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LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

AUDIT AND APPROPRIATIONS COMMITTEE MEETING
OPEN SESSION

Friday, April 15, 1994

1:20 p.m.

RECEIVED

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Executive Office

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

Diversified Reporting Services, Inc.

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WASHINGTON, D.C. 20006

(202) 296-2929

BOARD MEMBERS PRESENT:

Maria Luisa Mercado, Chair
Hulett "Buckey" Askew
Douglas S. Eakeley
Thomas F. Smegal, Jr.
Edna Fairbanks-Williams

STAFF PRESENT:

Alexander D. Forger, President
Patricia D. Batie, Secretary
David Richardson, Treasurer and Comptroller
Edouard Quatrevaux, Inspector General
Carolyn Kennedy, Office of General Counsel

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P R O C E E D I N G S

(1:10 p.m.)

1
2
3 CHAIRPERSON MERCADO: All right, why ahead and get
4 started so that we can get the report by Grant/Thornton done,
5 because I know we told her we'd go pretty much at the very
6 beginning, so I don't want to waste a lot of your time.

A P P R O V A L O F A G E N D A

7
8 If I could, I would like to entertain a motion to
9 approve the agenda as presented, unless anyone has any
10 changes on it. It would be ratified at a later time.

M O T I O N

11
12 MR. EAKELEY: I'll so move. All those in favor?

13 CHAIRPERSON MERCADO: Aye. It's hard to have a
14 meeting of one, isn't it?

A P P R O V A L O F M I N U T E S O F M A R C H 1 0 , 1 9 9 4 M E E T I N G

15
16 CHAIRPERSON MERCADO: If everyone has had an
17 opportunity to review the minutes of the March 10 meeting,
18 were there any changes to those minutes?

19 MR. EAKELEY: I have none.

M O T I O N

20
21 CHAIRPERSON MERCADO: Why don't we go ahead and
22 approve the minutes as presented for the March 10 meeting?

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1 We'll just do that by consensus.

2 REPORT BY GRANT/THORNTON REGARDING THE
3 CORPORATION'S FISCAL YEAR 1993 FINANCIAL AUDIT

4 CHAIRPERSON MERCADO: I would, at this time, like
5 our representative from Grant/Thornton to present the
6 Corporation's fiscal '93 financial audit report. Please go
7 ahead and identify yourself for the record.

8 MS. KASTLER: Thank you very much for inviting us to
9 come here and present the results of the 1993 audit. Let me
10 introduce Tammy McCue. She's an audit manager with
11 Grant/Thornton and was in charge of the audit field work here
12 at Legal Services Corporation, and I'm Christi Kastler, and
13 I'm an audit partner at Grant/Thornton and here to tell you a
14 little bit about your financial statements.

15 I'm not sure whether you have a copy of those or
16 not and would like to sort of follow along.

17 CHAIRPERSON MERCADO: One wasn't presented to us.

18 MS. KASTLER: It originally came in a blue binding.

19 MR. EAKELEY: I don't have a blue binding.

20 CHAIRPERSON MERCADO: I know I read it, to present
21 it to the Board meeting.

22 MR. EAKELEY: Do we have extra copies? Can we find

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1 some?

2 CHAIRPERSON MERCADO: Mr. Quatrevaux did send it to
3 us and I know I did review it, but I had it for my meeting
4 for tomorrow.

5 MR. EAKELEY: Bear with us.

6 MS. KASTLER: No problem. We'll wait.

7 CHAIRPERSON MERCADO: Go ahead.

8 MS. KASTLER: All right. What I have prepared to
9 do is present you with a very broad overview of the financial
10 statements and then leave it to you to ask questions to your
11 heart's content and take me to the level of detail that you
12 would like to entertain.

13 I'd like to start with page 3 of the report.

14 MR. EAKELEY: I think David Richardson ought to be
15 here. I'm just anticipating -- I know I've got some
16 questions for him at the very next item on the agenda, and --

17 MR. FORGER: He just went to get some copies.

18 MR. EAKELEY: Okay, I'm sorry. I misunderstood.
19 Go ahead.

20 MS. KASTLER: Page 3 of the report is our opinion
21 and it is different a bit from last year because, for the
22 first time in 1993, we were asked to provide an audit in

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1 accordance not only with generally accepted auditing
2 standards but with government auditing standards. And this
3 report says so.

4 And if you look at the last paragraph, you will see
5 that we have given an unqualified opinion, or clean opinion,
6 as we have in the last three years.

7 MR. EAKELEY: Could you just very briefly describe
8 the significant differences between an audit in accordance
9 with generally accepted accounting standards and an audit
10 performed in compliance with government auditing standards?

11 MS. KASTLER: I probably should just say what we
12 did in addition to, if that is helpful.

13 MR. EAKELEY: That's fine.

14 MS. KASTLER: An audit in accordance with
15 government auditing standards requires that we perform an
16 audit in accordance with general accepted auditing standards
17 first. So it requires that as a basis. And then, on top of
18 that, we have to present a report on internal controls and we
19 have to present a report on compliance with laws and
20 regulations.

21 And the yellow book itself prescribes generally
22 what we have to do in order to present these reports.

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1 In terms of internal controls, it doesn't really
2 involve any additional audit procedures that we wouldn't have
3 performed under just generally accepted auditing standards.
4 So there's really no additional work, just an additional
5 report.

6 In terms of compliance with laws and regulations,
7 it's a slightly different story. There we have to identify
8 laws and regulations that if not followed, would have a
9 material effect on the financial statements, test for those
10 and then report.

11 So that's the difference between an audit under
12 generally accepted auditing standards and one under the
13 yellow book.

14 MR. EAKELEY: Thank you.

15 MS. KASTLER: Should I go further?

16 MR. EAKELEY: No, that's fine.

17 MS. KASTLER: I'd like to go on to page 4. In
18 fact, when we get to the very last few pages of the report,
19 I'll go into a little bit more detail in terms of our reports
20 on the government auditing standards.

21 The balance sheet is on page 4 and, as every
22 balance sheet, it has the top half that shows the assets and

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1 the bottom half that shows the liabilities, and the fund
2 balance.

3 And these two halves here are dramatically
4 different. The top half is very pristine and straightforward
5 and relatively unchanged between the two years. There are
6 small differences in how much money you had in the bank and
7 how big your accounts receivables were, but there's nothing
8 unusual about that. These follow just sort of the ebb and
9 flow of the transactions of the Corporation.

10 But once we go to the bottom half of the balance
11 sheet, we find quite a different story, and I'd like to point
12 out some major occurrences in 1993 that have changed the
13 bottom half of your balance sheet.

14 One is the recording of a liability for the
15 remaining rent on the old office facility. As you know, the
16 operations were moved to this facility here, and originally
17 it was contemplated that the old facility would be entirely
18 subleased, which did not come about. Only bits and pieces of
19 the old space could be rented, and it became clear this past
20 fall that some of the space will remain unrented.

21 And accounting rules require that once that becomes
22 known, accounting recognition has to be given to such a fact.

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1 And this turned out to be about \$1.5 million. And the \$1.5
2 million is shown in two places -- the current portion and the
3 long-term portion -- in two different places on the balance
4 sheet.

5 If you go under current liabilities, the last line
6 item says "lease liability, \$848,000." That's that which you
7 will pay in this current year that will end September 30,
8 1994. And then a little further down on the page, it
9 repeats, "lease liability," the long-term portion of
10 \$704,000.

11 So those two pieces make up the \$1.5 million on the
12 old office lease.

13 The second big item on the bottom half of the
14 balance sheet is the so-called deferred rent credit. When
15 you moved in here, or I guess as an incentive for moving in
16 here, the landlord gave various concessions to Legal Services
17 that, all told, amounted to \$1.7 million.

18 And some of that was recognized already in the
19 previous fiscal year, but almost a million dollars was
20 recognized in this fiscal year.

21 So all told now, you have \$1.7 million sitting here
22 that will be amortized down to zero by the end of the 10

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1 years of the lease term. And giving accounting recognition
2 to this credit clearly had an impact on your bottom line.

3 And finally, and probably the most dramatic of the
4 changes on the balance sheet is really the fund balance
5 section. That, in one year, turned from a positive \$2.2
6 million to a negative amount of about the same size.

7 And with that, I'd like to just ask to see whether
8 you had any specific questions on the balance sheet, or else
9 I would go on to the income statement.

10 CHAIRPERSON MERCADO: The fund balance deficit
11 occurred because of the deferred rent?

12 MS. KASTLER: In part, yes. On the next page we'll
13 go into a little more detail about the underlying cause of
14 the deficit.

15 CHAIRPERSON MERCADO: One of the questions that we
16 had when we initially got on board at looking at the budgets
17 and looking at the COB for '93 was -- I'm sure you did the
18 auditing for it last year.

19 MS. KASTLER: Yes.

20 CHAIRPERSON MERCADO: And they had used cash basis
21 in accounting rather than the accrual accounting. The figure
22 that you showed here for '92, would that have been different

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1 had the accounting been done differently?

2 MS. KASTLER: Oh, the two years that you see in
3 front of you right now have received the same accounting
4 treatment. The audited financial statements are -- both
5 years are done on the accrual basis.

6 What's happening or what has happened in the past
7 is that the budget reports, the internal financial
8 statements, were presented on a cash basis. In fact, Tammy
9 will talk about that a little later. In fact, we strongly
10 recommend that maybe occasionally at least, the Board be
11 presented with full-blown accrual financial statements so
12 that surprises do not sneak up on the Board. And I don't
13 know whether or not this was a surprise.

14 MR. EAKELEY: I can assure you, this was a great
15 surprise. But I think that the tale really is told on page
16 5, and there may be a causal relationship between the cash
17 accounting basis that was being used and the \$4 million of
18 excess of expenses and loss over support and revenue that was
19 engendered, that went to the liabilities and fund balance.

20 MS. KASTLER: Are you ready to go on to page 5,
21 then?

22 CHAIRPERSON MERCADO: Yes.

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1 MS. KASTLER: The very short story of page 5 is
2 that in 1993, your total revenues were approximately
3 \$357,000 --

4 MR. EAKELEY: Million.

5 MS. KASTLER: Million, sorry. A lot different.
6 \$357 million, and that the expenses, the operating expenses,
7 amounted to about \$360 million, a difference of \$3 million
8 roughly.

9 So you produced -- the Corporation produced an
10 operating deficit of about \$3 million.

11 MR. EAKELEY: And was most of that within the
12 management and administration line?

13 MS. KASTLER: It's very hard to say what was the
14 cause. If we compare just the program services, if you stay
15 on page 5 and go to the line item that's titled "program
16 activities," and you just compare those two years, \$349
17 million in '93 and \$342 million in '92, you could very easily
18 say that the big difference was really in program service
19 expenses.

20 MR. EAKELEY: Except that the grant went up that
21 exact amount.

22 CHAIRPERSON MERCADO: I mean, it went up \$7

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1 million. The appropriation by Congress went up to --

2 MS. KASTLER: Mm-hmm. I guess the question is
3 really where should the \$3 million not have been spent? If
4 you look at the two comparative numbers in terms of
5 administrative expenses, they are \$11.1 million in '93 and
6 \$11.7 million in '92.

7 So administrative expenses, even after accounting
8 for the deferred rent, or accounting for the rent correctly
9 on an accrual basis, administrative expenses are smaller in
10 '92 than -- '93 than in '92.

11 MR. EAKELEY: Would you explain the \$2,149,457
12 change in deferred revenue that's treated as revenue in '92?
13 That's the second line under support and revenue.

14 MS. KASTLER: Oh. Deferred revenue is that amount
15 of appropriations that have been earmarked for recipients
16 that for some reason or other do not comply with Legal
17 Service Corporation's standards, funding standards. And
18 therefore, funds are withheld from them.

19 However, overall, they have been committed and the
20 moment such a recipient complies with the standards, the
21 recipient is entitled to these funds.

22 So in accounting terms, we ask the Corporation to

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1 defer recognizing both revenue and expense until such time
2 that a recipient is in compliance with the standards.

3 And what that means is in 1992 many more recipients
4 came into compliance and finally received their funding. In
5 1993 was only \$210,000. In 1992 it was \$2.1 million.

6 So it's really not in the hands of the Corporation
7 to direct that money. That has been committed. I mean, the
8 appropriations have been made. The recipients have
9 qualified. They just have, for some reason, not complied
10 with some standards and not gotten the money. And so it's in
11 their hands really what the size of this number is.

12 The total sitting and waiting at the end of 1993 is
13 about a million dollars.

14 On page 4, deferred revenue restricted is
15 \$1,064,477 in '93 and it's \$1,274,983 in '93. So these
16 monies have been committed, and as soon as the recipients
17 come into compliance, they will be dispersed.

18 Any other questions on the income statement? And I
19 guess we said before that the \$1.5 million in recognition of
20 the lease commitment to the old facility had to be added, and
21 created, all told, a \$4.3 million deficit for 1993. And only
22 having \$2.2 million in reserves, if you will, to offset

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1 against that deficit, the year was ended with a \$2.1 million,
2 almost \$2.2 million cumulative deficit.

3 And if we were to talk in national budget, this
4 would be, you know, the equivalent of, I guess, our national
5 debt here, that you, as new Board members, have the pleasure
6 now to deal with.

7 MR. SMEGAL: I apologize for coming in late, and
8 maybe this question was asked three months ago, but with
9 respect to footnote D, the lease law, when we initially came
10 on the Board there was some concern as to whether we could do
11 this, as contrasted with expensing it all in fiscal year
12 1994.

13 Now, I assume that the process that you've all gone
14 through either has demonstrated that this is a proper
15 accounting method, in spite of whatever David told us that
16 accounting procedure was. I apologize if this has already
17 been covered.

18 MS. KASTLER: No, we have not spoken about that.
19 Legal Services Corporation moved into this facility in the
20 summer of 1992, I remember correctly, I think. And when we
21 performed the audit in the fall of 1992, we first looked at
22 that question: What's going to happen to your existing

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1 office space that you have a commitment for?

2 And we were told that I think it was GSA was
3 supposed to sublease the space from you entirely, and for
4 some reason that didn't quite come about, but there were many
5 negotiations under way with other potential tenants to rent
6 the space from Legal Services Corporation.

7 And at that point it was not clear what exactly
8 would happen.

9 A year later, then, we revisited that and we saw
10 that although some of the space had been subleased, much of
11 it remained empty. And accounting rules, accrual accounting
12 rules force you to recognize a loss on the balance sheet and
13 on the income statement as soon as you are certain that you
14 will have, or fairly certain that you will have that loss,
15 that you will have to suffer that loss eventually.

16 You have to recognize it the minute you realize
17 that you have it, no matter when you actually make payment
18 for that. Those are the accounting rules.

19 MR. SMEGAL: If we're successful in subletting some
20 additional space there, that will show up, then, as an income
21 item?

22 MS. KASTLER: Indeed. And we know that you are

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1 continuing to try to sublease some space, some additional
2 space. This \$1.5 million, in fact, is net of sublease income
3 that we know about.

4 MR. SMEGAL: I understand. Thank you for that. I
5 don't know that that reached the question I was trying to
6 ask, which is the earlier understanding was we couldn't do
7 this, that we couldn't carry forward a lease loss, that we
8 had to account for it in fiscal year '94, that we couldn't go
9 back to '93.

10 But that, if I understand what you're saying, that
11 is not -- that concern we had is not a concern we need
12 continue to have, and this accounting procedure is
13 appropriate.

14 MS. KASTLER: Oh, yes. Quite the opposite. We
15 could not sign an unqualified opinion had you not given
16 accounting recognition in 1993.

17 MR. SMEGAL: Okay, now let me ask you --

18 MS. KASTLER: Maybe I'm misunderstanding the
19 question.

20 CHAIRPERSON MERCADO: I guess part of it is maybe
21 some of it should have been even in '92, the parallel under
22 two budgets, because probably some of that loss would have

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1 even been realized in '92 if it was not leased out. A
2 percentage of that would have been in '92.

3 MS. KASTLER: It's a question of certainty. The
4 accounting rules -- there's nothing really scientific about
5 them. There is much estimation that has to go in there. And
6 the question is really of certainty.

7 In 1992 management had, I think, good reason to say
8 that this loss will eventually not occur. In '93, that no
9 longer was the case.

10 MR. SMEGAL: And there's no obligation under
11 accounting rules to go back and modify 1992 to reflect that
12 there, in fact, was a lease loss?

13 MS. KASTLER: No. Economic -- new economic events,
14 I guess, dictate when something -- the only time we go back
15 and change something is if an error was committed, and we
16 couldn't really say an error was committed. It's just an
17 estimate has been refined. And although this may seem like
18 hair-splitting to you, those are the accounting rules.

19 If an estimate is being refined, we give accounting
20 recognition in the year that the refinement takes place. If
21 we later on find out that actually an error has been
22 committed, we go back and restate. Those are the basic

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1 rules.

2 MR. EAKELEY: Tom, on page 5, what's also striking
3 is that with this presentation, it's just a different way of
4 seeing the same thing and being hit over the head with it
5 again, but in 1993, the federal appropriation was \$357
6 million, and prior to taking a hit for the lease loss, total
7 expenses were over \$360 million.

8 So there was already a \$2.8 million --

9 MR. SMEGAL: I see that.

10 MR. EAKELEY: And I still go back -- now, the
11 difference between the years that may explain that is that
12 there was a \$2 million deferred revenue taken in 1992 that's
13 obviously not there in '93.

14 MS. KASTLER: In '92 those same \$2 million, though,
15 show up both in the income section and in the expense
16 section. Those are exactly equal.

17 MR. EAKELEY: But total support -- the consequence
18 in '92 of making the total support and revenue line \$2
19 million plus more than the actual appropriation. So even
20 though -- I was just looking for the reason that a \$2.8
21 million operating deficit could be generated in a year when
22 expenses went up by the same amount as the appropriation.

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1 And that's the only explanation I can find there.

2 MS. KASTLER: Actually --

3 MR. EAKELEY: Right? Am I misreading this?

4 MS. KASTLER: No, you're not, but I think there may
5 be one more refinement that may hopefully illuminate this a
6 little more. The \$342 million in program service costs in
7 '92 includes the \$2.1 million that were recognized here as
8 expenses when payments were made to the recipients eligible
9 for the funds.

10 So appropriations-wise, if you will, program
11 expenses went from \$340 million to \$349 million, so you could
12 say they really went up by \$9 million, not just the 7.

13 MR. EAKELEY: Okay.

14 MR. SMEGAL: Thank you.

15 MS. KASTLER: All right, on the footnotes, there is
16 really not that much change. The footnotes, in essence,
17 disclose --

18 CHAIRPERSON MERCADO: Did you skip a page?

19 MS. KASTLER: Yes, I skipped a page. We can spend
20 some time with it. I'd be more than happy to. This is the
21 statement of cash flows. It's really a statement that
22 investment bankers on Wall Street get a lot of comfort from.

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1 In a not-for-profit organization, it serves a purpose, but by
2 far not as important a one as in publicly held companies.

3 But what this statement does, it basically shows
4 where the money, the cash, actually, came from and how it was
5 spent or for what purposes it was spent in big areas --
6 revenues and investing, in your case, in those two big areas.

7 As you can see, we start out with the net loss in
8 both of the years, \$4.3 million in '93, \$624,000 in '92.

9 If we go down sort of halfway the page, there is a
10 line that's very much indented that says "net cash, either
11 used in or provided by operating activities." And that line
12 shows \$2.3 million being used in operations, meaning
13 operations took more cash or paid more cash out than they
14 took in. In '92 it was the reverse. \$4.7 million were
15 taken in in excess of being paid out.

16 Now, some of that, of course, has to do with items
17 that, by definition, do not require cash, such as
18 depreciation, such as this rent incentive. And so these
19 numbers play a big role here.

20 Finally, the purchase of fixed assets was very
21 minor in both years, \$60,000 in one year and \$30,000 in the
22 other. Did not make much difference one way or the other.

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1 And you wound up with cash in the bank of \$63
2 million in '92 and with \$60 million in '93.

3 Now, part of that cash in 1993, about half of it
4 was with a commercial bank and the other half was with the
5 U.S. Treasury. And in years before 1993, the cash in the
6 commercial bank, sitting in the commercial bank, really had
7 not much by way of protection beyond the FDIC insurance, and
8 one of our management letter comments then was for the Legal
9 Services Corporation to look into that matter and try and
10 secure this cash with some back-up, and management has done
11 so.

12 And so now, the money in the commercial bank is
13 backed by some securities. And I'm sure your comptroller can
14 give you the detail of that. But we're happy to know that
15 it's not at risk, as it was before.

16 MR. EAKELEY: This is out of order and we should go
17 to the footnotes, but I see you don't have any
18 recommendations for management. Is that --

19 MS. KASTLER: We do but they're in a separate
20 letter. And they have been issued, and if you wish to get a
21 copy of that and don't have a copy, maybe we can have copies
22 made. We didn't bring extras. I'm sorry, I did not

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1 anticipate that. But we'll --

2 MR. EAKELEY: David, do we have copies? Let's go
3 ahead to the footnotes.

4 MR. SMEGAL: Before you go there, the at-risk
5 portion here is in this commercial institution at an interest
6 rate, interest-bearing?

7 MS. KASTLER: Yes, it is.

8 MR. SMEGAL: And the U.S. Treasury portion is not?
9 We do not get interest from it?

10 MS. KASTLER: As far as I know, you don't get
11 interest from the U.S. Treasury.

12 Footnotes start on page 7 and they do exactly what,
13 in accordance with generally accepted accounting principles,
14 they have to do, and that is explain a bit further what the
15 financial statement's all about, explains the history and
16 activity of the Corporation that I'm sure you are quite
17 familiar with. But stop at any point if you like.

18 Describes, you know, the various ways you account
19 for grants and contracts for grant refunds for deferred
20 revenue. We talked a little bit about that before.
21 Describes your income tax status.

22 There is a new footnote and it's footnote B on page

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1 9. And that footnote was drafted really in an attempt to
2 explain a little bit the deficit, or some of the contributing
3 factors that caused the deficit. And particularly the rent
4 incentive is being described.

5 MR. EAKELEY: And you're satisfied with the
6 recognition by the Board of Directors of the need to
7 eliminate the deficit and our management --

8 MS. KASTLER: Yes. Management drafted that
9 comment, and we assumed that management knew of the Board of
10 Directors' awareness. Yes, we understand that you are
11 presented with a problem right off the bat.

12 All of these footnotes -- footnote H is probably
13 one that describes to the reader, in fair amount of detail,
14 how much money you spent on a number of different programs.
15 Frankly, this could, as well, be on page 5 on the income
16 statement itself, but wherever you present it is up to you.

17 It's good information. Starts with basic field
18 programs, \$305 million, on down the line.

19 Page 11 does the same thing for administrative
20 expenses, and lists the larger items first and then goes down
21 to the smaller ones, personnel costs clearly being the
22 largest item in your administrative budget.

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1 Note J on page 12 shows your entire lease
2 commitment for this facility here at 750 First Street as
3 \$12.5 million over all of the years of the lease.

4 And then finally, the reports that we discussed a
5 little earlier, the report's in compliance with government
6 auditing standards starts on page 13. The language in these
7 reports is the suggested language in the yellow book. It
8 follows it very closely.

9 The real operative one sentence that we have in
10 this report is on page 14, the last sentence in the first
11 paragraph, that says, "We noted no matters involving the
12 internal control structure and its operation that we consider
13 to be material weaknesses as defined in this letter."

14 So having said this is really the most important
15 thing. We did not find any material weaknesses. And we
16 hadn't in the years before, either. We just never had issued
17 that report before.

18 And on page 15 is the report on compliance with
19 laws and regulations. And on that issue, we worked with the
20 inspector general's office to identify the laws and
21 regulations to be considered during the audit, and we
22 performed tests and found no instances of noncompliance, and

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1 therefore, have said so in the report, that we have tested
2 items and not found any problems with those items.

3 And nothing else came to our attention that would
4 make us believe that there were problems elsewhere that we
5 just didn't happen to look at.

6 Having said that, that we found no problems, I do
7 have to communicate to you, though -- it is my professional
8 duty to communicate to you that an audit, although it's
9 carefully planned, is designed to only provide you with
10 reasonable assurance that the financial statements are
11 correct. They do not provide you with an absolute assurance.
12 Since audits are based on tests of transactions and tests of
13 balances, we cannot give you absolute assurances.

14 MR. EAKELEY: Thank you very much. I'd just ask
15 whether there were a letter to management, what I call a
16 letter to management. I'm sure there's a more accurate
17 statement. But you've got three recommendations here. Would
18 you like to just -- can we go to that?

19 CHAIRPERSON MERCADO: It would be good to, at least
20 for our purposes, if we could go ahead and have it on the
21 record. It would be very helpful.

22 MS. KASTLER: Tammy, will you please go ahead?

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1 MS. McCUE: The first one we already brought up and
2 discussed briefly, the presentation of internal financial
3 information. As you've seen, all the budgets are prepared on
4 a cash basis, whereas our financial statements are on an
5 accrual basis, which gives us the difference between what was
6 showing up on last year's internal budgeting statements as a
7 net income figure, whereas on the accrual basis statements,
8 we ended up in a loss position.

9 Our recommendation is to, maybe not on a monthly
10 basis but at least periodically, quarterly perhaps throughout
11 the year, that the Board be provided with accrual basis
12 balance sheet income statements which you see both versions
13 of this.

14 MR. EAKELEY: Aren't we doing that now?

15 MR. RICHARDSON: This is a different report. The
16 balance sheet, we will prepare and give to you. All of our
17 records are kept on an accrual basis.

18 MS. McCUE: Any questions on that?

19 MR. EAKELEY: No. I mean I think our treasurer
20 said that we were going to comply with that recommendation,
21 and had.

22 MS. McCUE: And the second one I'm pretty sure has

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1 already been complied with, as well. The general ledger
2 contains one account when we came in at the beginning of the
3 audit entitled "fund balance," and the break-out between
4 designated and undesignated and deferred revenue was not done
5 internally. But my understanding is that's been broken out
6 into the separate accounts and being maintained just as you
7 see it on the financial statement.

8 MR. EAKELEY: Could we just ask Mr. Richardson to
9 confirm that?

10 MR. RICHARDSON: We would be glad to. It has been
11 complied with.

12 MR. EAKELEY: Thank you.

13 CHAIRPERSON MERCADO: Well, I know that on the
14 different budget proposals that we've looked at, it's
15 designed that way. And I think that the last report that we
16 had had it broken out.

17 MS. MCCUE: And the last item was where we were
18 reporting, as required under government auditing standards,
19 to report on the status of any prior year comments, which was
20 the uninsured cash balances which were maintained, which has
21 since been fixed during the current year, so we noted that
22 that problem was taken care of by the Board.

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1 CHAIRPERSON MERCADO: Thank you.

2 MR. EAKELEY: Thank you both very much.

3 CHAIRPERSON MERCADO: I'm not sure if any of the
4 committee members had any particular items for staff. Mr.
5 Forger, before you leave. We had allowed a session in
6 executive session if the auditors or the Board felt that
7 there were any particular matters that dealt with either
8 personnel issues or that could go into executive session.

9 I did discuss with Ms. Kastler for her to be
10 available if we needed her to. Is there any feeling from the
11 Board that we need to go into executive session, or is
12 everything fairly self-explanatory?

13 MR. EAKELEY: I think it's very well presented and
14 reassuring, I must add. I'm wondering whether we ought to
15 ask our inspector general for comments now, while the
16 Grant/Thornton representatives are still here, if he cares
17 to, or whether that's something we can cover in his regular
18 report when we get to the Board meeting.

19 MR. QUATREVAUX: I don't have any comments on the
20 audit, Mr. Chair.

21 CHAIRPERSON MERCADO: Mr. Quatrevaux, do you feel
22 that there's any items that we need to go into executive

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1 session with Grant/Thornton?

2 MR. QUATREVAUX: No, I don't, Madam Chair.

3 CHAIRPERSON MERCADO: Very good. Thank you.

4 MS. KASTLER: Thank you very much for inviting us.

5 MR. EAKELEY: I've just suggested that there is one
6 other item that I do think needs to be covered in executive
7 session, which has to do with operational matters pertaining
8 to the next fiscal year. And I'm not sure whether it's a
9 committee meeting or just that we adjourn for 15 minutes.
10 We've got a deadline that's rapidly approaching that needs
11 some concerted effort.

12 CHAIRPERSON MERCADO: If you want to take a recess,
13 there are some documents that need to go to the Hill before
14 the day's over. If the committee members feel that we need
15 to take a recess for about 15 minutes or 20 minutes --

16 MR. EAKELEY: Or perhaps we should do that in
17 committee, in executive session, with the notation that --

18 MR. FORGER: Well, I think I need to brief this
19 committee on some issues that require a congressional and --

20 MR. EAKELEY: Okay, why don't we do what we can in
21 open session, then?

22 MR. FORGER: Well, I was thinking in the closed

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1 session.

2 CHAIRPERSON MERCADO: Where is our general counsel?

3 MS. BATIE: Downstairs, but we has a representative
4 here.

5 MS. KENNEDY: I'm here from the Office of General
6 Counsel.

7 CHAIRPERSON MERCADO: Is it possible for us to go
8 into executive session on an item that we have noted on the
9 agenda under "Discussion of proposed fiscal year '95 budget
10 for the Corporation," but there are some internal personnel
11 aspects that need to be discussed in that '95 budget that was
12 not noted to go into executive session?

13 The question is, can we do it at this point, when
14 it was not noted to the public? That's the concern.

15 MS. KENNEDY: I'm going to have to check on that.
16 I can get back to you shortly.

17 CHAIRPERSON MERCADO: Real shortly.

18 MR. EAKELEY: Why don't we take a 15-minute break.

19 CHAIRPERSON MERCADO: Fifteen minute recess and
20 we'll be back.

21 (A brief recess was taken.)

22 CHAIRPERSON MERCADO: We're going back on the

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1 record. A recess is over and we're back to work. We're
2 starting up with item 5 of the open session. And just for
3 the record, we did not take advantage of the closed session.
4 It was not necessary after the report by Grant/Thornton to do
5 so, and we are continuing in open session with item 5, which
6 is review of the budget and expenses through February 28,
7 1994, and Mr. David Richardson's going to do that
8 presentation.

9 REVIEW OF THE BUDGET AND EXPENSES

10 THROUGH FEBRUARY 28, 1994

11 MR. RICHARDSON: Thank you, Madam Chair. For the
12 record, my name is David Richardson.

13 On pages 34 through 43 of your Board book is the
14 presentation of the expenses for the five-month period ending
15 February. Attachment A is a recap of our budget of projected
16 funds allocated and not allocated at this point and where we
17 stand in our fund deficit reduction plan.

18 We have collected to date interest, grant
19 recoveries and miscellaneous income of \$449,000, and our
20 deficit as of February 28 would be \$1,263,700.

21 Attachment B is a summary of the pages. I will
22 walk you through that, and then if you have any questions

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1 regarding additional breakdown, I'd be glad to go over those
2 with you.

3 The total budget --

4 MR. SMEGAL: Excuse me. Let me go back to
5 Attachment A for a moment. The projected grant recoveries,
6 interest income and so on, those were projections for the
7 year; is that correct?

8 MR. RICHARDSON: That is correct.

9 MR. SMEGAL: That is not prorated 5/12ths or
10 something?

11 MR. RICHARDSON: No, sir, that is for the year.

12 MR. SMEGAL: So in other words, we've already
13 exceeded in grant recoveries what we expected to obtain for
14 the entire year?

15 MR. RICHARDSON: That's correct, sir.

16 MR. SMEGAL: Thank you. What's the miscellaneous
17 income?

18 MR. RICHARDSON: That is a litigation recovery.

19 CHAIRPERSON MERCADO: Of course, the interest
20 income is probably going to be lower, right?

21 MR. RICHARDSON: Interest? It should be higher.

22 CHAIRPERSON MERCADO: Okay, go ahead.

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1 MR. RICHARDSON: This year's total budget is \$401
2 million. The budget for the delivery of legal assistance,
3 which would cover your field programs, supplemental service
4 provision, is \$367,900,000.

5 We have expended, given contracts to date
6 \$364,600,000, with the remaining portion, the \$3.2 million,
7 remaining funds.

8 There is an attachment, as far as footnotes, to the
9 back of this that's on page 43, if I'm not mistaken, that
10 would give you a breakdown of those funds that are covered
11 for short-term funded, and then the contingency funds that we
12 do have. It's on page 42 and 43.

13 Within the support for delivery of legal
14 assistance, we have a budget of almost \$22,800,000. We have
15 contracts to date of \$22,469,000. So there's \$300,000
16 basically in remaining funds.

17 Covered under that category is your training and
18 technical assistance line and then other support, which would
19 be your CALR, Clearinghouse and so forth.

20 Under the grant administration or Corporation --
21 CHAIRPERSON MERCADO: We've expended all of it?

22 MR. RICHARDSON: Within your technical and training

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1 and technical assistance? Yes, ma'am.

2 Under III is Corporation management and grant
3 administration. Total budget is basically \$10,600,000. To
4 date, we have spent \$4.2 million, which leaves a balance of
5 6.3.

6 Of the remaining funds, a key note, you might want
7 to turn back to page 42 and 43, most of this is for short-
8 term funded programs, the remaining funds, and then there are
9 funds that are left for legislation, for legislative or
10 Corporation initiatives. For instance, I've included in this
11 line the law school monies, the emergency grants in the U.S.
12 Court of Veterans Appeals. Those are funds that are
13 legislatively designated for those programs.

14 We also have state support money for five new state
15 support centers. And under the Board initiatives we have a
16 budget of 360. We've spent 73 to date, and the remainder of
17 that basically is for your presidential search, the NOCA
18 grant, which was let in March, so that is taken care of, and
19 then the competition initiative has a balance of \$189,000.

20 In a very quick summary, as far as management and
21 administration --

22 MR. SMEGAL: Hold it just a minute. On state

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1 support, you say Puerto Rico, Virgin Islands, Guam,
2 Micronesia are all new state support centers and we're going
3 to create those with \$100,000?

4 MR. RICHARDSON: That was the initial seed money
5 that was given to us, yes, sir.

6 MR. SMEGAL: Where do you get the \$20,000 for the
7 District of Columbia?

8 MR. RICHARDSON: Not a whole lot, and that's one of
9 the things that we will be -- we're developing internally and
10 hope to be presenting to the Board as to some plans for
11 future state support in these areas and the needs of these
12 areas, and other areas.

13 MR. SMEGAL: Thank you.

14 MR. RICHARDSON: I can go through the management
15 and administration budget if you'd like. There's nothing
16 really critical in nature that's going on at this point. We
17 should be at 42 percent of the budget for the year. We're at
18 basically 40.5 percent, so we're underbudget in all the
19 categories except, of course, the capital, and that was money
20 that we spent the first few months, and there's very little
21 future plans for spending there.

22 MR. EAKELEY: Although, as you told us before, I

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1 think, spending tends to accelerate towards the end of the
2 fiscal year.

3 MR. RICHARDSON: In some cases, yes, sir.

4 Next month, at your May meeting, we will be
5 preparing projections, coming to you with internal budgetary
6 adjustment, as needed, and any reallocations between offices
7 that are needed. And the procedures that we follow, of
8 course, we will go through next, as far as the modifications
9 for the creation of the budget, and then any modification of
10 the budget thereafter.

11 Is there any additional questions or anything that
12 I should speak to?

13 CHAIRPERSON MERCADO: I was just real curious, you
14 know, when we're changing the items in the Office of Human
15 Resources and management and administration, to try and put
16 those together under one category of funding. I know we've
17 done that for the projected budget for fiscal '95.

18 When we do our quarterly statements, if we're
19 already, in effect, doing that, will we just assume that
20 we're going to add both those lines for what actually has
21 gone into one department at this time?

22 MR. RICHARDSON: The areas that we talked about

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1 splitting up between the offices, yes, the dental is already
2 done. We're working. There is one element, which is
3 disability insurance coverage, that will be reflected here
4 next month, and in the future and every month thereafter it
5 will be in the appropriate budget.

6 CHAIRPERSON MERCADO: Okay.

7 MR. RICHARDSON: The one item that we talked about
8 breaking out, and I'll give you information on that next
9 month, was the occupancy. We will break it out and basically
10 give you a cost sheet, much like Attachment D, that'll tell
11 you how much it costs for occupancy, insurance.

12 We will make an allocation based on the number of
13 employees per office and sort of tell you how much it's
14 costing you to run each office in the Corporation, try to
15 break out telephone, supplies, anything that we can develop
16 some hard information on, to give you a better understanding
17 of what it does cost to run each office.

18 MR. EAKELEY: Thank you very much.

19 CHAIRPERSON MERCADO: Any questions?

20 (No response.)

21 CHAIRPERSON MERCADO: Thank you. I believe that
22 this item is mainly presented for our review and there's not

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1 any action we need to take on it, as far as the presentation
2 is concerned. Because you said we're supposed to be like
3 generally at about 42 percent of the budget and we're at 40?

4 MR. RICHARDSON: 40.5, yes, ma'am.

5 CHAIRPERSON MERCADO: Thank you.

6 CONSIDERATION OF PROPOSED AMENDMENTS

7 TO THE COMMITTEE'S GUIDELINES FOR ADOPTION, REVIEW
8 AND MODIFICATION OF THE CONSOLIDATED OPERATING BUDGET

9 CHAIRPERSON MERCADO: Now we'll go to item 6,
10 guidelines, revision. Everyone's had an opportunity to look
11 at that.

12 Pretty much from my discussions with Mr.
13 Richardson, a lot of the changes that are being proposed is
14 to streamline and clarify responsibilities for how funding
15 decisions are made, but if you will, Mr. Richardson, just go
16 through the different provisions. And then if any particular
17 member of the committee has a problem or a question, we can
18 deal with it at that point.

19 MR. EAKELEY: This is a staff proposal?

20 MR. RICHARDSON: Staff? Yes, sir. And there are
21 places where I will note that there are some options that we
22 need to decide, as to how we want to handle any modifications

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1 in the future.

2 The first paragraph deals with the submission of a
3 consolidated operating budget. And in the past, you'll see
4 that we didn't really develop a budget until we had an
5 appropriation. And there have been times when the
6 appropriation figures didn't come in until November or
7 December.

8 So what we're proposing here is that there be a
9 budget introduced, and this language would clean it up, that
10 there be a budget at the start of each fiscal year. That way
11 we would have an operating premise to go on.

12 And we would supposedly, in this first paragraph,
13 we would have the appropriation levels, we would have a
14 projection of the current year's carry-over, and we would
15 present a budget to you.

16 Further in here, when we do not have an
17 appropriation, we address that also, that we do have a
18 continuing operating authority, which prior boards, even
19 though it was in the guidelines, did not adopt. We're making
20 it a requirement. We're putting it up front.

21 CHAIRPERSON MERCADO: And that, of course, is
22 really reflective, when we came in as a new Board, that there

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1 had not been a COB that had been adopted, yet we were
2 expending funds. So I know for me and I think for the whole
3 Board, there was some concern to make sure that we had an
4 accepted COB. Go ahead.

5 MR. EAKELEY: I think these are pretty self-
6 explanatory.

7 CHAIRPERSON MERCADO: Yes.

8 MR. EAKELEY: Do you want to just get to the points
9 where there are policy choices that are being presented by
10 the changes?

11 CHAIRPERSON MERCADO: Sure.

12 MR. EAKELEY: This is such a welcome change for the
13 better, as it is.

14 MR. RICHARDSON: Okay. You're correct in that they
15 do -- we've tried to match the committee and Board's roles in
16 this and clarify it.

17 You might want to turn to page 2, and I have noted
18 there that there is a question at this point that would
19 change policy, and that is in the level of approval of the
20 consolidated operating budget by the Board.

21 MR. SMEGAL: Excuse me, David, before you go to
22 page 2, let's go back to page 1. And this is just a real

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1 minor thing. You've got highlighted as an addition the five
2 words, "A projection of the current four years." Up above,
3 in the prior sentence, we're talking about each fiscal year.

4 Would it not be helpful to have that read, "A
5 projection of the current fiscal years," just to have it be
6 consistent with the first sentence?

7 MR. RICHARDSON: We talk about the level of Board
8 approval in the consolidated operating budget. When we
9 passed the budget that we've just reviewed, the Board
10 reviewed all the operating lines within management and
11 administration, and that is the main area, of course, that
12 we're focussing attention to.

13 What this -- there's a question here, do we want to
14 continue the level of Board approval, where you would approve
15 how much money goes to inspector general -- of course we will
16 do that, but executive office, general counsel, human
17 resources, or if the Board would prefer to review that
18 information, but yet adopt a budget that is similar to the
19 one on the Attachment B-2, which shows a one-line management
20 and administration budget?

21 MR. EAKELEY: May I comment on that? I think the
22 Board ought to approve the budget, and I think the Board

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1 ought to know what is in the budget that's being approved.
2 Doesn't need to be to a dollar level, but at the same time, I
3 think the Board needs to set the operating parameters of each
4 major line of expense or area of expense.

5 MR. SMEGAL: Well, I hate to disagree with my
6 chair, but B-2 has the advantage of fitting on one page, for
7 starters.

8 But in addition to that, my recollection is that
9 the Board approving or a committee of the board, Audit and
10 Appropriation Committee approving III has resulted in the
11 Board being given a book about that thick, going through it
12 position by position.

13 MR. EAKELEY: That wasn't what I was -- let's look
14 at the exhibits. That's not the level of detail I was
15 referring to.

16 MR. SMEGAL: I may withdraw my disagreement.

17 MR. EAKELEY: Give us the two alternatives that you
18 would propose the Board look at in approving the budget or --

19 MR. RICHARDSON: Okay, let's refer to B-1 and B-2.
20 But what this does propose is that you still get that book,
21 where position, salary, by individual in the Corporation, you
22 would review.

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1 MR. EAKELEY: What are the two alternatives? What
2 are we talking about?

3 MR. SMEGAL: Doug, they're right here. B-2 just
4 gives you a one-liner totalling management and administration
5 across. And the prior page would show it broken off between
6 the Board and --

7 MR. EAKELEY: That's what I thought we were talking
8 about. Why does either of these require reviewing position
9 by position by the entire Board?

10 MR. RICHARDSON: It doesn't require it but --

11 MR. EAKELEY: Okay. Let's just keep to what we're
12 talking about here. Is what you're asking, does the Board
13 want a single-line management and budget, or a presentation
14 as found in Attachment B-2?

15 MR. RICHARDSON: That's correct.

16 MR. EAKELEY: That's the level of detail I was
17 referring to, not the position by position. Maria Luisa
18 likes to read those late at night.

19 MR. SMEGAL: Doug, that may very well be -- what
20 you say may very well be true but second proposed revision
21 explanation, second sentence, doesn't say that to me.
22 Attachment B-2 proposes a reduced level of Board approval for

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1 management and administration. "This reduced level of Board
2 approval would give the president a greater degree of control
3 and flexibility of the M&A budget."

4 In other words, the budget that's shown in B-1, on
5 the facing page, primarily the III, breaks down into 10
6 categories, management and administration.

7 If I understand what's being requested here or what
8 we're being offered is the opportunity to give to the staff
9 president more discretion with respect to those individual
10 line items A-1 to 10, and that we, as a Board, would not
11 approve that broken down in that way.

12 CHAIRPERSON MERCADO: We wouldn't approve this.

13 MR. SMEGAL: We wouldn't approve it that way. We
14 would approve it the way it's shown on B-2, which would be a
15 total line item for management and administration called III-
16 A.

17 And I think that's the question, isn't it? It
18 isn't a question of -- we could still have the book and see
19 how much someone in some staff level makes or what increase
20 you have in mind for them, but the question is what do we
21 approve and how much discretion there is given to the staff
22 president, and what you're proposing in B-2 would be that

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1 more discretion be given to the staff president with respect
2 to how much goes into lines III-A-1 to 10.

3 MR. RICHARDSON: That's correct.

4 MR. EAKELEY: I think that those decisions are
5 policy decisions, how much to allocate to the Board of
6 Directors or the inspector general or program evaluation,
7 analysis and review. And I think that that is appropriately
8 lodged with the Board. And I don't think we need to get into
9 positions in order to review and approve management's
10 exercise of discretion in proposing the budget.

11 MR. RICHARDSON: If we can drop down on page 2 to
12 the very next paragraph, the insert that is there, because
13 even if you would decide to go to a one-line management and
14 administration budget, we're still proposing to provide that
15 information to you. It says, "In support of the COB --

16 MR. EAKELEY: No, I'm talking about the Board
17 approving the budget and saying, "We reserve to ourselves the
18 policy decision that goes with resource allocations between
19 spending functions, or operating functions with spending
20 implications."

21 MR. RICHARDSON: I was just hearing a different
22 question. I was hearing a question that Mr. Smegal was

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1 raising, that maybe you wouldn't be given that information.
2 You would be, even if you decided that.

3 MR. EAKELEY: I'm just talking about who decides
4 and what is it that's presented for decision. But that's
5 just my view.

6 MR. SMEGAL: Well, I guess we have an example of
7 having been through this exercise. We came in to a COB that
8 started in October and then had to determine how to reduce
9 it. And what we did as a Board is review what David and
10 others presented to us on a line item basis, and under the
11 circumstances that we were presented with, I think that was
12 probably a good idea. It gave us an opportunity to learn
13 about the process.

14 But I'm not so sure, year to year, that kind of
15 detail is necessary for a policy board.

16 MR. EAKELEY: But Tom, when we had -- I hope you're
17 right. I mean, you're probably right, but all it takes is
18 just a presentation by the president and an okay by the
19 Board. We don't have to get into the kind of exercise we
20 went into this year to learn what was there. We merely
21 approve what's being presented.

22 I think maybe I'm overemphasizing the distinction,

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1 but I think that we should not be delegating that sort of
2 policy decisionmaking to the president. That's something we
3 expect the president to recommend and in almost all instances
4 we'll support and approve. But I'd still like to have some
5 requirement that the president come back, on just these 10
6 lines or however many lines there are -- there aren't that
7 many -- to say, "I've decided to allocate \$12 million in this
8 way."

9 MR. SMEGAL: Yeah, but the reality of doing that is
10 to prevent the president from doing what the last sentence of
11 the first paragraph on page 2 would provide for. "This
12 reduced level of Board approval would give the president a
13 greater degree of control and flexibility of the M&A budget."

14 And what I would anticipate that being is where the
15 president, who is here operating day to day, sees a need for
16 an allocation, reallocation of resources, whether it be human
17 resources or other resources, between one line or another of
18 comptroller and administration, human resources, or general
19 counsel, that those kinds of day to day decisions are within
20 the discretion of the president.

21 And if I understand what you're saying, we would
22 continue to have to decide those at our meetings, whenever we

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1 get around to it.

2 MR. RICHARDSON: Can I direct your attention to
3 page 7?

4 CHAIRPERSON MERCADO: Page 7 deals with --

5 MR. EAKELEY: Do you want to get into this?

6 CHAIRPERSON MERCADO: Yes. Page 7 deals with that
7 issue.

8 MR. EAKELEY: Show me where I'm wrong. I mean, I
9 do not want to get into interfering with or taking away day
10 to day management discretion from management in suggesting
11 that -- okay, where's page 7?

12 CHAIRPERSON MERCADO: This is talking about a COB
13 budget that will be recommended for the whole year, as to how
14 it's going to be allocated. And so in a sense, we're talking
15 about what -- I mean, you're right, as far as what the Board
16 considers to be a priority in one category versus the other.
17 But do we think there ought to be more initiatives or do we
18 think there ought to be more evaluations or training within
19 the M&A line?

20 There are policy decisions that affect the level of
21 funding that we would allocate. But page 7, though, if you
22 look at the highlighted area of this change, that's what goes

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1 to your sort of day to day management question.

2 MR. RICHARDSON: The ninth revision that's shown
3 on page 7, actually there's three elements there. If you
4 look at B-1 and you say, "This is the way we want to go," at
5 this point we're looking at an organizational assessment
6 right now. For the president, for instance, to be able to
7 collapse two offices would require the Board to approve a new
8 COB, showing those monies combined.

9 MR. EAKELEY: Well, we're talking about OPEAR and
10 OPS.

11 MR. RICHARDSON: Yes.

12 MR. EAKELEY: I think that's an example of where I
13 would like the president to come back to the Board before
14 something, and is and has. That, I think, is something that
15 isn't going to happen every day and is not a daily management
16 task, I wouldn't have thought. The Board's not putting at
17 risk the president's ability to operate on a daily basis by
18 saying if you're going to collapse two operational units, and
19 it has a budgetary consequence, please come back to us.

20 MR. FORGER: I think that is a fundamental program,
21 quite apart from budget implications, should be before the
22 Board. But if it's simply putting more money into the

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1 director category or the search category or monies into
2 something not fully anticipated that requires, I would think
3 that's within these confines as perfectly okay, particularly
4 if the Board is not going to be meeting every month. And I
5 don't know, going into the future, whether you're going to be
6 meeting every month. There's a time issue.

7 Secondly, at some point, there may be an executive
8 committee, and maybe by telephone you can clear things in one
9 telephone call.

10 Certainly, if it's merely allocating between one
11 line and another, you shouldn't have to wait for three months
12 to get approval of a full Board meeting, or two months. But
13 I think a lot of that will become clearer as the experience
14 goes on, but I would -- I'm generally for more discretion
15 rather than less and I would trust myself for the moment, to
16 exercise that wisely and with notice and consultation, if
17 that was important in advance.

18 MR. RICHARDSON: I have probably used the worst of
19 examples. Let me relate an example. For instance, we have
20 talked about the needs of staffing in my office. There is no
21 money right now for an additional accountant.

22 If the president would say, "Okay, we want to

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1 allocate some money from the OPEAR budget to the
2 Comptroller's Office to hire an additional accountant, he
3 would have to come back to the Board to seek that approval,
4 to move that money.

5 MR. FORGER: Better illustration.

6 MR. RICHARDSON: Now, there's actually three
7 levels. Within this one revision there's three areas that we
8 could deal with. One is full Board approval. The other is,
9 as suggested, the Audit and Appropriations chair or the
10 president approving.

11 MR. EAKELEY: Tell me why, in a \$2 million line for
12 comptroller and administration, you'd have to get a
13 modification of the budget in order to hire another -- at
14 some point, yes, if all other things remain equal, I suppose
15 but --

16 CHAIRPERSON MERCADO: There's not a lot of
17 breathing room in the thing. I mean, that is going exactly
18 for the salaries, the benefits, the overhead, all this stuff.
19 I mean, there is no contingency funds within any of those
20 departments, realistically, to allow you to hire additional
21 staff.

22 As it is, I think in most departments, and correct

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1 me if I'm wrong, we've had vacant positions that haven't been
2 filled because we haven't had the money.

3 MR. RICHARDSON: That's correct.

4 CHAIRPERSON MERCADO: And part of the deficit that
5 we show bears that out, in the long run. So we don't have
6 contingency funds there that could take up a new person.

7 MR. EAKELEY: Okay. So you're moving to ninth
8 proposed revision, right, as the other two alternatives?

9 CHAIRPERSON MERCADO: Well, it's just that the
10 ninth revision deals with the day to day things that Tom was
11 talking about. The first section that we're talking about
12 was in the overall COB that is approved, you know, on a
13 yearly basis.

14 MR. RICHARDSON: All right, when we look at this,
15 relate it to B-1 and B-2. If we leave B-1 in place, where
16 the Board approves, you could still give the president, of
17 course, the authority to make those reallocations between
18 offices or the A&A chair or the full Board, as we're doing
19 now.

20 To help streamline, you could invest it in the
21 president or A&A chair with a reporting requirement to the
22 full Board. And that way he or she could address, the future

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1 president, the operating needs of the Corporation.

2 MR. EAKELEY: Alex, which of those three are,
3 notwithstanding your declaration of interest in more rather
4 than less discretion, would it be workable to have review of
5 recommended COB reallocations to the Audit and Appropriations
6 Committee chair?

7 MR. FORGER: I would think -- this is a staged
8 governmental process we're going through. And so, for right
9 now, why not report to the Audit Committee in advance? And a
10 year from now, you may determine that that isn't necessary
11 and the president could do --

12 CHAIRPERSON MERCADO: In fact, one of the things
13 that I had mentioned to Gerry, not to David but to Gerry, is
14 that I sort of felt that maybe there should be a compromise,
15 maybe not where you would need to have a full Board meeting
16 if, in fact, in the future we lessen the number of Board
17 meetings, but that if your A&AC committee has to meet a lot
18 quicker, it's probably easier to have three people be able to
19 get together and review, with recommendations.

20 And I feel more comfortable with recommendation to
21 the A&AC committee versus the A&AC chair, myself.

22 MR. EAKELEY: Will you and Tom go along with B-1

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1 budget if we do the middle ground recommendation of review
2 and approval by the Audit and Appropriation Committee chair?
3 Is that a fair trade?

4 CHAIRPERSON MERCADO: Well, committee actually. I
5 feel it was better that the committee --

6 MR. EAKELEY: Well, you see, I like it the way it's
7 written because then you can decide whether or not it's
8 significant enough to take to committee for approval. So it
9 rests discretion in a Board chair, a Board committee chair,
10 on how significant that is.

11 So I don't think you have to have a committee
12 meeting to decide whether -- first pass is just review and
13 then you decide whether or not to take that to the next step,
14 which would be committee. And the committee could decide
15 that this really is something the Board ought to look at
16 because somebody on the Board's been particularly concerned
17 about it or whatever.

18 So that sort of middle level would be -- it avoids
19 having a meeting just to have a meeting.

20 MR. RICHARDSON: And actually, paragraph 7, that's
21 exactly what's contemplated.

22 MR. EAKELEY: Instead, it provides more flexibility

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1 if the Board isn't meeting regularly.

2 MR. RICHARDSON: This proposal, of course, would
3 vest it in the A&A chair and then if you decide that there is
4 sufficient need for a meeting, paragraph 7 then brings it
5 back to the committee to decide.

6 CHAIRPERSON MERCADO: I think that the concern that
7 you had about reallocations being done in areas that perhaps
8 the Board didn't feel should be delved into, that this
9 paragraph on page 9, paragraph 7, pretty much allows any
10 Board member, whether or not they're a member of the A&AC
11 committee, if they have an objection to that reallocation,
12 the president is to suspend immediate expenditure of that
13 allocation.

14 MR. EAKELEY: Yeah, I think there are enough
15 controls there.

16 CHAIRPERSON MERCADO: I think that we have
17 incorporated enough safety valves in there so that, you know,
18 you don't have a runaway, mad person mismanaging money, you
19 know, if that's a concern, but that there is enough
20 overseeing along the way, but not so much so that you're
21 totally strapped from carrying on emergency situations or
22 stuff that you need to do.

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1 MR. RICHARDSON: The last one that I probably
2 should bring to your attention, most of the others, you say,
3 are clarifications, clean-up items, but in the special
4 contingency funds in paragraph number 8 on page 9.

5 This year we have a \$200,000 contingency that the
6 president can use at his discretion to address changing
7 needs, as they come about. This would limit the adjustment
8 in any quarter to \$75,000 unless approved by the A&A chair,
9 as we're now going toward.

10 This was in the last proposed modifications. It
11 was taken out because we only had \$50,000 in contingency
12 funds. So the chairman at that time thought it was a non-
13 issue and it was taken out of the guidelines.

14 MR. EAKELEY: I'm comfortable with that.

15 MR. RICHARDSON: I think from the direction I hear,
16 we stay with B-1, vest any reallocations within the M&A in
17 the A&A chair, with a report from the president. And what
18 I'll do is I'll produce a clean copy that you can look at
19 tomorrow, and hopefully we can present it to the Board at
20 that time.

21 CHAIRPERSON MERCADO: On any of the other
22 provisions, do any of you have any additional questions on

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1 that? Like said, most of the writing in this was really
2 dealing more with clarifying, I think, the language. Some of
3 it was more --

4 MR. SMEGAL: In Paragraph 5 I think you crossed out
5 too many words, at the top of page 6. I read what's left
6 there to be "COB reallocations may be made by the president
7 after review by the committee," and then you thereafter
8 strike the word "and," which I think you should put back in
9 because what follows it is "approval by the Board."

10 So it reads, "Review by the committee, approval by
11 the Board." It's not grammatically correct.

12 CHAIRPERSON MERCADO: I think I had noted that in
13 my little cheat sheet.

14 MR. SMEGAL: I want you to see I'm really reading
15 these carefully, David.

16 MR. EAKELEY: Why don't we suggest that the
17 grammarians work it out when this thing goes back for
18 redraft.

19 CHAIRPERSON MERCADO: Yeah, there are a couple of
20 grammar points that I had circled out and you can clean that
21 up.

22 MR. SMEGAL: Oh, I see.

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1 CHAIRPERSON MERCADO: See, it's review, approval
2 and delivery are the three.

3 MR. SMEGAL: Well, the problem is the comma's been
4 deleted.

5 CHAIRPERSON MERCADO: Any other questions on any of
6 these? So --

7 MR. SMEGAL: So do we have a recommendation on 9,
8 alternative 1 or 2?

9 CHAIRPERSON MERCADO: I think we're looking at
10 alternative 1. Is that a consensus on the 1?

11 MR. EAKELEY: Mm-hmm.

12 CHAIRPERSON MERCADO: Okay. And then we have the
13 other alternative on page -- oh, the attachment B-1 and
14 attachment B-2, and we prefer the attachment B-1.

15 MR. RICHARDSON: We might want to look at the
16 calendar just for a moment. We did note, in the prior
17 meeting, there is a scheduled meeting for the A&A in August.
18 There is not a scheduled Board meeting. I just bring that to
19 your attention, that we might want to address that.

20 CHAIRPERSON MERCADO: Well, and we had addressed
21 that at the last Board meeting, if you'll recall, that it was
22 our feeling that we needed to go ahead and meet, A&A, on that

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1 month, even if the full Board didn't meet, because we're
2 going to be dealing with the budget mark for fiscal '96 and I
3 know people don't want to be get caught in that.

4 You know, we've had so much work to review in the
5 last two or three months dealing with FY '94, fiscal '95,
6 when we didn't start on time on budget mark '96. And so I'd
7 rather that we follow the calendar schedule so that we're not
8 working 24 hours a day trying to get everything in at the
9 last minute.

10 So that would be preferable, that we schedule a
11 meeting for then, and we'll just need to look at our
12 committee members who globe-trot.

13 MR. EAKELEY: Or you could do it by written
14 submission and conference call.

15 CHAIRPERSON MERCADO: No. Sunshine Act -- we've
16 already checked that. We cannot do a conference call with
17 the Sunshine Act. Trust me. We've checked that out. We
18 tried to do that, and we can't. So we will have to physical
19 meet somewhere, and we may meet in the middle of the country,
20 easy for everybody to get to and from.

21 MR. FORGER: On appropriate notice.

22 CHAIRPERSON MERCADO: Yes. If there's not any

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1 other comments on the proposed guidelines, I would entertain
2 a motion to accept the recommended changes.

3 MR. EAKELEY: We're just to consider them?

4 CHAIRPERSON MERCADO: Are we considering them?

5 MR. RICHARDSON: And adopt.

6 M O T I O N

7 MR. EAKELEY: Oh, I'm sorry. So moved.

8 MR. SMEGAL: While I second, I want a moment to
9 speak to that before you do that. I want just to have the
10 record note that this was, other than motions to adjourn,
11 this was the only thing I can recall in five and a half years
12 that unanimously adopted by the prior Board upon which I
13 served, so it's with great trepidation that I join in an
14 effort to change that unanimous vote of 1985.

15 MR. FORGER: Wow, historic moment.

16 CHAIRPERSON MERCADO: All those in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON MERCADO: Opposed?

19 (No response.)

20 CHAIRPERSON MERCADO: The motion carries and we'll
21 report that to the Board. Now, discussion of fiscal year '95
22 budget.

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1 DISCUSSION OF PROPOSED FISCAL YEAR 1995.

2 BUDGET FOR THE CORPORATION

3 MR. FORGER: Madam Chair, is that simply going to
4 be a discussion of the outline of this \$500 million?

5 CHAIRPERSON MERCADO: Yes, sir, and I would like,
6 Mr. Forger, is you and Mr. Richardson would address us as to
7 that point, you know, just in general, as to what the status
8 of that is, yes.

9 MR. FORGER: Is it all right if I just stay here?

10 CHAIRPERSON MERCADO: That's fine.

11 MR. FORGER: We are scheduled to testify next week
12 with the House Subcommittee on Appropriations with respect to
13 our 1995 budget. The budget adopted by the Board called for
14 requested expenditures of \$848 million. That was the goal to
15 achieve minimum access. It is the equivalent of what \$321
16 million was in 1981.

17 In discussions with the subcommittee staff, it
18 seemed wiser for us, in testimony, to address the \$500
19 million figure which was proposed by OMB. And so we had the
20 administration support to the level of \$500 million. The
21 Senate Budget Committee has approved a \$500 million request.
22 The House Budget Committee reduced that to \$440 million, but

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1 that isn't binding on the Appropriations Subcommittee. That
2 was simply an expression as to how they would fit all the
3 needs into the monies that were available.

4 So this week, Madam Chair, you and our chairman
5 will be appearing before the subcommittee, which now has a
6 new chairman, Mr. Mollahan replacing Neal Smith, who has
7 moved to another subcommittee with the death of Mr. Natcher,
8 who was chairman of the Appropriations Committee.

9 The \$500 million is quite like the \$400 million
10 increased proportionately for the additional \$100 that is
11 expected. It allocates 90 percent of the budgeted amount to
12 direct delivery of legal assistance and approximately the
13 remaining 10 percent to support and management and
14 administration.

15 The only variations are proportionately more, by a
16 small amount, goes into the support centers, which have been
17 undernourished for several years. The direct field programs
18 will get some 23 percent increase of this proposed 25 percent
19 increase in our budget, whereas the support centers will get
20 some 30 percent of increase.

21 The President's budget, which we're supporting, a
22 request identifies certain areas where there will be

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1 opportunity for the Board to exercise some discretion in
2 program improvement and some additional innovative programs.
3 But otherwise, it is quite similar to the 400 figure, leaving
4 discretion in the Board yet to allocate monies for other
5 direct delivery, which would embrace law schools and
6 supplemental field programs, attorney recruitment, and any
7 other special opportunities.

8 So, too, with the category of other support for the
9 delivery. It has a figure increase over last year of about
10 \$3 million, \$3-4 million, which embraces categories of
11 clearinghouse, CALR grants, regional training centers and
12 other opportunities for program improvement and new Board
13 initiatives.

14 So we expect, Madam Chair, that you will be
15 persuasive this week and we will have the support of the
16 subcommittee, which will then carry it on to the full
17 committee.

18 David, any corrections or supplementation to that?

19 MR. RICHARDSON: The only other thing that I might
20 add is there is an additional amount that is increased for
21 the Native American and migrant components also, because they
22 have likewise been starved the last few years, with the

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1 majority of the increases going to the basic field.

2 MR. FORGER: They go to 30 percent instead of 25.

3 MR. RICHARDSON: That's correct.

4 MR. FORGER: And there is also another postscript.
5 We have in there the opportunity, which we will hear about at
6 the next committee meeting, Provisions, \$2 million earmarked
7 tentatively for people in institutions.

8 CHAIRPERSON MERCADO: I know that because we are
9 looking at, realistically, at a time when budget constraints
10 are at an all-time on the Hill, that we want to present a
11 realistic budget which is in line with OMB and the
12 President's recommendation.

13 That does not, of course, take us away from our
14 mission of trying to get minimum access of \$848 million. And
15 I do want to encourage the field, PAG, FCC, NLADA to get
16 their comments to us as quickly as possible, as some of the
17 recommendations or ideas that they have, the client community
18 as well, as to, assuming that we get the \$500 million, what
19 that increase would look like in priorities of programming
20 and services that they might have in mind.

21 So even if people aren't able to come and testify
22 before the committee, if they could go ahead and submit that

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1 information in writing to Mr. Forger, the president of the
2 Corporation, or myself or Mr. Richardson, so that we can
3 incorporate and discuss some of those areas.

4 As you will recall, at the last Board meeting in
5 San Francisco, the Board delegated authority to the chair,
6 Douglas Eakeley, and myself to recommend the different
7 categories and budget items to Congress when we went up for
8 testimony, with as much input as we could have. So we would
9 like to receive that from you.

10 The other thing that we've been trying to do, as
11 well, Mr. Forger, and just for the record, Mr. Forger and I
12 addressed the Hispanic Congressional Caucus yesterday on
13 appropriations and the reauthorization, and we're looking to
14 address the Congressional Black Caucus this week and a
15 variety of other caucuses that have a lot of the similar
16 interests in that they represent a lot of the same
17 constituents that we represent. And we are seeking their
18 support and approval for increased services.

19 MR. FORGER: And I saw earlier this week, Madam
20 Chair, Senator Domenici, who is the ranking member on the
21 Senate side, on Appropriations, and explained to him our
22 program and what was in prospect. If I remember to quote him

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1 correctly, he said he was supportive of legal services, but
2 maybe not to the tune of \$500 million.

3 So we could encourage him to raise his sights and
4 be supportive of that, as well.

5 And we will appear on the Senate Appropriations, I
6 think the first week in May, David, if I'm correct, perhaps -
7 - May 5 will be our hearing on the appropriations.

8 CHAIRPERSON MERCADO: Cinco de Mayo. Big
9 celebration. I think it was the defeat of the French, at the
10 time.

11 If there are any further comments on the 1995
12 fiscal budget request that we are proposing to Congress, is
13 there are any additional comments or input on that, again, I
14 just encourage the field to submit their comments to us as
15 quickly as possible, if not yesterday.

16 If there are any other items before the Audit and
17 Appropriations Committee? If there are none, I would
18 entertain a motion to adjourn.

19 M O T I O N

20 MR. SMEGAL: Move to adjourn.

21 CHAIRPERSON MERCADO: I'll have to second it
22 myself. We're all in agreement. We'll adjourn. Thank you,

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