

3 HBCU CAPITAL FINANCIAL ADVISORY BOARD MEETING

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5

6 WASHINGTON, D.C.

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DECEMBER 12, 2008

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1 HBCU CAPITAL FINANCIAL ADVISORY BOARD MEETING

2

3 December 12, 2008

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5 U.S. Department of Education
6 555 New Jersey Avenue, N.W.
7 Washington, D.C. 20001
8 Board Room

9 The meeting convened, pursuant to notice at

10 9:14 a.m.

11

12 PRESIDING:

13 DR. NORMAN FRANCIS, Chairman (Via Telephone)

14

15 BOARD MEMBERS PRESENT:

16 DON E. WATSON, Executive Director

17 MR. DWAYNE ASHLEY

18 DR. LEZLI BASKERVILLE

19 DR. LEONARD HAYNES

20 DR. MARVALENE HUGHES

21 DR. ERNEST McNEALEY

MS. VICKIE SCHRAY

22 DR. HAYWARD STRICKLAND (Via Telephone)

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1 PROCEEDINGS

2 CALL TO ORDER, WELCOME AND INTRODUCTIONS

3 DR. FRANCIS: I'd like to say welcome to our
4 HBCU Capital Financing Advisory Board Meeting. I
5 apologize for not being with you. When you're going
6 to get four inches of snow, you need to do what
7 Dr. Hughes did and get there before it starts.

8 DR. HUGHES: Dr. Francis, we did not have one
9 inch of snow. Good morning.

10 DR. FRANCIS: I noticed that you didn't close
11 classes either.

12 DR. HUGHES: No, we didn't.

13 DR. FRANCIS: Well, the snow caused a change
14 in my agenda. I will be headed for the airport about
15 the time you have lunch and I'll have my cell phone
16 with me, and hopefully we'll be able to get through
17 our public comments before I get on a plane to give
18 the commencement at the college tomorrow morning at
19 nine o'clock.

20 So it's going to be a full day for me, but
21 I'm happy to be here on this phone.

22 ROLL CALL, APPROVAL OF JULY 11, 2008 MINUTES

23 DR. FRANCIS: We will get started by getting

24 a roll call. So if you don't mind, wherever you are
25 seated, would you start with the first member of the

1 Advisory Board, say, to the right of Don Watson.

2 DR. BASKERVILLE: Lezli Baskerville.

3 DR. FRANCIS: Thank you.

4 DR. ASHLEY: Dwayne Ashley.

5 DR. FRANCIS: Thank you.

6 DR. McNEALEY: Ernest McNealey.

7 DR. FRANCIS: Thank you, Ernest.

8 DR. HUGHES: Marvalene Hughes from New
9 Orleans.

10 DR. FRANCIS: Thank you, Marvalene.

11 DR. HAYNES: Leonard Haynes, Norm.

12 DR. FRANCIS: Okay.

13 DR. STRICKLAND: Hayward Strickland also on
14 the phone.

15 DR. FRANCIS: Good morning, Hayward.

16 All right. Is that all of our board members,
17 Don?

18 MR. WATSON: Yes, sir. We now have reached a
19 quorum, Mr. Chairman.

20 DR. FRANCIS: Very good. Then I'll ask for
21 approval of the minutes of our July 11, 2008 meeting.

22 Can I get a motion, please, for discussion?

23 DR. HAYNES: So moved.

24 DR. HUGHES: Second.

25 DR. FRANCIS: All right. Is there any

1 discussion? Any amendments? Any changes?

2 As you know, the rule goes if you vote for
3 it, you can always ask for a review of the minutes if
4 you find something you want to change. If you vote
5 against it, you can't.

6 All those in favor, please signify by saying
7 aye.

8 MEMBERS IN UNISON: Aye.

9 DR. FRANCIS: Opposed?

10 [No response.]

11 DR. FRANCIS: The motion is carried. Our
12 minutes are now approved. Let me know if you want to
13 make a change later on in this meeting.

14 WELCOMING MESSAGE AND SWEARING IN OF NEW MEMBERS

15 DR. FRANCIS: We have with us our Acting
16 Deputy Secretary, Assistant Secretary of our
17 Education Program, Ms. Vickie Schray. Are you in the
18 room?

19 MRS. SCHRAY: Yes, I am, Dr. Francis.

20 DR. FRANCIS: It's nice to hear from you
21 again.

22 MRS. SCHRAY: It's nice to hear from you.

23 DR. FRANCIS: Well, I understand you're going

24 to do some legal work for us in the sense that you'll

25 do a swearing in of our new members.

1 MRS. SCHRAY: Yes.

2 DR. FRANCIS: Any comments you wish to make?

3 The floor is now yours.

4 MRS. SCHRAY: Well, thank you and thank all
5 of you for allowing me to join you.

6 I just wanted to spend a moment reminding
7 everybody how important your work is. I think you
8 realize that, but I want you to know on behalf of the
9 department how much we value the work of this board
10 and appreciate your time and commitment to this
11 important endeavor.

12 You, through your role, have continued to
13 provide sound advice to the Department as we move
14 forward. The HBCUs are a critical part and play a
15 very, very important role in helping the Department
16 and helping this nation achieve its goals of
17 increased access and success for our students in
18 college. So, again, I appreciate everything you do.

19 We are moving into transition, as you all
20 know, which is an exciting time. As a career civil
21 servant, I always look forward to transition. I say

22 that quite optimistically. Sometimes it's a little
23 bit painful for those of us that work through it, but
24 it always brings new energy and new ideas and new
25 vision, and this is absolutely no exception.

1 I want to share with you also as someone who
2 has gone through a number of transitions to this
3 point -- I should knock on wood. Is there any wood?
4 This looks like laminate -- this has been one of the
5 smoothest transitions thus far.

6 The President had made it very clear to all
7 of the cabinet members that each agency would do
8 everything in its power to support President Elect
9 Obama and his team and support their efforts, and we
10 have been working closely with the transition team
11 and look forward to working with all of these new
12 individuals on these important issues.

13 I have been practicing. This is my first
14 swearing in, Dwayne. So I hope I do it well. Why
15 don't we go ahead and swear you in.

16 Mr. Ashley, if you would please raise your
17 right hand. I have the attorneys watching.

18 [Whereupon, Dr. Dwayne Ashley was sworn in as
19 follows.]

20 I, Dwayne Ashley, do solemnly swear that I
21 will support and defend the Constitution of the

22 United States against all enemies, foreign and
23 domestic, that I will bear true faith and allegiance
24 to the same, that I take this obligation freely
25 without any mental reservation or purpose of evasion,

1 and that I will well and faithfully discharge the
2 duties of the office on which I am about to enter so
3 help me God.

4 MRS. SCHRAY: Thank you, congratulations, and
5 welcome.

6 Again, I want to thank you for your
7 leadership, thank you for giving of your very
8 valuable time, and just remind everybody in the room
9 that this, the Historically Black College and
10 Universities Capital Financing Projects are
11 instrumental to, again, helping us solve the national
12 need for access to higher education. It's a critical
13 component of our work. I know we have a lot going on
14 with the designated bond authority selection. We
15 could always use more money, but again, this work is
16 critical.

17 I wanted to just do two things if I might,
18 Dr. Francis. The first is to thank Don Watson for
19 his leadership and support to this board. I am so
20 pleased to have Don on my team. As you all know, he
21 is one of the most professional, able folks that I

22 have worked with, and it is just a pleasure to work
23 with him and I know that you all are in very good
24 hands with Don. So I thank him for his leadership.
25 I'd also like to introduce Dr. James Laws,

1 our director of I-Dos, again, another very important
2 part of our team over at Higher Ed Programs, and I am
3 very fortunate. I have to tell you. You know some
4 of our staff, but as you can see, we have terrific
5 knowledgeable people that are here to serve both you
6 and the students in this country.

7 So with that, Dr. Francis, I'll turn it back
8 over to you.

9 DR. FRANCIS: Well, thank you very much, and
10 let me thank you for all of the work you've been
11 doing that I know personally about, and I'm very,
12 very pleased to know that you are going to be around
13 to help us as we continue the good work. We
14 certainly on this board adopt your comments on Don
15 Watson. Don has been at this maybe one or two years,
16 Don, at the most?

17 MR. WATSON: Yes, sir.

18 DR. FRANCIS: And he has jumped in and, of
19 course, he's found like all of us who start programs
20 a lot of things that have not been written need to be
21 written and there a lot of things that need to

22 changed. You've got to get about doing it and he's
23 going to be a part of that and this meeting is going
24 to be a part of that as well.

25 So I want to thank you, Ms. Schray, for all

1 of what your work has been done thus far and look
2 forward to more.

3 That gives me an opportunity, since you
4 mentioned that there's some people in the audience,
5 would it be appropriate, if you don't mind, that
6 others that are there -- I have no idea how many
7 people, but if you could do it very quickly, have the
8 persons who are in the room identify themselves and
9 say who they are.

10 Don, you can point to wherever in the room to
11 get that started.

12 MR. WATSON: We'll start with Edith.

13 MS. BARTLEY: Good morning, Edith Bartley,
14 Director of Government Affairs with UNCF.

15 MS. QUIGLEY: Sherry Quigley, Vice President
16 for UNCF.

17 DR. FRANCIS: A little louder, please.

18 MS. ESTELLE: Anita Estelle, consultant for
19 UNCF.

20 MR. HANSEL: Derrick Hansel, president of the
21 Commence Capital Access Program Corporation, the

22 designated bonding authority.

23 MR. WRIGHT: Pierre Wright, Thurgood Marshall

24 College Fund, Director of Government Affairs.

25 MR. BAKOS: Samuel Bakos, DBA Commerce

1 Capital.

2 MR. BLAKEY: William Blakey, Washington
3 Counsel, Thurgood Marshall College Fund.

4 MR. FISHER: Will Fisher, Rice Financial
5 Products.

6 MS. WOODS: Kirsten Woods with the Bond
7 Council.

8 MR. CULBERTSON: Whitney Culberson with
9 Treasury Department.

10 MS. WARNER: Sally Warner, Office of General
11 Counsel at Department of Education.

12 MR. DUTTNER: Jim Duttner, Vice President and
13 CFO for [inaudible] College.

14 MS. CHISM: Bridget Chism, Financial Advisor
15 for Bennett College for Women.

16 MR. WATSON: That's it, Mr. Chairman. Those
17 are the individuals in the room.

18 THE COURT: Thank you very much and let me be
19 the first to welcome Ashley. We look forward to your
20 participation on this Advisory Board. We've got a
21 lot of work to do and we need all the assistance we

22 can get.

23 ETHICS UPDATE FOR NEW MEMBERS

24 DR. FRANCIS: Now going back to what is the

25 agenda I have in front of me, I note that there

1 should be some handouts being provided by the Office
2 of Ethics, and whoever handles that, I'll open it up
3 for you, the ethics update for new members. I don't
4 know how you wish to handle that, if you want to do
5 it individually or in public, but that's the time on
6 the agenda for this action.

7 MR. WATSON: Yes. Actually, Mr. Chairman, I
8 stepped it up a little bit. I've provided that in
9 the welcome letter, but I didn't want Mr. Ashley to
10 feel that he was slighted because others got it in
11 person. So he also has one in his folder.

12 DR. FRANCIS: All right. That's all we need
13 to do on that?

14 MR. WATSON: Yes, sir, and if he has any
15 comments or any questions, he can call Shawn Denton
16 in our Office of General Counsel, Ethics Division.

17 DR. FRANCIS: Very good.

18 All right. Mr. Ashley, you have your ethics
19 comments to be forwarded to Don or anybody else as
20 appropriate.

21 FEDERAL FINANCING BANK PRESENTATION TO THE BOARD

22 DR. FRANCIS: Let me move now to the Federal
23 Financing Bank, and I did hear that Mr. Whitney
24 Culbertson of the Federal Financing Back is present
25 in the room. I'll open the floor for you, Mr.

1 Culbertson.

2 MR. CULBERTSON: Okay. I don't really have
3 prepared remarks, but I'll just make the point that
4 we've financed this program since its inception. I
5 believe the first deal was in 1996, and we price at
6 Treasury's cost of funds. We do have a one-eighth of
7 one percent fee that we're required to charge by our
8 Board of Directors resolutions under which we
9 operate, but aside from that, the cost is probably
10 the lowest available cost of financing from any
11 source that would be possible and especially going
12 forward with current market conditions where we had
13 briefly trading on Tuesday a Treasury T-Bill with a
14 negative interest rate. So it can't get any lower
15 than that.

16 Other than that, I guess I'll take questions.

17 DR. FRANCIS: Yes. The floor is open for any
18 board members for questions of Mr. Culbertson. I
19 didn't get that last quote on how low it's dropped
20 now, the Treasury.

21 MR. CULBERTSON: Well, briefly on Tuesday,

22 which is the day when Treasury auctions three-month
23 T-Bills, and they auctioned \$30 billion, and I wasn't
24 watching the screen myself, but at some point during
25 the day, the auction demand was so great that the

1 yield or, in other words, the cost of funds was
2 negative. So there was such a great demand from
3 around the world that Treasury could have sold four
4 times the volume of bills that it did sell, that
5 people are so worried about some of these alternative
6 places to put cash, such as money market funds and
7 other government securities, that there is a massive
8 movement into American dollar denominated bonds and
9 assets.

10 Even though we are going through our own
11 economic turmoil, we're still perceived as the safest
12 refuge of any other country in the world, and it's
13 not just our economic, our historical economic
14 stability even though we're not very stable at this
15 moment, but I think it's probably really a testament
16 to our political stability. Just an observation, if
17 you've read the newspapers, they had riots in Greece
18 that spread across Europe. China, Pakistan, and
19 India are constantly on the verge of civil unrest.
20 People are worried about what's going on in other
21 parts of the world.

22 DR. FRANCIS: Any other questions or comments

23 for Mr. Culbertson?

24 MR. WATSON: I just want to remind board

25 members that I asked Mr. Culbertson to come because

1 at the last meeting, I think it's important that you
2 know that we just don't do this as the Department of
3 Education, but we also have Treasury as a partner in
4 this.

5 Whitney, because the board has a report
6 that's due -- we're not at that point, but since
7 you're making a representation, is there anything
8 that you think that the program should change from a
9 legislative or administrative standpoint?

10 MR. CULBERTSON: I think it's running pretty
11 well. I know there have been some complaints about
12 aspects of the program such as the escrow account,
13 but the point I would make is that Congress was able
14 to pass the legislation when it did -- I think it
15 was 1992 -- based upon a zero budget scoring
16 assessment, and that zero budget impact was achieved
17 by kind of distributing the estimate of default among
18 all the members. In other words, it was a kind of
19 self-insurance, and if the escrow were to be altered,
20 there are certainly other ways that the zero budget
21 scoring can be achieved, but the bottom line is it

22 would still be a cost in some form. It would either
23 be a guaranteed fee or financing premium fee. In
24 other words, you pay a fee up front for the access to
25 the guaranteed financing or there could be other

1 forms of achieving it.

2 I'm not trying to give a complete description
3 of all of the alternatives, but the point I would
4 make is that as annoying and difficult in some ways
5 that the escrow requirement is, it achieved the
6 primary purpose that Congress and the Administration
7 and the CBO and OBM required in order to approve it,
8 in order to give the legislation their approval, and
9 that was zero budget scoring, and any alternative to
10 it would probably still need to achieve that same
11 objective in order to be viable.

12 So one way or another, there's going to be a
13 fee attached, and our actual one-eighth fee, we don't
14 keep that. That goes into Education's Program
15 Financing Account and helps to offset their credit
16 default subsidy estimate. So we're not -- even
17 though we're the financier, we're not profiting in
18 any way from this program. We're basically offering
19 funds at our own cost of funds. We do have to repay
20 Treasury.

21 So I know it may sound a little bit odd

22 because we are an arm of Treasury, but we borrow from
23 Treasury in order to lend, but we are incorporated as
24 a government-owned corporation. So every year, we
25 are audited. Our financial statements are available

1 to the public, and we have to document for the
2 taxpayer and the public whether or not we're
3 operating in a way to protect the taxpayer's
4 interest.

5 DR. FRANCIS: Any other questions? I know at
6 some point later this meeting -- it may not be the
7 appropriate time now. I say this to Mr. Watson -- we
8 need to talk about the subsidy. I know there's the
9 definition that we have in the law about subsidy, but
10 I think we will want to talk about how do we get that
11 subsidy started again and what are the obstacles for
12 making loans.

13 Don, we may want to talk about that later, or
14 if there's time now that we can say what the subsidy
15 is and what it does, then we can talk about how do we
16 get the amount of money we need. It's obvious, from
17 what I understand, we need that to get started again
18 in addition to a few other things.

19 MR. WATSON: Yes.

20 DR. FRANCIS: Are we on the right subsidy
21 one?

22 MR. WATSON: Actually, we can go there now if

23 there are no more questions for Mr. Culbertson. I

24 can do that as part of my report.

25 DR. FRANCIS: All right. That's fine.

1 That's fine. I just want to make sure we don't lose
2 it, because I am, as I think other board members are
3 and many of the universities that are involved are,
4 and colleges, that I would like to see us attack any
5 of the obstacles that are keeping us from getting
6 back into making loans to the institutions that need
7 them.

8 So if there are no other questions of Mr.
9 Culbertson, then, Don, my agenda says your report is
10 up.

11 DIRECTOR'S REPORT

12 MR. WATSON: All right. I'll start with the
13 -- the subsidy piece wasn't part of my original
14 report. So I'll start with that first.

15 There's two reasons why we can't make loans
16 to HBCUs at this point in time. Although we worked
17 to increase the cap to the Department's insurance
18 amount, there are still two issues. One, we need to
19 actually have a subsidy attached to the agreed
20 amount. So any amounts of money that we disburse
21 within a year, we have to make sure we have subsidy

22 costs in a sufficient amount to be able to offset any
23 defaults. At this point in time, the current escrow
24 and the FMB fee are not enough to sustain another
25 default in the program.

1 So as such, we need to actually have a
2 subsidy amount, and the last time we calculated our
3 subsidy rate, it was seven percent of the amount of
4 the loans for which we thought we would disburse
5 within a particular year. At that time, we figured
6 we disburse about a hundred million dollars, and the
7 actual amount of loans we would have made would have
8 been around \$230 million. So that gives us about \$7
9 million in subsidy that we would need for a
10 particular fiscal year.

11 The other issue is that we actually have to
12 have a DBA based on a Higher Education Opportunity
13 Act being passed and can't originate new loans. We
14 have submitted our RFP in the Federal Register which
15 was posted yesterday. The Federal Register notice
16 simply talks about the Secretary's need to publish
17 that RFP, that Request for Proposal. It describes
18 the selection process, the selection criteria,
19 provides a sense of the responsibilities of the
20 designated bond authority.

21 It also includes two deadlines. The first

22 deadline would be December 29th for individuals to
23 submit in writing their proposals, their intent to
24 submit a proposal to the Department. The second
25 deadline is January 30, 2009, which is the deadline

1 for the Department to receive proposals.

2 Actually, I asked the Office of General
3 Counsel to come, and Sally Warner is here in case I
4 get off the point on anything in my report.

5 But that's about it. Those are two issues
6 for us actually releasing money at this point in
7 time. The yield curve as of today -- I didn't look
8 at it this morning. I was kind of busy this morning,
9 but yesterday, it was .33 percent for a six-month
10 bond and 3.11 percent for a 30-year Treasury. As
11 Whitney said, I don't believe anyone else can beat
12 those rates in any market whether they're private or
13 any other borrowing entity.

14 So for this program, this is probably the
15 best time to borrow. I guess that's it for that
16 subsidy piece. If the board members have any
17 questions, and I know this has come up through a
18 couple of organizations and a couple of schools have
19 brought it up about why we can't make loans, but
20 those are the basic two reasons.

21 DR. FRANCIS: Any questions from the board

22 members?

23 Let me start, because we, I understand, have

24 not received -- the Secretary's Office has not

25 received funds in our program, for example, to cover

1 \$7 million dollars if, indeed, we were to make \$7
2 million of loans in the annual period starting, let's
3 say, at the time we are approved to go forward again.

4 MR. WATSON: Yes, sir. Actually, just so I
5 can clarify, in the President's budget, the
6 department -- we're currently operating under a
7 continuing resolution, but the President's budget
8 actually had \$10 million for subsidy cost with us
9 disbursing about a hundred million dollars. Because
10 we're operating under a continuing resolution, we're
11 operating under last year's budget on which there was
12 no subsidy for this program last year. The
13 President's budget had zero for subsidy cost in the
14 program.

15 DR. FRANCIS: So what I'm hearing is we would
16 need to get back before the congress, or would it be
17 appropriate in our environment and capacity to
18 recommend to the Secretary that she request to the
19 President to add money for the subsidy? Because we
20 would need that \$10 million that was in the original
21 that now is on the standstill.

22 MR. WATSON: The President has the money in
23 his budget. Congress hasn't approved the President's
24 budget. That's what we're waiting on. When Congress
25 approves the President's budget, then we'll have the

1 subsidy.

2 DR. FRANCIS: Okay. So we would hope that
3 there would be organizations joining us to make sure
4 that that stays in the Congress in approving the
5 President's budget, because we need that subsidy for
6 you to make loans.

7 MR. WATSON: Exactly.

8 MRS. SCHRAY: Dr. Francis, I'm sure everyone
9 is aware of this, but this continuing resolution is
10 through March, and it is expected that there will be
11 no budget formulation or changes to the budget until
12 the new administration is in place. So we don't
13 anticipate any action. Many of you work more closely
14 with the appropriators, but we don't expect any
15 action on the budget until the spring and well after
16 the transition has occurred.

17 DR. HUGHES: Is that actually --

18 DR. FRANCIS: Actually, in March, perhaps, of
19 '09, does that mean, of course, under the rules that
20 our program cannot collect all the data that we are
21 collecting? And we are getting, of course,

22 information about how many institutions and our
23 colleagues are in need of these funds. So at least
24 it will be March '09 before we can make loans. I'm
25 pushing trying to get the ball rolling. Is that what

1 I'm hearing?

2 MR. WATSON: Yes, sir, at least until March
3 of '09.

4 DR. FRANCIS: Okay. Let me ask you the next
5 question which was coupled in your report, and I'll
6 soon ask you to go back to your report. What's the
7 likelihood that we would have the DBA process over --
8 would January '09 be the final receipt of all
9 proposals and so forth for the DBA?

10 MR. WATSON: Yes, sir, and we're looking at
11 10 to 12, because I can't remember the exact number,
12 but 10 to 12 weeks after the January 30th deadline,
13 we'll be selecting a new DBA. So, hopefully, the way
14 I was looking at it, hopefully we'll have an
15 agreement to insure -- I'm very optimistic, as you
16 all know, to have all the proposals reviewed, select
17 the DBA, negotiate an agreement to insure and have
18 that signed by the new Secretary of Education before
19 we get any monies for -- any subsidy money.

20 DR. FRANCIS: So that these two will meet
21 each other, that unless something happens in between,

22 it will be no earlier than March of '09, that you
23 would have a DBA by March of '09 and hopefully maybe
24 the Congress will act soon enough on the President's
25 budget that we'd have that \$10 million subsidy.

1 MR. WATSON: Yes, sir.

2 DR. FRANCIS: These are all assumptions, of
3 course, but am I following the audit trail right?

4 MR. WATSON: You're following that right. On
5 the Department's side, as far as selecting the DBA, I
6 think we can do that pretty good. I'm not sure how
7 many proposals we're going to get in and that kind of
8 thing, but I've been told by our contracts people
9 that 10 weeks is enough time to review proposals and
10 make a selection, and the agreement to insure, as
11 I've been told, may take a while to negotiate, but I
12 don't mind working 18-hour days. That will be a test
13 for anybody we select as well.

14 DR. FRANCIS: All right.

15 DR. HAYNES: Dr. Francis?

16 DR. FRANCIS: Yes, please.

17 DR. HAYNES: I just have a question of Mr.
18 Watson about the selection of the DBA. Can you just
19 quickly summarize what that process is like?

20 MR. WATSON: Yes. What will actually happen,
21 in the next two weeks, we'll be getting written

22 letters of intent from people who want to submit
23 proposals. Once I receive those, I'll be FedExing
24 packages of information, including the current
25 agreement to insure, indentures, bond indentures,

1 other documents necessary for them to prepare the
2 proposals.

3 After we receive those, there will be a team
4 consisting of department employees who will actually
5 be part of this team that will actually review the
6 proposals.

7 MR. HAYNES: All department people?

8 MR. WATSON: They will be all internal to the
9 Department of Education.

10 DR. HAYNES: Nobody from Treasury?

11 MR. WATSON: No one from Treasury. I was
12 advised by our internal people that it should remain
13 inside, internal to the Department. It's probably
14 better for us to control, keeping things locked up so
15 they won't be -- keeping it locked up and if it's
16 transparent, in one location, at a centralized one
17 location, we can better control proposals being
18 reviewed by people who don't have the necessary
19 authority to review proposals.

20 As you all recall, the Congress actually
21 wrote specific legislation that they wanted this to

22 be a seamless process -- I'm sorry -- a transparent
23 process. I wasn't here the last time, but I don't
24 know why that language was specifically there,
25 because the process I'm following today is very

1 similar to what happened last time.

2 Whatever the process is, I want to ensure
3 that I keep control of the process. The only way I
4 can do that -- Treasury actually is now on F Street
5 downtown and to bring any other entities may just --
6 I'm not sure how the -- every agency has different
7 rules on proposing data, whether proprietary data or
8 not. I just don't want to have any conflicts on our
9 rules being different from someone else's rules on
10 locking up data and those kinds of things.

11 DR. HAYNES: Sure. I understand that.

12 My other question about the process, other
13 than yourself, since it's internal to the Department,
14 what's the likelihood of the team that does the
15 selection including someone else that has knowledge
16 of why we are trying to do this for the HBCU
17 community?

18 MR. WATSON: Well, there will be someone from
19 general counsel looking at it and Budget Services.
20 We have a long history with actually working in the
21 program, in the development and operation of the

22 program, someone from our Office of CFO and other
23 things. How that team will look, I'm not sure yet.
24 I haven't discussed it with Vickie, but I think it's
25 important that there are people who not just have --

1 what I realize when I go out to visit is that people
2 who have been around the program a long time don't
3 necessarily -- won't look at it from the same
4 viewpoint. We'll have someone looking at it very
5 differently. We have schools who are new to the
6 program, and trying to explain the program to
7 someone, if you have someone reviewing proposals and
8 things of that nature, it may be better for them if
9 they don't have -- if they understand what the
10 program's purpose is, what we're trying to achieve,
11 but don't understand the intricate pieces, because
12 that way, you sort of take out some of the -- any
13 biases that may be there as well, I believe.

14 DR. HUGHES: Could I ask you a question? I
15 agree with your recommendation, but it appears that
16 it has not been formalized to the extent that you'd
17 like it to be and that perhaps one of the
18 recommendations that we could make today is to
19 formalize that in a sense that it gives you the
20 security that you need.

21 MR. WATSON: I would appreciate that. Again,

22 in 2001, I wasn't here. In order to find these
23 documents, I literally had to go and research on the
24 web and find the last one and make adjustments to
25 that. For me to have these written processes in

1 place is very important, because now if we decide
2 even after we select one that we want a new one, we
3 have a process in place to follow. I think that's
4 important as well.

5 Dr. Baskerville.

6 DR. BASKERVILLE: I have a question. Is the
7 review process deemed a public review or is it
8 private? Is it an internal administrative operation?

9 MR. WATSON: It's a private review process.

10 What I'm actually doing now, because I've also been
11 asked whether -- and I'll have to go back to our
12 attorney. So it won't be, of course, talked about
13 here at this meeting, but the question I have for our
14 attorneys are, for example, letters of intent.

15 Individuals have asked me when individuals send
16 letters of intent, can I share that data with them.

17 I don't know what the legal piece of that is. They
18 can FOIA it. Anyone can FOIA and the government will
19 send it to counsel and they will redact whatever
20 they'll redact and those kinds of things, but there's
21 a lot of things like that that I think needs to be

22 addressed.

23 The proposals, review of the proposals

24 themselves, will not be a public review. It will not

25 be a public review. It will be individuals reviewing

1 in isolation. We'll meet. The panel will come
2 together and talk about why they gave certain scores
3 for individuals, and the one with the highest score
4 would actually be the one that we make
5 recommendations to the Secretary or her designee to
6 select.

7 DR. BASKERVILLE: So that's an internal
8 administrative function?

9 MR. WATSON: Yes, ma'am.

10 DR. FRANCIS: I had this conversation with --

11 DR. BASKERVILLE: Mr. Chairman, may I just
12 finish this point relative to whether or not it's
13 public or private? It would appear from the
14 discussions during the reauthorization of the higher
15 ed and from the language about transparency that it
16 was the intent of Congress that it be a public review
17 process that is on the record and open and
18 transparent.

19 If that's true, then maybe general counsel
20 needs to explore that further. The other thing is
21 that the process should have been included in the RFP

22 and, unfortunately, I didn't see it yesterday,
23 although I was looking for it and I just got
24 sidetracked, but what does it specify in the RFP?

25 MR. WATSON: When you say --

1 DR. BASKERVILLE: That went out yesterday.
2 It outlined the process. It set the deadline for
3 intent, the deadline for submission, and then it
4 indicated what the process would be following that.
5 What does that specify?

6 MR. WATSON: That they will actually, the
7 Department will actually -- that it will be Education
8 staff that will review the proposals, how we will
9 score, what the criteria will be, and I think that's
10 probably the bulk of it. Then we'll get a time
11 period for when we'll select. Again, the
12 transparency and it being public, these meetings are
13 transparent and public.

14 For us to actually -- and the way I make them
15 transparent to people who can't be here in the room,
16 I publish it on our website, but again, those are
17 things -- for example, the letters of intent, I'm not
18 sure what's proprietary in that and what's not. I'm
19 not an attorney. I'm not sure what the privacy rules
20 are. As this board knows, I'm sure individuals who
21 are submitting proposals will want their information

22 kept at a certain level of secrecy just like our
23 institutions don't want us to see everything with
24 accreditation and anything else about what they
25 provide to the finance program.

1 So I think it's important that we look at
2 everybody's concern in making a decision, but again,
3 I'll have to check with our counsel, and whatever our
4 counsel decides, that's what the Department will move
5 with, but I will ask them to look at the language and
6 see what we can -- what transparency actually means.

7 DR. FRANCIS: Lezli?

8 DR. BASKERVILLE: Yes, sir.

9 DR. FRANCIS: You were asking the question, I
10 take it. I was going to join in what you started.
11 It seems to me, in due respect for what Mr. Watson is
12 explaining, because what he said to me was he's
13 starting almost from scratch, because, obviously, he
14 did not have a template or an audit trail of what was
15 done in the past, which leads me, I guess, to what
16 Dr. Hughes is saying.

17 It would seem to us -- to me, maybe to us in
18 general, that as an advisory committee that we would
19 ask now that the general counsel with Mr. Watson and
20 any others who are appropriate to this process to sit
21 and outline the process for the selection of the DBA

22 all of the items that are necessary to accomplish
23 that and that all of this would follow what the
24 Congress has asked for in transparency and
25 accountability in its latest approval.

1 That would mean, one, that we would be doing
2 it at this point in time and hopefully get it done as
3 quickly as possible and then, number two, we would
4 set at least a formal process for the future. I
5 think we may be repeating ourselves in a year or two
6 or three from now if we don't do that.

7 I think Mr. Watson has started to collect all
8 of the information, and I would ask this body to make
9 the request that this process be reviewed, be
10 outlined and shared with us as an advisory committee,
11 and I'm talking about the process now and any other
12 information that's appropriate for us.

13 DR. HUGHES: Dr. Francis, may I ask
14 permission to make your motion?

15 DR. FRANCIS: You have not only the right,
16 but I would say we should concede that to you because
17 you started it.

18 DR. HUGHES: Well, I would like to offer
19 everything that you said as a motion without even
20 being able to repeat it.

21 DR. McNEALEY: Second.

22 DR. FRANCIS: Let me say this: What would be
23 intended by this motion is as an advisory body, to
24 say to the Department and to the Secretary that we
25 would urge that the process or the choice of a DBA be

1 established in a formal and legal way appropriate to
2 meet the request that the Congress has given in
3 asking us to use for competitiveness and
4 appropriateness for a new DBA, and that would be
5 formalized and written down and that it would be
6 shared with us as an advisory group, one, that we
7 would know what it is and, number two, that if there
8 are things that we would like to recommend, that we
9 would be allowed to do so.

10 MR. WATSON: And I would like to share with
11 the board --

12 DR. HUGHES: We need a second.

13 DR. McNEALEY: I second it.

14 DR. FRANCIS: It's on the floor. Yes, Mr.
15 Watson.

16 MR. WATSON: This action has been reviewed at
17 several levels of the Department's Contract Office.
18 So, again, I apologize for not being the expert in
19 contracts, but they do this every day and so I have
20 gotten my guidance from them as well. So part of
21 what they were telling me is that there is no actual

22 dollars being transferred.

23 So this contract isn't similar to the

24 contracts the Department normally would deal with.

25 So it's not put in things like Bid Ops where normal

1 government contracts go, and the Congress asked that
2 this be published in the Federal Register. So that
3 in and of itself is very different because contracts
4 aren't published in the Federal Register.

5 So with that being the case, I think there's
6 a lot of things that we probably could clear up, and
7 I just want you all to have that understanding. I
8 did go through the proper process. It was reviewed
9 by the people who do contracts every day.

10 DR. FRANCIS: I thought, Don, I made it
11 clear. There's no disrespect for what you've done,
12 but what I think I was hearing and maybe several
13 members of the Advisory Committee was hearing is that
14 we need to put in a document, however appropriate,
15 one, two, three, four, five, six, seven, eight, and
16 how we get to a DBA in a competitive process.

17 MR. WATSON: All right.

18 DR. FRANCIS: It sounded complicated and it
19 may be, but even in complex things, we can line it up
20 and know if we missed a step and/or if we put a step
21 in that doesn't get us exactly what we want in

22 selecting a DBA. The DBA is a very important agent
23 for us in this program, and you've done a lot of work
24 just to put those pieces together and talk to all of
25 the people. See if we can put it on paper and let us

1 see what it says.

2 Now, I don't know what it means for the
3 Register, but if the Register has accomplished much
4 of what we'll outline in the process, fine, but if
5 not, let's amend it.

6 MR. WATSON: All right.

7 DR. FRANCIS: Am I reading the understanding
8 of the advisory committee?

9 DR. HAYNES: Yes, sir.

10 MR. ASHLEY: Mr. Chair, I had a question.
11 This is Dwayne Ashley. When does the current DBA
12 expire?

13 MR. WATSON: Actually, they would expire, and
14 it's in here, immediately upon the selection of
15 another DBA. For board members, it actually was
16 printed yesterday. So you have a copy of it,
17 actually, in your folders, but they would expire 90
18 days after we select the DBA, and so we will actually
19 have to also send them a letter within 90 days, which
20 is being prepared -- I'm drafting it now -- to
21 relieve them of their duties as DBA.

22 DR. HAYNES: But, Don, correct me if I'm
23 wrong. The current DBA, if they submit an
24 application to be continued, how does that work, in
25 other words, if they are selected again? Do you see

1 what I'm getting at?

2 MR. WATSON: Well, that's just the process.
3 That's what I want people to understand. Whether
4 it's the current DBA or a new DBA, it's whoever
5 scores the highest. If the current one scores the
6 highest, fine. If they don't, fine, but to make it a
7 transparent and competitive process, anyone could
8 submit to become a DBA.

9 DR. HAYNES: I understand that.

10 MR. WATSON: I think, Dr. Haynes, I probably
11 didn't answer his question.

12 DR. HAYNES: No. I was listening to what you
13 said, that the termination process would begin with
14 the selection of the DBA. What I was asking is if
15 the current DBA is successful in winning the right to
16 be -- to continue, there is no termination.

17 MR. WATSON: Right.

18 DR. HAYNES: Okay.

19 MR. WATSON: Exactly.

20 DR. BASKERVILLE: Mr. Chairman.

21 DR. FRANCIS: Yes. The motion is still on

22 the floor. Any comments?

23 DR. BASKERVILLE: Yes. In furtherance of the

24 motion, I have a question for Mr. Watson. You

25 indicated that the counsel indicated that there was

1 no financial impact in this, in the appointment of
2 the DBA?

3 MR. WATSON: Well, the Department doesn't pay
4 the DBA. It was our Contracts Office who made the
5 statement that there's no -- the Department doesn't
6 pay the DBA funds to be the DBA. The DBA makes money
7 for making loans. If they don't make any loans, then
8 they don't get paid, and because of such, we didn't
9 publish it in Bid Ops.

10 DR. BASKERVILLE: So the requirement is or
11 the question for review is whether or not the
12 Department makes any dollars and the review is not a
13 financial impact, which is significant and would be
14 different than the answer for whether or not the
15 Department outlays dollars? If the Department
16 facilitates an entity having a significant financial
17 gain, then that's not subject to the review unless
18 the dollars actually come directly from the
19 Department's coffers?

20 MR. WATSON: They reviewed it. They didn't
21 want to publish it in Bid Ops, and this process would

22 be totally where contracts would normally -- because
23 what I wanted to do is follow the normal contract
24 process and propose it right to the Contracts Office,
25 but they said that because the Department of

1 Education isn't paying the individual DBA, that it
2 becomes the Office of Post-Secondary Education's
3 responsibility.

4 DR. BASKERVILLE: Okay.

5 DR. HUGHES: I'm sorry. Who makes the
6 announcement that bids are being received?

7 MR. WATSON: The Federal Register notice
8 does.

9 DR. HUGHES: And do you know that schedule?

10 MR. WATSON: It was published yesterday,
11 December 11th. The intent to submit proposals are
12 due December 29th.

13 DR. BASKERVILLE: And then the submission by
14 January 30th.

15 DR. FRANCIS: Right.

16 DR. BASKERVILLE: Mr. Chairman, I think maybe
17 this body needs to consider a parallel track. I'm in
18 total agreement with what you proposed and with the
19 motion on the floor, but it seems to me that given
20 that we are in the midst of a transition and the
21 transition team is reviewing all the agencies from

22 top to bottom, looking at regulations, looking at
23 ways of strengthening operations, and the economic
24 stimulus team and others have expressed a particular
25 interest in this program, perhaps we need to consider

1 -- and for the reason that once this submission is
2 made on January 30th, we'll have a new
3 Administration, it may be that we need to think about
4 recommending to the Secretary that she engage a
5 transition team with the new Administration in this
6 review and try and help us identify transparency,
7 because it appears as though the incoming
8 Administration will have a different approach towards
9 transparency than we've had in the past.

10 MRS. SCHRAY: Dr. Francis, do you mind if I
11 just -- this is Vickie. I just wanted to share
12 additional information with transition and the
13 memorandum of understanding between the White House
14 and the President Elect's transition team.

15 DR. FRANCIS: Yes.

16 MRS. SCHRAY: While we are able, willing, and
17 quite anxious, actually, to share information with
18 the transition team, there are a few things that all
19 of the agencies have been told need to be kept off
20 the table. Those are things that are related to
21 personnel issues, predecisional issues,

22 policy-related issues. So anything that is a public
23 document, a decision that has been made publicly,
24 either formally through a Federal Register and
25 anything that's available to the public, we are

1 absolutely at liberty to share all of those
2 documents; but anything that's internal and
3 predecisional in nature, we are not allowed to share
4 those documents.

5 Now, that's not to say that as part of
6 conversations with the transition team and the
7 information that's contained in the transition book,
8 I just want to make sure you're all aware we will
9 certainly do our very best and would encourage the
10 board to provide information about the importance of
11 the designated bond authority and so on. In terms of
12 the actual selection of if that occurs before the new
13 team is in place, I'm not sure that that's possible,
14 which that should be part of your deliberation, does
15 it make sense to kind of defer those decisions.

16 It's an important decision. I know we're
17 looking at January 21st, but I seriously doubt we'll
18 have a Secretary in place by then.

19 So I just wanted to share with you how the
20 information is shared, and maybe as part of your
21 discussion, you may have a recommendation for the

22 Department on how we proceed and the timing of that
23 in terms of the selection.

24 DR. BASKERVILLE: And that's very helpful and
25 that goes to my point in that a decision will not

1 have been made prior to the transition. According to
2 the outline of the timeline that was contained in the
3 Federal Register, January 30th is the deadline for
4 the submission to the Department, and thereafter,
5 we've got a 10- to 12-week review process. So that
6 will be just after the transition to the new
7 Administration.

8 So whether it's through this meeting or an
9 emergency meeting that we have of this body which is
10 public and we can get what we need out in the public
11 domain, it seems to me that we need to have a process
12 of making sure that questions, concerns, issues,
13 interpretations, especially from this body as an
14 advisory body to the next Secretary, we need to get
15 into the public domain.

16 MRS. SCHRAY: That's right.

17 Dr. Francis, if you will indulge me for a
18 moment, I just wanted to spend one moment also -- and
19 I appreciate the comments about the transparency. We
20 are for the purposes of going out and competing the
21 DBA required to follow federal regulations governing

22 acquisition and procurement. So even though, as you
23 all know, Don has done a really good job of
24 explaining that there's no money associated with it,
25 we are still being required to follow the contracting

1 law.

2 So in terms of public transparency, there's a
3 couple of pieces of it that I think we would continue
4 to appreciate hearing your thoughts on how it could
5 be more transparent, but the publication of the
6 competition in the Federal Register notice is one
7 aspect of public transparency, and the process --
8 and, Dr. Francis, you still have a motion on the
9 table to even make the process more transparent to
10 the public. My guess is based on Don's conversation
11 with our contracting officers, the actual review of
12 those competitions, because there's proprietary
13 information, has to be done in following, again, the
14 federal requirements for review and selection of a
15 new DBA.

16 I think when you're hearing Don talk about an
17 internal team of education employees, it's because of
18 those regulations, but obviously the announcement,
19 the discussion, and the final selection is something
20 that, again, would be made public. I appreciate
21 hearing of anything else we can do within our legal

22 guidelines, that we would absolutely pursue on your
23 behalf.

24 DR. BASKERVILLE: Mr. Chairman.

25 DR. FRANCIS: Let me review just in an

1 executive summary the intent of my forming the motion
2 that Dr. Hughes started. What was set in motion was
3 to make clear what the process is, following all the
4 -- I think I said all of the legal and appropriate
5 measures that are currently in existence. I think
6 the goal even originally of the Congress was to make
7 sure that all agencies that might have wanted to be
8 or want to be a DBA knew that it was going to happen,
9 that they had an opportunity to apply, that the
10 application process was clear, and that it would
11 allow for competitiveness.

12 Apparent in the motion, though, is that all
13 existing federal laws would be followed, which would
14 go to contracting where that's appropriate, but I see
15 that we need to put it down clearly and then as an
16 advisory group, we would be allowed to comment on the
17 process, not necessarily the substance of the details
18 of the prospective DBA. I think that certainly is
19 private, but I think we would want to make sure that
20 in the program itself, we have put in all of the
21 elements that would get us to the DBA that we can.

22 I think we would be able to pass that motion
23 and still have time, Lezli, to see if, in fact, it
24 needs to be changed and to have the input of the new
25 Administration because the process would be still

1 ongoing, and I think that has to be shared. I'm
2 talking process, of course, substance only when it
3 comes to whether a substantive matter was made to the
4 DBA unsuitable for the program intentions.

5 DR. McNEALEY: Mr. Chair.

6 DR. FRANCIS: Yes.

7 DR. McNEALEY: I'm the seconder of the motion
8 and would like to call the question. Prior to that,
9 I think what I heard in the initial concerns raised
10 and concern that I had was that it was not certain of
11 exactly all of the processes involved and that there
12 was a need for that to be codified. He pointed at
13 least on three separate occasions that he was not
14 here when this was done the last time, and my sense
15 of the motion was that the process should be set out
16 such that we would not have to be told that in the
17 future.

18 The RFP in the Federal Register is quite
19 clear. It sets out very clearly what the
20 expectations are. It sets out also very clearly how
21 the proposal will be evaluated. So I think the

22 concern, certainly my seconding the motion, really
23 had to do with the fact that our executive director
24 did not know all of the intricate details of how the
25 review would go forward, and it was in that spirit

1 that I seconded the motion and now call the question.

2 DR. FRANCIS: Very appropriately said, and
3 the question is called. Any objection to the
4 question being called?

5 DR. HUGHES: I don't have any objection. I
6 just have a question.

7 DR. FRANCIS: Okay.

8 DR. HUGHES: I know there is some concern
9 about whether loans will be deferred or whether the
10 process will enable people to move forward. Does the
11 motion address that?

12 DR. FRANCIS: Well, I was going to make the
13 comment afterwards, but I'll make it now. I think
14 it's understood that if the ruling that currently
15 exists that we cannot make any new loans until a DBA
16 is selected, then no loans would be made. I would
17 hope, however, that the office -- and I think Mr.
18 Watson is going to do that -- would be collecting
19 information, making the report to the Congress, but
20 not stop the process of getting those who wish to
21 make loans to be ready when we are able to do so.

22 If I'm correct in saying that we cannot make
23 loans until a new DBA is chosen, there is also the
24 companion in Mr. Watson's report that we can't make
25 any loans until the President's budget is approved by

1 the Congress which has our subsidy in it. So there
2 are two elements that I'm hearing as being critical
3 to continuing to make loans. That doesn't mean that
4 we shouldn't be working and being ready so that the
5 day we have those two elements in place, that the
6 loans should not be made.

7 Am I correct, Mr. Watson?

8 MR. WATSON: Yes, sir.

9 DR. BASKERVILLE: Mr. Chairman -- oh, I'm
10 sorry.

11 DR. HUGHES: Mr. Chair, does that mean that
12 you do not believe there are any alternatives?

13 DR. FRANCIS: I have not heard of any.
14 That's a good way to put it as we meet today. I was
15 hoping when the Congress -- that we would be ready to
16 start making loans, but we have an opinion that says
17 no and we have no subsidy money under the current
18 rules of having money to set aside depending on how
19 much we make in a given year.

20 If there's anybody in the room that says that
21 that's incorrect, this would be a great time to

22 correct it, because I'm anxious to get rolling and
23 making loans to folks who have made application and
24 those who want to apply.

25 DR. BASKERVILLE: Mr. Chairman, I think this

1 goes back to my point of the critical transition
2 point at which we find ourselves. I think it may be
3 that, if appropriate or if not prohibited, this body
4 may want to have an emergency call meeting and bring
5 some transition committee persons before us, because
6 I'm aware that the economic stimulus group of the
7 transition committee is looking at possible ways of
8 relaxing regulations and other things that would
9 permit us to do something much more immediate for
10 those HBCUs that are in dire circumstances, and so I
11 don't know the -- I don't know.

12 Ms. Schray, I think you were talking about
13 the legal division between what can be shared and
14 what cannot be, but as a public body, it appears to
15 me unless there's something that prohibits it, we
16 could invite someone from the transition team so that
17 we can talk about it and find out so that everyone
18 has information about what is their plan and how we
19 can impact it. I know for a fact that they have
20 asked and they're considering in the Obama economic
21 stimulus package a way of including HBCUs as

22 institutions that would be those that could receive
23 funds for infrastructure and the like. I don't know
24 whether they will ultimately recommend loans or
25 grants.

1 I know they're looking at regulations to
2 determine whether or not regulations can be relaxed
3 so that we can do something immediate, but I'm not
4 the person to say. I'm not on the transition team.
5 It would seem to me that it would be very helpful for
6 this body so we could make recommendations to the
7 current Secretary to have the benefit of that
8 information.

9 DR. HUGHES: Well, Mr. Chair, I think it's
10 appropriate to call the question on the motion and
11 then we come back to discuss alternatives.

12 DR. FRANCIS: I think the motion would not
13 keep us from doing what you're discussing.

14 DR. HUGHES: Right.

15 DR. FRANCIS: I think that might be next. If
16 the board wishes to pass the motion, we could talk
17 about how we might in between what we're doing now
18 and March -- or are there things that can be done
19 with the transition team and the new Administration
20 to consider that. I think if I'm reading this
21 correctly, we're talking about the process of getting

22 the DBA, but we're not ruling out anything that could
23 be done in the meantime that addresses current issues
24 before us that prohibits making loans or helping the
25 schools.

1 DR. BASKERVILLE: Okay.

2 DR. FRANCIS: So if there are no objections,
3 let me say all those in favor of the motion regarding
4 the process of choosing a DBA, please signify by
5 saying aye.

6 MEMBERS IN UNISON: Aye.

7 DR. FRANCIS: Opposed?

8 [No response.]

9 DR. FRANCIS: The floor is now open for
10 whatever recommendations which Dr. Baskerville just
11 mentioned. How do we do things in the interim where
12 there are transition teams looking at this program
13 and wanting to be helpful? Is that something where
14 they come to us or we go to them? That's going to be
15 my first question, Lezli, whether or not we can be
16 invited to talk specifically about the role of this
17 capital finance program.

18 I was going to say it later, but I'll say it
19 now. I think that the ability to make loans to the
20 institutions that we're concerned about is one of the
21 most important economic stimulus measures that we

22 could use, because in all of the areas where our
23 institutions are located, for those who do get those
24 loans, we'll be talking about economic development,
25 jobs, and promoting further economic measures. I

1 think this program is headed right in line with the
2 new stimulus legislation.

3 So let's just spend a few minutes on how we
4 can use another process that would engage the
5 transition team in their understanding and their
6 feelings about how we can move -- how it will work
7 for us.

8 MRS. SCHRAY: Dr. Francis, I just want to
9 make sure I clarify one point and also in response to
10 Dr. Baskerville's comment. The information or the
11 memorandum of understanding which specifies what
12 information needs to be maintained within the
13 Department during transition, it's a very short list.
14 I mean, again, it's dealing with personnel issues,
15 you know, going through some of the contractual
16 things; but again, it's predecisional in nature.

17 All of the issues that Dr. Baskerville raised
18 is public information, the strengths, the
19 limitations, the challenges, the needs. Those are
20 all items that absolutely should be shared, and a lot
21 of that information is contained in our transition

22 book.

23 So I just wanted to be very clear on what we

24 are not allowed -- I mean, again, the line is those

25 items that are predecisional, not public in nature,

1 we have to keep separate from, but absolutely
2 description of the programs and some of the
3 challenges we face and to give folks a heads-up on
4 what are some critical issues that as a new
5 Administration they are going to have to address,
6 we've put together a list for the first 90 days. So
7 those are really important pieces of information that
8 must be shared with the team.

9 DR. FRANCIS: Thank you.

10 Going forward, I think the issue now, if we
11 address it or set a process of doing so, is to make
12 sure that the transition team with the interest in
13 this program can hear our recommendations, because we
14 recommend to the Secretary, but we can certainly
15 recommend to the Secretary as well as to the
16 transition as a tacet, if you will, the workings of
17 the committee, what its needs are, and are there
18 things that we will be talking about and are going to
19 say are important changes in going forward.

20 I think that's what I'm hearing, Lezli. The
21 transition team is important to the program and it is

22 our, quote, opportunity to say those things that we
23 would have said had there not been a transition team
24 that would make this program stronger, better, and
25 certainly appropriate for the needs that HBCUs are

1 facing now.

2 Are there any things that you want to say,
3 Lezli, that would help us move that through further?

4 DR. McNEALEY: Mr. Chairman.

5 DR. FRANCIS: I know they're requesting
6 information. I would think that if it's not done by
7 this body, it should be done and it will be done by
8 others. What are the parameters for us at this point
9 in time?

10 DR. BASKERVILLE: We can submit, the body can
11 submit recommendations. We can also send a letter
12 from the chairman to the body, to the transition --
13 to the appropriate transition teams and the
14 leadership of the incoming team requesting a meeting,
15 but simultaneously submitting our recommendations. I
16 was interested to note that the Department has
17 already submitted its recommendations for actions for
18 the first 90 days. Were those public
19 recommendations? If so, we could be guided by those
20 and take our point of departure from that which we've
21 already submitted.

22 MRS. SCHRAY: The 90-day list was not so much
23 a series of recommendations, but as we analyzed
24 requirements in the new Higher Education Opportunity
25 Act, there are some items that must be addressed in

1 the first 90 days. For example, selecting a
2 designated bond authority, that is an item that the
3 team will have to pay attention to. So they're
4 primarily dealing with those things that have
5 critical milestones established in this new law.

6 Beyond that, we have not provided a series of
7 recommendations, just a highlight of important
8 actions that must be taken by the new team in a
9 prescribed amount of time.

10 DR. HUGHES: So have they already been
11 finalized in advance?

12 MRS. SCHRAY: We have put together the
13 transition books for the transition team. That is
14 not to say that things cannot be added on an ongoing
15 basis. Again, this will be a continuing process.

16 Quite honestly, the new transition team, at
17 least those members that have been identified to work
18 with the Department of Education, they have just been
19 coming in. In fact, we've only had two
20 representatives in the Office of Post-Secondary
21 Education, and it's just very preliminary

22 conversations about the structure of the Department,
23 the different pieces, and so on.

24 So we haven't really gotten to a level of
25 specificity around our programs and activities.

1 DR. HUGHES: So, Mr. Chair, I know we are
2 pulling for straws at this point, but I wonder if one
3 consideration should be given to asking that this
4 board add something to the DOE's 90-point document or
5 whatever you're calling that that addresses the
6 urgent need for this alternative measure to be
7 provided for the HBCU funding.

8 MRS. SCHRAY: Well, you can certainly submit
9 a recommendation to the Secretary and to the
10 Department for inclusion in informational materials.
11 Again, what we prepare for transition teams is to
12 just give them a sense of the programs, the numbers
13 served, the funds appropriated historically, some of
14 the challenges or some of the issues facing these
15 programs over the coming year.

16 So you absolutely are welcome to submit a
17 document on behalf of this body.

18 MR. WATSON: Actually, if I could sort of
19 interrupt a little bit.

20 DR. FRANCIS: Yeah.

21 MR. WATSON: The body also within the first

22 90 days -- what the new Administration will have to
23 do is transmit this body's report to the Congress and
24 Secretary, will have to be done in the first 90 days
25 of the new Administration's transition -- well, the

1 first 90 days of the new Administration.

2 So at that point, those are your
3 recommendations to the Secretary and the Congress,
4 and that document, that's probably the second part of
5 what we'll discuss today, what recommendations this
6 body wants to make to the Secretary and the Congress.

7 DR. FRANCIS: I was going to make that
8 comment. I'm glad you did, Don, that we're really at
9 that stage where we're talking about the board's
10 report to the Congress and the Secretary, and then
11 following that immediately, which we would put all in
12 one as we go, the current capital needs obviously
13 need to be met.

14 I guess what I'm hearing is you're in the
15 process of doing that for the Congress and it's
16 indicated in the Department's approval, but we need
17 to maybe step it up as fast as we can to submit to
18 the transition team or have available to the
19 transition team the kinds of things that we are going
20 to say to Congress and the Secretary about how our
21 needs can be met or changes that need to be made and

22 how that could be configured as Congress and the
23 Secretary and the new Administration looks at meeting
24 those recommendations from this Advisory Board.
25 It's not something we would hold close to our

1 chest, one, because we've been asked to report it to
2 the Congress and the Secretary, but I think it's much
3 of same thing because the second half of his meeting
4 is the capital needs of HBCUs and how we can meet
5 them.

6 DR. McNEALEY: Mr. Chairman.

7 DR. FRANCIS: I think the transition team,
8 that's what they want too or that's what they're
9 looking at and they may have ideas of their own, and
10 I'm sure they do.

11 DR. McNEALEY: Mr. Chairman.

12 DR. FRANCIS: Yes.

13 DR. McNEALEY: Just as a matter of courtesy,
14 I would ask that we allow Mr. Watson to complete his
15 report. The item relative to recommendations to the
16 Congress and to the Secretary are on the agenda, and
17 I think we may well have not allowed Mr. Watson to
18 complete his report, and so as a matter of courtesy
19 since I have to report to a board as well, I would
20 think we should allow him to complete his report and
21 then return to these items as set out on the agenda.

22 DR. FRANCIS: I appreciate it. Like all
23 other boards, we wanted to get to the heart of the
24 matter much faster than the agenda allowed us to, and
25 I did say he's right on time with his report. I

1 think he's going to tell us further all the kinds of
2 things that we are being mandated to do by ATA.

3 Mr. Watson, please continue on and we'd like
4 to hear the rest of your report.

5 MR. WATSON: Mr. Chairman, I just realized,
6 got a learning experience here, that I need to just
7 keep going with my report and ask for questions after
8 the report.

9 [Laughter.]

10 DR. FRANCIS: You're going to learn that the
11 board doesn't always allow you to follow your topics.

12 [Laughter.]

13 DR. FRANCIS: Go ahead.

14 MR. WATSON: I just want to update you on
15 Barber-Scotia. A decision memorandum has been sent
16 forward to the Secretary, and as the board requested
17 last time, the memo also included the board's
18 recommendation from our July 11th board meeting to
19 ask the Secretary to handle the Barber-Scotia matter
20 judicially while considering the impact of other
21 HBCUs that are paying the bonds, the debt service of

22 Barber-Scotia through its program.

23 We also had a -- just an update on the GAO

24 report, the actual report that -- the Department has

25 a report that it has to submit to the GAO which we

1 have to explain to authorizing committees what we've
2 done to implement the recommendations of the GAO.
3 That report is still in clearance at the Department,
4 but it doesn't contain any new information that
5 hasn't been shared with this board. If you want, I
6 can go over some high-level details of what some of
7 those things are to refresh the board's memory.

8 The GAO recommended that we convene regularly
9 as a HQ Capital Financial Board. As you all know,
10 we've met at least twice a year. This year, we
11 actually met a little more frequently because we have
12 some reports to do and some other things that need to
13 be done.

14 They also recommended that we look at the
15 effectiveness of communicating through the program.
16 Many of you and the CFOs received a newsletter from
17 the program. I make visits to campuses as well as
18 the designated bond authority to discuss the program.
19 We participate in several conferences and things like
20 that to talk about the program.

21 Those are some of the high-level things that

22 are in the report to the GAO. Most of the things
23 that the GAO asked us to do is -- most of the GAO
24 recommendations were management in nature. They also
25 mentioned things like collateralization, reducing

1 costs to borrowers, and working with the current DBA.
2 We have created a process where we actually look at
3 collateral and we also looked at a process where we
4 look at the cost of issuing fees as well as the
5 administrative fees that the program charges.

6 So we have done those things, and that's sort
7 of the very high level of what's in the report.
8 Again, I can't give you more detail because the
9 Secretary hasn't signed the letter and the letter
10 hasn't gone to the Congress, but those are the
11 high-level details. Of course, I've reported this in
12 the previous meetings to the board.

13 We've discussed the request for proposal from
14 the designated bond authority in detail. I have some
15 assignments from that.

16 I also have sent you all the renewal of the
17 charter, which the charter for this program actually
18 authorizes us to exist and operate. I E-mailed that
19 to you. I generally updated that and it also
20 included Mr. Ashley as a new board member. We also
21 have added through HEOA a new public HBCU. That seat

22 has not been filled yet, but also, in addition, I've
23 tried to explain some of the new responsibilities of
24 the board, including a report that we'll discuss
25 later today.

1 Also, we're still working to get out a
2 performance program assessment rating tool in order
3 where we meet with budget service and OMB, and we
4 have several measurements in place we're looking at.
5 We're actually collecting data for all of those now.
6 When you look out at the website, it says that we're
7 not demonstrating results and that's because we're in
8 the process of collecting data, but it's not that
9 we're really not doing anything. We're just in the
10 process of collecting the data for that.

11 Also, I go into detail about some of our
12 program activities. I think it's important to note,
13 especially based on our previous conversation this
14 morning, we currently have seven preapplications that
15 are submitted from schools, and those schools range
16 from publics, privates. We have a variety of
17 schools. We also have several schools who have not
18 submitted preapplications, but they're actively
19 working on submitting preapplications.

20 We had a ton of interest from schools who
21 want to come to the program who we traditionally

22 would have never thought would access the program.
23 Part of that is because the rates of the program are,
24 as I said earlier, lower than they have been
25 historically and they are cheaper rates than what

1 most people are offering.

2 We participate, as I said, in several
3 activities, including things like the White House
4 Initiative, New President's Meeting, the UNCF funds,
5 and some other things. We also plan on sending out
6 later this year our newsletter, an updated version of
7 our newsletter. As you all may know, the newsletter
8 sort of highlights of the borrowers in the program.

9 I think the best way to sort of highlight and
10 communicate with schools about the program is to have
11 someone who has gone through the program tell their
12 colleagues how the program has helped them and what
13 they have experienced with the program. Again, that
14 goes to the HQ presidents, CFOs, member of this
15 board, member of White House Initiative, the
16 President's Board of Advisor for the White House
17 Initiative, and other members of the community.

18 So I know that we want to get to the rest of
19 the meeting. So that's my report in short sum.

20 BOARD DISCUSSION/RECOMMENDATIONS TO THE
21 SECRETARY AND CONGRESS

22 DR. FRANCIS: Let me open the floor for board
23 members to ask any questions so Don Watson can answer
24 those, the update to the GAO audit and so forth. The
25 floor is open to his report and there may be

1 questions you may wish to ask on that.

2 DR. McNEALEY: Mr. Chair, I wonder whether or
3 not there was information regarding Barber-Scotia
4 beyond the brief that you have in the report.

5 MR. WATSON: Yes. Actually, we discussed
6 that in more detail. I'm sorry. I need to get
7 clarification. When you say more information, as to
8 the status today and --

9 DR. McNEALEY: Yes. What is going on now?

10 DR. FRANCIS: What the current state is.

11 MR. WATSON: Okay. Barber-Scotia is still in
12 the current state. Their debt load is continuing to
13 increase. For the past several years, we've been
14 talking to Barber-Scotia. We've visited the campus
15 several times, and we haven't received anything in
16 writing, but we always ask Barber-Scotia to provide
17 us with a plan, a sound financial plan to show us how
18 they're going to get back on track, how they're going
19 to pay their debt service and those sorts of things,
20 and we have not received that.

21 Whenever we go to a meeting to meet with the

22 folks at Barber-Scotia, we actually get a lot of
23 verbal communication, telling us some things they
24 have in progress, they're working on accreditation
25 and things of that nature, but we never see anything

1 in writing or concrete that we can make a decision
2 otherwise. Barber-Scotia has been in default since
3 2001, and since then, the other participants in the
4 program have been paying the bond payments for
5 Barber-Scotia.

6 DR. FRANCIS: So you're saying it's in a
7 status quo circumstance?

8 MR. WATSON: Yes. They've just been sort of
9 in the same position since I've been here, and I've
10 been here almost two years, and my predecessor has
11 not had any concrete information from Barber-Scotia
12 either regarding any details on how they're going to
13 come back or how they will pay their debt service or
14 what we could do. At one meeting with Barber-Scotia,
15 I even offered the services of our current DBA to
16 sort of look at anything that they wanted to look at
17 and, you know, look at their financial status and see
18 if we can help them in any way possible, but again,
19 we haven't seen anything in writing and we just hear
20 that they're working on a plan. That's almost two
21 years under me and it's been that way since 2001.

22 DR. FRANCIS: All right. I take it, then,
23 this board's July recommendation to the Secretary is
24 still in enforce and unless the Advisory Board has
25 information or any sort of recommendation to be made

1 in this, the floor is open to any other comments to
2 be made to help move this forward as an Advisory
3 Board.

4 DR. BASKERVILLE: Mr. Chairman, I just want
5 to commend Mr. Watson for the breadth and scope of
6 his activity with our colleges. If you look at the
7 report, you'll see that he's touched in some way at
8 least a quarter of our member institutions, and as
9 I've gone to meetings and gone to the campuses, our
10 paths have crossed frequently. It looks as though he
11 has done and certainly we can feel the impact of his
12 tremendous work on our behalf.

13 DR. FRANCIS: When I read this, I not only
14 felt the same way, Lezli, but his comments at the
15 end, this board or this program has never had the
16 interest that it has had in the last two years and
17 I'm sure it's a compliment to Mr. Watson for getting
18 out and spreading the word, talking about helping
19 people, and of course it's one of the best things
20 going in the country. The problem is we need to move
21 the money out.

22 DR. STRICKLAND: Mr. Chairman, to address the
23 issue about Barber-Scotia, where are we with
24 Barber-Scotia and what are we to do about that?
25 Would you reiterate again what our recommendation is

1 to the Secondary about Barber-Scotia?

2 MR. WATSON: Yes. The recommendation was
3 that the Secretary deal with Barber-Scotia judicially
4 while considering the impact to other HBCUs.

5 MR. STRICKLAND: Okay. What are their names?

6 DR. FRANCIS: Dr. Strickland, it's to go
7 slowly and make sure that we don't adversely impact
8 the rest of us.

9 DR. STRICKLAND: Okay.

10 MR. WATSON: Yes, Dr. Strickland. That's
11 exactly what it means, go slowly, but I must admit
12 the slower we move, the more impact there is on the
13 other institutions who participate in the program.

14 DR. STRICKLAND: Have other institutions come
15 to you with any statements or questions?

16 MR. WATSON: Regarding Barber-Scotia?

17 DR. STRICKLAND: Yes, sir.

18 MR. WATSON: It's one of those hard
19 questions, because I know institutions -- publicly
20 individuals say one thing and in conversations with
21 me, they say another. I'd rather not respond, but

22 individuals are concerned about their escrows.

23 DR. FRANCIS: I was going to say would it be

24 fair to say the other institutions feel the pain?

25 MR. WATSON: Yes. They are feeling the pain,

1 and some actually have come in -- because it's
2 actually listed as a liability to them. So I think
3 they can potentially lose all of their escrow with
4 Barber-Scotia. So they are really concerned that
5 they will lose their escrow that they're not using
6 themselves, but another institution is using them to
7 pay for their debt service.

8 DR. FRANCIS: Part of the problem of that --
9 that's the program that I would be the first one to
10 get rid of, but I've lost in that for the last five
11 years. That has been the greatest drawback on
12 participation for our schools, because,
13 unfortunately, this is an example of your money in
14 the escrow goes to pay for somebody else's
15 unfortunate inability to pay, and it's gone on for a
16 long time. The longer it goes, the more it eats up
17 the escrow.

18 MR. WATSON: Mr. Chairman, Dr. Haynes has his
19 hand up.

20 DR. HAYNES: Dr. Strickland and Norman,
21 Barber-Scotia, of course, has gone through another

22 leadership change. I think the current head of the
23 institution is Reverent Best.

24 MR. WATSON: That's the president.

25 DR. HAYNES: So Best has been in contact with

1 me, but we've been trading telephone calls, but when
2 I do connect, I promise, Don, I will get as much out
3 of him as possible of exactly what are their plans
4 and where are they with respect to being responsible
5 for this issue.

6 MR. WATSON: We've spoken with Reverend Best
7 as well, and again, my report wouldn't change from
8 what it was a few minutes ago. We hear that there
9 are some things in progress. There may be things in
10 progress, but we never see anything in writing, which
11 it's sort of -- so we have to take into consideration
12 the other institutions that are being impacted.

13 DR. FRANCIS: That's the judicious part of it
14 that we put in that language. At some point, justice
15 would demand the other institutions not to pay to
16 carry that burden, and I think that time may be
17 coming to an end or may have ended some time ago. I
18 think the painful one is true. As long as it does
19 not get settled, and that settlement has to come from
20 the government now, I would suspect, the other
21 institutions sit in waiting and in pain. There is

22 some justice in it.

23 Okay. On the GAO audit, we will get a report

24 on that one signed off by the Secretary? Did I hear

25 that correctly?

1 MR. WATSON: Yes, sir. Once the Secretary
2 signs the report, I will send it to all board members
3 for your reference, but again, there is nothing in
4 the report that I haven't shared with your
5 previously.

6 DR. FRANCIS: Okay. Of course, we've handled
7 the DBA bonding authority issue fairly extensively.
8 We may come back to it later, but renewal of the
9 charter has been added to the -- it passed, did it
10 not, that first part?

11 MR. WATSON: Yes, sir. That's the part that
12 we actually talk about with the board members, your
13 discussion. That report is actually the report that
14 the board actually sends. So that's the board's
15 report, and with the board report, I want to talk
16 with you about what that approval process would be,
17 because although it's a board report, the board
18 report will still have to go through the Department
19 Clearance. So once the board finalizes that report,
20 I will still have to submit it through Department
21 Clearance to be signed off on and that sort of thing

22 and transmit it to the Congress.

23 DR. FRANCIS: Now, that's an area where you

24 will be evaluating the information that hopefully is

25 being sent from our institutions to respond to the

1 Congress, and you will be developing what it is that
2 is being gathered from that information. We as an
3 Advisory Board would have to meet at some point and
4 get ahead of time what has been your evaluation and
5 your recommendations for our report. Is that not
6 right?

7 MR. WATSON: Yes, sir. I'm actually looking
8 at trying to set a meeting for the first week of
9 February. I know we usually meet on Fridays. I
10 didn't have a calendar, but I'm trying to think in
11 reviewing proposals and those sort of things to try
12 to keep things in perspective.

13 DR. FRANCIS: So you will get the appropriate
14 time for us somewhere in the first week of February?

15 MR. WATSON: Yes, sir. As always, I'll check
16 with Kay and then get back to the rest of the board
17 members.

18 DR. FRANCIS: Okay. For the board, that is
19 one, Mr. Watson is saying, is the report we will
20 make. He is gathering information and we will
21 assemble it in the likes of which would describe the

22 size of the problem that we need to address, how we
23 might address it, give us the current operations and
24 then make that report to the Congress after we have
25 had some weighing in on it as well. February 1st

1 would be in keeping with the deadline that we have?

2 MR. WATSON: Yes, sir. We actually met with
3 Congress -- I can't remember -- maybe a few weeks
4 back, and we discussed with them that this report may
5 run a little behind because we don't have the data,
6 and they were understanding about that.

7 DR. FRANCIS: So we as a board will have
8 enough time to review your findings and your
9 recommendations and have some input before we send it
10 to the Congress?

11 MR. WATSON: Yes, sir. Actually, the process
12 once I get a draft together and ready, I'll send it
13 out to the board to review electronically, get your
14 comments and that sort of thing. Then after that,
15 we'll start to prepare a meeting so that we can
16 actually meet, the board can take a formal action on
17 it, and it could be something, another public
18 document that we could actually meet to discuss.
19 Most likely, that will probably be the only action
20 that we have there except maybe a smaller report from
21 me and depending on when we actually meet, there may

22 be a report on the designated bond authority.

23 DR. STRICKLAND: Mr. Chairman, I was thinking

24 if the date is on the Friday the 6th, many of us will

25 be in Greensboro that weekend. So if it can go after

1 the 6th, it would be helpful.

2 MR. WATSON: Yes, sir.

3 DR. FRANCIS: Any other comments? If not, is
4 there anything -- Mr. Watson, I know we discussed
5 this, the responsibility regarding issues with
6 respect to deciding whether -- persistence and so
7 forth, and I read this. There were apparently some
8 recommendation of changes. What is the latest on
9 that, these changes? One had to do with persistence,
10 and persistence is a big issue for all of us. We
11 have some feelings about that.

12 MR. WATSON: Yes, sir. I went back and I
13 actually discussed with OMB and several others about
14 the board's concern about persistence. I think the
15 biggest impact was that persistence is what we're
16 currently able to collect without putting additional
17 collection burden on institutions.

18 So the way we define persistence today about
19 first year, first-time students who enroll in an
20 institution and stay the following semester, that's
21 the data we have, and I did explain that, and the

22 board's recommendation to the Secretary was that we
23 actually look at persistence totally different, look
24 at total enrollment. I went through the process of
25 -- which Dr. Thompson actually wrote out how it

1 particularly affected her institution and it may look
2 in the first year that the institution is actually
3 losing enrollment, but in actuality, looking at the
4 total enrollment, the institution is increasing their
5 enrollment, but again, persistence is the one that's
6 going to stay there, but there may be an opportunity
7 to look at it again.

8 We're constantly discussing, meeting, and
9 talking about these measures, how to improve them,
10 what can we not do, what we can do, but as of today,
11 persistence still remains a measure for the program.

12 DR. FRANCIS: And the revenue measure?

13 MR. WATSON: Yes. The revenue measure has
14 changed because it's looking at -- instead of looking
15 at the total change in revenue -- and, of course, if
16 you look at revenue of institutions now that the
17 markets are down and things like that, your endowment
18 income and things like that may be down as well. So
19 from that, by changing this, it will give us a better
20 view of what you actually -- what the revenue looks
21 like. Again, the thought process is that most of the

22 things that we actually build to improve student life
23 as such, it attracts enrollment which will increase
24 the cost, will increase the revenue stream and those
25 sorts of things.

1 So we modified, I think -- I think we
2 modified the revenue one to better depict what the
3 institutions are doing from going through the
4 program.

5 DR. FRANCIS: And the subsidy rate, we've
6 talked about, but we didn't talk about the definition
7 necessarily, but it is in here, and you mentioned how
8 much money we need in the subsidy, but the subsidy
9 rate is supposed to be the estimated federal cost per
10 dollar made in loan guarantees, which can somebody
11 talk about that?

12 MR. WATSON: Yes. Actually, the great thing
13 about having meetings in Washington -- when things
14 that are important are happening on our campuses, the
15 great thing about having it in Washington, I can have
16 my colleagues here as well, which is important,
17 because when we have these discussions, I think it's
18 best for them to hear from the board rather than from
19 me always saying the board says. Now it's the
20 opportunity, if they like, they can also talk to the
21 board about of some of these measures.

22 The subsidy rate is actually -- we try to
23 decrease -- the cost to the government is the subsidy
24 rate, and we try to decrease the subsidy not just by
25 the FFB fee and escrow, looking at those sort of

1 things. We also want to look at the dollar cost. So
2 as we make loans to institutions, we're sort of
3 expecting the institution's financial situation to
4 sort of improve over time.

5 We've seen that with a lot of our
6 institutions who borrow through the program. They
7 borrow through the program at one point and now
8 they're actually in a much better financial position
9 than they were when they first came. That's what we
10 sort of want to look at. We want to look at the --
11 and the subsidy also gets involved in looking at the
12 risks associated with making loans to institutions.
13 So as we make loans to the institutions, the subsidy
14 rates start to decrease as they increase their
15 financial stability.

16 DR. FRANCIS: And you're talking about the
17 individual institution, not the pools of
18 institutions?

19 MR. WATSON: Yes. Although we expect the
20 pool as a whole to increase, but individual
21 institutions increase, because as you all know, each

22 of our institutions are unique in some things. They
23 may improve in one area because that's their focus.
24 It's like defining capacity. Capacity isn't the same
25 for every institution.

1 So I like to look at the institutions from a
2 subsidy rate if you're going to look at them
3 individually because certain things happen at an
4 institution, but as a pool, as an entire body, the
5 subsidy rate would decrease because the overall body
6 of institutions start to -- the financial positions
7 start to increase because they borrow through the
8 program.

9 DR. FRANCIS: And putting it into the escrow
10 account again, that figures into it, does it not?

11 MR. WATSON: Yes.

12 DR. FRANCIS: Or does the escrow have
13 anything to do with that subsidy?

14 DR. FRANCIS: The subsidy rate that we're
15 calculating here is a little different, and I have
16 the service here. They can correct me if I'm wrong,
17 but the subsidy rate that we're talking about for
18 this part is a little different than the subsidy rate
19 we're talking about to make loans to HBCUs.

20 DR. FRANCIS: I'm not sure I understand that,
21 but the board members do, I'm sure.

22 MR. WATSON: After we make a loan to the
23 institution -- what we're looking for with the seven
24 million, after making loans to institutions, after
25 the fiscal year is gone --

1 DR. FRANCIS: Yes.

2 MR. WATSON: It's sort of like -- I don't
3 want to say it's a moot point because we don't do
4 things just to do them, but that subsidy rate is sort
5 of to subsidize any defaults or things like that,
6 whatever happens in the fiscal year that we ask for
7 that particular subsidy. What we're looking for over
8 time is that when we make loans to institutions or
9 carry their program, for instance, they have a seven
10 percent subsidy rate for institutions currently in
11 the program. As they go into the program, we start
12 to look at less.

13 So it won't be seven million this year. It
14 will be six and a half million. It starts to
15 decrease over time because they're improving and the
16 risk of them defaulting or being delinquent is less
17 than what it was.

18 DR. FRANCIS: Okay. I'll accept that. I'm
19 not sure how you calculate that it's going from seven
20 down to six and a half. Maybe they're paying their
21 loan down or they're paying more into the pool.

22 MR. WATSON: Their risk, their financial

23 risk, is very different.

24 DR. FRANCIS: So you make a judgment about

25 the possibility of the default based on how they are

1 improving in their operation. This is, I guess, what
2 you're telling me.

3 MR. WATSON: Yes, sir.

4 DR. FRANCIS: And then that relates as well
5 to the second part, which is delinquency, and you
6 define delinquency as a percentage of the loan
7 payments received between 11 and 59 days. Anything
8 after 59 is a delinquent payment. Is that what I'm
9 hearing?

10 MR. WATSON: Well, we look at -- well, the
11 penalty is a little different after 59 days. We
12 could actually, you know, go into -- well, the actual
13 payment for the bonds is due 60 days before -- 60
14 days before the bond payment is due, we want all the
15 payments in order. So that's why we picked that
16 particular measure, because we don't want an
17 institution on Day 60 when the bond payment is due
18 not having anything there to actually make their bond
19 payment.

20 DR. FRANCIS: So the day after 59, which is
21 60, is a delinquent loan if it's not paid?

22 MR. WATSON: Well, it's almost like paying a
23 mortgage. Any day after day one, it's delinquent,
24 but you sort of have a grace period before we report
25 you on this report.

1 DR. FRANCIS: Okay. The day it's due and
2 it's not paid, it becomes delinquent; after the 59
3 days, you are not able to extend?

4 MR. WATSON: Well --

5 DR. FRANCIS: You're really 60 days late in
6 your payment.

7 MR. WATSON: Right and the penalties are much
8 harsher.

9 DR. FRANCIS: Okay.

10 All right. Any other questions? I think
11 I've covered all the items that were in your program
12 report and the rest of your activities, which you
13 have been complimented for, and let me do it again,
14 because you are getting out and that's a very
15 important aspect, to visit the schools and getting to
16 them as institutions.

17 How are we doing with our agenda here, Mr.
18 Executive Director?

19 MR. WATSON: We're right on time, Mr.
20 Chairman. We still have the board's discussion about
21 the report to Congress and the Secretary, and that's

22 your report. So we're right on time for that.

23 DR. FRANCIS: Okay. Do you want -- or I know

24 it's ahead of our lunch period, but do you want to

25 move now into our discussions and recommendations,

1 the likes of which we started a little bit before?
2 Are there any other items the committee would want to
3 raise on what they've heard? Because we have a lunch
4 at 12:30, but at 1:00, we are scheduled to do the
5 board discussions and recommendations to the
6 Secretary, the continuation of that, and that comes
7 to all of the core issues of the current capital
8 needs and so forth.

9 I think we need to keep moving on. That's my
10 feeling, but other members of the board, are there
11 any other things that you wish to say before lunch?
12 Well, it's almost eleven o'clock. According to your
13 schedule here, I think it's too early to break for
14 lunch. So can we go to our next item?

15 MR. ASHLEY: Well, can we keep with the
16 agenda? Mr. Chairman, perhaps we could move the
17 agenda forward.

18 DR. FRANCIS: That's what I want to do.

19 MR. ASHLEY: Okay. Great.

20 I do have a comment, Mr. Chair. I wanted to
21 go back to this issue earlier that we discussed and

22 you shared your concerns about the obstacle with the
23 subsidies. I'm just wondering can this body not make
24 a recommendation to the Secretary to appeal to the
25 appropriators that perhaps some dollars could be

1 moved around to cover these subsidies so that we can
2 get moving and start to make some loans.

3 DR. FRANCIS: I'd like to hear anything that
4 would do that. I am as anxious as anybody.

5 Now, I do understand -- it seems like it's
6 one prong, but if I could get one prong cut off, it
7 would be very helpful. How can we get subsidy money
8 in order to make at least one step forward to us
9 making some loans? I don't know the answer to that.

10 MR. ASHLEY: Can that be a recommendation
11 that this body, you know, makes to the Secretary to
12 appeal to the appropriators to move some money around
13 where perhaps we could get the \$7 million so that we
14 can get moving?

15 MR. WATSON: Actually, that's exactly what
16 this board does. The board makes recommendations to
17 the Secretary.

18 DR. FRANCIS: I'd like to make that one if
19 that's appropriate.

20 MR. ASHLEY: I'd like to move that.

21 MR. WATSON: All right.

22 DR. FRANCIS: I guess this board can -- we're
23 an advisory board. We know what an advisory board
24 does. They make advice that's not always taken, but
25 we'd be negligent if we didn't make it. I would

1 entertain any motion to that effect that would seek
2 to find the subsidy monies before the Congress acts
3 on the President's budget.

4 MR. ASHLEY: And really what we're asking is
5 that she would appeal to them that she can reprogram
6 some dollars so that she would have the authority, I
7 guess, to move some dollars around to cover this.

8 DR. FRANCIS: I don't know how the legal
9 ramifications of those are, but I'm for making it.
10 We do all the time in our business, but we don't have
11 that much to move around.

12 MR. WATSON: If you can give me one second.

13 [Mr. Watson confers with Ms. Warner.]

14 MR. WATSON: As I was saying earlier, it's
15 always good to have a meeting in Washington because I
16 have tons of help. If we were off on a campus, I may
17 not have the same help. Sally Warner actually just
18 stood up to address this for us.

19 DR. FRANCIS: All right.

20 MS. WARNER: I can speak just very briefly.

21 I know folks from budget have something more to say,

22 but the problem here is that you don't have a law.
23 You need an appropriation. The statute says you need
24 an appropriation to fund this program. So there is
25 no money that the Department can legally move towards

1 this purpose.

2 You need to talk to Congress. Because of the
3 congressional schedule, as discussed earlier, it just
4 doesn't look like anything can happen in Congress
5 before March.

6 DR. FRANCIS: And this is grabbing, I know,
7 at straws, but there's a stimulus package out there.
8 Would it be appropriate for the board to say that the
9 HBCU Capital Financing Program is so important and
10 that is so important to the institutions for their
11 development which can impact economic development and
12 the capital programs for which they will get these
13 loans will stimulate economic development and we
14 request that the Secretary urge that this be put into
15 the stimulus package program under the economic
16 development umbrella?

17 MR. BLAKEY: Mr. Chairman, this is Buddy.
18 It's unclear to me what the statement is that you
19 don't have a law means. In fact, you do have a
20 continuing resolution which authorizes the Secretary
21 to spend for any appropriated program in Fiscal Year

22 '09 at the '08 level. All that Mr. Ashley is saying
23 is that you would make a recommendation to the
24 Secretary that if she can find some money in one of
25 those appropriated programs and move it to this

1 purpose, if Congress allows her to reprogram money
2 from one purpose to another, then, yes, she could do
3 it.

4 You do have a law. The continuing resolution
5 is the law appropriating the money. It's just that
6 no money was put in this program for the subsidy
7 purpose.

8 DR. HUGHES: Right, and that was the nature
9 of my premature discussion regarding the
10 alternatives. So I would bring that back to the
11 board in the form of a motion.

12 DR. FRANCIS: All right. Let's have -- could
13 I get a second to that?

14 MR. ASHLEY: I second it. That's Dwayne
15 Ashley.

16 DR. FRANCIS: All right. We've got a motion
17 and it's got a second, and the essence of this is to
18 request the Secretary to seek the appropriate funds
19 under the current resolution even for -- not even --
20 for programs that are in operation and that could be
21 found to move the subsidy of \$7 million or whatever

22 that amount should be. In the alternative, if that's
23 not possible, that we ask that it be brought to the
24 Congress for a stimulus package, but that is only as
25 an alternative companion to the first part, receiving

1 the money under the continuing resolution.

2 Would that meet the maker of the motion and
3 our seconder?

4 DR. HUGHES: It does. There is a need to
5 reflect the urgency of this action to some
6 institutions.

7 MR. ASHLEY: I agree.

8 DR. FRANCIS: Mr. Ashley?

9 MR. ASHLEY: I concur with that, that there
10 should be -- it should move expeditiously.

11 DR. FRANCIS: We would ask that -- I'm just
12 speaking a little premature. If it passes, we'd ask
13 Mr. Watson to seek whatever counsel necessary in and
14 outside the commission to write the appropriate
15 resolutions that the chair would send to the
16 Secretary to accomplish both aspects of doing so
17 under the continuing resolution and a program that's
18 operating and to add it to the stimulus package as an
19 economic development matter.

20 MR. WATSON: Dr. Baskerville.

21 DR. BASKERVILLE: I just wanted to get

22 clarity. So what we're requesting is that the
23 Secretary take dollars that already have been
24 appropriated in '08 and re-channel them so that she
25 identifies \$7 million that we can be immediately put

1 into this program? Is that correct, Mr. Chairman?

2 DR. FRANCIS: Right. That's correct, and the
3 intent of the motion would be what's always done,
4 that it is done in a way that it does not adversely
5 impact something else, that it takes a priority at
6 the moment.

7 MR. WATSON: Mr. Chair, we have someone from
8 Budget Services, our Budget Service Office, here who
9 might want to give some input on this.

10 DR. FRANCIS: Anything we can get that will
11 move it, I'd appreciate it.

12 MR. WATSON: It's Dillan Preston, and he's
13 from our Budget Services Office.

14 MR. PRESTON: The way the continuing
15 resolution acts, it says you can do anything you did
16 last year. So last year, we didn't have an
17 appropriations for this program. So we wouldn't be
18 able to -- there's no authority for us to spend money
19 under this program because there was no authority
20 last year as FY 2008.

21 What you need is additional appropriations

22 language. So that could be put in a stimulus
23 package. That could be put in a new continuing
24 resolution that wouldn't come around until next
25 March. The next continuing resolution isn't going to

1 be passed until March. Unless something really weird
2 happens, Congress isn't coming back for a new
3 continuing resolution until the last one runs out.
4 So the last one doesn't run out until March. So we
5 wouldn't expect them to do anything on a continuing
6 resolution, add anything to a continuing resolution
7 until March.

8 You could put the -- the appropriators and
9 the authorizers could put appropriations language in
10 some other vehicle like a stimulus package. So they
11 could put language into a stimulus package to
12 specifically appropriate money for this program.

13 DR. FRANCIS: Okay.

14 DR. BASKERVILLE: And, Mr. Chairman, that
15 takes me back to my sense that we need to operate on
16 a parallel track and ask the Secretary to recommend
17 to the economic stimulus work group that these
18 dollars be included in the economic stimulus package.
19 It's my understanding that that bill will likely be
20 voted on on January 20th.

21 DR. FRANCIS: I have no problems with that.

22 I would take it that that meets the motioner and the
23 seconder.

24 DR. HUGHES: I accept that as a friendly
25 amendment.

1 DR. FRANCIS: All avenues applicable to
2 adding money to the subsidy program under the
3 existing legal parameters, that is I'm hearing that
4 there was nothing in the appropriation in the subsidy
5 one, but we can ask the Secretary to ask the
6 transition team to put it into the stimulus package
7 and we could also ask that the President ask in a
8 memo to Congress to add it to the stimulus package as
9 well and then any other ways that might be
10 appropriate, and if, indeed, there is a continuing
11 resolution in March, we add it to that as well.

12 Okay. We'll do ultimate pleadings according
13 to the law.

14 Is there any other question on that? Because
15 I'd like to nail this down to get some action on the
16 subsidy money.

17 MR. ASHLEY: Mr. Chairman, the budget guy is
18 here.

19 Can this not be done from undesignated funds?

20 MR. PRESTON: No. There's no authority to
21 spend money on the program.

22 DR. FRANCIS: I just heard that, apparently,
23 we couldn't -- for the lawyers in the room, it's like
24 when you write a pleading, you can't amend the
25 pleading that's there in, that you can't attach a

1 live branch to a dead tree.

2 MRS. SCHRAY: Dr. Francis, this is Vickie
3 again. The continuing resolution specifies that we
4 don't do any new activity, and what Dillan shared
5 with the board is that in 2008, we didn't have an
6 appropriation to support this program, and as such,
7 we can't continue something we didn't fund last year.
8 Again, that's a blanket, you know, policy that we
9 have to comply with.

10 DR. FRANCIS: But that was my point. I was
11 assuming that was a dead tree. So I put my last live
12 branch on that dead tree. I passed that one up, but
13 I was back into asking the transition team to add
14 into the stimulus package a recommendation and also
15 the President or whoever will make a recommendation
16 to Congress to add the subsidy into it. That, I
17 thought, was the intention of the maker of the
18 motion.

19 DR. HUGHES: That was true.

20 DR. FRANCIS: Okay. And I only added the
21 fact that we would use any appropriate other measure

22 that we do not know now that we might come to find
23 out would be appropriate. I'd be prepared to write
24 that letter for the board after passing the motion.
25 Am I off track on what the board is intending to do

1 here?

2 DR. HUGHES: You're on track with the motion.

3 DR. FRANCIS: Lezli?

4 DR. BASKERVILLE: Yes, sir.

5 DR. FRANCIS: That motion including parallel

6 tracks.

7 DR. BASKERVILLE: Right on point, sir.

8 DR. FRANCIS: Okay. Known and unknown at

9 this time.

10 All those in favor of the motion, please

11 signify by saying aye.

12 MEMBERS IN UNISON: Aye.

13 DR. FRANCIS: Opposed?

14 [No response.]

15 DR. FRANCIS: The motion is carried. Let's

16 keep our fingers crossed on the cost subsidy, because

17 that's one of those elements we've got to get out of

18 the way to start making loans and it has to be

19 appropriated in some way, shape, or form.

20 Now, what was the second part of that?

21 That's the DBA, and we've addressed that one because

22 we're going to get our formal process, but in
23 addition, we'll make sure that we follow all of the
24 -- dot all the "I"s and cross all of the "T"s to make
25 sure we can have a DBA as soon as possible. It

1 sounds like that's going to be somewhere at the end
2 of February.

3 We will have a meeting in between that time
4 where we'll be able to address our report to the
5 Congress and the progress on the DBA. We'll find out
6 how things are going. If there are any problems with
7 that, I would like to hear that before at the same
8 time.

9 MR. WATSON: Yes, sir.

10 DR. FRANCIS: Now we are at stage of making
11 recommendations to this program of how we meet the
12 needs of the program. The subsidy was one of them.
13 I think there was another question, what additional
14 steps can be taken to improve the operations. The
15 floor is open. This is how we might get to make this
16 a better program and keep it moving. As difficult as
17 it is right now economically, this is a time that our
18 cap has been increased and the interest rates are
19 good. I don't know if there's a better time for us
20 to be acting in making loans for our institutions,
21 but it's like anything else. Time is very important

22 and I don't want to lose any time in this.
23 And if I didn't, Mr. Watson, before, I'm
24 saying it now. Anything we need to know that creates
25 an obstacle for going forward for this Advisory

1 Board, I would like to hear it so that we might make
2 whatever appropriate recommendations. You noted two
3 of them. We haven't solved either one, but we made
4 recommendations on one and the other one is in
5 progress. The floor is open.

6 MR. WATSON: Dr. Hughes has a question.

7 DR. HUGHES: I just have a question because
8 the issue continues to recycle itself in all of the
9 meetings we have. Is there any possibility of
10 addressing the Barber-Scotia issue in a way that
11 provides some ease to those institutions that are
12 burdened?

13 MR. WATSON: Is that question for me?

14 DR. HUGHES: Anybody.

15 DR. FRANCIS: I wonder if anybody -- Don, if
16 you have some answer that we could make a
17 recommendation that's concrete, I think Dr.
18 Strickland pointed out that we were being
19 philosophical and judicious and all that good stuff
20 in July, but it's at point now where is there
21 something we can say?

22 MR. WATSON: From a department standpoint, we
23 legally can't spend any money on Barber-Scotia other
24 than foreclosure costs until the escrow is depleted.
25 So the escrow will have to be depleted before the

1 department will releases its letter of credit and
2 pick up the debt service payment. That's the only
3 thing that we could do internally. That's the only
4 authority we have, but the escrow has to be deleted
5 before we put any dollars out to actually make any
6 debt service payments or anything else. So the
7 institutions have to deplete the escrows before we
8 step in.

9 DR. HUGHES: So there are no legal options?

10 MR. WATSON: Legal options, we -- this is
11 2008. We've been relaxed in our legal options.
12 Foreclosure is something that we can do and we have
13 not done. That's the only legal option we have.
14 From a financial standpoint, the escrow has to be
15 depleted before we do -- before the department pays
16 any money.

17 DR. FRANCIS: As a follow-up for this
18 discussion, I'm going to raise one that I've raised
19 continuously, and that is to try to find a way to get
20 rid of the pool and still provide the appropriate
21 escrow and protection of the government in its

22 loan-making under this program. I don't have an
23 answer now, but I think there is a solution to every
24 problem.
25 I think the pooling is a problem and the

1 reason for it, I understand the guarantees behind it.
2 Everybody wants to avoid filing bankruptcy and avoid
3 subprime and all of that business, but if we could
4 find a way to guarantee the government's protection
5 without linking every institution with the other, I
6 would suggest that we would be as strong in that
7 recommendation to the Secretary and the Congress, and
8 I don't know what that is now. I've heard the answer
9 to why it shouldn't be disbursed, that is get rid of
10 pooling, but pooling continues to be a problem for
11 the institutions that are in the pool.

12 DR. BASKERVILLE: Mr. Chairman, we have a
13 representative from President Malvo here who has a
14 recommendation. Would now be the appropriate time to
15 offer it?

16 DR. FRANCIS: I know we've got a time for
17 public comments. I don't know what our general
18 counsel or attorneys say, but if there is a way to --
19 a possibility, we could hear it now or hear it later.
20 I have no problems with it. I think it's important
21 for us to hear anything that would help us in that

22 regard so that we could make a recommendation, and I
23 think we're hearing that constantly, how do we get
24 rid of the pooling.
25 Let me ask counsel. Can I suspend the rules

1 and allow a member of the public to comment on how
2 the question I just raised could be handled? It
3 would be moving to public comments, I guess.

4 DR. BASKERVILLE: Mr. Chairman, well, it's
5 actually my comment, but I called on the
6 representative from the member institution to --

7 DR. FRANCIS: Well, you want to --

8 DR. BASKERVILLE: -- amplify it.

9 DR. FRANCIS: Well, why don't you start it
10 and ask for help.

11 DR. BASKERVILLE: Okay.

12 [Pause.]

13 DR. FRANCIS: Lezli?

14 MR. WATSON: She's caucusing.

15 DR. FRANCIS: Well, get the script.

16 DR. BASKERVILLE: It's very much a part of
17 the discussion having to do with Barber-Scotia, and
18 I'd call on my worthy counsel to exemplify, expand,
19 and clarify.

20 MS. CHISM: For the record, Chairman Francis,
21 I'm Bridget Chism and I'm representing President

22 Malvo, Bennett College for Women, as a current
23 borrower in the program that is obviously being
24 affected by the Barber-Scotia default regarding our
25 escrow.

1 What we would like to propose is that in your
2 discussions with the stimulus package, in all the
3 toxic assets, that this default be added to -- this
4 loan be added to those toxic assets and removed from
5 the HBCU Capital Loan Program and, of course, the
6 responsibilities of the member institutions, you
7 know, escrow that they're paying for it, because it
8 is unacceptable when other loans are being taken off
9 of financial institutions' books that we still have
10 the burden of this default. I think it's a matter of
11 thinking outside the box as we continue to do with
12 how we make loans sooner, but this default needs to
13 be removed and then the funds that have been
14 de-penished [sic] be replaced.

15 So, you know, if the appropriation was 10
16 million, we add another seven million or whatever it
17 is to bring the escrow current so that the member
18 institutions who are current, you know, are no
19 longer, you know, being penalized and this escrow is
20 now whole.

21 DR. FRANCIS: Okay. How do we -- would you

22 comment on how we take the escrow holding out of the
23 program completely? What you're saying is certainly
24 a --

25 MS. CHISM: It's actually two parts. One,

1 the recommendation for the HBCU Advisory Board is to
2 remove the Barber-Scotia loan from the HBCU Capital
3 Loan Program.

4 DR. FRANCIS: And where are you going to put
5 it?

6 MS. CHISM: In the Toxic Asset Recovery
7 Program. It goes to TARP along with everybody
8 else's.

9 DR. FRANCIS: All right.

10 MS. CHISM: Then the second point is that the
11 funds, that out of the 700 billion that's there, that
12 a measly seven or ten million, however much that's
13 been drawn down from our escrow be added to the
14 escrow to make it fully whole again, because those
15 are the funds we as member institutions have been
16 using to assist Barber-Scotia, again, the rationale
17 being while we signed those agreements to do the pool
18 escrows -- we knew that fully when we were getting
19 our loans -- given the economic conditions of today
20 where everybody else is getting a pass, given the
21 economic input and impact on 99 Title 4 eligible

22 schools of \$10 billion and 200,000 jobs, we expect
23 and demand that, you know, that asset be absorbed in
24 TARP and then fully funded so we can continue to
25 function responsibly in our 99 respective

1 communities.

2 DR. FRANCIS: Okay. That's the Barber-Scotia
3 side.

4 MS. CHISM: That's the Barber-Scotia side,
5 and then the other recommendation is that the
6 Department of Education ask the Department of Labor
7 to make this a job corps center. So we are proposing
8 a solution for its use to, again, go back to
9 stimulating job and economic advancement in that host
10 community.

11 DR. STRICKLAND: I don't think we have a
12 right to say what Barber-Scotia ought to be.

13 MS. CHISM: We're just offering it as a
14 recommendation.

15 DR. FRANCIS: Let me make a comment. I think
16 our goal is to recommend how we protect those who are
17 in the pool, and if I'm hearing it, we're asking that
18 it be put into the stimulus economic package where
19 the loans will all be moved out of the pool of the
20 other schools, that the money be replaced in the
21 economic stimulus package, and that's our

22 recommendation.

23 DR. STRICKLAND: And that's where we'll stop?

24 DR. FRANCIS: Yes, because I think what

25 happens after that, I think is out of our purview.

1 DR. BASKERVILLE: Correct, except a very
2 important part of that is that it goes into TARP, the
3 Toxic Assets Recovery Program.

4 DR. FRANCIS: Right. That's the stimulus
5 package program recommendation.

6 DR. STRICKLAND: Yes.

7 DR. FRANCIS: Okay. Let's separate the
8 issues. Let's have the board now talk about that
9 recommendation as it relates to Barber-Scotia, and in
10 essence, it is that we recommend to the Secretary
11 that the stimulus package program include support for
12 replacing the money that was paid out for
13 Barber-Scotia for the pool and that the Barber-Scotia
14 payment be put into the stimulus package as well.

15 MR. WATSON: I just want to clarify that you
16 just can't replenish the escrow, but it's the
17 outstanding debt amount that needs to be repaid which
18 includes the escrow.

19 DR. FRANCIS: All the interest and principal
20 payments?

21 MR. WATSON: Right, those principal payments.

- 22 DR. FRANCIS: What is up to now?
- 23 MR. WATSON: Probably 9.7.
- 24 MS. CHISM: Ten million.
- 25 DR. FRANCIS: \$10 million. If it does come

1 to a motion of the board, it will be to take the
2 entire debt of Barber-Scotia out of the pool, put it
3 into the stimulus package and replace the money back
4 into the pool for those institutions that have been
5 covering that over the last few years, which means
6 \$20 million. Is that what I'm hearing?

7 MR. WATSON: I'd actually rather not give a
8 number because a few months ago, it was like 9.5 and
9 the debt service payment was due.

10 DR. FRANCIS: Let's use the appropriate
11 amount of money from Barber-Scotia that is being paid
12 by the pool at the time that this action is taken,
13 and we'll figure out what that is. Again, the board
14 has now had the discussion. We can have that motion
15 written in a way that we will make it as a
16 recommendation, and I'd be willing to sign for the
17 board, but it has to be all inclusive. It has to be
18 what it is we're asking to be done and where we're
19 asking to be considered. I think we heard that.

20 DR. McNEALEY: Mr. Chair, I would like to
21 make sure that we're clear about one of the points.

22 There is a desire that the escrow be made whole and
23 the only mechanism for achieving that is to
24 completely retire the obligation of Barber-Scotia. I
25 want to make sure that was clear.

1 DR. FRANCIS: That suffices, the approach to
2 it. At least that's what I was hearing, to retire
3 the pool. In order to do that, Barber-Scotia is
4 going to have to pay the government or the government
5 is going to have to write it into the stimulus
6 package as a bailout.

7 DR. BASKERVILLE: That's correct.

8 DR. HUGHES: Okay.

9 DR. FRANCIS: So back to Lezli now. That's
10 your action and it's in response to Marvalene's
11 question as to what do we do. Is this Advisory Board
12 prepared to say that given the dire circumstances
13 that are being faced with other members and our
14 colleagues in addition to Barber-Scotia, we make this
15 recommendation, because not only one is going down,
16 the others are also losing funds every day.

17 DR. HUGHES: Absolutely.

18 DR. FRANCIS: Okay. Well, as an Advisory
19 Committee, we've got to say something or remain
20 silent. I think we don't want to remain silent.

21 Are we prepared to make a motion appropriate

22 to meeting the intentions of that condition?

23 MR. ASHLEY: I just have a question, Mr.

24 Chair.

25 DR. FRANCIS: Okay.

1 MR. ASHLEY: Have there been other precedents
2 where there have been assets placed in here that were
3 outside of homeowners? Because I thought that that
4 funding was for homeowners. Were there commercial
5 assets placed in there?

6 MS. CHISM: Commercial also.

7 MR. ASHLEY: Okay.

8 DR. FRANCIS: And this is the first default
9 in the program, is it not?

10 MR. ASHLEY: No. I mean overall nationally
11 into this program.

12 MS. CHISM: It is commercial and residential.

13 DR. FRANCIS: It's just a different approach.
14 It's a clean approach, but it's the pool issue again.

15 Does anybody want to make a motion on that
16 aspect of the Barber-Scotia issue?

17 DR. BASKERVILLE: Yes, sir. I move that this
18 body make a recommendation that we take the debt of
19 Barber-Scotia out of the pool and put it in TARP and
20 that we then add to the escrow pool the amount
21 necessary to make it whole. We're not certain what

22 it is, but we think it hovers around \$10 million

23 presently.

24 DR. FRANCIS: Whatever is appropriate.

25 DR. BASKERVILLE: Whatever is appropriate.

1 DR. FRANCIS: Okay. And that that be done as
2 soon as possible.

3 DR. BASKERVILLE: Is there a second?

4 DR. McNEALEY: Second.

5 DR. FRANCIS: That it be done as soon as
6 possible because there are many other institutions
7 that are being impacted.

8 DR. BASKERVILLE: President McNealey seconded
9 the motion, Mr. Chairman.

10 DR. FRANCIS: All right. Thank you.

11 Are there any other questions?

12 DR. HAYNES: Yes. I have a question.

13 DR. FRANCIS: All right.

14 DR. HAYNES: In the spirit of the motion, at
15 what point do we have to communicate to Barber-Scotia
16 what we're doing? Because they need to be notified
17 because, I mean, here again, they need to be
18 notified. They need to be notified. It's
19 appropriate to notify them.

20 MR. ASHLEY: This is public record.

21 DR. BASKERVILLE: I can make a call. It's my

22 motion. I'd be happy to make a call inasmuch as it's
23 my motion and just let them know that today at the
24 meeting and having heard from our members, we made
25 this recommendation.

1 DR. HAYNES: Don can do that.

2 DR. BASKERVILLE: Or our director can make
3 the call.

4 DR. FRANCIS: Don't go to the bank yet.

5 DR. STRICKLAND: No. I don't think we want
6 to make that call right now.

7 DR. BASKERVILLE: Okay.

8 DR. HAYNES: That's why I said at what point.

9 DR. BASKERVILLE: So can we let the director
10 provide us some guidance as to when he thinks it's
11 appropriate? Counsel says no.

12 DR. FRANCIS: In the nature of the way we
13 have to do business under this public advisory board,
14 I think we make this recommendation. It's our
15 position and we think it's appropriate. Whether any
16 action is taken, we hope it will be and we certainly
17 want to do whatever we could to get it done, but I
18 don't think anybody should draw from that that this
19 is a fete com pli. It is not. It's a recommendation
20 that we feel we're obligated to make because there
21 are many institutions that are impacted by it and

22 we're concerned about it.

23 MR. WATSON: Just so you all know, I actually

24 don't communicate with Barber-Scotia without an

25 attorney because there's a possibility of legal

1 action. So if we are to inform them, I would have to
2 consult with our counsel. Of course, we have two
3 lawyers on that, outside counsel as well as our
4 general counsel. So I would have to consult with
5 them and they will actually be on the call when I
6 make it. So I don't even go into the conversation
7 about those things. They would do it because, again,
8 I don't know what the consequences are or any legal
9 remedies by me saying this is what we're doing.

10 DR. HUGHES: Mr. Chair, I believe that we
11 should defer this discussion for an executive
12 session. We have a room full of guests here and this
13 seems like an executive discussion.

14 DR. FRANCIS: All right. The chair will take
15 it upon himself to say that we will have an executive
16 session prior to resuming action after lunch.

17 MR. WATSON: Mr. Chair, before we have an
18 executive session, I need to ask someone a question,
19 because it's an open meeting and before we actually
20 close the meeting, there are some parameters, and I
21 just want to check with somebody to make sure we're

22 not violating anything.

23 [Mr. Watson confers with colleagues.]

24 DR. FRANCIS: Let us do it this way: Are we

25 going to break for lunch?

1 MR. ASHLEY: Mr. Chair, the motion is still
2 on the floor.

3 MR. WATSON: Mr. Chair?

4 DR. FRANCIS: But the motion can be deferred
5 until executive session and then be brought up again
6 afterwards.

7 MR. WATSON: I think there may be an issue
8 about us closing the meeting because it's an open
9 meeting and that's how it was published in the
10 Federal Register.

11 DR. FRANCIS: Okay.

12 MR. WATSON: But I think the recommendation
13 may be different from -- I'm not sure why we want to
14 go into executive session, but the recommendation may
15 be different from the notification. So that's up to
16 the board to decide how they want to handle that
17 piece.

18 DR. FRANCIS: Let me do it this way: Again,
19 I certainly understand the challenges. This board is
20 making a recommendation that the government considers
21 the plight of the schools that are in the current

22 agreement and that it is asking that those funds be
23 replaced in the escrow under the stimulus package and
24 under the TARP. We could leave open what happens, if
25 we wish, with respect to, quote, what could be legal

1 matters with respect to Barber-Scotia. I don't want
2 to go into that, but I understand there may be some
3 complexities.

4 If our interest is in part, not in whole, the
5 schools that are having their escrow being affected
6 each day, we could address their issue and ask that
7 those funds come out of a stimulus package to aid
8 their losses and that the position of the board with
9 respect to the defaulting institution be handled
10 judiciously and in ways that it's appropriately being
11 handled where defaults are happening in this country
12 right now.

13 DR. McNEALEY: Mr. Chair, if I may, the
14 motion was not convoluted at all as I understood it.
15 It was to move the Barber-Scotia indebtedness into
16 TARP.

17 DR. FRANCIS: Correct.

18 DR. McNEALEY: And as such allow the escrow
19 for the HBCU Capital Financial Program to be made
20 whole.

21 DR. FRANCIS: That is correct.

22 DR. McNEALEY: And so I don't know if there's
23 any complexity there and I would call the question.

24 DR. FRANCIS: Okay. The question has been
25 called, and the issue, the only issue, is whether or

1 not our action with regard to Barber-Scotia, which is
2 in negotiations with the government, has any legal,
3 quote, legal complications, which we do not know, and
4 we would leave it to the government to decide that.

5 I don't know if you agree with that. Dr. McNealey,
6 what I'm trying to clarify is if there is legal
7 matters regarding Barber-Scotia and the government
8 now, which has been going on for three years, that
9 complicates this, then our motion is -- our
10 recommendation has to put it in a legal context, but
11 we are not backing off on recommending that that,
12 quote, debt be put into TARP and that the monies be
13 made whole in the escrow.

14 DR. HUGHES: Right.

15 DR. FRANCIS: Is it understood?

16 MR. McNEALEY: Yes.

17 DR. HUGHES: That's correct.

18 DR. FRANCIS: Okay. The motion has been
19 called for vote. Are there any questions?

20 If not, then it's going to be on the named
21 motion, the action that has been recommended. All

22 those in favor, please signify by saying aye.

23 MEMBERS IN UNISON: Aye.

24 DR. FRANCIS: Opposed?

25 [No response.]

1 DR. FRANCIS: The motion is carried. I'd ask
2 Mr. Watson to develop the motion in its correctness
3 and in discussion with Ernest as well as Lezli
4 because she was a part of the discussion.

5 MR. WATSON: Yes.

6 DR. FRANCIS: All right. We're moving right
7 along. It's 11:30.

8 DR. STRICKLAND: Mr. Chair.

9 DR. FRANCIS: Was that Dr. Strickland?

10 DR. STRICKLAND: Yes. I want to say this:
11 Obviously, I'm in favor of the motion because I voted
12 for it. I do have a problem, which is just so
13 important when it's brought to us without the
14 background materials that allows us to make informed
15 decisions which also includes possible legal
16 ramifications. You know, I know that this is one of
17 urgency, but I do not feel that I am executing my
18 responsibilities to vote on matters of such
19 importance when I don't have all the background
20 information on it.

21 I just want to caution this Advisory Board

22 that we ought to have with an issue of this nature
23 materials be sent to us so we all could be able to
24 use this and vote on in subsequent meetings. Again,
25 I understand the urgency of this, but I just have

1 some reservations, as all board members ought to have
2 reservations, to vote for items that come up to them
3 at the meeting without any proper preparation and
4 without materials for them to consider the
5 ramifications of it. I just want to say that for the
6 record.

7 DR. FRANCIS: I appreciate it, and let me
8 just say for myself that we have been told about
9 Barber-Scotia for the last three years and we have
10 been told for three years that the money is coming
11 out of the escrow amounts for those schools. I took
12 the steps of the motion as a part of the pooling
13 concept that has always been a concern towards taking
14 a, quote, one-shot action with respect to a problem
15 that is facing one school or several schools and it's
16 just marking time.

17 So to that extent, I feel comfortable that
18 this kind of action be done. I am concerned further,
19 though, in consideration of your comments, that I
20 would like to see a great deal of work done as to how
21 we, quote, get out of pooling. That's how we started

22 this, unfortunately or fortunately, how do we get out
23 of pooling and still protect the government with
24 respect to their having to pick up the pieces once
25 the escrow amount is depleted, but I want for those

1 board members -- I think you know this.

2 I got cleared on it because of my persistence
3 with the pool that the pool has to pay for defaults
4 of any one institution, but when that escrow amount
5 is depleted, the Secretary's budget, as I understand
6 it, or the government's budget then has to pay for
7 the default. Therefore, the government says if
8 that's going to happen, we want a guarantee, and our
9 guarantee is the escrow even though it may not give
10 us -- make us whole.

11 I'd like to find a better way to do that, but
12 the comment is well taken. I think the sense is, as
13 I tried to say in the motion, if there are legal
14 matters that were not known by us in that
15 recommendation, we would then be told that the second
16 part or the first part or any part of it cannot be
17 done when we made the recommendation.

18 MR. WATSON: Mr. Chair, I just want to
19 clarify. My legal issues were having to close the
20 meeting without notifying the public.

21 DR. FRANCIS: I understand that and we

22 decided to avoid that.

23 MR. WATSON: We did, and the second one was I

24 just don't get into conversations with Barber-Scotia

25 even to say hello without having counsel on the

1 phone, because there may in some future be a legal
2 action against the government.

3 DR. FRANCIS: And that's why I make the
4 comment that if any of that is -- that's why we have
5 counsel. The Secretary will be told that that part
6 of the motion with respect to Barber-Scotia is a
7 legal matter and it cannot be taken in the way it was
8 suggested when we made the recommendation.

9 MR. WATSON: Yes.

10 DR. FRANCIS: With respect to information, I
11 think what Dr. Strickland was saying is the more we
12 get, the better we can make the recommendation, but I
13 think it is pretty clear that for the last two years,
14 we've been hearing the status quo and the escrow is
15 being depleted every day. That's the only reason why
16 I think this action is taken.

17 DR. McNEALEY: Mr. Chair, since we're in a
18 period of comment, I think that if this were to
19 happen, and certainly it is only a recommendation, I
20 view it as something that would be helpful to
21 Barber-Scotia. These are unusual times.

22 When this meeting took place last year, there
23 was no TARP, and inasmuch as the government is
24 currently involved in bailing out, if you will,
25 entities that were greedy and profit making and we

1 have Barber-Scotia engaged in a century or more of
2 serving the greater good, it would seem to me that
3 this would be beneficial. Whatever actions are
4 underway with regards to their default, if they were
5 placed under TARP, their clock would start over again
6 and they would be in a better situation.

7 So these are unusual times and certainly we
8 do need information on matters that are within the
9 normal context of the business that we engage in. So
10 I wanted to make it clear that my comments relative
11 to this as an advocate for Barber-Scotia is that if
12 this were to happen, if this recommendation were to
13 be adopted, Barber-Scotia would benefit as well as
14 the institutions that are currently participating in
15 the program.

16 DR. STRICKLAND: Mr. Chair, I agree with that
17 and that was my intent. I think I said I voted for
18 it, but obviously someone knew that this was an item
19 for this committee to discuss. I would have
20 appreciated having had the knowledge prior to this
21 that this was an issue we would possibly discuss.

22 Prior to this, there were extensive materials that
23 had been submitted that allowed us to consider other
24 requests that were made, and I just think this is one
25 also that should have or could have materials prior

1 to the meeting.

2 This recommendation didn't come up today
3 without aforethought. So, again, I would have
4 appreciated having had the opportunity to have wisdom
5 in the recommendation I'm supporting. That's all I'm
6 saying.

7 DR. FRANCIS: That is very appropriate.

8 DR. BASKERVILLE: The point is well taken,
9 President Strickland.

10 DR. HAYNES: The other thing I would want to
11 say, and I understand that it's important to do what
12 just took place with respect to Barber-Scotia, which
13 is not our business per se -- I mean they still have
14 some sort of structure and the like, but it's
15 important, and maybe you did this, Don, they are
16 aware that this meeting is taking place. Are they?

17 MR. WATSON: They're aware that I update the
18 board twice a year on their activity or non-activity.

19 DR. HAYNES: Well, I think it would have been
20 important because they were going to be on the report
21 to the board if you shared with them, By the way, we

22 have a meeting on December 12th, so and so and so and
23 so, and one of our items that the board will be
24 taking will be your status, just for the record
25 because as a former president, you know and Dr.

1 Strickland and all the presidents around the table,
2 when things are done in absentia and you don't know
3 about it, that's not a good thing.

4 DR. FRANCIS: Agreed.

5 DR. HAYNES: And even if it's for a good
6 reason. Do you follow what I'm saying?

7 MR. WATSON: Just for the record, my report
8 only contained your update and what we've done so far
9 in my report. Anything else that transpired from
10 that, I had no knowledge of. So all of this is new
11 to me.

12 I have never brought up the TARP. I never
13 brought up anything else, but I want individuals to
14 understand that that's how the board meeting
15 transpired. What I have and what Barber-Scotia knows
16 is exactly what you know that's in this report. So
17 everything you're saying was new to me. This was new
18 to everyone else, and so I think it's important that
19 we all understand that; but again, it's the
20 prerogative of the board to -- the board made that
21 decision and that's how we got here.

22 So I just think it's important to make that

23 distinction.

24 DR. HUGHES: It's also very important that

25 they are aware that we do not have the authority to

1 make the decision; therefore, we could only make the
2 recommendations.

3 MR. WATSON: Right.

4 DR. FRANCIS: And I think all of these are
5 appropriate, but remember under the one o'clock
6 session, it says how those needs can be met through
7 the program and what additional steps we could take
8 to improve the operation and implementation. These
9 are broad going forward and it just happens that in
10 Barber-Scotia's case, it has implications for going
11 forward.

12 I think, again, I'll call this board's
13 attention to going forward is the pooling and
14 somewhere, I think, Don, we have listed that as a
15 concern.

16 MR. WATSON: Mr. Chair, and just so -- I'm
17 not sure if the board is finished with making the
18 recommendation, but just so you know, the Federal
19 Financing Bank fee, the changing of the escrow, and
20 reducing interest rates are things that the board has
21 discussed before and those are the things that I'm

22 already working on for the report.

23 DR. FRANCIS: Right.

24 MR. WATSON: The other information that I'm

25 looking for is information on the 10 HBCUs and which

1 will come down later into the one o'clock session as
2 what kind of information we need and how you want to
3 present that information, those sorts of things.
4 Again, it is the board's report and not Don Watson's
5 report. So it's important I get feedback on how you
6 want me to start developing the report.

7 DR. FRANCIS: Even if it's as creative as can
8 be.

9 MR. WATSON: Yes, sir.

10 DR. FRANCIS: I use good words.

11 Okay. Yes. We understand that, Don, and I
12 guess each of us sees a fiduciary responsibility by
13 being on an advisory board and knowing that what we
14 give is certainly advisory and it's taken or not
15 taken, but we would not be fulfilling our
16 responsibility if we didn't offer something that is a
17 problem and we offer what might be a solution.

18 That's all.

19 MR. WATSON: Yes.

20 DR. FRANCIS: All right. Where are we, Don,
21 on the time business?

22 MR. WATSON: Actually, Mr. Chair --

23 DR. FRANCIS: We have already finished our

24 appetizers, haven't we?

25 MR. WATSON: Actually, we've been discussing

1 going back and forth between the 11 a.m. conversation
2 and the 1 p.m. conversation.

3 MR. WATSON: Right. We put them both
4 together because they look alike.

5 DR. FRANCIS: Yes, sir.

6 DR. FRANCIS: So are you telling me that --
7 is it time to break for lunch?

8 MR. WATSON: Well, before we break, I do want
9 a point of clarification. The last two
10 recommendations, if I'm correct, I don't think the
11 board wants to wait until they submit their report,
12 official report, to Congress and the Secretary; they
13 want those done now.

14 DR. FRANCIS: Yes.

15 MR. WATSON: Right. I just wanted to make
16 sure I understand that.

17 DR. FRANCIS: Is there any objection to that?
18 I think time is of the essence on this.

19 MR. WATSON: For the last two
20 recommendations.

21 DR. FRANCIS: Yes.

22 MR. WATSON: Yes, sir.

23 DR. FRANCIS: Because each of those has a

24 stimulus package implication.

25 DR. BASKERVILLE: That's correct.

1 DR. FRANCIS: And that's coming as a fast
2 track.

3 DR. HUGHES: Mr. Chair, I wanted to just
4 raise an issue.

5 DR. FRANCIS: And it's on which one now?

6 DR. HUGHES: It's about the pooling.

7 DR. FRANCIS: Okay. Back on pooling, all
8 right.

9 DR. HUGHES: And the future, because if, for
10 some disadvantage of some institution which would be
11 probably in this economy, we find ourselves in the
12 same position, we'll be back at the same place.
13 Right?

14 DR. FRANCIS: Right.

15 DR. HUGHES: So if, in fact, the legislation
16 is the problem, I think there should be examination
17 or some consideration of the problem of the
18 legislation itself.

19 MR. WATSON: Right. You're absolutely
20 correct, Dr. Hughes, and that's what the board report
21 to Congress and the Secretary would be, on

22 legislative and administrative actions, including
23 ways of changing the escrow, whether the board would
24 like to delete the FFB fee, decrease interest rates,
25 and the statute specifically says lowering interest

1 rates for a particular group of schools, and so we'll
2 look at those kinds of things.

3 Those are the things I'm working on now, but
4 the other impact is to put some actuality around it,
5 that Congress asked for some information for at least
6 10 HBCUs to follow certain criteria and in doing
7 that, trying to develop the board around that and
8 that's why it's important that we get information
9 from those schools.

10 DR. HUGHES: If, in fact, that would give you
11 the kind of impetus that you need to move forward and
12 we have already erased one of part of it, we think or
13 we hope, we might as well indicate that as
14 problematic for the future and some re-thinking and
15 restructuring will be necessary.

16 MR. WATSON: The board report will actually
17 have some recommendations to Congress for how to do
18 that. That's at least if you all accept what I'm
19 writing up.

20 DR. FRANCIS: Don, and following up,
21 Dr. Hughes, your report is going to be all inclusive

22 in a sense. I would hope that you will and I'm sure
23 you will, that when you make that report that will be
24 our report, that you will have counsel to say what
25 are the pros and the cons regarding what it is that

1 we might be recommending, that we would know -- that
2 we would have the full picture of what it is that we
3 feel would be best for the program, what the current
4 legal matters are that may be adverse to what we
5 think going forward so that we will know -- because
6 we want to be rational and appropriate, we will know
7 what we're changing, why we're changing it, and how
8 it would be practical given the circumstances we're
9 dealing with.

10 You will have counsel looking at what is the
11 current regulation or what the current legislation
12 is, why it's there so that if we make a
13 recommendation to change it, we'll know why it is
14 likely to be or not to be.

15 MR. WATSON: Yes, but I would also say that
16 you may lose the creativity, because as Mr.
17 Culbertson discussed earlier, the escrow and the FFB
18 helps increase the subsidy cost for the program.

19 DR. FRANCIS: I understand. Those are the
20 kinds of things we want to know. We are in the role
21 in this program of advising institutions. We can't

22 be willy-nilly about it, but we do know that there
23 are things that could be considered and that's where
24 we want to make our advice so everyone will know how
25 this thing works.

1 MR. WATSON: All right.

2 DR. HUGHES: But we do give the muscle of the
3 board to you without a formal motion to carry our
4 wishes forward.

5 DR. FRANCIS: Congress has sort of said to us
6 to do this and then with the help of staff and
7 attorneys and everybody else would help in
8 responding, but we have to sign off on it.

9 All right. I'm taking it we've passed lunch.
10 We're at 1 p.m. now.

11 MR. WATSON: No. We're just at 12.

12 DR. STRICKLAND: Let's continue.

13 DR. FRANCIS: My recommendation is that we
14 continue, and if by chance, the board -- the chair
15 has no problem if we continue, and if we finish
16 whatever we have drained out of the board and the
17 public comments, so be it.

18 [Noise interruption.]

19 MR. WATSON: We may have to go to lunch.

20 [Pause.]

21 DR. FRANCIS: Okay. Let's continue, and I

22 apologize to the board because I will be leaving
23 probably right about the time of public comments
24 unless we've finished.
25 DR. BASKERVILLE: My Chairman, I think the

1 will of the board is that we move right ahead and
2 finish.

3 DR. FRANCIS: Well, I'm with the will of the
4 board because my private plane is going to be leaving
5 and I don't want you to delay that.

6 DR. HUGHES: You know, I heard that you owned
7 one, Norman.

8 DR. FRANCIS: I have one. It's called U.S.
9 Air, Delta.

10 DR. BASKERVILLE: Southwest.

11 MR. WATSON: All right. The next portion, I
12 really --

13 DR. FRANCIS: It's your portion, Don.

14 MR. WATSON: We talked about it, but I think
15 it's the collection of the information and I need a
16 little more detail from the board as to how I should
17 move with developing the board's report.

18 In the HEOA, the Congress actually asked the
19 board to advise them and the Secretary on at least 10
20 HBCUs that have looked -- that have sought financing
21 through the program and not received it or that have

22 received financing from the program and wants
23 financing again. It wants us to look at the
24 financial entities and conditions of those
25 institutions and discuss their financial status.

1 In order for the Department of Education to
2 collect data, we have to go through -- because the
3 Congress said at least 10, we have to go through an
4 OMB process which may take 120 days. Now, if for
5 some reason, you have that information and you can
6 share it, that would be great; otherwise, I would
7 have to go through an OMB process to collect some
8 data for schools that I don't already have data for.

9 DR. BASKERVILLE: You need the financial data
10 and what other thing?

11 MR. WATSON: The fiscal and financial
12 conditions for at least 10 HBCUs.

13 MR. ASHLEY: Do we have a list of these 10 or
14 is it random?

15 MR. WATSON: The Congress didn't specifically
16 say which ones, but I believe the language actually
17 came from some other things, and the marketable
18 securities were like under 15 million, that sort or
19 thing.

20 MR. ASHLEY: For those that are dire.

21 MR. WATSON: Not dire.

22 DR. BASKERVILLE: So you're saying if members
23 of the committee have the information, you don't have
24 to go through the OMB process?

25 MR. WATSON: No, ma'am, because your

1 association has it in and of itself.

2 DR. BASKERVILLE: Well, we have the data and
3 we can make it available to the Department and bypass
4 the OMB process.

5 MR. WATSON: Great. Send it to me and I can
6 work on the report from that standpoint.

7 DR. BASKERVILLE: We'll send it to you
8 promptly.

9 MR. WATSON: Yes, ma'am. Thank you.

10 So that piece is getting the financial data,
11 but there's also -- other than looking at reducing
12 FFB fees, the escrow, and changing the pooling of the
13 escrow and reducing interest rates, is there anything
14 else the board wishes to do on this report?

15 DR. FRANCIS: Would you, Don, give an example
16 of things that you've noticed that schools -- you
17 know, you're going to get the information, but what
18 have you seen and heard? What have you learned that
19 schools are telling you about their circumstances and
20 what information is keeping them from participating
21 and what they are asking you about in their

22 situations? Do any of them come to mind that would
23 be helpful to us as we consider this?

24 MR. WATSON: There are actually several
25 schools who have inquired about short-term financing.

1 Most of the things that was actually in the
2 amendments to the proposed legislation were things
3 that the schools actually were looking for,
4 short-term financing, whether they can borrow through
5 a foundation, things of that nature.

6 DR. FRANCIS: Certainly that's where you
7 would defer on the different circumstances?

8 MR. WATSON: Well, I mean, there could be a
9 circumstance of which the debt service isn't due, but
10 we sort of have a mechanism now that we can sort of
11 work through to make that happen where the debt
12 service payment isn't due, but the deferment would be
13 someone else's payment, the government is paying the
14 interest and you're not -- there's forbearance; you
15 don't have to make a payment, but you make it on the
16 back end.

17 DR. FRANCIS: What about small capital loans,
18 that they not be as involved in the major issues?

19 MR. WATSON: Those are short-term capital
20 loans. We've heard schools inquire about short-term
21 capital loans, the rates that they're getting, those

22 sort of things. Some of them are bridge loans for
23 operations, things of that nature. It's up to the
24 board whether they want to include that in their
25 report along with operations.

1 DR. FRANCIS: These are not covered under the
2 current legislation; is that what I'm hearing? The
3 capital would allow for operational money? I guess
4 they're accommodations of capital plus the
5 population. I'm not being clear. At the moment, my
6 understanding, these are capital improvements.

7 MR. WATSON: I'm sorry. Mr. Chairman, can
8 you repeat that?

9 DR. FRANCIS: At the moment, my understanding
10 of the program is we want capital improvements or
11 capital improvements which would exclude, quote,
12 operations.

13 MR. WATSON: Exactly.

14 DR. FRANCIS: That is a combination of the
15 capital and whatever obligations, but not the ongoing
16 operations day to day. Is that a fair statement?

17 MR. WATSON: Yes.

18 DR. FRANCIS: The capital program bond issue
19 which might, in fact, assist operations, that would
20 be a new creative approach to the program or be an
21 administrative change, I would assume. Most of the

22 -- I shouldn't say most. Many of the institutions
23 that are in need -- of course, there are other
24 federal assistance programs that help with operations
25 other than the HBCU Capital Financing Program, and so

1 I guess what I was raising was with most
2 institutions, you get both the need for capital for
3 maintenance or building, but they're also talking
4 about operations and short-term assistance, which
5 would be separate to capital.

6 MR. WATSON: Yes. They're looking for
7 something that's different than what we already have,
8 so another program whether it's another loan program
9 or grant program, but something very different from
10 what we have today to help with short-term financing,
11 but at rates like you would get through the current
12 program.

13 Is that something the board would be
14 interested in having, exploring a short-term
15 financing program not through this program, but sort
16 of creating another program that would do it?

17 MR. ASHLEY: It's interesting.

18 DR. McNEALEY: There's also been a discussion
19 about short-term term capital-related projects.

20 DR. FRANCIS: Right.

21 DR. McNEALEY: Under this program. In other

22 words, let's say you have a 80,000-square foot
23 building and a climate control system and it goes
24 belly up and it was constructed at the time that
25 asbestos was used. That has to be addressed and you

1 have a million dollar obligation to get that building
2 back up. Certainly, that's a capital matter and
3 whether or not that kind of thing might be included
4 under this program is certainly something I have had
5 discussions with other presidents regarding.

6 DR. FRANCIS: Which would fall under
7 short-term capital, a short-term capital loan
8 program.

9 DR. McNEALEY: Yes.

10 DR. FRANCIS: Which might be very possible.

11 MR. WATSON: Yes.

12 DR. FRANCIS: That would be the sort of thing
13 that in your report, Don, we want to check with, you
14 know, Treasury, counsel, and the rest and ask whether
15 it can fit under the program, but what I'm hearing is
16 we're looking at a short-term capital program.

17 MR. WATSON: Okay.

18 DR. FRANCIS: What other things?

19 MR. WATSON: Now, short term is generally a
20 year or less. So what would the repayment period be?

21 DR. FRANCIS: Five years. It could be.

22 MR. WATSON: Now, there's also probably
23 certain things -- are there dollar amounts and things
24 like that? What do you envision this actually
25 becoming?

1 DR. FRANCIS: Short-term capital.

2 [Pause.]

3 DR. FRANCIS: Don?

4 MR. WATSON: Yes, Mr. Chairman. Dr. Francis?

5 [Pause.]

6 MR. WATSON: Dr. Francis?

7 DR. STRICKLAND: I think he had to take a

8 phone call.

9 [Pause.]

10 DR. FRANCIS: Don?

11 MR. WATSON: Yes. I'm here.

12 DR. FRANCIS: I sort of lost everybody. My

13 ride to the airport is a half an hour early. So I'm

14 going to open the front door so he can get my bags

15 and all.

16 So do you want to continue the discussion? I

17 lost track for a minute. We got cut off for a while.

18 MR. WATSON: I think someone else has some

19 recommendations they want to make.

20 DR. FRANCIS: Okay.

21 DR. BASKERVILLE: I was just wondering, Mr.

22 Chairman, if we might make a recommendation for a
23 parallel grant program. Given the role that we know
24 our institutions play in stimulating the economy and
25 creating a diverse workforce, it seems to me that now

1 is a good time to propose a parallel grant program
2 along the lines of the one that the United States did
3 when they made a decision to make Johns Hopkins a
4 great institution and to invest in the University of
5 Michigan, the University of Virginia, and others.

6 So it seems to me that given the current
7 economic situation and the value that our
8 institutions add to stimulating the economy and
9 preparing a diverse workforce, we need to propose a
10 parallel grant program.

11 DR. FRANCIS: Okay. Let me just say this
12 quickly, and this would be true of all the other
13 information: We would want to put on the table to
14 have this be a part of Don's report that then the
15 whole board would see it so we could sign off on it.
16 Is that understood?

17 DR. BASKERVILLE: Yes, sir.

18 DR. FRANCIS: Don, I'm sure is writing, but
19 if he isn't, I would make sure that he gets a
20 paragraph or so as he writes his report. I'm going
21 to take five minutes to open the door so I can get my

22 ride.

23 MR. ASHLEY: What's kind of research does the
24 operations do to inform the board, your office? Are
25 there any other programs that are being done that you

1 might bring forth to us?

2 MR. WATSON: As far as building?

3 Construction? Financing? This program is limited to

4 what it is, financing. So this is the first time

5 this report is being done. So it's the first time

6 we're actually looking at this kind of thing, but I

7 am the office. I am the only person.

8 DR. HUGHES: He doesn't have to worry about a

9 boss.

10 MR. ASHLEY: Would that be a part of our

11 recommendation?

12 MR. WATSON: What?

13 MR. ASHLEY: Additional support for your

14 office.

15 MR. WATSON: You can recommend whatever you'd

16 like.

17 MS. CHISM: Given these economic times and

18 the need for these programs, having the ability to

19 have people who can help think through some different

20 ideas, we need to move quickly. I think President

21 Strickland was a little miffed at the recommendation

22 about Barber-Scotia, but that was because we're in
23 the business every day. We are with Treasury. We're
24 trying to figure out what's going on for our members
25 in North Carolina.

1 So the fact that we're coming up with these
2 things is because we're the experts at it. So we're
3 trying to -- when you ask the question, we would be
4 remiss if we didn't bring them back to you and say,
5 Hey, here is how -- this is what we do.

6 You take the lead as the only capital
7 financing program for HBCUs. How can you not be at
8 the forefront of driving change and vehicles for your
9 institutions, for the 99 who are eligible? And they
10 may not take all the forms of this program, but I
11 think what you're doing now in putting different
12 ideas on the table is because each one of those 99
13 have different needs. They can be loans or some can
14 be grants or whatever, but the point is this is what
15 your leadership -- this is what we need and you're
16 our voice.

17 DR. STRICKLAND: Since you called my name, I
18 didn't hear all you said, but there was an allusion
19 to President Strickland.

20 MS. CHISM: President Strickland, I just
21 wanted to say -- because you were like can we have

22 information on that recommendation because obviously
23 people knew about it. I just wanted to say the
24 people that knew about it is because I am a
25 representative for an institution that has a loan and

1 I can't use my escrow because I've been paying
2 Barber-Scotia's, and it's my responsibility as a
3 disinterested third party to come up with solutions
4 to help my client, and when I come up with those, I
5 need to share them with the body that has the ability
6 to do something about it.

7 So it wasn't that there was some clandestine
8 thing. I just want to put that on the table for
9 clarification, because if I heard you wrong, I'm
10 sorry, but I just wanted you to know that it's
11 because we are trying to figure out ways to help our
12 clients in North Carolina and, obviously, Bennett
13 College get loans.

14 DR. STRICKLAND: No, no, no. I understand
15 that. There was no question.

16 MS. CHISM: Okay. I just wanted to make
17 sure.

18 DR. STRICKLAND: Yeah. I know you from your
19 previous work with Bennett. That was not the issue.

20 MS. CHISM: Okay. I just wanted to make
21 sure.

22 DR. HUGHES: Also, I have to say to you I

23 think your points got through today.

24 MS. CHISM: Okay.

25 DR. HUGHES: You were heard.

1 DR. STRICKLAND: Yes, and the issue was that
2 this was discussed prior to now and it would have
3 been helpful to have, as you did last time, enough
4 information about it so we were able to discuss it
5 with informed minds as opposed making a decision
6 without being privy to your conversation, and that
7 was my only concern.

8 AUDIENCE PARTICIPANT: I do have a comment.

9 MR. WATSON: I don't want the meeting to get
10 out of hand. So I want the board to make a motion to
11 move that we do so; otherwise, meetings sort of get
12 out of hand.

13 DR. BASKERVILLE: Director Watson, I was
14 going to make a motion at this time that we go to
15 public comment unless a member of the board has an
16 objection.

17 DR. McNEALEY: I'll second it.

18 DR. HAYNES: Before we go on, Don, there was
19 some reference about the size of your office.

20 MR. WATSON: Yes.

21 DR. HAYNES: And that is an important --

22 DR. STRICKLAND: I can't hear you. Talk

23 louder, please.

24 DR. HAYNES: I said there was some reference

25 made to the size of Don's office. He is an office of

1 one, and the relationships he has inside of OPE where
2 he's physically located is something that needs to be
3 examined in terms of how you get better support
4 particularly from the policy end of things and how
5 he's able to carry out some of the things that this
6 board wants to have happen. I work with Don and I
7 know that Don -- see, we have a different kind of
8 structure where I am, but he does need access to
9 resources and to technical assistance on a timely and
10 regular basis, because, I mean, I've watched him and
11 it's very difficult to do all the things he's able to
12 do. I'm just marvelling at his travel schedule and
13 the like.

14 He is responsive to all of my requests in a
15 timely fashion, but this board, I think ought to be
16 on the record looking at this issue, because the
17 magnitude and the size of the program is such that
18 one person, it just cannot be just one person that
19 just bears this.

20 DR. HUGHES: As we prepare to conclude the
21 formal board meeting, I would like to ask all of my

22 colleagues to go on record commending you for having
23 done a superb job of preparing materials and guiding
24 us through all of the delicate issues of trying to
25 make the right decisions for the board.

1 So if an official motion is needed for that,
2 I'd like to offer that as a motion and hope to get a
3 second.

4 DR. HAYNES: Second.

5 MR. WATSON: Well, the chairman stepped away
6 for one second. So we have to wait for the chairman
7 to come back. He didn't designate anyone to be
8 chair.

9 [Pause.]

10 DR. FRANCIS: I'm back. I can make it myself
11 if we end in another 45 minutes.

12 MR. WATSON: Okay.

13 DR. FRANCIS: Where are we now, Don?

14 MR. WATSON: Well, there's a couple of
15 motions that are about to go on the floor.

16 Dr. Hughes has one and then Dr. Baskerville has
17 another.

18 DR. FRANCIS: Okay. Who's first?

19 MR. WATSON: Dr. Hughes.

20 DR. HUGHES: I simply wanted to indicate in
21 light of the fact that we know that Don does not have

22 a staff, he considers himself and is an office of
23 one, that we should go on board -- on record as a
24 board who gives him our unanimous support and
25 gratitude for all of the preparation he has done to

1 bring us to this point and to keep us so current
2 regarding all of the activities.

3 So I'm making a motion for a unanimous
4 appreciation for all that Don has done so well.

5 DR. FRANCIS: I'll take it that it's going to
6 be a unanimous second and I'll call the vote. All
7 those in favor, please signify by saying aye.

8 MEMBERS IN UNISON: Aye.

9 DR. FRANCIS: Okay. Lezli.

10 DR. BASKERVILLE: Yes, sir. Well, if I
11 might, my motion was that we go to public comment,
12 but before that, in light of the note of
13 appreciation, it seems to me that if it's
14 appropriate, this body might recommend to the
15 Secretary that she share with the Agency Review Team
16 the need for a staff for this operation reflective of
17 the importance of the program and the size of the
18 budget so that some affirmative steps are taken to
19 enhance the team so that Mr. Watson has, in fact, a
20 team.

21 DR. McNEALEY: Second.

22 DR. FRANCIS: All right. I thought we'd get
23 to that. Any comment on it?
24 I know that -- I don't know how people weigh
25 in on budgets and the like, but I'll just make the

1 comment that I don't know how Don will be able to do
2 what we want done and what needs to be done and how
3 we're going to grow this program by being a one-armed
4 paper hanger.

5 DR. HUGHES: How about strongly recommend?

6 DR. BASKERVILLE: Strongly recommend.

7 I'll call the question.

8 DR. FRANCIS: Those in favor, signify by
9 saying aye.

10 MEMBERS IN UNISON: Aye.

11 DR. FRANCIS: Opposed?

12 [No response.]

13 DR. FRANCIS: The motion is carried. It's
14 due. It's past due.

15 MR. ASHLEY: Mr. Chairman, I move that we go
16 to public comment.

17 DR. FRANCIS: Okay. We'll go to public
18 comment.

19 PUBLIC COMMENTS

20 DR. FRANCIS: Now, you know, I've chaired
21 some of these before. The last one I chaired -- Don,

22 you help me. We have how long? At least -- well, I
23 don't know where we are with this agenda now, but the
24 rules are that there's five minutes per person for
25 public comment.

1 MR. WATSON: We may have to see how many
2 people we have in the room first who want to make a
3 public comment and then we can divide it up.

4 DR. FRANCIS: Okay. The reason I'm saying it
5 is we used to give little slips up to the chair about
6 who was going to comment.

7 MR. WATSON: I'll ask the public to raise
8 your hand if you want to make a public comment.

9 Do we have anyone from that side of the room
10 or the back of the room?

11 Mr. Chairman, we have seven people, eight
12 minutes apiece.

13 DR. FRANCIS: Four minutes apiece.

14 MR. WATSON: Four minutes apiece. All right.

15 DR. FRANCIS: Four minutes, and I will start
16 wherever you point to, Don, and I'll keep time.

17 MR. WATSON: You'll keep time? Great.

18 DR. FRANCIS: Well, you do it too, keep time.

19 MR. WATSON: We're going to ask when I call
20 your name for you to come up so we can hear you.
21 We'll ask for your name, who you're affiliated with,

22 and that kind of thing so we'll have it for the

23 record.

24 I'll call Anita Estelle.

25 MS. ESTELLE: Mr. Chairman and other members

1 of the Advisory Board and members of the public, I'm
2 Anita Estelle. I'm here in a combination of roles,
3 with UNCF, as a disinterested third party, and also
4 having worked with Bennett College for Women.

5 I have more questions than comments that I
6 would like for the Advisory Board to consider as a
7 part of its deliberations. The first comment,
8 though, in terms of making a recommendation to the
9 transition team related to the stimulus, I would also
10 recommend that you share those recommendations with
11 Congress, which is moving on a parallel track related
12 to the stimulus, because they're very much involved
13 in drafting much of the legislation you've discussed
14 today. So I would also recommend that that
15 information be shared with Mr. Clyburn and the
16 leadership in the appropriate appropriations and
17 authorizing committees.

18 In terms of the subsidy, I have a question.
19 If we should succeed in getting the subsidy taken
20 care of as a part of the stimulus, the question is
21 would the current DBA be able to issue new loans

22 pending selection of the new DBA. That's one
23 question that I think would be helpful since some of
24 our schools seem to be stuck in the pipeline.
25 Then I have one question for the Department

1 of Treasury officials who are here concerning the
2 bailout and the \$700 billion that's been funded. I'm
3 interested in knowing what the cost subsidy is
4 associated with that bailout or whether or not it's
5 off line as emergency spending because there's been a
6 lot of discussion about cost subsidy associated with
7 this program, but then we hear that T-Bills are going
8 at a negative interest rate. So I would like to have
9 some kind of comparison going forward.

10 MR. CULBERTSON: Well, if you read the bill
11 itself, the bill actually is very specific and has
12 very strongly-worded language that cost estimates be
13 made and that they be made using the same methodology
14 as under credit reform, which is also the same
15 methodology applied to this program. So they don't
16 know at this point what those estimates will turn out
17 to be because they are running as fast as they can
18 and they're still falling behind. They are required
19 to make that estimate, that calculation, and also, of
20 course, report actual costs as they occur.

21 A second item which is slightly different

22 that you didn't ask a question about, but is related
23 to the idea that TARP could somehow assist in the
24 Barber-Scotia situation, is the legislation also
25 specifically states in strong language that the use

1 of funds under it be made with the view that they be
2 paid back. Now, they understand that there's a
3 probability that not all of them will, in fact, be
4 paid back and that's why we have the language about
5 cost estimates should be made and actual costs
6 incurred should be disclosed.

7 MS. ESTELLE: I didn't raise that question
8 and I only have a limited amount of time, but thank
9 you for that clarification.

10 So I would suggest that since the government
11 has deemed it prudent to have a retroactive review of
12 costs in this instance, then maybe we can consider
13 comparable language for our effort and I would
14 estimate that the cost, any cost, associated with
15 this program, which probably would be very few, will
16 be a fraction of what we used already, and we're only
17 making these suggestions because last year when we
18 considered these revisions to the HEA as a community
19 of stakeholders, we knew that HBCUs would be
20 disproportionately and negatively impacted by
21 emerging economic trends. We didn't know to what

22 extent. Now we're much more aware of the gravity
23 associated and we know that when the nation sneezes,
24 we know it.
25 So anything we can do to make a strong

1 justification for a program that's comparable to this
2 other program would be appreciated. With that, the
3 recommendation to have a parallel track grant program
4 is equally endorsed. The United Nigro College Fund,
5 in fact, led efforts to create a demonstration
6 program for certain low endowed schools and shared
7 those comments with the Hill and we'd be happy to
8 share them with this advisory board.

9 The last comment that I have is I want to
10 acknowledge Leonard Haynes for his role over the
11 years. I don't know where he's going to go or if
12 he's going to stay.

13 The final question is we'd like to submit
14 written comments and I'd like to know the deadline
15 for those comments to be included as a part of the
16 official deliberations.

17 MR. WATSON: The comment period to submit
18 written comments was last Friday. You can always
19 submit things to me or to the board, because it is an
20 operating board and continually functions. So it
21 won't be effective for this meeting, but the board

22 will know whatever you have to submit.

23 MS. ESTELLE: And the question about if we
24 get the subsidy, would the current DBA be able to
25 issue loans is the only question that I need to have

1 addressed.

2 MR. WATSON: With that question, we actually
3 talked with the Congress about that and they didn't
4 have any idea when to address it until the subsidy
5 issue was addressed. Once that's addressed, I can
6 actually go back to the department, our counsel, and
7 we can discuss that internally at the department and
8 see how we can handle.

9 MS. ESTELLE: The last point is if for some
10 reason a stimulus approach does not work, we would
11 also recommend that the advisory board and others
12 pursue having language included in an omnibus
13 appropriations bill should Congress decide to bring
14 closure to the FY-'09 process prior to the March 6th
15 continuing resolution deadline.

16 MR. WATSON: Next, Ms. Harris.

17 MS. HARRIS: Thank you. My name is Andrea
18 Harris and I'm with the North Carolina Institute of
19 Minority Economic Development. We're a statewide
20 non-profit. We were created by HBCUs and the
21 legislators in the North Carolina General Assembly as

22 well as minority businesses in our state to purely
23 focus on growing the asset base and limited resources
24 particularly in our communities. We've always had a
25 close relationship with HBCUs and they've always had

1 representation on our board. We have worked
2 consistently over quite a while, the last 20 years,
3 to assure that we could support and assist the HBCU
4 community.

5 I think Ms. Chism made a comment earlier on
6 and I'll make reference again to a point she made and
7 that is I really think it is important that at some
8 point, we make the business case around the value of
9 HBCUs to this nation and the impact that HBCUs not
10 only had years ago, but have on our communities
11 today, and I know that the Institute of Educational
12 Science uses the same research person that we use in
13 our organization to do our data around buying power
14 and economic impact and we do it for every county in
15 our state along the lines of race and ethnicity for
16 all after-tax consumer spending every two or three
17 years.

18 So when you look at the data that the
19 University of Georgia at Athens did, you note that,
20 you know, as of December 2008 for your report, that
21 these 99, as she said, Title 6 HBCUs had a \$10

22 billion economic impact in their respective
23 communities and created over a 180,000 jobs, and I'd
24 ask anybody how much would this country pay right now
25 for somebody that can produce that many jobs and make

1 that level of economic impact. There is a business
2 case to be made.

3 If you were to take the HBCUs as a business
4 sector and put them on the Forbes 500 list, they'd
5 rank 232. So do you want them or not? I don't want
6 to have separate standards for HBCUs as opposed to
7 what we have for other businesses, and when we have
8 some financial anemia, then I think that we should be
9 more important, that we focus on those who have the
10 least of wealth and have been able to do the most
11 just as we focus on those that had the most and
12 perhaps didn't do their best.

13 So I would encourage that we look at somehow
14 making that business case, and for North Carolina, we
15 represent the largest block of four-year HBCUs and
16 these five public and five private HBCUs not counting
17 Barber-Scotia generate over \$1 billion in economic
18 impact in our state and produce almost 20,000 jobs,
19 and that data is a little dated. So you know you can
20 add another 10 percent to that.

21 We would like to offer to voluntarily prepare

22 the business case for you and submit it to you each,
23 Don and to all the Advisory Committee members, and we
24 don't care how you revise it or tear it up, change
25 it, whatever, but we do think that in the next two to

1 three weeks, we can give you that business case and
2 you can take the impact and whatever else and we hope
3 that you would use it as quickly as possible. If you
4 say that we need to do it in a week or two, we'll get
5 it done in a week so that you can share it with those
6 who are engaged right now in transition and looking
7 at the stimulus package.

8 We know that there is a lot going in that
9 stimulus package and there's a lot also going into
10 our state stimulus packages. So whether people are
11 looking at what's in your state stimulus packages or
12 not, I would encourage that the Advisory Board also
13 make some suggestions in that for all the HBCUS so
14 they pay attention to what's happening at a state
15 level.

16 We are a disinterested third party, and I
17 want to say Bridget Chism is a consultant to the
18 North Carolina Institute for Economic Development
19 and, in turn, I am Bennett alum. So that's where my
20 first priority is, is Bennett College, but we're
21 making our services available to every HBCU in the

22 State of North Carolina with the private institutions
23 first. Now, people would think some public
24 institutions don't have challenges, but for those who
25 may have foundations, etc., and done private

1 financing, they too may have some challenges as well.

2 So we do believe that there is value, and I

3 say this particularly for the trade associations.

4 There is value in having disinterested third parties,

5 because those who make a profit from HBCUs, those who

6 are looking for a fee sometimes don't always give you

7 the benefit of having your best interest fully at

8 heart and give you the best work that they could

9 possibly be providing. So I'd like to suggest that

10 you do that.

11 I'd also like to make a recommendation. I'd

12 like to thank, one, Chairman Francis and Mr. Watson

13 for participating as did Anita Estelle in the

14 symposium that we had back in October on simply

15 securing the financial future of historically black

16 colleges and universities in their communities. So

17 as you work as an Advisory Board, I would hope that

18 you look at the HBCU Capital Finance Program, but as

19 you look at that, you also look at the impact on the

20 neighborhoods and the opportunities in these

21 neighborhoods as well.

22 I'd like to ask that you consider revising
23 your agenda. I think that competitive intelligence
24 is what gets you ahead. So where you know there are
25 challenges or needs or interests, if you could

1 consider revising your agenda to allow for public
2 input as you go along and have your deliberations so
3 that if there's somebody here who has some expertise
4 or knowledge in an area, you would have the benefit
5 of that before you make your final decision or allow
6 a public comment period on the front end.

7 I know I've got 30 seconds, but you know that
8 probably won't work. I'd like to ask that you please
9 do that, because there are a lot of us who are very,
10 very concerned about what's happening with HBCUs who
11 have worked on this who, as you know, a year ago
12 brought some things to your attention and had some
13 honest dialogue, and I do think that there is a lot
14 of expertise around and across our communities that
15 if you allow us to work collaboratively with you,
16 perhaps we can really make some difference.

17 I just want to again close by asking you to
18 please, please, please allow us to make a business
19 case, take advantage of disinterested third parties
20 and the recommendations that they may have for really
21 taking opportunities to look at the stimulus package

22 very, very seriously. I think sometimes we are our
23 own worst enemies, and because this is what is, we
24 keep functioning within what is. I would hope that
25 we not care -- we care about what is, but we also

1 look at what is really possible and what we need and
2 we shape our programs around that.

3 The Charter School Loan Program is an
4 excellent program. The most costly form of financing
5 is a bond. So we take the schools that have the
6 least, put a bond on them, and expect them to be as
7 responsible to knowing what we know about their
8 circumstances on the front end. I think it is cruel
9 and unusual punishment and I think we should take
10 this opportunity to remedy that.

11 I thank you for the opportunity to make
12 comments.

13 DR. FRANCIS: Thank you very much,
14 Ms. Harris. That's one of the reasons we need to get
15 a little bit more help for Don, to get out and get
16 the benefit of what is out there in the community. I
17 appreciate it.

18 Who is next?

19 MR. WATSON: Bridget Chism.

20 MS. CHISM: Chairman Francis, I'm Bridget
21 Chism, and I'm making these comments on behalf of

22 President Malvo.

23 First, I want to publicly acknowledge Don

24 Watson and the current DBAs, Sam and Derrick, for

25 their work with Bennett as a client in looking at our

1 business case and working with us to make
2 modifications to our existing loan program, and so
3 that has proved to be a very strong partnership and I
4 wanted to express our gratitude for just kind of
5 ratcheting up our level of conversation and
6 effectiveness. So we are strong proponents of not
7 just getting along, but also having a partner to
8 manage the flow, if you will, and manage that in a
9 business context.

10 And second of all, we would like to just say
11 that we want us to start speaking from a position of
12 strength, not in a position of thank you so much for
13 doing these little things for us, and given what we
14 have seen, our economic impact, the fact that if you
15 look at all HBCUs combined, they don't get as much
16 money as the University of Pennsylvania, my alma
17 mater, by itself. This was not some random comment.
18 This was from the GAO's office.

19 So when we are talking about, you know, what
20 we can and cannot do, it's open, because we are
21 arguing over piddly amounts of money. So I would

22 ask that the body, because right now it's the only
23 program for financing and given that climate, speak
24 with the other member presidents and CFOs from a
25 position of strength and the value that we add, not

1 with what we're taking, and it's not so much what we
2 can't do. It's what we can do.

3 And going forward, we would like for us --
4 well, I guess this is my question on behalf of the
5 president, is how can we work effectively together to
6 advance truly just the agenda of making the HBCUs
7 that are willing to be held accountable, who
8 understand what their positioning is, their branding
9 is, their reason for being and know how to operate
10 their businesses, how we secure their viability for
11 the long term, and that is not just one vehicle.
12 That's not just this program, but that is moving
13 beyond incrementalization and marginalization. It is
14 fully funding the business plans and cases for those
15 institutions, because right now, we have the
16 opportunity to afford recapitalization,
17 restructuring, and low cost of capital, and when you
18 do those things, you have the ability to free up cash
19 which means you now have operating cash which allows
20 for, as President Hughes said last time, fundamental
21 sound economic and financial practices to be engaged,

22 and we would like to work with how we do that. It's
23 takes a combination, we know, of legislative as well
24 as business.

25 So I would like -- we don't need to shoot

1 ourselves in the foot. We need to be strong and we
2 need to voice that positioning from the get-go.

3 DR. FRANCIS: Thank you.

4 MR. DUTTNER: Dr. Francis and board members
5 and the rest of the audience, I'm Jim Duttner. I'm
6 the vice president and chief financial officer of
7 [indecipherable] College. I'd like to thank Dr.
8 Francis and the board for their efforts in trying to
9 improve this program, but I would hope that all of
10 you would think outside the box because we have an
11 opportunity to do something to make our schools
12 substantially financially stable in the future.

13 As Bridget just mentioned, we have been
14 incrementally piecemeal ing, our asking for funds
15 over the past years, and really all it does is cause
16 us to come back every year asking for more money. We
17 need to come up with a plan that's going to make our
18 schools financially stable over the long term.

19 So that's all I've got to say.

20 DR. FRANCIS: Thank you.

21 MR. WATSON: Derrick Hanson.

22 MR. HANSON: Thank you, Dr. Francis and
23 members of the board. I'm Derrick Hanson with
24 Commerce Capital Access Program.
25 Commerce has had the opportunity to serve as

1 the designated bonding authority for almost the last
2 eight years. I have been involved in the program for
3 going on seven years. My colleague, Sam Bakos, is
4 just finishing up six years.

5 It's been our great pleasure to serve as this
6 program's designated bonding authority. Sam and I
7 certainly hope to have the opportunity to continue to
8 work with the program, but, you know, that's subject
9 to the process and that's fine, but I wanted to
10 express our appreciation to everybody that's been
11 involved in the program from the Department of
12 Education to the folks at the Federal Financing Bank
13 and main Treasury, our colleagues who serve as
14 program counsel.

15 When I came out of school 20 years ago and
16 was interviewing for public financing positions,
17 people were -- you know, standard interview questions
18 were why do you want to go into this business, and
19 I'd say, Well, you know, from my perspective, public
20 finance is about the business of getting money from
21 where it is to where it ought to be. This program

22 for me is the greatest manifestation of that. It's
23 been our pleasure to help facilitate getting money
24 from where it is to institutions that have
25 desperately needed it.

1 So, again, it's been our honor and privilege
2 to serve you and we thank you for that.

3 MR. WATSON: Thank you.

4 Sam.

5 DR. FRANCIS: Thank you.

6 MR. BAKOS: I'm Samuel Bakos with the
7 designated bonding authority. More or less, this is
8 a personal sort of repeat or echo of what Derrick
9 Hanson said. This has certainly been a pleasure for
10 me and this could be likely my last time before you
11 as a DBA with the process going on. So I thought it
12 might be just timely in doing that and didn't want to
13 be remiss on that.

14 As Derrick mentioned, I came on board to the
15 DBA about six years ago and to serve the pleasure of,
16 really, Don's agent and the Secretary's agent. It's
17 been truly a joy for me. I'm a product of an HBCU.
18 So in many ways, it's like giving back for me. I
19 heard people want to sort of at least perhaps
20 understand how the process might be working now in
21 these times of uncertainty. I wanted to at least

22 share one aspect of what we're doing.
23 TD Bank now has control of the DBA, but,
24 again, as a product of an HBCU and really committed
25 to this program, I -- and Derrick has too. We've

1 tried to make sure that we are still working as DBA
2 as if there weren't this uncertainty. I think that's
3 important.

4 You heard mentioned earlier there are seven
5 preapplications in there. I want to put some more
6 light on that. So I've had to convince others in
7 management at TD Bank that even in these uncertain
8 times, we should approach this as if it's business as
9 usual.

10 So we've been processing those applications.
11 Again, there are seven of them. So we've got at
12 least seven institutions that have interest in this
13 program. One is public. Six are private. I will
14 tell you that of the public, it's about -- in terms
15 of what they're requesting, it's about a hundred
16 million dollars. So this is significant. The six
17 that are private, it's about \$200 million.

18 So, once again, very significant dollars are
19 being requested right now. So my only point is that
20 when this gate is lifted, if you will, and the DBA
21 can do these loans, there will be a lot of work done.

22 We've talked about the subsidy. I personally
23 think it's too low, because you're going to have more
24 loans in need than we'll have subsidy. There needs
25 to be more. You know, then there's going to be an

1 issue if it is that low, then how do you allocate
2 then, you know, these requests. You've got six
3 privates that add up to more than a hundred. You've
4 got one public that adds up to about a hundred.

5 So I'll just impress upon you that as a DBA,
6 we're doing anything we can to get these schools up
7 to the gate, processing these applications, taking on
8 information, doing our typical due diligence, doing
9 the underwriting criteria, the credit review that we
10 do all the time, but, you know, this is -- I'll close
11 on this: This is truly a joy for me and hopefully it
12 can continue, but again, if this is the last time,
13 this has been a great opportunity for me and I've
14 really enjoyed my work with the Secretary and Don
15 Watson.

16 Thank you so much.

17 MR. WATSON: Thank you.

18 Buddy.

19 MR. BLAKEY: Dr. Francis got cut off.

20 Dr. Strickland and other members of the
21 board, I want to touch on three issues quickly and

22 join those who have chorused about the Don's solo

23 work.

24 The three issues that I want to touch on are

25 the DBA replacement, and I don't want my remarks --

1 MR. ASHLEY: They asked who you are.

2 AUDIENCE MEMBER: I did.

3 MR. BLAKEY: I'm William Blakey. I serve as
4 Washington counsel for the Thurgood Marshall College
5 Fund. These remarks may or may not reflect their
6 views. They'll tell me that afterwards.

7 The DBA replacement issue is one that
8 concerns me, not because I want to defend the current
9 DBA, but I want to be certain that we don't leave
10 ourselves in a situation where we can't -- where we
11 create a vacuum and provide no service to the
12 institutions. So I would hope that the Secretary
13 would be cautious and that the board would urge the
14 Secretary be cautious about terminating the current
15 DBA while we have this vacuum.

16 Also, the statute actually is quite clear
17 about this process, and since Lezli Baskerville took
18 a lead role in insisting upon these new provisions, I
19 would hope that we would pay very, very good
20 attention to them. The statute says that we're not
21 only supposed to have a competitive process, but that

22 there's supposed to be an evaluation and selection
23 process that is transparent.

24 I think we can repair to Webster and see what
25 transparent means, but I don't think I've heard very

1 much discussion here this morning that leads me to
2 believe that the process anticipated is going to be
3 transparent. The community at least was concerned
4 about the fact that we would be able to know and
5 observe the process as it moved forward.

6 In addition, there's a condition precedent to
7 the replacement of the designated bonding authority.
8 The statute says that you're supposed to do a
9 performance review of the designated bonding
10 authority. Insofar as I know, no such review has
11 been done, and so it is premature to talk about
12 terminating somebody who you've not done the required
13 statutory review on.

14 Again, my comments are really focused on not
15 creating a vacuum that doesn't allow -- if we can
16 cure the subsidy problem, we don't want to not have a
17 DBA in place that so that we cannot make -- so that
18 we cannot make loans.

19 The second point is about Barber-Scotia
20 College, and I understand why the recommendation was
21 made and why the board took the action that it did.

22 I'm a bit concerned about what will happen to
23 Barber-Scotia College in light of what you did. I
24 think it's fairly clear that if you transfer money to
25 pay what Barber-Scotia's owes to the escrow account,

1 you've solved the problem for everybody whose escrow
2 money is being depleted.

3 What you will have done is transferred to
4 TARP Barber-Scotia's obligation to repay. The only
5 reason why Barber-Scotia has not been foreclosed on
6 at this juncture is because the Department has
7 avoided doing that. If you move this thing to TARP,
8 the people will go -- they will foreclose on
9 Barber-Scotia and there will be a NASCAR hotel in
10 Concorde, North Carolina.

11 MS. HARRIS: Oh, no.

12 MR. BLAKEY: Don't say that. Don't say that.
13 They have no reason not to foreclose on that
14 property, and so you need to be concerned about the
15 unintended consequences.

16 Finally, your recommendations and report that
17 is required under the statute, I hope that you will
18 fulfill those requirements before you go to all of
19 the other things that you want to add to this, and
20 those requirements are really focused on fulfilling
21 what the community asked Congress to do in the

22 reauthorization, and the Congress chose not to do it
23 and said we want some information about the current
24 program and the treatment of both applicants as well
25 as persons who have received loans.

1 So I hope we will answer the questions they
2 have asked before we start giving them a bunch of
3 things that they did not ask us for that we think
4 they need to pay -- that we need to pay attention to.
5 That's not to say that we shouldn't make these other
6 recommendations. We should, but we should give them
7 what they asked us for first before we go afield.

8 DR. FRANCIS: Buddy, thank you.

9 MR. BLAKEY: You're welcome.

10 MS. HARRIS: Since I'm from North Carolina, I
11 would like to comment on the situation in North
12 Carolina. I have visited Barber-Scotia. Again, my
13 name is Andrea Harris.

14 This can be a matter of record. I think
15 sometimes our greatest challenge in terms of the
16 status of HBCUs is not only how financially fragile
17 we are to start with, recognizing that
18 African-Americans have historically only had 10
19 percent of the net worth of white Americans; but two,
20 we also have challenges with regard to trustees. I
21 want to say that to you to say to you that,

22 personally, where I am -- and I have made this known
23 throughout my state because I am concerned about
24 what's happening with HBCUs, it may be not the
25 challenge or the problem or this Advisory Board or

1 anyone, but some of us who are alums in North
2 Carolina may very well take legal action ourselves
3 against Barber-Scotia for failing to fulfill its
4 fiduciary responsibility as a board of trustees.
5 That's number one.

6 Number two, in terms of the health of NASCAR
7 or the Lowes Motor Speedway, I would encourage that
8 you come up to speed and read all the reports whether
9 they're coming from North Carolina or whether you
10 check the "New York Times", the "Wall Street
11 Journal", or anything else to see right now the
12 impact of motor sports. When you know what's
13 happening in the automobile industry, it should say
14 something to you about what's happening in motor
15 sports.

16 So when it comes to who will purchase
17 properties, the most likely partner for North
18 Carolina may very well be Dave Murdock and the
19 research campus that's being built in Kannapolis and
20 Gastonia and all of that work, because we have world
21 class opportunities there that could provide some

22 opportunity for Barber-Scotia in a different kind of
23 way.

24 So that's why we're looking at where are the
25 opportunities out of infrastructure, out of jobs, and

1 the like, and some of us have had meetings with some
2 of their boards and talked to members there. So we
3 hope that there is something that it may not look the
4 way it is, but the reality for HBCUs right now -- and
5 I think it's something that none of us wants to talk
6 about -- is everybody won't be here five to ten years
7 from now, period. Everybody will not be here, and
8 sometimes you have to come to the reality that you
9 may have done your task and done it well and you may
10 not be able to survive moving forward, not in the
11 same way or the same life as you have in the past.

12 So I want to go on record as saying that I
13 would invite you, the Thurgood Marshall Fund, to walk
14 with us in North Carolina. I'd be glad to introduce
15 you to our state and help you know a little bit more
16 about our economic health and even what's happening
17 in the world of motor sports.

18 MR. BLAKEY: Excuse me.

19 MR. WATSON: Mr. Chairman?

20 DR. FRANCIS: Yes.

21 MR. WATSON: That ends our public comments.

22 DR. FRANCIS: Okay.

23 MR. WATSON: Our board members are actually

24 ruffling papers. So I think you may have the liberty

25 to want to adjourn.

1 ADJOURNMENT

2 DR. FRANCIS: I hope those papers have
3 sandwiches in them.

4 I want to thank the board members for all of
5 their time and effort. I thank the officials from
6 the government for their comments, the comments that
7 were helpful from our DBA and thank you for the
8 comments from the floor.

9 This was a good meeting. We're working in
10 the right direction. I want to thank you all and I
11 hope, Don, that there is still food out for the folks
12 who do want to have something to eat.

13 I'll be leaving here in about five minutes
14 and my schedule is pretty much on time and I'll
15 hopefully be back in New Orleans, Marvalene, tomorrow
16 and the weather is beautiful today.

17 DR. HUGHES: Mr. Chair, with that, I offer a
18 motion to adjourn.

19 DR. McNEALEY: I second it.

20 DR. FRANCIS: All those in favor, please
21 signify by saying aye.

22 MEMBERS IN UNISON: Aye.

23 MR. WATSON: Thank you, Mr. Chairman. Thank

24 you, Dr. Strickland.

25 [Whereupon, at 12:56 p.m., the meeting was

1 adjourned.]

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1 CERTIFICATE OF NOTARY PUBLIC

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3 I, CATHERINE B. CRUMP, a court reporter

4 and Notary Public, hereby certify that the foregoing

5 proceedings were recorded by me stenographically and

6 thereafter reduced to typewriting under my direction;

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11 parties to the action in the proceeding; and further,

12 that I am not a relative or employee of any attorney

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14 financially or otherwise interested in the outcome of

15 the action.

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17 CATHERINE B. CRUMP

18 Notary Public in and for the

19 Commonwealth of Virginia

20 Notary Registration No. 252644

21 CCR No. 0315080

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