

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPEN SESSION

Saturday, September 11, 2004

1:15 p.m.

The Best Western Helena  
835 Great Northern Boulevard  
Helena, Montana

BOARD MEMBERS PRESENT:

Frank B. Strickland, Chairman  
Thomas A. Fuentes  
Robert J. Dieter  
Herbert S. Garten  
Thomas R. Meites  
David Hall  
Maria Luisa Mercado  
Florentino A. Subia  
Lillian R. BeVier  
Ernestine Watlington (by telephone)

## STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, President & *ex officio* member  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary  
Patricia Batie, Manager of Board Operations, LSC  
Karen Dozier, Executive Assistant to the President  
Mattie Condray, Senior Asst General Counsel, LSC  
John C. Eidleman, Acting Vice President for Compliance  
and Administration  
Michael Genz, Director, Office of Program Performance  
David Maddox, Assistant Inspector General for Resource  
Management  
David Richardson, Treasurer and Comptroller  
Laurie Tarantowicz, Assistant Inspector General &  
Legal Counsel  
Anh Tu, Program Counsel  
Kirt West, Inspector General  
Bernice Phillips, Nominee to LSC Board of Directors  
Bruce Iwasaki, Legal Aid of Los Angeles  
Don Saunders, National Legal Aid & Defender Association  
Linda Perle, Center for Law & Social Policy  
Klaus Sitte, Montana Legal Services Association;  
and other staff and members of the public

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MOTIONS:Pages 4, 5 (2), 44, 47, 69, 75, 81, 84, 87, 158, 159

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

2 MR. STRICKLAND: Let me call to order the board of  
3 directors meeting of the Legal Services Corporation,  
4 scheduled at 1:15 for today.

5 And I think the first order of business would be to  
6 ask for a moment of silence, in memory of the tragic events  
7 and casualties on 9-11-2001. So I ask for a moment of  
8 silence, please.

9 (A moment of silence was held.)

## 10 APPROVAL OF AGENDA

## 11 M O T I O N

12 MR. STRICKLAND: Thank you. First item of business  
13 is to approve our agenda. Do I hear a motion to approve the  
14 agenda?

15 MR. FUENTES: So moved.

16 MR. STRICKLAND: A second?

17 MS. MERCADO: Second.

18 MS. WATLINGTON: Second.

19 MR. STRICKLAND: All right. Without objection, the  
20 agenda is approved.

## 21 APPROVAL OF MINUTES OF THE BOARD'S MEETINGS OF

1                   MAY 24, 2004 AND JUNE 5, 2004

2                   M O T I O N

3                   MR. STRICKLAND: We now need to approve the minutes  
4 of the board's meetings of May 24th and June 5, 2004. Those  
5 begin on page 58 of your board book. Is there a motion to  
6 approve those minutes?

7                   MR. FUENTES: Move to approve.

8                   MR. STRICKLAND: Second?

9                   MS. BEVIER: Second.

10                  MR. STRICKLAND: Without objection, those minutes  
11 are approved.

12                   APPROVAL OF MINUTES OF THE  
13 SEARCH COMMITTEE'S MEETING OF JUNE 5, 2004

14                   M O T I O N

15                  MR. STRICKLAND: Then the minutes of the search  
16 committee's meeting of June 5, 2004, found on page 66. There  
17 is a -- I have one typographical item. The meeting adjourned  
18 at 11:30 a.m., according to the notes, but it says we  
19 commenced at 12:25 p.m. I don't know when we commenced, but  
20 that doesn't fit. So --

21                  MS. BEVIER: It was long, but it wasn't that long.

1           MR. STRICKLAND: That's right. But other than the  
2 -- perhaps we could approve those minutes, subject to the  
3 staff confirming what time we, in fact, convened that search  
4 committee meeting.

5           MR. FUENTES: So moved.

6           MR. STRICKLAND: And also, confirming that we  
7 adjourned at 11:30 a.m.

8           But with that, I will take your motion to mean  
9 without amendment, Tom. Is there a second to that?

10          MR. IWASAKI: Second.

11          MR. STRICKLAND: All right. Without objection,  
12 then, the minutes of the search committee are approved.

13                                   CHAIRMAN'S REPORT

14          MR. STRICKLAND: The chairman's report is --  
15 revolves around the attendance -- the American Bar  
16 Association annual meeting was held in Atlanta in early  
17 August. And that's a -- as you know, or most of you know,  
18 that's a large convention for any city. And it was certainly  
19 a big event for the Atlanta community.

20           I didn't attend all the activities of the ABA  
21 meeting by any stretch, but what I did attend was the -- the

1 first thing was a reception held by the access to justice  
2 committee, and both Helaine and I were presented an  
3 opportunity to make some remarks during that reception, and  
4 it was a very nice event, and both of us enjoyed it. It was  
5 well attended.

6           Then on Saturday of that week, the -- a Saturday  
7 afternoon -- the ABA SCLAID committee met for its usual  
8 meeting, and both Helaine and I were able to attend that  
9 meeting. And perhaps you will cover more of the details than  
10 I, so that we don't duplicate those items in our respective  
11 reports.

12           Then that evening, informally, a number of people  
13 on the SCLAID committee and others gathered for dinner at a  
14 local restaurant, and it was nice enough, believe it or not,  
15 in Atlanta in August -- it's usually pretty sticky -- but it  
16 was so nice on these couple of days in there that we were  
17 able to be outside for a period of time, and then went inside  
18 for dinner. But it was a very pleasant evening, and I guess  
19 about 20 or 22 people attended that dinner. And I think I  
20 could report that a good time was had by all.

21           I don't think -- unless Helaine can remind me, I'm

1 not sure that in my capacity as chairman I have done anything  
2 noteworthy since our last meeting that needs to be discussed  
3 here today.

4 (Laughter.)

5 MR. STRICKLAND: Have I done anything else?

6 MS. BARNETT: You certainly have, but nothing that  
7 needs to be discussed.

8 (Laughter.)

9 MR. STRICKLAND: Okay, I will accept that. Next,  
10 are there any reports from individual members of the board?  
11 Rather than calling everybody, I will just ask you to raise  
12 your hand if you have something.

13 MEMBERS' REPORTS

14 MR. GARTEN: I also had the opportunity to be  
15 present, and certainly Legal Services Corporation was on the  
16 minds of everybody. They were very impressed with what this  
17 board had done in the preceding year, and congratulations  
18 were made to the president, the chair, and to the board  
19 itself for acting in a bipartisan manner in dealing with  
20 matters before the board.

21 I also was present for the SCLAID meeting, and the



1 conversation dealt with technology. And comments were made  
2 about the fact that we made funds available for that purpose.

3 I also had the opportunity to meet with people in  
4 the IOLTA community. And there again, they expressed great  
5 thanks to what we had done. So I don't know of any time in  
6 my 16 years of association with the ABA when an LSC board was  
7 looked so approvingly as this particular board. So you are  
8 all due congratulations.

9 MR. STRICKLAND: Well, thank you for those kind  
10 words. I was not able to go to the IOLTA meeting. I  
11 appreciate your representing us at that meeting. You did  
12 attend the whole --

13 MR. GARTEN: I didn't attend the whole --

14 MR. STRICKLAND: Well, more than I did, because I  
15 was unable to go to that meeting. I did go to the IOLTA  
16 meeting before that. But thank you for representing us  
17 there. Any other board members have reports? Yes?

18 MS. MERCADO: Well, only in the sense that the  
19 grantees certainly should know that a lot of us as board  
20 members do participate in pro bono activities. And the only  
21 reason I mention this is because maybe there will be other --

1 not only members of the board, but members of the community  
2 at large that might be able to participate.

3           November the 19th is National Adoption Day. And of  
4 course, the Bar associations across the country are being  
5 asked to participate in this where we, as a pro bono basis,  
6 do adoptions of children who have been in foster care for a  
7 length of time. And we have pro bono attorneys that actually  
8 do the adoption transactions and prepare that, as well as the  
9 attorneys who do pro bono items for the child.

10           And all of the funds -- and this is being raised by  
11 the local Bar associations in conjunction with some other  
12 organizations that represent children and women, and trying  
13 to pair up adoptive families who, a lot of them, may not have  
14 funds to actually go through the adoption, but are willing to  
15 be foster care and then adoptive parents for these children  
16 who would otherwise languish in foster care, moving from home  
17 to home.

18           And I am one of the participants in our state, as  
19 well as in our local county, encouraging members of the Bar  
20 and the community to participate. And I know for our own  
21 county, we have about 50 children that we will be doing --

1 unfortunately it's our day that we have the board, so I will  
2 have to participate by phone in some of those areas.

3 But I only mention it in the sense that maybe other  
4 communities and other members or friends of the legal  
5 services community can assist in providing this pro bono,  
6 because they're trying to make it a national endeavor to get  
7 these children out of foster care and into permanent homes.  
8 And hopefully, with some kind of a better opportunity in life  
9 for themselves.

10 And all the work, again, being done by pro bono  
11 attorneys. And one more time, Herb, knowing that the legal  
12 profession is doing its job in providing that care.

13 MR. STRICKLAND: Thank you, Maria Luisa. Does any  
14 other board member have an individual report?

15 (No response.)

16 MR. STRICKLAND: Next, then, we will ask Helaine  
17 Barnett to give us her president's report.

18 PRESIDENT'S REPORT

19 MS. BARNETT: Thank you, Mr. Chair. I am pleased  
20 to have the opportunity to share with the board some recent  
21 developments of the Legal Service Corporation and my

1 activities since the last board meeting in early June.

2 LSC held its second conference in measuring  
3 outcomes in Cincinnati on June 24, and 25. Twenty-six  
4 representatives from legal services programs that collect  
5 outcomes data gathered together to share with LSC what they  
6 do, how they do it, and what they gained from it, as well as  
7 their concerns and cautions.

8 A report of the discussions will be circulated to  
9 all participants before we will post it on our LRI website.  
10 We will then determine what would be the appropriate next  
11 steps.

12 Our technology staff reviewed 83 applications for  
13 technology initiative grants, with a total request of  
14 approximately \$6.9 million, and made recommendations as to  
15 which programs LSC should fund with the \$2.9 million  
16 appropriated to use for that purpose.

17 I have made the initial award decisions. The  
18 decision-making process was particularly difficult because  
19 there were so many excellent projects that we were not able  
20 to fund.

21 The grants that I have approved for Fiscal Year

1 2004 will build on and increase the impact of our  
2 achievements to date. Our technology initiative grants will  
3 award more than \$700,000 to grantees to further automate pro  
4 se assistance by building on pro se initiatives developed in  
5 earlier years, and by exploring new ideas.

6           As you all heard yesterday, we have awarded a grant  
7 in this category to the Montana Legal Services Association  
8 for \$170,000, and this project will explore providing  
9 navigational assistance to website users. By clicking a  
10 button on the statewide website, a client will get help in a  
11 chat room or by telephone from an intake specialist or a  
12 trained volunteer. And this is the largest of three grants  
13 that we awarded to Montana Legal Services.

14           More than \$775,000 has been awarded to 25 states  
15 for further development of their websites. An additional  
16 \$552,000 was awarded to support current website grants and  
17 enhance their efficiency.

18           Almost \$600,000 will be awarded for technology  
19 planning and implementation grants, through projects that are  
20 designed to help programs improve their case oversight,  
21 supervision, and communications systems in order to better

1 serve clients.

2           Finally, an additional \$220,000 is being allocated  
3 for technology assistance projects to maximize the returns on  
4 TIG grants, and equip our grantees to best capitalize on  
5 technologies to serve their clients.

6           It is clear that a great deal has been accomplished  
7 by the use of technology. We will be paying particular  
8 attention in the next several years to concentrating on  
9 projects to be of assistance to our programs and serving the  
10 client community, making sure that projects build on each  
11 other, and that replication is pursued to the extent  
12 possible, and evaluating and communicating to spread the word  
13 of these projects.

14           With regard to competition, 65 basic field service  
15 areas, 14 migrant project service areas, and 12 Native  
16 American service areas are in competition for 2005 funding.  
17 This year, as a result of our competitive bidding process, we  
18 have real competition for two service areas.

19           We received grant applications from qualified  
20 multiple applicants in eastern Michigan and southeastern  
21 Massachusetts. In Michigan, one applicant is a current LSC

1 grantee, and the other a former grantee. In Massachusetts,  
2 both applicants are current LSC grantees. The area served by  
3 these Massachusetts grantees has been reconfigured.

4           We will conduct on-site visits to these programs  
5 competing for grant funds in these areas. Based on the  
6 results of the visit and grant application documents, we will  
7 make a funding recommendation. Also, pursuant to federal  
8 regulation regarding competition, we will assemble a review  
9 panel consisting of two attorneys who are currently not  
10 employed by a current grantee, and an eligible client who  
11 will also make a funding recommendation, independent from  
12 staff's recommendation.

13           We will then make a final funding decision after  
14 reviewing these recommendations and the information upon  
15 which they are based.

16           I was the keynote speaker at the New York State Bar  
17 Association's partnership conference in Albany, New York, on  
18 June 15th, which brought together 200 Bar leaders, LSC and  
19 non-LSC-funded programs throughout the state.

20           Pro bono leaders and other funders, including  
21 representatives of the state judiciary and the state

1 legislature. I attended the meeting of the NLADA civil  
2 policy group in Washington on June 18th to share with them  
3 recent developments at LSC.

4 On July 12th and 13th I addressed the southeast  
5 project director's meeting in St. Petersburg, Florida, which  
6 was a wonderful opportunity to meet and be with the executive  
7 directors of LSC grantees from Alabama, Arkansas, Florida,  
8 Georgia, Kentucky, Louisiana, Mississippi, North Carolina,  
9 South Carolina, and Tennessee.

10 As you heard from our chairman, I attended several  
11 events at the ABA annual meeting in Atlanta on August 5th and  
12 7th, including participating on a panel for Bar presidents  
13 and Bar executives on legislative updates, and specifically  
14 addressing the status of LSC funding.

15 I also addressed all the IOLTA directors and the  
16 IOLTA commission on LSC's current and planned activities. In  
17 addition, as you heard, the ABA access to justice reception  
18 was held in honor of the 30th anniversary of LSC, at both of  
19 which Frank Strickland and I spoke.

20 And we both attended the SCLAID meeting, and have  
21 offered that LSC be in active participation with the NLADA



1 and SCLAID as they undertake the project to review the  
2 standards of providers of legal assistance to the poor.

3           On August 18th I joined the LS team from our office  
4 of compliance and enforcement on a visit to the LSC statewide  
5 grantee in Delaware. I was most impressed by our team leader  
6 and the professionalism and preparedness and supportive  
7 attitude of the entire team.

8           I used this opportunity to observe how OCE conducts  
9 a typical onsite review. Although I only participated in the  
10 first day of a three-day visit, during that time I was able  
11 to observe how OCE conducts an initial entrance conference  
12 with recipient staff, as well as participating in an overview  
13 as OCE assesses a recipient's intake and case management  
14 systems and fiscal and timekeeping records.

15           Additionally, I participated in case file review in  
16 order to see for myself how OCE utilizes its data collection  
17 instrument to review and document compliance elements through  
18 the use of staff intermediaries. I was also very impressed  
19 with our staff's demeanor and their interaction with staff.

20           I had the opportunity to interact with the  
21 program's executive director, whom I had not met before, and

1 to hear the concerns and issues which he is contending in  
2 regard to LSC and other outside forces.

3 Earlier this week, on Wednesday, September 8th, I  
4 testified before the supreme court of Texas, in Austin,  
5 during their hearing on civil legal services to the poor, at  
6 the request of the executive director of the Texas Equal  
7 Access to Justice Foundation.

8 I also attended a reception that evening to  
9 celebrate the Texas Equal Access to Justice Foundation's 20th  
10 anniversary, and was the guest of honor at a dinner hosted by  
11 Justice Harriet O'Neal, of the Texas supreme court.

12 To share with you some LSC initiatives that, in an  
13 effort to explore more effective and efficient ways of  
14 discharging our obligations to ensure quality and compliance,  
15 I have initiated a pilot project of combining the talents and  
16 resources of our office of compliance and enforcement and the  
17 office of program performance to "think out of the box," and  
18 develop improved and more efficient ways to evaluate how well  
19 a grantee is doing and providing high-quality legal  
20 assistance to clients in accordance with applicable  
21 requirements and restrictions.

1           A pilot took place on July 12th through 16th in  
2 northwest Minnesota. A quality review of casework and  
3 systems work plan was designed for the visit.

4           The objectives of the visit were to promote  
5 engagement between LSC and its grantees to maximize  
6 efficiency within LSC by identifying areas of inquiry and  
7 current visit protocols that have sufficient commonality to  
8 warrant joint examination by OPP and OCE, and to identify and  
9 incorporate new areas of inquiry not currently part of the  
10 visit protocols of OPP and OCE that represent indicia of the  
11 quality and the delivery of legal services currently promoted  
12 by LSC.

13           Each member of the LSC team contributed to the  
14 success of that visit, and provided invaluable input with  
15 regard to refinements that need to be made. We are in the  
16 process of completing our evaluation, both from the  
17 standpoint of the grantee and our own internal staff. And  
18 after consideration of all suggested recommendations and  
19 refinements, we are hoping to conduct a second pilot visit to  
20 Nassau Suffolk Legal Services in the end of October.

21           We appointed a task force on our pilot loan

1 repayment assistance program to help us design a pilot  
2 project, assuming we receive the \$1 million appropriation.  
3 We convened our first meeting on August 25th, and  
4 representatives from the ABA, NLADA, Equal Justice Works,  
5 grantees, law school representatives, state Bar leaders, and  
6 IOLTA directors with experience in LRAPs participated.

7           As you heard, Herb Garten was our board liaison.  
8 The meeting was extremely productive, and the level of  
9 knowledge and experience of the participants was exceptional.

10 I believe we reached consensus on many of the critical  
11 design concerns for the pilot program.

12           However, we will be analyzing further all of the  
13 outstanding ideas and information shared at the meeting. We  
14 will then attempt to draft the outline of a pilot LSC LRAP  
15 which we will share with a task force for their input. It is  
16 my hope that the task force will meet by telephone conference  
17 call within 60 days from the date of our first meeting.

18           I also invited some of the best thinkers in our  
19 legal services community to spend a day with me on August  
20 24th, brainstorming on how we might define quality, how we  
21 might measure quality, and what is our role as a funder in

1 promoting and inspiring quality.

2           The objective of the meeting was to have a  
3 conversation about quality in legal services that will inform  
4 us as we think about what would be an appropriate agenda for  
5 LSC to foster improved quality in the legal services provided  
6 to clients.

7           The conversation at the meeting was most helpful  
8 and provocative. The counsel and good ideas provided much  
9 food for thought, exciting opportunities for possible  
10 initiatives, and strategies, reinforced the importance of  
11 partnerships, and reminded me of the need for circumspection  
12 and caution, while also providing encouragement for LSC to be  
13 bold about what is important for our program's clients.

14           We will be reviewing our notes from the meeting and  
15 reflecting on the thoughts and comments shared by the  
16 participants, and getting back to them as we continue to  
17 develop a possible quality agenda for the Legal Services  
18 Corporation.

19           Plans for our 30th anniversary of LSC and LSC's  
20 first gathering of all executive directors of LSC grantees  
21 are being finalized with the help of an in-house planning

1 committee, an advisory committee of executive directors, and  
2 Frank Strickland is board liaison to that committee.

3           The plans so far include an open house at our  
4 office on Tuesday afternoon, November 30th, followed by a  
5 plenary session and celebratory reception at the Omni  
6 Shoreham Hotel. The following day, Wednesday, December 1st,  
7 we have planned a substantive program for our executive  
8 directors that will include breakout sessions and a final  
9 plenary session.

10           We have invited the executive directors of all LSC  
11 grantees and to date we have received more than 94  
12 acceptances. We have invited all LSC staff. We have sent a  
13 hold-the-date letter to Members of Congress and their key  
14 staff, state Bar presidents, chairs of state equal access to  
15 justice commissions, IOLTA directors, past presidents and  
16 board members of LSC.

17           Also to be invited are ABA past and present  
18 leaders, other notables in the history of the Legal Service  
19 Corporation, as well as to the White House and other members  
20 of the executive branch. We welcome any suggestions the  
21 board have as to invitees, because we want our guest list to

1 be as inclusive as possible.

2           We received approval from Bill Gates, Sr. on our  
3 proposed inscription for a plaque to be displayed in our  
4 lobby, acknowledging the generous contribution from the Bill  
5 and Melinda Gates Foundation in the acquisition and  
6 development of LSC's permanent headquarters. We hope to have  
7 the plaque unveiled at a ceremony in conjunction with the  
8 30th anniversary open house on November 30th.

9           While we have invited Mr. Gates to attend this  
10 event, he is not able to commit at this time. But we will  
11 stay in touch, and hope eventually that he will be able to  
12 join us.

13           We are moving ahead with our lease negotiations and  
14 construction regarding additional space on the fourth floor  
15 at 3333 K Street. In so far as the overall structure,  
16 organization, and operation of LSC, I am continuing to focus  
17 my attention there, and I hope soon to have a recommendation  
18 regarding that structure.

19           We organized our office of information technology,  
20 and this reorganization has resulted in efficiencies and  
21 savings.

1           Just to report briefly on some of the many tasks  
2 performed by our office of compliance and enforcement since  
3 the last board meeting, OCE conducted eight on-site visits  
4 and OPP conducted a variety of on-site visits, including also  
5 six program visits, one visit to a program that had been  
6 recently reconfigured, and two technical assistance visits.

7           We convened an all-staff meeting on June 8th, where  
8 I shared with staff recent developments at LSC, our report on  
9 the meetings of the board, and on my own activities. We also  
10 presented service awards to employees who have reached  
11 certain milestones in service to LSC.

12           We will hold regular all-staff meetings every four  
13 months to ensure LSC staff remains fully informed. And the  
14 next meeting is scheduled for October 5th, which will give us  
15 a wonderful opportunity also to introduce to all LSC staff  
16 our new inspector general, Kirt West, with whom I look  
17 forward to meeting on a regular basis.

18           I believe we have made a lot of progress in the  
19 last seven months, and I am very encouraged, as I look  
20 towards the future, with the initiatives and plans we have in  
21 work.



1           I would also like to publicly thank the board for  
2 the support it has constantly provided, the chairs of our  
3 committee, and in particular, our chairman, Frank Strickland,  
4 whose advice and counsel have been of great benefit to LSC.  
5 Thank you, Mr. Chairman.

6           MR. STRICKLAND: Thank you very much, Helaine.  
7           (Applause.)

8           MR. STRICKLAND: Were you going to cover in any  
9 part of your report, either now or later -- I know that the  
10 mentoring task force was mentioned at one of the committee  
11 meetings.

12          MR. HALL: Once I give my report, she is going to -  
13 -

14          MR. STRICKLAND: Oh, I see. All right. That's  
15 going to be the sequence.

16          Although the minutes -- I mean our agenda -- says  
17 that the next item is the acting inspector general's report,  
18 that's not accurate. We would be delighted to call on our  
19 new inspector general, Kirt West, to make a report at this  
20 time. Kirt, we welcome you to the Legal Services  
21 Corporation, and we are delighted to have you here at your

1 first meeting with us.

2           And I believe you came on board officially on  
3 September 1st, so we want the record to reflect -- and the  
4 minutes of this meeting -- that we welcome you and  
5 congratulate you on your new position, and we are delighted  
6 to have you with us.

7                           INSPECTOR GENERAL'S REPORT

8           MR. WEST: Thank you, Mr. Chairman, members of the  
9 board. I am really pleased to be here. As indicated, I have  
10 been on the board since September 1st, so my report will be  
11 somewhat brief, because I really am just learning.

12           I am very much looking forward to the opportunity  
13 of working with the board, with the president, with members  
14 of LSC management, as well as the stakeholders and now ABA,  
15 as well as Congress. I am excited about the prospects of  
16 helping LSC to further its mission of providing equal access  
17 to justice.

18           Briefly, my report -- just to give you an update on  
19 the status of our audits that we have, in the area of program  
20 integrity audits, we have two audits in progress, the Boston  
21 Volunteer Lawyers Program, in which we expect to draft the

1 report due by the end of the month, and the Southern  
2 Minnesota Regional Legal Services audit, which -- the draft  
3 work should be done roughly the 21st of October. That's our  
4 date on that.

5           With respect to an audit that occurred much before  
6 my arrival, the CRLA audit, we met with Vic Fortuno's staff  
7 in June, providing comments on draft report, and we are  
8 currently awaiting on management action. It's my  
9 understanding that the legal issue has been sent to outside  
10 counsel for resolution before final action is taken on this  
11 report. I just wanted to provide you the status of that.

12           In the area of private attorney involvement, we  
13 have issued three reports, and the three organizations were  
14 Legal Services of Northern California, Central California  
15 Legal Services, and Western Michigan Legal Services.

16           We have started some work in the area of technology  
17 initiative grants, and we expect to have a draft report on a  
18 grant provided Kentucky legal assistance on -- by the end of  
19 September.

20           In terms of the IPA reports that are done to ensure  
21 compliance with the restrictions set through appropriations,

1 we received 128 reports. We had 40 findings of non-  
2 compliance with regulations, although non-compliance doesn't  
3 mean they were violating the regulations. It's more of a  
4 technical thing.

5           Twenty of the findings were of -- involving  
6 fourteen grantees -- were referred to management for follow-  
7 up. Nineteen were not even referred. One finding is still  
8 under review. But I would highlight that we found no  
9 violations of any of the restrictions. So it's more of sort  
10 of the audit terminology that there were little glitches that  
11 needed to be worked out, but nothing significant.

12           And that's pretty much my report. I would like for  
13 Dave Maddox to give a briefing of our work on the area of  
14 mapping, which we have been using our authority on sort of  
15 doing -- working on the efficiency and effectiveness of legal  
16 services to use as mapping as a way to further enhance the  
17 limited resources that LSC provides its grantees. And I will  
18 let Dave speak on that.

19           MR. STRICKLAND: Before we go to Dave, does anyone  
20 have any questions of Kirt on his report?

21           (No response.)

1           MR. STRICKLAND: All right, Dave, go ahead.

2           MR. MADDOX: Okay. I think we have all seen in the  
3 past few days the large geographical context of the legal  
4 services provision. The mapping evaluation places strategic  
5 management information in a mapping format to determine  
6 mapping to grantees, state planners, and ultimately to LSC  
7 itself.

8           In phase one, the OIG and the grantees from Georgia  
9 found that maps are useful tools for helping legal services  
10 managers evaluate access to legal services, deploy resources,  
11 and promote the legal services program.

12           Phase two is currently underway, which is pretty  
13 much primarily based upon the lessons learned in phase one.  
14 The OIG is developing a core set of 25 maps that will be  
15 universally applicable to any legal services environment.  
16 And by defining the methods and technologies, is working to  
17 substantially reduce the cost of future legal services  
18 mapping by the grantees, and to LSC itself.

19           Currently, we are basically stress testing mapping,  
20 and that's why you saw some of our maps here yesterday in  
21 Montana, where we're, on one end of the spectrum, we're

1 looking at these sparsely distributed poverty populations in  
2 rural Montana.

3 We are very excited by -- Montana Legal Services is  
4 going to use the maps in their upcoming state planning  
5 session this fall, and we're very excited to find out what  
6 utility they provide at that point in time. In terms of  
7 accomplishments, the project took six weeks from proposal to  
8 maps, which is our quickest delivery date.

9 And southern California is the other end of that  
10 spectrum, where we're looking at extreme urban poverty areas.

11 We're producing 225 maps that are in final production. The  
12 summary meeting for that will be on September 30th in Orange  
13 County. All of the southern California grantees -- and there  
14 is one right here in the room, if you want to talk to Bruce -  
15 - intend to adopt mapping and to -- as a way to support  
16 management objectives and advocacy.

17 We in the TIG program are assisting in the adoption  
18 process to the degree possible. We are also completing an  
19 update of the Georgia project, using the latest Census  
20 figures, and a summary meeting will be held in October there.

21 The OIG plans to complete the phase two summary

1 report by year's end, and will brief the board upon its  
2 completion. In August, the Legal Services Corporation and  
3 the Legal Aid Society of Orange County received a special  
4 achievement in humanitarian mapping from the Environmental  
5 Science Resource Institute, which is the world's largest  
6 mapping software company, at its annual conference hosting  
7 approximately 15,000 persons.

8 The OIG also plans to present Legal Services  
9 mapping at the upcoming NLADA conference in Washington.  
10 Thank you.

11 MR. STRICKLAND: All right. Any questions for Dave  
12 or Kirt, as a result of that report?

13 MS. MERCADO: I just want to say that when the  
14 mapping started to begin, if you could let us focus on where  
15 the poverty pockets were in a region and an area of service,  
16 especially in light of all the configuration of programs and  
17 emerging of programs, and determining where would be the best  
18 area to have an office, depending on the magnitude of  
19 poverty.

20 But that just pinpoints for us so clearly, and we  
21 need to sort of allocate our resources and stuff. So that's

1 been very helpful, that they have at last been able to have  
2 the funding to do some of that which we didn't have.

3 MR. STRICKLAND: Okay, gentlemen, thank you very  
4 much. Next we will consider and act on the report of the  
5 board's committee for provision of -- for the delivery of  
6 legal services. And for that, I will call on Chairman David  
7 Hall.

8 CONSIDER AND ACT ON THE REPORT OF THE BOARD'S COMMITTEE ON  
9 PROVISION FOR THE DELIVERY OF LEGAL SERVICES

10 MR. HALL: Thank you, Frank. The provisions  
11 committee met yesterday, and had a very informative session.  
12 Many of the board members were here. I will not try to  
13 capture everything that was said. There was no way I could  
14 do that. I would just like to highlight a few points that  
15 were made.

16 We had numerous representatives from the Montana  
17 Legal Services Association. In particular, Klaus Sitte, the  
18 executive director, coordinated a very informative  
19 presentation which included numerous members from his  
20 organization, but also included a client who came before us,  
21 and the executive director of the state Bar of Montana.



1           The report was very informative in giving us a  
2 better sense of what some of the challenges are in Montana.  
3 Just a few facts that I would share in that regard, one,  
4 being the fourth largest state in area, which creates all  
5 sorts of challenges for it.

6           One person per square mile, which also creates some  
7 challenges in getting delivery to individuals who are not  
8 always -- individuals in poverty -- who are not always  
9 clustered in one area.

10           Lowest average wage of any state. And in regards  
11 to the amount of representation, it was shared that within  
12 the state, though there is one lawyer for every 365  
13 individuals, when we look at the number of legal services  
14 lawyers for poor individuals, it was -- the number was  
15 13,000, which was very staggering.

16           It -- according to the report, despite these sorts  
17 of challenges, Montana Legal Services Association has been  
18 working hard to try to overcome those challenges through the  
19 use of technology and other methods. And in doing so, have  
20 been able to make some successes.

21           Klaus used the phrase in describing the clients,

1 that they may have "empty cupboards, but not empty hearts."  
2 I think listening to the reports of the various individuals  
3 who came before us, that may be an accurate description of  
4 the individuals who are doing the work that, though they may  
5 not have all of the resources they need, they certainly have  
6 a lot of passion, compassion, and dedication to the work and  
7 that was very impressive.

8 A lot has been done in regards to technology. They  
9 shared many of their projects. I won't list them all, but  
10 the ICAN!, or T-CAN project, or tax refunds online -- through  
11 the creation of this program, they were able to allow 171  
12 low-income individuals to receive over \$330,000, getting  
13 their tax returns online, helping them to get it in a very  
14 short period of time, and without any type of out-of-pocket  
15 expenditure on their part.

16 LawHelp is another project, which is a web-based  
17 outreach approach of allowing people to get information  
18 online. A website for attorneys.

19 So, combining the report that we got yesterday with  
20 what we saw yesterday morning in regards to video  
21 conferencing, it is clear that technology has played a major

1 role in trying to overcome some of those hurdles and  
2 challenges that I mentioned earlier.

3           We had a presentation on the hotline project that  
4 exists here, and the way that operates. The thing that I  
5 would just highlight here is that there was in place a very  
6 strong method of accountability, where the supervisor is able  
7 to make sure that there is a good accuracy in what is  
8 happening in the information that the individuals who are  
9 working on the hotline are taking in, and also a method for  
10 following up on some of that information and some of the  
11 cases that are presented.

12           We also heard about the migrant farm workers  
13 program that, though one might -- not being in the state --  
14 assume that there is a migrant farm workers issue or legal  
15 services approach to that, we were made aware that that does  
16 exist, that the cherry-picking population, the beet  
17 population, that even -- or the industry around cherries and  
18 beets, and also with ranch irrigation, that some of the same  
19 problems that you might encounter in states that are better  
20 known for having migrant farm worker issues exist here as  
21 well, and that there is a program not as well resourced as

1 they would like, but one that was certainly going on and we  
2 heard about some of their efforts.

3           The presenter from the state Bar Association made  
4 us aware of the legal needs study that has been going on in  
5 the state, and this was an attempt to better determine what  
6 the actual legal needs are, and the role that the Bar  
7 Association took in trying to make this happen through  
8 getting a lot of lawyers, judges, VISTA individuals to  
9 volunteer and to provide -- do a lot of the interviews.

10           They were able to interview over 800 individuals,  
11 and I think the thing that was impressive was not just the  
12 information that was collected in regards to the legal need,  
13 but also from Chris's standpoint, that how it changed the  
14 perception and priorities of members of the Bar Association,  
15 that by getting involved in this process and being aware of  
16 it, that the Bar Association is even more sensitive to the  
17 needs of poor people, and I think what I extracted from what  
18 he said, is willing to make that an even higher priority,  
19 which I think is one of the reasons for doing a study of that  
20 sort.

21           The client who came before us certainly indicated

1 that the services that she received from Montana Legal  
2 Services Association was just very important to her in  
3 addressing not only the need she had when she first arrived,  
4 but that they had continued to stay involved in her life and  
5 in the situations that she faced, and therefore it had made  
6 an important difference.

7           So, overall, I think we found a lot of new and  
8 informative information around the issue of quality and how  
9 that is playing out here in the State of Montana. I think  
10 also we got another example of some of the challenges that  
11 rural states have with legal services delivery. And so, we  
12 are very appreciative of those individuals who came and  
13 presented that information to us.

14           Because of the committee's late start, we did not  
15 have an opportunity to receive a report from the president in  
16 regards to an issue that came before the provisions committee  
17 in regards to a proposal for a mentoring program in regards  
18 to diversity in leadership.

19           So, at the committee meeting I made the  
20 recommendation that we would hear that report at the full  
21 board meeting, and so I think Helaine is ready to make that

1 as the final item that is a part of my provisions report.

2 MS. BARNETT: Thank you, Chairman Hall. At the  
3 June board meeting, Lillian Johnson, on behalf of LSC's  
4 leadership and diversity advisory council, made a  
5 presentation to the committee on provisions on a proposed  
6 mentoring project entitled, "LSC Earl Johnson Academy  
7 Creating Leaders of Justice."

8 After discussion by members of the board, the board  
9 asked that staff work on refining the concept, and report  
10 back to the board's provisions committee at its September  
11 meeting. And I would like to briefly report on the status of  
12 our efforts to date.

13 Pursuant to the board's direction, we established  
14 an internal mentoring project committee to work on further  
15 developing such a project. Anyone with a particular interest  
16 in this issue was invited to be part of the committee. The  
17 members of the LSC committee include -- in alphabetical order  
18 -- John Eidleman, Pat Hanrahan, Althea Hayward, Lilly Lakio,  
19 Cheryl Nolan, Carla Smith, and Avora Thomas.

20 The committee has met three times so far. At the  
21 outset, we clearly recognized that mentoring is a component

1 of leadership building. We value cultivating, training, and  
2 energizing a core of diverse potential future leaders to  
3 assume leadership positions in legal services programs.

4 We also want to focus on the skills and  
5 competencies required to lead, manage, and direct high  
6 quality legal services programs. With that in mind, we are  
7 working on refining and developing a project which will deal  
8 with the following issues.

9 The purpose of the project, including developing a  
10 mission statement with goals and objectives which will focus  
11 on the creation of a pool of well-trained and diverse  
12 potential future leaders in the legal services community.

13 Two, the criteria and selection process for  
14 participants as mentors and mentees, including development of  
15 an application process.

16 Three, the design of the project, including the  
17 training component and curriculum development.

18 Fourth, the length of the project, including  
19 developing a time line for the pilot project.

20 Fifth, an evaluation of the project, including  
21 measurements of success and contemplated outcomes.

1           Sixth, coordination and collaboration with our  
2 national partners, the National Legal Aid and Defender  
3 Association, the Management Information Exchange, and the  
4 Center for Law and Social Policy, who are all also involved  
5 in mentoring and leadership development activities.

6           Finally, we are concerned with the size and the  
7 projected cost of the proposed project. Our most recent  
8 meeting on August 26th included the leadership of NLADA and a  
9 representative from CLASP. We discussed areas of most likely  
10 and mutually beneficial collaboration.

11           Our plan is to continue to meet on a regular basis  
12 to develop our proposed recommendations according to this  
13 outline. We then plan to share our thoughts with LSC's  
14 leadership and diversity council, to get their input on our  
15 proposed design, and to do the same with our national  
16 partners.

17           Our goal is to try to accomplish all of this in  
18 time, hopefully, to present our recommendations to the  
19 provisions committee at its November meeting, but certainly  
20 not later than the annual meeting.

21           MR. HALL: Thank you. That concludes the --



1 MR. STRICKLAND: Okay, and no action items?

2 MR. HALL: No action items at this time.

3 MR. STRICKLAND: Any questions for Chairman Hall,  
4 or Helaine?

5 (No response.)

6 MR. STRICKLAND: All right. Let's then move --  
7 before we move, let me confirm Ernestine, are you with us?

8 MS. WATLINGTON: Yes.

9 MR. STRICKLAND: All right. Good, thank you.

10 MS. WATLINGTON: Still hanging in there.

11 MR. STRICKLAND: All right. Stay with us. And  
12 also an oversight on my part, I meant to acknowledge the  
13 presence of Bernice Phillips, from Buffalo, New York, a  
14 nominee to our board. We are glad to have you with us today,  
15 Bernice.

16 MS. PHILLIPS: Thank you.

17 MR. STRICKLAND: All right. I will now call on  
18 Chairman Rob Dieter for the report of the board's finance  
19 committee.

20 CONSIDER AND ACT ON THE REPORT OF

21 THE BOARD'S FINANCE COMMITTEE

1           MR. DIETER: The finance committee met yesterday  
2 and continued its meeting until during the morning hours.  
3 And I think most of the -- or all of the board members were  
4 present during all the discussions, so I'm not going to  
5 belabor that in detail.

6           We have two action items. First, we received the  
7 presentation of the financial reports for the 10-month  
8 period, which were accepted by the committee. And then a  
9 report from David Richardson regarding the internal budgetary  
10 adjustments for Fiscal Year 2004, which were also accepted by  
11 the committee.

12           There is a resolution at page 31H of the board  
13 book, with the details of page 31E, regarding the Fiscal Year  
14 2004 temporary operating budget.

15           The board -- or the committee -- recommends that  
16 the board adopt resolution 2004-008, which is the resolution  
17 regarding the temporary operating budget for Fiscal Year  
18 2005, setting the total budget at \$339,370,180, with a  
19 breakdown as indicated in the resolution.

20           So, I guess we should take up that resolution at  
21 this time?

1           MR. STRICKLAND: Yes, why don't we make a motion to  
2 that effect?

3           MR. DIETER: Okay.

4                           M O T I O N

5           MR. DIETER: I move the adoption of resolution  
6 2004-008 for adoption by the full board.

7           MR. STRICKLAND: All right. Is there a second to  
8 that motion?

9           MS. BEVIER: Second.

10          MR. STRICKLAND: Any discussion on the proposed  
11 resolution, the adoption of the resolution?

12                   (No response.)

13          MR. STRICKLAND: I think we had a pretty thorough  
14 discussion of it at the committee meeting. So if there is  
15 not any discussion now, I guess that's not a surprise. But I  
16 don't want to cut off a debate if there is a discussion.

17                   What David brought you doesn't have anything to do  
18 with this resolution?

19          MR. DIETER: No.

20          MR. STRICKLAND: Okay. All right, hearing no  
21 discussion, let's proceed to the vote on the adoption of

1 resolution 2004-008. All those in favor, please say aye.

2 (Chorus of ayes.)

3 MR. STRICKLAND: Those opposed?

4 (No response.)

5 MR. STRICKLAND: The resolution is adopted.

6 MR. DIETER: The next item on the agenda was the  
7 consideration action on the 2006 budget mark. We had  
8 presentations by representatives of the ABA and the NLADA,  
9 their recommendations for the budget marks, as well as a  
10 presentation by David Richardson, presenting the management  
11 recommendation of the budget mark.

12 Management's recommendation -- well, the discussion  
13 during that time -- I think everyone who is here was present  
14 at that time. If there are any questions, I will be happy to  
15 answer them, but there was a discussion of the importance of  
16 recognizing, I think, the changed circumstances of the budget  
17 situation as it exists post-the congressional restrictions  
18 and the impact that technology has had, and the importance of  
19 focusing on how to leverage effectively the federal money  
20 that is available.

21 And we saw examples of that in Montana, where their

1 use of the VISTA volunteers, their video conferencing, and  
2 also a very effective, very extensive pro bono program to  
3 reach those people who cannot be served by an employee of the  
4 Montana state legal services organization.

5           The budget mark recommended by management was  
6 \$361,900,000, which is broken down as \$340,100,000 to grants  
7 -- to programs for basic field, \$4,000,000 for the technology  
8 initiative, \$1,000,000 for the loan repayment assistance  
9 pilot program, and \$14,100,000 for management and  
10 administration.

11           Also included is the office of inspector general,  
12 which is set at \$2,700,000, for a total of \$361,900,000. I  
13 think everybody has a copy of the management's memo on those  
14 figures.

15           The -- I have a copy of a resolution to present to  
16 the board on behalf of the committee -- and I will hand out  
17 copies. The committee's recommendation to the board --  
18 although it was not unanimous -- but the recommendation is  
19 that the board act on a resolution 2004-009, adopting a  
20 budget mark of \$361,900,000 for Fiscal Year 2006, with the  
21 proviso that the LSC chairman and president have full

1 authority to negotiate with OMB as it may become necessary to  
2 adjust the budget mark, consistent with their assessment,  
3 following their discussions with OMB.

4 M O T I O N

5 MR. DIETER: So, at this time, I move that the  
6 board adopt resolution 2004-009 as presented in the document  
7 before you.

8 MR. FUENTES: Second.

9 MR. GARTEN: I would move to amend.

10 MR. STRICKLAND: All right. Moved and seconded.

11 Now we have a motion to amend. Go ahead and state your  
12 amendment, Herb.

13 MR. GARTEN: Well, without going into all the  
14 details -- I did it at the morning session -- I think this  
15 board should grasp at the opportunity to capitalize on the  
16 success and publicity received from our technology program,  
17 and as well the very favorable reaction, both by Congress and  
18 by the Bar and the legal services community to the proposed  
19 loan repayment assistance program.

20 I heard from our other members of the committee  
21 this morning, and with due deference to their position, I

1 will concentrate and just make the amendment with regard to  
2 the technology grants.

3           And I suggest that we should highlight our success  
4 by coming in at a modest increase of the request from \$4  
5 million to \$5 million. It represents less than one-third of  
6 one percent of our total request.

7           I will also note that in the past we have asked for  
8 close to \$4 million and we have received just under \$3  
9 million. And I think we send a good message out, and it's a  
10 message that I think Congress will want to listen to with  
11 regard to the progress that we have made in delivery of the  
12 services through the use of technology. What better  
13 illustrations than what we have heard in the last couple of  
14 days?

15           So, I move to amend and increase the total request  
16 by \$1 million to \$362,900,000.

17           MR. HALL: Second.

18           MR. STRICKLAND: All right. Moved and seconded, in  
19 terms of your amendment. Let us proceed to any discussion on  
20 the amendment offered by Herb Garten.

21           (No response.)

1           MR. STRICKLAND: All right. All those in favor of  
2 the amendment -- well, the chair will then declare -- without  
3 objection, the chair will declare the motion to -- the  
4 original motion to have been amended.

5           And now, let's proceed to a vote, or a discussion,  
6 if there is any, on the main motion now, which is that  
7 resolution 2004-009 would be in the amount of \$362,900,000  
8 versus \$361,900,000. Is there any discussion on the motion  
9 as amended?

10          MR. MEITES: Mr. Chairman, I have a question.

11          MR. STRICKLAND: Yes, sir?

12          MR. MEITES: My knowledge of Robert's Rules of  
13 Order is weak. If this motion is not adopted, what happens  
14 next?

15          MR. GARTEN: Go back.

16          MR. MEITES: Do we go back to the original motion,  
17 or do we have to have a new motion?

18          MS. BEVIER: I thought we had to vote on the  
19 amendment first.

20          MS. MERCADO: You vote on the amendment first.

21          MR. STRICKLAND: All right, all right.



1 MR. GARTEN: And if it fails, go back --

2 MR. STRICKLAND: I stand corrected. We need to  
3 vote on the amendment. All right, is there any discussion on  
4 the amendment?

5 (No response.)

6 MR. STRICKLAND: Hearing none, let's proceed to a  
7 vote on the amendment. All those in favor --

8 MS. MERCADO: Well --

9 MR. STRICKLAND: Sorry?

10 MS. MERCADO: I'm sorry. There was going to be a  
11 discussion on it.

12 I guess in light of the fact that I actually would  
13 be in favor -- even though acknowledging what the political  
14 realities are -- requesting the budget mark of \$516 million,  
15 as recommended by the American Bar Association in a three-  
16 step tier, which actually would be to the \$395 million first  
17 to begin with and the other, which I thought was, given the  
18 current matters before Congress and the reality or the  
19 probability that we could or couldn't get that kind of  
20 funding, that seemed to be the more modest, I suppose, and  
21 cautious -- again, trying to even get us at a point that

1 we're not losing more and more resources into legal services.

2           So, given that, that that's not going to be a  
3 probability or a likelihood with the board, just from the  
4 discussions that we had in the finance committee, then I  
5 would be in favor of increasing to the \$1 million technology  
6 as an area where we can use innovative methods of trying to  
7 reach more of our poverty community to provide some  
8 assistance -- obviously, not the best assistance that we  
9 conceive of as attorney-client representation, but at least  
10 where people get some answers and some responses to their  
11 legal needs.

12           And the technology, as has been so aptly put by our  
13 Chairman Hall, and the people of Montana in particular,  
14 because a great vast part of our country has huge rural  
15 areas, whether they are in the Native American community or  
16 migrant community, or just regular rural communities -- in  
17 our last visit that we made to Nebraska, that was very  
18 evident in the area -- and because it is, I believe, one of  
19 the factors that Congress looks at, how we are innovative in  
20 our work, and what it is that they tie their increase to.

21           And the reality is that at least in the last 10

1 years that I have been on this board, is that Congress  
2 doesn't necessarily fund because we need more lawyers or we  
3 need a higher salary paid to our attorneys so we can keep  
4 them and retain them. Unfortunately, they want some creative  
5 method or delivery. And in this case, it's technology.

6 Or whether it's loan repayment or something else to  
7 justify it, the fact that people need -- better salaries  
8 isn't going to be enough to cover it. The fact that we need  
9 to represent more than 20 percent of the poor in this country  
10 is not going to cover it. They want to have it tied to a  
11 specific program.

12 And that's unfortunate, but that's the reality of  
13 the budgeting that at least I have observed over the last 10  
14 years in being here. And I think that Herb is right, that  
15 this is one of the areas that they can justify to say, "Look,  
16 we're going to represent more people if we have access to" --  
17 it may not be the best format of access to justice, but at  
18 least it is a means of doing so.

19 And if we have that opportunity to -- then a  
20 million more is being too extravagant. And so, for that  
21 reason, I would echo -- I know it's already been seconded --

1 but I would be in favor of the amendment.

2 MR. STRICKLAND: All right. Any other discussion  
3 on the amendment?

4 MR. HALL: Just a few brief comments, and I hope  
5 the only three.

6 One, I would like to commend the finance committee  
7 for embracing management's proposal, which I feel is  
8 certainly moving in the right direction, and it was very  
9 thoughtful and indicated some very key areas that need the  
10 additional funding.

11 Second, the reason I second the technology increase  
12 is, as has been indicated, I think that is one area where we  
13 can make a case for not only what has happened so far and the  
14 innovation and the amount of people we are able to serve  
15 through it, but also it is an area that I think Congress and  
16 others understand is something worth looking at.

17 It has the potential of addressing some of this  
18 need in ways that just putting more money into direct  
19 delivery would ever be able to do. And so, I think that  
20 modest increase is appropriate.

21 Third, and last, I think, having sat in on the

1 finance committee and probably being one of those individuals  
2 who was not on the committee that was raising a lot of  
3 concerns, I do think that the chair of the finance committee  
4 raised some important concerns about how do we go about  
5 really coming up with a systematic way of identifying what  
6 the real need is, what have been some of the changes that  
7 have occurred since the reduction that occurred in 1995, and  
8 to develop a methodology that we, as a board, feel more  
9 comfortable with than the process that we may presently be  
10 using.

11           And as chair of the provisions committee, though I  
12 have not had a chance to discuss this with the other members  
13 of the committee, I think that's an issue that we would like  
14 to take up, of trying to -- working with the ABA and with  
15 NLADA to develop that methodology so that we have something  
16 when we are doing this next year -- hopefully, if we can work  
17 that swiftly -- that might be even more compelling and  
18 convincing, and more importantly, would be an accurate way of  
19 addressing the concerns that have been raised.

20           So, I would like to support the amendment, but I  
21 also think that the discussion that happened early on raised

1 some issues that we shouldn't let drop. And as chair of  
2 provisions, I would like to pursue those other issues.

3 MR. STRICKLAND: Thank you, David. Any other  
4 comments?

5 MS. BEVIER: I just have a question that comes from  
6 ignorance about this budgeting process in congress. We have  
7 these -- do we, in fact, separately request \$340 million, \$4  
8 million? I mean, do we separately request these numbers?  
9 When Congress passes our budget, do they pass the bottom line  
10 figure, or do they pass each of these line items separately,  
11 so that Congress would then --

12 MR. STRICKLAND: David, are you going to answer  
13 that question?

14 MR. RICHARDSON: Yes. The first process in  
15 approving a budget mark is just a total figure that goes to  
16 OMB. In December or January, they will come back and ask us  
17 for a breakdown. Whether they approve this 361, a higher or  
18 a lower amount, they will then come back and ask us to break  
19 it out.

20 When we go to Congress, we break out each line and  
21 write a justification for it. So, each line is justified in

1 our budget request.

2 MS. BEVIER: Well, when Congress doesn't give us  
3 what we ask for -- which I take it has been the case the last  
4 two years -- do they cut it, each line, proportionately, or  
5 do they say where "we're going to give you all of this, but  
6 less than all of that?" I mean, how does it work when  
7 Congress doesn't give us what we ask for?

8 MR. RICHARDSON: Mainly, they look at the prior  
9 year funding. And like we have received freeze funding the  
10 last two years, when we got the increase to \$338 million, the  
11 year before they funded administration and the inspector  
12 general's office at the level that we had requested. And  
13 then they just did not give the corresponding increase to the  
14 basic field component and technology.

15 MS. BEVIER: I see. So Congress actually -- when  
16 they do fund, and they fund it less than we have asked for,  
17 they pick and choose.

18 MR. RICHARDSON: That is correct.

19 MS. BEVIER: Okay.

20 MS. WATLINGTON: Ernestine -- a question?

21 MR. STRICKLAND: Go ahead, Ernestine.

1           MS. WATLINGTON: First of all, when you're on the  
2 telephone, it's real important that you call your name before  
3 you talk, because nobody knows who -- you don't know voices  
4 that well.

5           Second is that that last question on the budget,  
6 Congress just gives you a certain amount of money, then it's  
7 up to you to make your budget and spend that amount so -- at  
8 Legal Services Corporation. Is that the way that is?

9           MR. STRICKLAND: David, did you understand that  
10 question? You're asking if Congress sets a total amount, was  
11 that your question, Ernestine?

12          MS. WATLINGTON: Yes. Do they give it to you, then  
13 it's up to you to decide how you're going to be -- come to  
14 that amount that they give you?

15          MR. STRICKLAND: Let me ask -- the next speaker  
16 will be David Richardson, our treasurer and controller, and I  
17 will ask him to answer your question.

18          MR. RICHARDSON: No. They approve it by line item.  
19 For instance, I have the House report with me that the  
20 anticipated mark that the House approved, they approved the  
21 basic field line, they approved the technology line. They



1 also approved the management and administration, inspector  
2 general, and then there is language in for the loan repayment  
3 program. So they approve it per line.

4 MR. STRICKLAND: For example, following on that, if  
5 we set forth a \$1 million item for a pilot project for loan  
6 repayment and Congress approves it, it would be for a pilot  
7 project.

8 MS. MERCADO: Yes.

9 MR. STRICKLAND: Just as we submit it. Is that  
10 correct?

11 MR. RICHARDSON: As long as they approve --

12 MR. STRICKLAND: If they approve it.

13 MR. RICHARDSON: If they approve that, yes, sir.

14 MR. STRICKLAND: And I got the sense of the  
15 committee this morning that we felt it was -- or the  
16 committee felt -- it was important to continue to denote that  
17 as a pilot program, rather than something that we folded into  
18 our operations without completing the pilot project and  
19 developing the information about how well it worked.

20 MR. RICHARDSON: That is correct. When we put  
21 forth our proposal, we will clearly specify, for instance,

1 that there is the \$846,000 additional adjustment over the 7.1  
2 percent inflation factor for technology. We have increased  
3 it to \$4 million for that, and now we have increased it an  
4 additional million.

5 We will write a justification basically stating how  
6 much good work has been done and how many proposals we have  
7 been getting. So we will put forth some of the good works,  
8 and then write the rationale for the additional money.

9 The same thing with the Native American program.  
10 We will come forward with the rationale that we need to get  
11 these programs up to one attorney and have an assistant to  
12 get them to the \$150,000 level, and then additional money for  
13 operations.

14 All that we do within the context of writing our  
15 proposal, when we go forward with management and  
16 administration, we tell them a projection of the rent, the  
17 salary cost, each of the budget lines that you see and  
18 approve, we provide that information in total to Congress.

19 So, when we do put forth this, we try to put forth  
20 as strong and persuasive an argument as possible to receive  
21 all the funding that we request.

1 MR. STRICKLAND: Yes, sir?

2 MR. FUENTES: Mr. Chairman and David, does it not  
3 follow that if we are informed or believe that budgeting is  
4 going to be somewhat flat, and if that range is considerably  
5 less than the \$361 million figure which we are sending over,  
6 that by boosting a particular line item by going from \$4  
7 million to \$5 million on this technology, that when the  
8 congressional folk sort that out, that's going to come out of  
9 the hide of some other area of the budget, a budget which has  
10 been thoughtfully presented to us by management?

11 MR. RICHARDSON: Well, we are approving the budget  
12 mark now. As far as it coming out of the hide of -- you're  
13 talking about of Legal Services? Not necessarily, because  
14 what we're doing is putting a figure out there, an amount  
15 that we will go to OMB and negotiate.

16 And hopefully, that figure that we will negotiate  
17 will be the \$362,900,000 or an amount close to that that we  
18 have agreed with the administration to have included in the  
19 president's budget submission when it goes forward in  
20 February.

21 MR. FUENTES: But your number that you presented to

1 us as management is line item by line item. And we are of  
2 the informed belief that the office of management and  
3 budget's number is significantly less than this \$361 million  
4 or \$362 million, which we're sending over.

5           And when that's sorted out, that lowered number is  
6 paid as to what will be granted to us for that year by  
7 increasing in an area like this technology funding. That's  
8 got to come from someplace else.

9           That means it's going to come from the services  
10 which we have already, by management's year of preparation of  
11 this budget of submittal to us, has said to us ought to be  
12 the rightful division of what limited resources we have to  
13 spend.

14           MR. RICHARDSON: If I could address further, the  
15 administration the last few years has offered freeze funding,  
16 \$329,300,000. It is through the conference report that we  
17 have been able to get up to \$338,848,000. The decisions that  
18 you're talking about being made are made in conference. And  
19 it is not our experience that it comes out of Legal Services  
20 when they make a decision like this.

21           When we got the \$9.5 million Census adjustment a

1 few years ago, that was money that was in the budget, that  
2 was the flexibility that they had to be able to fund that  
3 particular amount of money. That particular year we asked  
4 for freeze funding also. We asked for the same amount that  
5 was included in the OMB request of \$329,300,000, and it was  
6 the House and Senate came along -- and as I recall, more the  
7 Senate -- that helped us with the Census figures and gave us  
8 that additional money.

9           So, what you're talking about as far as the  
10 rationale coming out of the additional line of the legal  
11 services -- for instance, out of basic field -- it's not our  
12 experience that that has occurred.

13           MR. STRICKLAND: All right. Any other questions?  
14 Yes, sir?

15           MR. MEITES: Yes, I actually wanted to pick up on  
16 something that David said. And I will defer this until after  
17 we vote on these motions, but I too share a concern as well,  
18 that we need a better method, a better rationale, a better  
19 motive analysis to determine what the dollars needed are.

20           And I support David's suggestion that he -- that  
21 the provisions committee and the finance committee be

1 directed to work together, with appropriate outside groups  
2 and management, to see if better analytical approaches are  
3 available, both to help us internally to budget, and also to  
4 help us persuade Congress of the reasonableness of our  
5 request.

6 If you want to defer that until after you vote on  
7 the motion, that's fine with me.

8 MR. STRICKLAND: That may have to operate  
9 prospectively.

10 MR. MEITES: Exactly, exactly.

11 MR. STRICKLAND: As opposed to being applied to the  
12 resolution before us. Is that correct?

13 MR. MEITES: Before we get to the -- yes.

14 MR. STRICKLAND: Okay. All right, any other  
15 questions regarding the Herb Garten amendment to the original  
16 motion? Did we already vote on the amendment?

17 PARTICIPANT: No.

18 MS. MERCADO: No.

19 MR. STRICKLAND: I have lost track of it, I  
20 apologize. All right, then, let's proceed to vote on Herb  
21 Garten's amendment. All those in favor of the amendment,

1 please say aye.

2 (Chorus of ayes.)

3 MR. STRICKLAND: Those opposed?

4 (Chorus of nays.)

5 MR. STRICKLAND: Okay. Let's take a -- we're going  
6 to need to have a recorded vote, then. Let's -- and let's  
7 take the vote again. All those in favor of the motion please  
8 raise your hand, and I will take a count. Six. The chair  
9 votes --

10 PARTICIPANT: Ernestine, we should find --

11 MR. STRICKLAND: All right, Ernestine?

12 MS. WATLINGTON: Mm-hmm?

13 MR. STRICKLAND: Are you voting? We're asking for  
14 those in favor of Herb Garten's amendment to --

15 MS. WATLINGTON: Well, see, that's what I was  
16 saying, even when you talk like that and when you're on the  
17 telephone, it's very difficult, because you don't know or can  
18 identify who is what and everything.

19 And so, you know, you need assistance to develop  
20 how that's going to work.

21 MR. STRICKLAND: Let me see if I can help you,

1 then. The original motion for our budget mark was  
2 \$361,900,000. That motion was made by Rob Dieter, the chair  
3 of the finance committee.

4 Then Herb Garten moved to amend that to increase it  
5 by \$1 million for technology grants. And so what we're  
6 voting on now is the Herb Garten amendment to increase that  
7 budget mark by \$1 million to \$362.9 million. And I was just  
8 in the process of taking that vote count when you asked us  
9 for some clarification.

10 So, it appears that at the table we had six votes  
11 for the motion and do you have a vote at this time?

12 MS. WATLINGTON: Yes.

13 MR. STRICKLAND: And what is your vote?

14 MS. WATLINGTON: It would be yes.

15 MR. STRICKLAND: All right, your vote is yes. So  
16 that is seven votes for the motion, as I took the count.  
17 Those opposed? Three opposed. Okay, that's right, because  
18 we have one board member absent.

19 So the recorded vote, then, on the amendment is  
20 seven in favor and three against. All right, so the original  
21 resolution is now amended, and we are -- if you're ready to



1 vote, then, on the amended motion -- unless there is further  
2 discussion, we will now proceed to vote on that.

3 All those in favor of the amended --

4 MS. MERCADO: We already voted.

5 PARTICIPANT: No, we voted on the amendment. Now  
6 we have to vote on the motion --

7 MR. STRICKLAND: We voted on the amendment, which  
8 had the effect -- correct me if I'm wrong -- as I would  
9 understand it now, the original motion by Rob Dieter has been  
10 amended, in terms of the dollar amount, by \$1 million, which  
11 is to be allocated for technology grants.

12 And so, that motion has now been amended, and we  
13 are ready to vote on what I will call the main motion. All  
14 right, the main motion as amended. I am going to bring  
15 Robert's next time, and pull that out --

16 (Several people speak simultaneously.)

17 MR. STRICKLAND: All right. So, all those in favor  
18 of the motion as amended, please signify by saying aye.

19 (Chorus of ayes.)

20 MR. STRICKLAND: Those opposed?

21 (Chorus of nays.)

1           MR. STRICKLAND: All right. That's going to be 10  
2 to 1, in terms of the recorded vote. I believe, Ernestine,  
3 you voted aye, did you not?

4           MS. WATLINGTON: Right.

5           MR. STRICKLAND: Okay. The vote, then, on the main  
6 motion as amended is 10 to 1, recorded vote.

7           PARTICIPANT: Nine.

8           MR. STRICKLAND: You're right, nine to one. Sorry.  
9 Did I state the vote on the amendment correctly, seven-  
10 three?

11          PARTICIPANT: Yes.

12          MS. MERCADO: Yes.

13          MR. STRICKLAND: Okay. Next we're going to need a  
14 mathematician.

15          PARTICIPANT: No, just somebody who can do  
16 arithmetic.

17          (Several people speak simultaneously.)

18          MR. STRICKLAND: All right, anything else from the  
19 finance committee?

20          MR. DIETER: There was a recommendation by Tom  
21 Fuentes that the board adopt a resolution of commendation for

1 service and financial management recognition to Len Koczur  
2 and his services as acting inspector general.

3 M O T I O N

4 MR. DIETER: And I guess I move that -- I don't  
5 know if we need a motion, or just -- I will move that the  
6 president formulated an appropriate resolution, and in  
7 recognition of his service as acting inspector general --  
8 having been an acting director at one point in my life, I can  
9 testify that that's a very difficult position, and I think he  
10 did an excellent job during that interim period.

11 MS. MERCADO: Second the motion.

12 MR. STRICKLAND: All right. Any discussion on  
13 that? Would that be a resolution -- a question, then -- the  
14 resolution from the board to --

15 PARTICIPANT: Yes.

16 MR. STRICKLAND: All right. But we're asking  
17 Helaine to assist us in drafting that. Okay, any discussion  
18 on the motion?

19 (No response.)

20 MR. STRICKLAND: All those in favor of the motion,  
21 please say aye.

1 (Chorus of ayes.)

2 MR. STRICKLAND: Those opposed?

3 (No response.)

4 MR. STRICKLAND: Unanimous. Anything else from the  
5 finance committee, Rob?

6 MR. DIETER: No, that's it.

7 MR. STRICKLAND: Okay. Let's hear the report of  
8 the ops and regs committee, operations and regulations  
9 committee -- I should state that correctly, for the record.

10 CONSIDER AND ACT ON THE REPORT OF THE BOARD'S  
11 OPERATIONS AND REGULATIONS COMMITTEE

12 MR. MEITES: Thank you, Mr. Chairman. The  
13 operations and regulations committee met this morning. We  
14 had a spirited and vigorous meeting, and covered four  
15 substantive matters.

16 First, is consider and act on retainer agreement  
17 and group representation issues relating to the LSC open  
18 rulemaking on financial eligibility, which is 45CFR part  
19 1611. We had considerable discussion on proposals to change,  
20 first of all, the retainer agreement requirement. Many of  
21 you were present.

1           The proposals that we considered ranged from doing  
2 away with the retainer agreement to making substantial  
3 modifications and requiring that a new obligation be imposed  
4 on our grantees after brief service to send a written  
5 document containing certain materials to the prospective  
6 client.

7           The committee, after hearing extended discussions,  
8 is in a condition to recommend to the board a form of the  
9 retainer agreement. Do you have copies of this redlined  
10 version, 1611.2? Essentially, it -- our recommendation is to  
11 retain the retainer agreement. We believe that it is an  
12 important milestone that our grantees and their clients  
13 should have.

14           We recommend that certain changes be made in the  
15 wording, which is supported both by management and the field  
16 to clarify minimal requirements for the retainer agreement,  
17 and also to make clear why it is appropriate for us to  
18 require a retainer agreement.

19           We do not recommend adoption of a written  
20 communication after brief service. We heard from the field  
21 that that is burdensome under many circumstances. We have

1 never required such a communication, and we do not believe  
2 that the arguments of management favor such a communication  
3 outweigh the burden.

4           While we want to note that we do consider it best  
5 practices to have a communication when practical, we did not  
6 see it appropriate to be part of our regulations.

7           Finally, we recommend two other changes in retainer  
8 agreements, which had the support of both management and the  
9 field to clarify whenever a retainer agreement is not  
10 required. In the case of advice and counsel or brief  
11 service, both of which, by the way, are -- would be defined  
12 in the new retainer vision. And finally, that the recipient  
13 maintain copies of all retainer agreements generated in  
14 accordance with the section. Another non-controversial  
15 provision.

16           We also considered at some length changes to the  
17 representation of groups provision. I think that the change  
18 we are petitioning -- that the proposed rule, which we are in  
19 a position to recommend, represents a great deal of  
20 consideration by our committee over several sessions.

21           We think that it will allow our recipients to meet

1 a very real need, which we heard not only from  
2 representatives of Montana Legal Aid, but also from Nebraska  
3 and Iowa Legal Aid, to represent under appropriate  
4 circumstances, groups whose principal activity is the  
5 delivery of services.

6           And we note that that representation and the legal  
7 assistance that can be provided under our proposal  
8 recommendation only relates to such activity as the delivery  
9 of services.

10           There was concern expressed by the inspector  
11 general, whether the burden on the recipient to determine  
12 that a group is eligible under our proposal is enough. The  
13 proposal says that the recipient shall collect information  
14 that reasonably demonstrates that the group is eligible.

15           We agreed that "reasonable" may not be a perfect  
16 term, but at least when the new rule goes into effect it is a  
17 starting place. And we urge both the inspector general,  
18 management, and the field, if it determines that "reasonable  
19 test" is not working, to come back to us with a more precise  
20 definition.

21           But our recommendation is that, at least initially,

1 this is the place to start. And it was pointed out for  
2 individual representation, that "reasonable test" has been in  
3 effect for some time, and seems to have worked.

4           Having said that -- and we're certainly in a  
5 position to answer any questions, or attempt to answer any  
6 questions the board may have -- the recommendation of our  
7 committee at this time -- oh, the other fact that you should  
8 know as background, there are other changes in part 1611  
9 which we have not yet address, which are largely non-  
10 controversial, but which our committee has to deal with  
11 before any formal rulemaking is undertaken.

12           So, our recommendation at this time is the board  
13 direct the staff to incorporate the changes I have outlined,  
14 and which are before you, into a notice of proposed  
15 rulemaking concerning part 1611, and that the notice of  
16 proposed rulemaking containing any other proposed revisions  
17 be brought back to our committee at its November meeting for  
18 discussion.

19           It is our hope that at the November meeting we will  
20 be able to make a recommendation as to the entire revised  
21 rule 1611, which, should the board adopt it, will be then



1 appropriate for publication.

2 M O T I O N

3 MR. MEITES: So, with that, I would move that the  
4 board so direct the staff on the basis of our report.

5 MR. STRICKLAND: All right. Is there a second to  
6 that motion?

7 MS. BEVIER: Second.

8 PARTICIPANT: Second.

9 MR. STRICKLAND: Moved and seconded, as stated by  
10 Chairman Meites of the ops and regs committee. I'm not sure  
11 I can restate the --

12 (Laughter.)

13 MR. STRICKLAND: So I purposely am paraphrasing  
14 that down to a real short version. Does everybody understand  
15 the motion? If you do, then let's -- is there any further  
16 discussion on the motion?

17 MS. WATLINGTON: I dropped my telephone. I didn't  
18 hear the motion.

19 MR. STRICKLAND: You didn't hear the motion?

20 MS. WATLINGTON: No.

21 (Laughter.)

1           MR. STRICKLAND: Ernestine, you're going to have to  
2 start dropping that telephone at different times. Okay.

3           MS. MERCADO: Was she in the ops and regs  
4 committee?

5           MR. STRICKLAND: Are you a member of the ops and  
6 regs committee?

7           (No response.)

8           MS. MERCADO: She was at the meeting.

9           MR. STRICKLAND: Yes.

10          MS. WATLINGTON: Yes.

11          MR. STRICKLAND: All right.

12          MS. MERCADO: Ernestine, remember the changes that  
13 we made earlier, before we broke?

14          MS. WATLINGTON: Yes, I --

15          MS. MERCADO: What they did is that they just wrote  
16 them up.

17          MS. WATLINGTON: I read them, you know.

18          MR. STRICKLAND: Okay.

19          MS. MERCADO: They just redrafted them to make sure  
20 and incorporate the changes that we discussed earlier at the  
21 ops and regs committee meeting. There are not any other

1 changes, beyond what we already discussed this morning.

2 MS. WATLINGTON: And it is still -- you can't  
3 represent groups?

4 MS. MERCADO: No, you can --

5 MR. STRICKLAND: Well, you can under certain  
6 circumstances.

7 MS. WATLINGTON: Right.

8 MR. STRICKLAND: And this particular proposal here  
9 would clarify that.

10 MS. WATLINGTON: Well, that's -- so I understand  
11 it.

12 MR. STRICKLAND: All right. And then there was --  
13 the other proposal has to do with the use of retainer  
14 agreements under certain circumstances. So, what we have  
15 before us is the corrected version of the recommendation from  
16 the ops and regs committee that we're ready to vote on, if  
17 you're ready.

18 MS. WATLINGTON: Okay.

19 MR. STRICKLAND: All right. Now, hold on to your  
20 phone.

21 (Laughter.)

1           MR. STRICKLAND: So you get to record your vote.

2           MS. WATLINGTON: All right.

3           MR. STRICKLAND: Okay. If we're ready to vote,  
4 let's proceed with that. All those in favor of the motion  
5 offered by Chairman Meites, please say aye.

6           (Chorus of ayes.)

7           MR. STRICKLAND: Those opposed?

8           (No response.)

9           MR. STRICKLAND: All right, the vote is unanimous.  
10 Anything else from --

11           MR. MEITES: Yes. Let me consider -- we also  
12 received and considered a citizen petition from Dean Andal  
13 for a rulemaking to amend LSC regulations dealing with class  
14 actions, part 16 and 17.

15           We had a lengthy analysis of Mr. Andal's petition  
16 provided by management, and Lillian and I had considerable  
17 discussion. And we were prepared to make a recommendation to  
18 the board with regard to the petition.

19           However, after we met, Tom mentioned to me that he  
20 believed -- he didn't know, but there was a possibility that  
21 Mr. Andal would like to appear before us with regard to the

1 petition. And Lillian and I are both of the view that we  
2 propose to defer any action on this petition until we  
3 ascertain whether or not Mr. Andal would like to appear. And  
4 if he would like to appear, we would ask that he appear at  
5 our next meeting.

6           And also, I had a communication from Mr. Padilla,  
7 who is head of the California Rural Legal Assistance, a  
8 grantee, and he also indicated that if there were any live  
9 presentations by Mr. Andal, he would like a chance to at  
10 least consider appearing.

11           Lillian and I are both of the belief that we should  
12 defer action on this, that both Mr. Padilla and Mr. Andal  
13 should be provided with the materials that we have before us  
14 today, including management's report, and a transcription of  
15 the discussion that took place today, so that both of them  
16 would be as informed as if they had been present today.

17           With that, we are not in a position to make a  
18 recommendation.

19           MR. STRICKLAND: All right.

20           MR. MEITES: We will simply defer action on this  
21 until the next meeting. Lillian, is that satisfactory?

1 MS. BEVIER: Mm-hmm.

2 MR. MEITES: Fine. The last matter we had before  
3 us was a consider and act on management's -- the fact that we  
4 clarify LSC grant assurance 24. I don't have to go at great  
5 lengths with this, but in substance, our determination at the  
6 last meeting -- and, indeed, the board's determination -- was  
7 that grant assurance 24 should remain the same as it now is,  
8 subject to discussion and consideration of any changes before  
9 the next grant assurance cycle.

10 Because of a miscommunication from staff, it  
11 appears that, in fact, we recommended the board adopt a  
12 change which was, in retrospect, inadvertent.

13 M O T I O N

14 MR. MEITES: We, therefore, would ask the board --  
15 we would recommend to the board at this time that it amend  
16 its prior adoption of the grant assurances and return grant  
17 assurance 24 to the form that it has in the Fiscal Year 2004  
18 grant assurances. And I so move.

19 MR. STRICKLAND: All right. Is there a second to  
20 the motion by Tom Meites?

21 MS. BEVIER: Second.

1 MR. STRICKLAND: Any discussion on the motion?

2 MS. BARNETT: Excuse me, this isn't on grant  
3 assurance 24. I may have missed the opportunity to comment  
4 on the action on Mr. Andal's petition. I will wait for the  
5 action on the grant, and then come back to that.

6 PARTICIPANT: We will come back to that.

7 MR. STRICKLAND: All right. Any discussion, then,  
8 on the motion concerning the grant assurance?

9 (No response.)

10 MR. STRICKLAND: All right. All those in favor of  
11 the motion, please say aye.

12 (Chorus of ayes.)

13 MR. STRICKLAND: Those opposed, nay.

14 (No response.)

15 MR. STRICKLAND: The vote is unanimous, and the  
16 motion is adopted.

17 PARTICIPANT: Mr. Chair?

18 MR. STRICKLAND: Did you have a comment,  
19 then --

20 MS. BARNETT: I did have a question, Chairman  
21 Meites. You asked that management's confidential memo be

1 distributed to Mr. Padilla and Mr. Andal. I would  
2 respectfully request that we review that memo and --

3 MR. MEITES: Yes.

4 MS. BARNETT: And in essence, anything upon which  
5 the recommendation is based be included.

6 MR. MEITES: Yes, I think that's appropriate.

7 MS. BARNETT: Thank you very much.

8 MR. MEITES: Thank you very much.

9 MR. STRICKLAND: All right. Anything else, Tom?

10 MR. MEITES: That completes our report.

11 CONSIDER AND ACT ON THE LOCATIONS OF THE BOARD'S MEETINGS FOR  
12 THE REMAINDER OF THE CALENDAR YEAR 2004 AND THE DATE OF THE  
13 2005 ANNUAL MEETING

14 MR. STRICKLAND: Thank you very much. All right,  
15 the next item, then, is consider and act on locations of the  
16 board's meetings for the remainder of calendar year 2004, and  
17 for the 2005 annual meeting.

18 Those dates and locations are found in your book,  
19 your materials in the book, at pages 71 and 74. But for the  
20 record, it's November 19th and 20th in Cincinnati, November  
21 30th and December 1 in Washington, in connection with the



1 LSC's 30th anniversary celebration. That's on page 71.

2 And then, if you move over to page 74, the annual  
3 meeting date is February 4 and 5, 2005, in Washington, D.C.  
4 Do we -- yes, Helaine?

5 MS. BARNETT: Mr. Chairman, we had set a date for  
6 November 22nd for a conference call for the semi-annual IG's  
7 report. We can pull that into the November 20th meeting,  
8 which is just 2 days before, so the board doesn't have to  
9 hold that date.

10 MR. STRICKLAND: Oh, all right.

11 MS. BARNETT: If you agree.

12 MR. STRICKLAND: Yes, I certainly do. Would you  
13 just --

14 MS. BARNETT: State that on the record?

15 MR. STRICKLAND: State that on the record, yes.

16 MS. BARNETT: I believe the board had been asked to  
17 hold November 22 at 1:30 for a conference call. And I'm  
18 suggesting that that be folded into our board meeting two  
19 days earlier, on November 20th, so that you no longer have to  
20 hold that time for a special conference call.

21

M O T I O N

1           MR. STRICKLAND: All right, then. The chair would  
2 move the approval of these meeting dates and locations. Is  
3 there a second to that motion?

4           MR. FUENTES: Second.

5           MR. STRICKLAND: Discussion?

6           MR. MEITES: I have a question.

7           MR. STRICKLAND: Yes?

8           MR. MEITES: Is the November 30th/December 1st  
9 meeting a board meeting?

10          MR. STRICKLAND: It's not a -- my answer to that is  
11 it's not actually a board meeting, but it's something in  
12 which we would like to have, preferably, the entire board  
13 present for involvement in that.

14          But I don't think we would be having a meeting such  
15 as we're doing today, that is a formal, sit-down, and  
16 parliamentary type meeting.

17          MR. MEITES: All right, thank you.

18          MR. STRICKLAND: Any other discussion, then, on the  
19 meeting schedule?

20          (No response.)

21          MR. STRICKLAND: All right. Hearing none, all

1 those in favor of approval of the meeting schedule as  
2 presented in the board book, please say aye.

3 (Chorus of ayes.)

4 MR. STRICKLAND: Those opposed, nay.

5 (No response.)

6 MR. STRICKLAND: The ayes have it; it's a unanimous  
7 vote. And the -- that motion is approved.

8 Is there any other business to come before the  
9 public portion of the meeting?

10 (No response.)

11 MR. STRICKLAND: Then is there any public comment?

12 (No response.)

13 MR. STRICKLAND: Before we take up a motion to go  
14 into executive session, I want to make a couple of comments.

15 But first, I want to thank Klaus Sitte and the Montana Legal  
16 Services Association for your great hospitality and  
17 impressive presentations. We enjoyed that very much.

18 And I think, as has been the case with our meetings  
19 away from Washington, D.C. and close to programs -- speaking  
20 for myself -- it's an energizing experience for the board,  
21 and we hope it's been beneficial to your program for the

1 board to be here and learn about what you're doing,  
2 firsthand.

3           So, we appreciate your hospitality, and we thank  
4 you for the work you're doing, and we wish you the best as  
5 things go forward.

6           And particularly, I want to note for the record the  
7 hospitality and personal attention to our meeting paid to us  
8 by Chief Justice Karla Gray, of the supreme court of Montana.

9     I think it's extraordinary to have an opportunity to visit  
10 up close and personal, as we did with Chief Justice Gray.  
11 And I hope if you see her, Klaus, you will express that to  
12 her. And we will do so, also.

13           And we also appreciate her being our keynote  
14 speaker at our Friday luncheon.

15     CONSIDER AND ACT ON WHETHER TO AUTHORIZE AN EXECUTIVE SESSION  
16         OF THE BOARD TO ADDRESS ITEMS LISTED BELOW UNDER CLOSED  
17   SESSION

18   M O T I O N

19           MR. STRICKLAND: All right. Let's take up a  
20 motion, then, on authorizing an executive session of the  
21 board to address the items listed under closed session in our

1 agenda book. Is there such a motion?

2 MS. MERCADO: So moved.

3 MR. STRICKLAND: A second?

4 MS. BEVIER: Second.

5 MR. STRICKLAND: Any discussion?

6 (No response.)

7 MR. STRICKLAND: All those in favor of the motion,  
8 please say aye.

9 (Chorus of ayes.)

10 MR. STRICKLAND: Those opposed, nay.

11 (No response.)

12 MR. STRICKLAND: And that motion is adopted, and we  
13 will now go into closed session. Thank you very much,  
14 everybody. Let's take about a five-minute break, and before  
15 we resume.

16 (Whereupon, at 2:52 p.m., the meeting was adjourned  
17 to closed session.)

18 \* \* \* \* \*

1           MR. FORTUNO: Let me throw open the door, wide open  
2 sunshine, now that we're in open session.

3           MR. STRICKLAND: That's right. Now, I want you to  
4 note this, now.

5           (Several people speak simultaneously.)

6           MR. STRICKLAND: Okay, we are -- we voted to go  
7 back into open session for a particular purpose pertinent to  
8 the business of the corporation, and now we will call on Ms.  
9 Mercado to state the case.

10          CONSIDER AND ACT ON OPERATIONS AND REGULATION COMMITTEE'S  
11                               PREVIOUS MOTION REGARDING DEAN ANDAL

12          MS. MERCADO: Yes, Mr. Chairman. Earlier, at the  
13 board meeting, when we were having the report from the  
14 operations and regulations committee, there was an item that  
15 we need to procedurally correct on the record.

16               Basically, the operations and regulations  
17 committee, at its committee meeting, held a vote and  
18 discussion on a proposed regulatory recommendation that was  
19 requested by Mr. Andal -- let me give you the specific reg,  
20 because I don't want to misstate it --

21          MR. FORTUNO: 1617, class actions?

1           MS. MERCADO:  It's 45CFR, part 1617.  The  
2   procedural correction that we want to make in this, Mr.  
3   Chairman, that in Chairman Meites' report of the operations  
4   and regulations committee, there was an omission to report  
5   that the committee voted on that item agenda on 45CFR, part  
6   1617, and they voted to not take any action, regulatory  
7   action.

8           They denied the regulatory request, or the petition  
9   for regulatory request, on that provision, and that that  
10  particular item needs to be put on the record and the report,  
11  because what was reported was that in -- from the time of  
12  the committee meeting to the time of the board meeting, there  
13  was other information brought to the attention of the  
14  committee that required perhaps further deliberation.

15           MR. STRICKLAND:  All right, let Mr. Meites restate  
16  the report of the committee to correct the record.

17           MR. MEITES:  Let me make that the report of the  
18  committee should have included the following, that the  
19  committee determined unanimously that it would recommend to  
20  the board that Mr. Andal's petition be denied at this time.

21           Subsequent to that recommendation, additional

1 information came to our attention. And if there -- a motion  
2 to that effect were made, I would have to vote against that  
3 motion. Instead, I would urge the board to defer action on  
4 Mr. Andal's petition for the reasons given in the open  
5 session.

6 MR. STRICKLAND: All right. Is there anything else  
7 to correct the record?

8 MR. MEITES: Should the board now act on the  
9 recommendation, and reject it?

10 MS. MERCADO: That he just accepts the report as  
11 you gave it.

12 MR. MEITES: Fine.

13 MR. FORTUNO: Either that, or it might be even  
14 cleaner if the recommendation of the committee that has been  
15 reported to the board is that the -- Mr. Andal's petition be  
16 denied.

17 The board can now take up that issue, because that  
18 is essentially a motion, you got a motion from the committee,  
19 and if the desire of the board is to reject the motion and to  
20 keep the petition alive, pending testimony and opportunity to  
21 present --



1 MS. MERCADO: Defer.

2 MR. STRICKLAND: Beg your pardon?

3 MS. MERCADO: Mr. Chairman, I would move to defer -

4 -

5 MR. FORTUNO: You still have a quorum, so --

6 MS. MERCADO: Yes.

7 MR. STRICKLAND: Yes, I was just taking a count.

8 M O T I O N

9 MS. MERCADO: I move to table the vote on the  
10 committee's recommendation to deny the petition of the  
11 regulatory -- pending additional testimony to be presented by  
12 Mr. Padilla and Mr. Andal, and whoever else, you know, in the  
13 community regarding 45CFR, part 1617.

14 MR. FUENTES: Second.

15 MR. STRICKLAND: Second? Any discussion on the  
16 motion?

17 (No response.)

18 MR. STRICKLAND: All those in favor of the motion,  
19 please say aye.

20 (Chorus of ayes.)

21 MR. STRICKLAND: Those opposed, nay.

1 (No response.)

2 MR. STRICKLAND: Unanimous vote, the motion is  
3 adopted. You still with us, Ernestine?

4 (No response.)

5 (Laughter.)

6 MR. STRICKLAND: All right. I don't think we have  
7 any other business. And if we move quickly, we can --

8 M O T I O N

9 MR. GARTEN: Move to adjourn.

10 MR. FUENTES: Second.

11 MR. STRICKLAND: We're adjourned.

12 (Whereupon, at 4:10 p.m., the meeting of the board  
13 of directors was adjourned.)

14 \* \* \* \* \*