LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

TELEPHONIC MEETING OF THE FINANCE COMMITTEE

OPEN SESSION

Friday, June 27, 2014

1:00 p.m.

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

COMMITTEE MEMBERS PRESENT:

Robert J. Grey Jr., Chairperson Sharon L. Browne Laurie Mikva Father Pius Pietrzyk, O.P. Robert E. Henley Jr. (Non-Director member) Allan J. Tanenbaum (Non-Director member)

BOARD MEMBERS PRESENT:

Charles N.W. Keckler Victor B. Maddox STAFF AND PUBLIC PRESENT IN THE CORPORATION'S OFFICES:

James J. Sandman, President

Richard L. Sloane, Special Assistant to the President

Rebecca Fertig-Cohen, Special Assistant to the President

Patrick Malloy, Grants Management/Legislative Fellow, Executive Office

David L. Richardson, Comptroller and Treasurer,

Office of Financial and Administrative Services Carol A. Bergman, Director, Office of Government

Relations and Public Affairs

- Treefa Aziz, Government Affairs Representative,
- Office of Government Relations and Public Affairs Patrick Malloy, Grants Management/Legislative Fellow, Executive Office

Manvi Drona, Web Content Manager, Office of Government Relations and Public Affairs

- Wendy Long, Executive Assistant, Office of Government Relations and Public Affairs
- Julia Kramer, Program Counsel, Office of Compliance and Enforcement

Jeffrey E. Schanz, Inspector General

Laurie Tarantowicz, Assistant Inspector General and Legal Counsel, Office of the Inspector General

David Maddox, Assistant Inspector General for Management and Evaluation, Office of the Inspector General

Magali Khalkho, Director of Management Operations, Office of the Inspector General

Jacquelyn Richards, Intern, Executive Office

Nupur Khullar, Intern, Office of Government Relations and Public Affairs

Silove Barwari, Intern, Office of Government Relations and Public Affairs

Joe Langerman, Intern, Office of Government Relations and Public Affairs

Ashley Matthews, Intern, Office of Government Relations and Public Affairs CONTENTS

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1	PROCEEDINGS
2	(1:03 p.m.)
3	CHAIRMAN GREY: Welcome, everybody. Thank you
4	for taking the time to attend the Finance Committee
5	conference call.
6	I'd like to open the meeting with the approval
7	of the agenda. Is there a motion for that?
8	MOTION
9	FATHER PIUS: So moved.
10	CHAIRMAN GREY: Second?
11	MS. BROWNE: This is Sharon. I'll second.
12	CHAIRMAN GREY: Thank you. All in favor say
13	aye.
14	(A chorus of ayes.)
15	CHAIRMAN GREY: Opposed, no.
16	(No response.)
17	CHAIRMAN GREY: Jim and Dave, I'll turn it
18	over to you guys for discussion about Management's
19	recommendation for LSC's fiscal year 2016 budget
20	request.
21	PRESIDENT SANDMAN: Thank you, Robert. This
22	is Jim. I'll take the lead.

I'd like to do four things: first, describe what our request is; second, summarize our current assessment of the need for legal services; third, explain why we are recommending a budget request that we admit is insufficient to meet need; and finally, explain why our request is not too high.

7 Our request is basically the same amount as 8 last year, \$486.9 million, except for an increase of 9 \$900,000 for the Office of the Inspector General. That 10 number compares to our current funding of \$365 million. 11 In the current fiscal year, we went up \$25 million 12 from fiscal '13.

That \$25 million increase, however, resulted in only \$19,555,000 in additional basic field grants, which is what actually goes out to legal aid programs to enable them to provide service to low income people. All of our assessments of need point to a All of our assessments of need point to a to entinuing increase. As you know, we use the size of the eligible poverty population as a proxy for need,

20 and the most recent actual numbers in our projections 21 show a rise in the size of the eligible population. We 22 project that the number has gone up since last year,

and will increase by another 900,000 people between
 2014 and 2016.

Although there are no national data on the 3 number of unrepresented litigants in our courts, the 4 5 state figures that we see periodically are astonishing. Last year in the state courts of New York, for 6 example, an estimated 2,300,000 people appeared without 7 lawyers. And you'll all recall that the presentations 8 at our quarterly Board meetings by justices and judges 9 provide powerful confirming evidence of the magnitude 10 11 of the self-represented litigant phenomenon.

Finally, the numbers we've received from our grantees about their staffing levels, their office numbers, and the number of cases closed show continuing declines on a national basis. The number of offices for LSC-funded legal aid programs today, for example, now stands at an all-time low. It's down to 799 offices.

Cases closed have declined considerably since 20 2010, when our funding in absolute dollars hit an 21 all-time high. They've decreased from 932,000 cases 22 closed in 2010 to 759,000 cases closed in 2013. You'll

see in the memo that there is a very clear correlation
 between the number of cases closed and LSC funding.

Between 2010 and 2013, for example, basic field funding went down by 18 percent, and cases closed went down by 18-1/2 percent. Between 2011 and 2013, basic field funding went down by 15 percent, and cases closed went down by 15.6 percent.

8 We do take a look at other funding available 9 to grantees, and you'll note from the memo and from the 10 appendix that has the stacked bar graph that other 11 funding returned in 2013 to the level it was at in 12 2010. But other funding is very uneven across the 13 United States.

The numbers that you see there are aggregate numbers that don't reflect the wide variety of other funding circumstances from state to state. For example, even though the overall non-LSC funding number went up between 2012 and 2013, 13 states and two territories saw decreases of 15 percent or more in their other funding.

21 It's important to recognize that non-LSC 22 funding is not fungible with LSC funding. It's often

granted for limited purposes. It may have strict limits on the amount that can be used for management and administration. And sometimes the money is specifically earmarked for purposes that LSC funds cannot be used for that will not result in LSC cases closed.

7 This is the reason why the chart on page 6 of 8 the memo shows that the correlation between head count, 9 attorneys, paralegals, and support staff, is not nearly 10 as strong with LSC cases closed as the correlation 11 between LSC basic field funding and LSC cases closed.

12 The staffing numbers that you see on page 6 13 include every person employed by the program regardless 14 of the funding source. It will include people who are 15 being paid for with non-LSC funds to do work that is 16 not LSC-eligible.

Maybe the best example is funding for legal aid programs in states where the Attorney Generals used a portion of their recovery in the mortgage foreclosure settlement with big banks to fund legal aid programs. Some programs have used that money to hire additional staff, reflected in the numbers you see here.

1 They can use that money, as I understand it, 2 to serve people whose income goes up to 400 percent of 3 the federal poverty guideline, well above the 4 LSC-approved number. Those people are doing a 5 different kind of matter that isn't eligible for LSC 6 case closed status.

7 So I think that may be the single most 8 important explanation for why the correlation between 9 staffing and cases closed is not as tight as the 10 correlation between basic field funding and cases 11 closed.

You can see from the recommendations that the Committee received from others at NLADA, from the Standing Committee on Legal Aid and Indigent Defendants of the ABA, et cetera, and most recently from the National Center for Access to Justice, that their assessments of need drive them to recommend higher numbers for LSC's fiscal '16 budget request.

We just received late yesterday or this morning the recommendation from the National Center for Access to Justice. We sent it out as soon as we received it. If you've had a chance to look at it, you

see that based on their analysis of their justice
 index, the amount that LSC should seek funding for in
 firsthand '16 is \$1.15 billion.

Against all of this evidence of significantly higher need, we nevertheless believe that we need to weigh the realities of the federal budget. We live in the real world, and we have to be pragmatic. And we have recent feedback about what the state of the federal budget is, and we've received it from several sources.

We look first to what the White House request was most recently. For the last two years, each of the last two years, each of the last two years, the White House has requested an appropriation for LSC of \$430 million.

Last month the House of Representatives adopted an appropriation for LSC for fiscal '15 of \$350 million. That's \$15 million less than our current level of \$365 million, but \$50 million more than the House approved last year. And most recently, the Senate Appropriations Committee approved \$400 million for LSC for fiscal '15, \$35 million more than our current appropriate but \$30 million less than the White
 House ask.

When John Levi and Carol Bergman and I met 3 with White House staff last December to talk about the 4 White House budget request for fiscal '15, we were told 5 6 at the time that LSC's request for fiscal '15, \$486 million, was reasonable. In fact, we were complimented 7 on the reasonableness of the request. So we are taking 8 that into account in formulating what our request 9 should be for fiscal '16. 10

11 Now, when you look at the disparity between 12 what our recommended request for fiscal '16 is and 13 where we are currently, with the White House request 14 for '15, the House of Representatives vote for '15, and 15 Senate Appropriations Committee vote for '15, you might 16 say that our request is too high.

But I do believe that LSC has a duty, consistent with our mission and consistent with the first goal of our strategic plan, to advocate for some realistic increase, some realistic stretch number. Anything less, I think, would undersell the true size of the justice gap in America today. I do not believe that it would be appropriate or prudent for the Committee or the Board to approve a request for '16 lower than the request we made for '15 in light of the strong evidence we have of increased need over the past year.

I'd be happy to answer questions or go intomore detail.

CHAIRMAN GREY: Questions for Jim? 8 This is Sharon. I just have one 9 MS. BROWNE: question, and I might have misread the conclusion and 10 11 your introductory statement. You mention that the 12 Office of the Inspector General, on the first page of your memo, has asked for an increase of \$900,000. But 13 the conclusion, if I can flip over to there, on page 12 14 mentions an increase of \$750,000. 15

Maybe I misunderstood the \$900,000 versus the \$750,000. Could you clarify that for me, please?

18 PRESIDENT SANDMAN: I'm going to defer to Dave19 Maddox from the Inspector General's office on that.

20 MR. D. MADDOX: Yes. We have different bases 21 that we're measuring from. The \$750,000 increase is 22 measuring off the appropriate for fiscal year 2014.

1 The \$900,000 that is listed in the first paragraph of the memo is off of the 4.2 number that the Board 2 adopted for fiscal year 2015. So it's the same amount, 3 but two different bases that we were measuring off of. 4 MS. BROWNE: Okay. Maybe on the conclusion or 5 6 the introduction, we could make it more consistent with 7 one another. PRESIDENT SANDMAN: Yes. 8 9 MS. BROWNE: I don't see the \$900,000 in the conclusion on the semi. 10 11 PRESIDENT SANDMAN: We'll work together to 12 explain that. MS. BROWNE: All right. Thank you. 13 MR. V. MADDOX: Jim, it's Vic Maddox. 14 15 Following up on Sharon's question, I have a question. 16 I only have part of your memo; somehow, the printer 17 didn't give me the entire document and I didn't realize 18 it. Is there an explanation for the Inspector 19 20 General's request for what amounts to about a 21 21 percent increase in their budget? 22 PRESIDENT SANDMAN: Yes. It's at pages 12 and

1 13 of the memo. And I'll let them respond.

2 MR. SCHANZ: Okay, Victor. This is Jeffrey 3 Schanz. We've been --PRESIDENT SANDMAN: Jeff is going to move 4 5 closer to the phone. 6 MR. V. MADDOX: Yes. I appreciate it. 7 MR. SCHANZ: Okay. Thank you. Actually, we've been lowballing our requests for the past six 8 years by just keeping it consistent because we had 9 significant carryover that we were able to use to 10 11 supplement some of our travel, but particularly to 12 supplement our development of the infrastructure of the IG's office. 13 Well, it's time to pay the piper now. We've 14

had an advanced procurement plan over the course of those six years, and we've expanded the funds that were allocated for that, which include having SharePoint for internet, hiring new staff. So we've used some of the carryover for purposes of increasing the efficiency of the OIG office and supplementing travel and other things that we needed to.

22 This comes at a time now, to use a phrase, to

pay the piper because we've worked down our carryover plan consistent with our APP. And halfway through 2015 (sic), I wrote a memo to John Levi and to Robert Grey saying that our budget is a little bit lowballed, and that was the first time I really identified it to the Board.

So now we need to have the opportunity. And
this was recommended essentially by John, to in the '16
budget try to make up our shortfall.

MR. D. MADDOX: Yes. This is Dave Maddox. 10 Ι 11 can add to that, just to provide some further detail. 12 Current operational expenditure rate of the OIG is between 4.7- and \$4.8 million, and current 13 preparation is 4.35. So as Jeff said, we've been 14 15 working on an annual deficit basis of spending down a 16 carryover, which at one point was rather large. It was 17 roughly about 30 percent of our appropriation.

We've worked that done. So at the end of 2015, we've talked about our multi-year operational plan to spend down carryover through discretionary items, and we've pretty much done that. From here on out, we're projecting expenditure rates of \$5 mon, \$5.1

million. And that is the basis of our additional
 request.

With that there would be additional items that we hope to continue. Through that additional request, we could have a higher volume of grantee internal control audits. We could continue our quality control reviews of the grantee auditors.

8 We could expand IT security reviews beyond LSC 9 and to look at the grantees, as members of the Board 10 have brought up in the past. We could also continue 11 our IT investments to improve internal operational 12 efficiencies. And we could retain OIG staff at its 13 current level of 30 budgeted positions.

14 MR. V. MADDOX: Thanks, David, and thank you,15 Jim. I appreciate it.

MR. TANENBAUM: Robert, this is Allan MR. TANENBAUM: Robert, this is Allan Tanenbaum. The information was just provided. Has the Committee been provided the documentation to back up the conclusions that were just given about what is needed, et cetera? Do we have that business case in writing?

22 CHAIRMAN GREY: We have the memorandum from

the OIG explaining their request. We worked through this, as was explained by Jeff, with John and I in the '15 budget. So this was not unexpected. And so the answer is yes, we've been given an explanation of it. And yes, we had an idea that this was on its way.

6 MR. TANENBAUM: I appreciate that. And I did 7 read pages 12 and 13 of the memorandum that was 8 prepared by the IG, which does not go into the specific 9 details as was just explained.

10 And my question is, can we receive that 11 business case that sets forth the basis for the 12 statements that were just made, as well as a projection 13 going forward, to further explain the statements that 14 were just made about, this will allow them to do X, Y, 15 and Z over the next X number of years, et cetera, 16 including beefing up the IT, et cetera?

I'm just asking the question. Have the backup numbers for the conclusions been provided to the Finance Committee?

20 CHAIRMAN GREY: Allan, I'm not -- no. The 21 answer is, we have not sat down and done that level of 22 detail. We relied on the IG and its conversation with

Management to give us any indication that it is
 different than was projected.

So no, we don't have the level of detail that 3 you talked about. I'm sure the IG has it. Jeff, is 4 that available for the Finance Committee to review? 5 6 MR. SCHANZ: Yes, it is. And as background, and being the IG, I take fiscal responsibility very 7 seriously. These numbers are based on facts and 8 projections as to where we will be in 2016, and we'll 9 be happy provide that to you. 10

11 MS. BROWNE: This is Sharon.

12 CHAIRMAN GREY: Next, Sharon?

MS. BROWNE: Just following up on this, I 13 think a lot of the issues that are coming up on the 14 increase for the Office of the Inspector General, and I 15 16 appreciate the fact that the carryover has been used, 17 but I think when I read the summary, it just seemed 18 like the amount that was being requested was just to keep the Office of the Inspector General pursuing its 19 20 current level of services and didn't really explain why 21 it needed an increase.

22 So I think maybe that's part of the confusion

here, is that the explanation needs to be more in tune
 to the request for the \$900,000. So I'd suggest it.
 CHAIRMAN GREY: Jeff, this is Robert. Oh,
 sorry.

MS. BROWNE: I'm finished.

5

6 CHAIRMAN GREY: Okay. Jeff, and you correct 7 me if I'm wrong about this, but part of this is 8 personnel. Part of this is continued program 9 development and travel and the like.

10 So if you could give us -- it might be helpful 11 for us -- I'm not sure I want to start with the micro 12 and then go macro. Could you break this down so that 13 what we understand as the basic -- let me back up.

Could you set this up for us to look at so that we are looking at those areas where there is the greatest increase, down to the areas of least increase, so that it's not just the whole kit and caboodle where we're trying to figure out which end of the road map we're looking at?

Just start with the money and the department, but the area where the most increase is being requested, and do that in descending order so we can

see the analogous from what you had last time to what you're asking for this time? That might help us look at this with a more understanding eye. Does that make sense?

5 MR. SCHANZ: Yes, sir. We'll be able to do 6 that early next week.

7 CHAIRMAN GREY: All right.

8 MR. SCHANZ: As background, most IG offices, 9 their biggest categories are always going to be 10 personnel, benefits, and travel. So that's what we 11 start with. Some of the other ornaments that we've put 12 on the Christmas tree, like the information security 13 reviews, they cost extra because we've had to contract 14 those out.

15 We don't have the subject matter expertise in 16 the IG shop to be able to do what's affectionately known as a FISMA reviews or certification and 17 accreditation reviews that we did of the LSC IT system. 18 We're hoping to be able -- and this was a 19 Charles Keckler suggestion -- we're hoping to get those 20 21 expanded so that when we're in the field testing 22 internal controls, we can at least at a minimum test

their computer security. And everything I talk about,
 testing and traveling, costs more money.

3 So we'll be happy to provide that for you. 4 But that's pretty much where we're starting from. 5 That's our starting point.

6 CHAIRMAN GREY: I think I understood that to be the case. Going forward, Jeff, one of the things I 7 think has helped us a lot on the Finance Committee --8 because we look at this at the end of the pipeline; 9 you're looking at it from the beginning all the way 10 11 through -- but one of the things that might be helpful 12 to us is to do what Management has started doing, and that is not only putting it in writing, but to give us 13 a visual comparison with a bar graph or with a table or 14 15 something like that, so that the comparison is readily 16 apparent from a visual standpoint.

17 It's sometimes hard, just like Sharon was 18 talking about. I'm looking at \$750,000. The actual 19 number is \$900,000. What we're having to do is to plan 20 for all of this; whereas if you would provide that to 21 us by comparison with the categories where those are --22 you're anticipating that they will occur and give us

that both from a historical but a current and then a projected basis, and you can see that in a table or a graph, it's just a lot easier to ask questions and to understand better what your needs are. Is that okay? MR. SCHANZ: Yes.

6 MR. TANENBAUM: Robert said -- Robert, this is 7 Allan. From my perspective, certainly, as an 8 independent member or non-Board member of the Finance 9 Committee, I think I would want something a little more 10 than that that's more akin to a business case for this 11 increase rather than a chart of history of what it's 12 been.

I am used to seeing in the rest of the memorandum where Management laid out the business case for why there should be no less than the same amount. But certainly the business case compelled that it should have been more money than we asked for last year, but practical reasons dictated Management to suggest the same request.

20 So at least I would like to see something a lt 21 more akin to a business case. And is Robert Henley on 22 the line? Is my fellow non-Board member --

1 MR. HENLEY: Yes, Allan. I am on the line. 2 Can you hear me? Hello? Robert, can you hear me? CHAIRMAN GREY: 3 Yes. MR. TANENBAUM: 4 Yes. MR. HENLEY: Yes. Allan, I agree, basically. 5 6 The entire memorandum makes the case as to why the 486 makes sense. I think some of that makes sense. 7 I think one of the things I heard in the 8 conversation was that the current spend rate is close 9 to the 5.1 level. I think that's important if the 10 11 current run rate for the past six months is at that 12 kind of a level, exclusive of any nonrecurring-type expenditures, then what we're really saying is that it 13 isn't an increase. It's the funding to get matched up 14 15 to the run rate that we've inched up to over the past 16 several years as the carryover has been spent. 17 If that is correct, then maybe that point can be made a little bit more clear as part of just the 18 information or business case. 19 20 MR. SCHANZ: That's a great summation, Robert.

20 MR. SCHANZ: Hat's a great summation, Robert.
21 I appreciate that. I didn't know the term "run rate,"
22 but that is currently our run rate. And with that, we

1 also want to do a couple new initiatives, which will

2 take care of what we're requesting. And we'll be happy 3 to put that together for you in more detail.

4 MR. HENLEY: Great.

5 CHAIRMAN GREY: Thank you, Jeff. Thank you,6 Allan, Bob.

7 FATHER PIUS: This is Father Pius. May I just8 make a comment or question?

9 CHAIRMAN GREY: Father, go ahead.

10 FATHER PIUS: I just observed two things. I'm 11 glad Allan raised this because if he didn't, I was 12 going to. One of the things I just think, from our 13 point of view, is that the Management is talking about 14 a zero increase, and then the OIG is talking about a 15 modest but a significant increase in funding.

16 So that's, I think, why we're sensitive, and 17 certainly why I would be sensitive, about making the 18 business case. And I think part of that is going 19 forward, but part of that is also historical.

20 So, for example, if you look at the variance 21 rate over time -- for example, if you look at the 22 financials from the fiscal year ended September 30, 2013, you see a variance under-rate of under about 20,
 21 percent. If you move forward to the six-month
 period ended at March 31st, you see a variance
 under-rate of only about 10 percent. So that variance
 cuts in half in the period of about six months.

6 So you're seeing that the OIG is certainly 7 spending down -- or spending up, I guess it was -- but 8 spending down its carryover. But what I think would be 9 helpful for us is OIG's own projection of how forward 10 that goes.

11 When does that spend-down hit the zero level 12 where you need an increase in funding? And it looks 13 like they're saying 2015; and then also the business 14 model, that is, what those increase in funds buy us. 15 So if we don't get those funds, what can't we do --16 "we" being the OIG -- what can we do if those funds go 17 to the OIG?

18 So that, I think, would help us make the case, 19 or understand why, in a Management budget that is 20 seeking zero increase for itself and for field 21 services, then, at the same time we're seeing this 22 outlier in the increase for OIG. So that's my thought

1 on the matter.

2	CHAIRMAN GREY: Thank you, Father Pius.
3	Jeff, do you feel comfortable with pulling
4	that together for us?
5	MR. SCHANZ: We mostly have it pulled
6	together. That's what we based our request number on.
7	So it will just be a matter of putting it into the
8	mechanisms or into the format that you're requesting.
9	That's why I
10	CHAIRMAN GREY: Yes. Do you feel comfortable
11	doing thought?
12	MR. SCHANZ: Yes, I do.
13	PRESIDENT SANDMAN: Robert?
14	CHAIRMAN GREY: Any other I'm sorry. Go
15	ahead. Is this Bob?
16	PRESIDENT SANDMAN: Robert, it's Jim. I just
17	wanted to ask if any Committee member or Board member
18	has joined the call since we first called the roll. Is
19	Martha on?
20	(No response.)
21	PRESIDENT SANDMAN: And are there any
22	non-Committee Board members other than Vic Maddox, Don?

MR. KECKLER: Jim, this is Charles Keckler.
 I'm also listening in.

3 PRESIDENT SANDMAN: Thank you, Charles.
4 CHAIRMAN GREY: Okay. Any other questions for

5 Jim or Jeff?

6 (No response.)

7 CHAIRMAN GREY: Hearing none, I'd like to take 8 this time and thank you gentlemen for your 9 presentations. This is very helpful to us. And I 10 think I speak for the Committee to tell you that every 11 time you've developed your reports, we have gotten a 12 better understanding of it. So thank you for the time 13 and effort that you put into it.

14 I'd like to open the meeting for public 15 comment. We have a number of submissions with regard 16 to the budget, and I'd like to take this opportunity 17 for those who've made their submissions to make public 18 comment. And then anyone else would be invited to do 19 so as well. Public comment?

20 (No response.)

21 CHAIRMAN GREY: Hearing none, I'd like to ask 22 if there is any other business that the members would

1 like to consider.

2 (No response.) CHAIRMAN GREY: Is there anything from the 3 4 staff? 5 PRESIDENT SANDMAN: Nothing further here. 6 CHAIRMAN GREY: Thank you. Hearing none, it 7 brings us to a request to adjourn the meeting. And I would entertain a motion to do so. 8 9 ΜΟΤΙΟΝ 10 FATHER PIUS: So moved. 11 CHAIRMAN GREY: Second? MS. BROWNE: Second. 12 13 CHAIRMAN GREY: All in favor say aye. (A chorus of ayes.) 14 CHAIRMAN GREY: Thank you very much for taking 15 16 the time to be a part of this call. I hope you all have a nice weekend, and I look forward to seeing you 17 18 pretty soon. Thank you. 19 (Whereupon, at 1:27 p.m., the Committee was 20 adjourned.) 21 22