

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

FINANCE COMMITTEE

Monday, September 15, 2003

9:30 a.m.

The Melrose Hotel
2430 Pennsylvania Avenue, NW
Alexandria, Virginia

COMMITTEE MEMBERS PRESENT:

Robert Dieter, Chairman
Thomas A. Fuentes (via teleconference)
Herbert S. Garten
Frank B. Strickland, ex officio member

BOARD MEMBERS PRESENT:

Lillian R. BeVier
David Hall
Michael D. McKay
Thomas R. Meites
Maria Luisa Mercado
Florentino Subia

Diversified Reporting Services, Inc.
1101 Sixteenth Street, NW Second Floor
Washington, DC 20036
(202) 467-9200

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STAFF AND PUBLIC PRESENT:

John N. Erlenborn, LSC President
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary
Randi Youells, Vice President for Programs
Mauricio Vivero, Vice President for Government
Relations & Public Affairs
John Idleman, Acting Vice President for Compliance
and Administration
Leonard Koczur, Acting Inspector General
Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel
David Maddox, Assistant Inspector General for Resource
Management
Mattie C. Condray, Senior Assistant General Counsel
David Richardson, Treasurer and Comptroller
John Meyer, Director, Office of Information Management
Alice Dickerson, Director, Office of Human Resources
Patricia Hanrahan, Special Counsel to the Vice
President for Programs
Elizabeth Cushing, Board Liaison
Linda Perle, Senior Attorney/Legal Services, Center
for Law and Social Policy
Sarah Singleton, American Bar Association's Standing
Committee on Legal Aid and Indigent Defendants
Richard Zorza, Zorza Associates
Hulett H. Askew, Administrative Courts of Georgia
Julie Clark, Vice President for Governmental Relations,
National Legal Aid and Defenders Association
Don Saunders, Director for Civil Legal Services,
National Legal Aid and Defenders Association

C O N T E N T S

	PAGE
1. Approval of Agenda	5
2. Approval of the minutes of the Committee's meeting of June 27, 2003	5
3. Report on LSC's consolidated operating budget, expenses, and other funds available through July 31 2003	6
4. Report on LSC's budget projected operating expenses for April 1 - June 30, 2003	14
5. Consider and act on proposed internal budgetary adjustments and consolidated operating budget reallocations for April 1 - June 30, 2003	27
6. Report on LSC's budget projected operating expenses for July 1 - September 30, 2003	27
7. Consider and act on proposed internal budgetary adjustments and consolidated operating budget reallocations for July 1 - September 30, 2003	34
8. Consider and act on LSC's FY 2004 temporary operating budget	35
9. Public comment on LSC's FY 2005 budget mark	56
10. LSC management's recommendation on LSC's FY 2005 budget mark	77
11. Consider and act on LSC's FY 2005 budget mark	77
12. Consider and act on fixing the LSC's president salary to Level V of the federal government's Executive Schedule, thereby allowing the president's salary to adjust automatically as Level V adjusts	98

CONTENTS (con'd):

13. Consider and act on other business	99
11. Public comment	99
12. Consider and act on adjournment of meeting	99

Motions: 5, 34, 51, 92, 98, 99

P R O C E E D I N G S

1
2 CHAIRMAN DIETER: I'd like to call the meeting
3 to order of the Finance Committee. I'm Rob Dieter, the
4 chairman of the Finance Committee, and Herb Garten is
5 present, and Tom Fuentes is a member who is joining us
6 by telephone. So Tom, are you there?

7 MR. FUENTES: Yes, I am. Good morning, one
8 and all.

9 CHAIRMAN DIETER: Good morning.

10 MR. GARTEN: Good morning.

11 CHAIRMAN DIETER: I guess the first order of
12 business is to approve the agenda that appears in the
13 board book. Is there a motion to approve the agenda?

M O T I O N

14
15 MR. GARTEN: I so move.

16 MR. FUENTES: Second.

17 CHAIRMAN DIETER: I guess a vote of the
18 committee, unanimous, I assume, to approve the agenda.

19 And then we'll move on to approval of the
20 minutes.

M O T I O N

21
22 MR. FUENTES: Move approval of the minutes of

1 the last meeting.

2 MR. GARTEN: I second.

3 CHAIRMAN DIETER: Okay. I'll acknowledge that
4 as voted by the committee to approve the minutes that
5 are on page 76 through 79.

6 Then item 3 of the agenda is a report by David
7 Richardson on the consolidated operating budget. And I
8 think these materials appear at page 92 of the board
9 book. Is that right, David?

10 MR. RICHARDSON: That's correct, sir. Okay.
11 At this reporting period, ten months into the fiscal
12 year, and that represents 83 percent of the fiscal
13 year. The spending to date is running pretty much the
14 way we had anticipated and planned throughout the year.

15 The total budget for the year that is in this
16 particular report -- and let me go back and state for
17 the record it's in the memorandum. At the last
18 meeting, we reviewed, I think, a verbal presentation in
19 regards to the six-month spending. And we had some
20 interim budgetary adjustments.

21 I also had a reallocation because we had
22 received money from a grantee that goes to grant

1 recoveries. And we had made a proposal to include that
2 into our grants from other funds available so that we
3 could bring it back into the budget and be able to
4 award it to a program.

5 The spending through July in the budget
6 comparisons include those adjustments that we had
7 proposed at that time so that we would not be
8 duplicating internal budgetary adjustments when we did
9 our nine-month review. So I just want to make that
10 clear as we go through.

11 The only real change in the budget is what is
12 in column 2 on page 94. You'll see that we did
13 recommend a consolidated operating budget reallocation
14 of \$914,363. That was money that was collected from a
15 Florida program so that we could then add that money
16 back into the budget and increase the grants from other
17 funds available.

18 The other adjustment is there's an ongoing
19 activity between our government affairs office and
20 legal affairs. So we had reallocated \$6500 out of the
21 government affairs budget into the legal affairs
22 budget.

1 So our comparisons are based on this and the
2 internal budgetary adjustments which we will no doubt
3 go over again just in a minute. But I just wanted to
4 make sure that you were aware of that.

5 With that, the revised budget, with those
6 adjustments, is the delivery of legal assistance. We
7 have a total budget of \$327,664,000. And that is
8 column 3, revised budget.

9 And then with the corporate management and
10 administration, which is the combination of the
11 inspector general and management and administration,
12 the total budget is \$18,017,000. And management and
13 administration is \$14,369,000. And then the inspector
14 general is \$3,649,000, for a total budget of
15 \$345,682,000. I will normally round the hundreds there
16 just to --

17 CHAIRMAN DIETER: It's \$345 million.

18 MR. RICHARDSON: That's right. \$345,682,000.
19 The spending to date -- you'll see the comparison
20 there. For the delivery of legal assistance,
21 \$323,174,000, so there's \$4,490,000 left. That money
22 is earmarked for specific programs. For instance, 310

1 is earmarked -- almost 311,000 -- for basic field
2 programs. Those are funded on a formula basis.
3 There's 67,000 that's remaining for the U.S. Court of
4 Veterans Appeals. And that money is earmarked only for
5 that program.

6 The grants from other funds available, the
7 \$1,029,000 there, are -- those awards are granted by
8 the president at his discretion. And then the
9 \$3,083,000, almost -84,000, for the technology are the
10 technology initiative grants that will be awarded some
11 time in the first quarter up through January of next
12 year for the technology.

13 You see the management and administration.
14 Comparing the budget of 14,369,000, we have spent to
15 date 10,914,000. There's a remaining balance of
16 \$3,455,000, which will go to support the remaining two
17 months of the fiscal year.

18 Within the inspector general, the budget of
19 3,649,000, they've spent to date 1,655,000. So there's
20 a balance there of \$1,994,000.

21 On page 95, you will see that there is the
22 grant recovery that I spoke to you about. The

1 column 2, the subtraction that you see there is where
2 we're adding that money back into the budget to support
3 that.

4 You'll see that we have interest income that
5 we have projected. We were a little optimistic this
6 year with the amount of interest that we would receive.
7 I had projected \$100,000, and then 65,000 for the Equal
8 Justice magazine.

9 The interest rates, as you know, have
10 continued to fall. I actually saw a report last week
11 where we were getting .22 percent per annum on our
12 money. This not only hurts the Corporation, but
13 certainly those programs that have IOLTA funding,
14 they're hurting tremendously because we have -- up
15 until three years ago, we were earning 3- to \$350,000 a
16 year in interest on our money. This year we'll be
17 lucky to get 60- to 65,000 on our money.

18 So it's hurting not only us, but it's hurting
19 our programs nationwide because of the support that
20 they get from the IOLTA program.

21 And then the Equal Justice magazine, we have
22 29,000. And when we do the nine-month review I'll show

1 you that there is a projection of additional money
2 coming in there.

3 Turning to page 96, you see that there's a
4 breakdown of the money that is spent for management and
5 administration. We are, as I said, 83 percent through
6 the year. We've spent 75.96 of the funding.

7 There are -- after looking and working with
8 our directors, there will be some adjustments that I'll
9 just note. For instance, we have a budget of \$270,000
10 in our litigation fund, our outside counsel. We have
11 spent, through the ten-month period, \$245,000 on that.
12 So that's something that we keep a close eye on in
13 reviewing and making sure that we make money available
14 if it's needed there.

15 The other area you'll see there is significant
16 funding is the rent and the financial administrative
17 services. It's \$1.227 million, almost \$1,228,000. And
18 we're right on target with their budget there. 191,000
19 is the -- other operating expenses is sort of a catch-
20 all. It's for corporate liability insurance. It's our
21 supplies, operating expenses for our offices, equipment
22 rental, and so forth.

1 We have had some furniture needs this year
2 with the move, and some things that we are purchasing.
3 So there's \$62,500 that has been spent in the financial
4 administrative services this year for that.

5 Additionally, there's 135,000 that is in the
6 information technology. We purchased a new telephone
7 system and some new computer equipment with the move,
8 and certainly this is within the parameters of the
9 budget and was passed before.

10 There's \$83,000 in the other operating for the
11 information technology, and that is money that goes
12 toward the internet connections and the computer
13 supplies and cartridges and so forth for our printers.
14 And since we are using more color in our presentations,
15 it's a little more expensive to run the machinery.

16 Other significant areas: Within the program
17 performance, there's 388,000 in consulting funds that
18 have been used to date, 247,000 in travel and expense.
19 Also, in the Office of Enforcement, there's 204,000 for
20 travel there, those visits that you heard about
21 yesterday with the case service reports and the visits
22 that they do for A-50.

1 All of this is certainly within the parameters
2 of the budget. If you look at page 97, you'll see that
3 each of the percentages spent through this period are
4 well within the range. One that you would see here is
5 the temporary employee is at 90 percent instead of
6 83 percent, and there's actually an adjustment with the
7 nine-month review where we're going to add a little
8 additional money there to help accommodate the need,
9 which I'll explain when we get into the review of the
10 nine-month budget.

11 Within the inspector general's office, you'll
12 see that he has spent 45 percent of his money to date.
13 That's on page 98. And there is some additional
14 initiatives, certainly, that he -- the inspector
15 general and the office have coming up. But as you'll
16 see, once we get into the projections, there is a
17 considerable amount of money that will be carried over
18 from that particular budget.

19 I have sort of hit the highlights with the
20 ten-month review. If there's any questions of the
21 committee or the board, I'd be glad to try to answer
22 them for you.

1 CHAIRMAN DIETER: Herb, do you have any
2 questions?

3 MR. GARTEN: None.

4 CHAIRMAN DIETER: Tom?

5 MR. FUENTES: I'm okay.

6 CHAIRMAN DIETER: Okay. And my only question
7 is just to repeat your -- on page 97, the projected --
8 or the amount that we spend with the target of the
9 83 percent or whatever. You're likely to fall under
10 the budget in these items at the end of the year.
11 Right?

12 MR. RICHARDSON: Absolutely. You'll see, with
13 the projections, we're actually projecting to carry
14 over a considerable amount of money into next year that
15 will help support next year's operations.

16 CHAIRMAN DIETER: All right. Then the next
17 item is report -- I think this appears on page 80 -- of
18 the budget projected operating expenses for April 1st
19 through June 30 of 2003.

20 MR. RICHARDSON: This information I went over
21 at the last board meeting. But as a quick review, what
22 I have done is provided the information in this

1 particular board book.

2 Normally what we do is I detail the changes
3 within the budget of \$10,000 or greater. When we were
4 writing this, thinking that we were having a telephonic
5 meeting, I did 5,000 and greater. So there's a little
6 more detail here than you would normally get, but yet
7 it's only a few pages of information. So let me walk
8 through that with you.

9 With the consulting fees within the board of
10 directors, we moved \$6,800 in to support some other
11 projected spending within the area. There was some
12 travel and communications that we moved some money to.

13 Within the office -- the executive office,
14 there was a need to make an adjustment between the
15 personnel benefits which were reduced \$9,000, and that
16 money went to increase personnel compensation.

17 When we accrue -- and you're going to see this
18 thing throughout the presentation. We fund peoples'
19 salaries, but we also accrue vacation. So when they
20 take more vacation than is accrued, it adjusts between
21 the personnel benefits or the liability that is off the
22 books and is then added to the personnel compensation.

1 So we try to balance the two because if we
2 fund 100 percent salaries and then we fund ten days of
3 vacation, if you take 20 days of vacation you've got to
4 make the adjustment to move the money within the budget
5 lines.

6 Within the Office of Legal Affairs, you'll see
7 that there is the adjustment that I detailed before,
8 the \$6500. There's an ongoing legal issue regarding
9 the Legal Services logo that the government affairs
10 office and the legal affairs office are coordinating
11 together.

12 We normally put all of the litigation expenses
13 in the legal affairs budget. In this particular
14 circumstance, there was an agreement to split the cost
15 of the legal fees. So what I've done is I've expensed
16 the full amount of the legal fees in the legal affairs
17 budget so that it would be contained in one budget, and
18 then transferred the money from the government affairs
19 into the legal affairs so that we would have the full
20 accounting.

21 There is an additional \$35,000 that was
22 increased in the personnel compensation due to some

1 unexpected overtime, other salary payment issues that
2 have been discussed in your executive session. And
3 that money was decreased from \$8,000 from personnel
4 compensation. Travel was decreased, and other
5 operating expenses was decreased also \$13,500 due to a
6 new contract mainly that we've gotten for our legal
7 research.

8 We were with one firm for a number of years.
9 During the year, talked with the two companies that
10 provide legal research nationwide, and we have decided
11 to select a new company to do that, and it's saved us
12 about \$1400 a month to make that change. So in doing
13 so, we have now -- we now use LexisNexis for our legal
14 research. There's also been some reductions in
15 advertising within the area.

16 Within the government affairs, we had some,
17 again, unexpected costs in regards to the Equal Justice
18 magazine, the printing cost. We increased that line
19 \$35,000. We were able to have -- to make this transfer
20 within the budget because we had an issue with -- had
21 an employee who was no longer with the Corporation.
22 That position was unfunded for quite some time. So we

1 have money in personnel compensation and benefits,
2 33,500 and 22,000, that will help support the Equal
3 Justice magazine. And we also needed to increase the
4 travel line \$14,000. There are other small adjustments
5 within -- under \$5,000 that would create the difference
6 there.

7 Within the Office of Human Resources, we have
8 a \$23,000 increase to personnel compensation. Again,
9 we were able to do this within the budget, transferring
10 \$20,000 from the personnel benefits and \$8,475 from the
11 other operating expenses due to less advertising and
12 some other subscriptions that are now available online
13 that we're not buying subscription -- fulfilling some
14 of the subscription services.

15 Within the Office of Financial and
16 Administrative Services, we made an adjustment to the
17 personnel compensation, increasing that, some overtime
18 and some salary adjustments that were made.

19 There's some printing cost that was unexpected
20 due to the move, \$14,600. And we were able to support
21 that within the budget by reducing personnel benefits,
22 and also able to save \$5,500. We had budgeted some

1 money for cleanup of 750 First Street with the move,
2 and I must say the staff did an excellent job in
3 cleaning up. And therefore, when the final cleaning
4 took place, G Place Limited, our lessors at the other
5 building, did not charge us anything for cleanup and
6 moving out.

7 Within the Office of Technology, you'll see
8 that one of the things that we did go to was the voice
9 over IP with our telephone systems. We had to move
10 some money to accommodate some additional spending.
11 That cost a little bit more than we had anticipated.
12 So we had to move \$14,000 into the consulting line to
13 help with the setup.

14 And there was an issue with some telephone
15 bills, \$17,000 that were outstanding from last year.
16 So we had to increase the expense in the technology,
17 information technology, budget to fund that particular
18 expenditure.

19 The funds to support this again came from
20 unused travel, other operating expenses of \$17,700, and
21 a reduction in capital expenditures. We found some
22 computers that cost a little less than we had

1 originally anticipated.

2 The travel funds are there because of less
3 training. And we actually, in changing a company with
4 the renewal of our software, was able to save about
5 \$5,000 on some of the renewal of our licenses also. So
6 that helped us.

7 Within the Office of Program Performance --
8 and this is one of the areas where we've had to move
9 some money from personnel compensation and benefits
10 into temporary employee pay. We've had two employees
11 in the Office of Program Performance who were out this
12 summer for a period of time on extended medical leave,
13 and it is not funded by the Corporation. It's covered
14 by insurance, the compensation that they receive
15 because of the medical condition.

16 So we had employed a number of temporary
17 employees to come in and fill their shoes and try to
18 pick up some of the initiatives that they were handling
19 so the office would be able to continuation to operate
20 efficiently. So we transferred 15,000 from the
21 personnel compensation, 15,200 from benefits, and the
22 \$30,200 went to the temporary employee line.

1 In the Office of Information Management,
2 there's an adjustment. There was some consulting that
3 was delayed. And there was \$12,000 that was put into
4 accommodating equipment purchase, and there was an
5 additional \$4,000 in small adjustments to make up the
6 difference.

7 Within the Office of Compliance and
8 Enforcement, we were able to have \$21,300 that was
9 moved from personnel benefits that went in to support
10 other lines within the office. 15,000 has been
11 reallocated to consulting and other funds for other
12 support within the office there.

13 The biggest -- all of these adjustments have a
14 zero effect on management and administration. So we're
15 able to fund all of the activities within M&A with only
16 the \$6500 being adjusted between the government affairs
17 office and the legal affairs office. So there is no
18 increase in management and administration.

19 The only adjustments that needed are up and
20 down the lines within the budget. So there is some
21 differences in personnel compensation, benefits and
22 temporary pay, consulting, and other small adjustments

1 that work its way out.

2 There is one item that is the 914,000, and
3 that is money that was received from a program in
4 regards to a building. There was a building that was
5 sold. The proceeds that the Corporation received was
6 \$914,000.

7 There was an additional approximately \$100,000
8 that went to other entities that was within the
9 building. The building was taken over, I think, by the
10 city, who wanted to build something on the site. So
11 they took it over in an eminent domain case.

12 A portion of these funds have been earmarked
13 to go back to Florida, and basically we're waiting at
14 this point for the board to approve our budget
15 adjustments so that the president can make an award of
16 that money back to the state of Florida.

17 I did not produce you a resolution on this
18 because what I ended up doing was adjusting the
19 resolution that we had originally for the six-month
20 because the information that we have for the nine-month
21 review will encompass this information also. So it's
22 all-inclusive when we pass the one resolution.

1 CHAIRMAN DIETER: That's item 7. Right?

2 MR. RICHARDSON: I think that's correct. And
3 the nine-month review is the information that begins on
4 page 87. I'd be glad to answer any questions. I know
5 that's a quick review.

6 CHAIRMAN DIETER: Herb, do you have any
7 questions?

8 MR. GARTEN: None.

9 CHAIRMAN DIETER: Okay. Tom?

10 MR. FUENTES: No.

11 MR. STRICKLAND: Let me ask a question.

12 CHAIRMAN DIETER: All right.

13 MR. STRICKLAND: David, I don't know whether
14 you will know the answer to this or perhaps Vic might
15 be able to answer it.

16 With respect to the recovery of over \$900,000
17 from the Florida grantee as a result of, I guess, a
18 condemnation proceeding, do you happen to know what --
19 I know we have that issue in some other situations with
20 grantees. But do you know what mechanism was in place,
21 documentation or otherwise, that protected LSC's
22 interest in that property when it was condemned?

1 MR. FORTUNO: It's actually a more complex
2 question than it might appear on its face. Certainly,
3 any property purchased of late, the documentation is
4 excellent. The problematic cases tend to be those that
5 are older, where property was purchased in the late
6 '70s/early '80s. Oftentimes, this documentation isn't
7 there. It's nonexistent.

8 There's every reason to believe that the
9 agreement that is in place now was in place then. But
10 the actual signed document is nowhere to be found. And
11 sometimes that has to do with the fact that LSC had
12 nine regional offices in the early days. And those
13 offices were closed in the mid-'80s.

14 The grantees tended to deal with the regional
15 offices on a day-to-day basis and not so much with
16 headquarters. That's the kind of documentation that
17 would have been maintained at the regional office
18 level. When the offices were closed and files were
19 transported back to LSC, my understanding is that many
20 files were lost, misplaced.

21 So now the older cases prove to be more
22 difficult. That was an older case, but we were able to

1 put together the case. The grantee had actually
2 offered to purchase the property for \$300,000. We
3 declined -- or buy out our interest, but we declined to
4 sell the Corporation's interest, and subsequently
5 discovered that the County of Escambia was condemning
6 the property and taking it under eminent domain, and
7 that the valuation was more in the range of a million
8 dollars.

9 But we negotiated that settlement, and the
10 money, as I indicated yesterday, goes back into basic
11 field, with the exception of I think Mr. Erlenborn
12 indicated that we also have an emergency and other
13 special grants fund, and approximately 10 percent of
14 that, or close to it, was set aside to go into that
15 fund for emergencies. But the balance, clearly the
16 lion's share, goes back into the state of Florida.

17 MR. STRICKLAND: Was there any -- if you know
18 the answer to this, was anything recorded on the deed
19 records in that county to indicate LSC's interest, or
20 was there some other mechanism?

21 MR. FORTUNO: In that case, I don't believe
22 anything was recorded on the deed record, although LSC

1 did have the option to buy out -- to buy the property
2 and exercise its option. That was disputed by the
3 grantee, and so there was a bit of back-and-forth.

4 But what we ask is that wherever possible --
5 and there are variations state to state, state law on
6 these issues -- but that wherever possible under state
7 law, that our interest in the property be recorded so
8 that the property can't be alienated without LSC being
9 notified of it.

10 David is asking whether there was a bargain
11 purchase. I think that we were able to purchase the
12 property for a nominal sum. The fact is, the property
13 was purchased to begin with with LSC grant funds. But
14 title was held by the grantee. And I think this was
15 fairly unique in that we were able to exercise an
16 option to purchase the property from the grantee for a
17 nominal sum, which of course made our case stronger.

18 But I think that's what David was suggesting
19 might be of interest to you, so I thought I'd go ahead
20 and mention that.

21 MR. STRICKLAND: Well, I would commend the
22 staff or whoever was responsible for the successful

1 recovery of a substantial amount of money.

2 MR. FORTUNO: Thank you.

3 CHAIRMAN DIETER: Okay. Any other questions?
4 No? Then item 5 is to consider and act on the proposed
5 internal budget. Do you want to -- should we do this
6 all at once, then?

7 MR. RICHARDSON: Yes.

8 CHAIRMAN DIETER: When we get to item 7.
9 Right?

10 MR. RICHARDSON: Item 7.

11 CHAIRMAN DIETER: All right. Then let's deal
12 with item 6, which is the report. I believe that's on
13 page 87 --

14 MR. RICHARDSON: That is correct.

15 CHAIRMAN DIETER: -- of the LSC projected
16 operating expenses for July 1 through September 30th.

17 MR. RICHARDSON: Okay. Again, for the point
18 of clarification, I've listed it in the memorandum. So
19 that there would not be duplication, I have assumed
20 that the six-month internal budgetary adjustments would
21 be approved. So they're included when we start making
22 adjustments for the nine-month period.

1 Again, because there was so few internal
2 budgetary adjustments in this particular period, I have
3 again gone -- instead of giving just those that are
4 \$10,000, I reduced that to \$5,000 and above for this
5 presentation.

6 Within the board of directors, the executive
7 office, there are no budget adjustments for this
8 period.

9 Within the Office of Legal Affairs, Office of
10 Information Management, there are only a few
11 adjustments, and those adjustments are all under
12 \$5,000.

13 Within the government affairs budget, there's
14 a need for -- additional need for personnel
15 compensation for \$8,975. This is due to the
16 reclassification of a temporary employee into a regular
17 employee with an effective date of September 1. So --
18 and there's some overtime issues with a non-exempt
19 employee. These funds -- this \$8975 is available from
20 the personnel benefits line that we can fund that.

21 Within the Office of Human Resources, we have
22 a need for some consulting funds, \$21,500. A portion

1 of this money is available in personnel benefits and
2 other operating expenses, personnel benefits in the
3 amount of \$11,000 and other operating expenses of
4 \$6300.

5 The personnel benefits is, again, because
6 people are taking more planned vacation. So we're able
7 to go into the -- reduce the liability of the
8 Corporation's vacation balance to fund this. It saves
9 us money in the long run. And there's also some
10 savings in the -- some unused health insurance.

11 Within the other operating funds, we have
12 reduced subscriptions, as I had sort of stated before.
13 We looked at it and reduced it even more because so
14 much of the information now is free or online, so we've
15 not taken as many of the subscriptions. And there's
16 some other cost-cutting measures there in the office
17 also to support these consulting needs.

18 Within the Office of Financial and
19 Administrative Services, there's two adjustments over
20 14,000. One was -- we had budgeted all of the moving
21 money in consulting. We did have \$14,500 of those
22 funds that we need to transfer to the printing and

1 reproduction just to help support the additional costs
2 that went into the move for letterhead, for envelopes.
3 And of course with our board coming in the way it is,
4 each time there's a change in the board we're having to
5 change the letterhead to get the new names on the
6 letterhead. So we're trying to stay on top of that.

7 And the initial move itself, the cost of the
8 letterhead moving from 750 First Street to 333 K
9 Street, we just sort of left as a lump sum as the
10 moving cost money, and now we're just moving all that
11 down to support that need.

12 Within the Office of Compliance and
13 Enforcement, we're able to make an adjustment there
14 between personnel compensation and benefits for \$15,000
15 increase in personnel compensation, a little reverse
16 action there.

17 The information that you have as far as the
18 budget materials, there's no adjustment to the total
19 budget with the exception of the \$914,000 that we're
20 adding to the budget. So when you look at the
21 resolution for -- it's on page 1 of 3, the
22 information -- sorry. That's --

1 CHAIRMAN DIETER: Ninety-nine.

2 MR. RICHARDSON: Ninety-nine. That's the
3 wrong one. Page 99 isn't inconsistent with the budget
4 that is presented here. Would you like me to read a
5 resolution into the record or --

6 CHAIRMAN DIETER: Well, I think the committee
7 will just recommend that the board take -- you know,
8 take this up at the board meeting. So we can skip that
9 at this point, I think.

10 MR. RICHARDSON: Actually, we would need a
11 recommendation from the committee to accept the
12 adjustments.

13 CHAIRMAN DIETER: Yes.

14 MR. MEITES: Rob, I have a question which it
15 really doesn't fit in here, but you mentioned vacation
16 benefits.

17 We've had the problem back in Illinois of a
18 number of high-level public employees banking their
19 vacations for 20 or 30 years and then taking a multi-
20 hundred-thousand-dollar buyout at the end. What is the
21 Corporation's policy on banking vacations, vacations
22 not taken?

1 MR. RICHARDSON: We have a situation within
2 our personnel manual that states that employees are
3 paid up to 240 hours upon separation. We do have --
4 actually, I counted last week for the executive team
5 and gave to my vice president that we have 28 employees
6 currently over that 240 limit.

7 It is my understanding the way that -- we have
8 granted waivers in the past. A number of us wear
9 multiple hats, and I'll use myself as an example, as
10 treasurer, controller, chief budget officer. I'm also
11 the director of administration, and also work with
12 Friends.

13 Vic is vice president of legal affairs,
14 general counsel, corporate secretary, and he also works
15 for Friends. So there's a number of us who have
16 multiple hats.

17 I'm one that is over the 240 limit. It's my
18 understanding is if I would separate from the
19 Corporation, even though I have about 400 -- I think
20 450 hours on the books, we only fund the first 240
21 hours. So that is included when I say personnel
22 benefits and the cost there. That's already expensed

1 and in the records.

2 MR. MEITES: Would you have any claim for the
3 unfunded hours, 450 minus 240?

4 MR. RICHARDSON: No, sir.

5 MR. MEITES: Thank you.

6 CHAIRMAN DIETER: Yes. I asked him this
7 yesterday. Upon separation, they would be entitled to
8 compensation for the 240 hours, nothing over that. And
9 the 240 hours is funded in the budget, so that if
10 everybody quit tomorrow, the budget would cover that
11 obligation. And that's correct. Right?

12 MR. RICHARDSON: That is correct.

13 MS. MERCADO: How does that compare with our
14 grantees? I mean, I'm just sort of trying to recollect
15 the different legal services programs I've worked with
16 or had any contact with. Most of them aren't allowed
17 to carry more than a week, two weeks at best, on
18 vacation or annual leave at any point in the year. I
19 mean, if they don't use it, then they lose it, and they
20 don't get compensated for it.

21 How do we accumulate up to 240 hours?

22 MR. RICHARDSON: Our benefits sort of match

1 along the line of the government, being here in
2 Washington. There are grantees who do more than that.
3 I don't know the number.

4 I've had a number of calls about do I have to
5 accrue the full amount of vacation that I think I would
6 pay if every employee left, or would I accrue only the
7 portion that I think may be paid out in the next year.
8 So there are grantees that have leave banks. I do not
9 know how large they are. I don't know how much -- that
10 varies from grantee to grantee.

11 CHAIRMAN DIETER: Any other questions?

12 (No response.)

13 CHAIRMAN DIETER: Okay. Well, then, I guess
14 the item is for the committee to take up a motion to
15 recommend that we present to the full board the
16 internal budget adjustments that are shown on items 5
17 and 6 for their approval by the full board.

18 M O T I O N

19 MR. FUENTES: Move the recommended action.

20 MR. GARTEN: I second it.

21 CHAIRMAN DIETER: All right. It passes.

22 And then the last item for David is No. 8,

1 which is consider and act on LSC's fiscal year 2004
2 operating budget, which is at page 103. And also,
3 there's a handout that was provided today that you'll
4 be referring to that has the current information.

5 MR. RICHARDSON: Right. The majority of the
6 information starts on page 100. But because we were a
7 little late in making the decisions, we got the
8 information in the board book but without the
9 memorandum.

10 So what I've done is I've given everybody a
11 memorandum. It includes all the attachments. I've
12 tried to highlight -- after a conversation I had with
13 my committee last night, I went in and tried to
14 highlight some of the main items. So I'll try to walk
15 through that with you.

16 We are also going to need to refer to page 89
17 as we go through this so that I can show you how we tie
18 this information into our budget process.

19 In looking at the information, there is an
20 attachment -- I apologize. A and B are reversed in the
21 materials. I didn't catch that. Attachment A shows
22 the anticipated 2004 appropriation. We have both House

1 numbers and Senate numbers. What I have put in this
2 information is what we anticipate, of course, that
3 we're going to get based on the conversations that
4 we've had with government officials.

5 CHAIRMAN DIETER: David, if I could interrupt,
6 which -- there's several attachment As.

7 MR. RICHARDSON: I'm sorry. Of the handout.

8 CHAIRMAN DIETER: On the handout?

9 MR. RICHARDSON: Yes, sir.

10 CHAIRMAN DIETER: Okay. And that's the letter
11 dated September 11, 2003.

12 MR. RICHARDSON: This is the same information
13 in the board book at page 100.

14 CHAIRMAN DIETER: Yes. The letter got deleted
15 from the board book. So you basically compiled
16 everything in one document. So I think we can just
17 refer to this one document for this presentation and
18 we'll be all right.

19 MR. RICHARDSON: It would actually be good if
20 you have that presentation and then open up your board
21 book to page 89. Because what I will do is show you
22 how the projected carryover that is shown in column 7

1 goes over to the new budget that we have to begin 2004.

2 We have the anticipated -- as I said, the
3 appropriations, \$338,848,000. You'll see that it's
4 broken up into the grant funds, which will fund the
5 basic field, migrant, and Native American. And that's
6 \$319,548,000. The grant funds, one, it's right
7 underneath that.

8 The technology, we anticipate \$3.4 million new
9 money for next year. Management and administration is
10 13,300,000, and the inspector general a new funding of
11 \$2.6 million, for a total of the 338 million.

12 Looking -- as you look back and forth between
13 page 89, you'll see that the deferred revenue and the
14 fund balance, the 3,553,000 and the 1,749,000, those
15 two figures added together will equal \$5.302 million.
16 So in looking at lines 2 and 3, they will equal the
17 projected carryover that's shown on page 89.

18 That's broken up into the technology funds,
19 the \$3,485,658; we have the U.S. Court of Veterans
20 Appeals money, the carryover of 67,271. The reason
21 that that money is shown as a deferred revenue is
22 because we haven't earned the money yet. It is set

1 aside because of the appropriation, and the money has
2 not yet been awarded. So instead of showing it as an
3 increase in our fund balance, it's shown in our
4 financial statements as a liability.

5 The other funds that we have, the 2003 fund
6 balance, those are funds that are in the board's
7 discussion. You'll see on page 89 that we're
8 projecting an additional \$25,000 in grant recoveries in
9 the year. So I've shown that under grant funds, fund
10 balance undesignated, 25,000.

11 One of the things that we were talking about
12 before is the grants from other funds available, where
13 we're increasing that 914,000. We're anticipating an
14 \$800,000 grant to the state of Florida. And basically,
15 that will give us additional carryover of 220,000. So
16 that money would be again designated, going back into
17 the field programs.

18 The U.S. Court of Veterans -- I'm sorry. Let
19 me go over to the management and administration.
20 Management and administration, that \$482,000 is
21 comprised of \$541,000 that's shown as a carryover in
22 the management and administration. You would subtract

1 the 34,000 that's on page 90, and that is the net of
2 the other funds available. But then you would have to
3 also subtract \$25,000 that we were adding back to the
4 grant line. So those three numbers would add up, would
5 net out to the \$482,000.

6 The inspector general, you'll see on page 89,
7 just matches of \$1,021,000. So that money would be
8 available for the inspector general for his activities
9 in 2004.

10 CHAIRMAN DIETER: You have a question?

11 MS. MERCADO: Yes. I just had a question.
12 And I'm sorry that I don't have the carryovers for last
13 year in front of me. But I'm just wondering, and I
14 think maybe Mr. Koczur might be able to answer this,
15 because just looking at the carryover that you're
16 carrying for FY 2004 in the inspector general line,
17 it's like 40 percent of the budget that's being carried
18 over.

19 And so are we over-funding that division, that
20 maybe we could utilize for some other work in the field
21 or what have you?

22 MR. RICHARDSON: The money can't be

1 transferred out of the inspector general.

2 MS. MERCADO: I mean, I understand that. I'm
3 just trying to figure out, in looking at our FY '04 or
4 FY '05 budget request, because for several years
5 there's been a huge carryover from the inspector
6 general's office.

7 So I'm just wondering whether when we did the
8 budgets, whether it accurately reflected what it is
9 that they needed in order to carry out their duties and
10 responsibilities in their division.

11 MR. KOCZUR: Well, the carryover is pretty
12 large this year. A lot of that is coming from the
13 unfilled positions, from the inspector general position
14 being unfilled. We had a couple other unfilled
15 positions.

16 We have -- there are some unbilled expenses as
17 of the date of preparation. For example, our Friends
18 of Legal Services haven't billed us about \$170,000 for
19 build-out costs.

20 So that number -- if it doesn't go down by the
21 end of the year, which is just a few weeks, it will --
22 there's money -- we have money -- expenses earmarked

1 that need to be paid in the near future. Of course, at
2 some point the inspector general position will be
3 filled and that salary will go to reduce the carryover.

4 I'm really reluctant to reduce our budget very
5 much. It costs us around 2.3 to \$2.6 million a year to
6 run the operation. And if we reduce it, that becomes
7 our base. And I think in this current environment, it
8 will be very difficult to get an increase -- say if we
9 reduce it to \$2 million when we really need 2.3 to 2.6
10 to run the operation, then we'll never be able to get
11 back to that. It would take several years to get back
12 to that position.

13 We have a three-year plan that between 2004
14 and 2006 -- again, 2006 -- the carryover will be
15 reduced. Our plan was not to ask for any increase in
16 the IG budget, to keep it level at 2.6. And with the
17 normal inflation costs and assuming the positions will
18 be filled, at the end of 2006 the carryover would be
19 under \$100,000.

20 MS. MERCADO: Okay. I mean, it's fair to say
21 that at least in my memory for the last three years or
22 so, it's been a significant carryover every year.

1 MR. KOCZUR: I think in the last two years, it
2 has been around a million dollars.

3 MR. RICHARDSON: Actually, attachment 6 shows
4 you what the 2003 budget was. There's a difference of
5 26-, almost 27,000 between the two years. Each of the
6 years, the IG's budget was funded at \$2.6 million. So
7 basically, the 2004 carryover is -- it looks to be
8 about \$27,000 less than last year.

9 CHAIRMAN DIETER: Just Tom wanted to --
10 please. My understanding on the IG budget was that
11 that line item is fixed by Congress, that we don't
12 recommend to Congress a number for that in building the
13 recommendation. Right?

14 MR. KOCZUR: The process has been that my
15 office makes a recommendation, a suggested number. And
16 in the past, the board has generally agreed with that
17 number.

18 CHAIRMAN DIETER: Okay. So it is --

19 MR. KOCZUR: The budget does go up as a single
20 document. It's a separate line item with the inspector
21 general.

22 CHAIRMAN DIETER: Okay. But then it is within

1 our -- the board's authority to say, we want less or
2 more money for this line item?

3 MR. KOCZUR: I believe that is the case.

4 MS. MERCADO: Yes.

5 CHAIRMAN DIETER: Oh, okay. I didn't
6 understand that.

7 All right. Tom, sorry. You have --

8 MR. MEITES: Yes. Let me ask the other
9 question. Let's assume that the carryover continues.
10 Would this fund balance continue to build up so that in
11 three years the inspector general -- funds available to
12 the inspector general would be 5- or \$6 million? And
13 if that were to happen, what happened to those monies?

14 MR. RICHARDSON: It's not accumulation. Each
15 year, referring back to attachment A, you'll find that
16 there's a new appropriation and carryover to come up
17 with the total budget. If they spent \$2.6 million next
18 year, there would be a million-dollar carryover. So it
19 would not be additive, but it's inclusive.

20 MR. KOCZUR: We're not adding a million
21 dollars each year as a carryover.

22 CHAIRMAN DIETER: That's sort of an

1 accumulated amount, you know, at smaller increments
2 over a number of years.

3 MR. MEITES: Well, I asked, what happens if
4 for five years they spend less than -- a million
5 dollars less than the budget amount? Does it go back
6 to the federal treasury? Do we get to keep it or --

7 MR. KOCZUR: No. It would go back to the
8 treasury at some point.

9 MR. MEITES: That's not a result to be wished.

10 MR. KOCZUR: No. There was -- it can't be
11 transferred to either the basic field grants or the
12 M&A. It has to just stay with the IG or go back.

13 MR. MEITES: Thank you.

14 CHAIRMAN DIETER: The one -- since you're
15 here, I guess that one question that I had of
16 management was -- and asked people to look into was to
17 be sure that the IG office was paying, you know, its
18 full fair share as a tenant in the building, you know,
19 in a way that's customary with other IG offices in
20 other agencies.

21 And I understand that you've agreed to, you
22 know, contribute money to pay for the rent of the space

1 of your offices. And I assume that, you know, you're
2 paying the operating expenses, you know, for your
3 operation in terms of either reimbursing us that are,
4 you know, appropriate and customary for other IG
5 offices that are operating within other agencies in
6 Washington. I don't have enough, you know,
7 information, but that was one thing I told people that
8 they should look at.

9 MR. KOCZUR: I'm not sure there is a typical
10 way. Some IGs pay rent to their federal agencies.
11 Others do not. Some pay for services. Others do not.
12 I believe now, certainly with us paying our share of
13 the rent -- and it is exactly our share with the amount
14 of our square footage times the square foot cost of the
15 rent -- we'll be paying that beginning in 2004.

16 I'm not -- I don't think there's any other
17 significant costs that we would not be paying. We have
18 our own information technology staff and provide our
19 own information technology resources. We pay for our
20 telephone service. I'm not sure what other costs would
21 be out there that would be significant.

22 CHAIRMAN DIETER: Well, I don't know how the

1 details -- all I thought that was important for people
2 to look at that and be sure that, you know, if I were
3 subletting an office to, you know, an entity, that they
4 were paying an appropriate share of the, you know,
5 overhead expenses in terms of Xeroxing and whatever
6 facilities they're using. That's all I meant.

7 Herb?

8 MR. GARTEN: Yes. I think it would be
9 helpful -- it might clarify things and also be
10 informative for me -- if we went to page 101 and we saw
11 how the treatment of this projected carryover was being
12 handled in the proposed 2004 budget. And we see the
13 projected carryover of 1,021,000, but you had testified
14 is going to be substantially below that with these
15 additional expenses that you're going to have to incur.

16 MR. KOCZUR: Well, it will be lower. I'm not
17 sure we have -- well, it won't substantially be
18 reduced. I'm sorry. It was my understanding there
19 were some things that weren't in there.

20 MR. GARTEN: All right. Well, Tom's question,
21 which this highlights, reflects that your budget for
22 next year is the 2.6 million.

1 MR. KOCZUR: Plus this million.

2 MR. GARTEN: And are you actually going to be
3 using the total of 3.6 million next year?

4 MR. KOCZUR: No. We have next year we'll
5 use -- our plan is to reduce the carryover next year.
6 It's currently rough a million dollars. Next year it
7 would be reduced to about 700,000. So we should be
8 spending in the range of 2.6 to 2.9 million, I believe.

9 MR. GARTEN: And is your plan over the next
10 two to four years to keep reducing that?

11 MR. KOCZUR: The next three years. Right.
12 Yes. At the end of three years, it will be under
13 100,000. Now, that's predicated, of course, on having
14 a new IG and another person filling one of the slots
15 that I'm currently filling. So I'm filling two slots.

16 MR. GARTEN: I think that clarifies the
17 treatment of this carryover, as far as I'm concerned.

18 CHAIRMAN DIETER: Yes. Just one question in
19 building the budget. You said that if, for example, we
20 decided that maybe next year the IG budget
21 realistically should be a million and a half, and we
22 put in that, you know, column that goes to the budget

1 mark, then the next year if we decided we needed 2.6
2 million, we'd have a hard time getting that going up
3 there?

4 MR. KOCZUR: That would be absolutely
5 impossible to raise it that much. It just would not
6 happen.

7 CHAIRMAN DIETER: And that's because
8 current --

9 MR. KOCZUR: In the budget process, the way --
10 OMB sets the amount for the following year on your
11 base, as they call it, from the prior year. So our
12 base would be 1.5 million. And if OMB allowed, say, a
13 2 or 3 percent increase, it would be 103 percent of
14 1.5 million, which would be substantially less than
15 what we needed.

16 CHAIRMAN DIETER: Okay. So each of those
17 blocks that go to building a budget mark theoretically
18 are not supposed to go up more than 4 percent per line
19 item?

20 MR. KOCZUR: Well, they set -- well, I don't
21 think that -- they don't do it on a line item basis. I
22 think it's on an overall basis. There is some

1 percentage set for an increase, depending on the
2 economy and the President's budget. But there is
3 absolutely no way that we could move from 1.5 million
4 to 2.6. That would not happen.

5 CHAIRMAN DIETER: Even if our mark was still
6 the same?

7 MR. KOCZUR: Yes. It just would not happen.

8 MS. MERCADO: Well, I just know that in one
9 year we doubled the IG budget. At least when I was on
10 the Finance Committee, we doubled it in one year. So I
11 don't know that it's to say that it doesn't ever
12 happen. I mean, I guess it depends on the
13 circumstances of what's going on in Congress.

14 MR. KOCZUR: I suspect that probably was in
15 the time frame of the '96 restrictions, when there was
16 significant new responsibility placed on the IG. So in
17 those kind of circumstances, yes, it could occur, but
18 certainly not in the case where it's no additional
19 responsibilities.

20 MR. GARTEN: I see this carryover as basically
21 the inspector general is separate and apart from
22 anything else. It's like setting up a reserve. And

1 this is your recommendation. I guess management is
2 telling us this is the proper treatment on the
3 carryover reserve, to use it as a -- at the carryover,
4 to use it basically for future expenditures with the
5 intent that it's going to be reduced down
6 substantially.

7 MR. KOCZUR: Yes. That's what we're saying.

8 CHAIRMAN DIETER: The only significance that I
9 see now that I didn't understand before was that if we
10 had control over setting the IG budget year to year in
11 terms of sort of actual expenditures, then we'd be able
12 to -- you know, the line going up to basic grants
13 would, you know, increase or decrease, although our
14 bottom line would stay the same.

15 MR. GARTEN: I think that's --

16 CHAIRMAN DIETER: And so it's my
17 understanding, in other words, you know, that that line
18 item was basically fixed. And so we were trying to do
19 some --

20 MR. GARTEN: I think that's a fair statement.
21 Do you concur with that interpretation?

22 MR. KOCZUR: Yes. Yes.

1 CHAIRMAN DIETER: Okay. Any further questions
2 of David or Len?

3 (No response.)

4 CHAIRMAN DIETER: Thank you. Let's see. So
5 then we need to, I guess, pass a recommendation that we
6 accept the temporary operating budget and recommend
7 that the board adopt a resolution to that effect.

8 M O T I O N

9 MR. GARTEN: I so move.

10 MR. FUENTES: Second the motion.

11 CHAIRMAN DIETER: All right. It's passed
12 unanimously.

13 Any other questions of David? Otherwise he
14 can be excused and we'll move on to the next --

15 MR. RICHARDSON: Actually, before we do, let
16 me get a correction on the record. I've referred to
17 page 89 and 90, and last night in doing my final review
18 I found out that we had two columns of numbers that did
19 not add up correctly. There was a formula error.

20 And what it ends up doing is instead of us
21 having available for management and administration a
22 figure of \$482,000, there's an additional \$126,000 that

1 needs to be added to that because of the calculation
2 error.

3 So I have correction to page 89 and 90 I would
4 like to give you. We are asking that you go ahead and
5 approve the temporary operating budget that is before
6 you, just recognizing that once we do get a final
7 appropriation, after we have our audit and we have
8 final carry-over, that this figure is going to be
9 adjusted.

10 More than likely, the carryover will go up.
11 We usually are -- when I say conservative on
12 recognizing expenses, we have plans to do certain
13 things that either trips fall through, or if you have a
14 compliance visit because of a sickness or a delay it
15 may get delayed till next year. So usually this
16 carryover will grow.

17 There are some -- I was looking also. There
18 may be some little duplicating of expenses between
19 offices. So I do anticipate the carryover going up a
20 little. But we'll need to make an adjustment either at
21 the November meeting -- traditionally, this is done
22 with the audit at the January meeting at the annual

1 meeting.

2 So let me give you that. And again, what it
3 does is instead of being -- on page 89, instead of
4 being 541,000 in column 7 for the carryover in
5 management and administration, it should be \$668,000.
6 So let me give you the corrected sheet there.

7 CHAIRMAN DIETER: And I guess just for
8 clarification of the board members so they understand,
9 the memo of September 11th that we'll probably take up
10 at the full board so people can think of it ahead of
11 time, attachment C, which is the small print column
12 charts, at the bottom shows the total fiscal year
13 summaries for each department running across that would
14 provide a total budget figure on the side.

15 And I had them add the total fiscal year 2003
16 numbers below that so we could -- and show an increase
17 or decrease so that we could see what was happening
18 between the two years. And then David attached at the
19 very -- the last two pages are sort of an item-by-item
20 explanation for those decreases or increases. Most of
21 them are decreases.

22 But along with the memo also at pages -- I

1 guess it's page 3 and 4 of the letter, there are sort
2 of bulleted items that highlight important
3 considerations that go into building the budget. And
4 you might want to review that, I guess, before the
5 meeting, if anything has any questions.

6 MR. RICHARDSON: And let me highlight one
7 major shift. In the past, in the executive office, we
8 have had as many as six aide employees. We are showing
9 three in this particular budget. We have three staff
10 members, the vice president for programs, the special
11 assistant for programs, and the executive assistant for
12 the vice president of programs that was transferred to
13 the program operation line.

14 So the -- I footnoted that because the
15 executive office went from six to three, and then those
16 three -- I didn't footnote the program performance, but
17 last year it was 20. Now it is 23.

18 In addition to that, to help balance the
19 budget, I must say that program performance went over
20 and beyond the call of duty in reducing their budget.
21 They reduced the consulting in their budget 292,000,
22 and then the total travel to 232,000. Those were

1 significant shifts in their budget. It was actually a
2 decrease in management or into programs. Their
3 consulting budget went down \$259,900 and their travel
4 went down 91,000. So that's a significant cut that was
5 made in order for us to get down to within the budget
6 period that we needed here.

7 CHAIRMAN DIETER: And Herb?

8 MR. GARTEN: David, just so that the record is
9 clear, you told us about the increase of 126,401 on
10 management and administration. That affects the grand
11 total also. So that's another change at the bottom
12 line.

13 MR. RICHARDSON: Yes, sir. What we will do,
14 we are asking that you approve, of course, the
15 temporary operating budget. And that's before you. We
16 just -- we'll handle that along with any additional
17 changes at a future time.

18 CHAIRMAN DIETER: And in building the
19 temporary budget, I just noted that it calls for a
20 2 percent annual salary increase, which is consistent
21 with the president's request. And as I understand it,
22 that includes the cost of living adjustment as well.

1 So that's a net figure.

2 And I'd just point out that Herb is -- I think
3 David will acknowledge is the person who uncovered the
4 \$120,000 carryover benefit for the Corporation. So you
5 can be assured your committee is hard at work.

6 All right. Thank you, David.

7 MR. RICHARDSON: Thank you.

8 CHAIRMAN DIETER: At this time, then, we have
9 public comment on the fiscal year 2005 budget mark.
10 And I'm not sure how -- what order people are -- I
11 assume you've worked out an order. Okay. Don Saunders
12 and Sarah Singleton from New Mexico.

13 State your name and who you represent for the
14 record.

15 MR. SAUNDERS: Good morning, Mr. Chairman. My
16 name is Don Saunders. I'm the director of civil legal
17 services for the National Legal Aid and Defenders
18 Association. Obviously, I'm joined by the American
19 Bar. We thought we would come up at the same time and
20 discuss these issues. I would begin.

21 I was also going to be joined this morning by
22 the chair of our civil policy group, Teresa Cosby. As

1 I explained to the Provisions Committee yesterday, due
2 to the tragic death of Joe Shine in South Carolina,
3 Ms. Cosby cannot be with us this morning. She did want
4 me to convey to this committee and to the board her
5 excitement about sharing some input with you at a
6 future date.

7 Also, if I might take one minute of your time
8 this morning, since it is NLADA's first time testifying
9 before this committee, to sort of tell you how we bring
10 these suggestions to you and what we do in support of
11 them.

12 We have a very representatives process
13 consisting of your grantees and a variety of other
14 stakeholders across the country who struggle with
15 issues of funding and policy around funding issues,
16 with LSC obviously being the largest single funder of
17 legal aid in this country.

18 That process has worked very well in dealing
19 with divisive issues such as census distribution and
20 those things in the past. So what we try to bring to
21 you is a position that your grantees generally adopt,
22 even though some may benefit rather than others.

1 In support of those recommendations, for over
2 20 years we have maintained an aggressive grassroots
3 lobbying campaign. Julie Clark, who I think all of you
4 have met, is our director of government relations, and
5 she and other staff at NLADA work very aggressively
6 with this grassroots lobbying group made up of strong
7 bipartisan leaders across the country.

8 We take great pains to build a very thick wall
9 between our grassroots lobbying effort and any
10 individual associated with one of your grantees.
11 Obviously, the appropriation rider does not allow any
12 participation in the lobbying effort that we do on your
13 behalf, and we're very, very careful to keep those two
14 efforts very distinct.

15 We also work in complete partnership with the
16 American Bar Association in their lobbying efforts.
17 And we very much enjoy a strong working relationship
18 with President Erlenborn, Vice President Vivero, and
19 your entire staff. So we really are very pleased to
20 not only suggest positions for you to take, but to work
21 very strongly in the Congress in support of those
22 positions.

1 I'm going to very briefly submit to you --
2 give you an overview of what we just handed out, which
3 is our position with regard to what you should seek for
4 FY 2005 funding in the Congress.

5 This is the fifth year that NLADA has taken
6 the basic approach that at the federal level, we should
7 aspire, at least, to returning to the level, to
8 restoring the level, that existed in this country for
9 federal funding in 1995. That was the year that the
10 104th Congress instituted a 30 percent cut on the
11 field, a cut that many parts of the country we really
12 never quite recovered from.

13 It seems to us that is not a -- obviously, it
14 doesn't meet the incredible need out there. And I
15 don't need to go into detail to describing that need.
16 I think you all know that.

17 This does represent a figure that the Congress
18 has funded. It represents a figure that we think is a
19 reasonable approach to take, particularly given the
20 bipartisan support that's developed in the Congress
21 since 1995.

22 As with the ABA's number, when you adjust the

1 appropriation in 1995 to today's dollars, you come up
2 with the figure of 510.8 million. That is essentially
3 the request that we put before you.

4 I will say that given the state planning
5 efforts, a whole lot of what's gone on across the
6 country has been in support of that. There has been
7 enormous progress, if you look at the PERLS data the
8 ABA puts out, in going to state legislatures and making
9 the case and in trying to find other sources of
10 revenue.

11 We have spent a lot of time at NLADA on public
12 relations research and a message campaign in trying to
13 work with states to position legal aid better in the
14 public opinion process as well as before public
15 funders.

16 There is recognition that the federal
17 government can only go so far in meeting the needs of
18 civil legal aid. However, your role is fundamental.
19 Your role is basic, even in states where you're not a
20 majority funder. And in most of them, you are the
21 largest funder.

22 It should not matter in this country whether

1 you live in Massachusetts or Mississippi with regard to
2 your access to justice. And it's incumbent upon LSC,
3 this board, the Congress, and the Administration to
4 strongly voice that message.

5 We recognize, obviously, the political
6 realities that you and we operate in. At NLADA and on
7 behalf of our members, we want to make to you today a
8 very strong message about the need and the critical
9 nature of the federal component of legal aid in this
10 country.

11 A few other points I would like to make with
12 regard to specifics. It has been the longstanding
13 position in my organization and field programs across
14 the country that the genius of this program, as you
15 heard from Sarah and others yesterday, is local
16 approach, diversity of opinion across the country.

17 We feel that that process is best represented
18 by the maximization of federal funding to the direct
19 delivery line. We feel that that has served the
20 community well over the years. That is our fundamental
21 principle.

22 At this level of funding, at our request

1 level, we think if by some miracle we were able to look
2 at that kind of increase, there are, however, three
3 areas of special need that we would like for you as a
4 board to consider both in your budget requests and in
5 developing subsequently policies.

6 The first has to do with supporting training
7 and the needs for the community to have access to
8 support services such as manuals, information that
9 helps them practice law better.

10 For example, we are working with the George
11 Washington University Law School in developing a
12 federal practice manual, something that's been sitting
13 around for twelve years. Very, very important to legal
14 aid. It's very hard to raise funding for information
15 like that.

16 We're not asking you to reopen the discussion
17 about national support centers. But we do have a
18 system that has no national support or infrastructure
19 for the quality of the delivery of legal services. As
20 we said to the committee yesterday, we think that's
21 important.

22 We also support for the first time and

1 recognize the real contribution that you and your staff
2 have made with regard to promoting technology through
3 the technology initiative grant program.

4 We fully support the continuing level of that
5 funding at current levels at 3.4. We think if the
6 appropriation increases, that technology grants should
7 increase in a commensurate way, proportionate to the
8 general increase.

9 We fully support that. We are engaged with
10 your staff in discussing the program and in giving some
11 ideas of how it might change in some regards. But it
12 has been a real godsend to have a federal approach, a
13 national look at technology, and we do support that.

14 Finally, and I think to really underscore
15 this, this is a moment in time. I have in the back and
16 I have for the board if you'd like, on Thursday there
17 was a front-page article in the New York Times
18 highlighting the need for loan forgiveness programs and
19 student debt.

20 I know you've heard a lot about that. The
21 momentum we have now -- President Erlenborn and I
22 served as liaison to the ABA commission. And the

1 momentum that has been created by that commission
2 presents us with an opportunity that we all need to
3 seize at the state level, at the law school level, and
4 at the federal level.

5 We are working very hard with the American Bar
6 on legislation, for example, around the Stafford loan
7 program that would create some relief in the Congress.
8 We're also working around the income-contingent
9 repayment program to get again some options that your
10 grantees might seize upon.

11 But there's no question that as the primary
12 funder of legal aid in this country, you need to play a
13 role. And as Mr. Meites was asking yesterday, what
14 specifically can that role be?

15 Obviously, with significantly increased
16 funding, we're trying to create an infrastructure where
17 these programs can flourish. We do need money for them
18 to flourish. And I think one of the things you should
19 review is whether or not LSC funding can be used to
20 support those programs.

21 We also are working with your staff -- there's
22 actually quite a good conversation going on in the

1 community about employer-based programs. Your own
2 employers can create programs.

3 There's a strong one in Phoenix. You heard
4 from Ms. Johnson yesterday. The Bay area is just
5 setting up a new one. Atlanta has had one, and Georgia
6 Legal Services. They've been very effective. They
7 have some problems. They're taxable, for example.

8 One additional thing other than education that
9 you might do in supporting that is look at some of the
10 state-based models. There are legal aid programs in
11 the country at the state level who are using other
12 resources, particularly IOLTA resources, to develop
13 programs that allow for resources to go to a student
14 burdened with debt without having the tax consequences.

15 It's a complicated discussion. I'm not going
16 to bother you with it this morning. But at least it's
17 conceivable that the Corporation could take a similar
18 approach for your grantees at the national level. I
19 know there's some problems and stumbling blocks, but I
20 would encourage you to explore that as well as other
21 means.

22 The final piece of that equation, as I think

1 we all recognize that have been in the community for a
2 long time, that we are at a moment of transition and
3 generational change. And the student debt burden looks
4 at the front end of that equation. We're also a
5 community for many reasons that hasn't looked at the
6 back end of that equation.

7 And if you look at many of your grantees, you
8 will find people who are, frankly, remaining in legal
9 aid beyond when maybe they should go on or need to go
10 on because of a lack of an adequately funded pension
11 program.

12 Programs through many years have struggled to
13 keep as many lawyers as they can in the field, and the
14 idea of putting money away was just really not part of
15 the culture for many years. So what you find now is a
16 system that in many, many places lacks the kind of
17 pension that people who have devoted their lives to
18 this work should be entitled to.

19 This as well is a complicated question. I
20 don't have particular recommendations other than it
21 needs to be on your list of priorities both for funding
22 for this committee and possibly for some other

1 committees to look at.

2 It is a problem that I hear constantly when
3 I'm interacting with management across the country, and
4 I think many in the community see these are two sides
5 of the same equation. You know, you can't just look at
6 the front end with people coming in. You've got to
7 look at the back end.

8 We very much want to be your partners in both
9 of these. But I do think the moment is ripe. We have
10 a recommendation this year to ask you to commit a
11 million dollars at more likely funding levels to
12 develop pilot projects or to look at ways in which your
13 resources might be used to leverage other resources.

14 As I said earlier, we at NLADA certainly
15 recognize and appreciate all the efforts that you do.
16 I do think this new board's first big, significant
17 request is important to the community.

18 I think in real terms, understanding the
19 federal budget deficits and the political pressures
20 that you will find yourselves under, that, you know,
21 coming in at least at the level of the last request is
22 important and would really send a strong signal to the

1 community of your strong commitment. And certainly we
2 would do everything we can in support of that.

3 So while we ask for numbers that may not
4 appear realistic in the short term, we want to continue
5 to push that. But thank you very much for your strong
6 leadership, and we would urge you to come in within
7 your political realities at the highest possible level.

8 There are a lot of folks looking to this
9 board, and this is an important moment. Thank you,
10 Mr. Chairman.

11 CHAIRMAN DIETER: Okay. Thank you.

12 MR. MEITES: A quick question. LSC has
13 50-plus grantees. Do you have any idea of how many
14 have no pension program?

15 MR. SAUNDERS: I do not. In fact, I asked
16 around your staff yesterday, does that information
17 exist, and the answer, sir, is no.

18 MR. MEITES: Yes. It might be helpful if your
19 organization rather than us -- because you're in touch
20 with your members -- gathers some numbers on, first,
21 how many -- the kinds of pension plans that are in
22 existence, how many have them, and also the other side:

1 How many programs have some kind of student debt
2 assistance program? To give us a background feel on
3 who's doing what and who's doing nothing.

4 MR. SAUNDERS: The latter, we did a survey
5 with this. We have a good deal more information on the
6 latter. And I think it's a very good idea that we try
7 to develop a baseline on the pension issue.

8 MR. MEITES: Yes. When you have both those,
9 maybe you can supply it to us.

10 MR. SAUNDERS: Very well.

11 CHAIRMAN DIETER: Any other questions?

12 (No response.)

13 CHAIRMAN DIETER: Okay. Sarah?

14 MS. SINGLETON: Hello. I'm Sarah Singleton.
15 I'm appearing on behalf of the ABA Standing Committee
16 on Legal Aid and Indigent Defendants. The committee
17 chair, Bill Whitehurst, is out of the country, and he
18 asked that I appear to provide the views of the
19 committee.

20 Oftentimes in a dollars and cents committee
21 like this we talk about the needs or meeting the needs
22 of the poor in the abstract, which is perfectly fine

1 when what we're trying to do is to design a whole
2 system and not deal with individual problems. And we
3 often hear about, you know, percentages of unmet legal
4 needs.

5 But when Bill said, would you come present our
6 budget material to the board, I said, sure, on the
7 committee. I'll be glad to do it, but I don't just
8 want to give numbers.

9 So I called around to various providers in New
10 Mexico to say, can you give me some idea of what kind
11 of people aren't we able to help because we just don't
12 have enough resources? And the sad thing was I got way
13 too many stories to share with you.

14 But bear with me and let me just tell you
15 about one woman that I heard about. I'm going to call
16 her Susan, although I'm sure that's not her real name
17 because I've just made it up.

18 But she lives in a small town in northern New
19 Mexico, a rural town that is up north from Santa Fe.
20 Six months ago, her husband shot her. She was
21 seriously wounded. At that time, he was convicted and
22 he went to jail.

1 Now, for some reason he has gotten out of jail
2 already and she really doesn't understand the system.
3 She doesn't know what's going on. Before he went to
4 jail, she had a restraining order against him as part
5 of the domestic violence program. But that
6 automatically, under New Mexico law, disappears once
7 somebody is convicted and goes to prison.

8 He has started to make death threats against
9 her and her family again. So this woman is living in
10 fear that he is going to come and hurt her or hurt one
11 of her family. She's moving from place to place to try
12 to avoid him. And she calls up to try to get some
13 legal assistance.

14 Well, the place where she lives, the legal aid
15 program that's funded by you all just does not have the
16 staff to provide any kind of help for domestic -- any
17 kind of domestic relations work, even domestic violence
18 relations work. So they can't help her.

19 She is so anxious about the fact that she or
20 her family might be harmed. She doesn't have any
21 education to speak of. She's just not able to assist
22 herself and go pro se in this and avail herself of the

1 clinics. There is no particular clinic in her town,
2 but if she had more wherewithal, perhaps she could use
3 some of the pro se forms that are available. And
4 there's just nobody around in the private bar who
5 really wants to get involved with a case like this that
6 involves violence.

7 So here's this woman who, if she could get out
8 of this abusive relationship, if she could get help
9 talking with the DA's staff, if she could somehow get
10 another restraining order, she might be able to put her
11 life back on a more productive keel rather than being
12 in the kind of anxious state she's in now.

13 But she can't. She can't find anybody in our
14 system who can really give her some kind of help to
15 change her life. So she goes on. What does she do?
16 She copes with worrying about whether her husband is
17 around the next corner with a gun ready to fire at her.

18 I got this story from the director of our
19 telephone help line, who they tried to give the woman
20 what advice they could but her situation doesn't lend
21 itself to that kind of representation over the
22 telephone.

1 What would it take to help this woman? It
2 would take more resources being available for a local
3 legal aid program to actually represent this woman, to
4 make the calls to the DA's office, to help get her
5 through the family court, and to even take her through
6 the domestic violence court if necessary.

7 But it's just -- not only in New Mexico but
8 all over, the legal aid programs just do not have the
9 funds to help all of the people who need help resolving
10 legal problems.

11 I know that you are aware that every year
12 legal aid programs around the country are forced to
13 turn away thousands of people. These are individuals
14 and families who have various kinds of legal programs.
15 The studies continue to show, as I mentioned yesterday,
16 that maybe as much as 80 percent of the legal needs of
17 poor people are not being met.

18 And most of these people are people who
19 qualify as the working poor, who have legal problems
20 relating to family relationships, relating to domestic
21 violence like the woman in northern New Mexico,
22 relating to healthcare, employment, housing, and other

1 basic issues of life.

2 So that's what we're talking about really when
3 we talk about trying to get more resources for legal
4 services. And the sad fact is that the system for
5 providing legal help has fallen far behind the growth
6 of the poverty population.

7 Back in 1995, LSC's budget was reduced by
8 30 percent, as Don said. And since that time, federal
9 funding has increased modestly. But it still remains
10 \$77 million short of the 1995 amount in actual dollars,
11 and that's before taking account of inflation.

12 The economic conditions during that same time
13 period have been such that the ability of state and
14 local resources to fill in the gap has been decreased,
15 so that what we think now would be appropriate is for
16 LSC to recognize that it is in fact the only realistic
17 way that the system can respond to the overwhelming
18 demand for services, and to seek an additional increase
19 in their funding.

20 So we -- like NLADA, we urge you to request a
21 2005 appropriation that would restore the Corporation
22 to the 1995 funding level, as adjusted for inflation.

1 We calculate that that would be an appropriation of
2 \$510.8 million. And I have submitted to you a
3 memorandum that provides the basis for that
4 calculation.

5 Now, if it is not feasible to expect Congress
6 to close the gap all in one year, then what we would
7 ask you to do is to urge Congress to move towards that
8 goal in equal incremental steps over the next three
9 years. And what that would mean is that for the fiscal
10 year 2005 budget, the request would be an additional
11 57.3 million, or a total requested appropriation of
12 \$396.1 million for the next fiscal year.

13 We believe, of the LSC budget, that the great
14 majority of it should be allocated to the provision of
15 basic field services. We would urge you to continue
16 what has been the admirable practice of modest spending
17 on administrative costs so that as much of the
18 appropriation as possible can get to the provision of
19 direct services to clients.

20 We do recognize, however, that a strong system
21 needs to have or to invest in technology. It needs to
22 invest in qualified and experienced personnel. And for

1 that reason, we want to again voice our particular
2 concern about attracting and retaining high-quality
3 lawyers to legal services careers.

4 As Don mentioned, the ABA, like NLADA, has
5 recently focused some attention on the impact of
6 educational debt burdens on the ability of young
7 lawyers or new lawyers to enter into public service and
8 then to remain in public service.

9 We urge you to allocate a meaningful portion
10 of the budgetary resources to support your grant
11 recipients in their efforts to develop and maintain
12 long retainment assistance programs.

13 As you or the board prepares its 2005 budget
14 request to Congress, we urge you to send a strong
15 message about the need for increased federal support
16 for our legal services. And at the ABA and SCLAID, we
17 appreciate the opportunity to address the board on this
18 matter, and we stand ready to assist you in the
19 endeavor to obtain a more adequate level of funding.
20 Thank you.

21 CHAIRMAN DIETER: Thank you, Sarah.
22 Questions?

1 (No response.)

2 CHAIRMAN DIETER: Okay. Thank you for your
3 presentations. And I think we should move on to
4 item 10. I apologize for running over our allotted
5 time, so if we can try to keep that in mind to finish
6 up the rest of the business, I'd appreciate it.

7 And this is LSC's management recommendations
8 on the 2005 budget mark. And Mauricio is going to make
9 a presentation to the committee on behalf of the
10 Corporation management.

11 MR. VIVERO: Good morning. For the record, my
12 name is Mauricio Vivero, and I'd like to present mgt's
13 recommendation for our budget mark for fiscal year
14 2005.

15 The management team recommends a budget figure
16 of 352.4 million for '05. This number includes 332
17 million for basic field grants and 4 million for
18 technology grants.

19 The '05 recommendation is exactly the same
20 amount as the request made by LSC for '04. However,
21 this figure represents a modest 4 percent increase over
22 what is our anticipated '04 budget.

1 The mgt's budget recommendation is based on a
2 combination of factors. First, we believe it's crucial
3 and critical to build upon the successes of the last
4 two appropriations cycles.

5 For '03, LSC received a 9.5 million increase
6 to make special grants to programs in states facing
7 funding losses due to the census reallocation. For
8 '04, we're expected to receive a 2 million increase for
9 basic field amounts. These increases tell us that our
10 vision and strategy is working and we must continue to
11 advocate for more resources, although at modest levels,
12 for the important work of our programs.

13 In addition, our congressional supporters from
14 both parties expect us to continue our advocacy role.
15 For example, in the most recent appropriation cycle,
16 Republican Senators Pete Domenici and Arlen Specter
17 both sent letters supporting our request, the \$352
18 million mark. During the same period, 46 other
19 senators and representatives submitted for the record
20 requests higher than our stated request. There's
21 plenty of support out there, we believe, for our
22 request.

1 Second, management's request is mindful of the
2 Administration's support and budget directives. As you
3 know, President Bush has consistently voiced support
4 for our program and has included us in his budget
5 request to Congress every year.

6 However, we continue to be in a very tight
7 budget environment. Our request of 4 percent is in
8 line with the Administration's past guidance to hold
9 domestic discretionary spending to that rate of growth.

10 Third, and I believe most importantly, our
11 recommendation is focused on getting much-needed
12 additional resources directly to the programs that
13 serve our clients. You've heard a lot about the people
14 we don't serve and the lack of resources.

15 Our budget request wants to focus on the added
16 benefit to this increase and what we can do with the
17 money. As the nation's largest funding source, we
18 should continue a strong advocacy position and support
19 more direct grants to our programs.

20 The vast amount of the increase, as you'll see
21 in the chart that was distributed, is directed to the
22 field. We are asking for a small increase to the

1 technology line item, from 3.4 million to 4 million.
2 The inspector general number stays the same.

3 And the management and administration line
4 item is budgeted at 13.8. Our request for '04 was
5 13.9. As has been indicated before in other
6 presentations, we are trying to hold the line in
7 management spending. It's difficult, but we're doing
8 it, and we are recommending the board approve this
9 budget, which focuses the increases on direct delivery
10 of services.

11 One note: We are not asking the board at this
12 time to approve a budget request to Congress that
13 includes funding for a loan forgiveness program, for a
14 legal needs study, or for attorney pension programs. I
15 would recommend that the board either, as a task force
16 or directing staff, give some thought to these
17 important issues.

18 You've heard a lot about the need for them.
19 We're not prepared at this time without your further
20 guidance to recommend those as new line items, but we
21 do think they're worthy of further study by the board.
22 So we encourage you to do that.

1 Let me close by saying that our request of 352
2 I feel represents a realistic political goal, one that
3 will have the support of our key supporters in
4 Congress, support from the corporate America, our
5 judiciary partners, and from other nonprofits that we
6 work with. The goal represents a real directive to try
7 to get resources to where they're needed most, to our
8 programs.

9 That's my presentation on behalf of
10 management. I'd be glad to answer any questions you
11 have.

12 CHAIRMAN DIETER: Any questions? Herb, do you
13 have anything?

14 MR. GARTEN: Yes, I do. With regard to the
15 loan forgiveness and the pension arrangement, are you
16 suggesting that we set up our own task force or join
17 with NLADA and the ABA in investigating this matter?

18 MR. VIVERO: Well, the ABA has concluded its
19 work in terms of the task force on loan forgiveness.
20 So I would recommend that the board -- either a
21 provisions and finance joint committee or that you at
22 the minimum task staff to bring you back more research,

1 as Mr. Meites recommended, from the field.

2 They're very important issues, but without
3 further guidance from the board, it would have been
4 unrealistic to propose something at this junction.

5 MR. GARTEN: Are you suggesting that there be
6 a board liaison with management to look into this?

7 MR. VIVERO: That's one scenario. You could
8 designate someone to work with a staff group, or you
9 could take it up as a board committee with staff
10 support as well. So it's really -- I think it just --
11 it requires some further discussion, and we stand ready
12 to work on it at your directive.

13 MR. GARTEN: I think this area should get some
14 discussion from the board, some direction.

15 CHAIRMAN DIETER: I think the -- I mean, the
16 ABA study is very recent. I think it was March. And
17 so that's got a lot of data in it. I guess the
18 question I have is how cumbersome would it be to
19 collect information from the grantees as to what, you
20 know, retirement plans are provided at this point, so
21 we can have some idea of what this thing looks like,
22 and not undertake this in any way that leads the field

1 to believe that we are going to act on it, but just to,
2 I guess, get some information so we can see what
3 this --

4 MR. GARTEN: A study group, basically.

5 CHAIRMAN DIETER: A study group in terms of
6 whether or not this, you know, would help for
7 recruitment and retention of, you know, the best
8 lawyers that we can get.

9 MR. VIVERO: I don't think the field would get
10 the wrong idea. I think it would get the right message
11 if there was some time devoted to studying it further
12 as possibly something the board would do. There's lots
13 of ways, as has been mentioned, for us to be involved
14 in these areas.

15 Some of our programs already have their own
16 programs for loan forgiveness. We could study them
17 and, you know, support their efforts in some way. We
18 could develop -- thinking about developing a national
19 strategy. We can work with our partners. We can work
20 with IOLTA. There's a lot of things that are potential
21 ways to deal with the problem, and that's what I'm
22 recommending, that the board review them and give us

1 some guidance for further budget requests.

2 CHAIRMAN DIETER: Maria?

3 MS. MERCADO: I'm wondering if in this
4 particular FY budget mark we should include some amount
5 of funds to be able to deal with that so that you can
6 have the data and the information that is coming from
7 LSC included in that work.

8 Because, I mean, our staff is already at the
9 limit of what they're doing, especially with all the
10 regulatory work and operations work and trying to deal
11 with the grantees both in program performance and
12 compliance.

13 Whether included in that -- in order for us to
14 spend the time necessary, whether that would require
15 more additional staff or other kinds of gathering of
16 technology or data that you would need, shouldn't we
17 allocate some funding to that to do that?

18 MR. VIVERO: Well, we could -- the management
19 team could -- I mean, if the board sets it as a
20 priority, the management team will adjust our
21 management funding to study the issue, obviously. We
22 are not prepared at this time to recommend a new line

1 item to Congress, is the point. But we would be very
2 glad to, like I said, work as a staff group or in
3 conjunction with a board liaison or either with a new
4 board group to look this over and make further
5 recommendations.

6 MR. GARTEN: Mauricio, in view of this being
7 such a hot issue, why do you hesitate putting it in as
8 a line item on the budget?

9 MR. VIVERO: Because there are multiple ways
10 to deal with the problem, like I mentioned. There's --
11 one scenario is a direct appropriation for pass-through
12 grants to grantees. Another way would be to work with
13 other partners to get a combination of federal and not
14 federal funds.

15 We haven't really studied to a satisfactory
16 degree what's happening currently in the field. So we,
17 without having a board give us more guidance, did not
18 feel it was appropriate at this time to request a new
19 line item.

20 MR. GARTEN: Well, I don't see any harm, if
21 the chair and the board are inclined, for a study group
22 to be convened, either one of the committees or a group

1 that the chair would appoint, and report back to the
2 board at our next meeting.

3 CHAIRMAN DIETER: Okay.

4 MR. HALL: Just echoing that, I think this is
5 a critical issue and it's one that we have to look at.
6 I mean, this issue came before the Provisions Committee
7 as well yesterday, and it's certainly on my list of
8 things that I want the Provisions Committee to look
9 into.

10 I haven't had a chance to talk to the other
11 members of that committee so I'm reluctant to speak on
12 their behalf. But I do think this is an issue that
13 requires some further analysis.

14 And so before we make a decision here about
15 which group gives that directive, I'd like for us to at
16 least have an opportunity to think, whether this is a
17 joint provisions/finance endeavor or if it's just a
18 provisions endeavor that has some financial
19 implications, certainly, when it is brought to that
20 level.

21 But I do think that there's a sense, at least
22 by the chair of the Provisions Committee, that this is

1 something that we need to look at very seriously.

2 CHAIRMAN DIETER: Well, although most of board
3 is here, we sort of have this committee meeting going
4 on in the midst of a full board. So do you have a
5 motion to make for the committee or --

6 MR. HALL: Yes. I --

7 MR. ERLENBORN: Mr. Chairman, could I make an
8 observation first?

9 CHAIRMAN DIETER: Yes.

10 MR. ERLENBORN: We have the executive
11 committee meet several times to try to bring the M&A --
12 particularly to bring the M&A figure down to a level
13 that has been very desired but difficult to reach.

14 If you add an additional line item, you're
15 saying that none of these programs that have already
16 given a great deal of what they had hoped they would
17 have to operate in the M&A arena -- you'll have to tell
18 us which one of those programs are going to sacrifice.

19 Because we can't add money. We know what the
20 total appropriation is going to be. The only way you
21 can put another line item in there would be to turn to
22 Mauricio or to Victor and say, we're going to take X

1 number of dollars from your part of the M&A line item.

2 I would suggest that we have staff that can be
3 put to this effort. I don't think it requires, every
4 time there's an issue before the board, put it out for
5 someone to spend money to do research. I think we can
6 do the research without adjusting the budget by telling
7 those people in the executive team what they would like
8 us to do, and then with our resources, I think we can
9 do it without spending the money by locking it into a
10 line item.

11 MR. GARTEN: I'm not suggesting that. All I'm
12 suggesting --

13 MR. ERLBORN: I understood that that was the
14 suggestion.

15 MR. GARTEN: Let me ask the question: These
16 budget figures for '05, though, can be adjusted.

17 MR. VIVERO: Well, the line items --

18 MR. GARTEN: Yes.

19 MR. VIVERO: The legislation will read, as
20 your yellow column reflects, with those specific line
21 items. They may not be adjusted once they're passed,
22 and they cannot be transferred, as Mr. Erlenborn said.

1 MR. GARTEN: When are we required to pass
2 this?

3 MR. VIVERO: Well, it's important that we pass
4 it today because we have to submit to OMB our budget
5 request by October 15th, and then OMB gives us a
6 response, and then we submit directly to Congress our
7 budget.

8 So we -- I think, as Mr. Erlenborn said, there
9 are alternatives for the board to study this, for us to
10 study this, without affecting these line items. And
11 we're prepared to assist the board in any way.

12 MS. MERCADO: Just real quickly, as long as we
13 have a sense that in this study group it doesn't take
14 another two years to get to the forefront of another
15 budget mark, I mean, there's been significant research
16 and work done by the field, by the ABA.

17 And so it's just a matter of this board, with
18 our staff, sort of fine-tuning what works best for the
19 next budget mark. I mean, I would hope that we had
20 some kind of a deadline so by the time we had to do a
21 budget mark for FY 2006 that we already had those
22 figures in mind and the data to back up what it is that

1 we're asking for.

2 MR. ERLBORN: Mr. Chairman, I think you're
3 right that we have the resources here. As a matter of
4 fact, I would give you as an example John Eidleman, who
5 for many years before he worked again with the ABA in
6 the last year and a half or so, almost two years, I
7 think -- and John is a fount of information and knows
8 where to go to get those things he doesn't know.

9 We have others among the staff of the Legal
10 Services Corporation who have had an interest in this,
11 have a certain amount of knowledge and expertise. And
12 I think we can put those people together in some
13 method. I wouldn't say how; I wouldn't want to
14 prejudge on the staff like that.

15 But please, don't put it as a line item that
16 can't be spent for anything else.

17 MR. GARTEN: John, I respect what you say and
18 I agree. All I would suggest is --

19 MR. ERLBORN: The line item --

20 MR. GARTEN: -- is that we send a message to
21 the community that we are studying this, and that
22 group, whoever it is, internal or with board members or

1 a committee, will report back with recommendations at
2 the next board meeting.

3 MR. ERLENBORN: We have a certain level of
4 expertise already which I think is a good grounding for
5 the sort of thing you'd like us to do.

6 CHAIRMAN DIETER: I think that -- if I have a
7 suggestion, we could have a report back maybe in
8 January. I think that would be --

9 MR. GARTEN: That's acceptable.

10 CHAIRMAN DIETER: -- a more realistic time
11 frame to gather some of the information.

12 And with regard to loan repayment, the only
13 thing I've noticed in some of the materials is there
14 really are not very -- there are not even figures that
15 you can kind of even get a handle on.

16 And it seems to me that it wouldn't be too
17 difficult to get more concrete data with regard to
18 retirement plans than the loan repayment. And so my
19 recommendation would be that they start gathering
20 information, concrete information, you know, regarding
21 the retirement plans because I think the loan
22 repayment, you know, is -- I doubt that we can get

1 anything we need put together by January, from what --

2 MR. GARTEN: Well, they can at least give us
3 an interim report if they can't put it together by
4 then. But there's a lot of material out there.

5 CHAIRMAN DIETER: All right. Do you want to
6 move that --

7 M O T I O N

8 MR. GARTEN: Yes. I move that management and
9 staff be prepared to present to us by the January board
10 meeting a report and recommendations as to the
11 implementation of both the loan repayment plan and the
12 pension plan for consideration. I'm not suggesting
13 that we'll act on it at that time. We'll consider it
14 at that time.

15 CHAIRMAN DIETER: Tom, are you there?

16 MR. FUENTES: I am here. I'm wondering if
17 this is not more fittingly an item to be moved at the
18 board rather than --

19 CHAIRMAN DIETER: Right.

20 MR. GARTEN: This would be -- this was
21 intended as a recommendation to the board.

22 CHAIRMAN DIETER: A recommendation to the

1 board from the Finance Committee. And if you'd, I
2 guess, accept a friendly amendment, instead of
3 implementation -- that assumes that they're going to
4 have a plan that we put into effect -- all that we'd
5 ask is that we recommend to the board that they
6 undertake the gathering of information regarding these
7 two items, and report back on their findings, I guess.

8 MR. GARTEN: That's acceptable.

9 MS. BeVIER: And how about presenting
10 alternatives? I mean, my guess is that there's more
11 than one way of going about addressing this problem,
12 and that I'd like to have an idea of what some of the
13 choices are.

14 MR. ERLNBORN: I might say that the recent
15 ABA effort over the last couple of years that I was
16 involved in tangentially and John Eidleman, as I say,
17 even long before that, they can be a great base.

18 I remember in some of the meetings that we had
19 trying to think of ways that we might be able to fund
20 some scheme to provide for pensions for staff members
21 of our retirees, of our grantees.

22 And I think that that can give us a great head

1 start, just to go to that document, because many of the
2 questions that you have asked are addressed in that
3 document. Not to say that all the answers are there;
4 certainly that isn't true.

5 MR. GARTEN: We did hear from Don Saunders
6 today about pilot projects and using our resources to
7 leverage out of programs. So we should be looking into
8 that also.

9 CHAIRMAN DIETER: Just one -- the other thing
10 in looking at the material and hearing this is I want
11 to be sure that we're not pursuing a solution that's in
12 search of a problem, either, in terms of, you know, is
13 there, you know, a -- you know, are people going to
14 this work for a lot of reasons other than money?

15 And so I think it would be important somehow
16 to uncover whether or not this is in reality affecting
17 our ability to attract and retain, you know, quality,
18 you know, legal services staff attorneys, and then the
19 scope of that question.

20 MR. MEITES: It should be easy to obtain some
21 demographics of the agency. What I hear people say is
22 we have no problem with younger attorneys and the older

1 attorneys are staying too long. But the middle group,
2 say 35 to 50, are where we're losing people.

3 And just the demographics of the population of
4 the attorneys in our grant agencies will help a lot to
5 say if that's true, if there really is a missing center
6 or not. So some numbers would be very helpful, at
7 least to me.

8 MS. MERCADO: Well, and the numbers will tell
9 you what the turnover rate is. Young lawyers coming
10 in, if they only stay with the program one or two years
11 because they cannot afford to because of the loan
12 repayment -- you know, during a five- or a ten-year
13 period of time, how many first-year lawyers did you
14 have coming in? How many turned over? How many are
15 still there? And the average. I mean, that's all data
16 that can be fairly --

17 MR. GARTEN: I think the ABA report goes into
18 a lot of those. And that should be the foundation of
19 what they're working from.

20 CHAIRMAN DIETER: Can you help us out?

21 MR. VIVERO: Yes, Mr. Chairman. I just have a
22 suggestion. We don't -- we hear you loud and clear.

1 We don't need a formal motion for guidance from the
2 board. We will get to work and have a report prepared
3 to you for January.

4 And as we -- as Mr. Erlenborn assigns staff to
5 work at this, we will consult with those that have
6 expressed along the way, if that's okay. And we don't
7 need any further formality to get started on that.

8 CHAIRMAN DIETER: Yes. And just personally, I
9 think it should be understood by the field that this is
10 just an inquiry and not any sort of --

11 MR. VIVERO: A commitment to any particular
12 policy position. Exactly.

13 CHAIRMAN DIETER: Right. It may turn out that
14 we don't -- won't support anything. But at this point,
15 we don't have any numbers to make any judgments, so I
16 think that's what we're trying to do.

17 MR. VIVERO: Right.

18 MS. MERCADO: Well, and also the Provisions
19 Committee probably needs to look at, you know, the
20 actual process and everything else. Because Finance
21 sort of looks at numbers and we look at --

22 CHAIRMAN DIETER: Okay. We can fight that

1 turf battle later.

2 MS. MERCADO: Right. I know.

3 MR. MEITES: Senator McCain again here.

4 CHAIRMAN DIETER: That's right. We have a
5 beach and we will defend it.

6 MR. VIVERO: So we hear you. We appreciate
7 it. We'll get to work on that.

8 CHAIRMAN DIETER: Okay. Does that satisfy
9 you, Herb?

10 MR. GARTEN: I think -- I'm satisfied. I
11 think the message has gotten out.

12 CHAIRMAN DIETER: Okay. Tom, is that okay
13 with you?

14 MR. FUENTES: Yes, sir. I think that's more
15 appropriate.

16 CHAIRMAN DIETER: All right.

17 MR. VIVERO: We do need a motion --

18 CHAIRMAN DIETER: Oh, a motion to --

19 MR. VIVERO: -- approving the budget request
20 to the full board for their consideration.

M O T I O N

1
2 CHAIRMAN DIETER: Yes. I move that we
3 recommend to the board that it accept the budget mark
4 that's been established by the LSC management of
5 \$352,400,000.

6 MR. GARTEN: Second.

7 CHAIRMAN DIETER: Okay. Vote in favor. Tom,
8 are you in --

9 (A chorus of ayes.)

10 CHAIRMAN DIETER: Okay. The ayes have it
11 unanimously.

12 Let's see. The next item is item 12, consider
13 and act on fixing the LSC president's salary to Level V
14 of the federal government's Executive Schedule. I
15 understand -- if I can just speed this up, I understand
16 that the present salary has been set every year by the
17 board at the Level V level, and that this is simply in
18 the nature of a housekeeping matter; that unless the --
19 you know, the committee feels that the board should
20 review that salary level every year, that, you know, we
21 should recommend to the board that they pass a motion
22 setting the president's level, salary level, at the

1 Level V so we don't have to revisit this every year.

2 So unless there's further discussion --

3 M O T I O N

4 MR. GARTEN: I so move.

5 CHAIRMAN DIETER: Okay. Tom?

6 MR. FUENTES: Yes, sir. Second.

7 CHAIRMAN DIETER: All in favor?

8 (A chorus of ayes.)

9 CHAIRMAN DIETER: Okay. So we'll present
10 that, you know, to the full board.

11 Item 13, consider and act on any other
12 business. Is there any other business?

13 (No response.)

14 CHAIRMAN DIETER: Any other public comment
15 under item 14?

16 (No response.)

17 CHAIRMAN DIETER: Then I move that we adjourn
18 the meeting.

19 MR. GARTEN: Second.

20 (Whereupon, at 11:33 a.m., the meeting was
21 concluded.)

22 * * * * *