

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE BOARD OF DIRECTORS  
OPEN SESSION

Saturday, November 17, 2001

10:05 a.m.

Marriott at Metro Center  
12th and H Street, N.W.  
Washington, D.C. 20002

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair  
Hulett H. Askew  
LaVeeda M. Battle (via telephone)  
John T. Broderick  
Edna Fairbanks-Williams  
Maria Luisa Mercado  
Nancy H. Rogers (via telephone)  
Thomas F. Smegal, Jr.  
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

John N. Erlenborn, President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary  
Mattie Condray, Senior Assistant General Counsel

David L. Richardson, Acting Vice President for  
Administration, Treasurer & Comptroller  
Jonathan Ross, SCLAID  
Randi Youells, Vice President for Programs  
Patricia Hanrahan, Special Assistant to the Vice President  
for Programs  
Leonard Koczur, Acting Inspector General  
Laurie Tarantowicz, Assistant Inspector General  
and Legal Counsel  
Dave Maddox, Acting Inspector General for Resource  
Management  
Mauricio Vivero, Vice President for Government Relations  
and Public Affairs  
Catherine Sulzer, Deputy Director for the Office of  
Government Relations and Public Affairs  
Michael Genz, Director, Office of Program Performance  
Robert Gross, Senior Program Counsel, Office of Program  
Performance  
Tim Watson, Program Counsel, Office of Program Performance  
Leslie Russell, Director, Office of Information Technology  
Eric Kleiman, Press Secretary  
Elizabeth Cushing, Communications Specialist and Board  
Liaison  
Linda Perle, Senior Staff Attorney, Center for Law and  
Social Policy  
Julie Clark, Vice President for Government Relations,  
National Legal Aid and Defenders Association  
Don Saunders, Director for Civil Legal Services, National  
Legal Aid and Defenders Association  
Joe Dailing, Executive Director, Prairie State Legal  
Services

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

2 MR. EAKELEY: All right, I would like to call the  
3 meeting to order. Let me just say good morning to everyone  
4 and note that LaVeeda Morgan Battle and Nancy Hardin Rogers  
5 are on speakerphone with us.

6 And Nancy and LaVeeda, we have arrayed around the  
7 table Ernestine, Edna, Tom, John Broderick, John Erlenborn,  
8 Maria Luisa and Bucky, and the only active member missing in  
9 action for today is Bill McCalpin -- and we wish him well  
10 wherever he is.

11 MS. BATTLE: And happy birthday as well, I  
12 understand.

13 MR. EAKELEY: Yes. Belated Happy 80th Birthday to  
14 Bill McCalpin. We were a year ahead of ourselves last year,  
15 and we are a week late this year in attending the event.

16 All right, you have the agenda in front of you.  
17 Are there any modifications to be made to the agenda?

18 (No response.)

19 MR. EAKELEY: If not, a motion to approve the  
20 agenda?

21 M O T I O N

1 MR. ERLNBORN: So moved.

2 MS. MERCADO: Second.

3 MR. EAKELEY: All those in favor?

4 (Chorus of ayes.)

5 MR. EAKELEY: Opposed?

6 (No response.)

7 MR. EAKELEY: The ayes have it. You also had  
8 distributed with your board materials the minutes of the  
9 board's September 8, 2001 meeting. Are there any changes or  
10 modifications to be made to the minutes?

11 MR. ASKEW: Mr. Chairman.

12 MR. EAKELEY: Yes, Mr. Askew.

13 MR. ASKEW: In Mr. McCalpin's absence, I would like  
14 to point out that on page 36, the "April 2001" should be  
15 "April 2002."

16 MR. EAKELEY: Mr. McCalpin would be proud of you,  
17 Mr. Askew.

18 (Laughter.)

19 MR. ASKEW: He e-mailed me that message.

20 MR. EAKELEY: This was not an original thought?

21 MR. ASKEW: No, no, it was original.

1           MR. EAKELEY: Any others?

2           MR. SMEGAL: Yes, Doug. On page 34, a motion I  
3 made, Resolution 2000.10.13 proposing \$396 million budget  
4 mark for fiscal year 2002 was seconded and passed, and I  
5 understand our budget mark is not 396 but 375. And should we  
6 modify these minutes to add?

7           MR. EAKELEY: No, that will be part of my report,  
8 Tom. You authorized me to adjust it if circumstances  
9 changed.

10          MR. SMEGAL: No, that was my point, though. Should  
11 these minutes reflect that, that you had the power to change  
12 --

13          MS. MERCADO: Mr. Chairman, the minutes should  
14 reflect what actually occurred. The fact that something  
15 occurs afterwards doesn't --

16          MR. SMEGAL: No, no, you're misunderstanding my  
17 comment, which is these are incomplete because we not only  
18 passed this budget mark, we gave the chairman the  
19 authorization to do something else.

20          MS. MERCADO: Well, you need the authorization  
21 part, too.

1 MR. SMEGAL: Right, yes. I think so.

2 MR. EAKELEY: Any other changes to the minutes?

3 (No response.)

4 MR. EAKELEY: Hearing none, all those in favor of  
5 approving the minutes as amended, say aye.

6 (Chorus of ayes.)

7 MR. EAKELEY: Opposed?

8 (No response.)

9 MR. EAKELEY: The ayes have it. You also have the  
10 minutes of the executive session of September 8. Are there  
11 any changes to be made to those minutes?

12 (No response.)

13 MR. EAKELEY: Hearing none, is there a motion to  
14 approve the minutes of the executive session of September  
15 8th?

16 M O T I O N

17 MS. WATLINGTON: So moved.

18 MS. FAIRBANKS-WILLIAMS: Second.

19 MR. EAKELEY: All those in favor?

20 (Chorus of ayes.)

21 MR. EAKELEY: Opposed?

1 (No response.)

2 MR. EAKELEY: The ayes have it. The motion  
3 carries.

4 Reports. As I just mentioned, in further  
5 consultation with OMB and in response actually to an OMB  
6 circular that we received on September 10, I authorized -- or  
7 John Erlenborn, Mauricio and I, in consultation, decided that  
8 it would be appropriate to reduce the budget mark that we  
9 seek for next year's appropriation from \$396 million to \$375  
10 million, and we sent a letter in to OMB to that effect at the  
11 end of last month, I think it was.

12 The board also authorized me to appoint someone to  
13 the Friends of Legal Services, and I exercised that authority  
14 and asked former Ford Motor Company General Counsel Jack  
15 Martin to join the board, and I was very pleased to learn  
16 that Jack had accepted the appointment.

17 Mauricio and I had a good meeting at the White  
18 House at the end of September, post September 11th. As  
19 everyone knows, the nomination process has been slowed down a  
20 bit, but we continue to enjoy the support and the cooperation  
21 of the White House as reflected in the fact that we are



1 hopefully about to have an appropriation that will be signed.

2           And I just want to mention also that at the end of  
3 this month I will be attending the 35th anniversary  
4 celebration of the Legal Services programs in New Jersey.

5           That is my report. Members' reports. Ernestine.

6           MS. WATLINGTON: I just wanted to report that the  
7 non-profit Harrisburg Community of Economic Affairs that I  
8 was the founder of in 1980 is doing its first -- having an  
9 open house on Monday, and I have invited Randi since she is  
10 going to be in the area to attend our new construction low-  
11 income housing in the City of Harrisburg.

12           MR. EAKELEY: Edna.

13           MS. FAIRBANKS-WILLIAMS: Well, I don't have much to  
14 say except that I'm not fighting with beavers this year.

15           (Laughter.)

16           MS. FAIRBANKS-WILLIAMS: That's all I have.

17           MR. EAKELEY: Tom.

18           MR. SMEGAL: Thanks, Mr. Chair. I attended the  
19 NLADA meeting last week in Miami, where I had the pleasure of  
20 hearing our chair give his third departure speech.

21           (Laughter.)

1           MR. SMEGAL: We're getting closer to departure  
2 though, because this time they gave him a going away gift.  
3 They hadn't had it engraved yet, but so we're working our way  
4 through this and at some point he will give his last, I  
5 assume.

6           The president reported that Jack Martin has joined  
7 our Friends of Legal Services Corporation board, and we  
8 continue to aggressively seek some property, as we have been  
9 mandated to do, and will continue to do hopefully  
10 successfully.

11           That's my report.

12           MR. EAKELEY: Justice Broderick.

13           MR. BRODERICK: Nothing to report, Mr. Chairman.

14           MR. EAKELEY: John, we'll come back to you for your  
15 president's report.

16           MR. ERLNBORN: Okay.

17           MR. EAKELEY: Maria Luisa.

18           MS. MERCADO: Not anything exactly, other than I  
19 hated to miss the two diversity sessions that I was invited  
20 to in St. Louis and in Miami, and in particular in Miami the  
21 NLADA I would have been very interested to see what the

1 client community had to say about those issues. But I am  
2 sure that Pat Hanrahan and Randi Youells will present to the  
3 board their report on the diversity issues.

4 MR. EAKELEY: Bucky.

5 MR. ASKEW: Nothing.

6 MR. EAKELEY: LaVeeda.

7 MS. BATTLE: Nothing to report.

8 MR. EAKELEY: Nancy.

9 MS. ROGERS: Nothing to report.

10 MR. EAKELEY: All right. Next I would like to call  
11 to the -- it's not exactly a podium -- to the table the  
12 Acting Inspector General Leonard Koczur.

13 MR. KOCZUR: Thank you, Mr. Chairman. In this open  
14 session I'll talk about our audits, evaluation project, and  
15 client trust fund inspections; the investigations and  
16 litigation we'll deal with in the executive session.

17 We are continuing to do our program integrity  
18 audits. We issued the report on Lane County, Oregon, within  
19 the last two or three weeks. This was the first program  
20 integrity audit where we have found some significant issues,  
21 where the grantee basically was indistinguishable from

1 another organization doing prohibited and restricted  
2 activities. We made some recommendations which, essentially,  
3 the grantee agreed with.

4           We think the recommendations are relatively easy to  
5 implement, and they will clearly establish the difference  
6 between the two organizations. That should solve the  
7 problems. We didn't ask them to do anything like moving out  
8 into separate buildings or anything like because it looked to  
9 us, it looks to us, that they can establish that separation  
10 without leaving the building and that kind of thing. It's  
11 just a matter of putting up signs, changing their web page,  
12 separating their staffs, that type of thing.

13           There was one issue with a class action suit where  
14 one of their employees had spent some time working on it.  
15 The suit has now been settled, as I understand, so that  
16 should not be an issue in the future. The individual didn't  
17 spend a lot of time on this project, on this class action  
18 suit, but there was some involvement and some minimal  
19 involvement while he was using the grantee's office. It was  
20 not an overwhelming issue, and I think we presented that  
21 clearly in the report. He didn't spend a tremendous amount

1 of time on that suit in the grantee's office.

2           We are continuing these audits. We completed one  
3 in Central Virginia just last week -- the week before, I'm  
4 sorry -- and we have four more planned for this year.  
5 California Rural has now been pushed back to January. This  
6 has been requested by Congressman Dooley. We originally were  
7 going to do it in October but then we moved it to December,  
8 and that's just not proving practical with the air traffic  
9 problems and the holidays and everything so we've pushed it  
10 back to January. The grantee has no problem with that and  
11 will inform the Congressman.

12           The corporate financial audit is underway. We  
13 don't expect any problems with that again -- a new auditor  
14 this year and they're on-site working now. The report will  
15 be presented to the board at the annual meeting in January.

16           One issue, if you recall the GAO did a survey with  
17 the idea of addressing the issue of whether the small agency  
18 IGs should be consolidated and that type of thing. It  
19 started -- I think it was in June. Basically, the project  
20 has stopped. GAO has not had any contact with the IGs and  
21 there is no schedule for its completion or issuance of the

1 report, and it's kind of just sitting out there. I was at a  
2 meeting with the other IGs last week and it's just like it  
3 disappeared.

4 MS. FAIRBANKS-WILLIAMS: Congressman Burton hasn't  
5 put anything in for a bill or anything like this?

6 MR. KOCZUR: No. Congressman Burton -- he  
7 requested the study but he has not -- there has been no real  
8 activity on it. The impression I have, and I think some of  
9 the IGs, is that he has lost interest in this, for whatever  
10 reason. And you can understand that with everything else  
11 that's going on in Congress right now, but there is really  
12 nothing to report on it.

13 We have completed another client trust fund  
14 inspection in Nassau County last week, and we plan to do ten  
15 of these next year. These are looking to make sure that the  
16 client trust funds are operating properly. And we issue  
17 reports pretty quickly after we complete the audit. I like  
18 to get a draft report out within two weeks and then a final  
19 within two weeks after the grantee response.

20 And the Georgia mapping project is moving forward  
21 now. We are completing the first phase. We have the data

1 converted. We are looking for a contractor -- will be  
2 looking for a contractor. We have ten prospective bidders.  
3 We are going to issue an RFP shortly to convert the data into  
4 maps and reports that the grantees can use. Our next step  
5 will be to have a meeting with the two program directors in  
6 Georgia to get their views on where we are going, what they  
7 would like to see in an evaluation report, what they would  
8 like to see in maps, and that type of thing.

9           And with that, that pretty well covers what we have  
10 been doing since the last board meeting.

11           MR. EAKELEY: Thank you. Any questions for the  
12 Inspector General?

13           (No response.)

14           MR. EAKELEY: Hearing none, thank you for your  
15 report.

16           MR. KOCZUR: Thank you.

17           MR. EAKELEY: I am delighted to welcome back our  
18 president who is looking -- I said lean and fit, and he  
19 corrected me, saying he may be looking lean but not quite  
20 fit. But, John, it's nice to have you back.

21           MR. ERLNBORN: Thank you very much. On the

1 president's report, let me first give you a personal report,  
2 and that is that I will return to the hospital for follow-on  
3 surgery that had been planned the end of this month, and I  
4 expect to be up and around playing Santa Claus by Christmas.

5 And that means I'll be able to make the next board meeting,  
6 whenever that is, sometime in January.

7 I am pleased to report that House and Senate  
8 negotiators have completed their work on the Commerce-  
9 Justice-State conference report that funds LSC for fiscal  
10 2002. And both chambers passed the measure this past week.  
11 We expect the President to sign it very soon.

12 As anticipated, the CJS spending measure provides  
13 LSC \$329.3 million, including \$310 million for basic field  
14 grants; \$12.4 million for management and administration; \$4.4  
15 million for technology grants; and \$2.5 million for the  
16 Office of the Inspector General.

17 We have now completed all of our scheduled 2001  
18 technology initiative grant announcements. We held press  
19 conferences in major cities in seven states, including Orange  
20 County, California; Little Rock, Arkansas; Indianapolis,  
21 Indiana; Seattle, Washington; Chicago, Illinois; Columbia,



1 Missouri; and Lincoln, Nebraska.

2           These press events generated considerable positive  
3 news coverage of LSC and our programs and helped reestablish  
4 good working relationships with many Members of Congress.

5           A total of 23 stories in major newspapers were  
6 generated by these events, in addition to several TV and  
7 radio reports. We were very fortunate to have Representative  
8 Judy Biggert from my old congressional district, Kenny  
9 Holsauf, Vic Shneider, Judy Carson and Senator Maria  
10 Cantwell. The first group, by the way, were all Members of  
11 the House. Each of them at one of the press conferences  
12 attended and participated in the making of the grant.

13           Also taking part in the announcements were two  
14 State Supreme Court Justices, Indiana Chief Justice Randall  
15 Shepherd and Nebraska Justice John Hendry.

16           Since the last board meeting, we have responded to  
17 various congressional inquiries on state planning and other  
18 matters from Representatives Joanne Davis from Virginia,  
19 Nidia Velazquez of New York, Senator Michael Enzi of Wyoming,  
20 Kay Bailey-Hutchison of Texas, Max Cleland of Georgia and Zel  
21 Miller of Georgia.

1           In addition, we received a letter expressing strong  
2 support for our state planning decision in Wisconsin, signed  
3 by both of their senators and many of their house members.  
4 And some of you may recall that that was a highly contested  
5 reconfiguration not too long ago, but has now been settled.

6           Too, we continue to coordinate with the White House  
7 concerning the process to select a new board of directors.  
8 Last month, Mauricio and Doug met with staff from the White  
9 House's Counsel's Office and we are in regular contact with  
10 staff from the Office of Presidential Personnel and the  
11 Office of Government Ethics.

12           We anticipate the entire slate for the board will  
13 be announced sometime in January or February, or whenever the  
14 President gets around to doing it, but we do expect that all  
15 11 will be nominated and the announcement made concurrently,  
16 all at one time.

17           Earlier this month, LSC submitted its official  
18 funding request to OMB for fiscal 2003. After consultation  
19 with Doug, we decided the request should be for \$375 million.

20           Our decision reflects the expectations of available funds  
21 for fiscal 2003.

1           On September 10th of 2001, OMB instructed all  
2 federal agencies -- and I would like to point out we are not  
3 a federal agency -- all federal agencies to decrease by 5  
4 percent their fiscal 2003 request.

5           We will begin a more detailed discussion about our  
6 request with OMB and the White House later this month. I  
7 think we have to let the Congress get out of town first so  
8 that we can get the attention of the White House.

9           All estimates from both private and government  
10 sources indicate that there will be little, if any, growth in  
11 discretionary domestic spending. And although we have strong  
12 political support in Congress and the White House, we  
13 anticipate a difficult budget process next year.

14           The working groups for the negotiated rulemaking  
15 and regulation 1611 and 1626, concerning eligibility and  
16 alien restrictions respectively, have been appointed. We  
17 have received confirmations for all members of the 1611  
18 working group and are in the process of setting up the first  
19 meeting. We are awaiting confirmation of the last two  
20 members of the 1626 working group. Once that is received, we  
21 will begin setting up that group's first meeting. We are

1 still in the process of selecting a facilitator.

2 We anticipate presenting a draft of a Notice of  
3 Proposed Rulemaking on Regulation 1636, concerning welfare  
4 reform, to the Ops & Regs Committee at the next board  
5 meeting, obviously to conform with the Supreme Court ruling.

6 The new Property Acquisition and Management Manual  
7 became effective for all acquisitions made with LSC funds on  
8 or after October 15, 2001. Acquisitions made prior to  
9 October 15, 2001, remain governed by the standards in the old  
10 property manual.

11 I was recently appointed to a one-year term as a  
12 liaison to the ABA Commission on Loan Repayment and  
13 Forgiveness. It is a commission appointed by the ABA. The  
14 Honorable Frank M. Caukin and Curtis M. Katen co-chair this  
15 ABA commission. The commission has ten members and 22  
16 participating liaisons. The purpose of the commission is to  
17 examine law graduates' debt burdens and the extent to which  
18 debt impedes graduates' ability to pursue and remain in  
19 public service legal careers.

20 And by the way, I learned there at that meeting  
21 that it's not uncommon for graduates to leave law school with

1 \$60,000 or \$80,000 or some even above \$100,000 in debt, which  
2 makes it very difficult for students like this or graduates  
3 like this to go into service as a legal services lawyer with  
4 the grand salaries that they can expect.

5 I attended an all-day commission meeting in  
6 Washington on October 23rd, 2001. The purpose of the meeting  
7 was to identify and consider various approaches to address  
8 the debt burden issue. These may include encouraging federal  
9 and state legislation, extending support to law students who  
10 enter public service, as well as promoting law school and  
11 private sector support of loan repayment assistance programs.

12  
13 The October 23rd program included six panels of  
14 four to five participants who presented information to the  
15 commission and the liaisons on the subjects of law school  
16 loan repayment assistance plans, federal loan statutes, state  
17 plans, potential funding sources for supporting loan  
18 forgiveness, and future actions of the commission.

19 We have identified the debt burden as a key issue  
20 in recruiting and maintaining high quality legal service  
21 lawyers. LSC continues to aggressively evaluate our grantees

1 and the state justice communities to promote improved quality  
2 and enhance access as mandated by the board's strategic  
3 directions. State planning team members have been on the  
4 road all summer visiting and studying programs in this  
5 context.

6 OPP main staff members have also been on the road  
7 conducting capability assessments for the fiscal 2002  
8 competition and doing quality assessment visits, a new  
9 initiative launched earlier this year.

10 During the period of September 10 through 13,  
11 Melissa Pershing and John Eidleman conducted a joint state  
12 planning and program review of Legal Services for Cape Cod  
13 and Islands, Incorporated, in Hyannis, Massachusetts, and  
14 South Middlesex Legal Services, Inc., in Framingham,  
15 Massachusetts.

16 From November 12 to November 15, John Eidleman and  
17 Joe Dailing will conduct a joint state planning and program  
18 review of Nevada Legal Services, Inc.

19 LSC sponsored a very successful Second Annual  
20 Technology Initiative Grantee Conference -- that's a mouthful  
21 -- in Chicago from October 24 to 26, 2001. LSC was joined in

1 hosting this conference by Chicago Kent College of Law and  
2 the Illinois Technology Center. This year's technical  
3 grantee participants took part in the conference and were  
4 paired with experts in their fields to ensure the success of  
5 their projects.

6           It came to my attention recently that there is no  
7 clear procedure within the Corporation for the disposition of  
8 real properties acquired with LSC funds when the grantee is  
9 no longer funded by LSC. This may happen when  
10 reconfiguration and/or competition results in a new grantee  
11 providing services in the service area. This phenomenon is  
12 linked to state planning and we expect more such instances in  
13 the future.

14           The authority to determine the dispositions of such  
15 properties is to be exercised by the president. And I might  
16 say, to put this in context, that some of these real  
17 properties, when valued, may actually add up to a half a  
18 million or a million dollars in value, so it certainly is  
19 nothing that should be handled in an offhand manner.

20           Several alternatives for such disposition may be  
21 available: the property may be given to the new service area

1 grantee; it may be sold and the proceeds applied to areas of  
2 the Corporation's activities; or other alternatives may  
3 result.

4           The drafting of the procedure is under way. It  
5 will include a statement of the president of the reasons for  
6 the choice of the disposition and it will be signed by the  
7 president and a record kept so that sometime in the future,  
8 if somebody wants to know who authorized it, the answer will  
9 be readily available.

10           Finally, I would like to report that I recently  
11 made the 2002 competition decisions. This year we had 100  
12 service areas in competition, covering 25 states and the  
13 District of Columbia. We had multiple applicants in eight  
14 services areas for the states of Texas, Louisiana and  
15 Michigan. The public announcement of these decisions will be  
16 made on Monday, November 19, 2001.

17           Mr. Chairman, thank you.

18           MR. EAKELEY: Thank you, Mr. President. Any  
19 questions of John Erlenborn?

20           (No response.)

21           MR. EAKELEY: Hearing none, we will proceed with



1 the report of the Operations`` & Regulations Committee. John  
2 Broderick.

3 MR. BRODERICK: Mr. Chairman, thank you. I wonder  
4 if you have your board book, if you could open it to the Ops  
5 & Regs tab and go to page 11, because I'm going to talk about  
6 that first.

7 The Ops & Regs group met yesterday. Our meeting  
8 was scheduled from 2:00 in the afternoon till 5 o'clock, and  
9 I am pleased to report that we didn't get close to 5 o'clock  
10 -- which means that we are either very efficient or we missed  
11 the point, and I'm voting for very efficient at this point.

12 The first item we considered yesterday was a Notice  
13 of Proposed Rulemaking, 45 CFR ' 1639, Welfare Reform. And  
14 Mattie Condray presented that to our committee and it appears  
15 on pages 11 through 13. And with one modification, which I  
16 would like Mattie to come to the table and identify for you,  
17 which is very small, which was actually a suggestion of Tom  
18 Smegal, which was a good suggestion, we would be proposing  
19 what you see on pages 11 to 13 for approval here today.

20 But, Mattie, if you could identify the location on  
21 page 11, I think, that has been modified.

1           MS. CONDRAY: Under the paragraph that is labeled  
2 Summary, the second sentence that begins, "The proposed  
3 change," has been rewritten. So now the summary paragraph  
4 reads, "This Notice of Proposed Rulemaking sets forth a  
5 proposed change to the Legal Services Corporation's rules  
6 relating to limitations on grantee activities challenging or  
7 seeking reform of a welfare system." That sentence stays the  
8 same.

9           The next sentence is amended to read, "The proposed  
10 change, to delete the prohibition on the representation of an  
11 individual seeking welfare benefits if any such  
12 representation involves an effort to amend or otherwise  
13 challenging existing law, is necessitated to conform the  
14 regulation to the U.S. Supreme Court's decision in Legal  
15 Services Corporation v. Velazquez, et al." It is a change  
16 made to specify what the proposed deletion is and stick that  
17 in the summary paragraph so it's a little clearer.

18                                           M O T I O N

19           MR. BRODERICK: And that Notice was approved and  
20 recommended to this board by our Ops & Regs Committee  
21 yesterday, so it should be voted on, I assume, Mr. Chairman.

1

2 MR. EAKELEY: So you are now making a motion that  
3 we adopt the Notice of Proposed Rulemaking?

4 MR. BRODERICK: As amended by Mattie Condray.

5 MR. EAKELEY: Is there a second?

6 MR. SMEGAL: Second.

7 MR. EAKELEY: Any further discussion?

8 (No response.)

9 MR. EAKELEY: All those in favor of adopting the  
10 proposed Notice of Proposed Rulemaking?

11 (Chorus of ayes.)

12 MR. EAKELEY: Opposed?

13 (No response.)

14 MR. EAKELEY: The ayes have it.

15 MS. CONDRAY: It will be published forthwith for  
16 comment.

17 MR. BRODERICK: Mattie, thank you.

18 We also received and had brief discussion on the  
19 final report of the Regulations Review Task Force. And I  
20 don't know if all of you have that in front of you or not,  
21 but at Attachment C there is a very good summary of the

1 regulations that were reviewed and the priorities assigned to  
2 them in a general way by the task force.

3 We also received and appreciated a report from  
4 NLADA reviewing the task force recommendations, some of which  
5 they agreed with, a number of which they agreed with,  
6 particularly the ones that required no action. There was a  
7 lot of agreement on no action.

8 And the other disagreements were not all that  
9 substantial. There were a few that were somewhat  
10 substantial. And so rather than try to plow through those  
11 yesterday, our committee asked the task force if it would be  
12 willing to do two things: number one, talk further with  
13 NLADA to see where the areas of disagreement can be reduced  
14 or eliminated, and identify those areas where that's not  
15 possible; and probably as important, if not more important,  
16 to come back to us in January with a priority list of  
17 regulations that need to be addressed.

18 The task force report does not do that yet. It  
19 identifies higher priority, lower priority, but it does not  
20 put them in any descending order of importance. And we asked  
21 them to do that and they said they would do that, and we

1 heard from Linda Perle and she was more than willing to  
2 engage in that sort of ongoing discussion. So there is no  
3 action item this morning, but that's what we asked them to  
4 do.

5 MR. EAKELEY: So this means that at the next board  
6 meeting we will have a ranking of the higher priority items  
7 but no -- one or more of which will be ready for committee  
8 action or board action or publication?

9 MR. BRODERICK: I think that's probably true.

10 MS. FAIRBANKS-WILLIAMS: Do we have that timeline  
11 to deal with aliens as far as the domestic violence is  
12 concerned, or should we be jumping ourselves a little faster?

13 MR. BRODERICK: Well, I tell you what we could do,  
14 if it's the board's wish, and I am more than happy to be  
15 engaged in that process. The subcommittee could, between now  
16 and January, work with this group that I have identified. It  
17 wouldn't have the stamp of the board, but I suppose we could  
18 identify, in consultation with them, those regulations that  
19 we think need to be moved forward and start to put them in  
20 some form so they could be acted upon by the board in  
21 January. But other than that, I don't know what else we can

1 do.

2 Mattie.

3 MS. CONDRAY: If I might say, with reference to our  
4 rulemaking protocol, the first thing that needs to happen  
5 before we can undertake a rulemaking is that the board needs  
6 to identify a specific regulation as an appropriate subject  
7 for rulemaking.

8 So the way I understood our charge from yesterday  
9 to be is that when the task force comes back to the board in  
10 January with our ranking of the higher priority items, that  
11 then the committee and the board would select one or more of  
12 them as appropriate subjects for rulemaking, getting the ball  
13 rolling on with the rulemaking process that way.

14 With respect to 1626, that rulemaking is started.  
15 It's in progress. We actually do have all of the members of  
16 the working group confirmed now. We are just waiting to hear  
17 from a couple of them as to what their scheduling is, their  
18 availability, so that we can actually get the first meeting  
19 scheduled and finish getting the contractor for the  
20 facilitator selected. There is really no way to make that  
21 process go any faster. I mean, that process is going on as

1 indicated.

2 MR. BRODERICK: Is that true also for 1611?

3 MS. CONDRAY: Yes.

4 MR. ASKEW: The list of those two working groups  
5 was on the table that had been --

6 MS. CONDRAY: Yes, those were distributed  
7 yesterday.

8 MR. ASKEW: May I just add one thing to the  
9 chairman's report? One concern we had yesterday was that the  
10 substantial comments made by NLADA -- there had not been an  
11 opportunity for the Regulations Review Task Force of the  
12 Corporation to review those comments. So we thought it was a  
13 healthy thing to send them back to the Regulations Review  
14 Task Force to narrow where the differences are, then meet  
15 with CLASP and NLADA and see where there could be a meeting  
16 of the minds; and if there isn't, then the board will deal  
17 with that, but they would narrow the issues substantially.

18 MR. BRODERICK: It would have made little sense, I  
19 think, yesterday to try to plow through that.

20 MS. FAIRBANKS-WILLIAMS: The only reason for my  
21 question was that with aliens coming over the borders and

1 with the money for domestic violence and so on and so forth,  
2 I just wondered if we were going to get into a difficulty if  
3 we didn't have something in the works.

4 MS. MERCADO: Under VAWA? Is that what you're  
5 talking about?

6 MR. EAKELEY: Mattie.

7 MS. CONDRAY: To the extent that -- and this is  
8 true across the board. To the extent that there are  
9 statutory changes that force changes to our regulations, the  
10 statutory change is in effect, and kind of if we have a  
11 regulation that is inconsistent for a while, the statutory  
12 change is in effect.

13 So the extent that there have been a couple  
14 statutory changes that increase the eligibility pool for  
15 certain aliens for certain domestic violence, that ability  
16 for our grantees to serve those people is already extant.  
17 Yes, we want the regulations to catch up, and that is why we,  
18 among other reasons, why we have this rulemaking going. But  
19 I don't think we have to worry about that from a scheduling  
20 standpoint. We will fix the regulation, but the statutory  
21 change is overriding.



1           MR. BRODERICK: So there is no action to take on  
2 that, but we appreciate the work of the task force and the  
3 comments from NLADA -- very helpful. We'll wait to hear from  
4 Mattie in January.

5           The last item has already been addressed, and that  
6 is item five on our Ops & Regs agenda. And as Mattie  
7 indicated, the working groups for 1626 on aliens and 1611 on  
8 eligibility have been formed. They have not yet met, as I  
9 understand it.

10          MS. CONDRAY: That's correct.

11          MR. BRODERICK: So that's moving along and there's  
12 not much we can do to speed that up. It's moving apace.

13          MS. CONDRAY: Unless you send gremlins out to clear  
14 everybody else's calendars between now and January.

15          MR. BRODERICK: Okay. Mattie, thank you.

16          MS. CONDRAY: Thanks.

17          MR. BRODERICK: And that is the sum and substance,  
18 Mr. Chairman, of what happened yesterday.

19          MR. EAKELEY: Thank you, John. Any questions of  
20 John Broderick or the committee?

21                 (No response.)

1           MR. EAKELEY: All right. Next we have the report  
2 of the board's Performance Review Committee, and for that I  
3 will turn the microphone over to LaVeeda Morgan Battle.

4           MS. BATTLE: Okay. This morning we met and held  
5 the performance review for the Acting Inspector General. We  
6 are on target with our evaluation process. We held the  
7 interview. We will be receiving comments from members of the  
8 board shortly and circulating a report for a final report to  
9 be delivered to the board at its meeting in January.

10           So we are well within our time frame for completing  
11 the whole process of the performance review. And I will say,  
12 Mr. Chairman, that it went well.

13           MR. EAKELEY: I want to remind each board member,  
14 if he or she has not already done so, to submit to LaVeeda or  
15 to Mattie the questionnaire that was circulated in connection  
16 with the performance review because it will help LaVeeda and  
17 Mattie in the drafting of the report.

18           Okay. Any questions of LaVeeda?

19           (No response.)

20           MR. EAKELEY: Hearing none, next we have the board  
21 of directors Semiannual Report to Congress, which was

1 distributed by fax earlier this week, I think. Hopefully  
2 everyone has it. Vic Fortuno is coming to the table.

3 MR. FORTUNO: I think everyone should already have  
4 a copy of the Inspector General's Report to the Congress for  
5 the period of April 1, 2001, through September 30, 2001. The  
6 board's draft comments were faxed to everyone in the form  
7 that should be before you now earlier this week, and what is  
8 before you now is consideration of that document.

9 MR. EAKELEY: This is due November 30. If people  
10 would want to get into a drafting exercise today, we could.  
11 My suggestion, though, would be to entertain substantive  
12 comments and then deal with editorial submissions maybe by  
13 giving them to Vic or something like that.

14 Is everyone comfortable with that, because we do  
15 have a little bit more time before the report is due? And  
16 rather than convert the board into a drafting committee, I  
17 would suggest that we proceed that way.

18 MS. MERCADO: What deadline would Mr. Fortuno have?

19 MR. EAKELEY: Yes. When would you like to get  
20 editorial suggestions, Vic? I mean, recognizing that next  
21 week is Thanksgiving.

1           MR. FORTUNO:  If we could possibly have any  
2  editorial revisions that be proposed, say by noon on Tuesday,  
3  would that be unreasonable?

4           MR. EAKELEY:  And if you would authorize me to  
5  mediate editorial disputes, I would volunteer to do that.

6           I only had a couple of substantive comments.

7           MS. MERCADO:  You mean Tuesday, like --

8           MR. EAKELEY:  Next Tuesday.  So work on them on the  
9  plane going home.

10           I thought that there was more substance in here  
11  than in prior semiannual reports, and I really liked that  
12  direction.  I thought that we don't often -- we, the  
13  Corporation -- doesn't offer put in writing in any one place  
14  a listing and a description of what we are doing  
15  substantively.  Yes, we have given a lot of attention to  
16  state planning and it deserves a lot of attention.  We get a  
17  lot of attention on configuration, and I won't say anything  
18  more about that for the moment.

19           But if you look at pages five where we talk about  
20  competition and technology efforts, and six, and then program  
21  visits and the results project on page seven, our

1 conferences, our important highlighting, but then in  
2 information management and characteristics of model intake  
3 systems, research, training -- these are all ways in which  
4 the Corporation is using its limited resources to help  
5 grantees enhance access, improve quality, affect outcomes.

6           And I really would like to just emphasize that and  
7 say very nicely done. I would like to bring some of them  
8 into the introduction. We only mention state planning in the  
9 introduction. We don't mention all of the other important  
10 things that we are finally able to do somewhat of, given our  
11 limited resources, but I do think that that is something that  
12 we want to highlight and support going forward.

13           MR. SMEGAL: Mr. Chair, I have an observation which  
14 relates to that, and the analogy I would use is the Inspector  
15 General's report seems to be responsive to the question,  
16 "What time is it?" And our comment on it is how to build a  
17 watch. And I am little concerned that our response is not  
18 relevant to his report. I mean, it's very good and I  
19 absolutely agree with Doug in everything he said, but is this  
20 the place for it?

21           MR. EAKELEY: This has emerged as part of our

1 communications strategy, in part because there is no other  
2 formal report to the Congress other than in the context of a  
3 request for an annual appropriation. Possibly if we were to  
4 get reauthorized there would be a different forum also, but I  
5 look at Victor and also at Mauricio to answer your question,  
6 or to correct my answer to that, Tom.

7 MR. FORTUNO: I think that has been an evolution of  
8 the document. If we had limited it to simply responding to  
9 the points made in the IG's report, this would have been much  
10 slimmer and maybe not as meaningful. I think Doug's comment  
11 about that there are only a few options where we really get  
12 folks' attention, and to the extent that this is a little  
13 self-serving and a bit of a public relations document, I only  
14 half-heartedly apologize.

15 MR. SMEGAL: Well, but does it read in this form?  
16 I mean, clearly when you put it in the budget as a preface  
17 it's going to get read by some staffers. Is it going to be  
18 read here in the context of the Inspector General's report?

19 MR. FORTUNO: Some may, some may not. I mean, it's  
20 hard to say because it goes to so many people. But it does  
21 give us another shot at making the case. And what we have

1 done is outlined these things under management initiatives  
2 which, while a small stretch, does give us an opening for  
3 tooting our own horn.

4           And unless there is something else in the IG report  
5 that required greater attention and discussion, in this  
6 instance we were in complete agreement and it just seemed  
7 that to really make use of this document we could do a little  
8 more in the way of letting the world know what it is that we  
9 are doing.

10           And these things do get published. They do get go  
11 up on our website, and so there is a broader circulation than  
12 just the Congress. It goes to others with an interest. And  
13 to the extent that it supplements our annual report, I think  
14 it's a helpful exercise and I think it's consistent with the  
15 direction that we were pointed in the last time that the  
16 board took up the SAR. As I recall, the board chair and  
17 others suggested that we might want to make fuller use of  
18 this opportunity.

19           MR. EAKELEY: Yes, it's public relations in a  
20 certain point, but it really is accounting to the Congress  
21 for what we're doing with the federal funds, and I don't

1 think you can ever be too accountable.

2 MR. SMEGAL: Well, the other question I have then  
3 is is the Inspector General's report complete? Are you  
4 reporting on enough activities of this Corporation, Mr.  
5 Koczur?

6 MR. KOCZUR: We are working on all the activities  
7 and all the work we did in the past year.

8 MR. SMEGAL: So you're reporting on your  
9 activities?

10 MR. KOCZUR: Yes, the IG activities.

11 MR. FORTUNO: It's the Inspector General Act, as  
12 amended in '88, that sets out the requirements for the  
13 Inspector General Semiannual Report to the Congress. And I  
14 think that the Inspector General has faithfully responded to  
15 the statutory mandate and addressed the aspects of the  
16 operation that they are required by law to address. We saw  
17 an opportunity to do a little bit more than that, but we were  
18 taking a small liberty there.

19 MR. EAKELEY: Thank you. Any other questions or  
20 comments?

21 (No response.)



1           MR. EAKELEY: Okay, good. Again, nice job and it's  
2 nice job in part because what you are writing about is such a  
3 nice job, so it's a doubly nice job.

4                                   M O T I O N

5           MR. SMEGAL: Doug, assuming we need a motion to  
6 approve, at least in substance, so moved.

7           MR. EAKELEY: Oh, yes. Thank you, thank you.

8           MS. FAIRBANKS-WILLIAMS: I'll second it.

9           MR. EAKELEY: Okay. It's been moved and seconded  
10 that the draft of the Semiannual Report to the Congress be  
11 approved subject to further editorial comments to be made by  
12 board members and mediated by the board chair.

13                   Any further discussion?

14                   (No response.)

15           MR. EAKELEY: All those in favor?

16                   (Chorus of ayes.)

17           MR. EAKELEY: All those opposed?

18                   (No response.)

19           MR. EAKELEY: The ayes have it. Thank you.

20           MR. FORTUNO: Thank you.

21           MR. EAKELEY: Next I would like to ask the Acting

1 Vice President for Administration to take the chair and give  
2 us a report or a before on the budget. David.

3 MR. RICHARDSON: Good morning. Again, for the  
4 record, my name is David Richardson. I am the Acting Vice  
5 President for Administration. Before you is a document that  
6 presents our budget for the year.

7 Since we have closed the year, the main things that  
8 I would like to point out to you is of course that we have  
9 operated within the budget; we have carried over remaining  
10 funds of \$6,360,000, the majority of which is for technology  
11 grants. Many of those have been made in October and they are  
12 continuing to work on those. And that money, you will see,  
13 is earmarked under the column that is Restricted from  
14 Appropriation.

15 The additional money that is restricted there is  
16 \$95,000 or \$96,000. That money is for one month-to-month  
17 grantee and that money is going to that particular area. The  
18 U.S. Court of Veterans Appeal, you will see there that there  
19 is \$68,000 remaining there, and that money stays earmarked  
20 for that particular program.

21 In addition, under the board management and

1 administration designation, you will see that the board had  
2 set aside money from grants from other funds available and  
3 there are still \$27,000 there that has yet to be spent.

4           The main thing that we will look at here is that  
5 there is money available going into next year with the 2002  
6 budgeting process that has been completed. We had estimated  
7 \$500,000 of carryover funds to be used into the next year.  
8 The last column of Attachment A shows that there is \$897,000  
9 available to move into next year. There is an offset of  
10 \$26,000 because we were short on the interest this year  
11 because of the decline in interest rates.

12           So we have sufficient funds to go into next year.  
13 You have also already passed a temporary operating budget,  
14 and as we are looking at how to parse out the additional \$375  
15 that has not been accounted for, we will be having some  
16 meetings and certainly there is a lot of pressure from our  
17 program operations and General Counsel, and now the board,  
18 for some additional funds to --

19           MR. EAKELEY: Wait, wait. Not "now the board," but  
20 it's ultimately the board's budget, so we are not just  
21 butting in here. I hope --

1           MR. RICHARDSON: No, I understand. The different  
2 demands that were not identified with the original temporary  
3 operating budget. That's what I'm saying.

4           MR. EAKELEY: David, on just that point for a  
5 moment though, is any consideration being given to allocating  
6 some of the carryover funding to post-September 11 ripple  
7 effects or other emergencies or, for that matter, to grants  
8 to the field to facilitate state planning and  
9 reconfiguration, or is that premature to even raise?

10          MR. RICHARDSON: The program performance people  
11 have been in contact with the New York offices and a  
12 proposal, as far as I am aware, has not been presented. But  
13 even at this point, we only have about \$32,000. There is  
14 \$27,000 here plus -- well, there's \$27,000 for the money from  
15 other funds available. We could allocate some of this other  
16 carryover to that particular initiative, but I do not have  
17 any information on that at this point.

18          MR. EAKELEY: I just raised the question. I didn't  
19 mean to resolve it today.

20          MR. ERLNBORN: Doug, I think it is a very good  
21 question and it is one that I have been talking to several

1 people about a way that we may have to establish an emergency  
2 fund. We really don't have enough here to be very useful.

3 At the risk of raising hackles, one of the things I  
4 have thought about is the properties that are left that I  
5 discussed earlier where they have not been claimed by a  
6 successor program. And there are some cases where we have  
7 excess property; the program that holds title to the property  
8 is no longer serving a district, their own area, and have not  
9 requested transfer of property.

10 I think we have to move carefully on this. We have  
11 to be certain that we are not cutting into the necessary  
12 support for programs that have just taken over in a newly  
13 reconfigured area, but I think it is worthwhile trying to  
14 find a way that we could establish some sort of a reserve  
15 fund so that we could respond to these needs that are not  
16 anticipated.

17 MR. SMEGAL: I'm a little confused, Mr. Richardson.

18 In looking at page one of Attachment A, I see \$897,361 in  
19 undesignated carryover, and I heard you say something like  
20 350. How did you get from 890 to 350?

21 MR. RICHARDSON: Because when we did our original

1 budgeting, the temporary operating budget, we anticipated a  
2 minimum of 500,000. We have an additional 375 just simply  
3 subtracting the original 500 that is already included in the  
4 budget.

5 MR. SMEGAL: And that 500 is accounted for in the  
6 2002 budget based upon it being there as a carryover?

7 MR. RICHARDSON: That's correct, sir. Yes.

8 MR. EAKELEY: So what happens in terms of the  
9 budgeting process, now that we are about to have an  
10 appropriate with the management and administration line and  
11 the closing of the books at year end of September 30? Does  
12 the Finance Committee then get a new proposed consolidated  
13 operating budget for the current fiscal year?

14 MR. RICHARDSON: Yes, sir. At the annual meeting -  
15 - and the auditors will come in and present the financial  
16 statements, have the final carryover -- we then have the  
17 final appropriation. Management, working with different  
18 members of the board, complete an annual consolidated  
19 operating budget for full operations of the year.

20 MR. EAKELEY: So that will come back to us in  
21 January. Where I am going with this is we are also, I think,

1 planning to have an update and review of our strategic  
2 directions document, and I hope to have with that some sense  
3 of how well or badly we have followed that course in resource  
4 allocations in effort, both in the prior year and in the next  
5 year.

6           And that should hopefully inform, to the extent  
7 there is any discretion left in the budget, in terms of where  
8 we might allocate some funds for some of the strategic  
9 directions, so that the timing is good for that.

10           Maria Luisa.

11           MS. MERCADO: Yes, I am not sure in looking at this  
12 budget where in those line items, whether it's in consulting  
13 or administration or where, there is money that is being  
14 allocated for follow-up on diversity. Because we had talked  
15 about at the prior board meetings about making sure that  
16 Legal Services on the national level trying to focus some  
17 energy to diversity issues with our grantees and our  
18 partners; that it wasn't just a one-year project, that it's  
19 something that continued. Because I would like to see more  
20 access to our grantees to these issues because even though we  
21 had sessions at NLADA, there was only the people that

1 attended that particular conference, and then only a  
2 percentage of those people, as opposed to actually trying to  
3 provide more in-depth training to our grantees around the  
4 country, maybe in different formats or different regions  
5 where you have a greater involvement, especially in our  
6 client community. There were a lot of recommendations that  
7 came from that that would be very helpful. And I just wasn't  
8 sure where in this budget we had allocated any of those funds  
9 and whether we could use some of those carryover funds for  
10 that.

11 MR. RICHARDSON: Within the budget, the temporary  
12 budget that has already been passed, there is an amount of --  
13 I don't have the exact figure, but approximately \$300,000  
14 that is in the program performance budget line. And Ms.  
15 Youells and her staff, Mike Genz, have allocated some of the  
16 money for these continued diversity initiatives. It's not  
17 detailed. You get it in very summary information, but there  
18 is underlying information that we could provide that supports  
19 that.

20 MS. MERCADO: No, I just wanted to make sure that  
21 that actually was being followed through because we



1 specifically discussed about not doing just a one-time shot  
2 and then that was it.

3 MR. RICHARDSON: That is correct.

4 MR. EAKELEY: It would be nice to see, to the  
5 extent we can, and without undermining other priorities,  
6 discretionary funds going in the direction of program support  
7 and the diversity initiative and that sort of thing.

8 MS. MERCADO: And leadership development.

9 MR. EAKELEY: I don't know -- we cut you off in the  
10 middle of this.

11 MR. RICHARDSON: Well, time is short, but let me  
12 just point out one additional thing on the very last page. I  
13 have presented to you a draft balance sheet for the year. As  
14 you will recall, when you came into the Corporation there was  
15 a -- when you look at undesignated, there is a balance there  
16 is \$1,253,000.

17 When you came into the board, you had a deficit  
18 there of \$1.8 million, so during this eight-year tenure we  
19 have been able to satisfy that deficit and provide additional  
20 money for operations.

21 MR. EAKELEY: Not just a deficit, but a budget that

1 did not disclose the new rental and that also took an  
2 aggressive stance on depreciation allowances.

3 MR. RICHARDSON: That is correct. That's the  
4 reason for the deficit, yes.

5 MR. EAKELEY: Might I say in that connection,  
6 David, you have done a masterful job as steward and chief  
7 administration office, and really the budgets and the  
8 Inspector General's confidence in the books of account of the  
9 Corporation I think are testimony to your fine leadership in  
10 this area.

11 MR. RICHARDSON: Thank you, sir.

12 MS. FAIRBANKS-WILLIAMS: So our new five-year  
13 rental -- is there any increase in that?

14 MR. RICHARDSON: Actually, there is a small  
15 decrease for next year that we have negotiated, then it goes  
16 up 2 percent a year after that.

17 MR. EAKELEY: That's a nice job, too. Great. Any  
18 other questions of David Richardson?

19 MR. SMEGAL: Well, I don't know if this is to David  
20 or maybe to Mr. Koczur, but on Attachment D, the consulting  
21 line of the Inspector General's budget is about 50 percent of

1 what you had allocated. Is that because these consulting  
2 trips are put off a little bit? Is that what has happened?

3 MR. KOCZUR: Yes, that is basically that. And the  
4 other big issue of course is personnel compensation --

5 MR. SMEGAL: Well, that's minor, though.

6 MR. KOCZUR: Well, it's \$126,000.

7 MR. SMEGAL: But, I mean it's 90-some percent done.

8 MR. KOCZUR: Yes. We expect in this year that  
9 we'll be using that money.

10 MR. SMEGAL: Thank you.

11 MR. EAKELEY: Anything else, David?

12 MR. RICHARDSON: No, sir.

13 MR. EAKELEY: Any other questions of David?

14 (No response.)

15 MR. EAKELEY: Again, thank you. Nice job.

16 Now we have consider and act on the report of the  
17 Task Force on Configuration of Service Areas, and let me turn  
18 this over to John Broderick. I know that we have several  
19 members of the task force here today, and I know that I had  
20 promised that we would give a little bit of time to task  
21 force members who would like to address us. I know Jonathan

1 Ross would like to speak. I know Randi may want to say  
2 something also. But I'll just turn that over to you, John,  
3 for you to conduct.

4 MR. BRODERICK: Mr. Chairman, thank you. What  
5 would be the odds that just as this was coming up for  
6 discussion I have a telephone conference call I have to be  
7 on?

8 (Laughter.)

9 MR. BRODERICK: Funny how that works out.

10 MR. EAKELEY: I forgot to mention Don Saunders is  
11 also here and sort of straightening his tie as if he has  
12 something to say, or clear his throat.

13 MR. BRODERICK: Mr. Chairman, let me see if I can  
14 just take a minute or two and put this in some context. When  
15 we were in New Hampshire this past summer, Ernestine and I  
16 were asked to chair this group to take a look at service area  
17 configurations and the standards that the Corporation had for  
18 that. There was some suggestion, I think, at the meeting by  
19 some that the Corporation had no standards for service area  
20 configurations. I am pleased to report that was not true.

21 However, it was probably true that we could have

1 done a better job at the time in codifying them. And so our  
2 task force started meeting, I think in July or August. We  
3 had one very lengthy meeting face to face here in Washington  
4 and subsequently, because of schedules or events, we opted to  
5 do the balance of our work by telephone conference call. We  
6 had at least three or four of those. And I can't overstate  
7 the excitement of being on a two-hour conference call, but we  
8 had a number of those.

9           And I want to just at the outset thank Ernestine  
10 for all of her work and leadership in this and for the  
11 members of the task force who were enormously cooperative and  
12 helpful and insightful. We had disagreements certainly, but  
13 I think we disagreed constructively. And I think we have  
14 done a very good job, and I take little credit for it, but I  
15 think the task force has done a good job in putting together  
16 a proposal that is before you this morning that I think has  
17 done very good work; and that is to say that we have codified  
18 in one place the standards for service area configuration; we  
19 have identified some old and new and some modified areas of  
20 inquiry for each of those standards; we have reviewed and  
21 revised the review process that follows those determinations.

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And I think it was the overwhelming consensus of the task force when we finished our work that we had satisfied the essential needs of the Corporation, the concerns of the field, and that trust had been reestablished to the extent it needed to be in this area. And so I think since all of you have the report and have had a chance to review it, I don't want to go through it in detail.

But I do have one concern as it relates to the final report, and I think I can hold that for the moment until there is further discussion, but I would like at a later time to address it.

I will say, for those of you who are looking at this report, that on any critical issue that we had to resolve we did it by roll call vote, so people had a chance to express themselves. And in almost every instance, we were either unanimous at the end of the day or close to unanimous at the end of the day on every single critical issue.

I also want to say before I turn the baton to others that Bob Gross and Randi Youells did enormous work on this with a very short time frame. And sometimes they were

1 working weekends and nights to do this, and they were very  
2 helpful.

3 I also want to acknowledge the very valuable input,  
4 constructive input, from NLADA in this process. Don Saunders  
5 and Julie were terrific. And I think we worked very  
6 cooperatively and I think we had a common objective, and I  
7 think with an asterisk, perhaps, we have achieved it.

8 And I would hope that the board, after some further  
9 discussion and after I perhaps have a chance to make an  
10 amendment proposal, would seriously consider adopting this  
11 today. There is a lot of work that went into it. There is a  
12 lot of expectation surrounding it. And I think it's a solid  
13 work product and I think the board would be well served and  
14 the field would be well served, and frankly the Congress  
15 would be well served, by our adopting this today.

16 So with that said, Mr. Chairman, if you would like  
17 to ask others on the board to speak or members of the task  
18 force to speak.

19 MR. EAKELEY: I think what I would like to do  
20 first, with the acquiescence of the board, is to ask to have,  
21 in effect, our public comment period moved up so that those

1 people who are here who would like to address this issue  
2 could be heard, and then we can factor their statements in.

3 And what I would like to do is start by recognizing  
4 the chair of SCLAID and our friend, Jonathan Ross.

5 MR. ROSS: Thank you, Mr. Chairman, Mr. President,  
6 members of the board. First I want to thank you for the  
7 opportunity to have served on this task force. It was a very  
8 committed group. We had spirited discussions. And people,  
9 including the staff most particularly, worked very hard in  
10 what was done here.

11 And I want to tell you that there is in this report  
12 a substantial improvement for people who have to work with  
13 these standards over the program letters, which were  
14 disparate and much more detailed and more difficult to get  
15 the nuggets from. It's clearer. It gives better direction.  
16 It's more concise. And I think it gives improved direction  
17 for state planning.

18 And the report is a significant statement of  
19 policy, and I am here to urge this board to adopt it. There  
20 is some suggestion that an issue or two might result in a  
21 request to table, and I think that that would be a wrong



1 thing to do and give a very negative message to the field and  
2 the participants of the task force and to bar associations  
3 and other interested groups who are watching this process  
4 very carefully and heard about it at the NLADA conference  
5 last week. So I think you need to act.

6 I would like to direct my comments at the standard  
7 that appears on page two of the configuration standards in  
8 part one of the preface that says that LSC will only adopt a  
9 different configuration than that recommended by a state  
10 planning body based upon "compelling and substantial reasons  
11 clearly articulated in writing and tied to the specific  
12 standards enumerated herein."

13 In New Hampshire at a Burger King recently, an old  
14 couple came in to have dinner. And the old man shuffled up  
15 to the counter and ordered one hamburger, one order of fries,  
16 and one drink. And then they went over to their table, and  
17 the man, using an airplane-discarded plastic knife, cut the  
18 hamburger in half, and then counted out the fries, an equal  
19 amount to himself and to the old lady that was with him, and  
20 set the drink in the middle. And he began to eat.

21 And other people in the restaurant, feeling badly

1 for them, offered to buy a second meal, and they declined.  
2 And after a long period of time, people noticed that the man  
3 was down to the last few fries and the woman hadn't eaten at  
4 all, and so they went over again and asked, "Can't we buy  
5 another meal?" And they said no.

6           They said, "But, ma'am, you haven't eaten. Why  
7 haven't you eaten?" And she sat there for a long time, took  
8 another sip from her drink, and then said, "I'm waiting for  
9 the teeth."

10           "Compelling and substantial" is the teeth of our  
11 report, and it recognizes a need that the report recognizes  
12 in other places for a balancing of factors, for the  
13 application of judgment, for a host of considerations, for a  
14 recognition that each state is different and regions within  
15 states vary, that there are different conclusions on the same  
16 information and standards that can be reached where we have  
17 very little empirical data, and that a totality view is  
18 necessary to do good state planning; and under these  
19 circumstances, with a policy consideration of deference to  
20 state planners, local control and planning, and a policy of  
21 cooperation and inclusion, including the state and local bars

1 that I represent here, the compelling and substantial reasons  
2 standard is necessary, and I think appropriate.

3 To do less would break faith with the task force  
4 mission, which was to try to put this process on a  
5 cooperative, good-faith basis between the two areas that are  
6 working here.

7 I addressed some of the task force issues at NLADA  
8 last year, and I said that this mandates good faith on both  
9 sides of this issue, both state planning bodies and the LSC  
10 staff, and it is not something which state planning bodies or  
11 existing organizations can use to hide behind to avoid  
12 change.

13 This is not an issue of legal review standard. The  
14 issue is policy in the relations between the Corporation and  
15 state planning bodies, and I think that is a board issue.

16 This is a federal government versus a local  
17 process. Are we centered here in Washington on these  
18 decisions or not? And are we still lawyers for poor people  
19 in their neighborhoods, or is this now a goal for  
20 centralization?

21 The task force report keeps us true to the mission

1 of legal services for the poor where they live, where they  
2 work, and where they need the most help.

3           So I would ask you as you consider this report to  
4 consider the following. Is the board prepared to set policy  
5 that local decisions should not be rejected without  
6 substantial and compelling reasons to do so? Is the board  
7 prepared to set policy that state planning has significant  
8 priority over Washington, D.C. planning?

9           And is the board ready to say in judgments made in  
10 areas without empirical data, and where several resolutions  
11 may be reasonable, that substantial deference should go to  
12 local decisionmakers? Or is the board's policy to prepare  
13 for potential law suits?

14           My own judgment is that the standard the task force  
15 has recommended would actually reduce the prospect of  
16 litigation and encourage bars and other interested folks to  
17 work harder on state planning and get a better result.

18           The compelling and substantial reasons standard, I  
19 think, does no harm to the Corporation. This should not be  
20 viewed as a power struggle, and the focus should be on what  
21 we are accomplishing, not legal issues that move in that

1 direction.

2 I come before you to urge you to approve and adopt  
3 the entire task force report as board policy. But I have to  
4 say to you that if we are dealing with semantics, policy  
5 should not be made by parsing. And if a good and substantial  
6 standard is more comfortable for this board, it can work if  
7 the board makes it clear that this too balances issues toward  
8 state plans and not Washington and creates a significant  
9 deference to local decisionmaking. I would hate to see us  
10 get hung up on a few words when the intent, as I see it,  
11 remains the same.

12 Thank you, Mr. Chairman.

13 MR. EAKELEY: John, thank you very much for your  
14 comments and for your many contributions. Don Saunders, you  
15 had asked to be seen and heard?

16 MR. SAUNDERS: Good morning. Actually, my collar  
17 was just a little too tight this morning. Hopefully it won't  
18 get tighter.

19 I am Don Saunders. I am the director of Civil  
20 Legal Services for the National Legal Aid and Defenders  
21 Association, and I just wanted to take a moment this morning

1 to share a few thoughts with you and follow my friend, John  
2 Ross.

3 I certainly don't want to repeat what John said.  
4 He has committed his legal career to be a national leader,  
5 but I also know that he knows what he is talking about and  
6 that he has been involved in New Hampshire for many, many  
7 years as a key bar leader in creating that justice system  
8 there. So I am very happy to pretty much associate myself  
9 with the comments he made to you.

10 I want to bring greetings from my representative to  
11 the task force, James Head, who could not be here, but he  
12 wanted again to reiterate to Ernestine and John his real  
13 agreement with your comments about the high level of work and  
14 commitment of the task force. And both he and those of us at  
15 the staff at NLADA who were able to participate, we really  
16 did feel that it was an open process, that our concerns were  
17 listened to, and we appreciate that.

18 We have had an opportunity to discuss, as certainly  
19 your co-chairs know, many of the issues in here with the  
20 field in some degree of depth. And I do agree with John's  
21 comments about the trust that this has reestablished, the

1 real sense that this has been a very positive process, that  
2 the board and the staff have listened.

3           And I really think that it has done a great deal to  
4 avoid some of the acrimony that we all looked at in New  
5 Hampshire, and I really commend to you the streets of the  
6 report. The review process, it's a real positive improvement  
7 to improve dialogue, to allow some of that 11th hour showdown  
8 mentality that we face not to happen again.

9           I think the standards being compiled in one place,  
10 the Corporation and the state planning bodies having to  
11 articulate in writing the reasons for their decisions on both  
12 sides is an important improvement, and I think it will really  
13 reduce some of the lack of communications and the different  
14 messages that may have flowed around through this process, so  
15 I think that is just a tremendous improvement, as well again  
16 as the detailed standards that are set out in this document.

17           I would agree that on the one issue that I think  
18 remains controversial that this is an important policy rule  
19 for the board to address. This won't happen I many states.  
20 It is a limited process. It's a process where a state body  
21 has looked at your standards and has articulated reasons on

1 the ground in the state why a particular map makes sense.  
2 Your staff, and Randi and Bob in particular, are very, very  
3 good at assessing what is a real change, what is a real  
4 improvement in the state justice community, and what is fluff  
5 designed to protect a particular service area.

6 I think they are not many states that will be  
7 involved in a situation where they have a strong consistence  
8 on the state level that is well reasoned against these  
9 standards and in which you, the staff, might take a different  
10 approach. We feel like in that instance it is an important  
11 policy matter for you to state that a fundamental purpose of  
12 this whole process has been to create strong state justice  
13 communities, state-based systems.

14 To do that, the relationship between the federal  
15 funder and other funders is critical. One of the problems in  
16 many states is there is no there there to take the  
17 responsibility to really run a state integrated system for  
18 legal services, and the creation of that system is critical  
19 to that process. Giving those bodies the power, the  
20 responsibility, to deal with these issues effectively is a  
21 key component of that, and I think that is what this policy



1 would do.

2           As Mr. Ross said, we are not tied too much to the  
3 semantics of it, but we do believe that the board needs to  
4 make a strong statement about that relationship. In many of  
5 the states that will be interacting with you under this  
6 policy, you are a minority funder. There are significant  
7 other resources that are in the pot that are being allocated  
8 at the state level and that go into designing a map that is  
9 best aimed at serving the clients in a particular state,  
10 another reason why the relationship between you as a federal  
11 funder and other funders is very critical.

12           So, again, I really would congratulate the task  
13 force, and John and Ernestine, as leaders of that and give my  
14 own thanks to Randi and Bob and John as well for the terrific  
15 work that your staff put into this as well.

16           MR. EAKELEY: Thanks, Don. Thank James Head for us  
17 also and give him our best regards.

18           I want to ask Randi Youells to come up and address  
19 the board also, but are there other -- is there anyone else  
20 here who would like to talk -- any so-called members of the  
21 public here who would like to address the task force report

1 before I ask Randi to come up?

2 (No response.)

3 MR. EAKELEY: If not, then, Randi, would you please  
4 join us?

5 MS. YOUELLS: Thank you. I did not prepare remarks  
6 because I was not expecting the opportunity to address you,  
7 but since I have the opportunity I just have a few thoughts  
8 to share with you.

9 In June in New Hampshire, I was one of those people  
10 who thought that the task force should not be created. I was  
11 one of those people who thought that the message to the field  
12 had been very, very clear and convincing and that there was  
13 no need at this time to put significant energy, time and  
14 resources into the codification of standards that I believed  
15 that everyone knew what they were and could equally apply  
16 them.

17 In retrospect, I have come to believe that the work  
18 of the task force, under the able leadership of John  
19 Broderick and Ernestine Watlington, has in fact created a  
20 document that provides more clarification to the field and to  
21 the LSC staff as to the standards that we will use when we

1 look at the creation of equal justice communities in each  
2 state.

3 I don't see that part of this policy -- or of this  
4 task force report as a major policy change. I see 98 percent  
5 of the report as just codification of preexisting policy.  
6 So, again, I would urge you to take a hard look at not  
7 tabling the document today, simply because I don't see it as  
8 the major policy change and I do see, as previous people have  
9 testified, I do see that the field and other stakeholders  
10 take solace in the codification of those standards and are  
11 looking forward and looking ahead to those standards.

12 Having said that however, I am one of those people  
13 who consistently, as staff assigned to the task force,  
14 reacted in a quite negative fashion to the choice of the  
15 language "substantial and compelling." I believed then, and  
16 I believe today, that that language is the wrong language.

17 I understand that reasonable minds will disagree on  
18 that, and I have the greatest respect for Mr. Ross and Mr.  
19 Saunders, and I understand that they believe that it is  
20 important to adopt that standard. I simply do not agree with  
21 that, and I believe I speak for all of the staff of LSC, from

1 the president down to the state planning team, that that  
2 standard is simply a policy change that is not ripe at this  
3 particular time, in fact is not prudent at this particular  
4 time, and creates too much of a high barrier to the work that  
5 we do.

6 I would suggest that, instead of that, you take a  
7 look at the language that you currently have and perhaps  
8 apply a rational basis standard, the standard that courts  
9 uniformly apply when they took at whether or not an  
10 administrative or quasi-federal funding agency has made a  
11 defensible position. The standard that is usually applied in  
12 litigation is whether or not there was a rational basis, and  
13 I would suggest that in the absence of "compelling and  
14 substantial" or even "good and substantial" because, to be  
15 quite honest, I see it as a distinction without a difference.

16 I think that perhaps some language about requiring LSC to be  
17 rationale in its decisions is the right standard to use.

18 I do believe -- and I've said this 100 times so let  
19 me say it one other time -- I do believe the creation of  
20 equal justice communities within each of our states and  
21 territories and our congressional districts has been this

1 board's finest hour. I do believe that you have rendered  
2 marvelous change in the delivery of legal services across  
3 this country, and I believe that my counterparts at NLADA and  
4 SCLAID believe that with me.

5           So in saying that I object or have concerns about  
6 "compelling and substantial," I am not saying at all that I  
7 don't think that this is a major piece of work that has been  
8 ably guided through its birthing by very fine people who have  
9 given substantial time and energy to it. And I think that  
10 the task force reports needs to have a very careful  
11 consideration by this board, with the exception of those  
12 several words.

13           MR. EAKELEY: Any other comments before I turn back  
14 to the board for further comments and discussion?

15           (No response.)

16           MR. EAKELEY: All right. Hearing none, board  
17 members. Bucky, board member and task force member.

18           MR. ASKEW: I have some remarks, and I chose to  
19 write them out because I thought that I wanted to be careful  
20 to express what I really think about this. When I was asked  
21 by the chair to serve on the task force I must admit I had

1 little hope that we would be able to reach consensus of  
2 positions on most of these issues. I felt, given the history  
3 of state planning and some strong feelings with all the  
4 constituencies, it would be very difficult, if not  
5 impossible, to at this stage adopt standards and articulate a  
6 process that would win the approval of the diverse membership  
7 of the task force. I have never been more pleased to be  
8 proved wrong.

9           The task force report is a pretty remarkable  
10 achievement under the circumstances. Developing policies and  
11 procedures before a process begins is hard enough; doing it  
12 by consensus in the middle of a process, particularly one as  
13 important as state planning, can be almost impossible.

14           I believe the task force was able to meet your  
15 mandate, Mr. Chairman, for several reasons. One, the members  
16 of the task force were experienced, hard-working and  
17 thoughtful people. You deserve great credit for your  
18 selections, particularly of the non-board member participants  
19 on the task force. John Ross, Jean Charn, Faith Reviere, De  
20 Miller and James Head each brought a wealth of experience, a  
21 distinct point of view, but also a commitment to getting the

1 work done.

2           The staff of LSC, particularly Randi, Bob, and with  
3 John Erlenborn's input, worked diligently both to represent  
4 LSC's interests while looking for common ground, but also in  
5 responding very quickly with redrafts and working documents.

6 They were terrifically and importantly supportive of our  
7 work.

8           And lastly, the leadership of John Broderick and  
9 Ernestine kept us on track and focused us on producing a  
10 product that would further our mutually shared goals of  
11 improving the delivery system. All ideas and suggestions  
12 were respected, all views were considered, and all decisions  
13 were openly arrived at. the board owes a great debt to the  
14 co-chairs for moving us through this process and producing a  
15 high quality report.

16           When we, the Corporation, set out on this adventure  
17 in 1996, I was excited because I believed that it had the  
18 potential to positively influence legal services in ways that  
19 the community had been prevented from doing because of the  
20 vagaries of funding and repeated fights for survival. I  
21 still believe that today. I am a firm believer in strategic

1 planning and the benefits that can flow from it.

2           In the debate over the last year about some of the  
3 concerns regarding state planning, we have lost sight of some  
4 of the substantial and long-term gains that have resulted  
5 from state planning. It has been a remarkable success in  
6 many more states than we realize and in more states than have  
7 encountered problems. The concerns, which are not to be  
8 dismissed, have drowned out the positive developments.

9           When I worked at the Legal Services Corporation, it  
10 was my working philosophy during the years of expansion that  
11 we should respect the judgments of local decisionmakers as  
12 long as those decisions were made openly, fairly, and in the  
13 best interest of clients. I still believe that today.

14           I believe the task force report, both the standards  
15 and the process, strikes the appropriate balance between LSC  
16 statutory and regulatory responsibilities and the obligation  
17 of our grantees to plan about how to best serve their client  
18 communities. LSC should be promoting and requiring planning.

19           LSC should be holding grantees accountable, both for the  
20 quality of their plans and for the quality of their client  
21 services. LSC should be clearly articulating and enforcing



1 standards that ensure clients receive efficient and effective  
2 services. And LSC should be a model for what effective and  
3 appropriate planning is and how a planning process should be  
4 respected.

5           We should not -- and this is my strongly held  
6 opinion. We should not -- and I do not believe we have --  
7 place our judgment in the place of appropriate, inclusive,  
8 client-centered and realistic plans developed at the state  
9 level. We have usually in the past deferred to the state  
10 plan once it is produced in compliance with the program  
11 letters.

12           I recommend the task force report to you  
13 because, by consensus, I think we have developed a set of  
14 clearly articulated, reasonable and appropriate standards  
15 which codify most of what is in our program letters, and that  
16 clearly defined process for review of state plans. It  
17 provides to both the staff and to the field helpful guidance  
18 as to LSC's expectations and procedures so that reliability  
19 and accountability are more carefully defined. I believe it  
20 will improve an already healthy and beneficial movement  
21 through state planning to more efficient and effective client

1 services.

2 I also believe it is a gift to the next board of  
3 directors and to our highly competent and sensible staff  
4 about how they should conduct themselves over the next few  
5 years.

6 In conclusion, I want to thank again our co-chairs  
7 for doing a remarkable job of moving us through a process  
8 that I thought in the beginning was one that was going to be  
9 impossible to accomplish. But I think we met your charge and  
10 it produced a report that is worthy of acceptance by the  
11 board.

12 MR. EAKELEY: Ernestine, forgive me for not having  
13 turned to you first.

14 MS. WATLINGTON: That's okay. I am going to, even  
15 now, let John Broderick speak for the both of us without all  
16 of us speaking. Enough is being said about it.

17 MR. EAKELEY: Then I would like to turn next to  
18 Maria Luisa, who also served very ably on the task force.

19 MS. MERCADO: Yes. I know, Mr. Chairman, that you  
20 are in a tight schedule and I would only echo the comments  
21 made by the presenters -- Mr. Saunders, Mr. Ross and Mr.

1 Askew -- and of course to the great work that Randi and Bob  
2 have done in putting this together.

3           Ultimately, what the task force tried to do is look  
4 at these guidelines and standards and in a way that all our  
5 grantees in the field and all our local partners in the field  
6 would have guidelines that would not create unnecessary  
7 litigation, that would be clear about what it is that the  
8 particular state needed to do, but always with deference to  
9 the local and state communities as to what kind of legal  
10 services works best for them based on the resources and the  
11 personnel that they have and the support that they have in  
12 the particular state.

13           Consequently, based on those discussions -- and  
14 they were excellent discussions, I know we had five or six  
15 meetings, some of them very lengthy, and with an extremely  
16 quick turnaround of revisions of comments made by different  
17 members of the task force to all of us, both via e-mail and  
18 written, that made the work much smoother for us.

19           But I think that ultimately the full task force, by  
20 consensus, agreed that the task force report that we are  
21 presenting to you is one which provides an equal footing both

1 for the state planners and LSC as the shepherd of the federal  
2 monies; yet still, should there be some reason that the local  
3 state plan isn't doing what is in the best interests of the  
4 clients and in the best interests of delivering legal  
5 services, that LSC can still override that but that there  
6 have to be some standards set up, and that being the  
7 "compelling and substantial" standards.

8           So we would request, or I would request, that we  
9 approve the task force report as submitted by consensus.

10           MR. EAKELEY: John Erlenborn.

11           MR. ERLENBORN: Thank you, Mr. Chairman. We all  
12 harken back to New Hampshire, where it was a very difficult  
13 time. As the board was holding forth and doing its job,  
14 there were people in nearby rooms who were trying to resolve  
15 something so that it would be not necessary to take this  
16 issue before the board. And it turned out that it worked  
17 that way. We did have an agreement. And part of that  
18 agreement, which was at that time endorsed by both John McKay  
19 and myself, was that we would move, and we did move quickly,  
20 to establish procedures for the reconfiguration process that  
21 was going on.

1           I don't think in retrospect, as I look back over  
2 the course of time since then, that I have heard very much  
3 about the result of that process. We had been told -- and I  
4 saw it in writing and letters that I received and news  
5 articles -- that the Corporation had no standards or  
6 procedures for reconfiguration. That was just totally false.  
7 We had standards. We had procedures.

8           And the procedures were the first thing that we  
9 directed our efforts toward. And where before the  
10 recommendations -- and that's what they were designed to be -  
11 - that came from the designated state planning body, the  
12 recommendations would go to the staff to review and make a  
13 determination, then it would go to the president for review  
14 and determination.

15           Now, what we did very quickly after New Hampshire  
16 was to address those procedures and say it's only right that  
17 when there are recommendations made by the DSPB that those be  
18 in writing -- and they were -- but then when we would take  
19 some action that might change those recommendations, there  
20 was no requirement that that be in writing. There was no  
21 requirement that the state planning board come to a meeting

1 with the staff to have an opportunity of give and take, face  
2 to face. We provided that in our new procedures. We  
3 provided that when the president reviewed these  
4 recommendations as they came to the staff, that again there  
5 had to be, if they desired it, a face-to-face meeting with  
6 the state planning board if they desired one; and that the  
7 president, in making his decision, would have to put his  
8 reasons in writing.

9           You know, that was an awful lot accomplished in  
10 that voluntary cooperative procedure that I don't think got  
11 very much recognition. There are really only two things that  
12 we were to do. One was the procedures, the other the  
13 standards. And the standards were there. Time after time,  
14 our staff had said we have standards, they're in program  
15 letter such-and-such, program letter such-and-such, program  
16 letter such-and-such, program letter such-and-such, and it  
17 seemed very apparent to me that we needed codification and  
18 simplification. And really, there was no difference of  
19 opinion there and the task force was created to carry on that  
20 job. We took care of the process. Now we were going to do  
21 the codification and simplification, and I think a fine job

1 was done. I have nothing but admiration for those who served  
2 on the task force and for the job that they did.

3           It seems there was one other thing that crept into  
4 this process, and that was trying to put a hurdle in the way  
5 of the Corporation from making a determination as to  
6 reconfiguration that might differ from the state planning  
7 body. I don't recall that being one of our mandates. That  
8 kind of crept into the process. And terminology was  
9 suggested by many people as to how we would set up those  
10 hurdles. At one time, "great deference" or "deference" was  
11 one of the suggestions. I guess I was the only one who took  
12 the trouble to go to the dictionary, and I got the definition  
13 of deference. Deference means giving your authority and  
14 decisionmaking to somebody else to exercise. That is really,  
15 I think, what was sought. When we put it in those clear  
16 words, they stepped back from that. Well, all right, maybe  
17 not deference. We'll try to find something else. My feeling  
18 is the something else was to accomplish the same as great  
19 deference would have accomplished.

20           So what is wrong with that? My friend John Ross  
21 said local control. I have had others in this debate that

1 has gone on for a short time saying, well, what about your  
2 Republican standards that everything should be local control?

3

4 Well, frankly, I never said everything ought to be  
5 local control, and that didn't bother me at all. You know, I  
6 was in favor of a lot of things that the states did rather  
7 than the cities and the counties, and there were a lot of  
8 things that the Congress did on a national basis. Not  
9 everything has to be local control.

10 The problem with local control in the sense of  
11 giving to the state planning body the authority to establish  
12 the reconfiguration, and then make it difficult, next to  
13 impossible, to modify that at the Corporation level, one  
14 problem with that is -- and I'm not going to cite this to  
15 you, but I sent a memo to all of my colleagues on the board -  
16 - of one after another references from the congressional  
17 action saying that the Corporation shall establish the  
18 boundaries for service areas, the Corporation has this  
19 authority. It was mandated by the Congress.

20 And there is a question in my mind that if we go so  
21 far as to make it appear that we are not meeting the mandate



1 of Congress by turning over to some appointed body what the  
2 Congress wanted this Corporation to do, that we could be in  
3 big trouble.

4           Now, words are difficult. Different meanings to  
5 different people. What bothered me was the "compelling" and  
6 the "substantial and compelling." And I understand that  
7 there is the possibility of some amendment being offered.  
8 One of the suggestions was "good and substantial." Well, I  
9 would hope that anything that the staff or the president did  
10 in working on the final determination of the configuration  
11 would be good. Certainly we don't want them to do anything  
12 bad. And the other term, "substantial" I would hope that  
13 they wouldn't be frivolous.

14           I don't think that the procedures that we  
15 established in what we did shortly after New Hampshire -- I  
16 don't think that that in any way contemplated that the staff  
17 or the president would do anything but something that was  
18 substantial and reasonable. And that is what you would  
19 expect, and if they didn't do that they would not warrant  
20 real consideration for making the change.

21           So I feel that I could accept, if it is offered,

1 the "good and substantial." They ought to be good and  
2 substantial recommendations, and I would hope that if that  
3 amendment is offered that it would be adopted.

4 MR. EAKELEY: Tom Smegal or Edna.

5 MR. SMEGAL: Well, I listened very carefully to  
6 John, and I think I hear in there a basis for a slight  
7 modification that I think would be appropriate. I wasn't  
8 part of the committee. I have listened to all of this and I  
9 will offer no further comments.

10 MR. EAKELEY: Edna, do you want to comment?

11 MS. FAIRBANKS-WILLIAMS: Well, the only problem  
12 that I have is if anything is going to come back and lash  
13 back on us if we are supposed to be building this so that  
14 Congress knows that we did it and so on and so forth, are we  
15 rushing into it to get it done before another board comes  
16 that will just change it anyway?

17 Are we proceeding the way we want to proceed and  
18 are we doing it in, as you say, a good and substantial way,  
19 or are we -- well, I don't know what I want to say, but are  
20 we getting too much influence from outside entities that are,  
21 as you say, going to backlash, and Congress will say, well,

1 you didn't make the decisions, somebody else did?

2           Do we need to change something? As Tom says, he  
3 would be willing to have an amendment. If there is some type  
4 of amendment, maybe I could agree to that. But right now,  
5 there seems to be something that seems to be rushed or it  
6 seems to be something.

7           MS. BATTLE: Doug, this is LaVeeda.

8           MR. EAKELEY: Yes, I was just going to get to you,  
9 LaVeeda. I'm sorry. Go ahead.

10           MS. BATTLE: Okay. I would like to say that I have  
11 listened very carefully to the presentations today and  
12 reviewed the report, and what I do hear is that we have  
13 carefully put together a report which reflects standards and  
14 also a process which is extremely important at this juncture.  
15 I don't think that it is rushed. It does sound as if  
16 considerable time and effort has gone into it and that we are  
17 at a point that we do need to make a decision about it.

18           I am not going to quibble about the language, but I  
19 do think that the check and balance, carefully considered and  
20 derived by the committee, is appropriate because what it is  
21 to allow for, not in the terms that John Erlenborn used,

1    deference, and that you have given a decision-making  
2    responsibility to another entity, but defer to the wisdom  
3    locally about what resources are available to do  
4    reconfiguration and implement it, sufficient enough that if  
5    the programs have not looked at everything and the  
6    Corporation does have substantial reasons for making a  
7    determination that may be different, there is room for that  
8    to happen; but, at the same time, a policy determination is  
9    clearly set out in the process which will make sure that  
10   those people who are in place who have the responsibility to  
11   get it done, the wisdom is included in how that ought to  
12   happen.

13                So I am very pleased with the leadership of the  
14   committee and the outcome of it, and I do think and hear that  
15   we are at a point that we ought to be able to vote on this  
16   matter. And I agree, I think it would be a gift to the new  
17   board so that they can move on to other issues which  
18   certainly will be present as they come on board.

19                MR. EAKELEY: Nancy, are you still on?

20                MS. ROGERS: Yes, I am still on.

21                MR. EAKELEY: Did you want to comment? You don't

1 have to, but if you --

2 MS. ROGERS: I am confused by one thing. I take it  
3 that there is disagreement on just a few words in the  
4 standards; is that right?

5 MR. EAKELEY: I think that's correct. I think that  
6 -- I anticipate the amendment that John Broderick was going  
7 to make was going to substitute the words "good and  
8 substantial reasons" for the term "compelling and substantial  
9 reasons."

10 Am I misstating your intent?

11 MR. BRODERICK: No, you're not.

12 MR. EAKELEY: And that is really, in one sense, the  
13 parsing of the language to which John Ross referred before.

14 MS. ROGERS: With that change, that suggested  
15 change, Randi and John, would you be in agreement?

16 MR. EAKELEY: I don't want to speak for everybody,  
17 but Randi I think was advocating a rational basis test, and I  
18 think I heard John at the end of this impassioned comments  
19 acquiesce in "good and substantial."

20 MR. ERLBORN: I like rational basis better.

21 MR. EAKELEY: But I think I heard you acquiesce in

1 "good and substantial."

2 MR. ERLNBORN: I might go for that.

3 (Laughter.)

4 MS. ROGERS: I wonder whether any additional  
5 negotiations would resolve the differences on those few  
6 words.

7 MR. EAKELEY: I think we are about as negotiated as  
8 we are ever going to get.

9 MS. WATLINGTON: This is Ernestine. I agree.

10 MR. EAKELEY: Let me just add a few words, if I  
11 might. Nancy, are you done or do you have any other --

12 MS. ROGERS: No, that's all.

13 MR. EAKELEY: Five years ago or so, the  
14 Corporation, with the strong support of the board, launched  
15 its state planning initiative, and as several have remarked,  
16 that has gone much further than we ever anticipated and much  
17 to the benefit of our grantees and their clients, and it is  
18 something of which we can be extremely proud.

19 Almost coincidentally, five years ago the  
20 Corporation became authorized through the appropriations  
21 process to redraw service area boundaries. In the five years

1 that have ensued, the board has had reports about the state  
2 planning process, we have adopted our strategic directions  
3 document that soundly endorses continuation and  
4 intensification of that process.

5           But the board has never been involved in or called  
6 upon to articulate the policies that should govern state  
7 planning and reconfiguration. And to a certain extent, and  
8 for a certain length of time, there was some debate  
9 internally within the Corporation as to whether the board has  
10 any responsibility for reconfiguration or whether that  
11 resided solely in the Office of the President.

12           I think that it is clear now, and probably should  
13 have been then, that ultimate responsibility for state  
14 planning and configuration rests with the board as a policy  
15 matter and as stewards of the Corporation, but that we must  
16 obviously depend upon the president and his very capable  
17 staff to make decisions day to day that affect grants and  
18 service areas and the like.

19           Nonetheless, I see this as a very important task  
20 force report for the board to adopt as its policy with  
21 respect to state planning and configuration. And I say that

1 without intending in any way to minimize or denigrate or  
2 criticize the extraordinary efforts that our staff have done  
3 over the years to make this thing work and perform and  
4 enhance access to justice across the country.

5           It is simply a question, as I see it, of asserting  
6 responsibility and articulating policy in a way that permits  
7 the Corporation to do the important things that it needs to  
8 do while valuing, and continuing to value, the state planning  
9 efforts and the creation of state-coordinated communities of  
10 justice, and to value the participation and decisionmaking and  
11 recommendations that flow from that process.

12           So I think that, in an imperfect world, perfection  
13 is something for another life, but that we have before us  
14 something that is really very good, very thoughtful. I am  
15 quite comfortable with "good and substantial" in lieu of  
16 "compelling and substantial." I think we are all in  
17 agreement about what we value and the principal emphasis of  
18 this entire exercise, and therefore I would --

19           MS. BATTLE: Doug, I know you're in the middle of  
20 your speech, but I am going to have to go at this time.

21           MR. EAKELEY: Okay, LaVeeda. We will record you as



1 a yes on the report as amended, as yet to be amended?

2 MS. BATTLE: That's right.

3 MR. EAKELEY: Thank you.

4 MS. ROGERS: And, Doug, I'm going to be on a little  
5 longer but I don't want to interrupt a second time, so since  
6 LaVeeda has already interrupted, I would be supportive of the  
7 task force report as amended by the proposed amendment by  
8 John.

9 MR. EAKELEY: Okay. Well, I am going to just stop  
10 there then and turn this back to John. I'm sorry, just one  
11 other point I wanted to address on the rushing. It seems to  
12 me, having launched this process, having sat back perhaps a  
13 bit more and a bit longer than we should have, I see the  
14 adoption of the task force report as a way to put this board  
15 on record for what we have been doing for the past five  
16 years, with standards and with wonderful committed staff.

17 And if the next board wants to take another look at  
18 it, that's fine. That's their prerogative, But I think we  
19 are leaving it a little bit better than we found it. In  
20 fact, since it wasn't there when we first came on board,  
21 that's a little bit different.

1           But in any event, that is where I come out on this,  
2 and I'll turn it back to John Broderick, with my apologies  
3 for my long-windedness.

4           MR. BRODERICK: And I would like to make an  
5 amendment, and I'll speak for about 30 seconds on it just to  
6 address one of the comments made by the president of the  
7 Corporation and for anyone who might subsequently read this  
8 record.

9           While the Congress has given us the authority on  
10 configuration issues, it has not told us how we should  
11 exercise that authority. And I believe -- and I'm from a  
12 state where local controls is king, I can assure you -- I  
13 believe that in the wise exercise of our authority, to adopt  
14 a good and substantial standard is to fulfill the mandate  
15 Congress has given us. I do not see it as abdicating our  
16 responsibility to the field; I see it as articulating very  
17 clearly the value that we place in the field in doing our  
18 work.

19           And I also think if we were to go to lesser  
20 standard, we would be, I think, sending a message that I do  
21 not want to send. So I would like, in the exercise of the

1 authority of this Corporation that has been given by the  
2 Congress, to do what they asked us to do, and that is to  
3 exercise it.

4 And I would exercise it with an amendment to this  
5 task force report that would substitute at page two, under  
6 preface at the bottom of the third full paragraph, I would  
7 substitute for "compelling and substantial reasons" "good and  
8 substantial reasons."

9 M O T I O N

10 MR. BRODERICK: And with that amendment, I would  
11 move that this report be adopted.

12 MS. WATLINGTON: Second.

13 MR. EAKELEY: Any further discussion?

14 (No response.)

15 MR. EAKELEY: All those in favor, say aye.

16 (Chorus of ayes.)

17 MR. EAKELEY: All those opposed?

18 MS. MERCADO: Nay.

19 MR. EAKELEY: The ayes have it. The report, as  
20 amended, is adopted, and I thank everyone for staying this  
21 course. This is a good result.

1           Randi, this is a hard introduction to ask you to  
2 come back up to the table but --

3           MS. YOUELLS: But I'm glad to do it.

4           MR. EAKELEY: And we're glad to have you back at  
5 the table, let me tell you.

6           MR. ERLNBORN: Better luck this time.

7           (Laughter.)

8           MS. YOUELLS: In the interest of time, I am going  
9 to only address a couple of key initiatives that are probably  
10 somewhat -- with which this board is somewhat familiar --  
11 unfamiliar. So I am going to address those and I urge you to  
12 take a look at both the response to the SAR and to the  
13 monthly board update that we provide the board for a more  
14 complete recitation of the initiatives that the program staff  
15 have been involved in.

16           The chair specifically asked me to address  
17 performance measures, and since I always take my direction  
18 from the chair, I will start with that. As this board knows,  
19 we have talked for approximately -- since the adoption of  
20 strategic directions about the establishment of performance  
21 measures that would allow us to more carefully measure the

1 work of the grantees and of our state justice communities in  
2 terms of the outcomes and effect and impact on our clients.

3           As I have said recently and in another  
4 presentation, it is not meaningful to know that we closed  
5 88,000 SSI cases as a legal services community in the past  
6 year unless we know how many dollars we've put in the pockets  
7 of low-income people because of that, how many people avoided  
8 homelessness because of that, how many people had access to  
9 medical care because of that.

10           So I am a strong proponent of performance measures,  
11 but the history of performance measures in LSC since I have  
12 been there has been, as we all know, a little rocky. So what  
13 we have done, what I am going to talk to you about right now,  
14 is a multi-staged effort that we have embarked upon that will  
15 lead us eventually to the establishment, we hope, of  
16 performance measures that will, at one time and one day,  
17 replace the CSR system.

18           But I want to talk today just about step one, and  
19 it's a step that was undertaken by the president and myself  
20 several months ago on the heels of some performance measure  
21 discussions that were being talked about by this board.

1           On August 10th, 2001, LSC published an RFP seeking  
2 proposals for consultant services for the development of a  
3 state justice community evaluation instrument. The RFP noted  
4 that the maximum amount for the project would be \$50,000, and  
5 applicants were asked to do several things. They were asked  
6 to develop an evaluation instrument that would allow LSC and  
7 its staff to make reasonable and comparative judgments about  
8 effectiveness, efficiency and adequacy of state justice  
9 communities established through state planning. They were  
10 asked to develop an instrument that would answer questions  
11 about the operation of a state justice community, the impact  
12 upon services to clients in their community, and cost-  
13 effectiveness. They were asked to develop an instrument that  
14 would capture an evaluation of the planning and  
15 implementation processes in terms of what has been  
16 accomplished over the last few years from the point at which  
17 we started in 1998. They were asked to develop an instrument  
18 that would report on outcomes, how results were achieved, and  
19 the cost-effectiveness of the efforts, and they were asked to  
20 develop an instrument that would allow us to gather  
21 quantitative and qualitative data.

1           And we thought what we do is once that instrument -  
2 - and we went through the process of developing that  
3 instrument -- it would give us more guidance as to how to  
4 proceed in steps two, three and four of the performance  
5 measure project.

6           I was not comfortable, nor was President Erlenborn  
7 comfortable, with just making that decision ourselves. There  
8 are days I am comfortable making decisions myself, and there  
9 are days that sometimes I think it would be more fun, but in  
10 this particular capacity we set up a small advisory council  
11 comprised of four field representatives, four program  
12 directors, and we asked them to review the proposals that  
13 came in in response to that RFP. Those were also reviewed by  
14 staff -- Bob Gross, Michael Genz, Mattie Condray, Pat  
15 Hanrahan, people who are familiar with state planning. And  
16 those eight people ranked the proposals and two of the  
17 applicants were very close in terms of what they would agree  
18 to provide us, meeting our specifications with the allowable  
19 amount of dollars.

20           And I was not at that point cool about making a  
21 recommendation to President Erlenborn on that note, so we did

1 bring both applicants in for interviews. The interviews took  
2 place two weeks ago. They were very tough interviews. The  
3 four members of the field who were on the advisory council  
4 came into Washington, D.C., and for two hours we aggressively  
5 questioned both sets of applicants as to what they would do  
6 to develop this project for us. I think we are about ready  
7 to announce a recommendation to President Erlenborn, but we  
8 are going to have one final conference call this coming week  
9 with the advisory council, and at that point we will make a  
10 recommendation. And that will be step one.

11           And again, that is important both because it will  
12 give us an instrument that will allow us to go out and do  
13 some evaluation of what we have been doing the last four  
14 years, but it will also provide the basis for helping us  
15 decide where we want to go in step two, step three and step  
16 four.

17           So, as I said, we expect to make a decision very  
18 soon. We are very excited about that project. Both  
19 applicants were very, very good and both submitted very good  
20 proposals.

21           The results project, which is audit performance



1 measures, continues on, and we hope to have fairly soon  
2 fairly comprehensive data about the work that is being  
3 performed by our grantees, in addition to closed cases. We  
4 have had some startup problems among our grantees, but we  
5 expected that, and in fact the results project was done with  
6 the idea that it would be interactive between the field and  
7 ourselves so that if people have problems or questions about  
8 what was happening, we gave them some leeway. But most  
9 problem didn't occur and we are busy gathering the data, and  
10 that will help us present a better and bigger picture to the  
11 Congress about the work that we perform.

12           The last subject I want to introduce you to is the  
13 diversity study that will soon be on your desk. And I will  
14 be sending it out hopefully in the next several weeks. As  
15 you know, we have been engaged in a year-long conversation  
16 with NLADA and our field on the importance of diversity, both  
17 of how it strengthens ourselves as programs and how we relate  
18 to the multicultural needs of our clients.

19           That has been an incredibly exciting initiative,  
20 and I have been impressed and pleased by the fact that  
21 several board members have been with me almost from the

1 beginning on that process. Maria Luisa and LaVeeda have  
2 attended many of the meetings and conversations.

3           During, however, some of those meetings and  
4 conversations, several people said, "Have you ever looked at  
5 the data that LSC has collected over the last ten years, last  
6 five years, when you ask your grantees to report to us about  
7 what's happening? What happens to that data, Randi? Does it  
8 just sit there and have you ever looked at it? And what does  
9 it say about diversity?"

10           And I thought that was an excellent point so I  
11 hired a consultant, a former LSC staff person who is a  
12 statistician, and he spent several months for us gathering  
13 ten years of data that has been sent to us by the field that  
14 documents the changes in our workforces, both in terms of  
15 gender, in race, in age, and preparing an initial report for  
16 us.

17           And let me just give you a couple of the initial  
18 findings because I think that they will interest you. We are  
19 talking about five years of data, from 1996 to 2001, and the  
20 preliminary data shows that the aggregate workforce, of  
21 course, is approximately 74 percent female; the attorney

1 workforce is approximately 70 percent female; the number of  
2 program directors is approximately 34 percent female; and  
3 there has been very little change percentage-wise in the  
4 total makeup of the gender of program directors, despite  
5 state planning and despite some fear that has inured to the  
6 detriment of female program directors from 1996 to 2000.

7 Yes, the numbers have gone down, but the percentage  
8 of program directors in proportion to the category of program  
9 directors that are female has risen just slightly.

10 We have very similar data on ethnicity and racial-  
11 based statistics related to program directors and staff. And  
12 again, despite the concern that people had expressed to me  
13 that state planning was resulting in the loss of African  
14 American and people of color in project or to capacities, the  
15 statistics show that again, although the raw numbers have  
16 shown some decline because we have merges service areas, the  
17 number of African American project directors in proportion to  
18 the number of project directors in total has actually risen.

19 And again, it's just slight, but there hasn't been a major  
20 change, the major sea shift, that we were somewhat afraid of.

21 And again, we will be presenting to this board a

1 very comprehensive study and report on this ten years of  
2 diversity data. We have it by program, we have it by state,  
3 we have it nationally, and we have it in terms of workforce,  
4 of program directors, of race, of gender, of age, and in  
5 almost any other configuration that you might want. But the  
6 raw data does exist, and if there is something that you don't  
7 see in the report that you would like to have from us, that  
8 will be easy to do.

9           Just two other quick comments. Last July, Maria  
10 Luisa was with me in California and she looked me in the eye  
11 and said that the National Poverty Law Center has submitted a  
12 proposal to you, Randi, to do basic lawyer skills training in  
13 ten states.

14           And she said something that stuck with me for a  
15 long period of time. She said, "Have I ever asked you to do  
16 anything? I am asking you do find dollars to fund this  
17 proposal."

18           We funded the proposal. We actually are happy to  
19 announce that the National Poverty Law Center will, using LSC  
20 funds, be delivering basic lawyer skills training in ten  
21 states: Alabama, Mississippi, Iowa, Oklahoma, Tennessee,

1 South Dakota, Florida, Michigan and Puerto Rico, as well as  
2 the Native American program in Arizona.

3 In addition, I am pleased to announce that because  
4 our dollars are used to develop that training module, other  
5 states have contracted directly with the NPLC at a much  
6 reduced cost because they are just paying for the staff to  
7 come out and deliver the training, to deliver the package  
8 that we are creating.

9 And the final comment that I would like to make --  
10 and it is a thank you to Mattie Condray and the committee  
11 called LSC Gives at LSC -- the board is probably not aware  
12 that we have an internal committee called LSC Gives that is  
13 dedicated to bringing some social justice into the work that  
14 we do as a corporation and as a community.

15 And some time ago I said to Mattie Condray, who  
16 graciously chairs that committee, that we needed to do  
17 something to show our support for our grantees in New York  
18 City. We needed to say, "Good job. We're with you. We  
19 understand what you're going through."

20 And Mattie Condray and her committee did a  
21 wonderful banner where they stretched it out all over LSC and

1 all staff went down and signed that banner, then they rolled  
2 it up and sent it up to our grantees in New York City with a  
3 gift or treat basket and said, "We know it's tough. We know  
4 you're stressful. Congratulations and good job, and LSC is  
5 by you and is willing to stand in support of you."

6 And at NLADA, one of the program directors publicly  
7 stood up and said that that had come at a very dark and  
8 dreary day in their lives, at a time when they were stressed  
9 out and didn't know if anybody understood how difficult their  
10 lives were, and she thanked LSC for that. So I would like to  
11 publicly thank Mattie Condray and LSC Gives.

12 MR. EAKELEY: And I would like to thank you for  
13 that very upbeat report.

14 MS. YOUELLS: Thank you.

15 MR. EAKELEY: The next item is consider and act on  
16 changes to the board's 2002 meeting schedule. We had  
17 circulated to the board possible alternative dates for our  
18 annual meeting in January and found that we were better off  
19 staying with the original dates as noted, which are not in  
20 front of me right now but it's --

21 MR. SMEGAL: The 15th-16th.

1 MR. EAKELEY: January 15-16?

2 MR. SMEGAL: Yes.

3 MR. EAKELEY: And I think we had also --

4 MS. MERCADO: 15th? No.

5 MR. SMEGAL: I'm sorry, 18-19.

6 MR. EAKELEY: I think we also wanted to reconsider  
7 future meetings because, by that time, presumably there would  
8 be a new board. There was some proposal that we have the  
9 April meeting -- do I want to say --

10 MR. ASKEW: Well, I thought the memo from the staff  
11 that was faxed to us said that the 18th-19th was a problem  
12 and that --

13 MR. EAKELEY: Well, it turns out that it was less  
14 of a problem than any alternative date.

15 MR. ASKEW: Really?

16 MR. EAKELEY: Yes.

17 MR. FORTUNO: The concern was the 18th and 19th is  
18 the weekend of Martin Luther King Day, so an effort was made  
19 to ascertain whether some alternative date might be just as  
20 good, one that wouldn't conflict with Martin Luther King Day.  
21 It turns out that any other day we picked there were any

1 number of directors unavailable.

2 MR. EAKELEY: But it doesn't conflict with Martin  
3 Luther King Day, but it's the Friday-Saturday of the weekend  
4 before. But it turns out we would lose more directors at  
5 other meetings and the one director who raised the issue  
6 wasn't going to make any January meeting anyway. So we're  
7 going to stay with that.

8 Was the intention to go beyond the January meeting?

9

10 MR. FORTUNO: I think the president had  
11 communicated at least to the chair and possibly other  
12 directors concerned, that we had planned out for the year,  
13 for the entire year, a series of meetings and that it might  
14 be best to take that up again because maybe it would be  
15 better left to the new board.

16 MR. EAKELEY: Yes, the issue is really should we be  
17 committing time, space, staff, to meetings outside of  
18 Washington at a time when we're not going to be around. And  
19 I think my conclusion and John Erlenborn's recommendation was  
20 that we should withdraw that schedule and let the next board  
21 decide where and when to meet.



1           I know that makes it more difficult for staff to  
2 plan around it; but, on the other hand, you've got to plan  
3 around a board.

4           MR. ERLNBORN: And we can't plan ahead too much  
5 and commit for expenditures and the hotel and so forth,  
6 because we'll have the new board come in and they may not  
7 like the plans we made for them.

8           MR. EAKELEY: So I think that in terms of -- I  
9 think that the next meeting after the January meeting we  
10 ought to just plan to be -- it ought to be scheduled for  
11 Washington, D.C., and we'll see who shows up. Okay?

12          MR. ASKEW: And we already have dates for that.

13          MR. EAKELEY: We already have dates.

14          MR. SMEGAL: That was the one we talked about going  
15 to South Carolina for?

16          MR. EAKELEY: Yes, yes.

17          MR. FORTUNO: So that would be the April meeting,  
18 and that meeting -- the only change there would be that it  
19 would occur in Washington, D.C. The January meeting would be  
20 left as is currently scheduled; that is, the 18th and 19th.  
21 Everything beyond April would be withdrawn.

1 MR. EAKELEY: Yes. Okay?

2 MR. ASKEW: Does anybody have those April dates  
3 handy? Is it the 5th and 6th?

4 MR. FORTUNO: I'll check my calendar. The 5th and  
5 6th I've been told. Let me see.

6 MR. EAKELEY: Okay. Is that it for this item?  
7 Then why don't we entertain a motion to go into closed  
8 session.

9 M O T I O N

10 MR. ERLNBORN: So moved.

11 MS. WATLINGTON: Second.

12 MR. EAKELEY: All those in favor?

13 (Chorus of ayes.)

14 MR. EAKELEY: We are going into closed session for  
15 the two agenda items on the agenda.

16 (Whereupon, at 12:12 p.m., the board adjourned to  
17 executive session.)

18 \* \* \*

19 (Whereupon, at 12:27 p.m., the board resumed its  
20 open session.)

21 MR. EAKELEY: Why don't we start with is there any

1 other or further business to bring before the board?

2 (No response.)

3 MR. EAKELEY: Hearing none, we are now in the  
4 public comment portion of our meeting. Is there any public  
5 comment?

6 (No response.)

7 MR. EAKELEY: Hearing none, is there a motion to  
8 adjourn?

9 M O T I O N

10 MR. ERLNBORN: So moved.

11 MS. FAIRBANKS-WILLIAMS: Second.

12 MR. EAKELEY: All those in favor?

13 (Chorus of ayes.)

14 MR. EAKELEY: Opposed?

15 (No response.)

16 MR. EAKELEY: The ayes have it. Have a very Happy  
17 Thanksgiving, everyone.

18 (Whereupon, at 12:28 p.m., the board was  
19 adjourned.)

20 \* \* \* \* \*