COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D C 20548

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B-210338

AUGUST 31, 1983

The Honorable Robert W. Kastenmeier
Chairman, Subcommittee on Courts,
Civil Liberties, and the Administration
of Justice
Committee on the Judiciary
House of Representatives

The Honorable Edward M. Kennedy
United States Senate

The Honorable Lowell P. Weicker, Jr.
United States Senate

Subject: The Legal Services Corporation Board of Directors' Compensation and Expenses and the New President's Employment Contract (GAO/HRD-83-69)

In response to your December 17, 1982, requests, we reviewed the compensation and expenses paid to members of the 1982 Legal Services Corporation (LSC) Board of Directors and the employment contract of the new LSC president, Donald P. Bogard, to determine whether

--payments to Board members complied with the law and LSC's regulations and policies,

--LSC's practices for compensating Board members were comparable to those followed by other Government corporations,

--the new LSC president's contract was properly negotiated and consistent with the contracts of past LSC presidents and presidents of other Government corporations, and

--LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation.

(104152)

We reviewed vouchers submitted by 1982 Board members requesting payment of compensation and reimbursement of expenses, and interviewed those individuals concerning the LSC-related activities they performed. We also reviewed laws, regulations, and policies pertaining to LSC; examined contracts of past LSC presidents; and interviewed LSC officials. Further, to compare LSC's practices for compensating Board members and the president with those of two Government corporations, we reviewed pertinent laws, regulations, and policies and interviewed officials at the Corporation for Public Broadcasting and the Synthetic Fuels Corporation. We selected these two corporations because they perform comparable functions to LSC, such as administering grant and financial assistance programs. (Our objectives, scope, and methodology are detailed in enc. II.)

In summary we found that:

--LSC laws and regulations entitle Board members to per diem compensation not to exceed the daily rate of compensation for level V of the Executive Schedule (42 U.S.C. 2996d(d)), and reimbursement for expenses incurred in connection with their duties. However, they do not specify the LSC-related services for which members can be compensated or reimbursed for expenses, but these are specified in LSC's Board member compensation policies.

--LSC Board member compensation and expense payments in 1982, although significantly higher than those made to previous Board members, complied with the laws and regulations applicable to LSC and with the compensation policies established in 1975 by LSC's first Board.

--LSC's procedures for reviewing and authorizing Board member compensation lack adequate internal controls. Board members were not required to specify services performed for which they requested compensation.

--Two Government corporations and most private sector corporations compensate Board members differently than LSC. Generally, these organizations pay Board members an annual retainer for services performed outside of Board and committee meetings and a fee for attending meetings, or place a ceiling on the total annual compensation a Board member can be paid.

--The new LSC president's employment contract is consistent--with the exception of the severance pay provisions--with past LSC presidents' contracts and complies with statutory restrictions on salary. Further, presidents of two Government corporations receive higher salaries than LSC's president and most benefits at no cost to themselves, while LSC's president contributes to his benefits.

--LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation.[1]

Enclosure I details the results of our review.

## RECOMMENDATIONS TO THE PRESIDENT OF LSC

We recommend that the president:

--Require Board members, when requesting compensation, to specify the LSC activities they performed.

--Direct LSC's Comptroller to review and certify Board members' compensation requests for compliance with established compensation policies.

--Prepare periodic reports to the Board on payments to its members.

## MATTERS FOR CONSIDERATION BY THE CONGRESS

The LSC Board of Directors has broad discretion under the law to determine the services for which they are to be compensated and to select the LSC president and determine some of the benefits provided this officer. If the Congress believes that the degree of discretion currently permitted should be modified, legislative changes would be necessary to limit Board member compensation and the president's benefits.

Enclosure I presents several options for limiting Board member compensation for activities other than attending Board and committee meetings. LSC generally agreed with our findings and recommendations. (See enc. III.)

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[1]GAO "Advisory Opinion in the Matter of Personnel Practices Within the Legal Services Corporation" (B-210338, Apr. 5, 1983).

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We are sending copies of this report to the nine Senators who also requested this review; the president of LSC; the Director, Office of Management and Budget; and other interested parties. Copies will also be made available to others on request.

Charles A. Bowsher
Comptroller General
of the United States

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## ABBREVIATIONS

CPB Corporation for Public Broadcasting

GAO General Accounting Office

LSC Legal Services Corporation

SFC Synthetic Fuels Corporation

## THE LEGAL SERVICES CORPORATION

## BOARD OF DIRECTORS' COMPENSATION AND EXPENSES

## AND THE NEW PRESIDENT'S EMPLOYMENT CONTRACT

In letters, dated December 17, 1982, the Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House Committee on the Judiciary, and 11 Senators requested that we determine whether

--payments to members of the Legal Services Corporation (LSC) Board of Directors during 1982 complied with the law and LSC regulations and policies,

--LSC practices for compensating Board members were comparable with those followed by other Government corporations,

--the LSC president's contract was properly negotiated and consistent with the contracts of past LSC presidents and other Government corporation presidents, and

--LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation.

The objectives, scope, and methodology of our review are detailed in enclosure II.

## BACKGROUND

LSC was established by the Legal Services Corporation Act of 1974 (Public Law 93-355) as a private nonprofit corporation to provide financial support for legal assistance programs for the poor in noncriminal proceedings. A Board of Directors consisting of 11 voting members is responsible for the overall direction of LSC's affairs, including appointing the LSC president. The Board is appointed by the President, by and with the advice and consent of the Senate, to staggered 3-year terms of office. The LSC president, subject to the Board's direction and policies, is responsible for

--administering LSC's day-to-day affairs,

--appointing and removing employees,

--making grants and entering into contracts, and

--exercising such other powers and duties as the Board prescribes.

The LSC president's salary and most benefits are specified by statute. The salary is limited to level V of the Executive Schedule specified in section 5316 of title 5 (42 U.S.C. 2996(d)); currently, that limit is $63,800 a year. In addition, 42 U.S.C. 2996(f) states that LSC officers will be considered officers of the Federal Government for such benefits as workers' compensation, retirement, life insurance, and health insurance. However, the LSC president's other benefits--such as severance pay, relocation expenses, and private club memberships--are not specifically addressed by statute.

On December 30, 1981, and January 22, 1982, while the Senate was in recess, the President appointed 10 new members to the Board of Directors. Such "recess appointments" expire at the end of the following Senate session unless members are nominated to and confirmed by the Senate.[1] The terms of office of the two sets of replaced Board members had expired in July 1980 and July 1981. These members had all been holding over in office under the provision of 42 U.S.C. 2996c which authorized them to continue to serve until the appointment of a successor. One Board member who had been confirmed by the Senate continued to serve with the new Board in a holdover capacity.

## 1982 BOARD MEMBER PAYMENTS COMPLIED WITH LAWS AND LSC POLICIES, BUT BETTER CONTROLS ARE NEEDED

LSC Board member compensation and expense payments in 1982, although significantly higher than those made to previous Board members, complied with the laws and regulations applicable to LSC and with the compensation policies established in 1975 by LSC's first Board. Had some members claimed all compensation and expenses to which they were entitled, the 1982 payments would have been even higher.

LSC's authorizing legislation (42 U.S.C. 2996d(d)) and regulations (45 C.F.R. 1601.14) specify compensation rates for Board members, but not the services for which members can be compensated. LSC officers and employees are authorized to be compensated at rates not to exceed level V of the Executive Schedule. Additionally, LSC regulations specify that Board

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[1]See our "Advisory Opinion in the Matter of Personnel Practices Within the Legal Services Corporation," B-210338, Apr. 5, 1983, for a discussion of recess appointments to LSC's Board of Directors.

members are entitled to be reimbursed for travel, subsistence, and other expenses necessarily incurred for their LSC services.

In August 1975, LSC's first Board established policies for compensating Board members which, for the most part, have remained unchanged. These policies emphasized the importance of Board member participation in activities outside of attending Board and committee meetings. Specifically, the first Board recommended that directors visit legal services programs, attend congressional hearings, and participate in conferences related to legal services to obtain a broad understanding of LSC activities. The first Board designated these activities as LSC services for which Board members were to be compensated.

In May 1978, the Board approved specific guidelines for the compensation and attendant reimbursement of its members. Activities specified as eligible for compensation were

--attendance at Board, committee, and other LSC meetings,

--travel time on LSC business,

--attendance at congressional hearings,

--visits to legal services programs,

--giving speeches concerning LSC, and

--study and preparation time for all of the above.

These guidelines have been issued to all subsequent Boards through 1982.[2]

Payments to 1982 Board members were proper

Our review of the vouchers supporting the compensation and expense payments to the 1982 Board and discussions with Board members and LSC officials indicated that the payments complied with the law and LSC regulations and policies. During 1982, Board members were paid $274,283--$181,306 (66 percent) was for compensation, and $92,977 (34 percent)

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[2]The continuing resolution (Public Law 97-377, Dec. 21, 1982), limits Board member compensation during fiscal year 1983 to payment for attendance at Board meetings.

was for expenses. The following table shows the compensation and expenses paid each Board member who served during 1982. (See encs. IV and V for a more detailed breakdown of the compensation and expenses paid each Board member.)

| 1982 Board members | Compensation payments | Expense payments | Total payments |
|---|---|---|---|
| Howard H. Dana, Jr. | $ 25,037 | $14,354 | $ 39,391 |
| Robert S. Stubbs II | 27,576 | 7,302 | 34,878 |
| William F. Harvey | 25,028 | 9,375 | 34,403 |
| Josephine Worthy (note a) | 16,575 | 15,035 | 31,610 |
| Clarence V. McKee | 22,562 | 8,653 | 31,215 |
| George E. Paras | 18,600 | 9,632 | 28,232 |
| William J. Olson | 22,615 | 5,553 | 28,168 |
| Annie L. Slaughter | 8,990 | 8,323 | 17,313 |
| Harold R. DeMoss, Jr. | 8,325 | 7,520 | 15,845 |
| Marc Sandstrom (note b) | 2,696 | 2,218 | 4,914 |
| Daniel Rathbun (note c) | 3,302 | 1,093 | 4,395 |
| William L. Earl (note d) | - | 3,798 | 3,798 |
| Frank Donatelli (note c) | - | 70 | 70 |
| David E. Satterfield III | - | 51 | 51 |
| Total | $181,306 | $92,977 | $274,283 |

a/Confirmed Board member who served in a holdover capacity until October 22, 1982.

b/Resigned recess appointment May 10, 1982.

c/Received a recess appointment to the Board on October 22, 1982.

d/Not a recess appointee. On February 25, 1982, Mr. Earl was nominated by the President to serve on the Board but was not confirmed by the Senate and never took office. According to LSC officials, he was authorized reimbursement for expenses incurred while participating in LSC Board meetings and other activities pending his confirmation.

The previous LSC president and the two acting presidents who served during 1982 told us that they were not aware of any evidence that the 1982 Board members had requested compensation for time they did not work or reimbursement for expenses they did not incur.

Three Board members received no compensation during 1982. One of the three, Mr. Earl, was not entitled to compensation because he was not a recess appointee, but a nominee to the Board. Although Mr. Donatelli and Mr. Satterfield were entitled to compensation for their services, neither requested it.

During 1982, former Board Chairman William F. Harvey was paid about $4,000 for the time spent driving between Indianapolis and Washington, D.C., to attend Board meetings. Board members are entitled to compensation for time spent traveling to meetings. While Board expense guidelines state that travelers should use the most economical class of transportation available, LSC's administrative manual permits the use of a privately owned vehicle if it is advantageous to LSC.

According to an LSC official, Mr. Harvey chose to travel by car because he was better able to read LSC-related material and prepare for Board meetings en route in his car, while his wife drove, and in his motel room when he stopped for the night, than at his home or office where he was constantly interrupted by telephone calls. Further, Mr. Harvey told us that he only requested compensation for his travel time when he was performing LSC-related business in transit. Mr. Harvey's 1982 calendar indicates that he read LSC materials on days he was in travel status. Thus, it appears the compensation Mr. Harvey received for his travel time was primarily for studying and preparing for meetings.

Some compensation and expenses due 1982 Board members were not claimed

Payments to Board members would have been higher had Board members requested payment for all services performed and expenses incurred. For example, former Chairman Harvey was not compensated for 457 hours he spent on LSC business, including attendance at Board meetings and congressional hearings. Mr. Harvey's 1982 calendar indicates that he spent 1,306 hours on LSC business, but he charged LSC for only 849. Had he billed LSC for the unreported 457 hours worked, Mr. Harvey would have been entitled to another $13,460 in compensation.

Former Board member William J. Olson also did not request compensation for services provided during December 1982, including attendance at Board meetings and congressional hearings. Mr. Olson's calendar indicates he worked about 12 days during December 1982 on LSC business. Had he requested payment, Mr. Olson would have been entitled to another $2,650 in compensation.

Three other Board members--Howard H. Dana, Jr., Frank Donatelli, and David E. Satterfield III--did not request payment for attendance at the December 16 and 17, 1982, 2-day Board meeting. Had they requested payment, collectively they would have been entitled to about $1,300 in compensation plus travel expenses.

Payments to 1982 Board higher than in 1981

Compensation and expense payments to Board members during 1982 were about 76 percent higher than payments to members during fiscal year 1981. The increase resulted primarily from

--an increased number of Board and committee meetings,

--the search for a new LSC president, and

--a 15-percent increase in the per diem compensation rate.

The following table shows the various LSC Boards' payments from 1976--the first full year of LSC operations--through 1982.

| Fiscal year | Compensation payments | Expense payments | Total payments |
|---|---|---|---|
| 1982 (note a) | $181,306 | $92,977 | $274,283 |
| 1981 (note b) | 72,029 | 83,875 | 155,904 |
| 1980 | 71,818 | 69,218 | 141,036 |
| 1979 | 62,592 | 82,772 | 145,364 |
| 1978 | 52,137 | 56,299 | 108,436 |
| 1977 | 25,006 | 28,607 | 53,613 |
| 1976 | 36,762 | 34,130 | 70,892 |

a/Calendar year 1982.

b/Does not include $35,920 in payments to holdover Board members from October 1, through December 31, 1981.

Payments to 1982 Board members were $118,379 more than those to fiscal year 1981 members. Of this increase, $109,277 was for compensation, and $9,102 was for expenses. About 72 percent of the total payment increase resulted from the 1982 Board being compensated for working more than twice as many days as the 1981 Board. The 1982 Board members collectively worked 820 days, whereas the 1981 Board worked 375 days, or 445 fewer days.

Two factors appear to have caused the 1982 Board to work more days than the 1981 Board. The 1982 Board held 27 Board and committee meetings, whereas the 1981 Board held 12 meetings. Further, two 1982 Board members told us that the LSC staff was generally uncooperative, requiring members to become involved in LSC's day-to-day operations. They told us, for example, that

--Board members had to conduct their own research because LSC staff did not always tell members about pertinent prior reports and studies or there were long delays for information requested from LSC staff and

--Board members drafted their own reports and regulations and used their own secretaries to type LSC-related material because LSC staff would not prepare the material according to the Board's directions or would "leak" information to the press and Members of Congress.

The former acting LSC president told us that the Board did not delegate certain tasks to LSC staff. He attributed this to the Board's lack of trust in the staff. Also, the 1982 Board conducted a search for a new LSC president, which the 1981 Board did not have to do. Our review showed that payments related to the 1982 Board's Presidential Search Committee were \$25,358--\$11,041 for compensation and \$14,317 for expenses. Presidential search-related payments represented about 20 percent of the total payment increase between the 1981 and 1982 Boards. LSC's accounting department shows that Presidential search-related payments were \$20,980--\$7,079 for compensation and \$13,901 for expenses. Our figures are larger than LSC's because we allocated payments to Presidential Search activities when we could determine that a Board member was present at the activity, while LSC only recorded those Presidential Search activities specified on a Board member's voucher.

Another reason for the 1982 Board's increased payments was a 15-percent increase in the per diem compensation rate used to compute Board member pay. The rate increase occurred in December 1981 when Public Law 97-92 increased the annual rate of compensation for level V of the Executive Schedule--to which LSC Board members' per diem compensation rate is tied--to \$57,500. The 1982 Board members were paid \$221 a day, whereas the 1981 members were paid \$192 a day. As a result, 1982 Board members received about \$23,600 more in compensation than the 1981 members.

We also noted that, although the 76-percent increase in Board member payments from 1981 to 1982 was large, a larger increase (about 102 percent) occurred between fiscal years 1977 and 1978.

Expenses reimbursed to 1982 Board members complied with LSC guidelines

During 1982, Board member expenses either reimbursed or paid directly by LSC were incurred for the following purposes:

| Expenses | Percentage of total expenses paid |
|---|---|
| Transportation | 57.2 |
| Telephone | 16.2 |
| Lodging | 16.0 |
| Meals | 7.4 |
| Postage and copying | 3.1 |
| | a/99.9 |

a/Total does not add to 100 percent due to rounding.

Mr. Dana and Ms. Worthy incurred the highest expenses--about $15,000 and $16,000, respectively--of the 1982 Board. Mr. Dana's expenses largely were attributable to his position as Chairman of the Presidential Search Committee, as well as his regular attendance at Board meetings. Ms. Worthy's expenses resulted from her frequent participation in such activities as the National Clients Council, the National Legal Aid and Defenders Association, and the Reginald Heber Smith Community Lawyer Fellowship Program, which is solely funded by LSC.

According to LSC staff, all expenses were reviewed for compliance with LSC expense guidelines and necessary receipts were provided. Our review of the vouchers and receipts confirmed that the expenses complied with LSC guidelines.

Board members not required to specify activities for which they request compensation

LSC's compensation guidelines require Board members to indicate only the date and amount of time spent on LSC business. As a result, few vouchers submitted during 1982 indicate what activity a Board member performed for requested compensation. The following table shows the percentage of compensation paid during 1982 for various explained and unexplained Board member activities.

| Activity | Percentage of total compensation paid |
|---|---|
| Attendance at Board and committee meetings | 18.9 |
| Travel time to meetings | 12.7 |
| Other explained activities (note a) | 19.8 |
| Unexplained activities | 48.4 |
| | b/99.8 |

a/Includes preparation for meetings and congressional hearings, visits to local legal services programs, work on the presidential search, and meetings with legal services related organizations.

b/Does not total 100 percent due to rounding.

Board members informed us that most unexplained time was spent reading material they were sent by LSC staff and other Board members and in telephone conversations with LSC staff and other Board members. Our review of the vouchers requesting compensation, the numerous materials provided to two Board members, and extensive telephone billings tends to corroborate the Board members' explanations.

LSC officials told us that they review Board member compensation requests to ensure that they are accurately computed and do not exceed a 7.5-hour-per-day limit, but do not require, because of a belief in Board members' integrity, the specification of services performed for which compensation is requested. LSC officials acknowledged that their procedures have weaknesses. They told us, however, that even if such a requirement was established, it would be difficult to verify Board members' explanations for time spent on LSC business, particularly for activities performed outside of attending Board and committee meetings.

On June 1, 1983, GAO issued internal control standards to be followed by Federal agencies. These standards are generally accepted by all levels of government and the accounting profession. Although LSC is not required to comply with these standards, they would be a useful guide for LSC to follow in improving internal controls.

In accordance with these standards, we believe LSC could improve internal control over Board member compensation payments by

--requiring Board members, when requesting compensation, to specify what LSC-related activities were performed,

--certifying that the activities for which compensation is requested comply with the established compensation policies, and

--preparing a periodic report to the Board on payments to its members.

OTHER ORGANIZATIONS COMPENSATE BOARD MEMBERS DIFFERENTLY THAN LSC

Two Government corporations we examined and most private sector corporations compensate Board members differently than LSC, and generally limit Board member compensation for activities other than attending Board or committee meetings.

As noted in a recent report, "Congress Should Consider Revising Basic Corporate Control Laws" (GAO/PAD-83-3, Apr. 6, 1983), LSC, the Corporation for Public Broadcasting (CPB), and the Synthetic Fuels Corporation (SFC) perform such comparable functions as administering grant and financial assistance programs.

In 1967, CPB was established to provide financial assistance to help develop public telecommunications. CPB has a 15-member Board of Directors appointed by the President, by and with the advice and consent of the Senate, to staggered 6-year terms. By law (47 U.S.C. 396(d)(2)), Board members are entitled to receive $150 a day compensation up to an annual ceiling of $10,000 for travel to and attendance at Board meetings, or while engaged in duties related to such meetings or other Board activities.

According to CPB's expense guidelines and a CPB official, Board members are not entitled to be compensated for studying and preparing for meetings, but can be compensated, for example, for preparing and delivering a speech on public broadcasting. Also, members are entitled to travel and related expenses while on CPB business away from their homes or regular places of business.

All CPB Board member compensation and expense requests are expected to comply with established expense guidelines and are to be accompanied by a statement justifying expenditures for activities other than attendance at Board or committee meetings. CPB's accounting office reviews the requests and CPB's Secretary approves payments. Questioned expenses are discussed with members and, if unresolved, referred to the Board's Audit Committee which has ultimate authority to enforce CPB's expense guidelines for the directors.

SFC was established in 1980 to provide financial assistance to further the development of domestic synthetic fuel production. SFC's Board of Directors consists of a Chairman and six other Directors appointed by the President, by and with the advice and consent of the Senate, to 7-year terms. The Chairman and one other Board member serve as full-time employees, and the other five Board members are outside part-time directors.

Part-time Board members are authorized an annual retainer of $10,000, plus $300 per meeting. By statute (42 U.S.C. 8712(g)), the President must approve the compensation rates. According to SFC officials, the Board holds about 10 meetings per year, so that part-time members are compensated about $13,000 annually, and since both Board and committee meetings normally last 2 days, the per meeting compensation is about $150 a day. The annual retainer is considered, in part, compensation for performing SFC-related activities outside of attending Board meetings (such as visiting synfuels projects or giving speeches).

SFC Board members are authorized to approve their own expense reimbursement requests in accordance with SFC travel reimbursement policies. The policies provide actual cost reimbursement subject to certain limits for transportation, lodging, meals, and other necessary expenses incurred while traveling on SFC business.

According to a 1981 study by the Conference Board,[3] "Corporate Directorship Practices: Compensation 1981," most private sector corporations pay board members an annual retainer, for services other than attending board or committee meetings, plus a fee for attending such meetings.

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[3] The Conference Board is an independent, not-for-profit research institution that conducts studies of management and economics.

During 1981, 87 percent of the 165 financial companies[4] the Conference Board surveyed paid directors a retainer and a meeting fee. The median retainer was $5,000, and the median fee was $400 per meeting, with a median total annual compensation of about $11,000.

According to the Conference Board's expert on corporate directorship practices, nonprofit corporations increasingly are following for-profit corporations' practices in compensating board members to attract top quality directors.

## THE NEW LSC PRESIDENT'S EMPLOYMENT CONTRACT

The employment contract of the new LSC president, Donald P. Bogard, is consistent--with the exception of the severance pay provisions--with past LSC presidents' contracts and complies with statutory restrictions on salary. Although not negotiated according to Board guidelines, the Board's subsequent ratification of the contract established its validity and removed questions about the way contract negotiations were conducted. Further, allegations that the former Board Chairman, William F. Harvey, improperly influenced the selection of Mr. Bogard are not accurate.

### The new LSC president's selection

During 1982, LSC's efforts to choose a new president were directed by a Presidential Search Committee composed of all Board members and chaired by Mr. Howard H. Dana, Jr. The Committee reviewed about 340 applications for the position. During the initial review process, Mr. Harvey objected to what in his view were committee actions to narrow the candidates' list without providing all Board members an opportunity to participate. In a June 5, 1982, letter to Mr. Dana and Committee Secretary, LeaAnne Bernstein, Mr. Harvey expressed concern that several individuals had been dropped from consideration, particularly Mr. Bogard, during the Committee's June 4, 1982, meeting. Both Mr. Dana and Ms. Bernstein told us that no decisions were made on any applicants at the June 4 meeting, and Mr. Harvey told us he later learned that his concerns were unwarranted since no decisions had been made during that meeting. Later, the list of candidates was narrowed to 25.

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[4]We focused on financial companies--rather than the manufacturing and nonmanufacturing companies also included in the Conference Board's survey--because they more generally compare with LSC.

The Committee and an advisory panel of representatives from various legal services organizations reviewed the remaining 25 applications, and shortened the list to seven candidates, two of whom later withdrew their names from consideration. After the five remaining candidates were interviewed by the Committee and the advisory panel, the Committee, with all Board members present, met in executive session on October 29, 1982, to select the new president. Our review of the executive session tapes indicated that Mr. Harvey did not

--rank Mr. Bogard as the top candidate,

--nominate Mr. Bogard for the presidency, or

--cast a vote on the selection of Mr. Bogard.

Contract negotiations did not comply with Board's directions

According to minutes of the Board's October 30, 1982, meeting, Mr. Dana, Mr. Harvey, and Mr. Lyons, Acting LSC president, were to serve as a committee of the Board to negotiate an employment contract with Mr. Bogard. However, neither Mr. Lyons nor Mr. Dana participated in the negotiations.

Mr. Harvey told us that on November 5, 1982, he attempted to meet with Mr. Lyons and Mr. Bogard in Indianapolis, Indiana, to negotiate the contract, but Mr. Lyons canceled this meeting. Mr. Harvey informed Mr. Lyons that he would have to proceed with the negotiations without him. Mr. Harvey told us that he would have canceled the meeting anyway, because Mr. Lyons' proposed contract as acting LSC president created a possible conflict of interest in that Mr. Lyons' termination date was contingent on Mr. Bogard's starting date.

In addition, Mr. Harvey told us he did not contact Mr. Dana about the negotiations because he believed a letter Mr. Dana sent Mr. Bogard made it clear that Mr. Dana did not want Mr. Bogard to accept the LSC offer. Mr. Dana's letter, dated November 1, 1982, suggested that Mr. Bogard delay his acceptance of the LSC offer until he had visited the LSC headquarters in Washington, D.C., and talked to the LSC staff and Senate and House members with LSC oversight responsibility. Although Mr. Dana's letter did not specifically tell Mr. Bogard not to accept the job, both Mr. Harvey and Mr. Bogard told us that they perceived this to be the letter's intent.

During its December 16, 1982, meeting, the Board ratified Mr. Bogard's contract which effectively removed questions about its validity.

The new president's contract generally is comparable to those of past presidents

The provisions of Mr. Bogard's contract are consistent with previous LSC presidents' contracts, with few exceptions. Mr. Bogard's contract provides for a full year's severance pay if he should be terminated by the Board during his first year. After the first year, the severance provision is for 6 months' pay.

Mr. Bogard told us he requested the extended severance pay during his first service year because he was concerned about the Board's tenure. The Board, whose recess appointments were to expire when the Senate recessed in December 1982, had not been confirmed. Since the president serves at the Board's pleasure, and it appeared the 1982 Board would be replaced in early 1983, Mr. Bogard wanted some protection if a newly appointed Board terminated his contract shortly after he took office.

Mr. Bogard also requested that his contract permit him to delay relocating his family until the school year ended. As a result, the contract was modified to permit two round trips per month to his home in Indianapolis, Indiana, until June 15, 1983, when he would relocate to the Washington, D.C., area. During this period, Mr. Bogard's living expenses in Washington were to be paid by LSC.

Thomas Ehrlich, the first LSC president, also was permitted to delay his relocation to the Washington, D.C., area until his children completed the school year. In contrast to Mr. Bogard, who chose to work in Washington and return home on weekends, Mr. Ehrlich directed LSC from California and traveled to Washington, when necessary, at LSC expense.

The contracts of all LSC presidents provided for a private club membership. Mr. Ehrlich told us that at the time the original provision was discussed, there were no restaurants near LSC's downtown Washington, D.C., headquarters appropriate for business luncheons. A participant in negotiations with Mr. Ehrlich said the private club membership was the easiest way for the president to entertain leaders in the legal profession and political figures. Mr. Ehrlich and former LSC vice president E. Clinton Bamberger were provided membership in the Federal City Club. From October 1976 through May 1979, LSC paid the Federal City Club about $2,750 in dues and other charges for these two employees. No other payments have been made to the club for any other LSC employees.

Although Mr. Ehrlich's contract did not mention a leased automobile, he was provided one for 4 years while he served as president. The total cost to LSC was $5,250. Neither Mr. Bradley nor Mr. Bogard received this benefit.

The continuing resolution, Public Law 97-377, December 21, 1982, negated certain provisions of Mr. Bogard's contract. The law limited LSC officers' and employees' severance pay to that provided Federal employees under 5 U.S.C. 5595. This statute provides that Federal employees with 1 year of service shall receive severance pay amounting to (1) 1 week's basic pay for each year of service up to 10 years, (2) 2 weeks' basic pay for service beyond 10 years, and (3) total severance pay not to exceed 1 year's pay. Thus, Mr. Bogard would receive no severance pay if terminated during his first year of service. Other LSC employees previously entitled to 2 weeks' pay if terminated during their first year would be subject to the same limitations. The contracts of former LSC presidents Thomas Ehrlich and Dan Bradley provided 6 months' severance pay regardless of when terminated. The continuing resolution also prohibits paying for a private club membership for any LSC officer or employee.

## Compensation and benefits provided presidents of other Government corporations

CPB's and SFC's presidents receive higher salaries than LSC's president, and are provided most benefits at no cost to themselves. The CPB president's salary is set by the CPB Board, but is limited by statute to level I of the Executive Schedule. The CPB president's salary was last set in September 1982 at the then maximum level of $69,630; however, the Executive Level I pay rate was subsequently increased to $80,100 in December 1982. CPB's Board could raise the president's salary to the new maximum level during its annual salary review planned for September 1983. The SFC president's salary is set by the SFC Board subject to the same executive level I limit as CPB's president. However, the SFC president's salary can exceed this limit if it is approved by the President (42 U.S.C. 8713(b)(2)). The SFC president currently receives $135,000 a year.

LSC's officers, including the president, and employees are by statute considered Federal employees only with regard to benefits, such as workers' compensation, retirement, and life and health insurance. CPB and SFC have their own private workers' compensation (SFC's is mandated by law), health and life insurance and retirement plans which apply to all employees. The following table shows the salary and most benefits of the respective corporation presidents.

CPB and SFC provide, at no cost to the employee, health insurance (SFC employees must contribute for dependent coverage), including major medical, travel accident insurance; term life insurance; and coverage for workers' compensation. In addition, CPB has a voluntary retirement plan to which CPB pays one-half of the cost the first year and the full cost thereafter. SFC provides a retirement plan in which SFC makes incremental contributions based on the employee's salary each year up to 5 years when the employee becomes fully vested. The employee makes no contribution to this retirement plan. However, all CPB and SFC employees must contribute to social security. At LSC, as under the Federal system, employees contribute to health and life insurance and retirement.

The relocation benefits at LSC, CPB, and SFC differ. The new LSC president's contract provides payment for actual moving expenses, storage of household and office furniture, househunting trips, and his meals and lodging for 30 days. As discussed on page 14, LSC also paid Mr. Bogard's living expenses in Washington, D.C., prior to his relocation, and for two round trips per month to his home in Indiana.

CPB's personnel manual indicates that reimbursement of relocation expenses is at the discretion of CPB's president. The letter offering employment at CPB states what relocation expenses, if any, will be covered. CPB's personnel manual states that CPB may pay the costs of relocating the household goods and families of employees hired for senior positions.

SFC provides relocation benefits similar to those provided LSC's president, but the Chief Operating Officer can authorize payment of additional expenses when necessary to secure the services of an exceptionally qualified person critical to SFC's work. These additional expenses can include reimbursement for (1) customary closing costs associated with the sale or purchase of the employee's home, (2) mortgage rate differentials, and (3) additional income taxes paid on relocation assistance payments.

## LSC, CPB, and SFC Presidents' Salary and Benefits

| | LSC | CPB | SFC |
|---|---|---|---|
| Salary | $63,800 | $69,630 | $135,000 |
| Health insurance | President contributes to own coverage | No cost to president | No cost to president for own coverage. Dependent coverage requires contribution. |
| Term life insurance | President contributes to own coverage | No cost to president | No cost to president |
| Retirement | President contributes 7 percent of salary | CPB pays one-half the cost of full participation the first year and the full contribution thereafter | SFC makes incremental contributions based on the employee's salary. After 5 years of employment, the employee becomes fully vested. |
| Social security | No | Yes | Yes |



ENCLOSURE I

| | LSC | CPB | SFC |
|---|---|---|---|
| Severance pay | Contract: 1 year's severance pay if terminated during first year of service; 6 months' severance pay thereafter. | Lump sum payment--2 days' salary for each month of service up to 12 months, plus 1 day's salary for each month over 12. | Lump sum payment for layoff if position abolished--4 weeks' salary if employed 1 year or less, plus 2 weeks' salary for each additional year or part of a year of service. |
| | Continuing Resolution: Limits severance pay to that provided Federal employees—no severance pay if terminated during first year. | | |
| Relocation expenses | President provided: (1) Actual cost of moving (2) Storage of household and office furniture (3) Househunting trips (4) Meals and lodging for 30 days | Actual cost of moving at the CPB president's discretion | Basic expenses: (1) Actual cost of moving (2) Househunting trip (3) Temporary living expenses Supplemental expenses (optional): (1) Customary closing costs associated with sale and/or purchase of house (2) Mortgage rate differential (3) Additional income tax liability |
| Private club membership | Yes, but prohibited by continuing resolution | Yes | No |



ENCLOSURE I

The CPB and SFC presidents' severance pay provisions are less generous than the LSC president's which are discussed on page 14. CPB's president is entitled to a lump sum severance payment equal to 2 days' salary for each month of service up to 12 months, plus 1 day's salary for each month over 12 months. SFC's president is entitled to a lump sum severance payment for layoff if the position is abolished, equal to 4 weeks' salary if employed for 1 year or less, plus 2 weeks' salary for each additional year or part of a year of service.

All CPB presidents have been provided membership in a private club, the International Club, to entertain clients. LSC granted Mr. Bogard membership in the club of his choice, and both previous presidents' contracts had provisions for private club membership. As shown in the table on page 18, however, Public Law 97-377 negated this provision of Mr. Bogard's contract. SFC does not provide its president a private club membership.

Although CPB's budget is smaller than LSC's, CPB's president receives a higher salary. The LSC president's salary is $63,800, while LSC's fiscal year 1982 budget was about $240 million. CPB pays its president $69,300, or about 8.6 percent more a year, and its fiscal year 1982 budget was $144 million, or 40 percent smaller. The SFC president is paid $135,000 annually, or more than twice the LSC president's salary, and SFC's fiscal year 1982 budget was $12 million for administrative expenses, or about 5 percent of the LSC budget. However, SFC's fiscal year 1983 and 1984 budgets include $6 billion and $7.2 billion, respectively, for program commitments.

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The LSC Board of Directors has broad discretion under the law to determine the services for which they are to be compensated and to select the LSC president and determine some of the benefits provided this officer. Members of Congress have expressed concern that the amount of compensation paid LSC Board members during 1982 was excessive, particularly in comparison to that paid previous Boards. If the Congress believes that the degree of discretion currently permitted should be modified, legislative changes would be necessary to limit Board member compensation and the president's benefits.

## MATTERS FOR CONSIDERATION BY THE CONGRESS

Several options are available for limiting Board member compensation. The continuing resolution (Public Law 97-377, Dec. 21, 1982), for example, limits Board member compensation during fiscal year 1983 to payment for attendance at Board meetings. While this substantially limits Board member compensation, it also eliminates payment for performing other LSC-related activities, such as visiting local legal services programs and reviewing materials to prepare for Board meetings, which all prior Boards have considered essential to obtaining a broad understanding of LSC activities.

An option is to place a specified ceiling on Board member compensation similar to the $10,000 ceiling imposed on CPB Board members. While a ceiling would not limit compensation as much as the continuing resolution's restriction, it would permit Board members to be compensated for performing some activities outside of attending Board meetings.

A second option would be to pay Board members an annual retainer plus a fee for attending Board meetings, similar to the procedures followed by SFC and most private corporations. The effects of this option would be similar to those of the first option.

The Congress could also modify the LSC president's other benefits, which are not specifically addressed in the LSC Act. For example, the continuing resolution's restriction on the president's severance pay could be continued.

## RECOMMENDATIONS TO THE PRESIDENT OF LSC

We found that LSC Board member compensation and expense payments in 1982 complied with the laws and regulations applicable to LSC and with LSC's policies. LSC's procedures for reviewing and authorizing Board member compensation, however, lacked adequate internal controls. Board members were not required to specify services performed for which they requested compensation. To improve the accounting for and internal controls over payments to Board members we recommend that the president:

--Require Board members, when requesting compensation, to specify the LSC activities they performed.

--Direct LSC's Comptroller to review and certify Board members' compensation requests for compliance with established compensation policies.

--Prepare periodic reports to the Board on payments to its members.

## AGENCY COMMENTS AND OUR EVALUATION

LSC generally agreed with our findings and said our recommendations to improve internal control weaknesses were constructive and useful. (See enc. III.) LSC's Comptroller is reviewing the recommendations to determine if they can be implemented in view of LSC's private corporation status. In our view, notwithstanding LSC's status, establishing effective internal controls is essential to preventing potential abuses. We believe our recommendations to correct LSC's internal control weaknesses and the guidelines contained in GAO's internal control standards would help LSC achieve this objective.

## OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House Committee on the Judiciary, Senators Lowell P. Weicker, Jr., Edward M. Kennedy, Thomas F. Eagleton, Paul Sarbanes, Donald W. Riegle, Alan Cranston, Carl M. Levin, Christopher J. Dodd, Jennings Randolph, Dale Bumpers, and Howard Metzenbaum requested that we determine whether

--payments to LSC Board members in 1982 complied with the law and LSC regulations and policies,

--LSC practices for compensating Board members were consistent with those followed by other Government corporations,

--the new LSC president's contract was properly negotiated and comparable to contracts of past LSC presidents and presidents of other Government corporations, and

--LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation.

Our review was conducted primarily at LSC's headquarters in Washington, D.C. This review was performed in accordance with generally accepted government audit standards.

### ASSESSMENT OF BOARD MEMBER COMPENSATION AND EXPENSE PAYMENTS

To determine whether payments during 1982 to LSC Board members complied with applicable laws, regulations, and policies, we (1) reviewed the Legal Services Corporation Act of 1974 (42 U.S.C. 2996) and LSC regulations (45 C.F.R. 1601) and policies; (2) interviewed LSC officials concerning how Board members' compensation and expense vouchers were reviewed and processed for payment; (3) examined all Board members' vouchers and receipts for 1982 for completeness and accuracy, and compliance with laws, regulations, and policies; (4) interviewed members who served on the Board during 1982 concerning the services they provided; (5) reviewed 1982 Board and committee meeting minutes, and itineraries for meetings held outside of the Washington, D.C., area to verify the date, time, and location of activities performed by Board members; (6) reviewed the Office of Management and Budget's report on

LSC Board members' expenses; and (7) compared the compensation and expenses paid previous LSC Boards with those paid the 1982 Board.

On April 5, 1983, we issued an "Advisory Opinion in the Matter of Personnel Practices Within the Legal Services Corporation" (B-210338) that concluded, among other matters, that LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation.

## ASSESSMENT OF PRACTICES OF OTHER ORGANIZATIONS FOR COMPENSATING BOARD MEMBERS

To assess whether LSC practices for compensating Board members were consistent with those followed by other Government corporations, we interviewed officials and reviewed pertinent laws, regulations, and policies at CPB and SFC. These Government corporations were selected because they perform comparable functions to LSC, such as administering grant and financial assistance programs. To determine how private corporations compensate Board members, we reviewed a 1981 report of the Conference Board[1] on corporate directorship compensation practices and discussed the practices with the Conference Board's expert.

## ASSESSMENT OF THE CURRENT PRESIDENT'S CONTRACT

To determine if the new LSC president's employment contract was properly negotiated, we examined the laws and regulations applicable to LSC, reviewed minutes of LSC Board and committee meetings during 1982, reviewed the Office of Management and Budget's report on the new president's employment contract, and listened to tapes of Board executive sessions. Additionally, we discussed the negotiations with the Board members and the former acting president who were designated by the Board to negotiate the contract.

To assess how the current LSC president's contract compares with past presidents' contracts, we reviewed all previous LSC presidents' contracts, and discussed their provisions with the respective LSC presidents.

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[1]The Conference Board is an independent, not-for-profit research institution which conducts studies of management and economics.

To assess how other Government corporations compensate their presidents, we interviewed CPB and SFC officials about the salary and benefits they provide to their presidents. We also reviewed the laws, regulations, and guidelines applicable to the presidents' compensation.

**LEGAL SERVICES CORPORATION**
*733 Fifteenth Street, N W , Washington, D C 20005*

Donald P Bogard
President

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(202) 272-4040

July 6, 1983

Richard L. Fogel, Director
Human Resources Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

I have reviewed the report of the General Accounting Office on LSC's Board of Directors' compensation and expenses and the President's employment contract. I generally concur with its findings. As a result of this thorough study, the public, press and public officials will have unbiased and factual information about the practices of the Legal Services Corporation. The taxpayers have a right to now how their money is spent and the officials of LSC deserve to have their record of public service examined on the basis of the factual record -- not politically motivated charges.

The recommendations made by GAO are constructive and useful. In my recent testimony before Congressional Committees I said the Corporation would welcome Congressional guidance in determining board compensation policy, and the GAO recommendations are similar to the recommendations I made at that time. It is essential for the program for board members to participate actively in the affairs of the Corporation, visit programs, and read the incredible amount of material which is constantly being generated. On the other hand, the Board should not be composed exclusively of wealthy individuals who can afford to contribute the time and expense required to be effective and informed board members.

One of your recommendations includes certified approval by the LSC Comptroller of all Board expenditures. Currently, those expenditures are approved by executive office personnel and reviewed by the Comptroller's office. I have asked the Corporation's Comptroller to review all of the procedural

Richard L. Fogel
July 6, 1983
Page Two

recommendations in the GAO report to see if those procedures could be incorporated into our administrative policies in view of our private corporate existence.

There are three specific details in the report which should be clarified. On page two of Enclosure I, it states that the executive schedule level V salary is $57,500. That was true at the time I became President of LSC. Level V salary is now $63,800.

On page eleven of Enclosure I, the report states that there were $23,409 in payments related to the Presidential Search Committee. LSC's accounting department shows a total of $20,980 with $13,901 of that amount for expenses and $7,079 for compensation. Whichever figure is used, I believe it would be helpful to distinguish between compensation and expenses.

The report makes comparisons between LSC and "other government corporations". It should be made clear that LSC is not a government corporation but a private, non-profit District of Columbia corporation.

On behalf of all of us associated with LSC, may I say that we are grateful for the thoughtful and fair manner in which this report was prepared and for the constructive recommendations it contains.

Very truly yours,

Donald P. Bogard
Donald P. Bogard
President

GAO note: Page references in this enclosure may not correspond to page numbers in the final report.

## COMPENSATION PAID 1982 LSC BOARD MEMBERS FOR VARIOUS ACTIVITIES

| 1982 Board members | Attendance at Board and committee meetings | Travel time to meetings | Other explained activities | Unexplained activities (note a) | Total compensation payments |
|---|---|---|---|---|---|
| Robert S. Stubbs II | $ 2,480 | $ 2,546 | $ 2,287 | $20,263 | $ 27,576 |
| Howard H. Dana, Jr. | 5,569 | 2,444 | 10,025 | 6,999 | 25,037 |
| William F. Harvey | 1,326 | 2,946 | 722 | 20,034 | 25,028 |
| William J. Olson | 3,803 | 648 | 1,834 | 16,330 | 22,615 |
| Clarence V. McKee | 4,345 | 780 | 4,970 | 12,467 | 22,562 |
| George E. Paras | 3,345 | 3,969 | 1,979 | 9,307 | 18,600 |
| Josephine Worthy | 4,195 | 3,792 | 7,956 | 632 | 16,575 |
| Annie L. Slaughter | 3,828 | 2,716 | 1,726 | 720 | 8,990 |
| Harold R. DeMoss, Jr. | 3,814 | 2,811 | 1,700 | - | 8,325 |
| Daniel Rathbun | 1,282 | - | 1,607 | 413 | 3,302 |
| Marc Sandstrom | 442 | 442 | 1,149 | 663 | 2,696 |
| William L. Earl | - | - | - | - | - |
| Frank Donatelli | - | - | - | - | - |
| David E. Satterfield III | - | - | - | - | - |
| Total | $34,429 | $23,094 | $35,955 | $87,828 | $181,306 |

a/As discussed on pages 8 to 10, Board members were not required to specify the activities performed for which compensation was requested. According to Board members, most unexplained time was spent reading LSC-related materials and in LSC-related telephone conversations.



ENCLOSURE IV

## EXPENSES INCURRED BY 1982 LSC BOARD MEMBERS

| 1982 Board members | Transportation | Telephone | Lodging | Meals | Postage and copying | Total expense payments |
|---|---|---|---|---|---|---|
| Josephine Worthy | $ 9,659 | $ 2,216 | $ 2,007 | $1,153 | $ - | $15,035 |
| Howard H. Dana, Jr. | 7,905 | 2,437 | 2,438 | 979 | 595 | 14,354 |
| George E. Paras | 5,974 | 1,204 | 1,695 | 618 | 141 | 9,632 |
| William F. Harvey | 1,881 | 4,007 | 1,636 | 1,203 | 648 | 9,375 |
| Clarence V. McKee | 5,652 | 1,692 | 1,098 | 211 | - | 8,653 |
| Annie L. Slaughter | 6,095 | 223 | 1,401 | 604 | - | 8,323 |
| Harold R. DeMoss, Jr. | 5,343 | 240 | 1,449 | 434 | 54 | 7,520 |
| Robert S. Stubbs II | 4,471 | 986 | 1,020 | 618 | 207 | 7,302 |
| William J. Olson | 1,865 | 1,772 | 283 | 451 | 1,182 | 5,553 |
| William L. Earl | 2,693 | 145 | 758 | 202 | - | 3,798 |
| Marc Sandstrom | 1,490 | 107 | 440 | 160 | 21 | 2,218 |
| Daniel Rathbun | 194 | 72 | 665 | 162 | - | 1,093 |
| Frank Donatelli | - | - | - | 70 | - | 70 |
| David E. Satterfield III | - | - | - | 51 | - | 51 |
| Total | $53,222 | $15,101 | $14,890 | $6,916 | $2,848 | $92,977 |



ENCLOSURE V