

13 So similar to when we look at the technology
14 guidelines, for example, telling us what we ideally
15 should be able to do for technology, I would like to
16 see some source somewhere that could incorporate a
17 reasonable way to say, here are some goals that you
18 should be looking at for the competencies of your
19 financial leadership, including your board members.

20 CO-CHAIR FATHER PIUS: That's great. Anybody
21 else?

22 MS. SCHATZ-VANCE: Would you like me to take a

1 moment to address criterion 7?

2 CO-CHAIR FATHER PIUS: If you could, just very
3 briefly. We might hit that, I think, more in detail
4 later on. But just some basic initial thoughts. We're
5 not expecting any detail, but just your thoughts.

6 MS. SCHATZ-VANCE: Okay. Well, the one
7 take-away I have from criterion 7, general resource
8 development and maintenance, is that it does recognize
9 the significant role that coordination and
10 collaboration amongst social service organizations,
11 foundations, corporations, academic institutions, plays
12 in successful resource development.

13 I can attest that in my role in New Mexico
14 Legal Aid, that was one of my key strengths, I think,
15 bringing to the organization, was the relationships I
16 had already cultivated in the various different sectors
17 and how significant they play when it comes to securing
18 funding.

19 We see more than more, and I think rightfully
20 so, that it is necessary to effectively meet our
21 clients' needs, both legal and non-legal, to be
22 collaborating and coordinating our services in a more

1 efficient and effective way.

2 CO-CHAIR FATHER PIUS: That's great. If
3 there's nothing else from the panel, I just have a very
4 quick question that hasn't been addressed, but just
5 your brief thoughts.

6 One of the big things that we've done,
7 obviously, on the side of the Corporation and the Board
8 is the Fiscal Oversight Task Force and its
9 recommendations. Again, we don't have a whole lot of
10 time, but if those of you who are familiar with it --
11 and I don't know, Calvin, if you've read that -- but to
12 the extent that you might be familiar with the way in
13 which that has been received within your own grantees
14 and how that has affected some of your financial
15 planning and financial oversight, really, issues
16 amongst your own grantees -- amongst your own entities.

17 Has the document that we --

18 MR. HARRIS: I'm not sure -- the accounting
19 guide?

20 CO-CHAIR FATHER PIUS: Well, not the
21 accounting guide. The report from the Fiscal Oversight
22 Task Force, whether that's been -- and if the answer

1 is, nothing, that's fine.

2 MR. LEVI: That was really for us.

3 CO-CHAIR FATHER PIUS: But just some feedback
4 for us as to whether or not that's filtered down to the
5 board level or to the level of management on your side,
6 and then with that some of the changes -- for example,
7 our own internal reorganization of oversight, whether
8 that's had a marked difference in your own relationship
9 with LSC. And if the answer is no, not really, we're
10 just moving along, that's fine. I'm just curious as to
11 just some feedback.

12 MR. PELLETIER: My comment on that would be
13 that certainly it has been noticed that LSC has taken a
14 really intense interest in fiscal and financial
15 propriety, if you will, amongst the recipients and
16 grantees over the past five, six years for sure.

17 And again, my involvement with the revisions
18 to the guide was very enlightening, and I think that
19 it's encouraging. It's really, I think, exciting to
20 see that the organization has put this whole financial
21 thing up there as a really high-value and important
22 piece of the future of legal services.

1 MR. MARKS: I'd just echo what Steve said. I
2 don't think that it's strongly filtered down to our
3 board level yet, but it has reinforced this feeling
4 that this is a priority, that our organizations have a
5 much more sophisticated financial picture and
6 sophisticated financial challenges than may have been
7 true in years past, and this needs to be given a higher
8 priority.

9 CO-CHAIR FATHER PIUS: Okay. I've hogged the
10 microphone enough. So Sharon?

11 MS. BROWNE: I'm just really curious, since we
12 are looking at the performance criteria, when was the
13 last time you looked and studied the performance
14 criterias before preparing for your presentation here
15 today?

16 MR. TORRES: Well, we were fortunate enough to
17 have the Office of Program Performance do a quality
18 visit.

19 (Laughter.)

20 CO-CHAIR FATHER PIUS: A perfectly acceptable
21 answer.

22 MR. TORRES: No. But seriously, I have to say

1 that I've been very pleased with our board, that over
2 the years -- again, partly because of the way we come
3 and engage with them, and I'm now talking more about
4 performance criterion 4 -- they understand that this is
5 a standard, if you will, by which they can evaluate and
6 think about what they're doing, and on their own have
7 sought out and have had the performance criteria as a
8 -- it's not overly formal, but it's certainly a
9 self-evaluative kind of item that they come back to
10 again and again.

11 And so I think that certainly our board on its
12 own -- we share the entire performance criteria and so
13 many other aspects of LSC guidance. But they
14 understand that this applies to us, and this is
15 something that we should be very mindful of.

16 And that's been fairly consistent. So it was
17 nice for me to see and not have to struggle with them
18 about it. So it's been pretty regularly thought about.

19 MS. BROWNE: How about you, Ed?

20 MR. MARKS: It certainly played a role in our
21 strategic planning process last year when we wanted to
22 make sure that everything that we or the board or the

1 staff were proposing was within the intent and the
2 goals of the performance criteria.

3 I've got a very dog-eared copy of the
4 performance criteria on my desk, and I can't tell you I
5 refer to it every day, but certainly when we're taking
6 any major change or any major initiative, I'm looking
7 back at that to see how it fits and reinforces what
8 we're trying to do.

9 CO-CHAIR FATHER PIUS: Gloria?

10 CO-CHAIR VALENCIA-WEBER: With the increasing
11 focus, both on the Board as well as among the grantees,
12 on the fiscal management and administration, if you
13 have a question from the grantee level, at this point
14 is it very secure in your mind who you call at the LSC
15 main office to answer those kinds of questions?

16 MR. MARKS: I think the LSC staff has always
17 been very responsive when we've had these kinds of
18 questions. And it depends on what the issue is whether
19 I start out with someone in the Office of Program
20 Performance or some other direction.

21 But usually if I'm confused about which
22 direction to go, Evora or Janet will always point me in

1 the right direction, and we've found the information to
2 be very helpful.

3 MR. HALEY: With regard to financial
4 management, the LSC Accounting Guide, which was just
5 updated in 2010, provides quite a bit of information
6 not only on accounting but on financial management and
7 budgeting. So that's a resource that's available to
8 the field.

9 CO-CHAIR FATHER PIUS: Robert?

10 MR. GREY: One of the things that I think when
11 our Board looked at the guide, it alerted us to the
12 idea of those who are not in the legal profession being
13 advisors to this Board on the Audit Committee and on
14 the Finance Committee.

15 And I think it's the first time that we've
16 actually engaged those individuals, who have either
17 been a former IG or a retired partner of a major
18 accounting firm, to give us some guidance.

19 And to the extent that you have had access to
20 that in your own work or have heard of others doing it,
21 could you give us your thoughts about that as part of
22 the guidelines in the governance and administration of

1 finances by the board of directors and through your own
2 activities?

3 MR. PELLETIER: In part because of the guide
4 and the focus on the financial expert encouragement
5 that's in that guide, and César noted in his comments,
6 we've I think changed our recruitment of board member
7 approach, and that expertise has become clearly
8 something we're looking for and looking to maintain on
9 the board as part of that.

10 I think that we're still looking to get --
11 we're limited to some extent by having attorneys and
12 client board members. But we're finding that we're
13 able to find some attorneys with some pretty good
14 expertise, and that's just something we're focusing on.

15 MR. LEVI: Well, César and Ed, nice to have
16 you back here again, and your colleagues, and thank you
17 for coming.

18 What I think Robert was talking about was the
19 use of essentially advisory board members, auxiliary
20 board members, so that under most states'
21 not-for-profit acts, you can actually have board
22 members or people who are not actually on the board

1 serve on board committees and advise them.

2 MR. TORRES: If I might, when the guidance
3 came down, Steve and I certainly spent a fair amount of
4 time -- certainly he had been involved in the process,
5 so was very aware of it -- and we spent a fair amount
6 of time thinking about ways that we can do this. And
7 we understood that we could get the volunteers and so
8 on.

9 And one issue that came up that we didn't
10 actually really have to drill down on because we got a
11 board member who really knew her numbers -- I'm sorry.
12 The issue was, is this independent volunteer going to
13 come to the board and opine or give an opinion as to
14 some aspect of the financial situation?

15 And immediately the question comes up, well,
16 is this person pro bono? Do they have insurance? Are
17 there liability questions? These kinds of issues very
18 quickly rose to the fore.

19 And so, yes, it's true that we could have
20 volunteers come in and do that. But in the same way as
21 we don't ask an attorney to volunteer to do pro bono
22 work without dealing with issues of malpractice and so

1 on, that question came up and we were discussing it and
2 thinking about it and playing it over in our minds.

3 And then, of course, the board recruitment
4 process led us in a different direction, which was
5 fine. We haven't tabled the issue, certainly, because
6 it's out there. But there are considerations that come
7 into play along those lines that we identified.

8 CO-CHAIR FATHER PIUS: We're just about out of
9 time, so if there are any more essential questions?

10 (No response.)

11 CO-CHAIR FATHER PIUS: I'd really like to just
12 thank the panel. This has been wonderful panel and
13 very, I think, informative and helpful to us. You have
14 all come a rather long distance, I think -- I don't
15 know, Calvin, where you're from. You're the local guy?

16 All right.

17 (Laughter.)

18 MR. HARRIS: An hour away for me.

19 CO-CHAIR FATHER PIUS: But thank you very much
20 for coming here. Thank you for your presentation.

21 (Applause)

22 CO-CHAIR FATHER PIUS: With that, I want to

1 see if there is any public comment.

2 (No response.)

3 CO-CHAIR FATHER PIUS: Seeing none, is there
4 any other business for us as a Committee to act on?

5 MR. LEVI: Well, is Terry Brooks in the room?
6 This is the Delivery of Services Committee. Do you
7 want to mention what you mentioned to me out in the
8 hall? I think it's worth making some mention of it
9 here.

10 CO-CHAIR FATHER PIUS: I'm glad to see it's
11 bow tie week here today at the LSC.

12 MR. BROOKS: Yes. This is Terry Brooks with
13 the American Bar Association Standing Committee on
14 Legal Aid and Indigent Defendants. And I had a hallway
15 conversation with John Levi and Martha Minow yesterday
16 about the concern that has recently arisen over the
17 changes that the Administration has proposed in loan
18 repayment and forgiveness laws and processes that would
19 cap the amount of forgiveness that is permissible after
20 ten years of service in a nonprofit, legal aid, or
21 other context. And those changes are of great concern
22 to the ABA, which will be moving to develop a new

1 policy on that matter for our House of Delegates.

2 Now, that may come too late to affect the
3 current budget cycle, which as your staff has
4 explained, may move on the normal schedule, the new
5 normal -- or the old normal -- and the federal budget
6 process may be completed before August.

7 So I just wanted to bring that concern to the
8 attention of this Board for whatever action it may be
9 appropriate for the Board to take. If these changes
10 are pursued by the Administration and adopted by
11 Congress, they would have a severe impact on the
12 ability of students who carry high debt loads to accept
13 positions within the legal aid community.

14 MR. LEVI: And do you know if they have
15 retroactive effect? So if you're five years out and
16 you were expecting the forgiveness at the end, are you
17 capped, too?

18 MR. BROOKS: That is unclear. Heater Jarvis,
19 who is somewhat of an expert on this, has opined that
20 they will not be retroactive, but that they would only
21 apply prospectively. I don't know if that has been
22 fully analyzed by other experts.

1 DEAN MINOW: Well, I think, as we discussed
2 yesterday, the loans that are faced by law students are
3 more serious and devastating than at any time in
4 recorded human history. And the impact on, then, the
5 career choices is profound.

6 It's unfortunate to see this proposed change
7 in the federal government's policies because it will
8 have a direct and palpable impact on a new generation.

9 And when you put it together with the discussions
10 we've had about succession and a new generation being
11 recruited into legal services, this is particularly
12 troubling in this sector.

13 So it would be great to see if there's
14 something that can be done.

15 MR. LEVI: Could I ask the Committee, in view
16 of the timing of this and our Board's lack of
17 information, is this something that a telephonic
18 meeting could take place in the next few weeks to more
19 fully -- it is properly in this Committee.

20 CO-CHAIR FATHER PIUS: Yes. I think it's
21 something that we can do. We'd have to put together
22 some people who know, I think, a little bit more,

1 including some response, I think, from some grantees on
2 how this might actually affect them, and put it
3 together.

4 MR. MADDUX: Is there anything we can do or
5 the ABA can do to have law schools stop raising their
6 tuition rate at three times the rate --

7 (Laughter.)

8 MR. MADDUX: -- I'm serious -- at three times
9 the rate of inflation? I know my own university,
10 Indiana, two years ago raised their in-state tuition in
11 a single year by 20 percent, up to \$25,000 for in-state
12 students. It was like \$3,000 when I was a student
13 there.

14 So there are a lot of factors that go into the
15 high debt load for graduating law students. And maybe
16 one of them is seem the law schools can look at.

17 DEAN MINOW: You know I share this view, and
18 we do have some experiments that are coming forward.
19 Brooklyn Law School recently reported that it's holding
20 the line, and some schools are actually cutting
21 tuition.

22 But maybe I know more than others. There's a

1 difference between the quoted tuition rate and the
2 actual rate. And when you have schools like mine where
3 84 percent of the students are on financial aid, the
4 sticker price is not what people pay. And a lot of the
5 escalation has to do with paying for financial aid.
6 That is the biggest driver of tuition.

7 CO-CHAIR FATHER PIUS: The question of
8 financial aid to law schools is probably not within the
9 purview of the Board. But if there are any other
10 necessary comments about this -- go ahead.

11 MS. REISKIN: Yes. I know this is not going
12 to solve the problem, but that was the petition I sent
13 to you guys right before the meeting. And I know we're
14 not, obviously, a legal aid recipient, but my
15 organization, this program is why our young attorney is
16 able to work for us at the rate we're able to afford.
17 And I'm sure a lot of our grantees have lawyers in that
18 position. So this is very important for all nonprofits
19 that do legal aid, legal assistance.

20 CO-CHAIR FATHER PIUS: The question of the
21 cost of higher education and the ramifications on what
22 people can do are important. I think the extent that

1 we as a Board can provide information to Congress and
2 the Administration on a policy decision, simply
3 information about what effect this would have on this
4 particular sector, I think that's something that's
5 legitimate for us to consider and at least to get
6 information on.

7 Whether or not we continue to pass on that
8 information is another matter. But I think that's
9 certainly something that we can consider.

10 Jim?

11 PRESIDENT SANDMAN: For purposes of the
12 meeting that the Committee has, we'll pull together
13 information on the level of indebtedness that's carried
14 by the participants in our own loan repayment
15 assistance problem, the Herbert Garten Loan Repayment
16 Assistance Program.

17 I saw the numbers recently, and the escalation
18 just over the last three years in the average debt
19 carried by people participating in that program is
20 astonishing.

21 CO-CHAIR FATHER PIUS: Yes. And the more we
22 can collect historical information on the debt carried

1 by attorneys who work for our grantees or even the ones
2 that we provide those for, I think that's information
3 that might prove relevant and useful to understand
4 what's going on.

5 Okay. We're way over time, so thank you very
6 much. Did you want to add anything else?

7 MR. BROOKS: I would just mention one other
8 resource to you that Jim probably is already aware of.

9 Professor Philip Schrag at Georgetown is somebody
10 who's focused attention on this issue for many years
11 and who has provided me with some materials in relation
12 to the recent proposal that you should obtain and
13 you'll find highly useful.

14 CO-CHAIR FATHER PIUS: Gloria?

15 CO-CHAIR VALENCIA-WEBER: Yes. Professor
16 Schrag as well as Peter Winograd, who will be coming
17 here also to do the ABA congressional visits, were the
18 architects of the bill when originally passed.

19 CO-CHAIR FATHER PIUS: Okay. Is there any
20 more public comment?

21 (No response.)

22 CO-CHAIR FATHER PIUS: Do we have any business

1 to discuss, then, as a committee?

2 (No response.)

3 CO-CHAIR FATHER PIUS: I'm willing to
4 entertain a motion to adjourn. Gloria?

5 M O T I O N

6 CO-CHAIR VALENCIA-WEBER: So move.

7 MR. MADDOX: Second.

8 CO-CHAIR FATHER PIUS: All those in favor?

9 (A chorus of ayes.)

10 CO-CHAIR FATHER PIUS: All those opposed?

11 (No response.)

12 CO-CHAIR FATHER PIUS: The meeting is
13 adjourned. Thank you.

14 (Whereupon, at 12:10 p.m., the Committee was
15 adjourned.)

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