

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING

June 13, 1989

Hyatt Regency Woodfield Hotel
Regency Ballroom
1800 E. Gold Road
Schaumburg, Illinois 60173

Present:

Michael Wallace, Chairman
Hortencia Benavidez
Basile J. Uddo
Blakley Hall

Claude Swafford
Lorain Miller
Paul Eaglin

Staff Present:

Terrance Wear, President
Timothy Shea, Vice President and General Counsel
Maureen Bozell, Secretary
David Richardson, Comptroller

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P R O C E E D I N G S

2:30 p.m.

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CHAIRMAN WALLACE: Since people are trying to get to the airport, our business today is marginally of a formal nature. Let me call the public portion of the Board of Directors Meeting to order.

The agenda is printed in the Board book. Let me ask all members to review the agenda and let me ask if there is a motion to approve the agenda as printed in the Board book.

MOTION

MR. HALL: So moved.

CHAIRMAN WALLACE: Mr. Hall has moved to approve the agenda. Is there a second?

MS. BENAVIDEZ: I second that.

CHAIRMAN WALLACE: Ms. Benavidez has seconded. Is there any discussion or amendments to the agenda? Hearing none, we are prepared to vote. All in favor of the agenda as printed in the Board's book, say aye.

(Chorus of ayes.)

CHAIRMAN WALLACE: All opposed, no.

(No response.)

CHAIRMAN WALLACE: The ayes have it. The agenda is

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1 adopted. The first item on the agenda after its approval is the
2 minutes of the April 14, 1989 meeting. Is there a motion to
3 approve the minutes of the April 14, 1989 meeting as printed in
4 the Board book?

5 MOTION

6 MS. BENAVIDEZ: I make that motion.

7 CHAIRMAN WALLACE: Ms. Benavidez has moved to approve
8 the minutes. Is there a second?

9 MS. MILLER: I second it.

10 CHAIRMAN WALLACE: Ms. Miller has seconded it. I have
11 read the minutes and I find those to be accurate myself. Are
12 there any corrections or additions to the minutes?

13 MR. EAGLIN: I would the record to note by abstention
14 on this because I was not present at this meeting. I hope you
15 recall that I had to notify you just days before the meeting
16 that I could not attend, although I had planned originally to
17 attend the meeting.

18 CHAIRMAN WALLACE: The record will so reflect. Is
19 there any further additions or corrections to the minutes?
20 Hearing none, let us proceed and we will vote. All in favor of
21 approving the minutes as printed in the Board book, say aye.

22 (Chorus of ayes.)

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1 CHAIRMAN WALLACE: Opposed, say no.

2 (No response.)

3 CHAIRMAN WALLACE: The ayes have it. Mr. Eaglin is
4 abstained and the minutes are approved. The only item, only
5 substantive item on the agenda is the report from the Committee
6 on Provisions for the delivery of Legal Services which has been
7 meeting for the last day and a half here in Chicago.

8 It is my understanding that no action was taken as a
9 result, but let me recognize the chairman of that committee, Mr.
10 Hall, to summarize for the benefit of those of us who weren't
11 there and it is probably just me, so you can keep it short.

12 REPORT OF PROVISIONS COMMITTEE

13 MR. HALL: It will be short. What was submitted when
14 the draft proposal had been bid processed, 1633, I believe, and
15 what we did -- it was the first time we have met on a
16 competitive bid of our system, and as you can imagine, there
17 were many, many suggestions offered.

18 There were many, many problems pointed out and in my
19 opinion, what we did was scratch the surface so far as getting
20 into it. We made it clear from the beginning of the meeting
21 that it was just a proposed draft, that we would recognize that
22 there were going to have to be a lot of changes to it and I

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1 don't think that anybody would object if it were ever to be
2 voted on.

3 There will have to be a lot of changes to it and I
4 think that a lot of the suggestions made were good. I know
5 everyone always brags on Alan Houseman's comments and Linda
6 Perle's comments and they usually summarize what everyone else
7 had said and brings together a good package and in my opinion, a
8 lot of the problems that were discussed can be found there.

9 I think everyone has a copy of that and there is no
10 need for me to go into each one, but scratching the surface,
11 establish and characterize the meeting and that is all I have.

12 CHAIRMAN WALLACE: Thank you, Mr. Chairman. I
13 appreciate your efforts and I appreciate you undertaking this
14 task on behalf of the Board. Mr. President.

15 REPORT OF PRESIDENT WEAR

16 CHAIRMAN WEAR: Thank you, Mr. Chairman. As Mr. Hall
17 said, the proposal was a bare bones proposal. We were
18 interested in getting comments from various members of the
19 public. I think we have gotten a lot of good comments on it.
20 It is something that the staff can consider.

21 It was never the intent of the corporation to try
22 implement a competitive bidding proposal until the two

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1 conditions present are satisfied in the statute and that is still
2 the corporation's intent.

3 The staff will look at these comments that we have
4 gotten and try to deal with them in some fashion. Mr. Valois
5 wanted the particular factual information that we don't have, at
6 least I am not aware that we have, so we will have to try to
7 find that and I suspect it will take some time to develop that.

8 We are very interested in getting additional comments
9 from other people who, perhaps, weren't able to get their
10 comments in in this time period. I know that Alan Houseman and
11 Linda Perle indicated that theirs were preliminary, that they
12 thought they would have additional comments and I hope that they
13 will submit those additional comments because I think they will
14 be very helpful to us in looking at this proposal, and similarly
15 for other people who weren't here today, if they can send their
16 comments to us.

17 This is not something that is going to take form right
18 away, but we are very much interested in having their comments
19 and suggestions. Mr. Chairman, another suggestion was made
20 during the course of our hearing on competition this morning,
21 Mr. Smegal with regard to the time frame for grants for this
22 calendar year.

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1 If I may, I would like to comment on that just very
2 briefly.

3 CHAIRMAN WALLACE: Proceed, please.

4 MR. WEAR: When the letters were written to the basic
5 field programs indicating that the grant period was going to run
6 from January 1 to September 30th, that was fairly early in the
7 year and it was unclear at that point how soon a new Board of
8 Directors would be nominated and confirmed.

9 I know that there have been criticism in the past,
10 going back to former presidents, about presidents tying the
11 hands of board members and I was sensitive to that and did not
12 want to do that.

13 I have had an opportunity to reflect on it. I thought
14 that given the time period that it would take, if we were ready
15 to do competition, which we are not, but if we were ready, it
16 would take approximately four months to go through the process,
17 so it is not something that is going to happen overnight.

18 I don't have a crystal ball. I don't know how soon a
19 new board would be nominated and it is anyone's guess as to how
20 rapidly or slowly the Senate might move on those nominations,
21 and so I am going to go out on a limb and take a risk that a new
22 board is not going to be appointed and confirmed until the

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1 August recess and if they weren't appointed and confirmed by the
2 time of the August recess, which is early in August, I don't
3 think the corporation would be a position to institute
4 competitive bidding this year.

5 So, I am going to draft a brief memo and send out to
6 the various program and directors indicating that given these
7 thoughts on the timing of a new board, that I intend to extend
8 the current grants and contracts that are in effect through the
9 end of the year.

10 Mr. Chairman, I don't think I have anything else.

11 CHAIRMAN WALLACE: Thank you, Mr. President. Let me
12 say that based on my understanding of the law and, indeed, the
13 explanation of the law that I heard from Senator Rudman in our
14 appropriations hearing in May, the law mandated a new board to
15 institute competition as of October 1, 1989.

16 That is still the law although Congress, I think, is
17 very likely to change it because of the practical problems
18 President Wear has just described. I think President Wear acted
19 entirely properly in not giving people contracts for the last
20 three months of the year when Congress had mandated that those
21 contracts be awarded in eight different fashions as of October
22 1, 1989.

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1 Congress has, at least the Senate has recognized, that
2 the President has not moved as expeditiously as all of us would
3 have hoped and that we are still here and that competition
4 cannot practically be implemented by October 1st and Congress, I
5 think, and for that matter, I hope, is willing to change the law
6 to extend the existing contracts through the rest of this year.

7 I think Mr. Wear acted entirely properly in acting as
8 he did in leaving the fourth quarter of this year open for what
9 Congress said it wanted to happen, but we also second what the
10 President has said about the function of this Board as far as
11 competition is concerned.

12 We are here to investigate and develop, but we cannot
13 implement, we cannot vote, we cannot establish a system and put
14 it into place. We are here to give the new board a running
15 start with authority we have under the Legal Services Act to
16 investigate and improve the delivery of Legal Services, and I
17 think that is all Mr. Hall's committee has been doing.

18 I commend him for his work. Since he says he has just
19 scratched the surface, I presume that in conjunction with the
20 staff and with those people who have made comments, we might
21 expect to have another committee meeting somewhere down the road
22 to give a little deeper below the surface and I trust you will

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1 be working with the staff and with your committee on trying to
2 put that together in a few months if we are all still here.

3 Let me ask if there are any questions from Board
4 members for either the chairman of the committee or for the
5 president on subjects that were addressed here this afternoon.

6 MR. EAGLIN: Mr. Chairman, I have listened to all of
7 the presentations yesterday and today also, and right now my
8 position is very much like Ms. Benavidez and very much for this
9 reason because she put to the entire group yesterday a question
10 that I don't think was adequately addressed, and that was, how
11 does a client find a lawyer in all of this.

12 We heard economic theories discussed yesterday and
13 different models discussed and so forth, but in all of that, I
14 was not satisfied that her question put yesterday morning was
15 ever adequately addressed on how does a client find a lawyer in
16 all of this?

17 We had a guest that perhaps will advertise and another
18 one that we might have some kind of 800 number like the North
19 Carolina Bar Association Lawyer Referral Service, but I don't
20 think that would translate very well. I don't think it
21 addresses the problems that she is dealing with.

22 Some other clients yesterday also indicated that there

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1 is a tremendous need for additional client input and significant
2 client input in any kind of proposal if this Board is going to
3 go forward with it and I think that needs to be dealt with as
4 well.

5 I don't think that this adequately takes into account
6 some concerns that they could add that would make this a much
7 more worthwhile project if we are going to continue it. I don't
8 agree that this Board should be having these hearings. I think
9 that the matter should be left for the next Board.

10 That Board will implement it. That Board is not going
11 to be bound in any way to follow any kind of directions or
12 studies or recommendations that we come up with and they could
13 discard all that we have done and the expense of this meeting
14 here and any other meeting that we have is going to be a waste.

15 I think it would be preferable for us not even to
16 continue with this, but preliminary^l, my position is very much
17 like Ms. Benavidez and I don't see that there is anything here
18 for the client. Her essential question has not been addressed
19 and that is the question of access under a system of
20 competition.

21 CHAIRMAN WALLACE: Mr. Eaglin, I appreciate that. I
22 was in court yesterday and did not hear Ms. Benavidez' comment.

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1 I did hear --

2 MR. EAGLIN: That was it. That was the question, how
3 does a client find a lawyer?

4 CHAIRMAN WALLACE: So, I will take your word for it
5 that nobody addressed it in the day and a half. I was impressed
6 --

7 MR. EAGLIN: Not to my satisfaction, Mr. Wallace.

8 MS. SWAFFORD: Let me -- the American people have
9 difficulty in finding the lawyer.

10 CHAIRMAN WALLACE: I appreciate --

11 MS. SWAFFORD: Just for comment, I don't think it is a
12 great mystery as to how you find a lawyer.

13 CHAIRMAN WALLACE: I appreciate that, Ms. Swafford. I
14 did hear the last gentleman who spoke about the things which
15 were left unsaid in the regulation. The information was not
16 available. It may be one of the things that if a regulation
17 exists, it ought to include his provisions for outreach, to ask
18 and tell us will you have a 800 number, will you take other
19 steps to make your services known to clients.

20 That looks to me like a fair matter for consideration
21 and I hope somebody will address that issue to the satisfaction
22 of Ms. Benavidez.

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1 MR. EAGLIN: The question that she put was not how
2 does one find "a" lawyer, how does one find "the" lawyers who
3 have the contracts under a system of competition. All right?
4 Professor Cox yesterday discussed one of the phenomena he
5 identified in San Antonio and that is, after intake, some
6 persons who were vouchered for Legal Services did not show up
7 again in this system and he wasn't sure why because he didn't
8 anticipate that and he apotheosized two reasons.

9 One was that they gave up. In other words, that the
10 system didn't work, and then on the other hand, he says, well,
11 maybe it did work because perhaps that was a reflection that
12 there really was not real demand there. All right?

13 So, there is a fundamental question that she
14 identified that we need to address and that is, how does one
15 find "the" lawyer, "the" contracted lawyer under a system of
16 competition.

17 It is not finding any lawyer. It is the one that you
18 need to find.

19 MR. HALL: I did ask the last witness, Mr. Dessen how
20 he intended to make his services known and quite frankly, I'm
21 not sure what his answer was at this time.

22 MR. EAGLIN: Well, I'm not sure either. That is why I

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1 had said that this just re-enforces the fact that her question
2 was not dealt with.

3 MR. HALL: I think her question to me was perceived in
4 the nature of a comment. That is something that needs to be
5 dealt with in these regs. That is one of the big problems that
6 nobody has addressed. The question has only been asked by
7 several.

8 CHAIRMAN WALLACE: I think we are agreeing with you,
9 Mr. Eaglin, and you, Ms. Benavidez, that the question ought to
10 be addressed so that those new clients will know who the
11 contractor is and that is the question of publicity of some
12 sort. I don't know how it would work. That, I agree, has to be
13 addressed. I appreciate the comment.

14 Is there any further comments from any Board members?
15 We do not have public comment on the agenda today. We have had
16 a day and a half of public comment and the Board is going to
17 take no action. This whole Board, or most of it, is leaving for
18 the airport on a van at 3:00, so I don't want to get into detail
19 with public comment at this point.

20 I did see one hand on the floor. How many people
21 would like to make brief comments to the Board before we
22 adjourn? There is one hand -- I see two hands. Let me ask both

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1 of you to come forward and I am going to ask you to make it
2 brief because the subject of competition -- I see three hands--
3 will be addressed further by Mr. Hall's committee as it has been
4 the last day or so.

5 Welcome, and let me ask you to identify yourselves and
6 I will start with you.

7 PUBLIC COMMENT

8 MS. NEWSOME: I am Rosie Newsome, South Bend, Indiana,
9 a Board member.

10 CHAIRMAN WALLACE: Yes, madam. Let me get all three
11 of you at once and you are?

12 MS. BROWN: Janice Brown, Omaha, Nebraska.

13 CHAIRMAN WALLACE: You are?

14 MS. BINION: Eddie Mae Binion, St. Louis.

15 CHAIRMAN WALLACE: Thank you. Welcome, ladies and I
16 apologize for the short nature of our comments, but I trust you
17 had more time with the full committee. Please go ahead.

18 STATEMENT OF ROSIE NEWSOME

19 MS. NEWSOME: My sentiment and plead is about Mr.
20 David S. Dessen and I hope he has not gone. If so, I don't want
21 him to think that I am saying anything behind his back because I
22 have already told him outside.

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1 If you are considering outside competitive bidding, I
2 am asking you to please think twice and investigate as
3 thoroughly as possible that Mr. David Dessen does not be one of
4 those people that you put there to go over poor people. Thank
5 you.

6 MR. EAGLIN: Why is that?

7 MS. NEWSOME: Because of his insensitivity of what he
8 said this morning and here for one reason when the question was
9 asked of him of how would he reach poor people to let them know
10 that he worked to give them their services.

11 He didn't have anyway of reaching them. He doesn't
12 deal with any poor people now. He had not and if he feels that
13 he can render better services than Legal Services is rendering
14 now, he has a problem because he doesn't know what kind of
15 services they are rendering.

16 He has not dealt with the poor people and if he thinks
17 dealing with school teachers because of the fact he is filing a
18 lawsuit for those people, trying to get lump sums of money, when
19 poor people are not trying to get anything but a place to stay,
20 some rent, and food to eat, he is just not the person that I
21 would want to see working and the private conversation that I
22 had with him out in the hall, he is not one that I would want to

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1 represent me and I told him that and that is why, sir. Anything
2 else?

3 MR. EAGLIN: I just wanted a fuller explanation of --

4 MS. NEWSOME: Well, that is my explanation. He gave
5 it to me sitting here.

6 CHAIRMAN WALLACE: Thank you, madam. I appreciate it.

7 STATEMENT OF JANICE BROWN

8 MS. BROWN: Okay, yesterday I didn't make too many
9 comments because everybody was tired and I was the last speaker
10 and I felt that the panel members would not be receptive to what
11 I say. So, I felt what I have to say was important, so that is
12 why I didn't make a lot of comments yesterday, but the one thing
13 that I see here is that there is a problem that no one has
14 addressed today and that is the relationship between LSC and the
15 existing legal corporations.

16 I am seeing a problem that has developed and when this
17 issue of competitive bidding took place, it took place that I
18 feel not because it wants to give too better service to the
19 clients, but it is because I feel that Legal Services
20 Corporation has lost the respect of the legal aid corporations
21 and each Legal Services Corporation in that community in the
22 fact that they do not have the control that they were designed

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1 to have.

2 I felt that this thing of competitive bidding is an
3 attempt to kind of regain that control that they once had over
4 legal services for poor people.

5 It is a shame that people had to come before this
6 Board because this Board has no power to act on the decisions
7 and the testimony that was brought here today, but I can say
8 this and I think I can stand for all of the other client
9 representation and all of the legal staffs too, is that whatever
10 happens, whenever a new Board can be appointed, they can expect
11 to see all the clients and all of the commuter representation
12 because I am going to do my part to get out the knowledge that
13 there is going to be competitive bidding, that their proposal of
14 competitive bidding is coming up.

15 So, I am going to do my part to get people to whatever
16 it has to take, to Washington, D.C. to talk to Mr. Rudman or
17 whoever we have to talk to in order to stop this thing of
18 competitive bidding because in my mind, it does no service to a
19 client because too many cooks in the kitchen spoils the broth.

20 CHAIRMAN WALLACE: Thank you, madam. Madam?

21 STATEMENT OF EDDIE MAE BINION

22 MS. BINION: Yes, sir. Thank you for this

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1 opportunity. I am not going to take a long time here. I just
2 want to say I represent a low income organization in St. Louis
3 which is Southside Welfare Rights and we have members all over
4 the country.

5 I wanted to go on record that Southside Welfare Rights
6 are opposed to this competitive bidding system. We feel that to
7 disban Legal Service would be throwing the baby out with the
8 bath water because we have taken Legal Service -- it has been
9 there over fifty years for low income people.

10 I do not feel that there are that many lawyers
11 standing in line competing to represent low income people
12 without being paid a lofty sum. Most low income people do not
13 know where to go to find lawyers. They come to groups like
14 Southside Welfare Rights and ask for directions.

15 I have not found in St. Louis that all of those
16 lawyers really are interested in the clients, so my comment is
17 much longer, but due to the time, I would like to put it in
18 writing and send it to you.

19 CHAIRMAN WALLACE: Thank you, madam. I appreciate it.
20 As you know, we have received written comments, so they have
21 been read and new ones will be read and no action, as you know,
22 will be taken for some time to come.

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1 Thank you all very much for being with us. We thank
2 all members and the public for being here.

3 MS. MILLER: One question.

4 CHAIRMAN WALLACE: Yes, madam?

5 MS. MILLER: All I can hear is a guess to competitive
6 bidding. Why is it a must?

7 MR. EAGLIN: Must, because Congress says so. It is in
8 the law. I didn't --

9 CHAIRMAN WALLACE: Not by the next Board, though.

10 MR. EAGLIN: Not by this Board.

11 MS. MILLER: Even attorneys, they don't want it. They
12 are not looking for it. The clients don't want it.

13 CHAIRMAN WALLACE: I realize there are attorneys that
14 don't want it. All I heard was the one witness who thought it
15 was a good idea and I am not hear to defend --

16 MS. MILLER: That was the only one.

17 CHAIRMAN WALLACE: I have no position on it at all
18 except that it is the law and the new Board is mandated to put
19 it into place. I think we are doing them a service by
20 preliminary work, indeed, we may be doing Congress a service
21 because these folks can take the record that has been made here.

22 They can take it to Congress and Congress may change

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1 the law, but as long as we are here, we have the law as it is,
2 and the law says competitive bidding is coming.

3 I thank you all for being here and I thank my fellow
4 Board members and in the absence of a forum, the meeting stands
5 adjourned.

6 (Whereupon the meeting concluded at 2:55 p.m.)

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