

LEGAL SERVICES CORPORATION

SUNSHINE ACT MEETING
OF THE CORPORATION'S BOARD OF DIRECTORS

OPEN SESSION

Saturday, March 8, 1997

9:06 a.m.

The Legal Services Corporation
750 First Street, N.E., 11th Floor
THE BOARD ROOM
Washington, D.C. 20002

BOARD MEMBERS PRESENT:

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

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P R O C E E D I N G S

1
2 MR. EAKELEY: I would like to welcome Nancy
3 Rogers by telephone conference call to the meeting and
4 ask that the record reflect that she is participating
5 and also express the board's best wishes to her and her
6 family for a speedy recovery.

7 Nancy, can you hear me all right?

8 MS. ROGERS: Yes. Thank you very much, Doug.

9 MR. EAKELEY: We have a lengthy agenda.
10 Several members have to leave at one, so with the
11 forbearance of most, if not all, of those assembled,
12 I would like to move the agenda, starting with approval
13 of the agenda.

M O T I O N

14
15 MR. ASKEW So moved.

16 MS. MERCADO: Second.

17 MR. EAKELEY: All those in favor?

18 (Chorus of ayes.)

19 MR. EAKELEY: The agenda is approved.

20 Minutes were circulated with the meeting
21 materials for our meeting of January 6th open session.
22 Are there any corrections or additions to be made to

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1 those minutes?

2 (No response.)

3 MR. EAKELEY: Hearing none, is there a motion
4 to approve them as submitted?

5 M O T I O N

6 MR. ERLNBORN: So moved.

7 MR. EAKELEY: Mr. Erlenborn has moved.
8 Second?

9 MS. WATLINGTON: Second.

10 MR. EAKELEY: Ms. Watlington.

11 All those in favor?

12 (Chorus of ayes.)

13 MR. EAKELEY: All those opposed?

14 (No response.)

15 MR. EAKELEY: The minutes are approved.

16 Victor is not here. We don't have minutes of
17 the executive session, but we'll just leave that for a
18 subsequent meeting's housekeeping.

19 I would just like to report very briefly on
20 our first appropriations committee hearing that opened
21 up the new budget cycle.

22 John Erlenborn, Martha Bergmark and I

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1 testified a week ago this past Wednesday before the
2 House Appropriations Subcommittee on Commerce, State
3 and the Judiciary.

4 I want to commend John and Martha for just a
5 marvelous, excellent presentation that I thought was
6 effective but may not be effective enough to double our
7 appropriation, but I thought that having them on either
8 side of me and the nature of the colloquy with the
9 panel was just excellent. The only adverse aspect of
10 it, there was some remarking as the last question posed
11 of me by the chairman which was how much would it cost
12 to close down the system if we needed to close down the
13 system. I hope that's an academic question. We
14 obviously have to do our best to provide an answer, but
15 nevertheless it proved to be a disheartening note on
16 which we left the hearing the other week.

17 I also just want to commend and thank the
18 staff for doing their uniformly excellent job in
19 preparing us and preparing the staff of the committee
20 for that hearing.

21 On that, I think will leave my report and ask
22 that we go around the table and for reports of others,

1 starting with Ernestine.

2 MS. WATLINGTON: No report.

3 MR. EAKELEY: Edna?

4 MS. FAIRBANKS-WILLIAMS: No report.

5 MR. EAKELEY: John?

6 MR. ERLNBORN: I'd be remiss if I didn't
7 comment on the excellent job that our chairman did at
8 the hearing and I agree with him that -- I don't have
9 an experience in the past with a hearing such as this
10 involving the Legal Services Corporation, but I'm given
11 to understand that this was the least rancorous, as a
12 matter of fact, practically no rancor at all. It was,
13 I thought, a very good hearing. Some questions were
14 asked, they weren't impossible to answer.

15 I disagreed with the chairman on a couple of
16 things, not our chairman, the chairman of the
17 committee, and I let him know that I disagreed with
18 him. I think that all in all our chairman did a very
19 good job, and now I am talking about the chairman of
20 the Legal Services Corporation, did a very good job and
21 I was pleased to be able to present my statement along
22 with him.

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1 MR. EAKELEY: Maria Luisa?

2 MS. MERCARDO: I don't have anything.

3 MR. EAKELEY: Thank you, John, by the way.

4 Bill McCalpin? Anything?

5 MR. MCCALPIN: Nothing.

6 MR. EAKELEY: Laveeda?

7 MS. BATTLE I don't have a report.

8 MR. EAKELEY: Bucky?

9 MR. ASKEW No.

10 MR. EAKELEY: Tom?

11 MR. SMEGAL: No.

12 MR. EAKELEY: Then we will turn to Martha
13 Bergmark and let me just preface agenda item number 4
14 with warm words of welcome as to our new president but
15 constant stalwart.

16 It's nice to have you here and you looked
17 pretty good behind that table yesterday.

18 MS. BERGMARK: Well, thank you.

19 MR. EAKELEY: And you did very well in that
20 event. Now we'll see what kind of report you can
21 deliver.

22 MS. BERGMARK: All right. I'm pleased to be

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1 here and to give my introductory President's report.
2 I promise to keep it brief. I know you spent yesterday
3 in your committee meetings hearing about much of the
4 work that we've been up to and moving at the next step
5 for us so that we can carry on after this meeting. But
6 my task here for a couple of minutes is to try to put
7 that together in a little bit of cohesive poll since we
8 function by committee and cover a lot of different
9 things in a short amount of time.

10 We continue to be about the work on two tracks
11 that we deal with at the Corporation. First is seeing
12 to it that we preserve and defend and maybe even
13 increase a little bit the federal funding that goes to
14 legal services for low income people. And the second
15 is internally we interpret and enforce the restrictions
16 that Congress has placed on us and we implement the
17 competition system that is new to our delivery system
18 but one that we're trying to implement in a way that
19 improves the delivery of service to poor people and
20 delivers the most effective and efficient services
21 possible.

22 So that's basically what we're about and

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1 pretty much everything you heard about during your
2 committee meetings relates to one or both of those two
3 main tracks of our activity.

4 On the appropriations front, as Doug reported,
5 we are just at the beginning of our appropriations
6 process, seeking an appropriation of \$340 million in
7 consonance with the administration's identical request.

8 We have been informed that we will not have a
9 hearing on the Senate side again this year. We did not
10 last year. And that's good news. The new staff person
11 for the Senate Appropriations Subcommittee attended our
12 house hearing, reported to Gail that he was very
13 impressed with how it went, he thought it went very
14 well, and hoped that we would be able to convey our
15 message since we wouldn't be doing it in hearing, that
16 we would take it individually to some of the members of
17 the subcommittee and Mr. Erlenborn and I have an
18 appointment on Monday afternoon with Senator Kay Bailey
19 Hutchison, a new member of our subcommittee and one who
20 has been very interested, as you all know, in a
21 particular matter that one of our grantees has been
22 involved with in Texas. So we will be visiting with

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1 her on Monday.

2 We have had a number of good meetings with the
3 new Senate subcommittee staff person and Mr. Broderick,
4 Justice Broderick, met with him yesterday, was seeking
5 to converse for a few minutes with Senator Gregg. That
6 didn't happen, but he did have a chance to visit with
7 Kevin Lansky and had a similarly good report about that
8 meeting.

9 So we feel encouraged about our progress on
10 the Senate side. They have indicated to us that they
11 think -- their hope for this year is that we can have
12 no change with respect to legislative language
13 restrictions and that's basically good news for us. We
14 hope there won't be any additional restrictions or
15 language added to the bill and that their planning
16 assumption for us is for no change, a freeze budget but
17 with the possibility that when 602(b) allocation comes
18 in they would take a look especially at our technology
19 initiative. They were very impressed with the
20 technology initiative that we proposed. So that was
21 good news and we had a good conversation about that.

22 We also had interest, actually, at the hearing

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1 on the House side. Mr. Mollohan, the ranking member on
2 the Democratic side, was very, I thought, helpful at
3 the hearing in terms of pointing out the effect of cuts
4 in his home state and the difficulty of that. Had
5 questions for us as well about how implementation of
6 competition was going and was interested in what we
7 were doing with technology and we described to him the
8 centralized telephone intake systems that we've been
9 promoting and we'll be providing him a brochure on
10 that.

11 We had questions at the hearing and we've been
12 dealing with questions on the Hill generally on two
13 main topics. One is the Texas rural aid case involving
14 a voting rights matter in Val Verde County, Texas.
15 That is the matter that has gotten the most press in
16 the last two months. We've had really quite an
17 extensive number of press pieces on this and at first,
18 really quite alarmist, we were leading off with Senator
19 Gramm's and Senator Hutchison's concern about this. A
20 turning point came, I think, with the Texas Observer
21 article that you all got a copy of picturing one of the
22 candidates in his clan robes and after that I think the

1 tenor of the media coverage changed a bit. There has
2 continued to be extensive coverage. National media
3 includes New York Times, USA Today, National Public
4 Radio. So that's been a major topic --

5 MR. EAKELEY: And The Washington Times.

6 MS. BERGMARK: And The Washington Times. Is
7 that national press?

8 (Laughter.)

9 MS. BERGMARK: The sort of second matter in
10 terms of its -- I think it's the first matter in terms
11 of its importance probably but second in terms of media
12 coverage and interest on the Hill has been the suit
13 against the Corporation by the five programs in the
14 west and in New York as well, a second suite in New
15 York. There's not been a lot of press coverage of
16 that, but some.

17 We've had other sort of general articles
18 concluding this week with a new piece by Rael Jean
19 Isaac which has been distributed to you here. I want
20 to at this point welcome Dorothy Lohmann who is not in
21 the room, she was here yesterday, I believe she will be
22 here today. We were sorry to lose Niki Mitchell as

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1 press secretary, but relieved to have almost no gap
2 there. Niki was very helpful in finding someone on a
3 temporary basis to fill in for her, so she's been
4 learning the ropes and is one of these people who
5 doesn't like a dull job, so she fits right in. So
6 we'll welcome her when she comes on in.

7 I want to say, too, that the other new face I
8 see in the room is Susan McAndrew.

9 Susan, I hope you've met most of our board
10 members so far. If you would wave at them so they know
11 who you are.

12 Susan is the newest member of our General
13 Counsel's staff and Vic and his staff, of course, have
14 been truly taxed in the last couple of months and they
15 have been very relieved to have Sue on board to help
16 out. But between Suzanne and Vic, we, as you know,
17 have wonderful coverage there and they've been working
18 non-stop and pulling some very late nights and early
19 mornings working with our outside counsel on the
20 lawsuits. So we're involved with that.

21 On the programmatic side, I'm now turning to
22 the second track of our activity which has to do with

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1 getting our regulations in place and implementing and
2 enforcing those. We've been on sort of two tracks
3 within that piece. One is the regulations process that
4 I won't go into at all, I know you'll hear about that
5 in the ops and regs committee report, but we're
6 continuing to be very active on that front and to make
7 sure that we're endorsing the restrictions and the
8 regulations that are being implemented now.

9 We are on the competition front completing the
10 cycle on '97. There are some loose ends, the one that
11 got much discussion in our last meeting concerning the
12 decision to fund a private firm in Pennsylvania in two
13 service areas. We're not yet concluded on that. The
14 negotiations are continuing with the private firm that
15 the decision was made to award the grant to, although
16 we expect some finality to that very soon and we will
17 report that to you and Mr. Eakeley will report that to
18 Congressman Fox and other interested parties as soon as
19 we have a final word on that.

20 The provisions committee, I know in the
21 provisions committee report we'll hear from you,
22 Mr. Askew, about Americorps and the new brochure we

1 have out on hotlines and centralized intake. I think
2 that might have come up yesterday. We just made the
3 next round of grants to the Board of Veterans Appeals,
4 so we've been very active and busy on that front and,
5 as usual, continue to move forward in beginning to plan
6 for the '98 competition round.

7 Internally, you've heard much about our effort
8 to implement new personnel policies. We have completed
9 our first round of personnel evaluations under the new
10 policy and we have implemented a merit increase under
11 that system for those -- we now have a new three-tier
12 system of evaluation. One can be ranked as not
13 successful or not meeting fully successful, fully
14 successful and exceeding fully successful. And for
15 those employees that were rated as either fully
16 successful or exceeds fully successful, they were
17 entitled to an increase and fully successful employees
18 received one of 4.5 percent and exceeds fully
19 successful employees received one of 6.5 percent. So
20 we were pleased to complete that process in spite of
21 all else that was going on. I'm really proud of our
22 staff and pleased that we were able to move forward on

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1 that important area of our work.

2 Also on technology, our internal technology
3 development of information system, the GIMS system is
4 now on line at the Corporation. We are now receiving
5 from our programs the '96 data that they submit to us
6 every year about this time. This is coming in on line.
7 There have been some rough spots along the way with
8 that, broadcast faxes back and forth, but we're getting
9 that system up and running thanks to the help of our
10 information technology staff and outside contractors.

11 We've completed our audit report. You'll hear
12 about that from the finance committee report. The
13 Inspector General takes care of that and he'll report
14 to you on that, I'm sure.

15 One of the items on your agenda has to do with
16 the review of our pension plan which we're doing
17 internally to make sure that we're in compliance with
18 all the new provisions there. So we're quite active
19 internally as well as externally. Usually you hear
20 about what we're doing with the external world and that
21 is as it should be, but there's a lot going on inside.
22 Alex used to refer to us as a hardy little band and

1 indeed that's what we are, I think, but I want to say a
2 big thank you to staff and to senior staff in
3 particular. John and Merceria and Vic have all been
4 very involved in the programmatic end in the last
5 couple of months. Joan and David and Leslie continue
6 to move us forward on all of these activities in the
7 internal world and Gail and Bob lead us with help from
8 Dorothy and Adam on coping with the external world.

9 I got to make my only sort of public
10 appearance in the last three weeks as your president
11 was happily at my alma mater, the University of
12 Michigan Law School. That had been arranged some time
13 in advance but as it happened, it turned out to be a
14 week after becoming your president. It was a workshop
15 on women in the profession at the University of
16 Michigan. When I started there, I think there were six
17 of us in my 100-member section. I think we constituted
18 about 8 percent of the class. And now, of course, we
19 had a roomful of about 150 or 200 women on a Saturday
20 there to hear from alumni and others about what it's
21 like to be a woman in the profession and I got to be
22 one of the keynoters for that. So that was a nice

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1 coming full circle, I guess.

2 I want to close with a thank you to the board
3 for giving me the opportunity to audition for this job.
4 I'm your only presidential candidate who gets to do
5 that. But I would remiss not to thank a few others:
6 Ken Boehm, Rael Jean Isaac, a few congressmen and a few
7 of our programs for making sure that there are a couple
8 of challenges on my plate so that their addition would
9 give an opportunity to show you what I could do. So
10 I'll close with that.

11 MR. EAKELEY: Thank you.

12 John Erlenborn said last night as we were
13 leaving that he had never seen a harder working board
14 and obviously the agenda reflects that, but one of the
15 reasons the board is so hardworking is because it's
16 very difficult even keeping up with what's going on
17 here merely by reading, but we are deeply appreciative
18 of the day in and day out contributions far and above
19 the call of duty that everyone in this corporation
20 makes to assure some modicum of access to justice on
21 behalf of poor people.

22 And having quoted our vice chairman, I would

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1 just like to quote him one other time in introducing
2 the next agenda item, but before I do that, let me just
3 ask whether anyone has any questions of Martha or of
4 her report.

5 (No response.)

6 MR. EAKELEY: All right. Hearing none, I will
7 proceed with my second Erlenborn quote of the morning,
8 which is one he delivered to the appropriations
9 subcommittee last week, essentially saying I have been
10 through the regulatory process at the Corporation and
11 seen how it works and I've never seen anything like it
12 before and it's far beyond anything that Congress had
13 ever done at least during the 20 years I served in the
14 Congress.

15 And with that I will turn the chair or table
16 or microphone over to the hardworking chair of the
17 hardworking operations and regulations committee, Maria
18 Luisa.

19 MS. MERCADO: We're skipping one item on the
20 agenda.

21 MR. EAKELEY: Thank you.

22 MS. MERCADO: Before we start into the long

1 ops and regs.

2 MR. EAKELEY: That's right. I jumped, but the
3 next item on the agenda is the Inspector General's
4 report.

5 Ed, forgive me.

6 MR. QUATREVOUX: Thank you, Mr. Chairman. I'm
7 sorry I'm late. I was trapped in an elevator that
8 refused to recognize me.

9 MR. EAKELEY: I had already changed the order
10 of the agenda and then I didn't put my reading glasses
11 back on to deal with it. I'm sorry you got stuck, but
12 we're glad you're here.

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

14 I have a number of items to report to you.

15 We were tasked by the IG Council to perform
16 what is known as an external peer review of the EEOC
17 Office of Inspector General, their audit operations.
18 All OIGs are required to have an external peer review
19 arranged by the council every three years. That's
20 required under government auditing standards.

21 Our own peer review is due this year and will
22 probably occur late in the year. We don't know which

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1 organization will be assigned to do perform that audit
2 of us.

3 I would like to say to you that we have
4 started several times in the past in developing a
5 strategic plan for the OIG to be interrupted by things
6 like the 1996 appropriations bill and the drafts, the
7 various versions that preceded the final one, that made
8 planning very difficult, as you know.

9 All government agencies, or at least most of
10 them, are covered by the Government Performance and
11 Results Act, which I mentioned to you several years ago
12 and they are required under that act to submit a
13 strategic plan, this is just the first step, by the
14 30th of September of this year and that plan will have
15 to go forward with performance measures, it's basically
16 a performance plan, and then when the following year's
17 budget request is submitted, there needs to be --
18 there's a requirement for a performance report against
19 that performance plan.

20 So two aspects here. One is that you can
21 anticipate that the appearance and structure of budget
22 requests beginning with FY '99 at the latest will be

1 quite different and you may wish to consider taking a
2 look at the Corporation's own budget submission and
3 whether it might make sense to adopt some of the format
4 or structure or substance of that.

5 I have decided that we are going to try to
6 live with the Government Performance and Results Act
7 and I will once again, as I do every year, as you for
8 your input, solicit you for topics of interest, of
9 concern, where you think the OIG might be able to
10 provide information that would be useful to you.

11 The process also requires consultation with
12 Congress, with the appropriate committees of Congress,
13 and we will be doing that as well.

14 I hope to have a draft plan some time this
15 summer which I would provide to you for comment, I
16 would appreciate your input, but I do plan to submit a
17 report on the final plan, completed plan, at the
18 September board meeting or the closest one thereto.

19 MR. EAKELEY: Ed, before you move on, could I
20 just interrupt your report?

21 We have not had an opportunity as a board to
22 look at strategic planning issues since our Atlanta

1 meeting more than two years ago now and Bill McCalpin
2 and I had been talking about the need to refine and
3 perhaps refocus that strategic plan in general and also
4 in the context of struggling with annual performance
5 review standards in the absence of a focused strategic
6 plan.

7 As the agenda reflects, there hasn't been a
8 lot of time, much less quality time, to sit down and
9 talk together about these sort of things but I'm
10 wondering aloud whether it might be appropriate if not
11 welcome to try and have -- I don't propose a weekend
12 retreat, but some time together to talk through what
13 the board should be doing in consultation with the IG
14 and management, but how we should all be focusing
15 better and more on this critical long-term requirement.
16 We've been dealing a lot with survival issues, but
17 after survival there should be something else. So I'm
18 just wondering, I would welcome your suggestions on how
19 the board should be preparing and dealing with the
20 strategic planning in this 1997 environment and make
21 sure that we incorporate your input. Before we give
22 you our input, I think we would appreciate and benefit

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1 from your input on how we should be going about this.

2 MR. QUATREVOUX: We have on staff a person,
3 Joyce Munns who has decades of evaluation experience
4 and she's heading up this effort within the OIG. I'll
5 be happy to make her available and myself as well, at
6 least to the degree that I can contribute.

7 MR. EAKELEY: Maybe we should plan to sit down
8 some time in the next few weeks to just talk about that
9 and perhaps for the next board meeting carve out some
10 meaningful time for a conversation or more than that
11 with you and with the board.

12 MR. QUATREVOUX: That would be fine. I'll
13 work with Martha on that.

14 MR. EAKELEY: Great.

15 MR. QUATREVOUX: And I guess the other OIG
16 liaison as well.

17 You'll hear about it, I'm sure, in the finance
18 committee report, but I know you were present at the
19 last finance committee when staff made a presentation
20 on leasing of space and it was at that time it became
21 apparent to me that perhaps there was an opportunity
22 that I was unaware of prior to that, given the

1 dimensions involved of perhaps assisting the
2 Corporation by taking a look at the space that was
3 excess to its needs on the 11th floor.

4 We discussed that and I'm not going to report
5 on the discussion other than it is less space than we
6 had hoped for, it turned out to be about 1000 square
7 feet smaller. In our view, it's not the best space
8 after all, it's what others did not take, and moves are
9 traumatic experiences but nevertheless I feel that the
10 benefits to the Corporation are too large to ignore and
11 so I am attempting to make that work. We will see, we
12 can't move right away, both for operational reasons, we
13 have all these audits coming in, our new automated
14 system coming on line, but also for financial reasons.
15 We have this combined with a budget request to Congress
16 that has a different budget structure relating to rent
17 and this would raise the cost at least to the OIG
18 budget and I am reluctant to move on that before
19 getting some sort of read from Congress on whether
20 they're likely to go along, but we are working together
21 and I'm hopeful that the end result will be the best
22 possible solution for the Corporation.

1 In this past period, we had a consultation
2 with management regarding the implementation of the
3 personnel manual with respect to the merit raise
4 increases, the percentages to attach to each of the
5 fully successful and exceeds fully successful ratings
6 in our personnel system.

7 We had some differences of opinion or at least
8 philosophy and some spread in numbers, but we talked
9 them through and reached a compromise and so we have a
10 uniform approach there for the entire Corporation and I
11 appreciated the opportunity to consult.

12 As you know, we have been conducting for some
13 time special audits in the field, one a performance
14 audit that looked at the reporting to the Corporation
15 as to alien, class action and prisoner litigation
16 cases, that report was required. We're looking at the
17 accuracy of the reporting. We're looking at compliance
18 with basically six regulations. That audit is coming
19 to a close.

20 We don't have a closed session, I notice, and
21 therefore I will not have the opportunity to brief you
22 on the draft results. However, in the next week or

1 two, I hope to provide you with the draft report.

2 MR. EAKELEY: I don't know why we don't have a
3 closed session, but it may be that the request for one
4 didn't come in in time to put it into the agenda.

5 MR. QUATREVOUX: I don't think so. I'm not
6 sure. Perhaps there has been some confusion, but I
7 requested the standard IG report sessions, reports in
8 both open and closed session. I suspect there was some
9 administrative confusion, but I think it's been roughly
10 every meeting for five years we have had that. But at
11 any rate, be that as it may, I will tell you one thing
12 about those audits. One thing that is emerging from it
13 and it's unfortunate that the time schedule is such
14 that the regulations being considered by ops and regs
15 this weekend came in so late because one thing that the
16 audit did find, and I'm speaking broadly in many
17 locations, is something that's completely
18 understandable and that is when there is a rash of many
19 new restrictions all of which generated a lot of
20 regulating in areas that had not been regulated before,
21 understandably we couldn't possibly anticipate all the
22 situations, so we are aware of quite a few aspects of

1 certain regulations that either did not consider a
2 situation, and I'll give you an example, citizen
3 attestation, it didn't take into account people who are
4 incompetent, children, infants and other persons who
5 frankly just can't make that attestation. That's one
6 example. With respect to other regulations, there's
7 more than one view and reasonable, apparently, of the
8 interpretation of some aspects of some of the
9 regulation.

10 So our report will outline those and I hope it
11 will be helpful to you in assisting the field
12 understand exactly what the intent of the board is.

13 MR. EAKELEY: Maria Luisa, did you have a
14 question?

15 MS. MERCADO: Yes. Mr. Quatrevoix, you
16 mentioned just as an example the attestation as far as
17 children or incompetents or what have you. In those
18 situations, wouldn't there generally be a guardian ad
19 litem?

20 MR. QUATREVOUX: Exactly.

21 MS. MERCADO: Or attorney at litem that would
22 have done the work for them.

1 MR. EAKELEY: Should have done rather than
2 would have done.

3 MR. QUATREVOUX: I don't want to get into the
4 context, but the problem is the regulation does not
5 provide for an alternate situation, an alternate
6 solution to that problem. But you're absolutely right,
7 and that's the most common situation.

8 And I think that's all I'll say about the
9 draft results of the report. What we will give to you,
10 we did eight audits of two types. Eight were related,
11 as I said, to the compliance, and were financial
12 related audits that sought to determine whether LSC
13 funds were being used to subsidize prohibited
14 activities by other means, by other organizations. The
15 audits involved 12 grantees with four of them receiving
16 both of the audits.

17 At this time, we have issued to ten of the
18 grantees their reports for comment and we should be
19 getting those back shortly. We expect to issue two
20 more reports related to one grantee this coming week.

21 The way the report will be presented, the
22 individual grantee reports will be appendices to a main

1 report where we will convey what we think the totality,
2 what we've learned from the audits, are and it is that
3 report that we will send, I hope in the next week or
4 two, to the board and to management simultaneously and
5 we will seek your position, your reply to the audit's
6 findings as well as solicit your assistance in spotting
7 errors of fact, typos and anything else that might be
8 wrong with the report, the draft report, so we can
9 produce the best possible report.

10 MR. EAKELEY: While you're pausing there, do
11 we have a feedback loop or mechanism that captures the
12 experiences in the audit process that should inform the
13 regulator refining process?

14 MR. QUATREVOUX: We have discussed this, the
15 OIG liaison, at various times. As you recall, what we
16 had done in the past was send the audit report to
17 management. Management would come back with a reply
18 and that in essence was, in our view, the
19 organizational position.

20 We discovered in the American Express report
21 and even earlier than that there was an interest in the
22 board in taking a look at what management had provided

1 by way of a response, I suppose, to ensure your
2 satisfaction with that response.

3 We discovered in the American Express Card
4 audit report a clear desire at least for the OIG
5 liaison to participate and we held several meetings
6 with him and in fact delayed the report a little bit in
7 order to attempt to accommodate his input.

8 But nevertheless, there is still some
9 uncertainty about the best way to handle it and it's
10 complicated by the fact that we have a non-resident
11 policy making head and a day-to-day management.

12 MR. EAKELEY: Non-resident, unpaid, part-time,
13 11 Hydra-headed head.

14 MR. QUATREVOUX: Your words, Mr. Chairman.

15 So I think the best thing to do here is simply
16 to issue the report to the board, the draft report to
17 the board and management simultaneously and I'm sure
18 you'll ask management to prepare at least for your
19 benefit an initial corporate position. And when you're
20 satisfied with that, we will receive it and incorporate
21 it, append it in full in the report, you know how it
22 goes.

1 MR. EAKELEY: I think we'll just have to see
2 how that works. I'm a little skeptical about the
3 board's ability to deal with drafts without some
4 refining process that comes through the exchange of
5 information and viewpoints between management and OIG,
6 but I think -- I'm not saying you shouldn't do it that
7 way.

8 I'm interested, though, my earlier question
9 was a little bit more focused on making sure that
10 management has the benefit of your office's insights
11 into how the regulations might not quite meet all the
12 situations or some of the situations without awaiting
13 the national report or the audit itself and maybe
14 that's not appropriate but it just seemed -- to make
15 sure that the channels of communication were open
16 enough so that your perspectives from your audit
17 experiences could be channeled back to management and
18 then to the board for the regulatory process.

19 MR. QUATREVOUX: We have been having or we
20 have scheduled weekly meetings to deal with a lot of
21 issues between OIG and I guess the operational arm of
22 the Corporation as opposed to the administrative and in

1 that we don't always meet every week simply because of
2 conflicts or we don't necessarily have a need every
3 week. But throughout this audit, we have been
4 providing feedback to John Tull and his people on what
5 we've been seeing. The example I gave in the
6 regulatory area appears in a grantee's individual
7 report and that's how it works its way into the main
8 report.

9 So I think management is pretty well up to
10 speed. We've got a few more that may not have been,
11 that kind of example that may not have been yet
12 communicated but we certainly hope to do so.

13 I would in the same vein ask that when we put
14 the draft out to have an informal meeting, that's my
15 plan with management to get some feedback that's not in
16 an adversarial situation because we put the report out
17 so that our report ultimately reflects the truth and in
18 as complete and accurate fashion as we can make it.

19 MR. EAKELEY: I would much prefer having
20 people sit down and talk things out before staking out
21 positions that get poured into concrete.

22 MR. QUATREVOUX: My last topic is related to

1 the issue, a thorny issue, a contentious issue, of IG
2 personnel authority and I'd like to make a statement
3 for the record.

4 We had been waiting since the September board
5 meeting for the opportunity work with management on a
6 resolution of this issue that was acceptable to
7 everyone and, in our view, the opportunity was never
8 provided. We received the OGC opinion on this issue,
9 which the board has now adopted, approximately a week
10 ago. We provided a copy of our response to every board
11 member late Thursday and early yesterday, as early as
12 possible.

13 In that response, we quote the relevant
14 statutory history, provide the full dictionary
15 definition of the word at issue, regulations, gave the
16 implementing guidance on this issue that was provided
17 to the designated federal entities by the Office of
18 Management and Budget when they became subject to the
19 IG Act. It touches on the facts of the incident which
20 gave rise to this dispute and provided information on
21 the way the issue is handled in the rest of the OIG
22 community. The conclusion of the OIG response is that

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1 we cannot agree with or be bound by the view expressed
2 in the OGC opinion.

3 Now, the IG Act provides that the IG's
4 personnel authority is subject only to "laws and
5 regulations" which apply to the exercise of such
6 authorities at LSC. Such laws and regulations are
7 binding on the IG's exercise of the independent
8 authority given by Congress. The legislative history
9 explains the need for this independent authority and
10 adds the "limits of appropriations" to the short list
11 of limitations.

12 The conclusion of the OGC opinion, however, is
13 that the LSC personnel manual is itself a regulation
14 and is binding on the IG. That manual by its terms is
15 subject to, and I quote, "suspension, waiver,
16 modification and amendment at any time" by agreement
17 between the President and IG or by mandate of the
18 board.

19 To say that the IG's independent personnel
20 authority is subject not only to applicable laws and
21 regulations but to the LSC personnel manual and
22 decisions of the board of directors is to say that the

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1 IG, in our view, has no independent personnel
2 authority.

3 The OIG response also makes it clear that I
4 will endeavor to abide by the requirements of the
5 personnel manual, except when to do so would interfere
6 with the ability of OIG to perform the task assigned to
7 it by Congress.

8 I have in fact attempted, successfully, I
9 believe, to fully abide by the manual since my arrival
10 at OIC. I have provided the further assurance, both in
11 my written response on this issue and my discussions
12 with the board's OIG liaison, that should I ever
13 believe that what I am asked to do under the personnel
14 manual or otherwise which would unacceptably interfere
15 with OIG independence or activities, I would first
16 attempt to discuss my view with the board and, second,
17 if necessary, would follow the IG Act's procedure for
18 reporting on such difficulties to Congress.

19 The board was provided with the OIG drafts of
20 the sections of the personnel manual which attempt to
21 deal with this issue in September of 1996. We received
22 the revised draft of those sections two days ago, late

1 in the day on March 6th.

2 As we explained at that time, we did not
3 attempt to respond for the next morning's ops and regs
4 committee meeting. We have now read the material. Not
5 surprisingly, we do not agree, but that does not change
6 the fact that we intend to comply with the personnel
7 manual.

8 I understand that the view is expressed that
9 this is insufficient because the IG is saying his
10 compliance is voluntary and is not admitting that he is
11 legally bound without question and under all
12 circumstances. The suggestion is therefore that LSC
13 should attempt to turn the personnel manual somehow
14 into an actual published and codified regulation.

15 I have stated that I will do my best to comply
16 with both the policies of LSC and the requirements of
17 the law as I see it and I am not sure what good can
18 possibly come of attempting to box me in and force me
19 to agree to more.

20 As you know, I have met with staffers from the
21 OIG oversight committees of both the House and Senate
22 to keep them informed of this and other issues relating

1 to IG Act implementation and LSC. I have requested
2 their advice. I don't know whether or not the
3 committees will provide their views, but I have been
4 asked to keep them informed of what occurs at today's
5 meeting and I will.

6 That concludes my statement, Mr. Chairman.

7 MR. EAKELEY: Thank you. Anything further?

8 MR. QUATREVOUX: Nothing further.

9 MR. EAKELEY: Before we jump into item 6A on
10 the agenda, does anyone have any questions of the IG?

11 MS. MERCADO: I apologize for this because we
12 just sort of overlooked it when you reported to the
13 finance committee yesterday, but the contract with
14 Basilla & Associates, the audit firm, that concludes
15 this year, doesn't it?

16 MR. QUATREVOUX: Yes, it does.

17 MS. MERCADO: And is that going to be sent out
18 again for rebidding?

19 MR. QUATREVOUX: We are reviewing that issue
20 at the current time and I wouldn't want to talk about
21 the options. It's a business matter. I wouldn't want
22 to talk about it in public but I would be happy to meet

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1 with you. We are reviewing the issue to decide just
2 what we want to do and there are a number of options.

3 MS. MERCADO: Okay. We just needed to check
4 and see whether or not that was actually going to be
5 out.

6 MR. QUATREVOUX: It's in process or under
7 consideration.

8 MR. EAKELEY: Any other questions?

9 MR. BRODERICK: Mr. Chairman, did I hear the
10 IG say that yesterday afternoon or Thursday afternoon
11 you circulated some revisions for this manual?

12 MR. QUATREVOUX: Late Thursday and early
13 yesterday. If you haven't received it, we'll get yours
14 to you.

15 MS. MERCADO: I don't have one either.

16 MS. BATTLE You should have a copy of the
17 personnel manual with the final. I think what --

18 MS. MERCADO: From him?

19 MS. BATTLE No, he didn't circulate revisions,
20 as I understand it, to the manual but an opinion
21 regarding the revisions.

22 MR. QUATREVOUX: Right. Right.

1 MS. BATTLE: So that opinion was in a folder.

2 MR. QUATREVOUX: We'll get some more copies
3 and make sure --

4 MS. MERCADO: Oh, no. No. Yesterday
5 afternoon I got one. Okay. I'm sorry. Now I know
6 what you're talking about. It's a memorandum?

7 MR. QUATREVOUX: Yes, yours was --

8 MS. MERCADO: It's not a regulation.

9 MR. QUATREVOUX: We'll get you that.

10 MR. BRODERICK: Could I just ask the IG on
11 this issue, because it seems to be much discussed and
12 it seems to be a matter of inordinate concern, and I
13 don't say that in a pejorative sense to anybody, but it
14 just seems like we spend a lot of time talking to the
15 IG about all sorts of issues. Can you give me a
16 practical example of the problem that you foresee or
17 some practical examples of problems so I can better
18 understand your concerns?

19 MR. QUATREVOUX: Yes. There's only one and it
20 was the issue that was at the genesis in February of
21 1996 of this entire matter.

22 You will recall in 1995 as the fiscal year

1 1996 appropriations bills were being reported out of
2 committee and passed the House and negotiations and so
3 forth, at one time, there was the rather remarkable
4 circumstance that the funding for the OIG in the House
5 bill was \$8 million and that for M&A was \$5 million.

6 At that time, the President, and I'm sure in
7 consultation with the board, decided to initiate a
8 voluntary reduction in force to attempt to reduce the
9 payroll in anticipation of severe cuts in
10 appropriations. That offering of a voluntary reduction
11 in force excluded the employees of the Office of
12 Inspector General.

13 Now, I thought that was reasonable. Entirely
14 understandable because an organization that was getting
15 in its appropriation not just more money but more
16 responsibilities wouldn't want to lose people or to let
17 people go. So, as I say, I thought that was an
18 entirely rationale decision.

19 In February of 1996, it came to light that I
20 had given pay raises to OIG employees. I had heard
21 rumors that the Corporation was not going to do that.
22 Nothing had been announced, no one had said a word to

1 me about there being a pay freeze, certainly not to the
2 workforce, and I was essentially, as I recall it, I was
3 attacked for not sharing the pain, not having a single
4 unified approach for the entire Corporation, and in my
5 view the extension of that logic would be if the
6 appropriation hadn't turned out the way it did and the
7 Corporation staff had to be reduced involuntarily, that
8 that would also be extended to the OIG, despite the
9 very clear difference in appropriation and mission.

10 Now, I think that's a rare situation, very
11 rare, to see different elements in an appropriation
12 bill move in opposite directions.

13 MS. BERGMARK: I have a follow-up question to
14 that which is under the new policy, we address that
15 very question, so I would like to know what it is under
16 the policy that is now before us that would give you a
17 problem.

18 MR. McCALPIN: Mr. Chairman, I think it might
19 be more useful if we kept the new policy before us.

20 MR. EAKELEY: Any other questions on the
21 Inspector General's report before we move to agenda
22 item 6A, which is the personnel manual?

1 (No response.)

2 MR. EAKELEY: All right. Hearing none, I will
3 then ask the chair of the operations and regulations
4 committee to present her committee report.

5 MS. BATTLE Thank you, Mr. Chairman.

6 MR. EAKELEY: Ed, you're --

7 MR. QUATREVOUX: I'll be here.

8 MR. EAKELEY: Yes. Okay. Good.

9 MS. BATTLE We have several items and I know
10 that we also have a timeframe concern because the chair
11 has a timeframe concern and so do other members, so
12 I'll try to be brief but thorough in presenting our
13 report this morning.

14 Yesterday, we did give consideration and acted
15 on the final revisions to Sections 1, 2, and 8 of the
16 Corporation's personnel manual. As you all know, in
17 September of last year, we passed the initial portions
18 of this manual absent these sections and made a
19 specific request for the Inspector General and our
20 management to go back and re-look at those sections and
21 to come back with a presentation to us of an
22 alternative that would meet our concern of assuring

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1 that the application of this manual would be to all of
2 the employees of the Corporation.

3 We did receive an OGC opinion and subsequent
4 thereto we received, I think it was, for me at least,
5 10:00 the night before my meeting a copy of an opinion
6 responding to the OGC opinion from the Inspector
7 General.

8 And I just simply wanted to point out with
9 regard to my view of what those distinctions are and
10 how our committee resolved it. The specific issue was
11 whether or not the Inspector General would be bound by
12 this, notwithstanding he has agreed to be bound by it
13 to the extent that he can be bound so that his
14 independence is not going to be at all compromised.
15 And yet he did not agree that the manual itself was
16 binding and so we had two different legal opinions.

17 In my view, what we did was to hear both and
18 to honor the concern that was raised by the Inspector
19 General in their opinion and to go one step further to
20 agree not only that since he's agreed to be bound in
21 principle to the manual that we would explore as a
22 committee the idea of promulgating a regulation so that

1 that issue of laws and regulations would be covered.

2 And so our committee in subsequent meetings
3 will give consideration to that one issue which was, in
4 my view, just a holdover issue beyond the question of
5 just where we are now so that we could put this issue
6 ultimately to rest following that consideration.

7 Now, there are several sections in this
8 manual. I was interested to hear what the Inspector
9 General had to say about how any of these sections
10 might compromise his independence and the example that
11 he gave, I think that Martha did raise a good point. I
12 think we also heard that and attempted in one of our
13 sections, the purpose section, to set out a procedure
14 to address where there might be a conflict so there is
15 a procedure in the manual to address that and to
16 provide for some resolution and if the management and
17 the IG cannot reach a resolution. If there is the
18 proposal of a uniform policy to apply Corporation-wide,
19 then it can come to the board and the board would make
20 the ultimate decision with regard to those issues.

21 So I think we've taken into account the
22 concerns which the Inspector General has raised in how

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1 we have adopted both the manual and our willingness to
2 go forward on the issue of promulgating of regulations
3 so that he is bound by the laws and regulations of the
4 Corporation with regard to personnel issues.

5 The specific issues addressed in Sections 1,
6 2, 3 and 8, you should have before you the amended
7 Legal Services Corporation personnel manual with those
8 sections in them. I think they were passed out either
9 yesterday or today. Section 1 really deals with the
10 overall purpose and scope and has the provision
11 regarding the applicability of this manual to the
12 Office of Inspector General in Section 1.4.

13 Section 2 deals with overall policies which we
14 believe the board needs to adopt policies in the area,
15 for example, of equal employment opportunity, sexual
16 harassment, case closings, non-LSC activities and those
17 kinds of policies.

18 Section 3 addresses the issue of the
19 Corporation's policy with regard to recruitment, hiring
20 and some other things which I think also is a board
21 function.

22 And Section 8 deals with employee relations

1 and addresses again the fallout from the policies on
2 the front end, how employees may grieve those if they
3 see some sort of violation in the equal opportunity
4 complaint procedure or grievance procedure and some
5 other policies regarding the workplace, like drug-free
6 policy, a smoke-free policy and a dress code.

7 So you should have before you those revisions
8 that were considered by our committee and I think we've
9 adequately covered the issue of the Inspector General's
10 statement on the record as to his agreement to be
11 bound, to agree to follow the policies, he does not
12 agree to be bound but agree to follow the policies in
13 the manual and I think we'll get the issue of binding
14 covered as we consider in later meetings our
15 regulation.

16 M O T I O N

17 I would then move that this board adopt the
18 final revisions as presented and recommended by this
19 committee to the personnel manual in Sections 1, 2, 3
20 and 8 that are before you.

21 MR. EAKELEY: Is there a second?

22 MR. McCALPIN: Second.

1 MR. EAKELEY: Mr. McCalpin.

2 Is there any further discussion?

3 (No response.)

4 MR. EAKELEY: Hearing none, all those in
5 favor?

6 (Chorus of ayes.)

7 MR. EAKELEY: Opposed?

8 (No response.)

9 MS. BATTLE The second issue that we had
10 before us, now we get into regulatory. We had
11 operations and we had regulations in this last meeting
12 and the regulatory issues that we addressed, number
13 one, included the attorneys' fee provision.

14 We had an interim regulation we put out for
15 comment. We took comment. We gave careful
16 consideration to many issues that were within the scope
17 of our determination as to the reach of that particular
18 regulation and ultimately came to a decision that when
19 we talked about attorneys' fees there was an underlying
20 issue as to whether one would consider an award that
21 goes to a client with the right to claim a portion of
22 that award as attorneys' fees in a Social Security case

1 as the same thing as an award to a prevailing party,
2 which is the language in the statute. And we made the
3 determination that indeed it is included and we have
4 changed the reg to include language to that effect,
5 both in the definition of attorneys' fees and in the
6 responsibility to inform our programs that they also
7 cannot claim or petition or request attorneys' fees in
8 actions that are pending in the various courts.

9 M O T I O N

10 You have before you the revisions to 1642 and
11 I move that the board adopt as final as revised 45 CFR
12 Part 1642, the Corporation's regulation on attorneys'
13 fees.

14 MR. EAKELEY: Is there a second?

15 MS. WATLINGTON: Second.

16 MR. EAKELEY: Ms. Watlington.

17 Any questions or discussion?

18 MR. McCALPIN: I think, Mr. Chairman, it ought
19 to be pointed out that when the committee and this
20 board adopted the 1652 presently in effect it did so on
21 the basis of a careful consideration and analysis of
22 the statute. I don't think we are to be faulted for

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1 not having gone beyond the statute. The expressions of
2 intent which we have heard more recently were not clear
3 to us at the time and I think that we ought not
4 flagellate ourselves --

5 MR. EAKELEY: I didn't hear any flagellation
6 going on.

7 MR. MCCALPIN: -- over the initial one and
8 recognize that we are simply being realistic now.

9 MR. EAKELEY: I think that's so noted.
10 Any further discussions or questions?

11 (No response.)

12 MR. EAKELEY: All those in favor of revising
13 45 CFR Part 1642, say aye.

14 (Chorus of ayes.)

15 MR. EAKELEY: All those opposed?

16 (No response.)

17 MR. EAKELEY: The ayes have it. The
18 regulation carries.

19 MS. BATTLE And we have a resolution to that
20 effect. I guess my motion is sufficient.

21 MR. EAKELEY: The resolutions will catch up
22 with me when our general counsel and secretary return

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1 to the room, I'm sure.

2 MS. BATTLE The next regulation, it's a little
3 bit more complex and I will spend just a little bit
4 more time, again recognizing the shortness that we have
5 for the remaining portion of this meeting, on it.

6 Part 1610 is the Corporation's regulation on
7 the use of non-LSC funds. When we initially
8 promulgated this regulation, our view was to look at
9 the statute and to look at the authorization, the
10 appropriation bill, and to look at the intent of
11 Congress in promulgating this regulation pertaining to
12 the use of non-LSC funds. And in our initial
13 regulation, we sought to not only cover the issue of
14 the use of non-LSC funds within an entity that was a
15 recipient of LSC funds but also to assure that as those
16 funds were transferred to other entities that there
17 wasn't created by that transfer an opportunity for any
18 governmental funds to be used as leverage, so to speak
19 for participation in non-restricted activities.

20 And what we've had since then, as all of you
21 are aware, is a lawsuit which has raised certain
22 constitutional issues which caused us to take a look

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1 back at the constitutional implications of the act that
2 we undertook and also to take a very close look at the
3 statute and the fact that the real issue that has come
4 up in this litigation has come from the fact that we
5 went one step beyond what the statute actually required
6 into an area that has caused some constitutional
7 concerns.

8 And with that, we took a look back at 1610 and
9 decided that it was our responsibility not only to
10 comply with what the statute had provided and with what
11 Congress' intent was, but also to make sure that
12 whatever it is that we did that it could withstand
13 constitutional scrutiny.

14 And in doing so, we took a look back at the
15 language of 1610 and took a look at the constitutional
16 standard that has been investigated in Supreme Court
17 cases with regard to First Amendment rights which is
18 the underlying issue that really was precipitated by
19 the step that we took in 1610 and decided to include a
20 change in 1610 that would reflect the constitutional
21 requirements for First Amendment exercise in the
22 limited context where it is appropriate only with funds

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1 that are not LSC funds. And in order to do that, we
2 made some significant changes to the provisions in 1610
3 so that in 1610 you now have a provision which reflects
4 the information we used to have in our audit guide
5 about related organizations and we also have a
6 provision which reflects the standards which were
7 enunciated in Rust v. Sullivan which is, I guess, the
8 landmark constitutional case establishing what the
9 constitutional requirements are if you have
10 restrictions which may impinge on First Amendment
11 rights. And in doing so, we wanted to make sure that
12 we comply with that constitutional standard but at the
13 same time maintain the integrity of congressional
14 intent and, Mr. Chairman, I believe with the changes
15 that we've made in 1610 that we do that at this point.

16 M O T I O N

17 So I would move that we adopt as amended the
18 provisions of 1610. I would like to point out one
19 change that reflects the tenor of our conversation on
20 yesterday from the earlier draft that you may have
21 received. In the purpose section, 1610.1, the language
22 now reads, "This part is designed to implement

1 statutory restrictions on the use of non-LSC funds by
2 the LSC recipients and to ensure that no LSC funded
3 entity shall engage in any activities restricted by
4 this part." We felt that this was critical because in
5 fact if you don't have an opportunity for free
6 expression in some alternative way, then courts are
7 interpreting the restriction as prohibitive and if it
8 is prohibitive, then the expression could be within the
9 LSC recipient and it's our clear, distinct
10 understanding of the intent of Congress that no LSC
11 recipient of federal funds would engage in any of these
12 restricted activities, so we wanted to make sure that
13 that was clear in our purpose. We believe that it is
14 now clear in the regulation and the provisions that
15 we've made to amend that regulation and I would so move
16 its adoption.

17 MR. EAKELEY: Is there a second?

18 MR. ERLNBORN: Second.

19 MS. GLASOW: We should probably make it clear
20 for the record that this will be published as an
21 interim rule.

22 MS. BATTLE: Yes. This will be published as

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1 an interim rule and we will request comment on it. We
2 want to make sure that we are taking into account all
3 of the variables of what we must consider in putting
4 this together.

5 MR. EAKELEY: All right. Is there any further
6 question or comment?

7 MR. SMEGAL: Can you direct me to the parts
8 that have been amended and will be amended?

9 MS. BATTLE: I may ask Suzanne to help me with
10 this.

11 MR. SMEGAL: I see that in point 1 but I'm
12 talking about --

13 MS. GLASOW: Basically in Section 7, you just
14 heard about the purpose. Section 7, we took out the
15 provisions dealing with the transfer of non-LSC funds,
16 so all that's been deleted.

17 MR. SMEGAL: All right.

18 MS. GLASOW: And Section 8 is entirely new.

19 MR. SMEGAL: 8 is new?

20 MS. GLASOW: 8 is entirely new.

21 MS. BATTLE Section 8 really has in it in A
22 and B first the provision for related organization and

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1 then secondly the Rust v. Sullivan standards.

2 MR. SMEGAL: Okay. So there was nothing
3 comparable to 8 in the prior regulation.

4 MS. GLASOW: That is correct.

5 MR. EAKELEY: Any other questions?

6 MR. ERLENBORN: Mr. Chairman?

7 MR. EAKELEY: Mr. Erlenborn?

8 MR. ERLENBORN: I would just like to express
9 some thoughts.

10 First of all, if you read the judge's order
11 for the preliminary injunction, he speaks generally
12 about restrictions without identifying whether it was
13 the statutory or the regulatory restrictions, although
14 it's very clear when you read the entire opinion that
15 it was the regulations implementing the statutory
16 restrictions that the court found impinged on
17 constitutional rights.

18 And so as the chair of our committee has
19 stated, it was the regulations adopted by this board
20 that unfortunately went beyond the congressional
21 restrictions and therefore I think that we have this
22 opportunity to remedy this without going back to the

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1 Congress and asking them to do anything and I think
2 that this is proper, we should be doing this.

3 I think another thing that should be stated is
4 that contrary to some of the press and other
5 publications, the judge's order does not allow LSC
6 funds to be utilized for these prohibited purposes. It
7 was only the non-LSC funds or private funds, private or
8 public funds, but not LSC funds, that were the subject
9 of the preliminary injunction of the court.

10 I think, Mr. Chair, you made that point very
11 well in the hearing before the subcommittee because I
12 think there was a written report from some source that
13 claimed that LSC funds were not going to be used for
14 prohibited purposes because of the court's order.

15 I think this that we do today is proper and I
16 think it may be helpful in the resolution of the
17 dispute as to the constitutionality of the
18 congressional enactment.

19 MS. BATTLE The other thing -- I think that
20 John is absolutely and that's an excellent point. The
21 other thing that this particular move by our board will
22 do is to preserve the application of the restrictions

1 to LSC recipients without the prospect that our further
2 step would cause other courts to overturn the entire
3 regulation and the application of the restriction. So
4 we think that this is proper because it does correct
5 our zealously in implementing the congressional
6 intent problem and it also preserves the opportunity
7 for the application of those restrictions to LSC
8 recipients.

9 MR. EAKELEY: All right. Any further question
10 or comment?

11 (No response.)

12 MR. EAKELEY: Hearing none, all those in favor
13 of adopting the revisions to part 1610 say aye.

14 (Chorus of ayes.)

15 MR. EAKELEY: All those opposed?

16 (No response.)

17 MR. EAKELEY: The ayes have it.

18 MS. BATTLE I would just like to say before we
19 move from that that we did receive -- I won't go into
20 the specifics of our legal advice but we did receive, I
21 think, excellent legal advice that helped to guide this
22 process.

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1 The audit guide change we thought we might
2 need to do we don't need to do, so we don't need to
3 cover it here.

4 On 1639, we're simply going to put out for
5 comment changes to welfare reform, so there's no need
6 for us to go into a great discussion at this point.
7 The board will have an opportunity to revisit this
8 particular regulation after it has gone out for
9 comment.

10 And we decided not to take up 1641. We had
11 quite a full plate on yesterday and so we hope to be
12 able to take that up at our next meeting.

13 I wanted to thank all of the people that
14 participated in this process because we are actually at
15 this point bringing closure on some significant
16 regulations that we have spent quite a bit of time on
17 in reviewing and I have great appreciation for what our
18 staff, what the management has done, what our friends
19 have done in keeping us informed so that we could do
20 the best job that we can in implementing the intent of
21 Congress and in promulgating our regulations. As well
22 as the board members.

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1 MR. EAKELEY: We thank you and your committee
2 also.

3 All right. Item 7, Consider and act on
4 proposed policies and procedures relating to
5 communications between the Corporation and Congress.

6 Mr. McCalpin.

7 MR. McCALPIN: Thank you, Mr. Chairman.

8 This is a matter which has been percolating
9 around for some time. There was a suggested
10 communication policy before the board at the last
11 meeting. There were a number of comments offered in
12 connection with it, most particularly that in some
13 respects it seemed to delve into minutiae and
14 inconsequential communications of one kind or another.

15 Earlier, there had been a comment that it
16 seemed to present a burden on staff, even before the
17 last meeting an attempt was made to do something about
18 that.

19 The IG at the last meeting noted quite
20 properly that it had not seen the precise proposal that
21 was before the board at that time and asked for an
22 opportunity to consider it, so the board deferred

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1 action on the matter.

2 In the interim, as the drafter of the proposed
3 policy, I have taken to heart the comments that were
4 made the last time. I have made some amendments in the
5 form of a revised communications policy which has just
6 been distributed to the board. I would say that I gave
7 a copy to the IG just minutes before it was circulated,
8 passed up the board table.

9 I think that while I understand the charges,
10 that this infringes upon independence, I think it's
11 also pretty clear to me that we cannot be expected to
12 discharge our responsibility and be accountable for the
13 actions of this Corporation unless we are advised
14 what's going on and have an opportunity to acquiesce,
15 to respond, to critique, whatever it may be.

16 M O T I O N

17 So it is with that thought and background in
18 mind and with no attempt whatsoever, no intent
19 whosoever, to impede in any way the free flow of
20 communication between this Corporation and the Congress
21 that I offer and move the adoption of the revised
22 personnel policy.

1 MS. BATTLE I would second that.

2 MR. EAKELEY: Second from Ms. Battle.

3 MR. ERLENBORN: Mr. Chairman?

4 MR. EAKELEY: Mr. Erlenborn?

5 MR. ERLENBORN: Mr. Chairman, at the last
6 meeting where we discussed the proposed communication
7 policy, I expressed concern about the provisions
8 relative to reporting all oral communications and I do
9 recognize that Mr. McCalpin has revised those
10 provisions, which makes them look certainly much more
11 reasonable than the original draft which I had
12 criticized or expressed misgivings concerning.

13 However, I still have reservations about the
14 provisions in paragraph 7 and 8 of this revised
15 communication policy. I am uneasy personally about the
16 requirement that oral communications be formally
17 recorded, whether by the President to members of
18 Congress and staff or the IG. And I would point out,
19 by the way, that the communication policy is equal and
20 identical, whether it applies to the President or to
21 the IG and I think that is proper.

22 I heartily believe that the written

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1 communications provisions are necessary. I think that
2 it is incumbent upon the President and the IG by virtue
3 of the positions they hold to keep this board as the
4 head of the agency informed as to what they're doing.

5 I think it's particularly important when a
6 report may be issued by the Inspector General that
7 could be critical in some aspects of the Corporation
8 that we be given an opportunity not necessarily in most
9 or all cases to refute but maybe to clarify the
10 observations made in such a report and it should be
11 done in a way that both the report and the
12 clarifications reach the members of Congress not only
13 at the same time but in the same document.

14 My experience with the Comptroller General,
15 the GAO, in my 20 years on the Government Operations
16 Committee of the House, which is the parent committee
17 of the General Accounting Office, has been that
18 generally the GAO when it makes an investigation
19 submits a copy to the subject of the investigation for
20 comment. Sometimes that results in the GAO changing
21 the report, in other cases, they merely express the
22 opinion of the agency involved without changing the

1 report. But in any event, the two positions, the
2 report, revised or unrevised, and the response of the
3 agency that is involved, are in the same document and
4 reach the Congress at the same time, being in the same
5 document. And I think that principle is valid, I think
6 it's important that we establish that principle.

7 I thought really that it should have been
8 standard procedure, but I think it should be spelled
9 out for both the President and the Inspector General
10 that written communications are important so that this
11 board as head of the agency knows what is going on
12 between elements of the Legal Services Corporation and
13 the Congress and that we can see that the position of
14 the LSC, of the head of the agency, is known to the
15 Congress in a timely fashion.

16 So I would move if we want to make it formal
17 to strike paragraph 7 and 8 but I would join then in if
18 that is successful in voting for the adoption of the
19 balance of the policy.

20 MR. EAKELEY: Would you consider substituting
21 for 7 and 8 a general policy statement that says that
22 the President and the Inspector General should do their

1 best to keep the board informed of significant oral
2 communications without requiring a report for each and
3 every significant oral conversation?

4 MR. ERLNBORN: I'd like to see the language.
5 I think that generally the concept is valid.

6 MR. EAKELEY: I was just reacting to what you
7 were saying, it's almost of course, but this is a
8 policy statement, not a set of procedures other than on
9 the written side, and I think it's the policy, implicit
10 is the policy and maybe we should just make it explicit
11 that the board needs to be and expects to be kept
12 informed of all significant communications whether in
13 writing or orally that may occur between the Congress
14 and different elements of the Corporation.

15 MR. BRODERICK: Mr. Chairman, is it possible
16 to hear briefly -- I don't know if the IG has had much
17 time to digest this, but to hear briefly from the IG on
18 these issues before we vote? I have some of the same
19 concerns that John has expressed, but I would be
20 curious to know what concerns the IG has. I'd rather
21 hear them now before we vote.

22 MR. EAKELEY: Well, let's get this in a proper

1 procedural posture first.

2 There was a motion that was seconded and a
3 friendly amendment suggested. I don't know whether the
4 proponent of the motion will accept the amendment as
5 friendly or not. And I asked a question on a point of
6 personal privilege trying to clarify the friendliness
7 of the amendment and was met with a proposal that we
8 open it up for further input by Justice Broderick. But
9 let's go back to the beginning and just what we're --

10 Do you want to withdraw your motion for the
11 moment now so that we have Bill's motion on the table
12 and then we get comment and then we come back to --

13 MR. ERLNBORN: For procedural cleanliness, I
14 will withdraw the motion at this time.

15 MR. EAKELEY: It has been moved and seconded
16 that we adopt the revised communications policy that
17 was just distributed.

18 I will open the floor up for comment and
19 invite the Inspector General to join us at the table
20 again.

21 And while he's doing that, why don't I turn
22 from the President to see what management's views of a

1 communications policy should be.

2 MS. BERGMARK: I'm comfortable with what I
3 think the colloquy between our chair and our vice chair
4 might have us put as a substitute for the oral
5 communication sections, although from the standpoint of
6 the President and staff, item 7 applies to us. I think
7 we certainly do that now, so we have no qualms of
8 having that be our policy.

9 MR. EAKELEY: When we were here last, you said
10 you had just recently gotten a copy of the proposed
11 policy and wanted time to look at it and comment on it.
12 I have not seen any written comments on it but have you
13 provided -- where are we on receiving comments from you
14 about this other than the indirect one I received the
15 other day from our General Counsel?

16 MR. QUATREVOUX: Well, I think we've had
17 discussions of it. I will provide, if you like, now
18 that we have the revision, we'll go ahead and speak to
19 that instead.

20 MR. EAKELEY: I think the proposal is to --
21 well, obviously the proposal is before you.

22 MR. QUATREVOUX: I would say with respect to

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1 paragraph 8 that the number of times that we have had
2 significant oral communications concerning legislation
3 can be counted on one hand and I'm not sure that we
4 really have other than what you have and what comes to
5 mind is testimony before the House Appropriations
6 Subcommittee.

7 With respect to item 5, I think you're going
8 to receive a lot of paper you're not very much
9 interested in because we get requests from members or
10 their staff to deal with constituent complaints, most
11 of which are not even within our purview and that we
12 refer to management, but it's constituent case load.
13 Very routine sort of stuff.

14 MR. EAKELEY: That may be, but on the other
15 hand, it seems to me that dealing with it through the
16 board rather than requiring or leaving it to --
17 clearly, the Corporation will function only if the
18 management and OIG communicate with each other.

19 MR. QUATREVOUX: We have received no
20 communication regarding a series of meetings regarding
21 oral communications, regarding legislation.

22 MR. EAKELEY: I'm not excusing that. I'm

1 saying, and I think we've said on other occasions also,
2 we need the cooperation and the communication in order
3 to function without encroaching upon the independence
4 and authority of the Inspector General. But clearly
5 the Corporation needs to know somewhere constituent
6 complaints come in and, indeed, there are occasions
7 when management receives complaints that should have
8 been referred more promptly to your office when they've
9 not been. But I think that what the board is groping
10 for here is a policy that expresses its expectation
11 that as a matter of routine, issues that might be of
12 concern to the Corporation or affect the Corporation's
13 ability to perform its functions or its accountability
14 should float to the board and that's the intention
15 behind this.

16 Anyway, I interrupted you on, I think,
17 paragraph 5.

18 MR. QUATREVOUX: My greatest concern is with
19 paragraph 6 in terms of specifics and the reason, and
20 let me go back. I listened with interest to Mr.
21 Erlenborn's description of the GAO process and that's
22 the process we follow with audit reports. That is, we

1 provide the draft audit reports, as I described to you
2 earlier, to the Corporation for their comment and that
3 is standard audit procedure under government auditing
4 standards.

5 Now, when we communicate, say, regarding the
6 inspection we did in response to the request of in part
7 of the House Appropriations Subcommittee into
8 allegations of abuse in the form of various perks to
9 the management team several years, we submitted that
10 report to where it was requested.

11 Now, we had an extensive series of meetings
12 and dialogues with management with respect to the
13 contents of that report, as well as a formal report,
14 and in that formal report the response of the
15 Corporation, which presumably was yours as well, was
16 appended in full. And that is the process for audit
17 reports.

18 Also coming to mind is an investigation we
19 undertook resulting from allegations from a congressman
20 regarding the dismissal or termination of 13 employees
21 of the Corporation early in this administration and
22 that also went directly from our office to the Hill.

1 So I think you need to understand that it is
2 to your benefit, frankly, that a report that deals with
3 allegations against the Corporation best comes from an
4 independent office as opposed to having the imprimatur
5 of the board.

6 MR. EAKELEY: But I think you misunderstand
7 the intention behind the policy that's being proposed.
8 Nobody is proposing to entrench upon your independence
9 or the integrity or credibility of your reports. The
10 board is not suggesting that it will retain or has any
11 editorial control over anything you write for
12 transmittal to the Congress. It's our reading and
13 counsel's reading of the statutory scheme that reports
14 to the Congress by the IG are to be transmitted through
15 the board but in so doing we are no more than a conduit
16 that has an ability to append comments of our own by
17 the board but clearly labelled as such, but in a way
18 that permits both board comments and IG report to be
19 transmitted simultaneously, with the board ultimately
20 being apprised because it's the conduit of what's going
21 in from its IG and having that opportunity to comment.

22 If you did it the other way and submitted

1 independent reports, then the Corporation, the board,
2 is immediately put in a reactive position where it's
3 got to send in something after the fact that is a
4 tagalong and it's very hard to consider how we can
5 coordinate and speak with one voice on that and the one
6 voice is just here's what our IG said and the board
7 agrees or it doesn't agree. That's the process of the
8 semi-annual report to the Congress.

9 I just want to be very clear on one thing. I
10 don't think anybody at this table is suggesting that we
11 compromise your integrity or your independence or your
12 ability to communicate with the Congress. We are
13 saying that we expect written reports to go the way of
14 the semi-annual report.

15 MR. QUATREVOUX: Counsel seeks to comment on
16 the law and I'll ask her to keep that brief.

17 MR. EAKELEY: Okay. Well, before that --

18 MR. QUATREVOUX: I would like to eventually
19 comment on not the specifics but the totality.

20 MR. EAKELEY: While I'm going on this subject,
21 let me just add one more thing and then turn to
22 Ernestine before we get to Renee.

1 The interest of the board in being kept
2 informed of communications of communications of
3 significance with the Congress is also not intended to
4 suggest that we are effectuating a radical change in
5 operating procedures or policies. We are trying to
6 make it explicit so that the expectation level is
7 congruent of what we need in order to do our job on
8 behalf of the Corporation, but this should not be -- I
9 know it's been perceived by some as an attempt to rein
10 in the independence of the Inspector General or to cast
11 some question on what you're doing as if we're
12 concerned that you're doing something behind our back.
13 That is not the purpose of this. The purpose of this
14 is to make explicit an understanding of what we think
15 we need in order to do our job and function with you
16 and, after all, we're only as good and as long lived as
17 you remain independent and credible on the Hill.

18 And I'll end with that and turn to Ernestine.

19 MS. WATLINGTON: I just want clarification on
20 the case of the allegation of the employees. I think
21 the request to investigate that came from the board to
22 you.

1 MR. QUATREVOUX: That's true. The allegation
2 itself came at a hearing. You're right and I won't get
3 into any more on that.

4 MR. EAKELEY: Renee?

5 MS. SZYBALA: We are having a misunderstanding
6 and it's possible that it can be cleared up and it's
7 possible it's not a misunderstanding in which case we
8 have a problem.

9 The process described before both by Mr.
10 Erlernborn and Mr. Quatrevoix for audit reports whereby
11 the auditee, in this case the Corporation, gets the
12 report in advance and comments on it and its comments
13 are appended to the report fully allows the view of the
14 organization to be a part of the report at the same
15 time. If that report is then nonetheless in its final
16 form provided to the board for the board to issue, then
17 it appears to be a board report, not an independent
18 report. The real problem here is that the IG is bound
19 by government auditing standards. This is a little
20 yellow book, it's called The Yellow Book. It's written
21 by GAO and it requires that the audit organization,
22 which in this case is the OIG, issue the audit report

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1 and it has some -- I mean, I've quoted this language to
2 you in correspondence. It says who gets the report.

3 If these upcoming audit reports, if the board
4 is going to demand that the IG give to the board even
5 after the board has commented and its comments have
6 been dealt with and then appended to the report, if the
7 board is going to demand that it release the audit
8 report of the grantee compliance with the new
9 regulations which implement the new restrictions in the
10 appropriations bill, then I don't think we are doing,
11 we as a whole, as an organization, LSC, what Congress
12 wanted us to do, which was to allow the IG
13 independently to tell Congress to monitor and tell
14 Congress how the system is doing.

15 It would violate government auditing
16 standards. It also seems to me to take away all the
17 meaning that the report has.

18 Now, I think that comments to Congress on
19 legislation, on regulations, could go through this
20 process, be submitted through the board so the board
21 has a chance to reply. But other things, audits and
22 investigative reports such as the one about the 13

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1 employees who were fired, lose their credibility if you
2 want to hand them to the Hill and government auditing
3 standards foresaw that and doesn't allow for it.

4 MR. EAKELEY: John Erlenborn and then Bill
5 McCalpin.

6 MR. ERLENBORN: Mr. Chair, I find it difficult
7 to understand how the IG had gotten the impression from
8 reading this policy statement that somehow or other we
9 were going to exercise editorial control over the
10 report and that's what I understood the IG to say.

11 MS. SZYBALA: I didn't say that at all.

12 MR. ERLENBORN: I'm not addressing you, I'm
13 talking about the IG. You didn't say that. I didn't
14 say that you said that.

15 MS. SZYBALA: I apologize.

16 MR. ERLENBORN: There is nothing here to
17 indicate that one dot, one word would be changed as a
18 result of transmitting the report through the board.
19 As I said before, the purpose is not to make it -- I
20 didn't say this, but I will now in response to the
21 counsel's observation, it's not our intention to make
22 this the report of the board. It will still be the

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1 IG's report. It will be submitted with the comments,
2 if necessary, if thought necessary by the board, the
3 comments of the board appended to it, not changing the
4 character of the report, not amending the report, not
5 correcting the spelling if God forbid that should be in
6 your report, that's not the intent and I don't see how
7 you read that in here.

8 I don't know why it is that every time this
9 board wants to consider something that would impinge on
10 some way the IG it is always viewed as being an attempt
11 to destroy your independence. That isn't the intent in
12 this case and I won't speak to other cases, I don't
13 believe that it has been the case in any of the things
14 that this board has proposed or adopted.

15 I just can't understand the kind of reaction
16 that we get from your office.

17 MR. EAKELEY: Do you want to respond to that?
18 Or, Bill, do you want to -- do you want to hold until
19 Bill gets in and then respond?

20 MR. QUATREVOUX: I would like to respond to
21 Mr. Erlenborn if possible.

22 First of all, with respect to audit reports,

1 we've always provided them simultaneously to the board
2 and I am not worried about the board changing the
3 report because that would be a clear violation and the
4 law would require me to report it to the Congress, so
5 I'm not concerned about that.

6 It's the submission through the board.

7 MR. EAKELEY: Specifically, audit reports now.
8 That's the main concern.

9 MR. QUATREVOUX: Audit reports we're talking
10 about here. Because I think there's a difference
11 between an audit report and a letter and that's the
12 comment I wanted to make.

13 MR. EAKELEY: Can we hold on that subject for
14 a minute and just solicit the advice of liaison who
15 solicited the advice of counsel with respect to the
16 legal issue presented on this point?

17 MR. McCALPIN: Well, I think what we are faced
18 with here is something of a balancing act between the
19 requirement that the Inspector General and his office
20 follow government auditing standards on the one hand
21 and the provisions of the Inspector General Act on the
22 other, that the IG keep the Congress and this board

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1 fully and currently informed.

2 What we have attempted to do is to balance
3 that, not at the expense of the integrity or the
4 independence of the Inspector General with respect to
5 audits, not on the other hand sacrificing the evident
6 intent that we be kept fully and currently informed so
7 that we can discharge our responsibilities, our
8 fiduciary responsibilities, if you will, as directors
9 of this Corporation.

10 I think that this achieves as much balance in
11 those two responsibilities as is reasonable to expect.
12 I think that the counsel to the Inspector General
13 picked upon a fairly unfortunate comment when she
14 referred to a report about the discharge of employees.
15 It seems to me if there was -- fortunately, that was
16 relatively benign as far as we were concerned, but had
17 it been otherwise, it is clear to me that that's a
18 situation where our view had to go to the Congress at
19 the same time as the view of the Inspector General in
20 order that the Congress would have a balanced view of
21 what indeed had transpired within this Corporation.

22 I think that what this does is balances the

1 responsibilities of the board and the Inspector General
2 and it was with that in mind that the policy was
3 framed.

4 MR. EAKELEY: Edna?

5 MS. FAIRBANKS-WILLIAMS: I guess I have to say
6 it from a different point of view. In Vermont, the
7 paper will oftentimes call me for a pithy remark about
8 something that's happening and if I didn't know even if
9 it was midnight and somebody let me know that something
10 happened and I got a call in the morning from the
11 newspaper for an opinion or whatever, there would be
12 heads rolling. So I think the problem is that we have
13 to know what's going on so that if we are contacted by
14 any or all and I don't think it's any reflection on
15 your part or on our part, but I don't think we've had
16 enough communication.

17 I sit quietly. The lawyers are supposed to
18 know more than I do, but I still know how procedures go
19 and I can run my own business and I can't run it if I
20 don't have the information to do so.

21 MR. EAKELEY: Mary Luisa?

22 MR. QUATREVOUX: Could I just say something in

1 response?

2 MR. EAKELEY: Sure.

3 MR. QUATREVOUX: We have endeavored -- we do
4 things like when there is an investigation, depending
5 on the nature, underway in an area in the same state
6 where you live, we call you and let you know that for
7 the very reason that you outlined. I don't think we're
8 talking about holding back information any way. I
9 think what we're really talking about here is the
10 process of issuing the report itself, not the
11 information.

12 MR. EAKELEY: Mary Luisa?

13 MS. MERCARDO: Yes. I keep hearing from the
14 IG the distinction between the audit report or the
15 semi-annual report where we do get to comment on it
16 versus any other kind of communication that goes to
17 Congress and I'm trying to figure out where in
18 particular it is that you gather that distinction which
19 in one forum we're allowed to append our comments and
20 in another forum we are not, yet both of those are
21 communications that go to Congress. I'm not clear on
22 that.

1 MR. EAKELEY: I think the distinction that's
2 being made is there is a separate statute or
3 regulations with respect to the performance of audits
4 and the particular distinction I heard being made here
5 is that audit reports should be transmitted independent
6 of the board (a) because they're required and (b)
7 because that's better from a policy standpoint, from
8 the board's viewpoint.

9 MS. MERCADO: No, but I'm saying even further
10 in that in one forum, the semi-annual report, we are
11 allowed to comment and put on spins, whatever the facts
12 are.

13 MR. EAKELEY: That's the statutory scheme, as
14 I understand it.

15 MS. MERCADO: Then why if there is any other
16 communication to Congress about any particular issue
17 that is relevant and substantial to the Corporation are
18 we also not allowed to comment? How can you have a
19 full set of facts on which to base your decision or
20 opinion about a particular issue?

21 MR. EAKELEY: Well, I think what the IG is
22 doing or the argument is that the board or management

1 are permitted to comment, the comments are appended to
2 or included in the report but the principal source of
3 the objection is to having whatever final report is
4 prepared transmitted to the Congress through the board
5 in the same fashion as the Inspector General semi-
6 annual report to the Congress. That is the sticky
7 point, as I understand it, on the written
8 communications policy.

9 And I think having articulated it that way, I
10 hope the IG understands that it is a procedural issue
11 that is not intended to interfere with his independence
12 or his credibility or his objectivity, but is generated
13 for the reasons that Mr. McCalpin mentioned.

14 The other element of the policy that we've
15 addressed but which John Erlenborn, I think, would
16 prefer seeing put in a different fashion or not put at
17 all has to do with articulating our expectation that
18 management and the IG will keep us fully and currently
19 informed of significant communications. I don't think
20 we need, I need, anybody needs a blow by blow with each
21 and every communication, but I think it's again an
22 expression of policy that in order to function

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1 effectively we need to be on the same wavelength and
2 fully informed. And that's generating some expectation
3 of being currently informed without requiring each and
4 every oral communication trigger a phone call or a
5 report to the board.

6 MR. ERLNBORN: Mr. Chairman?

7 MR. EAKELEY: John?

8 MR. ERLNBORN: After the comments by the
9 Inspector General about paragraph 8, I was of the
10 impression that he did not feel that this was an
11 onerous provision.

12 MR. SMEGAL: Paragraph 7.

13 MR. EAKELEY: That applies to the President,
14 though.

15 MR. ERLNBORN: He was commenting, I think,
16 only on 8 because it applied to him. I still have an
17 uneasiness about it, but maybe if your reading of this
18 or my understanding of your position is correct, it's
19 not as much of a problem as possibly I had anticipated.

20 Did I hear you correctly?

21 MR. QUATREVOUX: The words significant
22 legislation so reduce -- I don't know of any

1 communication, written, oral or any other form that's
2 significant and involves legislation that came from us
3 that you're not aware of.

4 MR. BRODERICK: I just want to comment. I
5 think paragraph 8 is written more broadly. I don't
6 think it's limited to oral communications concerning
7 legislation. I think it also includes significant oral
8 communications concerning programs or operations of the
9 Corporation whether they relate to legislation or not
10 and I don't want to leave that unsaid because I think
11 we may be reaching an agreement on something that isn't
12 in paragraph 8.

13 MR. ERLNBORN: I was about to withdraw my
14 suggested amendment, which I've already done.

15 MR. EAKELEY: The adjective significant
16 applies to everything there.

17 MR. BRODERICK: Well, the Inspector General
18 seems to be suggesting he doesn't have a problem
19 because he doesn't have that many communications on
20 legislation but it's broader than that.

21 MR. QUATREVOUX: I thank Mr. Broderick for
22 spotting the disjunctive there. Yes.

1 MR. BRODERICK: Can I ask, Mr. Chairman, a
2 question? On paragraph 6, and Renee as well, are you
3 saying that paragraph 6 as drafted violates the OIG Act
4 and, if so, what provision? Or are you saying while it
5 doesn't violate the act it may give the appearance of
6 impacting our independence? I'm just trying to figure
7 out where you are on that.

8 MR. QUATREVOUX: Let me answer both. First,
9 the IG Act requires that all audit work, and that is a
10 broad term, comply with generally accepted government
11 standards promulgated by the Comptroller General.
12 Within those standards is a whole chapter on the
13 issuance of reports, reporting and how it is to be
14 done, that I believe the submission through the board
15 of an audit report violates those standards. That's my
16 viewpoint.

17 MR. BRODERICK: Even if, as Mr. Erlenborn
18 says, we don't change a comma.

19 MR. QUATREVOUX: That's right. It has to do
20 with the issuance, where the report comes from. And
21 just as GAO issues a report to the Congress on, say,
22 the State Department and the State Department's

1 comments are fully appended and considered and
2 discussed in that report, that report goes from GAO to
3 the Congress with an information copy.

4 MR. EAKELEY: But, Ed, you're the Inspector
5 General of the Legal Services Corporation and report to
6 this agency head.

7 MR. QUATREVOUX: I understand.

8 MR. EAKELEY: I don't want to close this off
9 artificially, but I do want to move.

10 MS. BATTLE Let me just say this. I have some
11 concern about the inefficiency that we experience each
12 time that we deal with any issue whatsoever that
13 involves input from the Inspector General. We have
14 four hours, four to five hours, this morning to meet
15 and there will be many months between this meeting and
16 the next meeting and I would hope that we could
17 resolve, hear from the Inspector General and resolve
18 our issue and move on with our agenda and I'll call for
19 the question at this time.

20 MR. EAKELEY: Is there a second to the call
21 for the question?

22 MS. WATLINGTON: Question.

1 MR. EAKELEY: All those in favor of calling
2 the question?

3 (Chorus of ayes.)

4 MR. EAKELEY: All those opposed?

5 (No response.)

6 MR. EAKELEY: It's been moved and seconded
7 that the communications policy submitted and circulated
8 by Mr. McCalpin be adopted. That excludes -- I've
9 exhausted my knowledge of Robert's Rules of Order. I
10 don't know whether a friend amendment is possible at
11 the time. I suppose it is without discussion, but do
12 you want to renew your friendly amendment or withdraw
13 it?

14 MR. ERLENBORN: If it's possible in a
15 parliamentary fashion to do so, I would. I was
16 cogitating, frankly, whether I would offer it or not,
17 with your prompting.

18 MR. EAKELEY: Well, may I attempt to
19 paraphrase the friendly amendment, then?

20 MR. ERLENBORN: Please.

21 MS. FAIRBANKS-WILLIAMS: With your prompting,
22 you will do what? Move it or leave it?

1 MR. ERLNBORN: I'm going to listen to what
2 he's suggesting and then I'll tell you.

3 MS. FAIRBANKS-WILLIAMS: Okay.

4 MR. EAKELEY: The friendly amendment was to
5 strike paragraphs 7 and 8 and I thought we held open
6 the possibility of substituting for them words to the
7 effect that the President and the Inspector of the
8 Corporation shall endeavor to keep the board fully and
9 currently informed through the chair or his or her
10 designee of significant oral communications concerning
11 legislation which may affect the programs or operations
12 of the Corporation.

13 MR. ERLNBORN: I will so offer the amendment.

14 MR. EAKELEY: Is there a second?

15 MR. McCALPIN: I'll second.

16 MR. EAKELEY: All those in favor of the
17 friendly amendment to the resolution, the question of
18 which has been called.

19 (Chorus of ayes.)

20 MR. EAKELEY: All those opposed?

21 (No response.)

22 MR. EAKELEY: All right.

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1 All those in favor of the resolution as
2 amended --

3 MS. ROGERS: I'm sorry, what was the
4 resolution of the amendment?

5 MR. EAKELEY: The resolution we have, and I
6 apologize, Nancy, we have a revised communications
7 policy, paragraphs 1 through 6 as submitted, and
8 substituting for paragraphs 7 and 8 the friendly
9 amendment that I will probably not recall in precisely
10 the way I stated it.

11 MS. ROGERS: That's all right. That just
12 passed?

13 MR. EAKELEY: Yes. The amendment passed, so
14 we're now looking at the resolution as amended and
15 calling for a vote of ayes or nays.

16 All those in favor of the resolution as
17 amended, say aye.

18 (Chorus of ayes.)

19 MR. EAKELEY: All those opposed?

20 MS. FAIRBANKS-WILLIAMS: Opposed. Edna.

21 MR. EAKELEY: One vote in opposition.

22 All right. Item 8. Stay at the table.

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1 Mr. McCalpin.

2 MR. McCALPIN: Give me a second here.

3 MR. EAKELEY: Do you want to take a two-
4 minute, five-minute break? Why don't we take a five-
5 minute break? No more than, though.

6 (A brief recess was taken.)

7 MR. EAKELEY: We are on agenda item number 8,
8 annual performance reviews of the Corporation's
9 President and Inspector General.

10 MR. McCALPIN: Thank you, Mr. Chairman. The
11 personnel manual which we have just approved and
12 adopted calls for an evaluation of the performance of
13 each member of the Corporation. The President reported
14 to us this morning that that has been accomplished with
15 respect to the employees on the management side of the
16 Corporation. It was apparent that the same process
17 should apply and generically in the manual it does to
18 the President and the IG but since they report directly
19 to us, it seemed most appropriate that the evaluation
20 process be addressed at the board level. And, in
21 addition to the personnel manual, simple good practice
22 in personnel management would dictate that we engage in

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1 that.

2 You asked me to get started with it and I made
3 an initial report to you. After I gave you some
4 preliminary comments on the subject, you suggested and
5 I readily agreed that it ought not be a one-person
6 proposition, so you asked Ms. Battle and Mr. Erlenborn
7 and Ms. Fairbanks-Williams to act with me in this
8 matter and we have constituted a kind of ad hoc working
9 group to address the issue.

10 One of the first things we found is that an
11 essential ingredient is an occupational profile for the
12 President and the Inspector General as a basis for
13 performance review. There were not formally approved
14 occupational profiles for each of those positions, so
15 we sat out to draft them.

16 We went through a couple of drafts, we had two
17 meetings, one by telephone and one in person, and we
18 have determined to approach the adoption of
19 occupational profiles for those positions in the format
20 used throughout the Corporation, which is to start with
21 the basic function of the position, move on to the
22 principal duties and responsibilities of those

1 positions and in that connection we have had recourse
2 to the Legal Services Corporation Act, the Inspector
3 General Act, the Appropriations Act and other
4 requirements of the principal duties and
5 responsibilities.

6 The last portion of the form in use in the
7 Corporation is to set forth the competencies expected
8 from the President, to be sought in the president and
9 the Inspector General and we have gone to outside
10 sources to look at that, including legislative history,
11 studies by the Office of Personnel Management, reports
12 that they have issued and we have, as I say, in that
13 form drafted one for each office.

14 The day before yesterday, we sat down
15 separately with the President to review the
16 occupational profile that we had drafted for that
17 office and with the Inspector General to review that.
18 We came, I think, very near if not fully to closure on
19 the occupational draft of the President. We had long
20 conversation with the Inspector General. He has
21 provided us now with a redraft which I got yesterday.
22 I have circulated it to the other members of the ad hoc

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1 group. We haven't had an opportunity to consult
2 together or with him on it, but we will do so at the
3 first opportunity.

4 The next thing we did was to say we need some
5 sort of a road map of how we would go about this
6 process. We have put together what for lack of a
7 better term is called a protocol of how we would
8 proceed with the actual evaluation process. We
9 reviewed that protocol with the President and the
10 Inspector General on Thursday of this past week. That
11 was not in as complete a form, as finalized and refined
12 a form, as the occupational profile. We will continue
13 to work on it.

14 We have also addressed the question of time
15 line. There appears to be a fairly natural affinity
16 between the evaluation process at the president and
17 Inspector General level and the budgeting process and
18 we have established time lines to do this and basically
19 is it our expectation that the annual performance
20 evaluation of the President and the Inspector General
21 would take place in the November-December era of each
22 calendar year.

1 There are two things that we have not done,
2 one of which we can't really do. If you take a look at
3 this process as a whole and think of it as an apex, the
4 top of it is the strategic plan of the corporation
5 which you mentioned in your remarks earlier today.
6 Just below that is a performance plan of the Inspector
7 General or the IG demonstrating or setting forth the
8 composite expectations of the board and the individual
9 with respect to what that individual will do in pursuit
10 of the strategic objectives of the Corporation during
11 the period under review.

12 Mr. Quatrevoix this morning talked about a
13 plan for his office which certainly fits within that
14 framework. I think we will also be working with him in
15 terms of an individual performance plan.

16 We will start into that area, though we
17 cannot do it completely until we have the ultimate
18 objective of the strategic objectives of the
19 Corporation. And, of course, one of the ingredients of
20 this protocol that we talked about is to measure the
21 performance of the individual involved against the
22 personal performance plan which is agreed upon before

1 the beginning of the period under review.

2 There are some procedural issues involved,
3 some of which we have come to consensus on among the
4 four of us, others of which are a little bit more
5 difficult and eventually I'd like to see some consensus
6 developed in the board on the issues.

7 First of all, we think it's without question
8 that the evaluation will be annual, that the frequency
9 of it will be annual, although we will hope and expect
10 that once the situation, the plans and the situation is
11 in place, as we hear from the President and the
12 Inspector General from time to time we will hear how
13 the situation then fits into the particular plan that
14 affects the performance of the individuals.

15 We have generally agreed, I think, among us
16 that when we do the evaluation process it will be in
17 two parts, really. One, we will develop a format or
18 plan to have some written information, data type stuff
19 generally, before us; and the second part, which would
20 be an oral interview. We feel that we could not expect
21 if we wanted to talk about specifics in some area for
22 the individual to have all that right at the top of the

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1 head, so we would ask for being very sensitive to the
2 concept that we don't want to impose an inordinate
3 burden on these individuals and recognizing that we
4 will have had periodic oral reports at board meetings
5 and that we will have had semi-annual and intermediate
6 progress reports, we don't want to duplicate any of
7 that and all we'll be thinking about is a very narrow
8 bit of data before us at the interview process.

9 But the one issue that we haven't really come
10 to closure on is by whom and how, maybe, the evaluation
11 will be conducted. The responsibility is that of the
12 board. The question is is the board going to sit down
13 as a committee of the whole and review the performance
14 in an interview with the President and the IG or,
15 alternatively, would that responsibility be delegated
16 to some subset of the board, a possibility which
17 apparently is done in some entities.

18 An in between process which we have discussed
19 would be to have a subset of the board conduct the oral
20 interview with the written material before them,
21 prepare a report which would be circulated to the rest
22 of the board, give the rest of the board to input it,

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1 and then share that report with the President on the
2 one hand, the IG on the other, and presumably have a
3 meeting where that report would be discussed.

4 As I say, we haven't really come to closure on
5 that issue, though I think the last process that I
6 described certainly appealed to some members of our ad
7 hoc group.

8 Another issue which we have only just begun to
9 discuss is whether in the evaluation process it is
10 useful or appropriate to inquire of subordinates to the
11 individual being evaluated with respect to the
12 performance of the individual being evaluated, not
13 with -- nobody thinks, I think, going through the whole
14 body of employees within management or IG on the one
15 hand, but probably to senior staff in each instance.

16 We discussed this for the first time on
17 Thursday. I think it's fair to say that some saw the
18 advantage to it. We were told about the examples of
19 where that had been done successfully. On the other
20 hand, there are clearly some caveats about engaging in
21 that and I would simply report to you that we haven't
22 reached a conclusion with respect to that point. It

1 may be that we ought to get some guidance from the
2 board both from that and on the process.

3 The final procedural issue which is before us
4 is the question of how the result of the evaluation
5 process will be reported or written.

6 In the manual, there are three levels:
7 exceeds fully satisfactory, fully satisfactory and less
8 than fully satisfactory. Our review of the literature,
9 we have examined a good deal of literature throughout
10 the government, indicates to us that there seems to be
11 a growing tendency particularly at the senior executive,
12 level in government to go to a pass/fail report with
13 respect to the outcome of an evaluation. It has been
14 suggested that if we adopt the latter that it simply
15 not be a bald pass/fail but that that be accompanied
16 with some comment or suggestion as to where performance
17 has been very good and other areas where performance
18 might be improved in the next evaluative period.

19 So that gives you a report, Mr. President, of
20 where we are. We will continue to work on this. It is
21 a work in progress, but I think an important one that
22 we hope to bring to closure pretty quickly.

1 MR. EAKELEY: Well, I thank you and the ad hoc
2 committee for all of your work and consideration on
3 this. I might suggest in the interests of time that if
4 individual board members have thoughts or reactions to
5 any of the issues identified by Mr. McCalpin as being
6 open, you might want to communicate with him directly,
7 although we can spend a couple of minutes now if people
8 would like to be heard on the subject. I'd be curious
9 whether --

10 MS. BATTLE I'd just like to say I think that
11 Bill did an excellent background job of pulling
12 together all that we have been able to work on on this
13 effort and I think we have state-of-the-art procedures
14 laid out as he has for us to do our evaluation.

15 MR. EAKELEY: Clearly we will need to have an
16 articulated strategic plan that will be capable of
17 supporting a set of performance objectives and that
18 will be the basis in turn for a performance review and
19 I think that that's very important for us to have in
20 any event, but I would hope by the next board meeting
21 we would be at the point where we could take some time
22 and focus on the strategic issues that confront us as

1 well as the daily operational and legal concerns that
2 seem to afflict us periodically. But I think we can
3 hopefully move towards consensus on the other points as
4 well in the interim.

5 So, again, I thank you very much.

6 If there are no further questions of Mr.
7 McCalpin on item 8, then we will move on to item 9, the
8 board's finance committee report, Maria Luisa.

9 MS. MERCADO: Thank you, Mr. Chairman. I
10 think that all of you should have received a memorandum
11 from our comptroller dated February 28, 1997 on the
12 consolidated operating budget, expenses and other funds
13 available for the four-month period ending January 31,
14 1997.

15 Basically, we're fairly much on target as far
16 as our expenditures are concerned. We would only note
17 on Attachment A --

18 I'm sorry, does everyone have that already?

19 Basically, under field programs, item 2,
20 special emergency funds, there has been a greater
21 expenditure because of the flooding in some of our
22 grantees areas and there's an expectation they will

1 probably be requesting some special assistance in that
2 area.

3 All the remaining funds on the basic field
4 programs are 17,859,191 left and that is restricted
5 funds for continuation of grantees, it's just that it's
6 still in the process.

7 On Attachment B, the overall expenditures are
8 between -- as far as management and administration, 32
9 percent which is about where we would be on our
10 expenditures. There is, if you will note, on the item
11 for administration and human resources, the percentage
12 is a little bit greater, almost 38 percent and that is
13 because of all the construction and build out costs
14 that we've had to do in the relocating and leasing of
15 our facilities.

16 The management and administration expenses
17 through January 31, 1997 are 2,444,672. Again, just
18 noted is that a greater amount has been in our facility
19 space. As far as the Attachment E, which is
20 expenditures by Inspector General through January 31,
21 1997, the only item that might be of interest is the
22 consulting item, which is basically an expenditure,

1 74.49 percent of the budget for FY '97 and the main
2 reason for that is that that includes the audit cost,
3 it includes the special audits that the IG's office has
4 been doing of the various grantees, as well as our
5 Corporation financial audits, so that those
6 expenditures are up front rather than pro rated
7 throughout the fiscal year.

8 MR. EAKELEY: But the expectation is we'll
9 come in within budget?

10 MS. MERCADO: Yes. That is our expectation.
11 We did, when we looked at our budget, had put in -- I
12 believe, correct me if I'm wrong, Mr. Richardson, I
13 think we had put in about \$300,000 to take into account
14 all the build out and construction costs that we had in
15 there so there was some cushion even though it may be
16 exceeding a little more than that, so we're working
17 with that at this point, but we should be able to meet
18 all our expenditures.

19 We had a report from the auditing firm and the
20 audit is under the direction of the Inspector General,
21 if Mr. Quatrevoux would like to present to the board.
22 All the board should have received the 1996 audit

1 report. It's a gray document that you should have
2 received in your packets.

3 Does everyone have that?

4 MR. QUATREVOUX: As the finance committee
5 chair reported, the external auditors, the independent
6 public accountants contracted by the OIG, performed the
7 annual financial statement audit of the Corporation.
8 They audited the financial statements and they believe
9 in their opinion, an unqualified opinion, that those
10 statements represent a fair representation of the
11 financial condition of the Corporation.

12 They were also required under government
13 auditing standards to file a report on compliance with
14 laws and regulations and they found nothing irregular
15 in that regard.

16 They were also required under government
17 auditing standards to report on internal controls and
18 found no significant problems in that area as well.

19 MR. ERLNBORN: I have a question just for
20 clarification. I thought I understood you to use the
21 words qualified and opinion together. Was the
22 qualified an adjective for the auditors or for the

1 opinion?

2 MR. QUATREVOUX: Well, actually, and I may
3 have misspoken, but I meant to say unqualified.

4 MR. ERLENBORN: Maybe I misunderstood you.

5 MR. EAKELEY: The opinion is unqualified.

6 MR. ERLENBORN: Okay.

7 MR. EAKELEY: The auditors are qualified.

8 MR. QUATREVOUX: Absolutely.

9 MR. EAKELEY: All right. Any further
10 questions of either the IG on the audit or Maria Luisa
11 Mercado on the finance committee report?

12 (No response.)

13 MR. EAKELEY: Thank you very much.

14 MS. MERCADO: I was just being reminded by our
15 other finance committee member about whether or not we
16 get to use the same auditing firm or not and I think we
17 had asked that question of the Inspector General and
18 that's something that's he in the process of doing
19 right now as far as bidding out for the next two or
20 three-year contract, but basically, the auditing firm
21 didn't find any kind of problems that we had. I mean,
22 sometimes there's a letter to management about

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1 particular improvements or anything, so apparently our
2 comptroller's office is doing an excellent job in
3 keeping the Corporation fiscally responsible.

4 M O T I O N

5 So I would move the finance committee report,
6 including the audit report for approval.

7 MR. EAKELEY: Is there a second?

8 MS. WATLINGTON: Second.

9 MR. EAKELEY: Second from Ms. Watlington.

10 All those in favor?

11 (Chorus of ayes.)

12 MR. EAKELEY: Opposed?

13 (No response.)

14 MR. EAKELEY: Thank you very much.

15 Anything further from the finance committee?

16 (No response.)

17 MR. EAKELEY: Then we'll move to Bucky Askew
18 and the report of the board's provisions committee.

19 MR. ASKEW: Thank you. The provisions
20 committee met yesterday. A full committee was there
21 including Nancy Rogers by telephone. The agenda for
22 our meeting is on page 9.

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1 We heard information reports and no action
2 items from our committee, mostly following up on
3 discussions we had at our January meeting. I'm going
4 to give you a very quick overview of what we heard
5 yesterday, as long as I'm not accused of not keeping
6 the board fully and currently informed.

7 OPO, the Office of Program Operations,
8 reported to us. Kathleen Welch gave us an overview of
9 the 1997 competition process with final results and the
10 evaluation process the staff is going through to take
11 stock of what occurred in '97 with a few of any changes
12 that are necessary for '98.

13 One issue that had come up in January that Ms.
14 Rogers had raised is how we're utilizing all the
15 information we've gathered from programs through the
16 competition process and specifically how is that being
17 used to affect the quality of services being provided
18 by programs. We heard a lot about that from Kathleen
19 and one interesting thing she told us about is the
20 feedback memo the staff has prepared that they have
21 sent out to all of the people who competed in '97,
22 including those who were not successful, giving them

1 some feedback about the '97 process which has been met
2 warmly by programs and others and Ms. Rogers expressed
3 her appreciation for what the staff had done in that
4 regard.

5 The one big issue among many that the staff
6 had identified from '97 is the timing issue and the
7 fact that some results were not able to be announced
8 until close to the end of the year. They have decided
9 this year to move everything up by one month, so they
10 hope to have all results on the '98 process announced
11 before Thanksgiving this year, which puts a lot of
12 pressure on staff obviously and everyone else involved
13 in this, but they have committed to doing that so that
14 we will be hopefully one month ahead of everything that
15 we did last year.

16 For the 1998 process, Karen Serjeant reported
17 to us that they are reviewing essentially all areas of
18 the '97 process in terms of what will be done in '98.
19 There were five areas that she discussed with us that
20 they are looking at. The main issue of timing is one
21 of those. The notice of intention to compete, the
22 outreach that's done, all of those things are under

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1 review. They have an internal working group on that
2 and they are moving along. And we expressed our desire
3 to hear from them again at our May meeting about where
4 all of that stands and they will be back before us in
5 May to share with us any changes they are planning in
6 the '98 process.

7 The committee expressed its appreciation to
8 them for the thoroughness of the analysis that they
9 have been doing, the evaluation they've been performing
10 and keeping us informed of what is happening with the
11 process.

12 The second panel we heard from was three
13 people from outside the Corporation, two of whom
14 participated as review panel members in the competition
15 process and then Harrison McIver on behalf of PAG.

16 The two panel reviewers were Bob Spangenberg,
17 who is a former Legal Services program director from
18 Boston who has now been out of Legal Services for over
19 20 years, but does a lot of work with public defenders
20 and other public interest firms, has been both a
21 competitor for grants and a review of competition
22 processes and other agencies and other entities, and

1 Hafeezah Ahmad who is on the board of Legal Action of
2 Wisconsin, a client board member, who participated as a
3 review panel member, they gave us their views of the
4 competition process. And I think to sum it up, they
5 would say that they felt the process was very
6 competently run, it was fair and it was credible.

7 They both had some suggestions for some things
8 that could be done a little bit better, some technical
9 issues that could be changed and some ways that the
10 review panel could operate more efficiently, but the
11 bottom line was that they felt it was both a fair and
12 credible process and that the judgments that were made
13 by the review panels were very defensible and carefully
14 thought out. Each of them spent a week here in
15 Washington doing the work of the review panel and their
16 team of three people reviewed three competitions and
17 there were other teams. I'm not sure how many other
18 teams there were.

19 One clear message that Bob gave us we need to
20 find a way to involve more private attorneys in this
21 process. I think the problem has been that private
22 attorneys had difficulty taking a full week off to come

1 in to spend here doing this, so they're looking at ways
2 to try and shorten that timeframe so that private
3 attorneys could be involved. They thought it would
4 both be helpful to the process in terms of its
5 credibility but that the private attorneys would learn
6 a lot from this in terms of their perspective on
7 programs, so they are trying to find ways to accomplish
8 that.

9 Harrison gave us views that he had solicited
10 in a survey of field programs through an E-mail to all
11 or many programs, asked for comments back, offered a
12 good bit of constructive criticism of the process,
13 mostly in terms of process issues, how it could be
14 improved. There were a lot of comments about the
15 timing issues that the staff is working on, but on the
16 whole, and I don't want to characterize what Harrison
17 said unfairly, but I think he also agreed that it was a
18 fair and credible process. And everybody agrees that
19 the staff is doing a thorough job of analyzing what has
20 happened, trying to improve the process, make sure that
21 it meets the goals that the Congress had for our
22 competition process, that the board has set for

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1 competition, and the staff continues to be open to any
2 comments, suggestions, recommendations that anyone,
3 including field programs, would like to make on how the
4 process can be improved, understanding that we're using
5 the performance criteria to judge the competition and
6 that it is a serious, thorough and credible process.

7 The last panel we heard from was two
8 representative of NAPIL, the National Association of
9 Public Interest Law, who talked to us about the
10 National Service Legal Corps. You may remember one of
11 the first things this board did when we came into
12 office was look at Americorps and ways that we could
13 cooperate with other organizations to participate in
14 the Americorps program. NAPIL and NLADA and the Legal
15 Services Corporation entered into a joint program
16 together that was ultimately funded. It's now in it's
17 third year of operation. We've received \$2.1 million
18 in funding from Americorps. They're now preparing a
19 proposal that's due in April for another year's
20 funding. It was very exciting to hear from these two
21 people about what has happened with these volunteers
22 and placement in 15 programs originally which I think

1 is now down to nine but is hopefully going back up to
2 additional programs.

3 The problem for local programs is they have to
4 match the funding and so they have to come up with
5 independent funding to match and that has been
6 difficult for programs, given their budget cuts and
7 other funding pressures, but it has been quite
8 successful and had a lot of impacts beyond just what
9 was anticipated and hopefully Americorps will thrive
10 and survive and be able to continue funding this and
11 they felt very positive about the prospects for the
12 future.

13 That concludes my report.

14 MR. EAKELEY: Bucky, what comes next by way of
15 a substantive view of the competition process? The
16 performance criteria standards or any other normative
17 means of gauging the extent to which competition can
18 facilitate the provision of technical assistance and
19 support to grantees in the process of putting grants up
20 for competitive award?

21 MR. ASKEW: Between now and I believe May 1st
22 the staff is engaged in a thorough review of the

1 results of '97 and implications for '98 in terms of
2 changes that should be made for '98 and is doing a as
3 thorough as possible debriefing of everyone who was
4 involved in the '97 process, both the staff and the
5 president, the debriefed Alex before he left, I think,
6 about his experience with it and any recommendations,
7 but also in terms of field programs and competitors,
8 including those who were not successful in the
9 competition process.

10 They will report back to my committee in May
11 or our committee in May in terms of where they stand
12 with the '98 process. That is underway and as far as I
13 know from talking to John and his staff, they are quite
14 anxious to hear from anyone and everyone, most
15 importantly in the field, about any suggestions for
16 change as we go forward.

17 MR. EAKELEY: So the timing is input in time
18 for the May meeting.

19 MR. ASKEW: That's right.

20 MR. EAKELEY: Does that include the process
21 issue embodied in the regulation with respect to
22 whether there should be an appeal or mediation or

1 anything other than final decision making vested in the
2 president?

3 MR. ASKEW: John, can you address that?

4 MR. TULL: That is an issue that the group has
5 been examining this question overall and the process is
6 in their mind. They did not make a recommendation
7 yesterday to the committee because it raises a
8 complicated set of issues, but the intent is to
9 thoroughly vet that and if a change is appropriate in
10 the regulation to accommodate that or any other change
11 that they feel is necessary. The next competition
12 process begins in terms of the RFP in May. The actual
13 decisionmaking will take place in the fall and so we've
14 got obviously a timing issue in terms of making certain
15 that if there are any changes in the regulation they're
16 done in a timely fashion to accommodate that.

17 MR. EAKELEY: Thank you.

18 MR. ASKEW: My president has reminded me that
19 I overlooked one item that we did discuss at
20 yesterday's committee meeting. We heard a report from
21 our Inspector General about a follow-up from the
22 January meeting on 509 implementation issues, mostly

1 the post-audit issues of the AIMS project which we
2 heard about in January, the Audit Information
3 Management System that will allow the IPAs to file
4 audit reports electronically directly with the
5 Inspector General; the debarment regulation which we
6 heard from operations and regulations was taken off the
7 agenda and will be brought back at the next meeting;
8 and the A50 follow-up procedures on audits. He gave us
9 a status report on that, there will be further movement
10 on the A50 process next week, I believe, in working
11 with management to complete that and we'll hear back
12 about that in our May meeting.

13 That concludes the report. Thank you.

14 MR. EAKELEY: Any questions of Bucky or of his
15 report?

16 (No response.)

17 MR. EAKELEY: Hearing none, we will move to
18 item 11, the board's presidential committee.

19 Justice Broderick?

20 MR. BRODERICK: Mr. Chairman, we hope to have
21 a preliminary meeting some time in June.

22 (Laughter.)

1 MR. BRODERICK: No, actually, we've had more
2 than a preliminary meeting. I'm delighted to report on
3 where we are.

4 Just to recap, last fall, we retained Isaacson
5 & Miller as a consulting firm and we had used them very
6 successfully the last time when we selected Alex Forger
7 and since we thought it was essential to have a
8 consultant and since it make the most economical and
9 practical sense to go back to those people, we did so.

10 Since last fall, they have been extremely busy
11 in this search process and they have worked closely
12 with six members of this board and three members of an
13 advisory panel to help us identify candidates, a good
14 cross-section of candidates from around the country,
15 from very different fields and walks of life to assist
16 us in our mission here. We have also, I think, been
17 conscious of cost in this process. We have a budget
18 and at least as of the end of January, unless we've
19 gone wild in February, which I don't think we have, we
20 are well within budget on this process.

21 We have been able to identify, I think, a
22 number of excellent candidates for this position. We

1 will be interviewing some of those candidates as early
2 as this afternoon and tomorrow and we anticipate, one
3 of the things we need to talk about today is other
4 dates, but we anticipate within two weeks we will be
5 conducting some additional interviews here in
6 Washington. The expectation, at least of the search
7 committee and the advisory group, is that we will be in
8 a position hopefully to select a president this month
9 and that will require some accommodation of schedule,
10 but we think it's important to do.

11 I also just want to mention in the course of
12 our selection process, we met in January in Washington
13 with the consultants to talk about the process and talk
14 about the credentials of the person we wanted. We then
15 had a lengthy telephone conversation of our committee
16 in January again. We had two telephone conferences,
17 one of them quite lengthy, in February rather than
18 flying people in to Washington. I felt we had some
19 pretty productive discussions on the telephone.

20 And on one of those calls we asked Bill
21 McCalpin to join us, although I think he may have been
22 on a couple of the calls, but he was very helpful in

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1 reviewing with us the process that was followed the
2 last time, the pluses and the minuses that went with
3 it, and Bill was very helpful to me in particular in
4 providing me more paperwork than I thought was
5 available and which --

6 MR. EAKELEY: Were you surprised that Bill was
7 able to do that?

8 MR. BRODERICK: No, I was just surprised that
9 he found my home address. And I did indeed read it and
10 it was helpful. And Tom Smegal was also on our calls
11 and helpful in participating in this process and I
12 appreciate it.

13 And the last person I want to recognize and
14 identify is Vic Fortuna, who is our counsel. Victor
15 has been terrific in this whole process and I
16 appreciate his help.

17 In any event, we have singled our search down
18 to a handful of candidates and what we intend to do is
19 to have the search committee and the advisory
20 committee, starting this afternoon and tomorrow,
21 interview these people. Members of this board are both
22 welcomed and encouraged if they can be present to be

1 present and to participate in the process in terms of
2 asking questions.

3 We would expect in a couple of weeks if we can
4 work out those dates to come back to Washington and
5 duplicate the process with some additional candidates.
6 Again, we are hopeful that this can be accomplished
7 with the board present and that perhaps at the
8 conclusion of those interviews with the board present
9 the board could act, but that's open to discussion. If
10 we don't do it then, we're going to have to pick a
11 date, presumably prior to May because we're not
12 scheduled to meet again until May, to accomplish this
13 task.

14 The current thinking is that we will not be
15 recommending a number of candidates for the board to
16 then interview and then decide upon, but that we would
17 be, and by "we" I mean the members of this board who
18 serve on the search committee, would obviously with the
19 significant input of the advisory group make a
20 decision, make a recommendation to the board of a
21 candidate for this board to vote yea or nay on. And it
22 is somewhat compressed as compared to the last time,

1 but I think there were both economic constraints and
2 certainly probably more importantly some time
3 constraints that I think dictate we need to come to
4 closure.

5 So that's kind of where we are and the process
6 that we're following and I would obviously entertain
7 thoughts or comments about any aspect of what I've just
8 reviewed, but I think it's important that we try to
9 select some additional dates.

10 We had tentatively talked about March 22 and
11 23, which are a Saturday and a Sunday, for the second
12 round of interviews with new faces. I understand that
13 that's amenable to some but not good for others and so
14 we might want to talk about that.

15 And I don't know, Mr. Chairman, whether or not
16 it's possible to have a board meeting, a special board
17 meeting at that time, or what your thoughts are on
18 that. The purpose of the meeting, obviously, is to
19 select someone so we can go about our business here and
20 put at least this aspect behind us. So that's a call
21 others will have to make, but that's what we're
22 thinking about.

1 MR. EAKELEY: Well, first let's talk a minute
2 or two about process, if we could, so that everyone is
3 clear on what is being proposed by the search committee
4 because it is different than the procedure utilized the
5 last time we went through this, as led by Bill
6 McCalpin.

7 What the search committee did at that time was
8 cull from a large list of candidates five finalists --
9 four, three?

10 MR. McCALPIN: Seven or eight.

11 MR. EAKELEY: Did the full board interview
12 seven or eight?

13 MR. McCALPIN: I think we picked eight and one
14 withdrew at the last minute, but I think we selected
15 seven.

16 MR. EAKELEY: We had the full board
17 interviewing with the search committee and then the
18 full board deliberating over the final candidates and
19 selecting a single candidate.

20 What the search committee is proposing that we
21 do this time is in a sense, well, in essence, ratify
22 the decision of the search committee to select a

1 candidate. Do you want to just tell us a little bit
2 about why you opted for that procedure?

3 MR. BRODERICK: Well, I think we opted for the
4 procedure for two reasons. Number one, it anticipates
5 that the board members or most of the board would be
6 present for most of the interviews. That's why we're
7 trying to have the interviews during this weekend while
8 the board is in Washington, so that we are both
9 accomplishing our mission and doing it as efficiently
10 as we can. And so I think if you start with the
11 premise that the board would be present or most of the
12 board would be present for both rounds of interviews,
13 there seemed little sense in then going through a third
14 process, which was bringing back people we've all had a
15 chance to see and talk to.

16 And I think if we were meeting on a monthly
17 basis or if economics were different or if the
18 pressures, indeed, of the Corporation were different,
19 we might handle it differently, but we thought it made
20 sense to compress it. Our consultants who have been
21 really extraordinary in this process, I think thought
22 it appropriate and Bill McCalpin who spearheaded the

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1 successful search the last time, and I don't mean to
2 speak for him, but I think he thought with those
3 assumptions it would work.

4 MR. EAKELEY: Let me put the question this
5 way. Is there any board member who is not a member of
6 the search committee who feels uncomfortable with
7 dealing with it in the way that the search committee
8 has proposed?

9 Bill?

10 MR. McCALPIN: Mr. Chairman, after I
11 participated in one telephone conference with the
12 board, I wrote the chair, John Broderick, and said that
13 -- because at that point, it seemed to me that all the
14 interviewing was going to be done only by the search
15 committee, that since the search committee in fact
16 included more than half the members of the board, that
17 if they came forward with a single recommendation, in
18 effect the non-search committee members were
19 disenfranchised because the decision would already have
20 been made.

21 I understand now that the interview process
22 has been opened up beyond that, that opportunity is

1 being afforded to every member of the board to
2 participate in the interviews and therefore presumably
3 to have input, knowledge and input, into the final
4 selection process.

5 It's unfortunate, I think, that two or three
6 members of the board are unable to participate this
7 weekend in the interviews. I unfortunately will be
8 leaving early this afternoon. I understand the chair
9 is leaving and, of course, Nancy Rogers isn't with us
10 at all. But the last time we had some of those same
11 problems, that people by reason of their schedules
12 weren't able to participate and I think that's just our
13 problem of those who can't participate.

14 If another round of interviews is scheduled, I
15 would do my level best to participate at that time,
16 understanding that the process is open to all members
17 of the board. So I think that in a sense it follows in
18 principle what we did last time. Unfortunately, last
19 time, I think we were able to have a larger number of
20 board members present at all interviews.

21 MR. EAKELEY: I don't know whether it's just
22 the product of aging that time seems to be compressed

1 but we do seem to have less time now than we had then,
2 but maybe that's purely a function of hindsight rather
3 than aging.

4 MS. MERCADO: A lot of it is also financial.

5 MR. EAKELEY: That's true. Well, hearing no
6 dissent from the proposal and surmising therefore we
7 have consensus that we should move forward in this
8 fashion, let me ask about timing of dates and
9 schedules.

10 LaVeeda, can we get you back in here for a
11 minute, please?

12 Do you think you that you will be in a
13 position, John, to have your final round of interviews
14 and therefore deliberations as early as the weekend of
15 March 22nd, as I understand it, right?

16 MR. BRODERICK: Yes, we do. Now, the problem
17 that we're having, Mr. Chairman, is I understand the
18 22nd some members of the board are not available and so
19 we run into situations where either some board members
20 aren't available, a few members of our search committee
21 are not available on Saturday but could be available on
22 Sunday.

1 It was discussed last night at dinner that
2 maybe we should look for either a Sunday-Monday or a
3 Monday-Tuesday, so that would be either the 23rd and
4 24th or 24th and 25th of March. I mean, no matter what
5 date you select, I suppose --

6 MR. EAKELEY: That week is Easter week also.

7 MR. BRODERICK: Right. I mean, the focus, I
8 think, needs to be in getting as many members of the
9 search committee available for both weekend interviews
10 so that we at least have some group that's doing some
11 comparison shopping as opposed to some seeing some and
12 some not seeing any. Obviously, it would be nice if
13 the board members could see all of them, but that's not
14 going to be possible. Someone's going to fall by the
15 wayside here, but I think the focus should be getting a
16 core group of people seeing all of these candidates.

17 MS. BATTLE For me, the weekend dates are much
18 better.

19 MR. BRODERICK: Well, why don't we just go
20 around the table. If those were the two days we had
21 these interviews --

22 MR. EAKELEY: Tom, you can't make it the 22nd

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1 but you could the 23rd?

2 MR. SMEGAL: I can't be here on Saturday.

3 MR. McCALPIN: I am available any time between
4 the 22nd and the 25th, which are the outside dates you
5 mentioned.

6 MR. EAKELEY: All right. On that side of the
7 table, other than Tom Smegal who is not available on
8 Saturday, the 22nd, is there anyone else?

9 MR. ASKEW I can be here on the 23rd but not
10 on the 22nd.

11 MR. EAKELEY: All right.

12 On this side of the table, is there anyone
13 that's unavailable for the 22nd?

14 MS. WATLINGTON: I'm fine.

15 MS. FAIRBANKS-WILLIAMS: I'm fine for the
16 whole weekend.

17 MR. EAKELEY: Maria?

18 MS. MERCADO: I'm fine for the 22nd and 23rd,
19 the 24th there's a trial starting.

20 MR. EAKELEY: John, are you available?

21 MR. BRODERICK: Yes.

22 MS. ROGERS: This is Nancy. I'm fine the

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1 22nd, 23rd and 24th.

2 MR. EAKELEY: All right. John?

3 MR. ERLNBORN: The 22nd I'm all right during
4 the day but not evening, and the 23rd is okay.

5 MR. BRODERICK: Mr. Chairman?

6 MR. EAKELEY: I can work things around.

7 MR. BRODERICK: It's unlikely we'll get better
8 attendance on any two dates and these dates are the
9 ones the consultants have been working with.

10 MR. McCALPIN: Let me just say, how about the
11 candidates? Are they available?

12 MR. EAKELEY: I'm assuming we started this
13 exercise because of the availability of the candidates.

14 MR. BRODERICK: The candidates, I'm told -- we
15 receive resumes as this process goes on, so the door is
16 not necessarily closed and I suppose there could be
17 someone --

18 MR. EAKELEY: Does this mean, then, that we
19 should notice a board meeting for the 23rd for
20 deliberation and decision with the search committee?

21 MR. BRODERICK: I think we should.

22 MR. EAKELEY: Okay. Victor, if you could just

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1 deal with the mechanics of that, scheduling it early
2 enough, although it's Palm Sunday, so that people can
3 get home some time that day for those of us who can get
4 home easily from here.

5 All right. Does that accommodate your needs
6 for the moment?

7 MR. BRODERICK: I think it does. I think
8 that's what we were hoping.

9 MR. EAKELEY: Let me move to item 12 then and
10 block out the 22nd and 23rd of March, if you all would.

11 Item 12 is consider and act on a resolution
12 updating the Corporation's service contract. Is there
13 a proponent of the agenda item?

14 MR. McCALPIN: Let me say out loud, I think
15 that what we will try to do is some time on the 22nd we
16 will bring together the ad hoc group working on
17 evaluations in the afternoon and make some further
18 progress on that since we're going to be here.

19 MR. EAKELEY: Good. Good.

20 MR. McCALPIN: John, is that available?
21 Saturday afternoon?

22 MR. ERLNBORN: I'm sorry, I'm not listening.

1 What afternoon?

2 MR. McCALPIN: The 22nd. I understand you've
3 got a problem that evening.

4 MR. ERLENBORN: That evening.

5 MR. McCALPIN: That's fine, but I thought
6 maybe we could try to make more progress on the
7 evaluation process coming in some time on Saturday and
8 having some time in the afternoon.

9 MR. BRODERICK: Can I protect my valued
10 committee member here? John is on the search committee
11 and I value his judgment on these things.

12 MS. MERCADO: There are interviews on
13 Saturday.

14 MR. McCALPIN: Oh, you're going to interview
15 on the 22nd?

16 MR. ERLENBORN: Yes.

17 MR. McCALPIN: Oh, I see. I'm sorry. I
18 didn't understand that.

19 MR. EAKELEY: I understood you to be
20 suggesting that if there were spaces between interviews
21 that you could gather your ad hoc committee.

22 MR. McCALPIN: I'm sorry. I didn't understand

1 that there were being interviews on the 22nd. I was
2 focusing on the 23rd.

3 MR. EAKELEY: The interviews are on the 22nd,
4 so that the search committee can be in a position on
5 the 23rd to consider, deliberate and recommend to the
6 board and the board receive and act upon that
7 recommendation.

8 MR. McCALPIN: I didn't have that right.

9 MR. EAKELEY: So ideally all interviews,
10 whatever remaining interviews there are could be
11 scheduled for the 22nd, so then the search committee
12 could meet almost as a committee of the whole with such
13 board members as who are capable of participating or
14 sitting in at least being there.

15 MR. BRODERICK: Well, it wouldn't make a lot
16 of sense for Tom Smegal to fly here from California.
17 He could be on the telephone.

18 I mean, you won't see these people anyway,
19 Tom, on the 22nd. I don't mean to discourage you from
20 coming, it's always nice to have you here, but you may
21 not want to fly across the country to have a
22 conversation you could have by phone.

1 MR. EAKELEY: Also, if scheduling permits,
2 without cramming it too much, some of us might prefer
3 getting home for Palm Sunday. I'm just saying if you
4 have a finite number of interviews and they're
5 conducted in the morning on the Saturday and if the
6 afternoon of the Saturday is available for meeting and
7 deliberation and consideration, then that would be
8 better, but I don't want to force this into an unduly
9 compressed timeframe.

10 MR. BRODERICK: It may be too ambitious but it
11 seems to me with a little good fortune we could be out
12 of here late Sunday morning and on our way home.

13 MR. EAKELEY: Okay.

14 MR. McCALPIN: How many interviews do you
15 anticipate may take place on the 22nd?

16 MR. BRODERICK: I would guesstimate four.

17 MR. EAKELEY: I had heard two.

18 Why don't we move on to item 12?

19 MS. KENNEDY: For the record, I am Joan
20 Kennedy of the Office of Administration and Human
21 Resources.

22 Mr. Chairman, I just have a very brief report

1 to make to the board this afternoon as it relates to
2 this item.

3 In May of 1989, the Corporation instituted a
4 retirement plan called a 403(b) Thrift Plan. This is a
5 tax-deferred annuity plan that is subject to Section
6 403(b) of the Internal Revenue Service Code.

7 The plan is underwritten by Mutual of America
8 and eligible employees of the Corporation can be
9 participants in the plan.

10 By law, the plan must meet in addition to the
11 IRS code requirements ERISA requirements, that is, the
12 Employee Retirement Income Security Act, reporting and
13 disclosure requirements.

14 We have been working with KPMG Peat Marwick
15 over the last month to conduct a comprehensive plan and
16 review of our 403(b) plan as part of our management
17 efforts and the associated fiduciary responsibilities
18 that are incumbent in that.

19 One of the things that we are doing as part of
20 that compliance review effort is to work very closely
21 with Mutual of America to help us prepare plan
22 documents, plan amendments and the various other

1 reporting requirements that are associated with that
2 review.

3 Because our plan assets now exceed \$1 million,
4 we are able to go from what has been since 1989 a
5 modified services contract to a full services contract
6 at no cost to the Corporation.

7 In order to do that, a resolution of the board
8 is required for us to get the full services from Mutual
9 of America and that is what this resolution does today.

10 MR. EAKELEY: Do we have the text of the
11 resolution somewhere?

12 MS. KENNEDY: Yes, I have extras if you do not
13 have yours with you.

14 MR. EAKELEY: It may be easier distributing
15 them than searching for them and while you're doing
16 that, I'll let Edna pose a question.

17 MS. FAIRBANKS-WILLIAMS: The 403(b) I
18 understood they were supposed to have three different
19 companies that they could choose from to invest in.
20 The other thing that I wanted to know, she says that
21 the up-front fee for switching stocks comes out of the
22 employee. With as much money as we have in the thing,

1 a lot of companies do not pay for switching. If the
2 person who is managing the account does a lot of
3 speculating with the funds, every time they speculate
4 there's a fee switch which is taken out of the employee
5 and the employee could end up with not very much money
6 if this is allowed to happen. So if we could talk them
7 into not doing the fee switch, which some companies do,
8 then they wouldn't be so apt to speculate with our
9 money.

10 MR. EAKELEY: Joan, do you want to respond to
11 that?

12 MS. KENNEDY: Well, what I shared with Mrs.
13 Fairbanks-Williams earlier is that there are several
14 funds available for employees to invest in in the
15 403(b) plan and part of this compliance review will be
16 to take a look at the feasibility of continuing with
17 this plan, what about this plan may offer the best
18 options to our plan participants, if in fact there are
19 better options that could be made available under
20 another plan for employees.

21 So at some point in the very near future after
22 we finish this comprehensive compliance review, we plan

1 to come back to you with a reporting of what we've been
2 able to find with the assistance of KPMG and the
3 assistance of Mutual of America. So we are mindful of
4 the concern that Mrs. Fairbanks-Williams has and will
5 be reporting back to her on that later.

6 MR. EAKELEY: Are there any other questions?

7 This is something that is being proposed by
8 management for the reasons given.

9 MS. KENNEDY: Yes.

10 MR. EAKELEY: Hearing none, is there a motion
11 to adopt the resolution?

12 M O T I O N

13 MS. BATTLE Mr. Chairman, I would so move that
14 we adopt the resolution.

15 MR. EAKELEY: Is there a second?

16 MR. SMEGAL: Second.

17 MR. EAKELEY: All those in favor.

18 (Chorus of ayes.)

19 MR. EAKELEY: Opposed?

20 (No response.)

21 MR. EAKELEY: The ayes have it.

22 MS. FAIRBANKS-WILLIAMS: I'm going to abstain.

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1 MR. EAKELEY: I'm sorry.

2 Abstentions, Ms. Fairbanks-Williams.

3 The ayes have it.

4 All right. Thank you very much.

5 MS. KENNEDY: Thank you.

6 MR. EAKELEY: Public comment?

7 MS. FAIRBANKS-WILLIAMS: Are we changing the
8 date of our September board meeting?

9 MR. EAKELEY: That's consider and act on other
10 business, yes. I'm going to raise that. In fact, I'm
11 going to raise several scheduling issues if I may.

12 Let me just make sure that there's no public
13 comment that we need to attend to.

14 Victor circulated a memo suggesting that we
15 try to convene September 19th and 20th, rather than
16 when we had previously scheduled, so that we could be
17 in Washington at the time of the dedication of the new
18 library, the name of which escapes me -- Equal Justice
19 Library.

20 Does that pose a problem? And I think that
21 that's something we should all participate in and
22 support if we could and I am hopeful that with this

1 much lead time we can accommodate or adjust our
2 schedules and change the board meeting.

3 Does that sound all right, the 19th and 20th
4 of September? All right.

5 Now, I have a personal problem that need not
6 be accommodated if it can't be, but in May, I have two
7 conflicts with our meeting on the 16th and 17th and I
8 was wondering whether the either preceding or following
9 weekends could do it, recognizing, however, that
10 Sunday, May 11th, is Mother's Day and we wouldn't want
11 to do it on Mother's day. But my daughter is
12 graduating from college on the 18th and we've got to be
13 there on the 17th, if not the 16th.

14 MS. FAIRBANKS-WILLIAMS: I would prefer the
15 following weekend, if possible.

16 MR. EAKELEY: 23rd and 24th?

17 MR. McCALPIN: Let me say that I will be
18 chairing another meeting here on the 9th and 10th.

19 MR. EAKELEY: Does that mean you can or you
20 cannot do it on the 9th and the 10th?

21 MR. McCALPIN: I will be committed all
22 afternoon on the 9th and all morning on the 10th.

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1 MR. EAKELEY: I see. The 23rd and 24th of
2 May, does that strike any other conflicts for anyone?

3 MR. BRODERICK: The only thing I would
4 mention, according to my calendar, that is Memorial Day
5 weekend.

6 MR. EAKELEY: Right you are.

7 MS. MERCADO: On the 9th and 10th for me, I'm
8 across the country in a different --

9 MS. BATTLE Is there a problem with the 23rd
10 and 24th?

11 MR. EAKELEY: That's Memorial Day weekend.

12 MR. SMEGAL: What about going that weekend
13 we're in on Monday and Tuesday, rather than whatever
14 days you have there? Or is that your conflict?

15 MR. EAKELEY: The 19th and 20th? Or 18th and
16 19th? Graduation is -- I'd just skip the committee
17 meetings and come in for the board meeting.

18 Sunday, Monday, 18th and 19th? All right.
19 Thank you. I'm sorry.

20 MR. McCALPIN: We're changing it to 18th and
21 19th?

22 MR. EAKELEY: The 18th and the 19th.

1 All right. Any other new business?

2 MR. ASKEW Let me ask, are we going to
3 hold one of these meetings outside Washington or is
4 the anticipation right now we'll be meeting in
5 Washington?

6 MR. EAKELEY: I don't know. What's the
7 pleasure of the board and our budget constraints? That
8 raises the tension between keeping costs down and the
9 benefit of meeting elsewhere where we can come together
10 with people in different regions.

11 MR. ASKEW At the last meeting, we did have a
12 brief discussion and several board members, not me, and
13 I don't really care, recommended that we hold one of
14 these meetings over the next three meetings outside of
15 Washington.

16 MR. EAKELEY: No, that's a fair point. We
17 did.

18 MR. ASKEW Maybe what we should do is just
19 leave it for the May meeting and have the staff do some
20 sort of analysis of cost benefit to see if there's a
21 place we could go that wouldn't be terribly more
22 expensive than meeting here in July.

1 MR. EAKELEY: Yes.

2 MS. MERCADO: September is that --

3 MR. EAKELEY: Yes. All right. That's a good
4 suggestion.

5 All right. Any other new business?

6 (No response.)

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

9 MR. ASKEW I apologize. I missed the approval
10 of the minutes and I have a major change on page 25 of
11 the board's book, Mr. Fox is listed chair of the
12 litigation section when in fact he is not. The best
13 thing we could do would be to call him a past chair.

14 MR. EAKELEY: Can we accept that as a friendly
15 amendment?

16 M O T I O N

17 All those in favor of making that correction
18 to the minutes, say aye.

19 (Chorus of ayes.)

20 MR. EAKELEY: Opposed?

21 (No response.)

22 MR. EAKELEY: The ayes have it.