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LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

FINANCE COMMITTEE

Saturday, October 28, 2006
9:57 a.m.

Charleston Marriott Town Center
200 Lee Street East
Charleston, WV 25301

COMMITTEE MEMBERS PRESENT:

- Michael D. McKay, Chairman
- Lillian R. BeVier
- Thomas A. Fuentes
- Herbert S. Garten
- Thomas R. Meites
- Sarah Singleton

BOARD MEMBERS PRESENT:

- Jonann Chiles
- David Hall
- Bernice Phillips
- Frank B. Strickland, ex officio

1 STAFF AND PUBLIC PRESENT:

2 Helaine M. Barnett, LSC, President

Patricia Batie, LSC, Manager of Board Operations

3 Terry Brooks, ABA/SCLAID

Mattie Cohan, LSC

4 Karen M. Dozier, LSC, Executive Asst. to the President

Victor M. Fortunato, LSC, VP for Legal Affairs,

5 General Counsel & Corporate Secretary

Joel Gallay, LSC, Special Assistant to the IG

6 Charles Jeffress, LSC, Chief Administrative Officer

David Maddox, LSC Assistant Inspector General

7 for Resource Management

Jim Martin, Legal Aid of West Virginia

8 Ronald Merryman, LSC

Linda Perle, CLASP

9 Tom Polgar, LSC, Director, Office of

Government Relations & Public Affairs

10 David L. Richardson, LSC, Treasurer & Comptroller

Karen Sarjeant, LSC, VP for Programs and Compliance

11 Laurie Tarantowicz, LSC, Assistant Inspector General

and Legal Counsel

12 Kirt West, LSC, Inspector General (IG)

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

2 CHAIRMAN MCKAY: We will call to order the
3 meeting of the Finance Committee.

4 And the first item on the agenda is approval
5 of the agenda. And I want to propose to the committee
6 four amendments to the agenda. And what I would like
7 to do is articulate all four amendments, and see if we
8 can agree to them in toto. None of them are
9 controversial, unless you say so.

10 And Tom, I don't suppose you have a copy of
11 the agenda in front of you?

12 MR. FUENTES: I do.

13 CHAIRMAN MCKAY: Good. The first proposal is
14 that we add an item to the agenda, which would be a
15 resolution to increase the maximum amount of LSC -- the
16 maximum amount an LSC employee may contribute to the
17 health reimbursement fund.

18 The next amendment -- so we're adding that
19 particular item.

20 MR. FUENTES: Right.

21 CHAIRMAN MCKAY: The next amendment is to
22 delete item seven from the agenda. That is, "Consider

1 and Act on Adoption of the Revised Budget Procedures."
2 This is -- and I am proposing that we delete this from
3 the agenda, and that we defer it to January. This is
4 at the request of the IG. I circulated an e-mail to
5 the members, and I think that's an appropriate
6 amendment, as well.

7 The third amendment is in item two, "Approval
8 of the Minutes of the Committee's Meetings." With
9 regard to the July 29th meeting, we approved those
10 minutes in our meeting on September 18th. So I propose
11 that we delete that.

12 And then, finally, item five on the agenda is
13 a staff report on LSC's directors and officers
14 insurance. Since this item touches on litigation, and
15 since it is only a briefing, I propose that this be
16 deleted from the agenda, and that it be discussed
17 during the entire board's closed session later today.

18 So, those are the proposed amendments to the
19 agenda. Are any of those amendments a problem,
20 or -- Vic, do you want to just give us a quick report
21 on the appropriateness of having -- of discussing item
22 number five in closed session?

1 MR. FORTUNO: Item number five, actually, so
2 long as it's a briefing, is not a problem. I think the
3 committee can recommend to the board that -- as part of
4 the committee's report, or the chairman's report, that
5 the discussion be had -- or the briefing be had, I
6 should say, in the board's executive session.

7 But my question was did I understand that
8 there was one substantive item being added to the
9 agenda? A resolution?

10 CHAIRMAN MCKAY: Yes.

11 MR. FORTUNO: Because in that case, I think
12 what you may need to do is take a vote, that
13 corporation business requires it, no other notice was
14 possible, and that's the procedure prescribed by the
15 Sunshine Act for adding an agenda item once the public
16 notice has been issued.

17 CHAIRMAN MCKAY: And should we do that before
18 or after we amend the agenda?

19 MR. FORTUNO: I would do that before.

20 CHAIRMAN MCKAY: Okay. So -- is that a voice
21 vote?

22 MR. FORTUNO: It's an on-the-record vote, so

1 each vote should be recorded.

2 CHAIRMAN MCKAY: All right. So, before we
3 reach that, was there any proposal to the agenda that's
4 a problem for any member of the committee, or anyone on
5 the board?

6 (No response.)

7 CHAIRMAN MCKAY: All right. Well, let's deal,
8 then, with the proper procedure. With regard to adding
9 the item that relates to -- it's a resolution to
10 increase the maximum amount an LSC employee may
11 contribute to health reimbursement fund.

12 The question is, why are we adding this to the
13 agenda now, and who is going to address that issue?
14 David or Charles? Who is --

15 MR. RICHARDSON: I will be glad to.

16 CHAIRMAN MCKAY: Who are you?

17 MR. RICHARDSON: For the record, my name is
18 David Richardson. I am the treasurer of the
19 corporation.

20 The reason that this has come up is under
21 the -- our flexible spending account, last year we
22 amended that to increase. We found just a -- in the

1 last week, that there was a need to increase that. The
2 maximum limit under law was \$10,000. Our limit is
3 somewhat less than that. And the decision was made to
4 come to the board to seek your approval to increasing
5 the amount of the spending accounts.

6 CHAIRMAN MCKAY: I guess the question is why
7 is it that it wasn't part of the original agenda so the
8 public could get notice? What is the emergence of
9 this, Mr. Jeffress?

10 MR. JEFFRESS: I think the point is we just
11 found out recently that several employees have maxed
12 out. Last year, when we raised it from \$4,000 to
13 \$5,000, we thought that was going to be sufficient to
14 cover the maximum needs of the employees.

15 With employees maxing out this early in the
16 year, just discovering that, we found that it would be
17 useful if you would, before the first of January,
18 authorize us to increase their maximum deduction up to
19 \$7,500.

20 CHAIRMAN MCKAY: In other words, it would be
21 detrimental to some employees if we waited until the
22 January meeting?

1 MR. JEFFRESS: That's correct.

2 CHAIRMAN MCKAY: All right. Are there any
3 questions about that subject?

4 (No response.)

5 CHAIRMAN MCKAY: So I guess we need to put to
6 a vote of the committee the appropriateness of adding
7 this item to the agenda, with that explanation, in
8 compliance with the Sunshine Act.

9 Roll call vote? Is that what's necessary?

10 All those in favor, say aye.

11 (Chorus of ayes.)

12 CHAIRMAN MCKAY: Opposed?

13 (No response.)

14 CHAIRMAN MCKAY: It's unanimous. The record
15 should reflect every committee member voted aye. Any
16 other discussion about the proposed amendments to the
17 agenda?

18 M O T I O N

19 MS. SINGLETON: Move we approve the agenda, as
20 modified by the chair.

21 CHAIRMAN MCKAY: Second?

22 MR. GARTEN: Second.

1 CHAIRMAN MCKAY: All those in favor?

2 (Chorus of ayes.)

3 CHAIRMAN MCKAY: Opposed?

4 (No response.)

5 CHAIRMAN MCKAY: The agenda, as amended, is
6 approved. The second item is approval of the minutes
7 of the committee's meeting on September 18, 2006. Any
8 discussion?

9 M O T I O N

10 MS. SINGLETON: Move approval of the minutes
11 of September 18th.

12 CHAIRMAN MCKAY: Second?

13 MR. GARTEN: Second.

14 CHAIRMAN MCKAY: Discussion?

15 (No response.)

16 CHAIRMAN MCKAY: All those in favor, say aye.

17 (Chorus of ayes.)

18 CHAIRMAN MCKAY: Opposed?

19 (No response.)

20 CHAIRMAN MCKAY: The minutes for the September
21 18, 2006 meeting have been approved.

22 Item number three is a presentation of LSC's

1 financial reports. We will begin with a presentation
2 from our treasurer, Mr. Richardson.

3 MR. RICHARDSON: Thank you, sir. What you
4 have before you is -- I hope -- is a memorandum that
5 was dated October 25th --

6 MR. FUENTES: Excuse me, Mr. Chairman. I
7 cannot hear David.

8 MR. RICHARDSON: Okay, sir, can you hear me
9 now?

10 MR. FUENTES: Better.

11 MR. RICHARDSON: Okay. What you have, I hope,
12 before you is a memorandum that is dated October 25th.
13 It was sent out in a Federal Express package to each of
14 the board members on Wednesday. I hope you got that
15 before you left your offices, so that you had an
16 opportunity to review that.

17 The reason that it is somewhat later than the
18 rest of the book is because of closing the fiscal year
19 occurred around the 20th, and the book, of course, was
20 already produced and in your hands at that point. So,
21 to provide you the most current information, this is
22 the policy, or the way that we have adopted to provide

1 the information to you.

2 This is a preliminary report; we will enter
3 into audit in the next two weeks, and we will continue
4 with M.D. Oppenheim as the auditor, and then they will
5 review the records and we will have a final report at
6 the -- hopefully, the January meeting.

7 The key thing here is we are well within
8 budget. Each of the budget lines that you see in
9 attachment A shows that we are well within budget. The
10 basic field program, the only reason that we have a
11 carryover there, or remaining funds, is because of the
12 one grantee that is on month-to-month funding.

13 With respect to the Court of Veterans Appeals,
14 that money is restricted for their operating expenses,
15 and will carry forward next year to help with the
16 administration of the grants, or possibly would be used
17 to increase the grant that is given next year.

18 The grants from other funds is the money that
19 we use for special emergency. And thankfully, we have
20 not needed those this year. So the full money there
21 will carry forward to assist in any emergency or
22 natural disasters that may occur in the future.

1 And then, the technology grant, we have made
2 the grants for 2006. They included the State Justice
3 Institute money that we received, and there is just a
4 small amount left there, that will go to support
5 additional cost of grants next year.

6 So, we are very happy to have those done. If
7 you will recall, the last few years those grants have
8 been made in December, so that has been carryover. Now
9 the grants have been made, and there have been actual
10 checks cut to pay the first installment of many of
11 those grants, so we are happy with that. It's not
12 shown as additional funds for the budget purposes.

13 Under management and administration, you will
14 see that we are well within budget. We have spent at a
15 rate for the year 14 percent under budget. The
16 inspector general is also under budget, 13.58 percent.

17 And then the loan repayment program, we have
18 given loans to date of \$167,000 that are still
19 receivable to us. The office of program performance is
20 going through the process of establishing a
21 certification for those receivables that we have on our
22 books to show that the recipients did, indeed, fulfill

1 the requirements of the contract, and hopefully by
2 December, those current loans will be forgiven, and
3 they will show as an expense in next year. And then,
4 of course, we will start the same process to continue
5 the second year of the pilot project.

6 So, we are on target there, and everything
7 looks to be coming together under the guise of Karen
8 Sarjeant and the office of program performance.

9 In the information I have just called
10 attention to some of the spending lines. Page two of
11 the memo talks about the operating costs, and I have
12 called attention to the spending. For instance, in the
13 legal affairs, the consulting line, additionally the
14 expenses for travel for the board, just to highlight
15 that we have paid your expenses that we have received
16 to date.

17 Program performance and compliance, the travel
18 and consulting there also have been paid. And the
19 other operating expenses is the other large item,
20 particularly in the office of financial administrative
21 services, which really pays for the directors and
22 officers insurance. And then the capital purchases

1 that were made at the end of the year.

2 CHAIRMAN MCKAY: So in that paragraph of your
3 memo, David, top of page two, you are inviting our
4 attention to those expenditures. All of them are
5 within budget. But you are inviting our attention to
6 those items, just because they are larger payments that
7 are being made?

8 MR. RICHARDSON: That is correct, sir.

9 CHAIRMAN MCKAY: Thank you.

10 MR. RICHARDSON: The overall budget, as you
11 see there, is -- or budget, I should say, of spending
12 -- was \$12,679,000; 67.5 percent of that is salaries.
13 The other large item there is occupancy, 13.1 percent.
14 And then the rest is the discretionary spending that we
15 have.

16 We did have -- and I've noticed some areas
17 that were significantly under budget, I will just call
18 your attention to those.

19 When we went to the review process for the
20 last quarter, because of the spending that occurred at
21 year end, there is a few internal budgetary adjustments
22 that are explained on the bottom of the memo.

1 You have heard throughout the year that we
2 have had a number of open positions. We have been
3 doing a great deal of advertising. Advertising is very
4 costly in The Washington Post, so we had to increase
5 the other operating expenses in human resources to
6 accommodate for the spending there, for the advertising
7 of those positions and the monies available through an
8 open position in that office.

9 Within my office, the office of financial
10 administrative services, we reported to you in
11 September that we were looking at a color copier and
12 scanner. We have purchased those, they are in. And
13 because of that, we had to move some money around to
14 accommodate the spending there. So there is a need of
15 \$40,900 to fund that purchase, you might say, and that
16 money is available through personnel compensation and
17 benefits, because of an open position we have.

18 And then, communications, there was a \$10,000
19 reduction there, because we have been able to save some
20 money in the mailing; we have been using e-mail instead
21 of snail mail. But occasionally we still have to us
22 the U.S. mail service, so -- but it's been less this

1 year than normal.

2 Occupancy. You would wonder why there is a
3 variance there. I normally put a little money, in case
4 we need to do some painting or carpet cleaning, some
5 touch-up. This year we didn't have to use that, so we
6 are able to move that money to support this purchase
7 also. And then, some travel and transportation, other
8 small adjustments, were made.

9 Within program performance, because of the
10 open positions they have had, we have moved some of the
11 money from personnel compensation and benefits to
12 temporary employees, so that they can continue with
13 their mission requirements.

14 And in addition to that, in information
15 technology, at year-end we bought a number of printers
16 and supplies and computers and so forth, but we did
17 need to move money, \$37,000, from the capital
18 expenditure line to other operating, because the
19 expenditures which fall under our capitalization limit
20 would be shown as an expense in this particular -- in
21 our budget process.

22 I would be glad to answer any questions you

1 may have.

2 CHAIRMAN MCKAY: Questions for Mr. Richardson?

3 (No response.)

4 CHAIRMAN MCKAY: Thank you very much for your
5 very good and thorough report -- your written report,
6 as well as your oral presentation this morning. Thank
7 you. Mr. Jeffress, comments?

8 MR. JEFFRESS: I would just point at three
9 trends, three issues, with respect to the end-of-year
10 report, for your information and consideration.

11 First -- and these are detailed in a cover
12 memo that you have along with this package -- the
13 second paragraph talks about the total spending for
14 LSC. I would point out that the total spending for
15 this fiscal year that David mentioned, \$12.67 million,
16 was less than the spending for last year, 2005, which
17 was \$12.7 million, which in turn, was less than the
18 spending for 2004, \$12.78 million -- not in the
19 memo -- that was less than the spending for Fiscal Year
20 2003, which was \$13.2 million.

21 So, I would point out for each of the last
22 three years LSC has spent its management administration

1 money -- it has spent less each year than the previous
2 year. I think some credit is due to the president, to
3 the program directors, for being very cautious and very
4 effective, in terms of their spending. We have been
5 able to accomplish our goals while spending a little
6 less money each year.

7 CHAIRMAN MCKAY: Indeed. But also, it's
8 primarily, as you indicated in your memo, it's because
9 certain positions have been left unfilled. Isn't that
10 correct?

11 MR. JEFFRESS: Well, as you will recall at the
12 last board meeting, we have found that we're able to
13 operate without certain administrative positions, and
14 we transferred three of those positions in the last
15 quarter to our program and compliance enforcement
16 offices, so that we can staff up those offices, rather
17 than spend the money on pure administration, spending
18 on program and enforcement issues.

19 CHAIRMAN MCKAY: Are there still open
20 positions?

21 MR. JEFFRESS: At this point, there are 13
22 open positions. We believe, looking at the budget,

1 looking at our needs, we should proceed with filling
2 eight of them, and we have advertised those. Five
3 others continue to be on hold. And given our budget,
4 given the board's action last meeting not to request
5 additional funds, we obviously are not going to be able
6 to fill all those positions, and we will continue to
7 keep a number of those on hold.

8 CHAIRMAN MCKAY: What would be helpful for me,
9 and perhaps the other members of the committee, is if
10 you could, at your convenience in the next month or so,
11 send to the committee a list of just those 13
12 positions.

13 MR. JEFFRESS: Right.

14 CHAIRMAN MCKAY: The eight that you have
15 chosen to fill, and the remainder that you won't fill.
16 So just -- a position description --

17 MR. JEFFRESS: I don't have that with me here
18 today, but I will --

19 CHAIRMAN MCKAY: One-page document. Nothing
20 significant.

21 MR. JEFFRESS: Okay, and that was one of the
22 points I was going to make is in the last paragraph on

1 that page, that there are 13 vacant positions --

2 CHAIRMAN MCKAY: Yes.

3 MR. JEFFRESS: -- only 8 of which we are going
4 to fill; 5 of which are --

5 CHAIRMAN MCKAY: Thank you.

6 MR. JEFFRESS: And the final point, the final
7 comment I would make on that end-of-year spending is,
8 as David said, with the LRAP of -- the current loans
9 that have been made onto LRAP, assuming that people
10 have kept their obligations, \$167,000 in loans will be
11 forgiven.

12 However, we had anticipated trying to reach
13 out and spend a third of this \$1 million each year. We
14 have spent less than that each year, so we intend, in
15 the next few months, to advertise, recruit for other
16 recipients from grantees who are eligible for these
17 loans, and to make a few more loans in the next few
18 months in order to bring the spending in line with our
19 three-year goal for this program.

20 CHAIRMAN MCKAY: Has anyone come to a
21 conclusion as to why the spending in this category has
22 not reached the level that you originally anticipated?

1 MR. JEFFRESS: There were two assumptions made
2 that we have, in retrospect, or in hindsight, in
3 learning, we might not have made.

4 We said we would set a limit of \$5,000 per
5 recipient for loan amounts, and we did that. Then we
6 set certain conditions, in terms of criteria, how much
7 someone could qualify for. Well, it turns out a number
8 of the people selected did not qualify for the \$5,000
9 in loans. So we had anticipated \$5,000 times 70
10 recipients, and many of the recipients did not qualify
11 for the \$5,000. So we had less money qualified for by
12 each recipient than we had anticipated.

13 CHAIRMAN MCKAY: Without burdening us with too
14 much minutiae, why would someone not qualify? Could
15 you give us some examples?

16 MR. JEFFRESS: One, a number of these people
17 have loan assistance from other sources, as well as
18 from LSC. So they can't qualify for more than their
19 total payments are. And in turned out, given their
20 total payments and what they were otherwise receiving,
21 they simply didn't qualify for more than an average of
22 about \$3,500.

1 CHAIRMAN MCKAY: Okay, thank you. Any -- were
2 you finished with your presentation?

3 MR. JEFFRESS: Yes.

4 CHAIRMAN MCKAY: Any other questions from the
5 committee?

6 MS. PHILLIPS: I have a question.

7 CHAIRMAN MCKAY: Please, Bernice?

8 MS. PHILLIPS: It's my understanding that LSC
9 is going to have less money in 2007. Is that right,
10 David?

11 MR. RICHARDSON: Actually, if we get the
12 amount of money that is in the current appropriation,
13 we will have more money available in 2007.

14 MS. PHILLIPS: Okay. I just would like to
15 hear some discussion around that.

16 CHAIRMAN MCKAY: Interestingly, that will be
17 the next topic.

18 MS. PHILLIPS: Oh, okay.

19 CHAIRMAN MCKAY: Number four.

20 MS. PHILLIPS: Okay.

21 (Laughter.)

22 CHAIRMAN MCKAY: We don't want to move too

1 quickly. Are there any other questions for David or
2 Charles?

3 (No response.)

4 CHAIRMAN MCKAY: Tom, any questions?

5 MR. FUENTES: No, sir.

6 CHAIRMAN MCKAY: And I am hoping that the
7 format of the presentation -- that is, hearing from
8 David and then from Charles -- is consistent with the
9 desires expressed by the committee, particularly by
10 you, Tom.

11 MR. FUENTES: Thank you, yes. I thought that
12 was very good.

13 CHAIRMAN MCKAY: I do, too. Thanks so much to
14 the two of you.

15 Item number four, does -- it's, "Consider and
16 Act on Resolution 2006-013." Mr. Jeffress?

17 MR. JEFFRESS: Thank you. As David just
18 indicated in response to Ms. Phillips, the
19 Appropriations Committee in the Senate has recommended
20 significantly more money for LSC next year than this
21 current year. And the full House has acted on a bill
22 which will provide more money for LSC next year than we

1 had for this year.

2 The board can only act on what we're actually
3 authorized to spend at this point, which is the
4 continuing resolution, which is based on last year's
5 funding.

6 So, at this point, you have authorized us to
7 spend, in this current year, based on last year's
8 funding. We will do our grant awards to our program
9 recipients, our grantees, in December. It is
10 possible -- although not assured -- that Congress may
11 act on a full appropriation for the fiscal year before
12 your meeting in January. If so, we would have
13 substantially more money available to distribute to our
14 grantees than what the board has currently authorized
15 in our budget.

16 If we were to proceed without further action
17 on the board, we would have to distribute what you have
18 authorized at this point, then ask you in January to
19 increase the budget, and then we would have to have a
20 second round of distributions of grant monies to
21 recipients after the first of the year, or after you
22 authorized the additional money.

1 Rather than have two rounds of distributions
2 of monies to grant recipients, we are recommending this
3 resolution to you, which authorizes the chairman of the
4 board and the chairman of the finance committee, should
5 Congress pass an appropriation that increases the basic
6 field amount, it would allow us to increase the basic
7 field grants that we award in January, consistent with
8 the congressional appropriation, and avoid having to
9 make two rounds of grant distributions.

10 CHAIRMAN MCKAY: I want to make sure that ever
11 member of the committee, and indeed, every member of
12 the board that is here, has a copy of the resolution in
13 front of them. It is resolution 2006-015. It was sent
14 out by e-mail by our president on October 19th, and I
15 believe a hard copy was sent, as well.

16 MR. JEFFRESS: That's right.

17 MR. RICHARDSON: Does everyone have a copy?

18 MR. JEFFRESS: Mr. Chairman, that's 013.

19 CHAIRMAN MCKAY: 013?

20 MR. JEFFRESS: 015 is the health --

21 MS. SINGLETON: It's not what came out in the
22 board book?

1 MR. JEFFRESS: Yes, it is.

2 CHAIRMAN MCKAY: Okay, I apologize. You're
3 right. I'm sorry. I was already moving ahead on the
4 agenda. 013, absolutely. So it was in the board book.
5 I apologize. So does everyone have that? Any
6 questions or comments about the resolution? Herb?

7 MR. GARTEN: I presume any adjustments upwards
8 or downwards will be proportionate.

9 MR. JEFFRESS: Yes, the distribution of grants
10 is done entirely by formula. There is no discretion,
11 in terms of how either the board or LSC awards the
12 money once it's appropriated by Congress. Sarah?

13 MS. SINGLETON: Is there any way that the
14 language in this resolution could come back to bite us
15 with Congress getting mad that we are anticipating
16 something that hasn't happened yet?

17 MR. JEFFRESS: Well, the -- again, there is no
18 discretion on the part of the corporation, in terms of
19 distribution of these funds. They are done by formula.
20 I don't believe there would be any objection to the
21 corporation's doing this more efficiently at one time,
22 rather than having to do it twice.

1 Since there is not a question of who is
2 getting how much money, it's just a question of the
3 timing, I believe this resolution would not be objected
4 to.

5 CHAIRMAN MCKAY: And, indeed the language in
6 the "resolved" paragraph says that we need to increase
7 or decrease, depending on whatever Congress does. And
8 so it's really acting in compliance with whatever
9 Congress does, whatever it decides to do.

10 MR. MEITES: Mike?

11 CHAIRMAN MCKAY: Yes, Tom? Sorry.

12 MR. MEITES: I shouldn't ask this, but I am
13 going to. Who sets this formula? And do we believe
14 that the formula is appropriate?

15 MR. JEFFRESS: I shouldn't answer that. Let
16 me call on assistance from our congressional relations
17 person on this formula.

18 MR. POLGAR: The formula, which has been in
19 place for at least 10 years, if not longer, allocates
20 money based on the number of poor people in the service
21 area of the program. It hasn't been changed in years,
22 and my view on getting in the formula allocation, I

1 mean, that's a congressional thing. I would just as
2 soon stay out of it.

3 MR. MEITES: Well, maybe it's a fight that
4 would not be attractive. But the fact is, in the last
5 10 years the funding landscape of our grantees has been
6 totally changed by access to justice committees and
7 other funding sources.

8 Some states are quite able to raise funds, and
9 some are not. And it doesn't always correspond with
10 the number of poor people in the state. So that as a
11 result, I have observed that there are some states with
12 a number, large number, of poor people -- for example,
13 Mississippi -- which simply don't have the resources to
14 raise funds locally. There are other states, like New
15 York, which has a large impoverished population, which
16 has tremendous resources to raise money locally.

17 Now, I don't know how I come out on that. I
18 don't want to penalize the states that are good at
19 raising money. But on the other hand, there are poor
20 states that just can't do it. And it may not be
21 something Congress wants to do, but the fact is that in
22 the last decade, the parameters funding have changed.

1 And I think at some point the board should address that
2 question and bring it to Congress's attention. Because
3 we are likely to be the -- Congress's principal source
4 of information on whether the funding formula still is
5 appropriate. I just wanted to raise that. I don't
6 have any suggestions as to how or when we do it.

7 CHAIRMAN MCKAY: The only suggestion I would
8 make is timing.

9 MR. MEITES: Yes.

10 CHAIRMAN MCKAY: I think it's an appropriate
11 issue, but it seems to me, in this case, we are talking
12 about really the tail end of the appropriations
13 process.

14 MR. MEITES: Oh, absolutely. And in fact,
15 this is something maybe NLADA and the ABA can help us
16 with.

17 CHAIRMAN MCKAY: Prospectively --

18 MR. MEITES: Absolutely. I just wanted to put
19 it on the table.

20 CHAIRMAN MCKAY: Next appropriation process,
21 at the earliest, not at the tail end of this one.

22 MR. MEITES: Yes, and just start talking about

1 it.

2 CHAIRMAN MCKAY: Yes, right. Fair enough.

3 Any other questions or comments? Good job, Tom.

4 Excuse me, Bernice?

5 MS. PHILLIPS: What about 2008 funding? Will
6 that be reduced, David?

7 MR. RICHARDSON: Are you talking about for
8 management and administration, or for the total --

9 MS. PHILLIPS: Yes.

10 MR. RICHARDSON: We anticipate using part of
11 the carryover this year, of course, to support the 2007
12 operations. There would be less money if those goals
13 are met for 2008.

14 That's the balancing situation that Charles
15 was talking about, where instead of hiring the full 13
16 staff that are currently open, we would drop back and
17 hire 8 or so, and then use that money to help support
18 their salaries in 2008, and balancing the money moving
19 forward.

20 MS. PHILLIPS: Okay. So you're saying that
21 for 2008, if you have to eliminate positions to have
22 money to spend -- is that what you're saying, or am I

1 not getting it?

2 MR. RICHARDSON: Not quite that far. What
3 we're trying to do at this point is to balance the two
4 years.

5 What I have done, for instance, since I have
6 looked at 2007 appropriation of \$12.8 million, freeze
7 appropriation of \$12.8 million for 2008, I have added
8 the interest for the 2 years that we would normally put
9 into the budget process, and I have added the total
10 carryover for this year.

11 And so, basically what I have done is said I
12 have targeted a mean amount, an average amount, that we
13 would spend in the two years so that we would be using
14 the carryover, and spending that down, and be able to
15 continue operations into 2008.

16 If we would do that, 2009 could be a problem
17 for us. But I think the way that we are approaching it
18 with staff attrition, things coming and changing
19 throughout the years, we will just have to look at it
20 and keep a balancing act moving forward, as far as
21 trying to determine how we can operate in those future
22 years.

1 MS. PHILLIPS: So -- I'm sorry. Will the
2 board get a detailed explanation on reducing, I don't
3 know, staff or whatever you have to do, to make it work
4 for 2008?

5 MR. RICHARDSON: When you say reducing staff,
6 what I am speaking of is not hiring the staff in those
7 open positions.

8 MS. PHILLIPS: Oh, okay.

9 MR. RICHARDSON: Right.

10 MS. PHILLIPS: Okay.

11 MR. RICHARDSON: So, not reducing staff, as
12 far as letting people go, just --

13 MS. PHILLIPS: Not hiring.

14 MR. RICHARDSON: -- not hiring these open
15 positions.

16 MS. PHILLIPS: Okay. So do the board get a
17 explanation on that?

18 MR. JEFFRESS: Yes, that's what Chairman McKay
19 asked for, and we would give you all that --

20 MS. PHILLIPS: Oh, missed it. Sorry.

21 MR. JEFFRESS: Quite all right. We will do
22 that.

1 MS. PHILLIPS: Okay.

2 MR. RICHARDSON: We are thinking alike.

3 MR. JEFFRESS: Right.

4 MS. SINGLETON: Could you refresh my
5 recollection, David? The \$12.8 million is the budget
6 marked for Fiscal Year 2007 and Fiscal Year 2008, is
7 that correct?

8 MR. RICHARDSON: The appropriations --

9 MS. SINGLETON: Yes.

10 MR. RICHARDSON: -- would be that, yes.

11 MS. SINGLETON: Yes, all right. How does that
12 relate to what we actually received from Congress in
13 2006?

14 MR. RICHARDSON: It's approximately, say -- I
15 think this year was \$12.6 million. It's a little
16 increase this year, and then a freeze would -- is what
17 is being asked for, \$12.8 million, for 2008.

18 MS. SINGLETON: So it's likely that we will
19 get the \$12.8 million from Congress, is that correct,
20 based on what we know so far? Do we know how it's
21 broken down in either the House or the Senate?

22 MR. JEFFRESS: Yes, the Senate appropriation

1 is \$12.8 million for M&A.

2 MS. SINGLETON: Yes.

3 MR. JEFFRESS: The House appropriation is
4 \$12.6 million for M&A.

5 MS. SINGLETON: Okay.

6 CHAIRMAN MCKAY: Any other questions or
7 comments?

8 (No response.)

9 M O T I O N

10 CHAIRMAN MCKAY: Do I hear a motion with
11 regard to the resolution on the table, 2006-013, at
12 page 186 of the board book?

13 MR. GARTEN: So moved.

14 MS. BEVIER: Second.

15 CHAIRMAN MCKAY: Any other discussion?

16 (No response.)

17 CHAIRMAN MCKAY: All those in favor, say aye.

18 (Chorus of ayes.)

19 CHAIRMAN MCKAY: Opposed?

20 (No response.)

21 CHAIRMAN MCKAY: We will recommend it to the
22 board.

1 Next item is the item that was added to the
2 agenda, the resolution to increase the maximum amount
3 an LSC employee may contribute to the health
4 reimbursement fund.

5 Now, that is the resolution I was referencing,
6 resolution 2006-015, which was not in the board book.
7 I want to make sure everyone has it. It was e-mailed
8 to us on October 19th by President Barnett, and I
9 believe a hard copy was also given to us. Does
10 everyone have a copy of that? Does someone have an
11 extra copy for Bernice? If someone could find one, and
12 then --

13 MR. FUENTES: Mr. Chairman, I don't seem to
14 find my copy, if I received it. Could you just read
15 the "resolved," is it a long "resolved" paragraph?

16 CHAIRMAN MCKAY: Let me read it. Bernice now
17 has a copy. It -- the title is, "Increase in Maximum
18 Salary Redirection Amount for FlexAmerica, Health Care
19 Reimbursement Fund."

20 "Whereas, Legal Services Corporation establish
21 a flexible benefits plan called the Legal Services
22 Corporation Flexible Benefits Plan, effective January

1 1990, to provide cafeteria plan benefits for LSC
2 employees; whereas, LSC has appointed FlexAmerica to
3 administer the plan; whereas, LSC desires to amend the
4 plan to increase the maximum salary redirection amount
5 for the health care reimbursement fund to \$7,500 per
6 year, effective for the plan year 2007, beginning on
7 January 1, 2007; and whereas, under section 10.1 of the
8 plan, the board has the right to amend the plan, and
9 under IRS rules the maximum amount that can be
10 contributed to the fund by an employee is \$10,000 per
11 year, now, therefore, be it resolved that article 6,
12 section 6.4, limitation on allocations of the health
13 care reimbursement plan, is amended by increasing the
14 maximum amount that may be directed through salary
15 reduction to \$7,500 per year, effective January 1, 2007
16 for the plan year 2007."

17 "Be it further resolved, the appropriate
18 officers and agents of LSC are hereby authorized and
19 directed to take such action as may be necessary,
20 appropriate, or advisable to amend the plan, to
21 implement this resolution and amendment, and any such
22 prior actions are hereby ratified."

1 "And, be it further resolved the appropriate
2 officers and agents of LSC are hereby authorized and
3 directed to take such further action as may be
4 necessary, appropriate, or advisable to effectuate this
5 resolution." And adopted by the board this date,
6 signed by the chairman and the corporate secretary.
7 Sarah?

8 MS. SINGLETON: I will move that we adopt
9 the -- we recommend that the board adopt the
10 resolution.

11 CHAIRMAN MCKAY: Do I hear a second?

12 MS. BEVIER: Second.

13 CHAIRMAN MCKAY: Can we get a brief summary of
14 this? I know we already discussed this, but is there
15 any question on the part of --

16 MS. SINGLETON: Yes, I have a question.

17 CHAIRMAN MCKAY: Well, could we hear a
18 presentation first?

19 MS. SINGLETON: Sure.

20 CHAIRMAN MCKAY: Let's start with that. Who
21 is going to talk? Charles?

22 MR. JEFFRESS: I will start. This is what is

1 known as a health savings account, where employees can
2 have part of their salary deducted from their paycheck
3 and put into the health savings account, and then spend
4 it during the course of the year for their health care,
5 for their dependent's health care.

6 We are authorized -- every employee is
7 authorized -- under IRS rules to offer up to \$10,000
8 per employee, such that employees can put their own
9 money into this. There is no employer match; there is
10 no direct cost to LSC for this.

11 There is a small liability for this.
12 Employees may charge their health care up to the full
13 amount that they have authorized deduction whenever
14 they have the need. So, if I have surgery in February,
15 I might spend my full year's authorization in February,
16 even though it's not being deducted from my paycheck.
17 But each month, on a regular basis, until the end of
18 the year.

19 If I should leave LSC in June, and only half
20 of the amount has been deducted, then the corporation
21 is liable for the other half that the employee has
22 paid, has used up, but did not have deducted from their

1 payroll deduction. So there is a small liability.

2 However, when employees have this amount
3 deducted and never use it, that balance returns to the
4 benefit of the corporation. So in the years that we
5 have had this, we have not had any liability assessed,
6 we have not lost any money, essentially. But the
7 reason we haven't gone to \$10,000 right away is because
8 there is the potential, there is a small liability, a
9 small risk to the corporation, should we do that.

10 So, the corporation has been going up in
11 graduated increments. Last year you all raised it from
12 \$4,000 to \$5,000. Given the experience this year,
13 where 4 employees are maxed out on that \$5,000, would
14 like more discretion, more ability. We don't think
15 there is a significant risk for us to increase it to
16 \$7,500, so we are recommending that the board increase
17 the amount that employees may have deducted for this
18 purpose to \$7,500.

19 CHAIRMAN MCKAY: Sarah?

20 MS. SINGLETON: What is the actuarial basis
21 for not going to \$10,000 now? What numbers are you
22 looking at?

1 MR. JEFFRESS: We are looking at the employee
2 utilization, how much demand there is for the full
3 amount. And most employees don't use the full \$5,000
4 now, but some do.

5 The reason for not going to the full \$10,000
6 is because there is this small amount of liability for
7 the corporation, should someone go to the maximum, use
8 the maximum, and then leave before the --

9 MS. SINGLETON: But that's a small potential.
10 But do you have any numbers that suggest that that's
11 liable to happen and not be offset by the people who
12 leave money in their account at the end of the year?

13 MR. JEFFRESS: David, do you have history on
14 that?

15 MR. RICHARDSON: It has not occurred during
16 the history that we have had the plan. And just to
17 clarify why we go to \$7,500, if an individual only
18 wants \$1,000, that's all they contribute --

19 MS. SINGLETON: That's all.

20 MR. RICHARDSON: Right. So it's their
21 personal choice. But in reviewing the account, we look
22 and -- we've already started. We actually got an

1 e-mail last week from our HR office, notifying us that,
2 you know, "Your expenses through December 31st that are
3 attributed to the plan" -- if you need eyeglasses or
4 whatever, or you're spending, "you have until December
5 31st to make those expenditures. You have until March
6 31st to submit all the receipts to get the
7 reimbursement."

8 We review it very closely. Last year we had
9 somebody who had \$200 deducted, I think it was, and
10 another one who had \$60 remaining that didn't get -- it
11 was very small amounts. Otherwise, it was completely
12 used, and those small amounts came back to the
13 corporation.

14 MS. SINGLETON: Mr. Chairman, just as an
15 employee benefit, I think we ought to be going to the
16 max that the IRS allows. But I will vote in favor of
17 the resolution, if management doesn't agree.

18 MS. BEVIER: I just want to make sure that I
19 understand what you just said, which is that although
20 it's possible for employees to spend less than they put
21 in to their accounts, that has almost never happened?

22 MR. RICHARDSON: That's correct.

1 MS. BEVIER: So that sends a -- basically,
2 it's a wash for the corporation, and it always has
3 been, in terms of the experience with it.

4 MR. RICHARDSON: That's correct.

5 MS. BEVIER: Okay.

6 MR. MEITES: Mr. Chairman?

7 CHAIRMAN MCKAY: Yes, Tom?

8 MR. MEITES: I am going to beg the committee's
9 indulgence. It is 20 minutes to 11:00, and we are on
10 the last item of the agenda, so we --

11 CHAIRMAN MCKAY: Second to the last.

12 MR. MEITES: Second to the last. So we may
13 actually have some time for me to ask this question.

14 CHAIRMAN MCKAY: It depends on the question.

15 (Laughter.)

16 MR. MEITES: There has been both -- among
17 academics and the less -- the more intellectual, the
18 popular press, a raging debate about health savings
19 accounts. I know absolutely nothing about them.

20 Since they tend to be proposed by people who
21 favor the free market, you could guess which side I
22 start from, but I actually have quite an open mind on

1 it.

2 CHAIRMAN MCKAY: Which side is that? Could
3 you make that clear on the record?

4 (Laughter.)

5 MR. MEITES: Dead in the middle. Since we
6 actually have a health savings account here,
7 apparently, and we're 19 minutes ahead, I thought I
8 would ask a couple of questions about them, and maybe
9 learn something.

10 Why would an employee sign up for a health
11 savings account?

12 MR. JEFFRESS: Because these are pre-tax
13 dollars, and the health expenses can be paid with
14 pre-tax dollars.

15 MR. MEITES: So that if I made \$10,000 a year
16 salary, I would take \$1,000 and not have to pay taxes
17 on it by putting it into this account?

18 MR. JEFFRESS: That is correct.

19 MR. MEITES: Now, if I have a health savings
20 account, does that mean that I pay the first X dollars
21 of my medical expenses?

22 MR. JEFFRESS: If this money is put aside in

1 your flexible spending account, you submit your bills
2 whenever you want to. So you can choose either
3 to -- the first \$1,000 spent, or later --

4 MR. MEITES: Oh, I understand. But does that
5 mean I am paying for my medical expenses, rather than
6 my employer?

7 MR. JEFFRESS: No. This is only for the part
8 that is not -- that insurance doesn't pay for. We have
9 to see some receipt, or --

10 MR. MEITES: No, no, I understand that. But
11 does this allow you to have, for example, a deductible
12 on my policy that is up to the amount that I am putting
13 in my health savings account?

14 MR. RICHARDSON: Let me see if I can answer
15 your question. When our employees go to the doctor, it
16 is covered by our insurance plan. But normally, there
17 is a \$10 co-pay.

18 MR. MEITES: Okay.

19 MR. JEFFRESS: Or if there is a specialist
20 they go to, it's a \$20 co-pay. Those normally come out
21 of the employee's pocket. We have a debit card, or a
22 credit card that --

1 MR. MEITES: Okay, I'm with you.

2 MR. JEFFRESS: -- they can be charged to --

3 MR. MEITES: So these are expenses that aren't
4 covered by the employee's health insurance.

5 MR. JEFFRESS: That's correct.

6 MR. MEITES: Now, if I were a canny employer
7 -- which I am clearly not, given our law firm doesn't
8 do this -- if I were a canny employer, I would offer a
9 health savings account, and I would also raise the
10 deductible on my employee's medical plan, wouldn't I?
11 Because I'm giving a benefit that looks like a benefit,
12 but in fact, this could be a mechanism to transfer
13 health costs to the employees.

14 MR. JEFFRESS: Well, with all due respect,
15 you're not giving a benefit at all, because this is at
16 no cost to you, as an employer, whatsoever.

17 MR. MEITES: But if I were a canny employer --

18 MR. JEFFRESS: This doesn't save you, as an
19 employer.

20 MR. MEITES: But if I were a canny employer,
21 under cover of a health savings account, I could raise
22 the deductible of my health insurance --

1 MR. JEFFRESS: Other people might use other
2 adjectives, other than "canny."

3 (Laughter.)

4 CHAIRMAN MCKAY: I wonder if it's possible,
5 without considerable time on someone's part, to simply
6 send to us a summary of how this works. I think it
7 would be -- Tom's questions kind of raised some
8 questions with me. I guess I would like to understand
9 a little better.

10 Just -- perhaps you have something already
11 written, but not a lengthy document? Just a summary of
12 how this thing works, so we have a better
13 understanding?

14 MR. RICHARDSON: Sure.

15 CHAIRMAN MCKAY: Yes. That would be great,
16 thank you. Just add that to your list, such as it is.

17 MR. RICHARDSON: Okay.

18 CHAIRMAN MCKAY: Thank you. We have the
19 resolution on the table. That is resolution 2006-0154,
20 the proposal for adoption to the board. Any other
21 discussion on that topic?

22 (No response.)

1 CHAIRMAN MCKAY: All those in favor, say aye.

2 (Chorus of ayes.)

3 CHAIRMAN MCKAY: Opposed?

4 (No response.)

5 CHAIRMAN MCKAY: The resolution passes. The

6 next item on the agenda is the staff report on

7 projected increase in LSC health insurance premiums.

8 Mr. Richardson?

9 MR. RICHARDSON: Okay. I provide this

10 information -- and it's not unusual only to LSC, but

11 it's nationwide -- the cost of health insurance is

12 going up.

13 This year, the first proposal that we received

14 from our benefits broker was that our health insurance

15 go up 25 percent. We questioned that, asked them to go

16 back to their underwriter, and found out that they

17 could reduce it to 15 percent.

18 However, if it was based -- just a little

19 background. A few years ago, it was based on LSC's

20 experience only within the health care, and we were

21 getting minimal increases. What they did was the

22 insurance company said, "No, we are going to group you

1 with the Washington Metropolitan Area."

2 So, last year it went up 14 percent, year
3 before that -- actually, I think last year it went up
4 18 percent, the year before that 14 percent. They have
5 now stepped forward and said the 25 again -- we have
6 got the underwriter to look at it and say 15 percent.
7 If it were based on our experience only, it would have
8 gone up nine percent

9 We have now asked our insurer, our broker, to
10 go back and bid this out. And if we can get a lower
11 cost, we would then go back to the underwriter and say,
12 "Look at the options we have. We have got this
13 insurance that is equal to yours. It is cheaper. Do
14 you want to match the cost?" That's the way we
15 normally handle our benefits.

16 This is just being presented to you to explain
17 that our benefits costs are rising. It's probably
18 nothing new to you. In your own companies you are
19 probably seeing the insurance rates go up, also.

20 CHAIRMAN MCKAY: Questions or comments? Tom?

21 MR. MEITES: This is part II on my
22 presentation on insurance. What you are telling us, I

1 think, is that we are subsidizing other employers in
2 the Metropolitan Area, who either have work forces that
3 aren't as healthy as ours, or don't offer benefits as
4 comprehensive as ours. Is that a fair summary?

5 MR. RICHARDSON: It's equal within Blue Cross,
6 so it would be equal to the Blue Cross benefits that's
7 paid. And yes, basically we are subsidizing other
8 entities that have higher usage of the system.

9 MR. MEITES: Right. This is another part of
10 the health insurance system we have which, again, I
11 approach neutrally.

12 (Laughter.)

13 MR. MEITES: Thank you, Mr. Chairman.

14 CHAIRMAN MCKAY: Thank you. Any other
15 questions or comments?

16 (No response.)

17 CHAIRMAN MCKAY: Thank you very much. Next
18 item on the agenda is to consider and act on other
19 business. Is there any other business?

20 (No response.)

21 CHAIRMAN MCKAY: It is now time for public
22 comment. Is there anyone present that would like to

1 comment on anything we have discussed today?

2 (No response.)

3 CHAIRMAN MCKAY: Hearing none, do I hear a
4 motion for adjournment with 14 minutes to go, with the
5 recognition to the entire board that we are back on
6 schedule?

7 M O T I O N

8 CHAIRMAN MCKAY: Do I hear a motion?

9 MR. GARTEN: So moved.

10 CHAIRMAN MCKAY: Second?

11 MR. RICHARDSON: Second.

12 CHAIRMAN MCKAY: All those in favor.

13 (Chorus of ayes.)

14 CHAIRMAN MCKAY: Opposed?

15 (No response.)

16 CHAIRMAN MCKAY: We are adjourned.

17 (Whereupon, at 10:47 a.m., the meeting of the
18 Finance Committee was adjourned.)

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22