

LEGAL SERVICES CORPORATION

COMMITTEE ON AUDIT AND APPROPRIATIONS

Thursday, September 5, 1985

commencing at 3:40 o'clock p.m.

at Twin Bridges Marriott  
333 Jefferson Davis Highway  
Arlington, Virginia 22202

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P R O C E E D I N G S

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2 MR. MENDEZ: Let the record reflect that we  
3 have a quorum present: Mr. Smegal, myself, LeaAnne Bernstein,  
4 and Paul Eaglin are present. When the other individuals --  
5 Oh, Hortensia is present as well. And when Mike appears,  
6 we will enter his name on the record.

7 At this time I would like to hear a motion to  
8 approve the agenda.

9 MR. SMEGAL: So moved.

10 MR. MENDEZ: Second?

11 MS. BENAVIDEZ: I second it.

12 MR. MENDEZ: All in favor?

13 (Chorus of ayes.)

14 MR. MENDEZ: Opposed?

15 (No response.)

16 MR. MENDEZ: I turn your attention next to  
17 the draft minutes and ask if there are any additions,  
18 corrections, or amendments.

19 MR. EAGLIN: Mr. Chairman, I'd like to ask  
20 for your recollection. Either at this meeting, the meeting  
21 of this committee last month, or the Board meeting, I  
22 specified the types of information I wanted. Neither  
23 set of minutes indicates the listing that I indicated.

1 I do recall though at the Board meeting and  
2 first at your meeting you indicated that requests were  
3 made. So I specified, as I recall, either at that meeting  
4 or the Board meeting the next day. Then Clark Durant  
5 asked me to get with Mr. Gessner and I did get with him.  
6 So that was the way that I was to proceed in terms of  
7 the information that I wanted. But I can't recall whether  
8 it was the minutes of our committee or the Board meeting.

9 MR. MENDEZ: Paul, my recollection is I don't  
10 recall you doing it at either one.

11 MR. EAGLIN: I specified, for example, that  
12 some of the information I wanted was monthly spending  
13 rate for certain items, percentage increase or decrease.

14 MS. BERNSTEIN: Could I just suggest that we  
15 check the transcripts?

16 MR. MENDEZ: The record should reflect that  
17 the transcripts for the Audit and Appropriations Committee  
18 was stolen from the Court Reporter.

19 My recollection is that you did not.

20 MR. EAGLIN: Okay.

21 MR. MENDEZ: Well, Paul, I'll tell you. I  
22 assume that you're going to readdress this issue later.  
23 I would like to have it. We're going to be redrafting

1 the provision on what all Mr. Gessner has to do and when  
2 and the dates and that sort of thing. We sent that material  
3 out to you. I want to make sure that you review that,  
4 but we're going to address that in October.

5 MR. DOUGHERTY: Mr. Uddo made some similar  
6 requests which are recorded on page 17 of the Board minutes.

7 MR. MENDEZ: I recall Uddo doing it. I just  
8 don't recall you doing it.

9 With the caveat that we have there, is there  
10 any other addition or correction?

11 (No response.)

12 MR. MENDEZ: None appearing, the minutes will  
13 stand approved as prepared.

14 Now I invite the committee's attention to the  
15 Audit and Accounting Guide Report. I would ask Mr. Nusbaum  
16 to come forward, please.

17 MR. NUSBAUM: Thank you, Mr. Chairman.

18 Included in your committee book on page 7 is  
19 a report on the status of the revised audit and accounting  
20 guide. Also attached to the report is a chapter by chapter  
21 analysis of the public comments that were submitted in  
22 response to our notice in the Federal Register as well  
23 as the Audit Division's responses to how these comments

1 will be addressed or why we considered no changes necessary  
2 in response to a particular comment.

3 I would like to take a few minutes to summarize  
4 this report for you and then answer any questions that  
5 the committee may have.

6 As you are aware, the Audit Guide was circulated  
7 to LSC recipients for a nine-day comment period. Notice  
8 was also placed in the Federal Register advising the  
9 general public that the Audit Guide had been revised  
10 and that copies would be made available to all who requested  
11 one.

12 The official comment period expired on May  
13 20th, 1985. As of that date, we had received a total  
14 of 72 comments. Only one additional comment has been  
15 received since that date.

16 I would like to note that the comments that  
17 were submitted for the most part raised important issues  
18 which can and will be addressed in finalizing the Audit  
19 Guide.

20 Since the close of the comment period, we have  
21 made several changes to the Audit Guide both in response  
22 to the comments and to incorporate new ideas such as  
23 the use of a standardized reporting format for LSC files.

1           Recent developments such as the changes to  
2 the PAR regulations and the decision to develop a new  
3 regulation on questioned costs are going to result in  
4 additional changes to the Audit Guide.

5           It is my intention to have a completed final  
6 draft available to the committee by its October meeting.  
7 If the revised draft is acceptable, I would recommend  
8 that we publish it in the Register and note an effective  
9 date at least by January 1st, 1986. Our goal was to  
10 have it effective by the beginning of the next grant  
11 year.

12           I would be happy to answer any questions.

13           MR. MENDEZ: If we publish it next -- Have  
14 you taken into account almost all of the comments?

15           MR. NUSBAUM: All of the comments that we received.

16           MR. MENDEZ: All right. I've read your summary.

17           Tom, do you have any questions?

18           MR. SMEGAL: No.

19           MR. MENDEZ: Paul?

20           MR. EAGLIN: Mr. Chairman, I would like to  
21 make a comment. It's going to apply to today as well  
22 as to tomorrow. I did not get a Board book for this  
23 meeting. I just picked it up when I walked in today.

1 So I'm not prepared to ask any questions as I have not  
2 had an opportunity to go over this. I have received  
3 very little mail since the last meeting. I didn't get  
4 any of the materials.

5 MS. BERNSTEIN: Maybe your materials were sent  
6 to me. I got two.

7 MR. EAGLIN: You got a double set?

8 MS. BERNSTEIN: I got two sets.

9 MR. EAGLIN: By the time I realized that I  
10 did not have it -- I talked with Ms. Johnson last week  
11 and realized I did not have it and the meeting was coming  
12 up soon. She offered to send a set to me, but with what  
13 I had to, I realized I wouldn't be able to deal with  
14 it. So I declined the offer to send it right then because  
15 even if she had sent it out I would not have been able  
16 to deal with it over the Labor Day holiday. So I'm not  
17 prepared to ask any questions now. I just wanted to  
18 give that explanation now because it's going to obtain  
19 for the rest of this meeting, too.

20 MR. MENDEZ: All right. I'd just like to make one  
21 other thing clear with regard to page 9 of the Board  
22 book in your memorandum. Under the grant assurances,  
23 now they have specifically included the Audit and Accounting

1 Guide as one of the enumerated sections. That is my  
2 recollection. If they haven't, you're to do it.

3 MR. NUSBAUM: Well, one of the assurances,  
4 not this particular one, does say that the recipient  
5 will submit an audit report.

6 MR. MENDEZ: Yes, but Grant Assurance No. 1,  
7 I believe, for the next fiscal year, grant year, specifically  
8 should say Audit and Accounting Guide. My recollection  
9 is that it's in there now for the next year.

10 MS. FRANCIS: It's been in there for a couple  
11 of years.

12 MR. MENDEZ: I want to make sure it stays in.

13 MS. BERNSTEIN: I have a question if I can.  
14 This is a different committee's focus at this point,  
15 but it certainly impacts on the Audit and Accounting  
16 Guide. That's the setoff for questioned cost regulations.

17 MR. MENDEZ: We'll get to that.

18 MS. BERNSTEIN: Then I'll let you.

19 MR. MENDEZ: Go ahead, please.

20 MS. BERNSTEIN: To what extent have you incorporated  
21 the content of that concern? Obviously, if someone is  
22 going to abide by our regulations &-

23 MR. MENDEZ: Well, what he's done under this

1 action is to eliminate it from the Audit and Accounting  
2 Guide.

3 MR. NUSBAUM: Right.

4 MR. MENDEZ: And rely on --

5 MR. NUSBAUM: Well, what we're doing is the  
6 specific criteria for determining eligibility of costs  
7 are going to become the subject of the new regulation  
8 which will eliminate much of the need for what currently  
9 is in chapter 4. What we're doing is redesigning chapter  
10 4 to point out to the recipient's auditor what his respon-  
11 sibilities are to identify and report questioned costs  
12 to us the corporation. And there will also be reference  
13 to the new regulation which is going to be 1630, I believe.  
14 My memorandum says 1631. And it will be part of his  
15 obligation as an auditor to become familiar with the  
16 regulation and incorporate that into the scope of his  
17 audit.

18 MS. BERNSTEIN: Okay, because I know that when  
19 obviously that regulation hadn't even been begun when  
20 your Audit and Accounting Guide went out. I guess one  
21 thing -- we will be getting comments on the regulation.  
22 So that comment process will cover what was --

23 MR. NUSBAUM: Right. What I have done is the

1 majority of the comments, if not all, that I received  
2 dealt with chapter 4 and various provisions of the eligibility  
3 of questioned costs, et cetera. I have provided all  
4 of those to our General Counsel's Office to be considered  
5 when they're working on the new regulation. But I'm  
6 sure they will be repeated during the comments.

7 MR. MENDEZ: Are there any further questions  
8 by the Board?

9 (No response.)

10 MR. MENDEZ: None occurring, thank you.

11 Next matter is the National Support Survey  
12 Report.

13 MR. OSTERHAGE: We will try and keep our comments  
14 brief on this matter today. To speak with you is Steve  
15 Aronson, National and State Support Coordinator in the  
16 Program Development Substantive Support Unit.

17 The survey has been talked about and discussed  
18 in the past. What we have provided in this Board book  
19 is a summary of the information that we have collected  
20 starting last spring and which we continued to collect  
21 throughout the summer in an effort to solicit from field  
22 programs, those recipients of the benefits of the National  
23 Support Centers, some attitudes, feelings, and comments,

1 some indicators of use, and some preferences as to the  
2 way those recipients would like to see funds allocated  
3 for National Support.

4 I would like to just very quickly in summary  
5 fashion review some of the numbers. Steve will reflect  
6 upon the number of letters and various types of comments  
7 we received.

8 One other comment I would like to make at the  
9 beginning: There is an error on page 7 of this report.  
10 We have extra copies of that available today. There's  
11 a reverse listing, an incorrect listing.

12 MR. EAGLIN: What page is that in this book?

13 MR. OSTERHAGE: Page 29 in the book. 7 at  
14 the top; 29 at the bottom. We have extra copies.

15 I want to state at the outset, as we have in  
16 the introduction of our report, that the purpose and the  
17 motive for the survey was to obtain comments and perspectives  
18 of field programs regarding National Support Center utiliza-  
19 tion.

20 It was a voluntary survey. It was meant to  
21 be a non-scientific -- in the statistical sense, a non-  
22 scientific gauge of the value of the National Support  
23 Centers as reported by the field.

1           The purpose of the survey was fairly straight-  
2 forward. It was designed to gather information and percep-  
3 tions about the use, value, and future allocation of  
4 funding for the support centers.

5           So often the Board has been faced with issues  
6 such as this and has had to make decisions in terms of  
7 which direction to go and how to get there. We attempted  
8 to solicit from the field some feelings, some attitudes,  
9 some value preferences as to how they would allocate  
10 funds. That was the purpose.

11           There were three basic questions in this survey:  
12 How often did your organization submit any requests for  
13 assistance in the last 12 months? We asked that for  
14 each of the support centers.

15           The second question was: Would you estimate  
16 the dollar value of those services for each of the support  
17 centers?

18           And, finally, a purely preferential, a value  
19 question asked of anyone choosing to respond: Assuming  
20 a pot of 6.7 million dollars, how would you allocate  
21 the resources?

22           Programs were asked to respond to the survey  
23 by June 7th, 1985. By July 9th, 1985, we extended

1 the deadline a month -- a total of 167 programs had responded  
2 in some format to the survey. 100 simply gave comments  
3 in the form of a letter response and 67 programs responded  
4 by partially or fully completing the survey.

5 To ensure that all parties had an opportunity  
6 to respond, we continued to extend that comment response  
7 period. And during the week of July 10th through the  
8 22nd, staff called 158 field programs that had not yet  
9 responded to the survey encouraging them to complete  
10 the resurvey and/or submit comments.

11 We have included a list of attachments in terms  
12 of the first group of respondents and the latter group.  
13 The information in terms of the numbers here and the  
14 comments are a compilation.

15 For the first question, how often did your  
16 organization submit specific requests for assistance,  
17 90 programs responded to this question. We saw a range  
18 of response. 90 respondents indicated that use levels  
19 vary. For example, the average program had 1.1 requests  
20 of the Indian Law Support Center as compared to the highest  
21 average of 15.2 requests from the National Senior Citizens  
22 Law Center. The information is simply displayed there  
23 in terms of the number responding. It's based on a

1 response rate of 90 programs.

2 MR. MENDEZ: All right, Keith, I've got a question  
3 for you.

4 There have been a lot of complaints that this  
5 was not a satisfactory method of doing matters. If we  
6 want to find out the number of times that people request  
7 information, if we wanted to find out the number of times  
8 that the program is using information from National Support  
9 Centers, can we develop a matrix, a plan, something similar  
10 to this material on page 111 of our Board book and use  
11 that as an addendum to the CSR data?

12 And this is to the next group that is preparing  
13 materials on the refunding application, I want to have  
14 a requirement in there for certification that they must  
15 respond to these questions.

16 MR. SMEGAL: These three questions?

17 MR. OSTERHAGE: No. To the materials on page  
18 111.

19 MR. MENDEZ: On page 111.

20 MR. OSTERHAGE: And this is a questionnaire  
21 you wish to have completed by National and State Support  
22 Centers?

23 MR. MENDEZ: Each state support center. A

1 matrix somewhat similar to that.

2 MR. OSTERHAGE: This is an elaboration of a  
3 survey. It's much more formalized to be a requirement.  
4 It would probably be more accurate and more useful.

5 To the extent that we identified an intent  
6 to measure a request, we would probably need to accompany  
7 it with -- This was a very clear definition of what --

8 MR. MENDEZ: Define it. Get it all cleared  
9 up. But I want to have that in there. I want that data  
10 back. And I want all of the programs to do it.

11 MR. OSTERHAGE: I'm interpreting that as a  
12 directive rather than a question.

13 MR. MENDEZ: That is a directive. And that's  
14 to be in the contract assurances that they will do this.

15 MR. OSTERHAGE: For state support?

16 MR. MENDEZ: No. Every program.

17 MR. OSTERHAGE: For every program.

18 MR. MENDEZ: And the state support, in their  
19 application and assurances, that's to be there. And  
20 in the national support contracts, that's to be in the  
21 national support contracts, that they're going to answer  
22 those.

23 MS. FRANCIS: You're referring to all surveys

1 as opposed to this specific one?

2 MR. MENDEZ: This specific type survey. And  
3 then with regard to all surveys, I don't care about the  
4 language on that, but they're to give good faith effort  
5 to all surveys. But this specific survey, they are to  
6 answer.

7 Do you understand?

8 MR. OSTERHAGE: Yes, sir.

9 MR. MENDEZ: Yes, John?

10 MR. MOLA: Pepe, are you requiring this to  
11 be done by basic field programs?

12 MR. MENDEZ: That's correct.

13 MR. MOLA: For what period of time because  
14 this data is not currently kept?

15 MR. MENDEZ: That's going to be as part of  
16 your contract for calendar year 1986.

17 MR. SMEGAL: That you keep track of information  
18 that would enable you to fill out that at the end of  
19 1986.

20 MR. MENDEZ: It will be quarterly in 1986.

21 MR. MOLA: Pepe, for example, just take consumer  
22 law. In the course of a day, five people in my consumer  
23 law center might consult a National Consumer Law Center

1 law update or manual. Are they to keep hashmarks on  
2 the number of times they made reference to those materials?

3 MR. MENDEZ: That's correct.

4 MR. MOLA: It's impossible.

5 MR. OSTERHAGE: Would you like us to differentiate  
6 or only make it requests which are actually written or  
7 telephonic requests for specific assistance rather than  
8 use of the materials?

9 MR. MENDEZ: You work it out. You come back  
10 in a month and you tell me what it is. That's going  
11 to be part of it. That's going to be done next year  
12 and that's going to be done on a quarterly basis.

13 Go ahead.

14 MR. OSTERHAGE: Question No. 2, the estimation  
15 of the value of the services, was responded to by 49  
16 programs.

17 Question No. 3, how would you allocate the  
18 upcoming funding, assuming a pot of 6.7 million, was  
19 responded to by only 12. The numbers are there for you  
20 to see.

21 What we see here is out of all the field programs,  
22 a long opportunity to respond, encouragement to respond,  
23 there was an admitted difficulty in responding. To that

1 extent, we also said we want your written comments or  
2 how you feel about it. That's why they included the  
3 comments.

4 Programs responding to the estimation of number  
5 of requests decreased to 49 for those who estimated or  
6 placed a value on those requests and only 12 programs  
7 expressed an opinion as to how they would allocate funding  
8 presumably from their own perspective of where they would  
9 like to see the money based on their own priority.

10 Once again, this material was gathered I think  
11 just in terms of information gathering base. The informa-  
12 tion as its a come in is directing us to work out a plan  
13 to gather in what would be a much more precise or much  
14 more specific and much more rigorous approach. This  
15 was an opinion gathering, information gathering type  
16 of approach.

17 To that extent, the coordinator, Mr. Aronson,  
18 can discuss with you or review with you his summaries  
19 of the general types of comments that we did receive  
20 from various programs.

21 MR. ARONSON: Thank you.

22 I did an extensive review of all responses  
23 the programs had sent in. And I tried to qualify them

1 or offer representative comments. Most of the comments  
2 to each of the three questions fell into groupings that  
3 were easy for me to categorize. I have selected here  
4 various comments.

5 I will say this at the outset. As you can  
6 well imagine, the comments, if you've seen the Board  
7 book and I've put them in here, showed a great deal of  
8 feeling of frustration, suspicion of LSC motives, agitation,  
9 outright hostility if you will in some instances, and  
10 those people who felt that way were certainly expressing  
11 it and allowed us an opportunity to know what was going  
12 on.

13 However, we weren't concerned about the frustra-  
14 tions. We needed some information and we simply requested  
15 that they provide the information or any comments on  
16 a voluntary basis.

17 I tried to analyze and I will go through this  
18 for you starting on page 12. The analysis on comments  
19 given to how often did your organization submit specific  
20 requests for assistance in the last 12 months, I did  
21 find that the programs uniformly and overwhelmingly indicated  
22 that they do not keep such records and that it would  
23 be a burden to keep such records.

1 In some instances we were told to go back to  
2 the support centers themselves and whereupon they keep  
3 this data. Well, being fairly new to this position --  
4 I've only been in it two months -- I did go back to and  
5 look at the semi-annual reports for all the centers and  
6 the quarterly reports. I only found approximately six  
7 national support centers that kept any information of  
8 this kind.

9 Now insofar as talking about recommendations  
10 at the end of this, but insofar as requiring that data,  
11 I did note that six of those centers were keeping that  
12 information. Probably good management situation. But  
13 the other remaining 11 did not.

14 So any of the field programs that indicated  
15 that support centers kept this information certainly  
16 weren't aware of what the support centers were doing  
17 uniformly.

18 Other comments to question number 1 indicating  
19 that the methodology was primitive, simplistic, or misleading  
20 were not helpful. I deemed those comments to be very  
21 unhelpful because they didn't necessarily give us any  
22 indication on how we could keep it from being primitive,  
23 simplistic, or misleading, but just literally attacking

1 the methodology. And once again I reiterate and we reiterate  
2 it in our calls to the field. I did make over 100 calls  
3 to the 158 field programs that didn't respond and indicated  
4 that this is a voluntary survey and, if you have any  
5 comments, to please let us know because we want to know  
6 what you do with the support centers. We need to find  
7 this out.

8           There was some confusion about requests, what  
9 constitutes requests for information. Was it voluntary?  
10 Is it a phone call? Is it a written request? Is it  
11 picking up a manual supplied by a center? Is it the  
12 use of a journal? What constitutes a request for assistance?  
13 There was a great deal of confusion uniformly shown by  
14 the field as to what a request was.

15           Some of the other comments that I received  
16 regarding why programs weren't responding was the shortness  
17 of the original deadline. The letter went out originally.  
18 Mr. Murphy sent it out on May 22nd calling for the June  
19 7th deadline. As indicated earlier, as soon as I came  
20 on board in this position, we did call 158 programs and  
21 extend the deadline time and time again. We did find  
22 a lot of program directors on vacation, but we did indicate  
23 to them or to someone on their staff to send their survey

1 in and we would extend the deadline because we wanted  
2 to hear from them. We wanted to know what they had to  
3 say.

4 I would conclude from the analysis of this  
5 first section -- I will not read these. They are here  
6 as comments that I have chosen and they are here for  
7 you to look at. But I will say this in summing up this  
8 portion. Generally the comments offered in response  
9 to this question did not adequately or suggest to the  
10 extent of the field usage or utilization of the National  
11 Support Centers. We were not able to get a full handle  
12 on it.

13 The comments were not conclusive for us to  
14 get a full handle on it.

15 Does anybody have any questions on this particular  
16 question or the comments I have selected to appear here  
17 in the Board book?

18 (No response.)

19 MR. ARONSON: If not, I'll move on to question  
20 number two.

21 MR. MENDEZ: Please continue.

22 MR. SMEGAL: Well, I assume they are representative,  
23 and, as you've indicated, they all seem to be critical

1 of the way the survey was structured.

2 MR. ARONSON: Yes, they were critical. At  
3 the end I do have a few comments of the nature that would  
4 differ from those that indicate the frustration with  
5 the support centers.

6 Question number 2 regarding the estimated value  
7 of services provided in response to your requests in  
8 the last 12 months, we also have a mix of responses to  
9 that.

10 The main concern that the field had is the  
11 definition of dollar value. Is dollar value replacement  
12 cost, what it would cost us to do in the field if we  
13 didn't have to go to the support centers? Is cost in  
14 essence what it cost the support center to provide the  
15 information and assistance? There was some confusion  
16 and the responses indicated there was some confusion  
17 as to what dollar value meant.

18 Several programs indicated that the time saved  
19 by support centers involved innumerable hours too difficult  
20 to measure. Some program responses attempted to answer  
21 the question and also offered suggestions to LSC regarding,  
22 once again, improper methodology.

23 I guess to sum up, the frustration of the field

1 is indicated by the fact they said it was very difficult  
2 or impossible to attach any value to the support centers  
3 in terms of services provided.

4           However, a constant comment I got is the services  
5 were invaluable, but we were never told how invaluable  
6 they were or why they were invaluable. One would think  
7 that the centers are being used simply because they are  
8 there.

9           We are concerned about what services would  
10 be provided if the centers weren't there. I know they  
11 are used because they are there. That seems to be a  
12 non sequitur that I came up with.

13           A review of these comments to this question  
14 did not offer to my satisfaction or my staff's satisfaction  
15 any helpful suggestions to the extent of the value in  
16 terms of dollars. We were not able to get a handle on  
17 it.

18           Any comments on any of the comments contained  
19 herein?

20           MR. SMEGAL: Yes. Did you look at the -- There's  
21 a NORC study referred to in here.

22           MR. ARONSON: The NORC study?

23           MR. SMEGAL: Did you review that? Did you

1 find any value in that?

2 MR. ARONSON: I reviewed the NORC study. I  
3 must tell you that this is an ongoing process, trying  
4 to find out information about the field. Now the NORC  
5 was only one study. We thought that there's a need to  
6 get more information. And that's why this National Support  
7 Survey was done.

8 We think all the information we could get about  
9 national support is that much the better. There was  
10 no attempt to invalidate NORC. It was not an attempt  
11 to invalidate it. It was an attempt just to gather more  
12 information. I did find it somewhat helpful to answer  
13 your question.

14 MS. BERNSTEIN: You know, Tom, just for your  
15 information because I was working with the Corporation  
16 when the NORC study was commissioned. And the purpose  
17 of the NORC study was a little bit different as I see  
18 it from this which is just kind of a cumulative how much  
19 do you use the support centers or what are your support  
20 needs which is a much more openended kind of question.  
21 And the support needs were tabulated and there was a  
22 great deal of effort in making the questions -- I noticed  
23 one comment in here that one commentor in here had the

1 said the questions were scientifically praised and the  
2 whole study was designed so as to be as open ended and  
3 objective as possible.

4           The interesting aspect about thatistthat NORC  
5 underwent a great deal of pressure. This is the National  
6 Human Resource Center in Chicago, the University of Chicago.  
7 And they were subjected to incredible pressure from the  
8 field including a letter writing campaign by the National  
9 Legal Aide and Defender Association asking all the programs  
10 either not to cooperate or make sure that they mentioned  
11 all of these centers, when someone called.

12           In other words, I am personally not too confident  
13 even though there was a great deal of work put into it  
14 by the Chicago National Human Resource Center as well  
15 as the field representatives and the corporation staff  
16 that worked on it in order to make it a scientific study.  
17 I am not too confident buttwhat the results aren't skewed  
18 in favor of the support centers because of the pressure  
19 that was put on the field in order to answer questions  
20 a certain way.

21           However, the NORC study is, I think, useful  
22 from another standpoint and I would agree with Steve  
23 that's it's not -- You know, it's not -- We're talking

1 about apples and oranges here in terms of surveys. This  
2 was like an opinion kind of survey rather than a survey  
3 that -- NORC was trying to base it on what are your needs  
4 for support as a paralegal, as a staff attorney, as a  
5 program director. And we were trying to quantify what  
6 happens and whether or not some needs were being met  
7 and others were not.

8 As I say, I'm not sure to what extent it succeeded  
9 scientifically because of the efforts to skew it.

10 MR. SMEGAL: LeAnne, do you have more confidence  
11 in what we've got here before us now?

12 MS. BERNSTEIN: No.

13 MR. SMEGAL: I don't either.

14 MS. BERNSTEIN: It disappoints me. The only  
15 thing that I am concerned about and really as I hear  
16 what has been presented by Steve and the comments we  
17 have introduced to us here -- The thing I do have confidence  
18 in is the fact that the field is not very interested  
19 in giving us any information. And that is a problem  
20 if we are to meet any needs. If we're supposed to be  
21 analyzing the question of what is the support needs of  
22 the programs and what do you need in order to fulfill  
23 the legal representation requirements of your client,

1 then it seems to me that cooperation would be incumbent  
2 upon the program and honest cooperation. That's the  
3 only thing that we have any consistency between these  
4 two studies.

5 MR. SMEGAL: It seems I read a little more  
6 into it. What we've got is it looks like an overwhelming  
7 response from those who volunteered to respond for the  
8 National Support Centers. You picked out comments and  
9 there's a lot of them. There is some individual frustra-  
10 tions expressed and I heard another frustration from  
11 the California program that they never got the survey.  
12 Maybe that was corrected. But the first mailing to those  
13 in California did not include the survey.

14 MR. ARONSON: Who in California are you talking  
15 about?

16 MR. SMEGAL: I'm talking about all the programs  
17 in California.

18 MR. OSTERHAGE: We were made aware of that  
19 fact and we sent what we believe is an additional copy,  
20 but in the event it got omitted in the mailing they did  
21 receive a copy.

22 MR. SMEGAL: So the whole thing kind of in  
23 a sense statistically or quantitatively it's hard to

1 evaluate, but in the sense of quality, what you heard  
2 was a lot of programs saying the National Support Centers  
3 do a good job and don't change their funding. Don't  
4 even cut them 10 percent. I see that in here, too. I  
5 haven't seen them all, but I assume you made a representative  
6 sampling.

7 Did Michael Murphy put this together? I see  
8 his letter is the cover letter dated May 22.

9 MR. OSTERHAGE: He was the person who was in  
10 the position Mr. Aronson now holds.

11 MR. SMEGAL: Is he with us now?

12 MR. OSTERHAGE: Yes, he's still with the Corpora-  
13 tion.

14 MR. MENDEZ: I asked them to put it together.

15 MR. SMEGAL: But did Michael put it together?  
16 Is he the guy?

17 MR. OSTERHAGE: What? In terms of the survey  
18 questions? Staff as a group.

19 MR. SMEGAL: But Michael is not here to testify.

20 MR. MENDEZ: Any further questions from the  
21 Board?

22 (No response.)

23 MR. MENDEZ: None appearing, thank you.

1 Yes, John?

2 MR. MOLA: May I make a comment?

3 MR. MENDEZ: Sure.

4 MR. SMEGAL: Steve, irrespective of what I  
5 said, I think you did a very fair and representative  
6 job putting this together. I thank you for that.

7 MR. ARONSON: Thank you.

8 MR. MOLA: Mr. Chairman, my recollection of  
9 the NORC study might be faulty, but I recall that the  
10 NORC study did not just look at support needs. In fact,  
11 those people who were surveyed were asked questions about  
12 frequency of use of the National Support Centers and  
13 asked whether the responses to requests for service were  
14 adequate and useful in their delivery of legal assistance.

15 I think the NORC study is replete with data  
16 that would be very helpful in making future funding decisions  
17 for the National Support Centers.

18 In terms of this National --

19 MR. MENDEZ: John, let me just follow that  
20 up.

21 MR. MOLA: Yes, sir.

22 MR. MENDEZ: Would you agree for us to do the  
23 funding for the next fiscal or next calendar year, FY '86

1 based on the NORC study?

2 MR. MOLA: In what respect?

3 MR. MENDEZ: Allocation of dollars between  
4 programs.

5 MS. BERNSTEIN: And types of support that the  
6 NORC study said the programs need and want. In other  
7 words, limiting the support functions to what NORC said  
8 that the programs want.

9 MR. MENDEZ: That's what you've said just now.

10 MR. MOLA: No. What I said is my recollection  
11 of the results of the NORC study indicate that programs  
12 staff were surveyed as to the number of times that they  
13 use National Support Centers and what the quality of  
14 the responses to those requests for assistance was.

15 MR. MENDEZ: I feel comfortable using the NORC  
16 study to make the funding decisions. Do you?

17 MR. MOLA: No. I believe that national support --  
18 if we're at a static budget figure for next year that  
19 national support funding should be held constant.

20 MR. MENDEZ: Well, we're at 10 percent less  
21 this year than last year.

22 MR. MOLA: That is the proposal. FCC has  
23 consistently differed with it.

1           MR. MENDEZ: Assuming that that's in fact the  
2 case, how would you make the determination as to what  
3 which programs get cut and which ones get increased,  
4 or should all of them bear the cut equally?

5           MR. MOLA: I don't think any should be cut.  
6 So I could offer no opinion. I think a 10 percent reduction  
7 would be unwise.

8           In terms of this survey, I believe that you  
9 have two comments from Olsbach (phonetic), one dated  
10 June 6, 1985 regarding their concerns about the survey  
11 instrument, and a second dated August 27 to Chairman  
12 Durant concerning the survey results.

13           I just want to make some brief summary comments  
14 about the survey results. The first is that the survey  
15 requested information that programs simply didn't have.  
16 I think Ms. Bernstein is incorrect that we didn't cooperate  
17 in any of these surveys. We spent a lot of time responding  
18 to this particular set of three questions. Those of  
19 us who were interviewed by NORC spent a lot of time on  
20 the phone responding to the interviewer's questions.

21           Unfortunately, with this survey, we simply  
22 did not have the data and could not actively respond  
23 to these questions. It asked for judgments that programs

1 could not make. It focused only on "specific requests"  
2 for service without defining that term and without counting  
3 the use of manuals and law updates and training that  
4 National Support Centers might have done. So it was  
5 a very narrowly focused survey.

6 It appeared only to look for specific telephonic  
7 or written requests to centers. It also provided no  
8 guidelines on value for services that were received from  
9 National Support Centers.

10 Even with all these flaws though, if you look  
11 at the results of the survey, programs responded that  
12 over 10,000 specific requests for assistance probably  
13 either by telephone or in writing were made to the National  
14 Support Centers and that the value of just this limited  
15 range of services, again not counting use of manuals,  
16 updates, training, came to a value of almost eight million  
17 dollars. That would seem to indicate that rather than  
18 cutting National Support next year, they are entitled  
19 to about a \$600,000 increase in their funding.

20 I urge that this very flawed survey not be  
21 used as a basis for National Support funding. Rather,  
22 the Board should, one, engage in an open and full discussion  
23 about National Support future studies if the Board believes

1 that they are necessary and future funding.

2 Second, fully consider the results of the NORC  
3 study.

4 Third, the Board should not reduce National  
5 Support in view of the overwhelming quality of the work  
6 at National Support Centers and their vital role in assisting  
7 the delivery of high quality legal assistance. There  
8 is absolutely no rational basis for the 10 percent cut.  
9 We would ask that the Board reverse its decision.

10 MR. MENDEZ: Thank you, John.

11 Any other comment?

12 MS. EISENBERG: Eleanor Eisenberg, California/  
13 Nevada Project Directors.

14 I have more a question than I do a comment.

15 The three support centers which were funded  
16 last year were not included in the survey. We were not  
17 asked in advance if they were being funded if they would  
18 provide services which would be found useful to the field.

19 My question is what is the thinking of the  
20 Corporation with respect to those three support centers,  
21 the so-called Baby Jane Doe Center, the Urban Legal Founda-  
22 tion, and the Constitutional Law Center?

23 MR. MENDEZ: I tell you. Mr. Smegal and I

1 have an agreement lo these months ago concerning this  
2 issue and I think it's been fully and publicly described  
3 previously.

4 MS. EISENBERG: I don't have a recollection.

5 MR. SMEGAL: My recollection, Eleanor, is that  
6 that's one-time funding never to occur again. I think  
7 that is the agreement.

8 MR. MENDEZ: The agreement that Mr. Smegal  
9 and I had on the record previously was that this was  
10 not to be rolled into these funds, that the three weren't.

11 MS. EISENBERG: That doesn't really answer  
12 my question.

13 MR. MENDEZ: That's fine. That's the answer.

14 MS. EISENBERG: Is there consideration of refunding  
15 them independent of rolling them into --

16 MR. MENDEZ: Of course there is.

17 MS. EISENBERG: Has there been an evaluation?  
18 Has the field been contacted with respect to whether  
19 those programs are being utilized?

20 MR. MENDEZ: I don't have that answer completely  
21 yet. When I have that answer, the field will be advised  
22 of it.

23 Any other comment?

1 (No response.)

2 MR. MENDEZ: The next matter, a review of the  
3 refunding application forms.

4 Please identify yourself for the record.

5 MS. FRANCIS: Certainly. Gail Francis, Manager  
6 of the Field Services Grants and Budget Unit.

7 MS. PAQUETTE: I'm Pat Paquette, Technical  
8 Assistance Coordinator in the Grants and Budget Unit,  
9 Field Services.

10 I'd like to report to you today that the refunding  
11 application in 1985 requested comments from the field  
12 on the process, forms, and whatever. And before preparing  
13 the 1986 application that is before you in the book that  
14 starts on page 71, a task force was created within Legal  
15 Services that included people from the Audit Division,  
16 General Counsel's Office, OIN, Field Services, and the  
17 Executive Office to review all of the comments received  
18 by the field on the 1985 refunding process. Those comments  
19 were incorporated into this year's draft wherever possible  
20 and where it seemed appropriate.

21 The final of that draft is presented to you  
22 now for your review. In addition to sending it to each  
23 of the members of the Committee, it was also distributed

1 to nine Legal Services programs and Allen Houseman for  
2 early comment on the draft refunding document.

3 The basis of the comments that I have received  
4 is that the application is much improved and that the  
5 task force was given some credit for recognizing a lot  
6 of the comments from the field and incorporating them  
7 into the draft.

8 The concerns that still appear are the fact  
9 that the Corporation continues to give a short turn around  
10 time for the refunding application. We're planning to  
11 send this out at the end of September and it's due back  
12 November 15th, basically a six-week period. In some  
13 years in the past the field programs have been given  
14 as much as two months to complete the application. So  
15 that where there is new information being presented,  
16 the field has expressed that they feel there are some  
17 restraints to be able to complete the application in  
18 a timely fashion, particularly in light of the fact that  
19 Form A, which is on page 72, the second paragraph of  
20 the narrative portion of that form indicates that a Board  
21 meeting and a rollicall vote will be required upon submission  
22 of this application.

23 In some instances, that could mean between

1 two weeks and 30 days in reality for a program to complete  
2 the application because of the mailing process to some  
3 of the remote areas is very slow. Staff feels that is  
4 a bit tight. We felt that we should extend that if we  
5 could because if they don't already have a scheduled  
6 Board of Directors! meeting, to schedule one and get  
7 through this process and have the application complete  
8 so that their Board of Directors can also have input  
9 and perhaps offer some changes and prepare those in time  
10 to get back to Legal Services. There was some concern  
11 on that.

12 MR. MENDEZ: I'll tell you what I would like  
13 you to do in that regard. I want you at the time that  
14 you mail out the applications to advise -- in a cover  
15 letter to advise all of them that this is required so  
16 that they will have plenty of time and plenty of notice  
17 to do that. You might tell them to send a copy of the  
18 application out, a blank copy out. They may want to  
19 do that to their own groups, Board of Directors.

20 MS. PAQUETTE: We were planning in the instructions  
21 to bring it to people's attention that they were requiring  
22 a Board of Directors' meeting. Some programs in the  
23 past just automatically do it, but that hasn't been universal.

1 So we will bring that to their attention.

2           There was another question about the assurances.  
3 Basically, programs discussed Assurance No. 7. As it  
4 related to public funds, they felt that all records of  
5 non-LSC public money were perhaps not appropriate in  
6 No. 7 and that some language change was required in No.  
7 7.

8           In No. 11 there was a question about whether  
9 or not that was the appropriate wording for that particular  
10 assurance.

11           And No. 13 was being questioned. I believe  
12 PAG is going to be commenting on that. So I can just  
13 leave that where it is now, but that was brought to our  
14 attention.

15           The rest of the comments, there was not uniformity  
16 amongst the 10 programs that were contacted. Some supported  
17 the document as it is stating that instead of having  
18 Legal Services send out a number of surveys throughout  
19 the year which some interpret to be burdensome, they  
20 felt that the refunding application was a good data collection  
21 process.

22           Others advocated very heavily for saying that  
23 this was a funding application and that any supplemental

1 information, particularly Supplement 1 and 2, which is  
2 the training survey and an elderly survey was inappropriate  
3 to this particular process and that it should be handled  
4 separately.

5 But the comments were almost equal on that.  
6 I feel this is somewhat split on whether or not they  
7 would rather dealtwith as much information as possible  
8 all at one time and have it over with or get it in bits  
9 and pieces throughout the year.

10 Aside from that, the basic forms were not objected  
11 to significantly. People thought they they pretty much  
12 accomplished what the comments last year. But the narrative  
13 portion of the refunding application has been questioned  
14 by the programs, particularly in the sense that Native  
15 Americans and Migrants, No. 7 on page 80, appears to  
16 duplicate questions that are asked by State support programs.  
17 The The feel was that Native American and Migrant  
18 programs represent clients. And to the extent that the  
19 narrative request, their assistance with is some sort  
20 of an assumption by Legal Services that these programs  
21 assist others in representational when in fact they represent  
22 clients directly as do other field programs. There were  
23 some expressed feelings about why Native Americans and

1 Migrant programs were being singled out in that manner  
2 instead of having to answer the general questions as  
3 are already outlined for field programs.

4           The State Support portion, No. 8 on page 81,  
5 was also questioned because it was thought that those  
6 questions were relevant for a national support center  
7 but certainly not appropriate for a State support center.

8           alth Although they were asked last year, it was  
9 brought to our attention that the Board or various members  
10 of the Board through a committee will be dealing with  
11 33 functions of State support and that we in fact should  
12 coordinate the narrative portion for State Support with  
13 those 33 functions.

14           MR. MENDEZ: You understand that we want to  
15 have State support units receive the same type of matrix  
16 questionnaire as national support. They're to answer  
17 that as well.

18           MS. PAQUETTE: Okay. That wasn't clear.

19           MR. MENDEZ: It's clear now.

20           MS. PAQUETTE: We'll have to note that because  
21 generally the national support refunding application  
22 goes out about 30 days after this particular application.  
23 So we have to be clear.

1 MR. MENDEZ: Okay. I just wanted to make sure  
2 that was clear.

3 MR. SMEGAL: Well, Pepe is talking about asking  
4 the field programs to comment on the State support, not  
5 the State support programs.

6 MS. PAQUETTE: Oh, okay. All right. So contacts  
7 with State support and things of that sort. Okay.

8 MR. SMEGAL: If I may interrupt, Mr. Chairman.  
9 I'm a little slow here. Pat was talking about the second  
10 paragraph on page 72 which says the Board has to give  
11 assurances.

12 MR. MENDEZ: Yes.

13 MR. SMEGAL: You suggested that the way to  
14 get around the timing of the shortness of time was to  
15 send the Board members this in blank. How is that going  
16 to help? What they are doing is assuring that the informa-  
17 tion that they are submitting to the Legal Services Corpora-  
18 tion is correct. If you're going to send them a blank  
19 form, how can they possibly do anything?

20 MR. MENDEZ: They can start reviewing it and  
21 see what it looks like.

22 MR. SMEGAL: If I'm on a Board, I sure don't  
23 want to look at blank forms.

1 MS. PAQUETTE: You just did.

2 MR. SMEGAL: One of the other problems I'm  
3 having is I'm looking at these blank forms and I want  
4 to know what the 1985 blank forms look like because I  
5 can't tell what are the changes. I would like to know  
6 what the differences are so I can have a feeling for  
7 what is going on.

8 The other thing, Pepe, let me suggest that  
9 one of the things that happens out in the program is  
10 that they don't have -- They may have quarterly meetings  
11 of their Board, but we're changing the dates on these  
12 things now. And you set these things up a little bit  
13 ahead of time for your Board. Maybe you set them ahead  
14 of time a whole year.

15 And if you go out and hand 325 programs this  
16 form and say you have to have it back in two weeks with  
17 your Board approving it, that's impossible. Logistically  
18 it's impossible. I think that is Pat's comment.

19 It seems to me maybe if we want to stay on  
20 this schedule, the way we do it is let the grantee submit  
21 the form with the understanding that if you can't get  
22 your Board together, you damn well better have this Board  
23 acquiescence before you start getting any of this money.

1 Sure, we'll take your form and we'll start to process  
2 your grant application and, if you aren't able to get  
3 your Board together and get the assurances and information  
4 in the application approved and a rollcall vote -- You've  
5 got to get the Board together for a rollcall.

6 MS. PAQUETTE: Exactly.

7 MR. SMEGAL: So you have to have a meeting.

8 I think we should at least give them the option  
9 or the opportunity to get their Board together after  
10 they have the darn thing completed and sent into you  
11 prior to when it becomes operative. At some point a  
12 little later, let them get that Board together. Otherwise  
13 it is impossible.

14 MS. PAQUETTE: They submit this application  
15 on two different dates. The budget forms come in in  
16 February. We could perhaps follow your suggestion and  
17 say that by the February submission, if they were not  
18 able to get a Board of Directors' meeting together during  
19 October or early November, that it would be accepted  
20 with their budget forms.

21 MR. SMEGAL: You aren't going to give them  
22 any money unless their Board approves it.

23 MS. PAQUETTE: No, that's not true. They would

1 monies.

2 MR. MENDEZ: No. There is no money given out  
3 unless this is submitted.

4 MR. SMEGAL: But that gives them more time.  
5 If you want compliance with what you're suggesting, this  
6 is a very tight schedule unless we are going to change  
7 these dates. I just don't think you are going to get  
8 a rollcall vote of everyone of these Boards in a period  
9 of two weeks after somebody spends an awful lot of time  
10 putting this stuff together.

11 It sounds to me like a lot of this is different  
12 than 1985 if I'm hearing you correctly.

13 MS. PAQUETTE: No. The format is different.  
14 The information is very, very similar. It's just presented  
15 differently for data collection.

16 MR. SMEGAL: Okay, but still I think we have  
17 to give them more time at least the first time around.  
18 Next year maybe we can say to them September 30 is the  
19 date and every year you're going to have to do this and  
20 you better schedule a Board meeting two weeks later when  
21 you know you're going to have the stuff together.

22 But here we are on September 5th.

23 MR. MENDEZ: If we sent it out now and they

1 have to have it in by November 15th, we say you have  
2 to have your Board meeting by about the 5th of November  
3 or 6th.

4 MR. SMEGAL: Pepe, that's really difficult.  
5 If you get a big Board of 30 to 35, it's hard to get  
6 them together that quickly. I've served on those Boards  
7 for 20 years. It doesn't happen that quickly.

8 MS. PAQUETTE: And in some of the northern  
9 areas, we're starting to talk about weather changes.

10 MR. SMEGAL: What I'm saying we can do it very  
11 easily. Let them submit -- They have to have this back  
12 by November 15th. You accept it for processing with  
13 that particular portion of subparagraph 2 still blank.  
14 Give them a little more time to get their Board approval.  
15 It doesn't have to be until February, but some reasonable  
16 time within that quarter.

17 MS. PAQUETTE: With the understanding that  
18 there is no funding until we have it?

19 MR. SMEGAL: Well, funding doesn't start until  
20 January 1 anyway, does it?

21 MS. PAQUETTE: Well, they get their first check  
22 toward the end of December. And it takes us that long  
23 to get it programmed until our computer and set up for

1 the payment process.

2 MR. SMEGAL: I'm just saying they don't have  
3 to sign off on November 15th. They don't have to have  
4 the Board sign off by November 15th. You're going to  
5 spend some time processing these. You're not going to  
6 send them a check until the end of December. You can  
7 give them another two weeks and you can probably give  
8 them to December 15th to get a statement that says our  
9 Board approved all this.

10 MS. PAQUETTE: Should it be through a process  
11 of them requesting a waiver or extension of time or just  
12 automatically instructing them that on or before release  
13 of check we must have the Board approval?

14 MR. SMEGAL: Whatever you want to do. I'm  
15 just concerned about November 15th, getting this completed  
16 plus Board approval and a rollcall vote.

17 MR. MENDEZ: In your cover letter, tell them  
18 that they can have an extension if they cannot possibly  
19 get it done until December 15th. And typed out, capital  
20 letters, underlined, say no money is going out unless  
21 we have this.

22 MR. SMEGAL: I think by November 15th they  
23 can tell you when their Board is going to meet. They

1 can give you the date. They can all schedule a Board  
2 meeting by November 15th and know when the Board meeting  
3 will be and they can tell you by November 15th that the  
4 Board meeting is going to be on December 7th or whatever.

5 MS. PAQUETTE: Well, other than the comments  
6 I've just made, there were a few other comments. One  
7 I should state is that in the program narrative, number  
8 1, characteristics of service area, and, two, delivery  
9 system, and some of the others, the programs said that  
10 they have been reporting this information to us for years  
11 and why do we continue to ask for the same data every  
12 year. There was a suggestion that perhaps we should  
13 ask only for significant changes since the last submission.  
14 They're saying they have it two or three times on record  
15 at LSC headquarters and that they would report significant  
16 changes to us.

17 That was one comment. Some others just felt  
18 that they would xerox what they submitted before and  
19 attach it as the narrative. So there were some mixed  
20 comments on that.

21 MR. MENDEZ: One of the reasons that I want  
22 to have a rollcall vote and that I expressly asked to  
23 have that placed in there was that I want to have all

1 the Board members really well-acquainted with the procedure  
2 is in these local programs. And that's the reason why  
3 I want to have all of this material updated.

4 MS. PAQUETTE: Then that comment would apply  
5 also to class action lawsuits where programs are saying,  
6 "Look, we have submitted that information to you before.  
7 Why don't we just submit any updates?"

8 MR. MENDEZ: That's right.

9 I really think that what I visualize out of  
10 this is that you're going to have an annual meeting,  
11 let's say, of the local Board wherein they re-review  
12 all of this aspect.

13 One of the things that is not particular clear  
14 here and I want it clarified here is I want a better  
15 statement of what the priorities are from the programs.  
16 I want to have a list of priorities there and how much  
17 in terms of dollars they anticipate to spend and the  
18 number of clients they anticipate serving for each one  
19 of these programs -- for each one of these priorities.

20 MR. WALLACE: May I ask a question, Mr. Chairman?

21 MR. MENDEZ: Yes, sir.

22 MR. WALLACE: On page 80 and 81 of the Board  
23 book -- I hope we are all working on the same numbers --

1 we are asking them to describe representation, community  
2 outreach, and legislative and administrative representation.

3 As I understand it, we are only asking them  
4 to do that as it applies to native American or migrant  
5 representation because the paragraph heading there is  
6 "Native American and/or Migrant."

7 Is that a proper interpretation?

8 MS. PAQUETTE: That is. That was picked up  
9 from the language that in prior years was under number  
10 8, State Support, on page 81, and has now been transferred  
11 over to Native American and Migrant. It's not that specific  
12 in preceding numbers. That's correct.

13 MR. WALLACE: Okay. So I mean do we want to  
14 know these? Because Native American and Migrant are  
15 special parts of the program. We're asking for information  
16 on Native American and Migrant that we're not asking  
17 for on the bulk of the program, or at least not in this  
18 detail.

19 MS. PAQUETTE: We're pretty much relying on  
20 the program to submit that information, but we're not  
21 specifically asking for it. So we won't necessarily  
22 have that information if we don't ask for it. And programs  
23 have raised the fact that they do other kinds of representation

1 including community outreach which they feel is very  
2 important. And they wondered why we weren't specifically  
3 asking. You get two sides of the story again.

4 One is saying you're asking too much. Limit  
5 the questions and we'll give you as much information as  
6 we can. The other is saying maybe you should get more  
7 specific.

8 MR. MENDEZ: Do you believe we ought to ask  
9 it with all respects including Native American and Migrant?

10 MR. WALLACE: Well, it seems -- I mean I read  
11 this before I came here, but it seems a little silly  
12 to me to ask detailed through f on a minor part of your  
13 budget -- I don't mean minor in importance. I mean minor  
14 in quantity of money. But you're not asking in detail  
15 anthrough f on the bulk of the money. There may be some  
16 good reason for that, but it's not immediately apparent.

17 MR. MENDEZ: I'll tell you what let's do then.  
18 Let's just have you for all parts of the program do the  
19 specifics as set forth in that paragraph and that is  
20 to include Native Americans and Migrants.

21 MR. WALLACE: Or don't do it for Native American  
22 and Migrant. I don't know that we need to tell them  
23 to give us this much detail on every dollar they spend,

1 but it just doesn't -- The priorities seem to be a little  
2 skewed to break it down on the minor part and not on  
3 the big part.

4 MR. MENDEZ: This has been done always before  
5 and I would like to continue with it. What I want you  
6 to do is say for all aspects of the program including  
7 Native American and Migrant.

8 MS. PAQUETTE: One thing that is raised under  
9 Native American and Migrant is we talked to them or we  
10 asked them in regard to expenses in those various categories.  
11 And in order for the programs to track expenses in the  
12 various categories, they would have to be on a functional  
13 accounting program. And as you are probably aware from  
14 the Audit Guide and comments there, we require fund accounting,  
15 but we do not require functional accounting. So there  
16 is some conflict in our narrative request because we  
17 mandate that a program set up a functional accounting  
18 process that is not required by our Audit Guide.

19 MR. WALLACE: In other words, we are asking  
20 them to give us things that we're not requiring them  
21 to keep books on.

22 MS. PAQUETTE: Exactly. And that was the same  
23 information -- the same comments that come through on

1 the elderly survey, supplement 2, where we're asking  
2 them about certain things on elderly representation where  
3 in fact we don't fund them specifically to do elderly  
4 representation. We don't require for our CSR's that  
5 they keep those kind of statistics and suddenly there's  
6 a survey put before them asking those kinds of questions.

7           Comments are also made in regard to the training  
8 question in supplement 1 which asks all about individual  
9 people who attend the training sessions. So that the  
10 programs felt that sometimes these kinds of surveys are  
11 very burdensome and complicated and difficult to complete.

12           MR. WALLACE: How much detail are we traditionally  
13 looking for here? I see in paragraph 7, for instance,  
14 it says: "Describe the activities and estimated expenses."  
15 For that matter, it's estimated 1986 expenses. So of  
16 course you couldn't have an audit for a year that hasn't  
17 gone by yet. All of these are going to be estimates.  
18 We are asking them to estimate what is going to happen  
19 in the next year.

20           I mean it is a little silly to ask them to  
21 estimate things and then don't ask them to audit after  
22 it's over to see how they did it. But I guess it's not  
23 going to put a tremendous burden on them at this point

1 to ask them to estimate it. I mean what do we do with  
2 these estimates? How closely do we follow up?

3 MS. PAQUETTE: Well, all of the narratives  
4 will not be put on database because it is not in a format  
5 that is easily keypunched.

6 So the question is when you get the information  
7 what are you going to do with it. That question we have  
8 heard throughout today.

9 And we're not sure what we would do with estimates  
10 in programs, and the accuracy of it is being questioned  
11 by the programs, too, since that's not the way they keep  
12 their books. It's not the way they standardize things.  
13 It is just best guess. It seems like the information  
14 would be irrelevant.

15 MS. BERNSTEIN: Why are we not moving toward  
16 functional accounting?

17 MR. MENDEZ: We'll take that up at another  
18 time. We may well move to functional accounting.

19 MR. SMEGAL: Pat, was this item 7 on last year  
20 on the 1985 form?

21 MS. PAQUETTE: No. That is brand new and it  
22 was pretty much picked up from the State support language.  
23 The State support language was on last year, but the

1 Native American language, number 7, is new. That was  
2 not singled out last year.

3 MS. BERNSTEIN: I have a question. I guess  
4 it kind of relates to the functional accounting question.  
5 Correct me if I'm wrong. As I read the definition of  
6 recipient under our definition in the regs, it's only  
7 a program that is funded under 1006 (a) (1) (a).

8 MS. FRANCIS: Yes.

9 MS. BERNSTEIN: Are any of our State support  
10 centers not funded under 1006?

11 MS. FRANCIS: I don't know, but I think the  
12 answer is no. I believe the answer is, no, none of them  
13 are not.

14 MS. BERNSTEIN: How about national support  
15 centers?

16 MS. FRANCIS: I'm not sure. I think that's  
17 a different section.

18 MS. BERNSTEIN: Okay, here's my question about  
19 that. It's been bothering me for a long time. All of  
20 our regulations talk in terms of requirements for recipients.  
21 It seems to me to be a bit strange that we require a  
22 lot more in terms of composition of governing board,  
23 compliance with various sections of our acting regulations

1 of our direct delivery programs than we do the support  
2 programs.

3 I just wonder why it is that we don't have  
4 the same kind of requests or, if someone is going to  
5 apply, for instance, to deliver legal services, if a  
6 support center, national or state, wants to be a delivery  
7 mechanism, then shouldn't they have to apply for funds  
8 so that they would be subject to our definition of recipient?

9 In other words, assuming that the State support  
10 unit that would be funded just to support and not under  
11 1006(a)(1)(a), then they're not having to comply with  
12 the same requirements that all of our other delivery  
13 recipients have to comply with like governing boards.

14 MS. PAQUETTE: Some apply, but not all.

15 MS. BERNSTEIN: Well, shouldn't we break out  
16 these refunding applications and have people apply for  
17 different types of activities that they intend to comply  
18 with--that they intend to provide?

19 And if they're going to deliver services directly  
20 to a client, shouldn't they have to have a governing  
21 Board set up in the way that Congress has mandated?

22 I mean it seems to me that we're subject to  
23 a lot of accountability problems up on the Hill.

1           Pepe, you've been there more than I have, but  
2 Congressmen seem to be interested in whether or not we  
3 are in touch with what the programs are doing. And it  
4 seems to me that there is a direct violation of the Act  
5 here when the Act says people who deliver services are  
6 supposed to have a governing board comprised in a certain  
7 way.

8           MR. MENDEZ:       I'm going to defer this  
9 to you. If I understand LeaAnne's statement, she's  
10 saying that if national support is representing a client  
11 directly that they should have a governing board in the  
12 same ratio and same comply with the same regulations  
13 as the field programs.

14           MR. WALLACE: Is that not how our national  
15 support center boards are made up at the moment?

16           MR. SMEGAL: Mike, on page 113, there's a list  
17 of things that went out to the national support centers  
18 October 15, 1984. I see down there governing body composi-  
19 tion/bar association (Forms D-1 through D-6).

20           And they aren't here, but that's what I think  
21 they are. I recall being on one of those boards and  
22 seeing that stuff.

23           MR. MENDEZ: Can anybody from the Corporation

1 advise us if the National Support Centers do or do not  
2 comply with the regs?and if the State support does or  
3 doesn't?

4 MR. OSTERHAGE: We'll check on that for you.

5 MR. WALLACE: I just don't know it as a fact.  
6 I guess I assumed without looking at the fine print of  
7 the Act that anybody that got money from us did their  
8 board the same way. That may not be the case. If that  
9 is not the case, it will require some thought.

10 I don't know that we can resolve that this  
11 afternoon, Mr. Chairman.

12 MR. MENDEZ: That's fine. We've raised that  
13 question and it will be solved for us. Send us armemo  
14 or something.

15 MR. MOLA: Mr. Chairman, I don't believe it's  
16 a problem. The regulations are applicable to all recipients  
17 of legal services. I really don't understand the issue  
18 that Ms. Bernstein raises.

19 MS. BERNSTEIN: Well, I tell you the reason  
20 it came up and this is -- You know, we keep applying  
21 different rules in different contexts.

22 When you're talking about private attorney  
23 involvement, we were told that this absolutely couldn't

1 apply to State or national support because -- and the  
2 12 and a half percent application of private attorney  
3 involvement because they weren't in the same, you know,  
4 type category.

5 My feeling is that if we don't have a functional  
6 accounting system and we don't know what proportion of  
7 your funds or what proportion of your time is being spent  
8 in direct delivery versus support, the State or National  
9 Support Center may be in a position of delivering more  
10 than 50 percent -- using more than 50 percent of their  
11 grant funds to deliver services. Therefore, they are  
12 really or should be in compliance with the PAI.

13 The governing board situation, I really don't  
14 know what the actual composition is of all the boards.  
15 I do know that there is a problem or at least I think  
16 there is a problem in the compliance in terms of the  
17 fact that an employee of one recipient is not supposed  
18 to be serving on the board of another recipient. I know  
19 there is a lot of violations of that particular regulation.

20 But if the governing boards are set up with  
21 relationship to the local bar association, I would be  
22 interested to know how that works in terms of a National  
23 Support Center which at least arguably doesn't have a

1 local bar association because their focus is not local;  
2 their focus is national.

3 MR. MENDEZ: I'll tell you that --

4 MR. SMEGAL: LeaAnne, the bar association and  
5 those cases is a State bar. I sit on the board of governors  
6 of a State bar and among our duties that I abstain from  
7 are appointment of members of those various boards. We  
8 did it just last week.

9 I think this is an absolute strawman. It doesn't  
10 exist as John suggests. I think we should look at it,  
11 Mike, but I think we're going to find we're just wasting  
12 our time talking about it because whatever the Act requires  
13 is being complied with.

14 MR. MENDEZ: We'll bring it back.

15 If there is nothing further, I have made a  
16 commitment to Dan Taubman that I would get him out in  
17 time for a 6:00 o'clock appointment.

18 MR. SMEGAL: I did ask for the 1985 forms.  
19 I'd like to have that, last year's form. Could I have  
20 a copy?

21 MS. PAQUETTE: I was told by Joel Thimell that  
22 it was mailed to all of the committee members.

23 MR. SMEGAL: Is it in here?

1 MS. PAQUETTE: I'm not familiar with your Board  
2 book, but I understand it was sent.

3 MR. SMEGAL: I'll look for it tonight.

4 MS. PAQUETTE: It was done for the purpose  
5 of being able to make comparisons.

6 That sums up the comments unless there are  
7 other questions.

8 MR. MENDEZ: I did make a commitment.

9 John, do you just have a real brief remark?

10 MR. MOLA: No, I don't. I'd just like some  
11 time after Dan is done if I can respond to the refunding  
12 application.

13 MR. MENDEZ: Fine. Right now we are going  
14 to turn to the State Support Funding Formula.

15 Dan?

16 MR. TAUBMAN: Pepe, I thought Joel was going  
17 to speak first and make a brief presentation.

18 MR. MENDEZ: That's fine. Why don't you come  
19 on up. Steve, come up, too.

20 MR. THIMELL: Joel Thimell, Acting Staff Coordina-  
21 tor, Audit and Appropriations Committee.

22 Legal Services Corporation currently distributes  
23 approximately 8.2 million dollars for State support services

1 in 43 states. Since the beginning of the budget process  
2 that began in February of this year, this Committee has  
3 received testimonials that these services are invaluable.  
4 Last month in Utah, Klaus Sitte of Montana spoke of his  
5 very unique communication needs. Anne Milne's Utah program  
6 serves clients with special access problems.

7 However, we have also learned that seven states  
8 and the District of Columbia and the territories do not  
9 receive any State support funding.

10 National Organization of State Support Units  
11 testified before this Committee in Salt Lake City that  
12 the Corporation should not redistribute any funds from  
13 existing State support programs to those states currently  
14 without such funds.

15 Mr. Brown and Mr. Lessum have suggested instead  
16 that those states be funded out of one-time surplus funds.  
17 Klaus Sitte of Montana argued that any reduction in his  
18 State support budget would reduce the quality of legal  
19 services provided in Montana.

20 But, as I think Mr. Valois pointed out, those  
21 unfunded states have the same support needs that Klaus'  
22 program does. However, they have no funds to provide  
23 them.

1           Accordingly, the staff would support a recommenda-  
2 tion of Mr. McCollister of Kansas and Ms. Milne of Utah  
3 and Mr. Kays of Missouri that FY 86 support funds be  
4 reallocated to include those states without State support  
5 funding.

6           We would also support their recommendation  
7 that existing programs be held harmless for 90 percent  
8 of their current grant to ease the transition. This  
9 shift would provide funding for the first to Delaware,  
10 Hawaii, Iowa, Kansas, Missouri, Nebraska, and South Dakota.  
11 It would also provide a modest increase to low-funded states  
12 of Illinois, Indiana, Maryland, Oklahoma, Pennsylvania,  
13 and Texas.

14           As such, we feel it would be a very basic step  
15 toward fairness.

16           MR. MENDEZ: Does anybody on the Board or Committee  
17 have any questions?

18           (No response.)

19           MR. MENDEZ: None appearing.

20           First of all, the Board is going to take its  
21 prerogative and introduce Dan Taubman. Dan is the gentleman  
22 I asked to coordinate the State support matters. And  
23 as good-looking as Mr. Brown is, Mr. Taubman has the

1 same type of forehead that I do. He meets with me very  
2 regularly in Colorado. He's a very competent individual.  
3 I would have to speak very complimentary of Colorado  
4 because the only people that I meet with for breakfast  
5 that never complain about coming in at 7:00 o'clock in  
6 the morning are Dan and John Ashley.

7 Dan, I'm very happy that you could come back  
8 and make some comments and make a presentation and respond  
9 to these statements of Mr. Thimell.

10 MR. TAUBMAN: Thank you very much, Pepe. I  
11 appreciate your kind words and I'm delighted to be here  
12 this afternoon before you and your colleagues to talk  
13 about the State support funding issue and also to talk,  
14 hopefully, a little bit later about training.

15 I would like to let Steve Brown speak first  
16 and make some comments on the State support funding alloca-  
17 tion formula. Then I would like to speak after him if  
18 that is agreeable to you.

19 MR. MENDEZ: I want to make sure that we cover  
20 one area because this is for the Board. Dan and I talked  
21 repeatedly about training issues. I want to make sure  
22 that you address that aspect of what you're interested  
23 in doing with regards to training.

1 I'm going to put you on the record about what  
2 you think about what you saw next door.

3 MR. TAUBMAN: Okay. Do you want me to talk  
4 about training right now, or do you want me to do it  
5 after we finish talking about State support?

6 MR. MENDEZ: Let's finish up with State support.

7 MR. TAUBMAN: Okay.

8 MR. MENDEZ: Now, Steve, one of the things  
9 you need to do. You need to shave and you need to cut  
10 your hair back so that we can relate better.

11 MR. BROWN: I hope that's not the problem.

12 As you know --

13 MR. MENDEZ: By the way, just for the record,  
14 I don't know if everyone else has it, but I have a copy  
15 of your August 27th letter. I have reviewed it carefully.

16 MR. BROWN: I was going to make reference to  
17 that. It was a pleasure to have spoken to you in Salt  
18 Lake. Certain issues were raised and some questions  
19 come over with respect to that presentation and comments  
20 at that time. I did send you a letter dated August 27th,  
21 I think, and I hope it speaks to the issues that were  
22 on your mind that day relating to the unfunded states  
23 which I'm going to speak a little bit more about, but

1 also with respect to the priority setting process and  
2 the details of prior LSC funding policies of State support.  
3 I don't intend at this point to discuss in any detail  
4 the priorities issue or the prior LSC Board process relating  
5 to State support funding in 1980.

6           However, I'm here primarily here on the funding  
7 formula and the proposals of Mr. Thimell, I believe,  
8 relating to the reallocation. Comments of my August  
9 27th letter relate to that and generally suggest that  
10 it would be inequitable to do that. I will speak to  
11 that in more depth.

12           Subsequent to August 27th, I wrote a letter  
13 as a project director of my State support center. I  
14 hope you got that letter dated August 30th, which --

15           MR. MENDEZ: I didn't.

16           MR. BROWN: I can't vouch for the mails, I  
17 guess.

18           MR. MENDEZ: I'm sorry.

19           MR. BROWN: What that letter does is speak  
20 from my perspective personally as a State project director  
21 in New York showing or trying to show that the result  
22 would be very inequitable in New York. I will touch  
23 on that.

1           Initially, I want to restate the NOSSU position.  
2 I think Mr. Thimell wasn't quite correct in stating what  
3 that position was in Salt Lake. In Salt Lake, we did  
4 suggest that it was appropriate to start some State support  
5 funding activities for the seven states that are not  
6 funded, activities relating to State support planning  
7 and initial grants. And we suggested that those activities  
8 might be possibly funded out of a small portion of the  
9 carry over funds which we still think will exist in the  
10 range of three to four to five million dollars.

11           We, however, also suggested, which Mr. Thimell  
12 did not mention, that any activities begun then should  
13 be carried on subsequently through appropriated funds  
14 starting, say, in 1987.

15           I want to reiterate in light of Mr. Thimell's  
16 current proposal on the reallocation to fund the seven  
17 states that don't have State support money what NOSSU,  
18 National Organization of State Support Units' position,  
19 basic position is.

20           First of all, we believe that you have the  
21 responsibility to provide adequate State support funds  
22 to all the states and that the realistic goal to work  
23 for is the four percent goal that was outlined and embraced,

1 I think, by the Board in 1980.

2 Second, we think that those State support needs  
3 which are not now met can be met and should be met without  
4 redistributing the existing State support.

5 Lastly, we think that you should consider funding  
6 immediate legitimate State support needs that exist right  
7 now after a planning process from carryover of funds.

8 My guess, however, is that such immediate legitimate  
9 needs might not be that very great. Such immediate needs,  
10 as I see them, cannot justify the results that result  
11 from the proposal.

12 With respect to the proposal, more specifically  
13 I don't think there is the funding crisis or the funding  
14 disparity or a serious funding disparity with respect  
15 to State support funds for those seven states that don't  
16 have funds, except possibly for the State of Delaware.

17 My reason for stating that is that the other  
18 six states already are very well funded, relatively speaking  
19 to a certain extent, with basic field funds. The lowest  
20 funded one --

21 MR. MENDEZ: Let me explore that a little bit.  
22 I want to make sure that we're on the same wave length  
23 in spite of the hair. What you're saying is that we

1 really ought to consider basic field funding when we  
2 look at the State support?

3 MR. BROWN: I'm suggesting, and I'll get into  
4 that further, that with respect to looking at State support  
5 funding now, in light of the fact that we are critically  
6 short of funds and really don't have excess funds to  
7 give away or to put in certain programs without harming  
8 other programs that one of the criteria should be what  
9 the existing field base is in the State.

10 And that brings up --

11 MR. MENDEZ: That is --

12 MR. BROWN: That's my key point.

13 MR. MENDEZ: That's your key point.

14 MR. BROWN: But there are other criteria.

15 MR. MENDEZ: I understand, but that is the  
16 highest priority that you would assign.

17 MR. MENDEZ: Well, I'm not sure. It's an important  
18 criteria. The highest? You know, maybe we can get that  
19 a little later after I mention what the other ones are.

20 But basically six of those states are to a  
21 certain extent relatively well-funded.

22 MR. MENDEZ: I understand what you're saying.

23 MR. BROWN: I mean South Dakota is already

1 at 840 and would go to 860.

2           Missourisis at 865 and would go to 885. At  
3 865 it is close to right now the average of what all  
4 states get who have State support. The average for states  
5 with State support is 867 and Missouri is at 865. Giving  
6 Missouri, for example, 20 cents, puts it significantly  
7 above the existing State average.

8           And we could go on to Kansas which is already  
9 funded at 879. It would go to 899, well above the existing  
10 average for states that now have State support. And  
11 Nebraska is even more disparate, 920 to 940. Iowa: 933  
12 to 953. And Hawaii from 992 to 1010.

13           Now it's not that I don't want these states  
14 to get funds. I'd like to have them get funds. But  
15 in order to generate the funds for them like has been  
16 suggested, we have to take money away from a number of  
17 states that are much less -- are funded much lower than  
18 those seven states.

19           For example, Maine would go down from 816 to  
20 813. Ohio from 825 to 821. New York from 826 to 823.  
21 Michigan from 831 to 826. New Jersey from 835 to 831.  
22 Idaho from 837 to 834. And, lastly, Arizona 842 to 839.

23           I just picked out the lowest group that would

1 be affected by the redistribution of funds. And I say  
2 to you why reduce Maine's funding from 816 to 813 to  
3 give funds to Hawaii and Iowa and Nebraska and Kansas?  
4 I can't see a logic in that. Those states have 850 and  
5 950.

6 It would seem to me that that should be able  
7 to provide a level of services including support services  
8 that would more than meet that State's need relatively  
9 speaking compared to many states who already have State  
10 support funds.

11 MR. MENDEZ: All right, let's follow your argu-  
12 ment. If we use your argument, then we shouldn't really  
13 be funding State support for Kansas. We should be funding  
14 State support to Maine to increase it, to bring it up.

15 MR. BROWN: Well, one can come to the conclusion  
16 asato --

17 MR. MENDEZ: Isn't that the logic of your argum-  
18 ment?

19 MR. BROWN: Maybe the main focus should be  
20 on the lower funded states when you consider both the  
21 basic field plus the State support. I mean it's got  
22 to be a factor. I think it has to be. I mean how can  
23 you take money if you want to use Maine as an example

1 from Maine to increase Hawaii to over 10 dollars.

2 MR. MENDEZ: I understand your argument. I  
3 understand and reiterate that you gentlemen did a really  
4 excellent job on the brochure and materials presented.  
5 This clarifies and makes the issues a lot clearer and  
6 crystallizes some ideas in my mind. I just wanted to  
7 see where you were on this.

8 MR. BROWN: In light of these comments, I'd  
9 just like to make a couple of further comments with respect  
10 to NOSSU's position so it's not confused.

11 One, we want accurate State funding, State  
12 support funding for all states. Again, this kind of  
13 a redistribution just doesn't make any sense. As a matter  
14 of fact, redistributing existing State support funding  
15 and cutting back programs is something that we don't  
16 want to see happen.

17 If these seven states were states that were  
18 typically minimal funding, 780, it might be a little  
19 different situation and I might be making some different  
20 comments.

21 I think with respect to State support there  
22 are really two ways of looking at it. There are short-  
23 term goals and there are long-range goals.

1 I think with respect to NOSSU's position, you  
2 know what our longer range goals are, that we should  
3 work towards a four percent, some significant State support  
4 increment in each State so that State support can be  
5 provided.

6 Now with respect to bringing states, say, up  
7 to that four percent level, new money would be necessary.  
8 And our position is that if this Board considers State  
9 support to be an important ingredient of the delivery  
10 system, the small amount of money necessary to get State  
11 support funded to that kind of an adequate level could  
12 come from appropriated dollars, I would hope.

13 We're not talking about millions and millions  
14 of dollars.

15 MR. MENDEZ: Tell me what the difficulty would  
16 be in folding State support in and requiring programs  
17 to spend four percent of their money on State support?

18 MR. BROWN: Could you be more specific as to  
19 how a program would spend four percent of its money?

20 MR. MENDEZ: The questionnaire that we're going  
21 to be sending out on priorities. Require them to spend  
22 four percent on those priorities.

23 MR. BROWN: A local program to spend four percent

1 on, say, training?

2 MR. MENDEZ: Training.

3 MR. BROWN: And what if that program wants  
4 to spend or sees that money best spent by the State support  
5 center? They would then subgrant the money to the State  
6 support center to provide the training.

7 MR. MENDEZ: That's essentially what a lot  
8 of them are doing now.

9 MR. BROWN: I think in most cases the money  
10 is going directly to the State support center and you  
11 don't have a convoluted subcontracting practice. In  
12 some states, you're right. You do.

13 MR. MENDEZ: I thought most of the states used  
14 that method.

15 MR. BROWN: I don't believe so. I don't believe  
16 that the subgranting practice relates to the majority  
17 of the State support centers. I think it is a significant  
18 minority.

19 MR. THIMELL: Well, there's about 67 recipients  
20 of State support funding and about 43 senders. So there  
21 is a significant number that do in fact subgrant the  
22 monies to a center. There are also a number that actually  
23 pool some of their basic field monies and give them to

1 centers above and beyond that.

2 MR. BROWN: But in one State I think it's about  
3 eight eight programs that are involved in the subgranting  
4 of their money to one of the states. So that takes  
5 a big chunk out of that.

6 But in the majority of the states, the money  
7 is actually going for the most part to the one State  
8 support program.

9 I know this issue has been raised before, but  
10 let us have each of the programs earmark two percent,  
11 four percent, x percent of their money for national support  
12 and State support.

13 I would just would suggest to you that it would  
14 be hard for me to conceive of that kind of an approach  
15 to the utilization of a State support money and national  
16 support money to be used effectively and efficiently  
17 and in the best interests of the clients.

18 MR. MENDEZ: But that is what in fact is happening  
19 in Dan's case.

20 MR. TAUBMAN: Excuse me. I don't think that  
21 is happening in our case in Colorado. We are a subgrantee  
22 of Colorado Rural Legal Services and our funds are given  
23 as part of the grant to Colorado Rural Legal Services

1 and then they are transferred to us.

2 MR. MENDEZ: Yes, but there is an agreement  
3 with Colorado Rural Legal Services in El Paso or in Pueblo  
4 where they all function on that.

5 MR. TAUBMAN: There has been an agreement,  
6 I guess, for approximately the last 10 years that my  
7 program will serve as the State support office for those  
8 programs, but the other programs would not donate the  
9 money or contribute part of their funds to the Colorado  
10 Coalition of Legal Services Program as the State support  
11 office. Our funds come primarily from the Corporation  
12 grant that is in effect a subgrant for State support  
13 funding specifically.

14 MR. BROWN: Let me give you this reaction to  
15 that suggestion at least from the perspective of New  
16 York, Mr. Mendez.

17 There are 19 programs in New York that my program  
18 provides support to. Let's say that each of those programs  
19 was given their pro rata share of my grant and then given  
20 a choice to provide X amount of dollars and spend X amount  
21 of dollars in State support.

22 A couple of things: One, there is not a program  
23 in the State that in the last 11 years that I've been

1 in the State support center that has exhibited any kind  
2 of interest or desire for that to happen.

3 Or to put it another way, I have not heard  
4 a single complaint or concern that that is the method,  
5 the present method has any problems or is inadequate  
6 or does not serve their needs.

7 On the contrary, my guess would be that if  
8 you spoke to those 19 program directors, you would find  
9 out that, one, they would -- I would make a wager --  
10 send the money to State support to continue our operation  
11 basically as it is.

12 And what would the net result be? Nineteen  
13 programs having to go through subgrant arrangements to  
14 accomplish what we have now, increasing the red tape,  
15 the bureaucracy, the whole business to accomplish what.  
16 I guess I'm not sure.

17 MR. TAUBMAN: Let me suggest that if the require-  
18 ment were not mandatory that they provide State support  
19 services, I think the individual programs might interpret  
20 the term State support services loosely and perhaps use  
21 the money for their ordinary expenses and thereby, in  
22 essence, eliminate the very functions that a State support  
23 office is intended to fulfill.

1 MR. BROWN: Along that line, I would just pass  
2 an anecdote. At the last meeting, I suggested, for example,  
3 some things could come across in a program that despite  
4 their best wishes and desire, if they were given the  
5 option to spend, say, four percent on State support --  
6 Despite their desire to do that, certain things can happen  
7 and do happen in programs that would put programs in  
8 a bind and not let that happen.

9 For example, I suggest that maybe a contract,  
10 a labor contract, would be negotiated in a program which  
11 would require some normal pay raises and there is no  
12 increase in the grant. My guess is that the Board of  
13 Directors of the local program, much as they might be  
14 convinced that State support would be a nice way to spend  
15 their money, would probably fund their labor contract.

16 The anecdote is that John Asher came up to  
17 me at the meeting last month and said, "You know, Steve,  
18 that was an interesting example. I know that if my choice  
19 was having to fund the labor contract which I was forced  
20 to sign or funding State support, I would have no choice.  
21 As much as I wanted to fund State support, I would have  
22 to fund the labor contract."

23 Take my program right now. I'm affiliated

WI

1 with a program in Rochester, New York. We are in the  
2 lowest rent building in the City of Rochester which is  
3 a preservation building. It's being rehabbed. It's  
4 going to become now a high rent district building and  
5 we are going to be leaving in the next four or five months.  
6 We are going to have to spend significant amounts of  
7 money on relocation and higher rent.

8           A local program faced with unexpected higher  
9 expenses like that would not fund State support possibly.  
10 They would have no choice.

11           MR. MENDEZ: I'm going to have you go for a  
12 few more minutes.

13           MR. BROWN: Lastly, let me move on to your  
14 concerns as I've heard articulated here in the last couple  
15 of months that there are some centers -- there are some  
16 states that do not have State support and there are some  
17 states that have low level State support. Is there anything  
18 we need to do?

19           Well, as I suggested before, one approach is  
20 to look at State support on a larger basis and hope to  
21 get some appropriated funds to even out in the long run  
22 the disparities as they might exist.

23           But with respect to the short run, I would

1 suggest that before doing anything to refund or fund  
2 the seven states or the territories or the District of  
3 Columbia that some close looking be taken as to those  
4 entities before any decision is made as to redistribution  
5 of the funds.

6 With respect to -- And a needs assessment in  
7 each of those state or territories should be performed,  
8 an analysis of what their State support needs are.

9 With respect to determining whether those State  
10 support needs should be funded, it seems to me that some  
11 of the relevant criteria might be the current level,  
12 as I mentioned before, of that State's funding. Another  
13 criteria might be whether the State is a state-wide program.  
14 If the program is already state-wide, it may be already  
15 providing some of the key State support activities.

16 MS. BERNSTEIN: I really need to interrupt  
17 you and ask you a question. When we were going through  
18 and we were talking about the funding formula generally,  
19 I'd have to go back and check the transcripts, but I  
20 know that PAG opposed my feeling or my suggestion that  
21 we should factor in State support funding into the question  
22 of per capita funding.

23 And once again I'm faced with the situation

1 that an idea which is good for one situation is -- or  
2 an idea which is bad for one situation -- I was opposed  
3 by the State support centers at that time. They said,  
4 no, you should not factor it in per capita.

5 I noticed when I got your letter that now you  
6 think it's a good idea when it's a question of the State  
7 support funding to factor in the per capita.

8 MR. BROWN: Here is what I am suggesting. I  
9 am suggesting that on a long term basis that that should  
10 not be a consideration, that having an adequate State  
11 support operation should be the criteria irrespective  
12 of what the State funding is.

13 MS. BERNSTEIN: But we should only judge the  
14 adequacy of the support operation for the ones that have  
15 not yet been funded. We should not take an objective  
16 look at the entire funding of State support.

17 MR. BROWN: Well, I'm talking about a longer  
18 range picture down the pike. We don't see money on the  
19 horizon to do what my goal would be. That is to fund  
20 everybody at four percent.

21 But I understand that the heavy concern you  
22 have here with respect to the immediate situation or  
23 the perception that the immediate situation cries for

1 some action to end some inequities.

2           What I'm suggesting is the inequities really  
3 I don't think are there, except possibly for the State  
4 of Delaware which is at \$7.80. I don't think that in --  
5 And I think the absence of the inequities at this point  
6 with no dollars around and with respect to the solution  
7 having to be the redistribution of funds that are already  
8 out in the programs doing the work, I just don't think  
9 that that is the best solution for dealing with inequities  
10 that really may not exist.

11           MS. BERNSTEIN: But, see, your assumption is  
12 the programs that are already out there are doing the  
13 work and the ones that don't have any funding therefore  
14 don't.

15           MR. BROWN: I'm assuming, for example, that --

16           MS. BERNSTEIN: We're not taking an objective  
17 look at everybody.

18           MR. BROWN: I'm assuming that the State of  
19 Nebraska, for example, at \$9.20 right now should be able  
20 to provide certain support services when you compare  
21 it to states like New York which are at \$8.26.

22           I just am concerned that there is a sense that  
23 the higher funding level should have no relation to whether

1 there should be some State support activities already.

2 MR. MENDEZ: I think we recognize that.

3 Steve, I tell you. We recognize what you're saying.

4 It's my concern as well. I will tell you that your letters  
5 and subsequent comments, those materials crystallized  
6 my thoughts. I am very concerned about that aspect of  
7 it. We have to figure out some way to address that.

8 Maybe the direction we have to go is look at  
9 Delaware this year for some funding increase for them  
10 right now and worry about the rest later.

11 MR. TAUBMAN: We would certainly be supportive  
12 of some kind of approach. I can say also that we in  
13 NOSSU will of course be willing to work with the people  
14 in Delaware and the other six states in helping them to  
15 establish State support operations.

16 MR. MENDEZ: For everyone in the audience,  
17 the air conditioning is off. We are trying to get it  
18 back on. If you notice the Board, some of us are more  
19 courageous than others and have already taken our jackets  
20 off. Please feel free to do that. We are trying to  
21 address the issue. As soon as we get it, everybody will  
22 be happier.

23 MR. BROWN: Well, at least for the short run

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1 term again, I think that it's inevitable that you're  
2 going to take a look at the current funding level of  
3 states and that you should look at that with respect  
4 to whether or not you are going to do something immediately  
5 to fund states.

6 And, again, I suggest Delaware may have a special  
7 case. You know, again, whether a program is state-wide --  
8 If it's state-wide, it could be that some of those impor-  
9 tant State support activities are already existing or  
10 at least they won't be as pressing for certain states  
11 that have 19 programs like New York and that the State  
12 support needs might not be the same.

13 And of course there is the geographic size  
14 of the size. I mean Delaware. I'm not going to knock  
15 Delaware, but it is a pretty small State. My guess is  
16 that a lot of the activities that State support needs  
17 to support New York wouldn't be appropriate or necessary  
18 to be funded in Delaware.

19 MR. MENDEZ: All right, I'm going to give you  
20 two more minutes. Then I'm going to turn to Dan.

21 MR. BROWN: Well, I have completed my presenta-  
22 tion. I hope in light of that this particular proposal  
23 will not be approved.

1           MR. TAUBMAN: I sense from what you're saying,  
2 Pepe, that you're not inclined to -- that you may not  
3 be inclined to go along with the staff recommendation  
4 at this point. I hope that would be the case.

5           MR. MENDEZ: We may equalize everything dollar  
6 for dollar.

7           Smile, Steve.

8           MR. BROWN: I hope before anything like that  
9 happens we would get more of a chance to comment.

10          MR. TAUBMAN: If that is the case then, I would  
11 just as soon defer any further remarks I might have in  
12 regard to the staff proposal. If you wish me to comment  
13 on it, I will be glad to.

14          MR. MENDEZ: I will advise you that at the  
15 next meeting we will make a final determination as to  
16 how we are going to allocate in each of the programs  
17 for the ensuing year. We have all of your materials.  
18 We have the staff's materials. I can't speak for the  
19 Board, but I have some ideas of my own. Hopefully, like  
20 everyone on this Board, my ideas will carry the day.  
21 Mr. Smegal looks at me as though his ideas are the ones,  
22 the only true and correct ones.

23          MR. SMEGAL: Well, that's true.

1           MR. MENDEZ: But I think with your presentation  
2 and materials you gave us before we have it very clear  
3 in our minds. We understand the arguments.

4           MR. BROWN: Just one further footnote that  
5 just came to mind: You know, the Indian programs have  
6 asked me to point out that the per capita computation,  
7 it does not appear. It accounts for the Indian, the  
8 Native American population in a number of states.

9           For example, in Arizona, I think it's 39 cents.  
10 That is based only on the field base. That's really  
11 an inflated amount because the State support activities  
12 in Arizona also support the Native American program which  
13 gives it a larger count which would then bring the State  
14 support amount from 39 down. I think there may be a  
15 number of states that may be affected that way.

16           MR. MENDEZ: Do you have a list of other states?

17           MR. BROWN: Well, the other states that get  
18 Native American funds are all affected I think in some  
19 way.

20           MR. MENDEZ: Now, Dan, you asked me on numerous  
21 occasions about training and I want to hear your ideas  
22 on the record in front of everyone.

23           MR. TAUBMAN: Thank you, Pepe. I really appreciate

1 the opportunity to talk to all of you. I would like  
2 to take about 10 minutes just to talk to you about training  
3 which is an area where I know that you have not given  
4 a great deal of consideration because you have focused  
5 on areas that you have given priority to.

6 I might say you are in the dark about training.

7 MR. MENDEZ: Can you turn this light back on?

8 MR. SMEGAL: Only that end of the Board is  
9 in the dark.

10 MR. MENDEZ: Okay. They say the lights out  
11 are to keep the -- There is a compressor out. The other  
12 units have been turned up to full capacity and someone  
13 will be up soon to adjust the lights and maybe that will  
14 help.

15 MR. TAUBMAN: I would like to tell you briefly  
16 who I am and why I think training is important and why  
17 I think you should give some immediate consideration  
18 to that area.

19 As Pepe mentioned, I am with the State support  
20 office in Colorado; the Colorado Coalition of Legal Services  
21 Program. I am also the chair of the Training and Resources  
22 Committee of NOSSU. And I am a member of a committee  
23 of the American Bar Association's Private Bar Involvement

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1 Project that is concentrating on issues concerning training  
2 for pro bono attorneys.

3 In my capacity as director of the State support  
4 program in Colorado, I plan and coordinate about eight  
5 to 10 training conferences per year. I have served as  
6 a trainer in some of them. I served as a trainer on  
7 State, regional, and national basis in some areas. I  
8 have coordinated training for Legal Services staff, including  
9 attorneys, paralegals, and support staff. I have also  
10 done client Board training.

11 In addition, we have been increasingly working  
12 in the area of providing training to some 3,000 pro bono  
13 attorneys in the State of Colorado and have been trying  
14 to do that over the past several years.

15 When I talk about training, I would like to  
16 start by telling you what I am not referring to. I am  
17 not referring to -- I'm not going to talk about a lot  
18 of different areas that might be considered within the  
19 area of training such as desk manuals which are a kind  
20 of training or co-counseling where we in the State support  
21 offices, as more experienced attorneys, serve as mentors  
22 or teachers for less experienced attorneys.

23 Nor am I going to deal with task forces which

1 we also have which are also a form of training.

2           Rather, I am going to focus on the traditional  
3 kind of training events that private attorneys normally  
4 attend that are put on by the Continuing Legal Education  
5 programs in states and by various other private commercial  
6 entities.

7           I think that training is very important. It  
8 is required by the Legal Services Corporation Act in  
9 order to enable us to provide the best representation  
10 possible to our clients.

11           The NORC study that was referred to before  
12 concluded that a great majority of the attorneys and  
13 paralegals and project directors believed that training  
14 was very important. That was true both for substantive  
15 training, which is training involved with certain specific  
16 areas of law such as welfare law, consumer law, housing  
17 law, and skills training which is kind of how-to training  
18 like trial practice or negotiation or interviewing skills.

19           In addition, a study was done by Carol Mosely  
20 who is the training coordinator of the Texas State Support  
21 Center and it concluded that training was very important  
22 and also very valued by the staff in Texas who had attended  
23 the training conferences there.

1           Specifically, a survey that she did at the  
2 beginning of this year concluded in part that about one-  
3 third of the respondents indicated that their win rate  
4 increased following training and on average they estimated  
5 that they won 35 percent more cases.

6           Also, nearly 40 percent of the participants  
7 increased their case work subsequent to the training.  
8 And that increase in productivity was more than double  
9 for inexperienced staff, suggesting that new staff training  
10 should remain a priority.

11           It also concluded that training materials were  
12 used by a great majority of the trainees after their  
13 return to the office.

14           All of these statistics indicate that training  
15 can be very valuable in the long term to enable Legal  
16 Services staff to provide better representation to their  
17 clients.

18           What then is the problem concerning training?

19           I think that there are two main problems that  
20 I am going to suggest to you. One is the inadequacy  
21 of resources. Second is the need for greater planning  
22 in the Legal Services community in this area.

23           First, with regard to inadequate resources,

1 one of the resources that we have are the regional training  
2 centers. As you know, there were efforts made to defund  
3 the regional training centers a few years ago and earlier  
4 this year the Board indicated that it would cut their  
5 funding by 21 percent.

6 The State support centers, which provide a  
7 great deal of training throughout the country, had received  
8 very little money specifically set aside for training  
9 during the past five years.

10 This year, as you know if you have read the  
11 latest issue of the LSC Program Notes, \$151,000 was distri-  
12 buted in mini-grants. As you may not know, there were  
13 111 applicants for those grants and only 16 grants were  
14 awarded.

15 Last year, by contrast, there were 30 grants  
16 awarded. This year four grantees received over 50 percent  
17 of the money that has been allocated. The fact that  
18 all applications were training assistance indicates that  
19 there is a great perceived need for additional resources  
20 in this area.

21 One of the areas that we have considered putting  
22 on training in Colorado is the area of alternative dispute  
23 resolution. One of our attorneys in a rural area requested

1 us to put on training in the center for dispute resolution.  
2 And Colorado presented a plan, but the proposal was too  
3 extensive for us to fund. It would cost about \$6,000.

4 About a year ago, or actually over a year ago  
5 when I heard that the Legal Services Corporation was  
6 interested in funding training in this area, I contacted  
7 the Legal Services Corporation concerning this. For  
8 more than a year I have been in contact with the Legal  
9 Services Corporation and have failed to receive any satis-  
10 factory response concerning the ability or the availability  
11 of funds in this area. I have been assured that there  
12 would be a request for proposals forthcoming and there  
13 were not. I was assured that funding would be available  
14 and there has not been.

15 Most recently, I contacted Peter Broccoletti  
16 and somebody from his staff called me back. I explained  
17 the problem to him and he said he would get back to me  
18 in a few days. He never did get back to me.

19 I understand that this year the Legal Services  
20 Corporation had allocated a half a million dollars in  
21 the area of alternative dispute resolution and that none  
22 of that money has been spent.

23 I am concerned that money is allocated in areas

1 like this and is not being made available to the field  
2 programs for training.

3           Finally, pro bono attorneys: The new and prior  
4 regulations regarding the PAI requirement recognized  
5 the importance of training both by private attorneys  
6 of Legal Services staff and training for pro bono attorneys.

7           There have been no provisions made to assist  
8 the programs in providing such training.

9           In Colorado we have been making particular  
10 efforts to do this and there have been similar efforts  
11 in other states. Let me just tell you briefly about  
12 a couple of things we have been doing.

13           Earlier this year in June we co-sponsored a  
14 program on Social Security disability law that was funded  
15 by the State Continuing Legal Education Program out of  
16 a special pro bono fund. The training was provided free,  
17 but private attorneys had to agree to take two pro bono  
18 cases in the area of Social Security disability. We  
19 had between 90 and 100 people participate in the conference,  
20 about 60 of whom were private attorneys. And there will  
21 be additional private attorneys signed up to watch the  
22 program on video tape throughout the State.

23           We believe that was a significant asset to

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1 enable us to provide pro bono attorneys with more training.

2 MR. MENDEZ: Dan, I have a question.

3 How do you determine what the programs-- what  
4 areas you should be training in?

5 MR. TAUBMAN: I'm glad you asked me that question,  
6 Pepe. Every year we do a training needs assessment survey.

7 MR. MENDEZ: I told you I was going to ask  
8 this question.

9 MR. SMEGAL: I thought you were reading off  
10 his list.

11 MR. TAUBMAN: Every year we do a training needs  
12 assessment survey of all the Legal Services staff. And  
13 we ask questions about what they -- And ask people to  
14 rate the order of priority what they believe is their  
15 most important need for training. We do that for support  
16 staff, paralegals, and attorneys. We use that as our  
17 primary basis for determining where we are going to do  
18 training.

19 Many other states do the same thing. Sometimes  
20 we have added input from the project directors because  
21 they have a particular interest or a particular need  
22 for training. We take that into account when we plan  
23 our training.

1           So our training is pretty much a function of  
2 that training needs assessment survey.

3           MR. MENDEZ: Let me interrupt.

4           Steve, did you get a chance to go next door  
5 and look at that?

6           MR. BROWN: Not yet.

7           MR. MENDEZ: Well, it's gone now.

8           Dan, do you think we can make use of that?  
9 Do you think that would be a good method of training  
10 people nationally for basic skills?

11          MR. TAUBMAN: Pepe, I think the new training  
12 technology using an interactive video disc method has  
13 a lot of potential. I think that it is something we  
14 should certainly explore to see how it will work in the  
15 Legal Services program.

16          As I mentioned to you, I would be happy for  
17 us in Colorado to participate on a pilot basis with the  
18 interactive video disc technology.

19          I think there are some questions that might  
20 be raised about how effective it might be in skills training  
21 as opposed to substantive training and, secondly, about  
22 the adaptability of substantive law training for each  
23 particular State.

1           But those are concerns that I think will be  
2 addressed and I think it is certainly worth pursuing.  
3 It may be very expensive. The article that was distributed  
4 before concerning the NYU program indicates it may cost  
5 \$150,000 to develop one single training package. And  
6 of course in addition to that, we need computer technology  
7 which programs don't have. And that technology has to  
8 be -- Or the interactive video disc technology is used  
9 on an individual basis.

10           So even we, for example, in Denver were to  
11 acquire the necessary hardware to do that, either we  
12 would have to be able to ship it all over the State or  
13 people would have to be able to come to Denver on an  
14 individual basis to use it.

15           Or of course the other alternative would be  
16 to make the hardware available in half a dozen locations  
17 around the State so it would be more easily accessible.

18           But as I said, I think it is certainly worth  
19 exploring as an alternative.

20           The second problem that I mentioned that I  
21 see with training is insufficient planning and coordination  
22 on a national basis.

23           The regional training centers do an excellent

1 job of meeting on a regular basis and sharing their informa-  
2 tion. Their training is limited to skills training.  
3 There is not very much coordination right now on the  
4 substantive training. So there is very little way now  
5 for me in Colorado to know what people in Tennessee are  
6 doing in the areas of welfare law or consumer law or  
7 Social Security disability so that I might be able to  
8 take advantage of what people in some other State have  
9 been doing or for them to take advantage of what I've  
10 been doing.

11 So in response to these two problems, I would  
12 like to propose two solutions which I would hope that  
13 you would consider and maybe adopt.

14 The first is in connection with greater resources.  
15 That you consider asking the Congress for additional  
16 funding specifically for training for 1987.

17 I think that the amount of that training needs  
18 is something that could be determined by use of my second  
19 proposed solution.

20 My second proposed solution is that the Corporation  
21 begin now to start a national planning process regarding  
22 training. I would propose that the Corporation convene  
23 a task force or working group of people involved with

1 training coming from field programs, State and national  
2 support, regional training centers, law schools, and  
3 Bar associations, and that it be coordinated with the  
4 National Training Coordinator of the Legal Services Corpora-  
5 tion in order to discuss various questions like the amount  
6 of money that should be requested from the Congress for  
7 1987 and also the question of how interactive video disc  
8 technology could most appropriate be used and, third,  
9 how coordination could better be achieved on a national  
10 basis, whether that might be through a national newsletter  
11 on the area of training or some other method.

12           So I would hope that you would give serious  
13 consideration to these proposals. I would be happy to  
14 answer any questions you might have about training.

15           MR. MENDEZ: Give me one minute here.

16           Joel, I want you take a couple of notes. I  
17 want you to report back next meeting concerning the feasi-  
18 bility of having a national planning group to discuss  
19 training and the objects of training.

20           He's made some suggestions, but I also want  
21 to include CLE, West, and CCH, Matthew Bender, these  
22 groups as an overall planning group on how to perform  
23 national training, and Hyatt Legal Services.

1 Report back as to what you think the feasibility  
2 is. Talk to Dan a little bit and discuss that.

3 MR. THIMELL: Fine.

4 MR. MENDEZ: Yes, John?

5 MR. MOLA: Mr. Chairman, may I speak to State  
6 support funding?

7 MR. MENDEZ: I'm sorry?

8 MR. MOLA: Asato State support funding.

9 MR. MENDEZ: State support monies?

10 MR. MOLA: Funding.

11 MR. MENDEZ: Just a minute.

12 Let me find out if these gentlemen are completed.

13 MR. TAUBMAN: Yes. I would just like to say  
14 that I have not shared with you any written statement  
15 because I realize that you have plenty of information  
16 to read, but I would be happy to provide you with a short  
17 written statement or perhaps a copy of a letter that  
18 I had written, that Carol Mosely and I wrote to Pepe  
19 in May at his request concerning the need for additional  
20 funds for training.

21 The one thing I would like to emphasize really  
22 is that I think there is really an urgent need for money  
23 for training. I don't think I stressed that really,

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1 but in Colorado we really have been using money from  
2 one-time grants from a long time ago that are now running  
3 out. So in order to provide training, it's going to  
4 be extremely difficult for us to do that next year. I  
5 don't know how we are going to be able to do it.

6 Our alternatives are to try and take some money  
7 out of our existing funds which would mean we would have  
8 to reduce services somewhere. We are trying some alterna-  
9 tives where we are charging attorneys, private attorneys  
10 at one level and a lower level for pro bono attorneys,  
11 but we're not sure if that will raise any money at all.

12 But I think the situation in Colorado is similar  
13 to that in many other states because the money has not  
14 been provided and because the money for the regional  
15 training centers will in all likelihood be reduced. There  
16 will be a severe immediate and pressing need for money  
17 to assist the programs in putting on training so that  
18 the Legal Services staff and pro bono attorneys can provide  
19 quality representation.

20 Thank you.

21 MR. MENDEZ: Thank you.

22 I'm sorry that we can't make the air conditioning  
23 function.

1 John, why don't you come up and address us?

2 First, do you have any rebuttal remarks?

3 MR. THIMELL: I did want to make one point  
4 of additional comment in response to Mr. Brown's point  
5 about the states being over funded in comparison with  
6 his own State and some of the others.

7 He spoke only to the seven completely unfunded  
8 State support states as they exist, but we would also  
9 be extending additional funds to several low funded State  
10 support programs. Many of those are extremely less funded  
11 than his own State. Florida is at 780, Indiana at 780  
12 and Illinois 770, Texas 796, Pennsylvania 803, et cetera.  
13 So it wasn't just seven that were going to be benefitting  
14 from this at the expense of the others.

15 When you add the two together, basic field  
16 and State support per capita and establish a national  
17 average of 872 -- when it's combined, there are only  
18 three programs that would be getting new funds that are  
19 significantly above that and two right at it at 879.  
20 All the remaining programs are in fact below the national  
21 average when you combine the two statistics.

22 MR. TAUBMAN: I would just like to mention  
23 in response that under the staff proposal there will

1 be 25 State support programs that would lose funding  
2 and, in addition to the seven that don't have any funding  
3 right now, there would be only eight other states that  
4 would get increased funding.

5 Thank you.

) p.m.

6 MR. MENDEZ: John?

7 MR. MOLA: I believe that State support funding  
8 should be expanded to fund State support in all states,  
9 territories, and the District of Columbia.

10 However, I do not believe the way to achieve  
11 that goal is by cutting existing State support grants  
12 in 1986 by 10 percent.

13 I would submit that the goal of State support  
14 funding should be four percent of the basic field grants  
15 within the State. However, we shouldn't cut existing  
16 grantees to achieve that goal.

17 Rather, I would submit, we should use new money  
18 to achieve the goal. We can start with one-time grants  
19 out of LSC surplus in 1985. Those funds can be augmented  
20 by the Corporation seeking, as Ms. Bernstein and others  
21 have recommended, a supplemental appropriation from Congress  
22 to fund support and other necessary expenses in the national  
23 delivery system.

1 Or we can use, in addition, any new increases  
2 in future Congressional appropriations.

3 Another alternative to achieve the goal of  
4 State support funding in each and every State, territory,  
5 and the District of Columbia, is where states are not  
6 funded, the Committee, I believe, should look at the  
7 possibility of backing out State support funds at 13  
8 cents per poor person from the existing basic field grant.

9 The loss, the temporary loss, of basic field  
10 grants will be picked up. That is the redesignated dollars  
11 into State support will be picked up under the application  
12 of basic field funding formula as it already has been  
13 adopted by the Board.

14 Therefore, PAGES FCC is against the 10 percent  
15 cut as being unfair, as being needlessly disruptive of  
16 existing State support entities, and because it further  
17 perpetuates and increases funding inequalities.

18 We would urge the Board to look at these two  
19 other alternatives to achieve that goal that we hold  
20 in common with you.

21 MR. MENDEZ: Thank you.

22 MR. MOLA: Mr. Chairman, I also have some comments  
23 on --

1 MR. MENDEZ: Did you have a comment on that?

2 MS. BERNSTEIN: Well, yes. I'm still a little  
3 bit concerned. Getting back to the same, all of this  
4 discussion that we have talked about so far as far as  
5 the State support equalization funding. When Pepe suggested  
6 it and we look at the question of whether we were being  
7 unfair in distribution of State support funding, it was  
8 looking at it from the standpoint of the State support  
9 funding as apart from the per capita funding for the  
10 direct delivery.

11 The concern that I have relates to the fact  
12 that we are unwilling to look at the -- to fold in the  
13 State support per capita-wise in making our total distribu-  
14 tion of funding in order to equalize across the country.  
15 It seems to be -- I won't say duplicitous, but it seems  
16 to be unfair.

17 MR. MOLA: Don't accuse me of that twice.

18 MS. BERNSTEIN: But to look at it or to refuse  
19 to look at the greater unfairness of our funding formula.

20 In fact, if we ever go to the concept that  
21 we are to look at all of that when we do the State support  
22 equalization or attempted equalization, then it seems  
23 to me that we are then putting all the State support

1 grantees under what in HR 3222 -- the continuing resolutions  
2 of -- to cover '84 that was then adopted in 1985. A  
3 section of that said each grantee funded in fiscal year  
4 1983 pursuant to the number of poor people living in  
5 the geographical area shall be increased by equal percentage.

6           You know, we are starting to mix up then how  
7 are funding is mandated, at least under the continuing  
8 resolution.

9           My comment is that I think it is a very difficult  
10 question to start saying that we are going to do some  
11 taking into account of per capita funding and we are  
12 not going to do others.

13           I am just very concerned about the equalization  
14 problem.

15           MR. MOLA: The funding basis has always been  
16 different. For basic field, it's been census based.  
17 There are components of the delivery that are non-census  
18 based.

19           I don't think that what we are saying is that  
20 we want to perpetuate inequality. What we are saying  
21 is that we share that goal to do away with inequalities.  
22 The funding formula is doing it for the basic field.  
23 I am suggesting two other alternatives to achieve that

1 same equalization funding in the State support category.  
2 And I don't think the monies need to be co-mingled. I  
3 think we can look at them as separate grants with separate  
4 funding rationale and history.

5 MR. MENDEZ: The next gentlemen?

6 MR. TEITELMAN: My name is Richard Teitelman  
7 from Legal Services, Eastern Missouri and St. Louis.

8 I am not trying to comment on the whole area  
9 of State support, but our funding is \$8.39 per poor person.  
10 What Mr. Mola suggests would happen of backing out 13  
11 cents per poor person and that would put us at \$8.26  
12 per poor person, still 46 cents per poor person below  
13 the \$8.72 combined State support and local program funding.  
14 That's patently absurd and unfair.

15 That is the only comment I wanted to make.  
16 That is absurd, the 13 cent backing.

17 MR. MENDEZ: Thank you very much.

18 Okay, John, we are returning now to review  
19 of refunding application forms. We have already taken  
20 the testimony. We are just taking comments now.

21 MR. MOLA: Mr. Chairman, unfortunately I have --

22 MR. MENDEZ: I almost thought I would have  
23 you stand up. That way your comments would be short.

1 MR. MOLA: But I would drop the book.

2 I have a number of comments and I think the  
3 best way to do it is to go through and make reference  
4 to the refunding application as it appears in the book.

5 MR. MENDEZ: Okay.

6 MR. MOLA: I'm starting on page 72 of the Committee  
7 book.

8 The first concern has to do with I guess what  
9 is called the cover sheet. It goes to the issue of Board  
10 approval of the refunding application. This has never  
11 been done before. It is not required by the statute.  
12 And I think Pat Paquette has indicated and Tom has indicated  
13 the real logistical problems that are going to be created  
14 if we are on a six-week schedule and we need Board approval.

15 In effect, we are probably going to have only  
16 two or three weeks to --

17 MR. MENDEZ: I think we have an understanding.  
18 There is a waiver available, but before you get any money  
19 you have to have it in.

20 MR. SMEGAL: John, it seems to give you at  
21 least another month.

22 MR. MOLA: Yes. The other point is that it  
23 has never been required before and it is not in the

1 statute.

2 MR. MENDEZ: I understand that.

3 MR. MOLA: I believe that the December 15th  
4 date is going to help resolve the problem somewhat.

5 The second thing on the application is the  
6 statement in the third paragraph that incomplete applications  
7 will not be processed. This is not new language this  
8 year. It's been in last year and previous years.

9 The problem is that this is the first time  
10 that grant applications are not going through regional  
11 offices. My understanding is that there is going to  
12 be a lot of paperwork going through headquarters with  
13 these refunding applications and that ability of close  
14 communication between the field programs and regional  
15 offices is no longer there.

16 It appears to me to be a very harsh result  
17 for a program, for example, that has collating error  
18 in its xerox machine or inadvertently leaves out some  
19 information on the funding application to suffer the  
20 drastic penalty of not having the refunding application  
21 considered. That is what this application says.

22 It appears to me that there should be at least  
23 some provision for notice and an opportunity for a program

1 to cure if there should be some problem either mechanical  
2 in copying or inadvertent omission of information.

3 MR. MENDEZ: I think that is anticipated. It  
4 will not be processed and will be returned to the program  
5 for completion.

6 MR. MOLA: Will that happen?

7 MR. MENDEZ: Sure. That will happen. That  
8 is what you anticipate, is it not?

9 MS. PAQUETTE: There is a 30-day process between  
10 November 15th and December 15th when grants and budget  
11 will have to process the paperwork for the checks. We  
12 anticipate that we will use the staff at grants and budget  
13 and anyone else that we can get to assist to review those  
14 applications.

15 MR. MENDEZ: That brings up one item that I  
16 want to make sure.

17 MS. FRANCIS: But more than that, the involvement  
18 of the regional offices, that is the newly created unit,  
19 whether or not they will be involved in the process really  
20 hasn't been determined yet. I understand that they would  
21 also be reviewing it.

22 MR. MENDEZ: I want to make this very clear  
23 to the staff. If there are any additions to this grant

1 application or the assurances typed in, those are not  
2 to be processed. They are to be brought to the attention  
3 of the Board.

4 MR. MOLA: Mr. Chairman, on that point there  
5 are several places on the cover sheet and also in the  
6 assurances where there are assurances required of the  
7 applicant that are more extensive than the requirements  
8 of the statute or the regulations.

9 In the past, there have been disclaimers either  
10 on the funding application or in the cover letters reserving  
11 any rights that the programs have under the statute or  
12 the regulations.

13 MR. WALLACE: Disclaimers in the form or disclaimers  
14 that were typed in? Where does this disclaimer come  
15 from?

16 MR. MOLA: For example, I know in my own refunding  
17 application, a cover letter that went in last year stated  
18 that I was reserving and not waiving any rights that  
19 I might have under the LSC Act or the regulations.

20 I think that bone of contention, as Mr. Valois  
21 accurately described it a couple of meetings ago, is  
22 that there is an attempt here to extend rights to the  
23 Corporation by contract that don't exist by statute or

1 by regulation.

2 MR. WALLACE: Why don't they exist?

3 MR. MOLA: Because there are no statutory regula-  
4 tory provisions.

5 MR. WALLACE: We are a corporation. We don't  
6 have a right to put things in our contracts unless Congress  
7 specifically tells us we can put them in our contract?

8 MR. MOLA: Well, there is an attempt to do  
9 it in the cohesion contract, but there are also reservations  
10 that have been made every year. That's been a point  
11 of friction and contention.

12 MR. MENDEZ: They have not been made every  
13 year. They were made last year and that was the first  
14 year.

15 MR. MOLA: For example, the modifications of  
16 grant amounts by the Corporation could be in violation  
17 of the funding appropriations statute as it was this  
18 year.

19 MR. MENDEZ: Well, now I don't believe that  
20 is true because paragraph 1 specifically says that you  
21 are going to comply with and the Corporation will comply  
22 with the Act, the rules, and regulations, and the appropriat  
23 tion bills.

1           MR. MOLA: In paragraph 10 though, for example,  
2 the Corporation is asserting the right in its sole discretion  
3 to grant funds in greater or lesser amounts or for greater  
4 or lesser periods of time than requested in this application.

5           Last year, for example, that assurance was  
6 contrary to the Congressional appropriations statute.

7           MR. MENDEZ: Obviously the statute overrides  
8 that.

9           MR. WALLACE: What I am trying to understand  
10 is this. If we have a provision in here that Congress  
11 has told us is illegal, then that's one thing. If we  
12 are trying to do something by contract that Congress  
13 tell us we can't do, I certainly wouldn't argue that  
14 we can do that.

15           But aren't there areas in which Congress has  
16 not spoken? They haven't prohibited us from doing something.  
17 They haven't told us we have to do something. Are we  
18 required to pass a regulation before it can go in our  
19 contract or can we just put it in the contract?

20           MR. MOLA: I think it would depend on what  
21 you are attempting to do.

22           My point is that the reservations in previous  
23 years were because there were conflicts in the grant

1 assurances and existing law.

2 Pepe is now saying that if those same reservations  
3 are included in the 1986 refunding application it is  
4 not going to be processed.

5 MR. WALLACE: When you mean conflicts, you  
6 mean we put things in here that Congress has told us  
7 we can't do?

8 MR. MOLA: Or there is an attempt to abrogate  
9 rights under the statute and regulations. For example,  
10 the defunding situation should the Corporation choose  
11 to reduce my grant.

12 MR. MENDEZ: They can make their provision.  
13 They can make their statements. But before they can  
14 get their funds, the Board is going to examine it, review  
15 it, and make a determination.

16 MR. WALLACE: I mean we approve contracts.  
17 I know we don't approve individual contracts, but we  
18 are approving this form by the use of our people. It  
19 seems to me when we tell them that this is a good contract  
20 and, if somebody brings it back to you, you can sign  
21 it. If you bring them back a different contract because  
22 of reservations that are written into the contract, I  
23 think Pepe is right. It requires this Board to consider

1 whether or not that is a contract we want to sign. It  
2 may be. You may come and tell us that all I'm doing  
3 is saying that a provision of the contract you approved  
4 is illegal and Congress won't let you get away with that.

5 Then this Board can look at it and say, by  
6 golly, you're right. It is illegal and we will change  
7 our contracts from here on out.

8 But I don't think that we can authorize our  
9 staff to accept unilateral modifications of the contract  
10 form that we have approved. I think that is what you  
11 are getting at, Mr. Chairman.

12 MR. MENDEZ: That is correct.

13 MR. WALLACE: And I wouldn't want to accept  
14 unilateral modifications of the form that we approved.

15 MR. MOLA: Or the assurances are in conflict  
16 with regulations that are in effect.

17 MR. VALOIS: Aren't we all talking about this  
18 as if we had some real doubt? There was one case where  
19 I differed from Pepe on. There was a real question in  
20 my mind, but you all right now --

21 MR. MENDEZ: In your mind.

22 MR. VALOIS: You are entitled to be wrong once  
23 in awhile.

1           You know, I think we're chasing rabbits or  
2 something. If something comes up, then tell them to  
3 make their reservation and we want to find out what it  
4 is.

5           MR. WALLACE: I mean we are telling our staff  
6 if someone wants to sign this as is, go ahead and sign  
7 it. If somebody sends you a counteroffer, bring it to  
8 us and let's see what it is.

9           MR. MOLA: What if in my refunding application  
10 for 1986 I repeat the language that was in the cover  
11 letter from 1985. That is that by submitting the applica-  
12 tion and signing the assurances I am not waiving any  
13 of the rights that I might have under the Act or regulations  
14 or the appropriations bill.

15           MR. WALLACE: In the opinion of this Board  
16 member, I would like to know what rights you think you  
17 have. I mean that kind of a blanket reservation is the  
18 sort of thing I wouldn't sign unless I knew what you  
19 thought it covered.

20           I would say, Mr. Mola, tell me what you think  
21 is wrong with this contract. I would like to know it  
22 now rather than before a problem arises.

23           MR. MOLA: For example, paragraph 10, which

1 I believe in 1985 --

2 MR. WALLACE: Well, Judge Parker agrees with  
3 you on that and I disagree with Judge Parker on that,  
4 but this is going to be for '86.

5 MR. MOLA: And it also probably violates the  
6 regulation on defunding or denial of refunding. Would  
7 then my reservation cause my application to not be processed?

8 I think I am within my rights to state that  
9 in a cover letter.

10 MS. BERNSTEIN: Paragraph 10 does not violate  
11 the regulation on defunding because defunding provides  
12 a situation in which programs may be diminished by not  
13 more than 10 percent without kicking in the defunding  
14 procedure.

15 MR. MOLA: What the sole discretion will be  
16 of the Board? You can cut me in half. You can cut me  
17 to zero.

18 All I am saying --

19 MS. BERNSTEIN: But we are bound to abide by  
20 the Act, the regulations, and the continuing resolutions.  
21 I mean you are basically saying that we want some sort  
22 of a loophole here upon which we can, you know, base  
23 whatever complaint we have later.

1 MR. VALOIS: What he is saying is --

2 MR. MOLA: Your sole discretion is unconditional.

3 MS. BERNSTEIN: But you're not --

4 MR. MOLA: All I am saying is I don't think  
5 legally that this is a big area of dispute, but it continues  
6 because of lack of clarity. It continues to be a point  
7 of friction and dispute.

8 I know Pepe gets aggravated every time he hears  
9 about one of these cover letters. I think we are acting  
10 like good lawyers.

11 MR. MENDEZ: And we are acting like good lawyers  
12 in telling our staff not to accept it without us reviewing  
13 it.

14 MR. MOLA: But, Pepe, in that situation are  
15 you still going to be miffed at me for --

16 MR. MENDEZ: No. I'll tell you. I wasn't  
17 miffed at you guys. I was miffed at the Corporation  
18 for ever accepting it without ever reviewing it with  
19 the Corporation. I mean that's absolutely -- Without  
20 reviewing it with the Board. That is absolutely ludicrous.

21 MR. MOLA: What is your view of what I did  
22 last year?

23 MR. MENDEZ: I think it was wrong, but we have

1 11 members here and I'm only one voice. And Mr. Valois  
2 obviously has a very powerful and persuasive personality  
3 and the final decision will be the Board's decision.

4 Now you are telling us that you don't like  
5 paragraph 11?

6 MR. MOLA: No, 10.

7 MR. MENDEZ: Excuse me. 10.

8 MR. MOLA: I have other comments on 11. I  
9 am using 10 as an example for the reservation issue.

10 MR. WALLACE: Okay, 10 has some problems depending  
11 on what our appropriations bill looks like. Otherwise,  
12 what you are saying is what 10 ought to say in its sole  
13 discretion within the regulations it is established.  
14 I mean I know that's not the language.

15 But what you're saying is that whatever our  
16 defunding procedures are, our reduction in funding procedures,  
17 we will exercise our discretion by following the procedures.

18 MR. MOLA: And consistent with the LSC Act  
19 and the regulations.

20 MR. MENDEZ: Couldn't we just add some language  
21 in paragraph 1 saying that paragraph 1 applies to all  
22 other paragraphs in the application?

23 MR. WALLACE: Well, paragraph 1 says Mr. Mola

1 is going to comply with the Act.

2 MR. MOLA: I'm just asking for reciprocity.

3 MR. WALLACE: May we ought to say we're going  
4 to comply with the Act.

5 MR. MENDEZ: Let's change the language in paragraph  
6 1 and do that.

7 MR. MOLA: The parties.

8 MR. WALLACE: Yes.

9 MR. MOLA: The other concern is with -- It's  
10 a different issue with paragraph 11 where the Corporation  
11 is asserting its ability to modify any grant, any budget.  
12 My concern there is that I think the Corporation is abro-  
13 gating the statutory obligations for local decision making  
14 by Boards of Directors. I think that paragraph 11 should  
15 be stricken.

16 MR. WALLACE: Tell me exactly how paragraph  
17 11 works? Do you send us a budget and we approve your  
18 budget or are we modifying your budget or we don't? Exactly  
19 how does it work? I haven't been through this drill  
20 yet. I'm still new here.

21 MR. MOLA: Normally what happens is that we --  
22 In the past years, when the budget applications go in,  
23 and my personal knowledge is that there has never been

1 a modification. There may have been. And we get a grant  
2 award that's been based on the appropriation language.

3 This seems to say that what could happen is  
4 I put in a budget, for example, to spend \$800,000 in  
5 personnel costs and \$200,000 in non-personnel expenses  
6 and you, for whatever reasons, don't like the decisions  
7 made by my Board of Directors and you could modify that  
8 budget submission.

9 It appears to me that that is an illegal intrusion  
10 by the Corporation into the legal obligations of my Board  
11 of Directors and abrogates local control for decision  
12 making.

13 MR. MENDEZ: I'll tell you. I'm going to direct  
14 the staff to do something else in this thing. And that  
15 is that the president of this Corporation has to sign  
16 off on these things in approving these grants.

17 MS. FRANCIS: Yes.

18 MR. MENDEZ: And I don't see any place for  
19 him to sign off on.

20 MS. FRANCIS: What occurs is that we have is  
21 a signature by the director of the Office of Field Service  
22 submitting the application itself to the --

23 MR. MENDEZ: Where is that at?

1 MR. FRANCIS: It's on Form A which becomes  
2 a part of the grant document which is then turned over  
3 to the president of the Corporation who will accept the  
4 entire application by reference and the grant letter  
5 is signed off on by the president.

6 There is an additional -- Well, we don't have  
7 it in front of us, a copy of the grant document, but  
8 the president signs that.

9 MR. MENDEZ: All right.

10 Now I'll tell you what I want you to put in.  
11 Under "This application for refunding is approved by  
12 the Office of Field Services in the amount of:," I want  
13 you to put language that the Corporation, that Legal  
14 Services will abide by the Act and regulations and that  
15 sort of thing.

16 Now that should eliminate all of your problems.

17 MR. WALLACE: Except, may I say, that it --  
18 I mean it eliminates your legal problems, but it just  
19 means if we don't agree on what the Act and regulations  
20 mean, we're going to be fighting about it later.

21 I appreciate Mr. Mola calling 10 and 11 to  
22 our attention, and, if there are any other areas where  
23 we have problems, I wish somebody would call them to

1 our attention because maybe we could come to a common  
2 understanding.

3 MR. VALOIS: I don't think the change does  
4 a thing. It seems to me what Mr. Mola is saying is that  
5 we are treating the Act and the regulations as minimal  
6 requirements and in addition to that there is a certain  
7 discretionary area which is neither prohibited nor regulated  
8 by either Congress or by our Act and rules and therefore  
9 we have the discretion to impose some additional standards  
10 or additional conditions and we may do so and you're  
11 going to agree that we can do so and you're forever giving  
12 up your right if we properly exercise our discretion.  
13 If we're not properly exercising our discretion, Mr.  
14 Mola is going to sue us and we're going to lose if we  
15 are exceeding our authority or somehow in some other  
16 way acting arbitrarily and unlawfully.

17 So, you know, I think that tinkering around  
18 with saying we're both going to obey the law doesn't  
19 do a thing.

20 MR. MENDEZ: I understand. It's one of the  
21 issues that he raised. And I really believe that there  
22 is nothing here that says we are going to follow the  
23 law in this contract. I'm with you. I think we ought

1 to tell everybody, the world, that we are going to follow  
2 the Act and the regs.

3 MR. MOLA: And in 1986 I probably will have  
4 the same cover letter and I hope you will not not process  
5 it for me.

6 MR. MENDEZ: It may be processed, but I will  
7 tell you that the staff will not process it. It will  
8 be brought to the attention of the Board before it's  
9 done and it will be considered by the Board.

10 MS. BERNSTEIN: Gail, in paragraph 11, what  
11 is the purpose of that?

12 MS. FRANCIS: Well, what it is -- I think John's  
13 absolutely right. There are probably very few occasions  
14 where the Corporation would actually enforce its right  
15 to modify a budget.

16 MS. BERNSTEIN: Has there ever been?

17 MS. FRANCIS: I don't specifically recall.  
18 It occurs more with some of our one-time recipients rather  
19 than the annualized basic field programs.

20 MR. VALOIS: I'm ready just to say that if  
21 somebody submits a proposal to us and says and part of  
22 this is we want 17 chairs and we strike out 17 and put  
23 12 down, he's assented to it in advance. That's what

1 I understand it to mean. Beyond that, I don't know what  
2 it means.

3 MS. FRANCIS: It could mean that. I think  
4 it is presumably to prevent ludicrous kinds of applications  
5 from being submitted or something that is totally out  
6 of line with the kind of work that they should be doing.

7 MS. BERNSTEIN: You know, the thing of it is  
8 is I'm wondering whether we are not obligated as the  
9 Corporation to have this grant assurance in the contract  
10 in order to -- Or that this coincides with the setoff,  
11 you know the question of unreasonable -- What is an unreason-  
12 able expenditure? This simply helps the program out  
13 by telling them in advance what we would consider to  
14 be an unreasonable expenditure.

15 If the program had planned to spend two-thirds  
16 of its budget on administration and we say that probably  
17 is not a good idea, that's unreasonable, then -- You know,  
18 I'm just simply saying that maybe this is the kind of  
19 preventive question for a later setoff situation in which  
20 we are obligated to set it off because nobody can justify  
21 what was done.

22 Do you understand what I am saying?

23 MS. FRANCIS: Yes. I'm not sure that a setoff

1 will occur. There might be -- Again, there would be  
2 a redesign of the budget more than a setoff. The setoff  
3 is a different process.

4 MS. BERNSTEIN: I understand. I am simply  
5 saying that this is preventative. The setoff happens  
6 after it's been spent. Somebody spends money for 18  
7 PC's when they have 12 secretaries. That is an unreasonable  
8 expense. If that were in the budget, we should, you  
9 know, be in a position to modify it.

10 MS. FRANCIS: Yes.

11 MS. BERNSTEIN: That's the connection I see.

12 MS. FRANCIS: The only other question I wanted  
13 to direct to Mr. Mendez is do we or do we not want to  
14 include the language that, yes, the Corporation will  
15 abide by the Act and the regs? I was thinking to perhaps  
16 include it on the letter that is signed off by the president.

17 MR. VALOIS: The Corporation is bound by the  
18 statute as is Mr. Mola to obey the Constitution, the  
19 law of Washington, D.C., and the LSC Act, and abide by  
20 its own regulations insofar as it is duty bound to follow  
21 them. I don't really think that adds anything. To  
22 me, it adds nothing.

23 MS. FRANCIS: I agree. That's why we -- Well,

1 we did alert our superiors about the modifications that  
2 were made to the '85 applications. I guess in my mind  
3 it had no additional -- Of course they have their rights  
4 under the Act and the regs.

5 MR. MENDEZ: I'll tell you. Tom has some proposed  
6 language here. What I want you to do is look at Tom's  
7 proposed language. John, you make some proposed statements  
8 about what you think is or is not appropriate and get  
9 it to us in the next, let's say, two weeks.

10 MS. PAQUETTE: Five to seven days. These have  
11 to go to the printer in order to be reproduced and mailed  
12 to the programs. We have five to seven days to make  
13 modifications.

14 MR. MENDEZ: Okay, then we're going to do that  
15 right now. Let's take these issues one at a time.

16 MR. SMEGAL: I propose an amendment to paragraph  
17 1 on page 73, subparagraph 1, which reads: "It will  
18 comply with the Legal Services Corporation Act of 1974  
19 as amended, and applicable appropriation bills;" -- John,  
20 are you with me so far?

21 MR. MOLA: I'm sorry. No.

22 MR. SMEGAL: The second line after you have  
23 agreed to comply with the Legal Services Corporation

1 Act and applicable appropriation bills I would propose  
2 we would insert the words between the semi-colon and  
3 the word the "All lawful requirements of the rules,"  
4 continue, continue.

5 The next line down where it says --

6 MR. MENDEZ: Wait a minute.

7 MR. SMEGAL: I put in the words "all lawful  
8 requirements."

9 MR. VALOIS: After "the?"

10 MR. SMEGAL: Before "the." So it would be  
11 "All lawful requirements of the rules and regulations,  
12 policies, guidelines, instructions, and other directives  
13 of the Corporation."

14 Then I would make one other change.

15 MR. MENDEZ: Do we have somebody from the Corpora-  
16 tion getting this?

17 MS. FRANCIS: Yes.

18 MR. MENDEZ: Do you understand what we're doing?

19 MR. VALOIS: All they have done so far is add  
20 "all lawful requirements" after the semi-colon in the  
21 second line.

22 MR. SMEGAL: Okay. Then I would change the  
23 semi-colon after "Corporation" in the next line where

1 it says "directives of the Corporation." I would change  
2 that semi-colon to a comma, delete the "and" and put  
3 in the word "including." So the whole thing would read:  
4 "All lawful requirements of the rules and regulations,  
5 policies, guidelines, instructions, and other directives  
6 of the Corporation, including the LSC Audit and Accounting  
7 Guide for Recipients and Auditors," et cetera.

8 Got to obey the law, John.

9 MR. MENDEZ: Now, does anybody on the Board  
10 have any objection?

11 (No response.)

12 MR. MOLA: Nothing appearing, that is what  
13 we're doing.

14 Now let's --

15 MR. VALOIS: Let's ask Mr. Mola if he has any  
16 reservations about it.

17 MR. MOLA: I still have a problem with paragraph  
18 10.

19 MR. MENDEZ: Let's go after 1. We're just  
20 going after 1 and cleaning that up and to make sure that --

21 MR. VALOIS: Is 1 acceptable to you?

22 MR. MOLA: That's fine.

23 MR. VALOIS: You have no reservations about

1 it?

2 MR. MENDEZ: That will handle your reservation  
3 paragraph that you had before.

4 MR. MOLA: In the general state.

5 MR. SMEGAL: The general reservation you had.

6 MR. MOLA: As to paragraphs 7, 10, and 11,  
7 I think we still have problems.

8 MR. MENDEZ: All right, different problems.

9 MR. MOLA: Different problems.

10 MR. MENDEZ: Paragraph 7.

11 MR. MOLA: Paragraph 7 I believe is over broad.  
12 Basically what it does is grant to the Corporation the  
13 right to access the whole records, books, documents within  
14 the Corporation-- within the recipient.

15 For example, I don't believe the Corporation  
16 has the legal right to those records that pertain to  
17 public funds. I believe therefore that 7 is over broad  
18 and perhaps can be corrected by including language that  
19 says that you have the right to access to Legal Services  
20 Corporation funded activities.

21 MR. WALLACE: That's where I think Congress  
22 has neither prohibited nor required. I don't know whether  
23 we should want to see what kind of funds you're getting

1 from Rhode Island or not. I mean that's a policy question  
2 that I hadn't thought about before I got here.

3 MR. VALOIS: I can see reasons why we would  
4 want to have that information.

5 MS. BERNSTEIN: Yes, we have to.

6 MR. SMEGAL: Does this application request  
7 information such as that?

8 MR. MOLA: For example, I know in the recent  
9 round of monitoring that's occurred in our region there  
10 have been requests by monitors to look at public funds  
11 records.

12 MR. WALLACE: But if we want it, what law says  
13 we can't have it? This is the area where it seems to  
14 me Congress has left it up to our discretion. If we  
15 want to see it, we put it into the contract and you tell  
16 us you're going to let us see it.

17 MR. VALOIS: And we could get it from Rhode  
18 Island if we wanted to.

19 MR. MOLA: Perhaps, or it could cause problems.

20 MR. MENDEZ: Let me ask the Board. Does anybody  
21 have any problems with that?

22 MS. BERNSTEIN: With leaving 7 in?

23 MR. MENDEZ: We're going to leave 7 in. Does

1 anybody have any problems with it?

2 MS. BERNSTEIN: No. I think it's mandated  
3 by our Act.

4 MR. MENDEZ: All right, next?

5 MS. BERNSTEIN: It's almost directly from the  
6 Act.

7 MR. MOLA: As to Legal Services money, but  
8 not as to public funds.

9 MS. BERNSTEIN: No. It says the Corporation  
10 is authorized to require such reports as it deems necessary  
11 from the recipient.

12 MR. MOLA: As to activities they do fund, I  
13 agree with you. As to public funds, I disagree.

14 MR. MENDEZ: What are you reading from?

15 MS. BERNSTEIN: 8(A) of the Act.

16 MS. VALOIS: I think Congress has said we have  
17 the authority to ask for that information.

18 MR. MENDEZ: Which paragraph?

19 MR. WALLACE: That's 7.

20 MR. MENDEZ: We have resolved 7. Nobody on  
21 the Board thinks it should --

22 MR. SMEGAL: I think LeaAnne has hit it right  
23 on the head. Why don't we have as introductory words

1 to paragraph 7, pursuant to whatever section that was.

2 I think it's quoted right there in the Act.

3 MR. WALLACE: This is one of those areas where  
4 it seems to me Congress has told us -- and I haven't  
5 read the Act -- but Congress has told us that we, by  
6 God, have the authority to look at anything that is going  
7 on with our money. It hasn't told us whether we have  
8 authority to look at what's going on with other people's  
9 money. It hasn't told us we don't have the authority  
10 to look at what's going on with other people's money.  
11 In that circumstance, I think it's up to us whether we  
12 want to look at what is going on with other people's  
13 money.

14 It's not a question of whether it's legal or  
15 illegal. It's permissible and it is up to us whether  
16 we want this in our contract or not.

17 MR. MENDEZ: I think that the Board generally  
18 feels that we should leave it in the contracts. Unless  
19 I hear otherwise, we will take that as an affirmation  
20 and go on to the next issue.

21 MR. MOLA: Paragraph 10 appears to be an abroga-  
22 tion of rights that we have under the statute and under  
23 defunding or denial of refunding regulations. I think

1 it should be amended to reflect that any exercise of  
2 the discretion is going to be within the boundaries created  
3 by those regulations and according to the procedures  
4 of those regulations.

5 MS. BERNSTEIN: That is implicit now that we  
6 put lawful in.

7 MR. MOLA: Not necessarily, LeaAnne. I think  
8 this perhaps is going to establish another contractual  
9 basis for the exercise of your discretion. It has no --

10 MS. BERNSTEIN: Lawful requirements of our  
11 regs, rules.

12 MR. MOLA: 10 though says in your sole discretion.  
13 It makes no reference to whether --

14 MR. MENDEZ: Let me just tell you what we are  
15 going to have here. The Corporation, over on page 72,  
16 is going to have a statement that it will comply with  
17 the Act, the regulations.

18 MR. MOLA: So if you were to exercise your  
19 discretion under paragraph 10, it would be pursuant to  
20 the regulations?

21 MR. MENDEZ: That's right.

22 MR. WALLACE: I mean we could put in there  
23 in the sole discretion exercised in accordance with

1 paragraph 1 where we just said we are going to deal with  
2 the law.

3 MR. MENDEZ: I want to have somebody from General  
4 Counsel -- Tim, you are the first one I see. You're  
5 going to write something like that to make sure that  
6 that's complied with.

7 MR. VALOIS: I don't agree with what Pepe has  
8 just said. I don't think we are limited by -- This goes  
9 back exactly to the point we just discussed 17 times.  
10 We are not limited to what is necessarily set out in  
11 the statute or the rules and regulations if this is an  
12 area that is neither prohibited by Congress or -- If  
13 it's permitted, we can do it.

14 MR. MENDEZ: That is what I'm saying. All  
15 I am saying is that if it's -- We are going to be governed  
16 by the statute.

17 MR. VALOIS: That's right.

18 MR. MENDEZ: And if the statute says we can't  
19 do it, then obviously under 10, under your example if  
20 we have those statements in there, we can't do it. But,  
21 for instance, if we want to decrease it by five percent  
22 or three percent or something along those lines, we can  
23 in fact do that.

1 MR. MOLA: Under the existing law.

2 Let's say, for example, you decide not to fund  
3 my application and it's not -- It's a total defunding.  
4 I still have the rights under denial of refunding regula-  
5 tions.

6 MR. MENDEZ: Oh, sure. But if we wanted to  
7 take three percent out --

8 MR. MOLA: Then you're within the 10 percent.

9 MR. MENDEZ: And we are reserving that right  
10 under 10. And if we put a provision in here that says  
11 that we are going to act under the rules and regulations  
12 and the Act, that should meet your objection.

13 MR. MOLA: So that your to exercise sole discre-  
14 tion is not any more extensive than your rights and my  
15 rights under the denial of refunding. Similarly, six  
16 months down the road you're going to cut my grant, but  
17 you're going to do that pursuant to the defunding regulation.

18 MS. BERNSTEIN: As fiduciaries we would be --  
19 Our necks would be on the block if we're doing something  
20 that is beyond our lawful activities. We took an oath.

21 MR. MENDEZ: We are not cutting off any of  
22 our rights in excess of the Act if we have those. All  
23 we are saying is we are going to act in accordance with

1 the Act.

2 MR. MOLA: Nor are you expanding them beyond  
3 the Act or regulations in these two situations.

4 MR. MENDEZ: Well --

5 MR. MOLA: In the denial of refunding and the --

6 MR. WALLACE: As I understand -- Maybe I don't  
7 understand it. As I understand it, we have regulations  
8 that determine how we are going to decide how much money  
9 you are going to get. And we have certain procedures  
10 that we go through if it's more than 10 percent and proce-  
11 dures we don't have to go through.

12 I think the regulations are exhaustive. They  
13 cover all circumstances in which we can cut your grant.  
14 So I don't think we have left ourselves anything outside  
15 of the regulations. If we are acting within the regulations,  
16 we are doing what we said we were going to do.

17 MR. MOLA: And paragraph 10 doesn't represent  
18 an extension of those procedures and your rights.

19 MR. WALLACE: I think I agree with you.

20 MR. MENDEZ: Sure. I don't have any problem.

21 MR. MOLA: Paragraph 11: Again, the issue  
22 there is the usurption of the obligations, statutory  
23 obligations of the local Board of Directors to make budget

1 decisions. I believe as worded paragraph 11 is in conflict  
2 with the statute.

3 MR. MENDEZ: No, that's not true because what  
4 we are saying is the Corporation is going to be bound  
5 by the statute and the Act.

6 MS. BERNSTEIN: Can I make a suggestion that  
7 I think maybe would help paragraph 11? Just say: "And  
8 assents to reasonable modifications in the requested  
9 . . . ?"

10 MR. WALLACE: Well, that's the sort of thing  
11 that just gets you into lawsuits over what is reasonable.

12 MR. MENDEZ: The Corporation has already agreed  
13 that it is going to act in accordance with that. It  
14 is the same answer to 11 as it is to 10.

15 MR. WALLACE: I want to understand how 11 works  
16 because I didn't understand. You submitted this budget  
17 and then you're contractually bound to abide by the budget  
18 you submitted to us? Maybe you are not contractually  
19 bound to abide by that budget. I mean when you send  
20 us a budget, what is your --

21 MR. MOLA: That budget can be amended from  
22 time to time by the Board of Directors. In fact, the  
23 refunding application envisions that because you have

1 columns for variances and budget changes.

2 MR. WALLACE: When your Board amends your budget,  
3 do you have to send it up to us for approval?

4 MR. MOLA: No.

5 MR. WALLACE: So you are essentially not contrac-  
6 tually bound by the budget you send us, or are you?

7 MR. MENDEZ: They are if it's over 20 percent  
8 or \$5,000, or is that only the national support?

9 MR. MOLA: These are purchases.

10 MR. WALLACE: Those are things that have to  
11 be approved. Those are purchases.

12 MR. MENDEZ: Well, the national support contract  
13 has that in there.

14 MR. WALLACE: I'm just trying to understand  
15 what goes on here. I wasn't aware that we had the power  
16 to fine tune your budget through the contract.

17 MR. MOLA: That is my point. I don't believe  
18 you do. I think that 11 is confusing on that issue  
19 and could be interpreted to give you that power.

20 MR. WALLACE: Now that is one thing where we  
21 could do it, it seems to me, if we wanted to. I'm not  
22 sure it violates the regs. I just don't know that we  
23 do it. I've never understood us to.

1 MR. MENDEZ: Can we do that? Do we do that;  
2 gentlemen?

3 MR. THIMELL: It's more as a means to approve  
4 the budget that comes in. As LeaAnne suggested, if an unrea-  
5 sonable budget was submitted, we are reserving the right  
6 to say, hey, this is out of line and you can't possibly  
7 spend 80 percent of your budget on administration. Therefore,  
8 we suggest you modify this before we accept it.

9 MR. VALOIS: It's not that. I mean it's not  
10 that we suggest they modify it. Suppose we strike it  
11 out, strike out the 80 percent and insert 30 percent  
12 if we think that is the right amount?

13 This seems to say to me that he accepts our  
14 modification, period.

15 MS. BERNSTEIN: If he intends to go on.

16 MR. VALOIS: And if he doesn't -- I mean he's  
17 accepting what we are going to do in advance. On the  
18 same token, if he submits a budget to us for \$300,000  
19 and we say you can't have that, but you can have \$320,000,  
20 he's accepted that in advance.

21 MR. MENDEZ: I'll tell you what we're going  
22 to do. The Court Reporter has indicated she needs to  
23 take a break. I've been trying to force this thing through

1 and we're not getting as far along as I had hoped. So  
2 let's take a five to ten minute break.

3 (Break.)

4 MR. MENDEZ: Before I turn to any further business,  
5 I need to advise you that tomorrow we will be holding  
6 our meeting in the Lee, Arlington, and Potomac rooms  
7 downstairs someplace. They say that this is the only  
8 place that is out. It's right down below us on the  
9 first floor. So we will all have air conditioning at  
10 that time.

11 Now we are all refreshed. We have a quorum  
12 back. Let's get on with it.

13 We're on paragraph 11. Does anybody here have  
14 any comments or any motions or any direction?

15 MR. SMEGAL: Well, I still haven't had a good  
16 explanation of why we need it at all.

17 Who is working on it?

18 MR. MENDEZ: Joel, why do we need paragraph  
19 11? Keith? Why don't you three guys sit right up here  
20 in front so we can ask you questions? Tim, you sit up  
21 here on the front row, too. You can act as their lawyer.

22 MR. VALOIS: I feel uncomfortable with taking  
23 this out until I have an adequate explanation of why

1 it's there.

2 MR. WALLACE: Yes.

3 MR. VALOIS: I am opposed to taking it out  
4 until we have an adequate explanation.

5 MR. MENDEZ: Dennis, why don't you come up,  
6 too?

7 If any of you gentlemen have an answer -- We  
8 are talking about page 74, paragraph 11, which says:  
9 "By accepting these funds awarded . . ."

10 MR. DOUGHERTY: It occurs to me, Mr. Mendez,  
11 that there must have been at least one instance in which  
12 this authority was used. That is in 1982 because people  
13 submitted budget requests to us, applications, before  
14 the amount of funds that were made available were known.  
15 There were several continuing resolutions. The Corporation  
16 solicited funds based on a \$399 million appropriations  
17 request and got \$241 million. I don't know what process  
18 was used to pare down those budgets. There must have  
19 been a process.

20 MR. WALLACE: But since we don't contract them  
21 to these budgets -- I mean what we do in that circumstance,  
22 I assume, is we send them less money than they asked  
23 for and say you guys budget it as seems best to you.

1 MR. MENDEZ: See, the only difference I see  
2 between 10 and 11 is that 10 says we can do it. 11 says  
3 that by accepting the funds, they accept the modifications.  
4 Now I don't think that that is fair to the grantee.

5 MR. WALLACE: Budget is a broad word. It doesn't  
6 just mean we are going to lower the total dollar amount.

7 MR. MENDEZ: That's right.

8 MR. WALLACE: Budget is something you can jerk  
9 around on the interior. And I can't -- If we have ever  
10 done that and if there is a good reason to do it, then  
11 somebody tell me about it.

12 MR. BROCCOLETTI: It's normally used for one-  
13 time grants. It is also used for new grantees. For  
14 example, Samoa has asked that informally or formally  
15 for a grant. If there was a new grant to Samoa or whoever  
16 else, they would have to submit their budget proposal  
17 and we would have to review it to see whether it's reasonable.

18 It's the same thing we do with one-time grants.  
19 We review their budget to see whether they are reasonable  
20 and we suggest modifications to this.

21 MR. VALOIS: But that avoids the question.  
22 That is one thing to have an exchange with them and say,  
23 look, change line 29 to so and so. That's better. Resubmit

1 it and we'll approve it. That's one thing, but that  
2 is not what this says.

3 This says you submit it. We may modify it.  
4 If we do modify it and you accept our money, we are in  
5 a contract. That is what it says. That is what I am  
6 having a little bit of a problem with.

7 If there is a reason for that -- And I can  
8 understand what Dennis is saying. If we think we are  
9 going to get 305 and we only get 212 and we give you  
10 less, you don't now have having signed this a contractual  
11 right to whatever you asked for.

12 MR. MOLA: I believe that is covered by existing  
13 law. Where the appropriation falls short and there is  
14 a reduction in grants to all categories, then we live  
15 with that, but that is covered separately by statute.  
16 So that situation would not be affected by this paragraph.  
17 You have that right now where the appropriation is less  
18 than what we anticipated.

19 MR. MENDEZ: Does anybody have any comments  
20 as to why we should keep this in?

21 MS. BERNSTEIN: I just have a question about  
22 it. Bob and I were talking about it during the break.  
23 It seems to me that this actually works to the benefit

1 of the programs from the standpoint that if there is  
2 a -- that because of the timing of the submission of  
3 the applications, if we have a problem with the budget,  
4 yes, we can turn it around and send it back to the program  
5 and say this budget as submitted is unreasonable and  
6 please rework the budget and we're making these suggestions  
7 and if you rework the budget along these lines then we  
8 will -- You know, it will be reconsidered.

9           However, the time is running at that point  
10 and the December check for January will possibly not  
11 go out. So I see this as working to the benefit of the  
12 programs.

13           MR. VALOIS: It cuts both ways.

14           MR. MENDEZ: We have someone in the back.

15           MS. SMART: What is unreasonable? What do  
16 you determine is unreasonable according to my State and  
17 according to my program and according to the people I  
18 am serving?

19           Now what you call unreasonable may be reasonable  
20 from where I sit. So if this paragraph is here, what  
21 I send to you, it says when I accept the modification  
22 I'm stuck and there is nothing I can do about it.

23           Oh, I probably could come in again, but that

1 is too late.

2 MR. WALLACE: Have we ever considered our reci-  
3 pients, and I'm talking about our annualized recipients,  
4 not our one-time grantees, --to be contractually bound  
5 to us by the budget they send us?

6 I mean have we ever considered we have the  
7 right to go sue a recipient because it spent more on  
8 personnel and less on library books?

9 MR. MOLA: I don't believe so. In fact, those  
10 budget modifications are sometimes formally made by Board  
11 of Directors. Sometimes they come up and are within  
12 the discretion of the directors.

13 For example, there may be someone who leaves  
14 the program and you decide not to fill that position  
15 for four months and buy a new copier with that money.  
16 That is not something that is reviewed. Or your rent  
17 goes up and you have to allocate more money for rent.

18 MR. WALLACE: I don't know why we would want  
19 to bind you to the budget particularly.

20 MR. MENDEZ: Joel?

21 MR. THIMELL: If the Board were to change the  
22 requirement for PAI, that would require modifying an  
23 awful lot of budgets. That may not always occur consistent

1 with a grant year. In fact, the requirement has changed  
2 midstream in the past.

3 MR. MOLA: But those are our Board decisions.

4 MR. WALLACE: Yes. I mean as long as you make  
5 12.5 percent --

6 MR. MOLA: We try to in my case.

7 MR. WALLACE: I'm sure you do your best. But  
8 I mean exactly how you make it up, whether you spend  
9 that 12.5 percent on personnel or cooperative subgrants  
10 or whatever you do, we don't tell you how to do it. We  
11 just say come up with 12.5 percent.

12 MR. MOLA: In fact, it is the legal responsibility  
13 of my Board to make those decisions.

14 MR. WALLACE: That's right.

15 MR. THIMELL: But going from 10 to 12.5 percent,  
16 that is a budgetary modification.

17 MR. WALLACE: That is a budgetary modification,  
18 but they decide how to get there.

19 MR. THIMELL: Right. But you're telling them  
20 to modify it.

21 MR. WALLACE: We are telling them where to  
22 get. We are not telling them how to get there. And  
23 paragraph 11 would permit us to tell them everything.

1 MR. VALOIS: What it does to the Corporation,  
2 it seems to me, is that we tell John that he can't have  
3 \$300,000 this year to spend on computers, but he can  
4 only have \$280,000. Without this, there is the possibility,  
5 I suppose, that we sign it and we give him \$280,000 and  
6 next week he says we are in a contract for \$300,000 and  
7 I'm going to sue you for the other \$20,000. This would  
8 be a defense to that proposition. It may sound a little  
9 absurd, but it is a possibility.

10 MR. MOLA: You're talking about the grant amount?  
11 I ask for \$300,000 and you give me \$280,000. You're  
12 treating me differently than the category of all other  
13 basic field programs. If that is more than 10 percent,  
14 I think I would have rights under denial of refunding.

15 MR. MENDEZ: What happens in a case where we  
16 give a grant for training. Say we give you a \$1,000  
17 grant for training and you people don't -- your group  
18 doesn't elect to do that?

19 MR. MOLA: I think if it is a one-time grant  
20 then, as Peter mentioned, I think you need different  
21 assurances in one-time grants. We are not in that situation  
22 with refunding applications. If you give me \$1,000,  
23 for example, to do client training and I choose not to

1 do that, I think then I have an audit problem when the  
2 auditor comes in and I need to explain to you why I didn't  
3 spend the money.

4 MR. MENDEZ: But we don't have any method of  
5 forcing you to spend the \$1,000 on training.

6 MR. MOLA: No, but if that's what you gave  
7 it to me for and I didn't use it for that purpose, I  
8 think you could come after me based on the audit.

9 MR. MENDEZ: Yes, but let's say that I want  
10 to require you to spend four percent of your funds on  
11 State support and you elect not to do that, or 12.5 percent  
12 on PAI and you elect not to do that. How do I force  
13 you to do that under this contract?

14 MR. MOLA: Well, with PAI regulation, the Corpora-  
15 tion has power to impose sanctions or to refuse money  
16 or offset money in future years.

17 MR. MENDEZ: What about the four percent?

18 MR. MOLA: If I was given -- I'm given those  
19 kinds of monies now. I get an amount of money, for example,  
20 for State support and migrant. If I don't spend those  
21 monies for those purposes, I think that you would deal  
22 with that as an audit problem and probably could take  
23 steps.

1 MR. OSTERHAGE: Rather than the language there  
2 that you're concerned about, once we've accepted a budget  
3 and something develops after the fact, maybe you would  
4 rather require something that -- Instead of us being  
5 able to go back and modify anything at any point, the  
6 program may have genuine need to change a budget, but  
7 to the extent it's a large change, whether 10 percent  
8 of their funding or more than 20 percent of a given amount,  
9 they would simply write in and request a --

10 MR. MENDEZ: We have essentially in our Audit  
11 and Appropriations Guide -- If they are changing more  
12 than \$5,000, they have to come to us. Isn't that where  
13 that is?

14 MS. BERNSTEIN: For purchases.

15 MR. MOLA: Personal property in excess of that.

16 MR. MENDEZ: What about a change of budget?  
17 Nothing?

18 MR. OSTERHAGE: But that would give them the  
19 freedom and they would simply then come to us and inform  
20 us.

21 MR. MENDEZ: I am going to poll Mr. Broccollette,  
22 Mr. Osterhage, Mr. Thimell, Mr. Nusbaum, and Mr. Gessner.  
23 You all get together and you have 30 seconds to figure

1 out if you want this thing in or not. And if you don't  
2 have a good reason to keep it in, it's out.

3 MR. VALEOIS: Gail, tell me again why you think  
4 we need budget instead of amount?

5 MS. FRANCIS: I guess in my mind I'm thinking  
6 of some of the exceptions that may occur if we were to  
7 get a budget which isn't consistent with the operations  
8 of the program. Generally, it's been the knowledge of  
9 the regional office or whomever is going to have monitoring  
10 responsibilities for that project that there may be some  
11 rare occasion where you the Corporation may want it because  
12 presumably we are responsible for seeing that they spend  
13 the dollars provided in services. Somebody could come  
14 up with some idea about buying an exceptional amount  
15 of equipment which we may tell them no and then also  
16 require them to revise their budget.

17 I guess there were a couple of other points  
18 that I want to inform the Board about in connection with  
19 budgets. One is that the majority of the programs submit  
20 quarterly budget reports to the monitoring offices on  
21 their activities where they also advise the Corporation  
22 about their expenses.

23 The monitoring people will then follow up on

1 any kind of large changes to those budgets. So, you  
2 know, they don't accept a budget or get these budgets  
3 through the application. People do look at them and  
4 it is also followed up on during the course of a year  
5 generally on a quarterly basis.

6 We have on many occasions had programs submit  
7 to us after the application revised budgets which have  
8 been approved by the Board of Directors. So that it  
9 is not a requirement, but we do get these things.

10 Lastly, if there were such a wholesale change  
11 in the budget that it would probably result in some kind  
12 of grant conditions being added to the grant document.  
13 And, lastly, the other step in the process is that --  
14 I see this as an application. The Corporation sends  
15 back a grant document and part of that grant document  
16 is a form where the recipient has to sign off where it  
17 says, yes, I accept this grant and the terms and conditions  
18 under which it is presented. And that also has to be  
19 sent back to the Corporation.

20 We send them the initial two-month up front  
21 money, but before they can get any subsequent funds,  
22 they also have to sign off and say, yes, I will agree  
23 to the terms and conditions of this grant.

1 MR. MOLA: Which are consistent with the applica-  
2 tion.

3 I just might add on those examples on equipment  
4 purchases we need to have prior approval. You can not  
5 give us that approval if you think that the equipment  
6 purchases are extravagant. If we go ahead and buy it,  
7 it becomes a question of cost and it's going to be tied  
8 up in that regulation.

9 On budget changes, quarterly budget changes  
10 and quarterly budget statements are sent to the regional  
11 office by some programs, not all. It's never been a  
12 review and approval process there.

13 So I don't think that those examples are support  
14 for keeping it in.

15 MR. MENDEZ: After hearing all the arguments,  
16 I am fairly well persuaded that this should be left in  
17 here because it really hasn't caused anybody any trouble  
18 so far and Ms. Francis has given me some pretty good  
19 rationale for why it should be left in. I think we will  
20 leave it in.

21 Next one?

22 MR. MOLA: Pepe, I missed one. I'm sorry to  
23 go back, but on page 1, the last sentence of the opening

1 paragraph, there's a reference there to the LSC Audit  
2 Guide. My concern is with the phrase which says, "and  
3 with any amendments thereto adopted during the period  
4 of this grant."

5 The way that it is written, it appears as if  
6 it might be retrospective -- retroactive, I'm sorry,  
7 the application of any changes. If a change comes in  
8 September, it might be held for the entire grant year.

9 MR. MENDEZ: Okay, let's clarify the language  
10 on paragraph 1 so that the amendments adopted reflect  
11 not only the Audit Guide that they are prospective but  
12 all of the regulations, the statutes, and everything,  
13 that there is nothing retroactive in terms of adding  
14 to regs or anything else. Is that --

15 MR. MOLA: Yes. So if there were a clause  
16 that this is not to mean that it would be --

17 MR. MENDEZ: You bring a good issue. I want  
18 any amendments apply to all parts of the regulations,  
19 the Act, everything, but I also want to make sure that  
20 it is all prospective.

21 MS. BERNSTEIN: The language I think in 1985  
22 might have been a little better than that.

23 MR. MENDEZ: I think we can give this to Tim

1 and he'll clean it up. He knows what we want in there.

2 MR. VALOIS: But they shall not operate retro-  
3 actively.

4 MR. MENDEZ: Yes. Is that satisfactory?

5 MR. MOLA: Yes.

6 Mr. Chairman, then paragraph 10, all will stay  
7 in as it is?

8 MR. MENDEZ: With the exception that it needs  
9 to be corrected. It's not its but it.

10 The rest of them are satisfactory then?

11 MR. MOLA: Except for 11 and I think I've made  
12 my record on that such as it is.

13 MR. MENDEZ: If you have nothing else --

14 MR. MOLA: Not on the assurances. My other  
15 comments go to the various schedules in the refunding  
16 application.

17 I would like to make a general comment. As  
18 has very often been the case with the Corporation, the  
19 refunding application seeks to gain a lot of information  
20 that really is irrelevant to the refunding application  
21 itself or providing any information that the Board of  
22 the Corporation needs to make decisions. There are a  
23 number of examples in these schedules.

1 For example, the two supplements ask for a  
2 lot of information about training and about elderly practice  
3 that is very burdensome and really have nothing to do  
4 with refunding. I think these are general areas of concern.

5 We heard Dan Taubman on the training issue.  
6 I'm sure the Corporation is interested in what is going  
7 on in elderly, but I think those kinds of surveys are  
8 inappropriate for the refunding application, especially  
9 given the tight time that we have.

10 What I would suggest is that they be omitted  
11 and be done in a survey and not related to the refunding.

12 MR. MENDEZ: Let me ask why did you include  
13 them in the refunding application? Is there a specific  
14 reason why those are in there?

15 MS. PAQUETTE: Yes. We polled all the division  
16 directors and asked what kind of information they wanted  
17 to -- projected that they would want during the year  
18 and tried to include it in the refunding application  
19 because at this time, other than independent surveys,  
20 the Corporation does not have another mechanism for data  
21 gathering.

22 MR. MENDEZ: Yes, but that really is not part  
23 of the refunding application then.

1 MS. FRANCIS: No, sir. That's why it's in  
2 a supplement.

3 MR. MENDEZ: You can send it out at the same  
4 time, but make sure that they understand that that is  
5 not part of the refunding application.

6 MS. BERNSTEIN: Give it a different deadline.

7 MS. PAQUETTE: It's due in February now. It  
8 is not due in November.

9 MR. MENDEZ: But make sure that they understand  
10 that it's not part of the refunding application.

11 MS. PAQUETTE: So that failure to complete  
12 it or incomplete answers would not be subject to not  
13 processing the application.

14 MS. BERNSTEIN: Pepe just made a statement  
15 this morning that surveys were to be completed.

16 MR. MENDEZ: This is one of those that you  
17 put in the language up above that it is to be completed.  
18 Everybody is to fill it out.

19 MR. VALOIS: Which page are we talking about?

20 MS. PAQUETTE: 99 through --

21 MR. VALOIS: Terry, how long does it take you  
22 to fill out page 99? Terry is going to --

23 MR. MOLA: It would be impossible for me to

1 fill out page 99. If you look at it, for example, what  
2 it asks me to do is go back through all my expenditure  
3 records and try to pull out every single training event  
4 that was attended by my staff over a period of 12 months.

5 MR. VALOIS: But, John, you know about this  
6 right now and somebody in your office can get this stuff.

7 MR. MOLA: Almost impossible, Bob, because  
8 a lot of them, for example, will not have any expenses  
9 related to it. The only way I can do it in my manual  
10 system is go back and see what was charged to my State  
11 support training. I wouldn't be able to pull them all  
12 out.

13 MR. MENDEZ: When are you mailing this out?

14 MS. PAQUETTE: September 30 is our target date.

15 MR. MOLA: Secondly, for example, it asks for  
16 in quality code for me to make subjective judgments about  
17 training a paralegal went to in January as to what the  
18 quality of that event was. I mean the document internally  
19 is inconsistent and probably impossible for us to complete.

20 MR. VALOIS: Is this something we asked you  
21 to do last year?

22 MR. MOLA: Never, never before.

23 MR. MENDEZ: It is something that you have

1 to fill out.

2 MR. MOLA: But as it stands now, we can't fill  
3 it out.

4 MS. PAQUETTE: The thought was that this would  
5 be distributed perhaps to each of the staff members and  
6 individually people could complete it for the attendance  
7 at training and their program travel expense sheets would  
8 probably talk about what some of the expenses, registration  
9 fees and others.

10 I think it entails an effort that will then  
11 have to be coordinated by the administrative staff and  
12 put together into one summarized document.

13 MR. MOLA: I think this would take me and my  
14 bookkeeper about eight person days to complete.

15 MR. MENDEZ: I'll tell you what we're going  
16 to do. I think that I get the sense of the Board. If  
17 I don't, you guys can overrule me.

18 Separate this out. Send it out as a separate  
19 instrument and put language in the regs or I mean in  
20 the contract that says they have to fill it out.

21 But I don't want to have grantees being confused  
22 that this has to be in at the same time as the other  
23 thing. We think that this has the same importance that

1 the grant application does.

2 MR. MOLA: You want us to spend eight person  
3 days doing it? What's the need for it? Simply because  
4 a director of a department said they would like to have  
5 this information I have to spend eight days to fill it  
6 out.

7 MS. BERNSTEIN: I think it is important for  
8 us to know, for instance, if we're getting into -- As  
9 I understood Pepe's earlier direction, it was to establish  
10 a training task force. Then we have to start assembling  
11 some information for them to do this. It may be incomplete  
12 information, but I am sure you have somewhere in your  
13 time records or individual personal calendars days of  
14 where they went to training events or certain things  
15 your program did. You know, that you attended State  
16 support or whatever.

17 I think Pat's suggestion that, you know, everybody  
18 could be given this and, you know, to your recollection  
19 where did you go for training this year. I think really  
20 from what I've heard about training being such a crying  
21 need, too many people are going to be turning this in  
22 with, well, we got up to Des Moines once for that Bar  
23 event or the State support event.

1           It's a start. John, I think rather than nay-  
2 saying everything, I think it would be a more positive,  
3 constructive approach to suggest ways to make it more  
4 easy to get the information that we obviously need in  
5 terms of cost and experience.

6           MR. MOLA: I'm not nay-saying. All I am suggesting  
7 is that as to supplement 1 and as to question 2 on F-2  
8 that perhaps it is more appropriate to give these over  
9 to the task force and have some reason why this information  
10 is necessary and then perhaps I could say, yes, it is  
11 worth eight of my days to do it.

12           As it stands now --

13           MS. BERNSTEIN: If it would take you eight  
14 days to do it, John, then I really think that we have  
15 a problem in terms of coordination.

16           MR. MOLA: I'm not computerized, LeaAnne. Do  
17 you know how many individual invoices I have to go through  
18 to pull out all of the training expenses and how much  
19 interviewing I have to do to take up the ones that didn't  
20 have any costs associated with them? I've got tens of  
21 thousands of invoices.

22           MS. BERNSTEIN: Well, see, I interpret what  
23 you're saying as nay-saying rather than constructive.

1 MR. MOLA: But why do they want this information  
2 that is worth my eight days times 320 programs? That  
3 is all I am saying. Send it over to the task force.  
4 Let them look at what is necessary and come up with a  
5 more --

6 MR. MENDEZ: I'll tell you what let's do. We're  
7 going to do this unless, John, you can give us a better  
8 document. You've got three weeks to do it in.

9 MS. BERNSTEIN: Be constructive.

10 MR. MOLA: Can we hear it's going to be an  
11 inordinate burden, Pepe, and not complete that informa-  
12 tion, some of that information.

13 MR. MENDEZ: Just do the best job you can.  
14 That's all we're going to ask you.

15 MR. MOLA: As long as we are not going to get  
16 in trouble as you were suggesting before, making hashmarks,  
17 for example, every time you use --

18 MR. MENDEZ: But I don't want you just to write  
19 a letter to me saying that this is not a good survey  
20 and it's not --

21 MR. MOLA: I understand that.

22 MR. MENDEZ: I want to have a good faith effort  
23 to fill it out. When you don't have the materials to

1 do it, you write in there --

2 MR. VALOIS: He says it will take him eight  
3 days. I think he is a lot more efficient.

4 MR. MENDEZ: You have faith in him.

5 MR. VALOIS: I do.

6 MR. MENDEZ: So do I.

7 MR. MOLA: So that will be disassociated from  
8 the refunding application, all of those.

9 MR. MENDEZ: What is your next problem?

10 MR. MOLA: On supplement 2, also to the best  
11 of our ability because some of that information we don't  
12 keep?

13 MR. MENDEZ: That's fine.

14 Does the staff understand? They are to fill  
15 it out and you are to tell them in the notes that they  
16 are to do it to the best of their ability. Tell them  
17 that we are establishing several task forces and we are  
18 going to be doing these various things and it will help  
19 focus the task force input if they will give us the best  
20 information they can. If they can't, the task force  
21 will be broader at the start and focusing in.

22 MR. MOLA: F-2 is a similar document, Pepe.  
23 Can we have that treated in the same way?

1 MR. MENDEZ: Where are we at?

2 MR. MOLA: Page 84 where they ask again some  
3 training questions and then --

4 MS. PAQUETTE: Yes, they link.

5 MR. MOLA: Can F-2 also be handled separately?

6 MR. MENDEZ: Staff?

7 MS. PAQUETTE: They were together at one time.

8 I think we would move F-2 over to that supplement and  
9 have it come in at a different time.

10 My only concern is that we then set a date  
11 for return of supplement 1 and 2 that is probably not  
12 in conjunction with the date that other -- that the refunding  
13 application be completed so that it doesn't create an  
14 extra burden.

15 MR. MENDEZ: A different date and you may even  
16 want to send them out separately.

17 MR. MOLA: And if that date can be after the  
18 February deadline so we're not jammed with all the informa-  
19 tion requests.

20 MR. OSTERHAGE: I might add that if we are  
21 going ahead with this task force, for those people who  
22 were not able to be here, it might be useful to explain  
23 it to them. It might give some impetus.

1 MR. MENDEZ: John, would you put that in a  
2 little memo? The more they help, the better it is for  
3 the task force.

4 MR. MOLA: We try to. Sometimes we just don't  
5 have the information.

6 MR. MENDEZ: Separate it out and get the informa-  
7 tion back as soon as possible and that sort of thing,  
8 but work on it.

9 MR. MOLA: I guess we're back to page 75. On  
10 page 75 there is again added information on governing  
11 board composition. Last year all that was asked for  
12 was the name of the board member, the appointing authority,  
13 the expiration date of the term, and some ethnic character-  
14 istics. There is a lot more information here. If you  
15 repeat that over 30 or 40 board members, again it's going  
16 to be very time consuming.

17 MR. VALOIS: What is time consuming? This  
18 asks his address of where he lives, what State he lives  
19 in?

20 MS. PAQUETTE: All that was in last year. It  
21 was in various forms.

22 MR. MENDEZ: Not only that, but that is information  
23 that I want to see.

1 MR. MOLA: Last year's form, other than the  
2 double space for address, it was one column of information.  
3 We're now to two columns and probably twice as many boxes  
4 to fill in. Again, times 30 board members, we're talking  
5 about additional time.

6 MR. MENDEZ: That is just one of the things  
7 you have to comply with.

8 MS. FRANCIS: The fact of the matter is it's  
9 the same kind of information that we got on the 1985  
10 applications on D-1, 2, and 3, which has been condensed  
11 on one form. We haven't asked for any additional informa-  
12 tion.

13 MR. MENDEZ: John, do you have anything else?  
14 Since you're leaving, I assume you don't.

15 MR. MOLA: No, I am coming back.

16 MR. MENDEZ: Are you going to wear us out?

17 MR. MOLA: I don't mean to wear you out, but  
18 I don't want to be worn out when I'm doing this.

19 Let me run through these quickly. The next  
20 one on page 77 again a repeat of State and local Bar  
21 associations. We have done this for the last two years.  
22 It's duplicative information. I can't see why it is  
23 asked for.

1 MR. VALOIS: They might change their address.  
2 They might change the number of members.

3 MR. MENDEZ: We want it.

4 MR. MOLA: Program narrative.

5 Pepe, I understand today that you now want  
6 under program priorities us to list priorities, dollar  
7 amounts and number of clients we serve.

8 MR. MENDEZ: That's right.

9 MR. MOLA: We don't keep those records.

10 MR. MENDEZ: I understand that.

11 MR. MOLA: A guesstimate is okay?

12 MR. MENDEZ: That's correct. But you are to  
13 list the priorities and you're going to go from the top  
14 priority to the bottom priority and make sure that when  
15 you write this directive out that they understand that.  
16 Then you may want to have a form that just says you're  
17 going to list the priorities that you have, the dollar  
18 amounts, and the number of clients that you anticipate  
19 to serve. We just want the best estimate that you have.

20 MR. MOLA: A number of the other paragraphs  
21 are redundant information that the Corporation already  
22 has. For example, paragraph 3, private attorney involve-  
23 ment, on page 80. The Corporation knows about the adopted

1 plans, the approved plans by the Board on an annual basis.  
2 Yet again we are asked to regurgitate that information  
3 on the refunding application.

4 Similarly, on intake procedures, the Corporation  
5 had to approve very lengthy intake policies. Mine, for  
6 example, is about 10 pages. What you are asking me to  
7 do is reiterate that.

8 MR. VALOIS: John, there is what is called a  
9 xerox machine. If it is the same as last year, you know,  
10 run it through the xerox machine and send it to us.

11 One of the things that we are constantly com-  
12 plaining about is we get information that is not current.  
13 Now I don't know whether you're doing the same thing  
14 you did last year or not, but I think we are really after  
15 current information, if there is some modification.

16 MR. MOLA: Well, intake procedures, for example,  
17 were changed only because the regulations changed. So  
18 that those kinds of documents --

19 MR. MENDEZ: Let me just make it clear to you  
20 and the staff that I really want to have -- Next year  
21 I would like to have most of these things with private  
22 attorneys, intakes, and all that done through this, through  
23 the application. And each year the application is going

1 to be our main source for questions and that type of  
2 thing. And I want to have something -- In fact, we probably  
3 ought to state that. In September of next year, put  
4 something in the grant that says that they will have  
5 their -- How often do you have your priorities? Once  
6 a year?

7 MR. MOLA: No.

8 MR. WALLACE: Well, you don't reset them every  
9 year, but the regulations say you are supposed to review  
10 them every year.

11 MR. MOLA: We review them every year. That's  
12 right.

13 MR. MENDEZ: In the grant, I want you to put  
14 language in there that the priorities will be reviewed  
15 in September or October next year.

16 MR. MOLA: That is contrary to the regulation,  
17 Pepe. We have an obligation to set priorities, I think,  
18 usually every two or three years.

19 MR. WALLACE: The regulation doesn't say how  
20 often you have to set them. It says you have to review  
21 them annually.

22 MR. MOLA: And that can come any time.

23 MR. MENDEZ: Well, I want to have them reviewed

1 before the next grant year.

2 MR. MOLA: Well, they would have to under the  
3 regulation.

4 MR. WALLACE: Yes, they have to do it every  
5 year. I don't know why we have to tell them they need  
6 to do it in September as opposed to March as long as  
7 we are getting it.

8 MR. VALOIS: I agree.

9 MR. WALLACE: We whipped you, Pepe.

10 MR. MOLA: On things like intake procedure  
11 where there is already an approved plan, we can just  
12 attach that plan rather than reiterating it in a different  
13 form?

14 MR. VALOIS: If it hasn't changed.

15 MR. MOLA: Okay.

16 MR. VALOIS: If it's new, don't give us the  
17 old plan. We desire current information.

18 MR. MOLA: But we can just attach that if that's  
19 been approved and not reiterate it.

20 MS. FRANCIS: But I'm trying to understand  
21 if he is talking about attaching a form document as opposed  
22 to the --

23 MR. MOLA: The policy. I'm giving you the

1 policy on how we do anything. It's in narrative form.

2 MR. MENDEZ: Narrative for 4, intake procedure.

3 MR. VALOIS: Is that a problem, Gail?

4 MS. FRANCIS: I wouldn't think it is, no.

5 MR. MENDEZ: And on PAI, if they have a narrative  
6 already, they'll be able to do that.

7 MR. MOLA: Attach it as exhibits.

8 MR. MENDEZ: And I think you should explain  
9 that to them that they can do that.

10 MR. MOLA: And if there are changes, it is  
11 going to be picked up in 6 because there we specifically  
12 have to tell you what significant changes have occurred  
13 in the last 12 months.

14 MR. MENDEZ: Yes.

15 MR. MOLA: As to paragraph 7, apparently this  
16 is a new section from last year. Apparently someone  
17 wanted information on Native American and Migrant representa-  
18 tion, but, unfortunately, they copied the information  
19 set out in State support which really is inappropriate  
20 to Native American and Migrant programs. They are more  
21 like basic field deliverers and the cluster of questions  
22 here, while perhaps appropriate for some support functions,  
23 really isn't appropriate for Native American and Migrant.

1 I think that was inartfully drawn and perhaps  
2 should be omitted unless there is something that is required  
3 other than the basic description of the delivery systems.

4 MR. MENDEZ: What we have told them previously  
5 is that they are to use -- Mike and I think we understand  
6 that it's to include all aspects of the program, specifically  
7 including Native American, Migrants, and all portions.

8 MR. MOLA: But we do that where you ask for  
9 general service delivery mechanism and in D where you  
10 ask us to describe the work and activities of our specialty  
11 units.

12 What I am suggesting is that 7 is redundant  
13 and it is not going to give you any useful information.

14 MR. VALOIS: If you have already answered 7  
15 in some other part --

16 MR. WALLACE: Do like you do when you answer  
17 interrogatories: The answer to Interrogatory No. 4 is  
18 incorporated herein by reference.

19 I mean I understand that this may not be the  
20 best way to draft these questions, but --

21 MR. MENDEZ: I'll tell you what you can do  
22 to clarify this. Put paragraph 7 at subpart b of 2.

23 MR. SMEGAL: You already have a b.

1 MR. MENDEZ: I'm telling them to substitute  
2 that and broaden the language.

3 MR. MOLA: Which part, Pepe? I'm sorry.

4 Basically you want a description of all the  
5 components, right, in detail? And that is what you have  
6 already in d. See, I don't see what 7 adds for you,  
7 although it poses the questions in ways that are going  
8 to cause problems because those questions are inappropriate  
9 for Migrant and Native American. They are the questions  
10 that went to some support activities.

11 I think you are going to get what you want  
12 in 7 -- I mean in 2(b). And 7 is just going to cause  
13 a lot of confusion.

14 MR. SMEGAL: (a) is the head of a rabbit and  
15 then (b) to (f) are the body of a horse.

16 MR. MENDEZ: All right, tell me why you separated  
17 them out this way.

18 MS. PAQUETTE: The task force, various members,  
19 had assignments and that came back as the assignment  
20 of one of the task force representatives.

21 MR. MOLA: That's what you got, a committee  
22 made table.

23 MS. PAQUETTE: I'm sure we could work on that.

1 MR. MENDEZ: Fix it up. I want to have specific  
2 information on Migrant and Native American.

3 MR. MOLA: Similarly, in paragraph 8, I think  
4 that 2(b) is going to give you a better answer. What  
5 has been done here is simply pulling out of the air six  
6 of what I think you identified as 33 State support functions.  
7 And I think you probably want the more inclusive response  
8 in paragraph 2(b).

9 MR. MENDEZ: You understand that on paragraph  
10 8 for State support that they are to fill out that matrix  
11 as well. With that caveat, we will make the appropriate  
12 changes.

13 MR. MOLA: And 8 will go the same way as 7?

14 MR. MENDEZ: Well, I'm going to leave that  
15 to them to work out the language.

16 MR. MOLA: On page 83, Form F-1, this is a  
17 form that is similar to last year. My only concern is  
18 that there is an addition of the last column, LSC Eligible  
19 Cases Closed. If you are not automated, as we are not  
20 and as many programs are not, it is going to be very  
21 difficult for us, if not impossible, to match CSR data  
22 with budget information because we don't keep the records  
23 in that way.

1 MR. MENDEZ: What else do you have?

2 MR. MOLA: This one I think is very important,  
3 Pepe, because I think you are asking many of the programs  
4 to do the impossible. We simply do not keep records  
5 to correlate closed cases to funding source.

6 MS. PAQUETTE: I think we already recognized  
7 that LSC eligible closed cases, the information is needed  
8 on the private bar component, section 1, because we do  
9 want to know how many pro bono cases, how many adjudicated  
10 cases, how many contract cases because the PAI statistics  
11 don't give you that right now.

12 However, under the staff attorney component,  
13 we find that we actually could shade out that whole area  
14 unless the program has the information and only use it  
15 as a subtotal. That is perfectly acceptable for what  
16 we are trying to do.

17 MR. MOLA: So you would omit the last column  
18 under --

19 MS. PAQUETTE: Except for just the subtotal.  
20 It would be just one total that people would take off  
21 the CSR.

22 MR. MOLA: The bottom line. That's fine.

23 MR. MENDEZ: Is that satisfactory to everyone?

1 MR. MOLA: Yes.

2 MR. MENDEZ: Nothing else appearing --

3 MR. MOLA: One more.

4 MR. MENDEZ: You get two more minutes.

5 MR. MOLA: On page 98, the annual program update --  
6 I am sorry, page 97 and 98. Again, this is a duplicative  
7 page of information that is already included. Staff  
8 hourly records have been there for several years. I  
9 don't know what that gains anybody. Attorneys' fees  
10 you have already seen in the budget.

11 MR. MENDEZ: Is this from last year?

12 MS. PAQUETTE: Yes.

13 MR. MENDEZ: It is in.

14 MR. MOLA: Similarly, on I-2, page 98, class  
15 action information is information that the Corporation  
16 has.

17 MR. MENDEZ: Was it in last year?

18 MS. PAQUETTE: Yes. And we have modified to  
19 include --

20 MR. VALOIS: How can you say it was in last  
21 year, John? We're asking about a different year.

22 MR. MOLA: I didn't say it was in last year.

23 I am saying that this is all information that is already

1 in the possession of the Corporation.

2 MR. VALOIS: But how can it be in the possession  
3 of the Corporation? We are asking you about a different  
4 year than we asked for last time.

5 MR. MOLA: Because, for example, on page 97,  
6 you are asking us for attorneys' fees and source of funds.

7 MR. VALOIS: But we're asking for 1986.

8 MR. MOLA: That's right.

9 MR. VALOIS: And we did ask you once before  
10 for 1985.

11 MR. MOLA: And we have given you that information  
12 that you asked for in 2 here in the budget sheets.

13 MR. MENDEZ: It was asked last year and it  
14 is a simpler form this year than last year or essentially  
15 the same.

16 MS. PAQUETTE: It is basically the same form.

17 MR. MENDEZ: All right, it is in.

18 MR. MOLA: And the same thing on 98.

19 MR. VALOIS: Same answer.

20 MR. MENDEZ: I'm sorry, but I am tired.

21 MR. MOLA: Pepe, I have one last concern. We  
22 talked about the tight time frame. I am very concerned  
23 and FCC is very concerned that we don't repeat the problems

1 that we have had in previous years with disruption in  
2 grant awards being made and checks being issued to programs.  
3 I think all of the decisionmaking of the Corporation  
4 is going to have to be made before the beginning of November  
5 if you adhere to your policy of again publishing the  
6 grants in the Federal Register. There is some dispute  
7 as to whether that is necessary.

8 I guess what I am looking for is an assurance  
9 that there is not going to be a disruption in the flow  
10 of the grant monies to the programs given the tight schedule,  
11 given publication, given the changes in this whole procedure.  
12 That's a real possibility.

13 MR. MENDEZ: I understand. I can give you  
14 the assurance. It's not worth a damn. I will give the  
15 staff instructions that if they comply and haven't sent  
16 any contract language back --

17 MR. MOLA: Other than what we have discussed.

18 MR. MENDEZ: I'm sorry?

19 MR. MOLA: Other than what we have discussed.

20 MR. MENDEZ: No. If you make modifications  
21 at all. We're on the same wave length. If there are  
22 any grants modifications at all, no grants are going out,  
23 no grant monies are going out. You review it and if

1 it looks satisfactory, those should go out and you are  
2 to do it promptly.

3 If you have any problems three weeks ahead  
4 of time -- Let's say if you have problems by the 10th  
5 of December, you should bring them to the president's  
6 attention. And we are going to get more people working  
7 on it.

8 MR. MOLA: Can the program be notified if there  
9 are problems also so that they can be rectified if they  
10 can be rectified?

11 MR. MENDEZ: There ought to be some way.

12 Let me ask you people. If you have a problem  
13 with a program, how do you -- How soon do you notify  
14 them?

15 MS. PAQUETTE: I worked in a regional office  
16 in the past. The regional offices reviewed those applica-  
17 tions and we would, as they came in, be assigned to review  
18 them and get back. There is a checklist, a regional  
19 office checklist which will now be called the monitoring  
20 unit or some other unit checklist. And we would go down  
21 the list just as we do with audits.

22 When the audits come in, they do sort of a  
23 desk audit. And if it doesn't pass the checklist, a

1 letter is sent out to the programs notifying them of  
2 the deficiencies.

3           That is what went on in the regional offices  
4 with a similar checklist. We assume that we are going to  
5 have a checklist like that this year which every division  
6 is responsible for or multiple divisions are responsible.  
7 Once the checklist is completed there should be a notifica-  
8 tion process to the programs.

9           MR. MENDEZ: All right, I'll tell you what  
10 I want to have. That is fine to do it that way, but  
11 I want to have a telephone call to the programs as well.

12           MR. MOLA: That would be helpful.

13           MR. MENDEZ: Telling them that they are not  
14 in compliance, what the problem is, and that they are  
15 going to get a confirming letter, and that there is potential  
16 that their grant won't come on time.

17           MS. BERNSTEIN: I don't think though that you  
18 understood part of what John's question was because as  
19 I interpreted what he said -- Joel, you were at the Corpora-  
20 tion at the time and I was no longer at the Corporation  
21 when the process evolved, but the question of whether  
22 or not our Act requires us to publish in the Federal  
23 Register the notification for grants for 30 days prior

1 to the time that the grant checks are given and give  
2 the Governors of the States a chance to -- Is that the  
3 provision that you are talking about?

4 MR. MOLA: Yes.

5 MS. BERNSTEIN: Give the Governors a chance  
6 to object, to make comments, or whatever is going to  
7 be the response to the Federal Register publication.

8 As I understand your question, John, it is  
9 that the Corporation is going to need to make a decision  
10 about the grants prior to the time that we are going  
11 to get them. I mean the grant application is supposed to  
12 to be in on October 15th or something like that.

13 MR. MOLA: You've got two weeks if you get  
14 it in November and get that 30-day period and make grant  
15 awards by the end of December and then cut checks. It  
16 is just not going to happen.

17 MS. BERNSTEIN: Because otherwise the first  
18 check of the new grant year would not be on time. Now  
19 it seems to me we have two -- I'm just kind of talking  
20 through this because I don't know how it -- I know that  
21 the timing wasn't exact or I presume the timing wasn't  
22 exact at that time because I think the publication came  
23 after some checks had gone out.

1           It would seem to me that there are a couple  
2 of possibilities and I would just say that rather than  
3 the Board doing what I -- I have to tell you. I agree  
4 with you, John. Bringing a refunding application before  
5 the Board I disagree with as the way to handle this.  
6 I think it is a staff function. I am not telling Pepe  
7 anything I didn't tell him before, you know, the agenda  
8 was set up.

9           But it would be my wish to delegate the --  
10 not to delegate but to reaffirm the president's function  
11 of the Corporation in terms of getting the grants out  
12 in a reasonable manner in a way in which the grantees  
13 are not put in a difficult position.

14           That would be my answer to the question about  
15 the republication, but the other Board members I don't  
16 think understood what you were saying because they have  
17 not been through this.

18           MR. MOLA: The second problem last year was  
19 with the Corporation taking the position that grant award  
20 documents have to be signed before checks were issued.  
21 We resolved that by a notice going out which was always  
22 our understanding that if we cashed those checks we took  
23 the terms and conditions that went along with the money.

1 We got over that obstacle.

2 All I am saying is it is going to be a hectic  
3 last quarter. If we can resolve these issues in advance,  
4 we are not going to come up at the end of December and  
5 not have the money.

6 MS. BERNSTEIN: But once again, I think --  
7 My opinion is that it's not something that the Board  
8 has to resolve here. It's something that the management  
9 can resolve.

10 I know Pepe has particular concerns regarding  
11 the conditions and assurances and so forth.

12 MR. MENDEZ: That's right.

13 MR. MOLA: Is it possible, for example, Pepe,  
14 to have the staff come up with a plan on how this is  
15 going to happen?

16 MR. MENDEZ: All right. Have a plan.

17 MR. MOLA: It has to be done one way or the  
18 other or else the checks aren't going to flow in December.

19 MR. MENDEZ: I tell you. All you have to do  
20 is -- Just develop something so that they know what --

21 MS. BERNSTEIN: The first check is conditional  
22 or, you know, whatever, that you have to give it back  
23 if you decide you --

1 MR. MENDEZ: Well, if the first check is condi-  
2 tional, we have to change the terms and conditions of  
3 the grant.

4 MS. BERNSTEIN: Just put something on the endorse-  
5 ment.

6 MS. FRANCIS: Well, we have a process and it  
7 has occurred at least twice to my knowledge where I think  
8 last year it was because of the publication issue. It  
9 is still an issue that hasn't been firmly decided on.  
10 Whereby we do issue a two-month advance check to cover  
11 it. It's consistent with what we have been issuing every  
12 year. And one condition is that expenditure is acceptance  
13 of all of the terms and conditions and that you would  
14 not receive any additional funds until all the other  
15 requirements were met, that you submitted your acceptance  
16 form and that the notice appearing had expired.

17 Basically, things went out at the same time.  
18 There was some conditional language added to the letter  
19 with the check that was sent to the programs.

20 MR. MOLA: If that happens, the checks will  
21 be received in a timely fashion. The only problem that  
22 is going to reoccur then, Pepe, is the one where we had  
23 February checks being held off last year because the

1 money we get in December is the first and last month's  
2 money. If we wait, according to this procedure, the  
3 second batch of grant documents don't go in until February  
4 3rd. We are not going to have the February checks.

5 MR. MENDEZ: Charles, do you have something?

6 MR. WHITE: That's not a first and last month  
7 check.

8 MS. FRANCIS: There is a whole other issue  
9 about whether it is the first and the last or if it is  
10 the first two months. We give them a two-month advance.  
11 They can consider it the first and the last.

12 MR. MOLA: Because we don't get a check in  
13 December. We get 11 monthly checks. I'm sorry. We  
14 get monthly checks February through November. We get  
15 two months in December which is for January and December  
16 of the next year.

17 MS. FRANCIS: The other side of that is that  
18 they are funded a month in advance and that we give them  
19 January and February and that check in November is for  
20 December.

21 MS. BERNSTEIN: Put it in the bank.

22 MR. MOLA: But we might --

23 MR. MENDEZ: We are finished. We are finished

1 with this.

2 MR. MOLA: Will we get the procedure for how  
3 this is going to be done?

4 MR. MENDEZ: You will get the procedure for  
5 how that's done. They will send you a note on that.

6 MS. PAQUETTE: You mean to PAG or to field  
7 programs.

8 MR. MENDEZ: To field programs. You're not  
9 dealing with PAG. You're dealing with field programs.

10 MR. MOLA: Pepe, one last thing. We are re-  
11 experiencing the problem of the checks not being received  
12 as they have always been except for the last couple of  
13 months, at least by the last business day.

14 MR. MENDEZ: All right, will one of you see  
15 that that is done correctly?

16 MS. BERNSTEIN: Deal with the Corporation.

17 MR. MOLA: They don't respond. I brought it  
18 to their attention awhile ago. It was a problem the  
19 beginning of the year. I thought it was corrected and  
20 it is reoccurring again, especially near the end of the  
21 year.

22 MR. WHITE: We mail the checks out in time  
23 that they get them around the first of the month. I

have

1 have no control over the mail.

2 MR. MOLA: It used to be that the checks were  
3 mailed so that they were received by the last business  
4 day. The last -- Two months ago they weren't received  
5 because they weren't sent out because of extraordinary  
6 bills. This last month they weren't mailed until --

7 MR. MENDEZ: I'll tell you what. Talk to the  
8 president about this. I would suggest that you tell  
9 him that we suggest to the president that they mail them  
10 on the 25th or 27th.

11 MR. MOLA: That will be fine.

12 MR. MENDEZ: Pick a day.

13 MR. MOLA: The 25th will be fine.

14 MR. MENDEZ: What about the 27th? That's fine?

15 Okay, the 27th.

16 Anything else?

17 Yes, ma'am?

18 MS. MEYERS: My name is Karen Meyers. I'm  
19 the Director of the Legal Aide Society of Albuquerque.  
20 I was wondering if there were any plans to provide technical  
21 assistance to new or relatively new project directors  
22 in preparation of their funding application.

23 I have been employed as a project director

1 for about 10 months and in that time I have not received  
2 any type of assistance or any type of materials or anything  
3 from the Corporation that would assist me in seeing that  
4 I met the necessary requirements so that we don't have  
5 to run into any problems. I haven't heard anything yet  
6 that would indicate that those type of steps would be  
7 taken so that clients do not have to suffer during the  
8 problems.

9 MS. BERNSTEIN: We're grownups. Call.

10 MR. MENDEZ: Call the field offices.

11 MS. PAQUETTE: There will be instructions in  
12 the packet with name and telephone numbers of people  
13 who can be contacted to answer questions. There is a  
14 whole task force that was involved in this and is familiar  
15 with the information.

16 MS. BERNSTEIN: We're not only all grownups,  
17 but we're lawyers. So call if there is a question with  
18 it and Pat or somebody at the Corporation will answer  
19 the question.

20 MS. MEYERS: I have done that in the past.  
21 And my question is that there was a specific attempt  
22 last year when significant changes were made to give  
23 that information and that training and I am asking whether

1 or not that is to be repeated because of -- The instructions,  
2 if you have read them, are not as clear as one might  
3 think they could be or should be.

4 MS. PAQUETTE: The instructions have not yet  
5 been prepared other than the narrative. There will be  
6 voluminous instructions accompanying all these forms.

7 MR. MENDEZ: That's fine. If you have questions,  
8 she says they are going to have information and telephone  
9 numbers that you can contact.

10 MS. MEYERS: So other than that, my assumption  
11 is that there is no additional plan for any other type  
12 of technical assistance other than telephone calls.

13 MR. MENDEZ: That is a good assumption.

14 MS. MEYERS: Okay.

15 MR. MENDEZ: Any other public comment on this  
16 issue?

17 (No response.)

18 MR. MENDEZ: Next is the third quarter budget  
19 review.

20 MR. GESSNER: I'm going to be real brief.

21 MR. MENDEZ: You may think you are going to  
22 be brief, but I have a hunch.

23 MR. GESSNER: Let me first call your attention

1 to pages 133 and 134 in your Board book. The staff has  
2 conducted the third quarter budget review. The first  
3 part of it was brought to you at your August meeting  
4 where we recognized certain budget modifications and  
5 they were somewhat modified and adopted by the Board.

6           The internal budget review process for category  
7 3 or management administration portion of the budget  
8 was conducted during August. And an internal shift of  
9 approximately \$409,000 was made from the operating units  
10 into the unallocated line.

11           In a cover memo to Mr. Winslow, I recommended  
12 that the total unallocated line of \$801,000 be retained  
13 within the Corporation for operating expenses in FY 86.

14           We found that preliminary projections of 1986  
15 operating costs would be substantially in excess of the  
16 budget mark of \$10.7 million.

17           There are numerous unanswered questions regarding  
18 operating expenses for next year, staffing plans for  
19 next year, other costs for next year, and the staff's  
20 budget management group has determined to make this recommenda-  
21 tion.

22           I have also sent to the Board a monthly expense  
23 report for July. We are predicting in categories 1 and

1 2 a total uncommitted balance, fund balance, of approximately  
2 \$1.1 million. Out of this amount of money, however,  
3 there are certain items that I would recommend not being  
4 modified.

5 One of those is approximately half a million  
6 dollars under revenue line. Pursuant to the discussion  
7 this morning, annualizing law school clinical program,  
8 that would be a very reasonable source of funding for  
9 that item in '86.

10 The second large item is National Clients Council  
11 line, \$432,000, which should be retained because the  
12 judicial process with regard to National Clients Council  
13 is still unresolved.

14 That is a very brief summary. I am sure there  
15 are numerous questions.

16 MR. MENDEZ: Paul, do you have any questions?

17 MR. EAGLIN: I'm still looking through. Go  
18 ahead.

19 MR. SMEGAL: I have a couple of comments. First,  
20 I would like to thank Dave. We sit in these meetings  
21 and sometimes you don't know whether the staff listens  
22 or not. But I have checked the transcript on the June  
23 meeting where I stated that the Roman numeral III, line

1 2, Executive Office, I asked if it would be \$300,000  
2 under budget and I see Dave has acknowledged that by  
3 indicating that there would be a variance of \$300,000.  
4 Right on the button.

5 MR. GESSNER: That \$300,000 is the special  
6 studies allocation. There have been no charges against  
7 that allocation this year. There are some preliminary  
8 steps being taken with regard to the migrant studies  
9 and some other items, I'm told, but nothing that can  
10 be expensed this year.

11 MR. SMEGAL: The other comment I would make  
12 is the same kind of thing. In June I noted that line  
13 11, Regional Offices, was going to be about \$400,000  
14 under budget. It looks like you come close to that  
15 with \$376,828, which you have transferred to another  
16 area.

17 So what my point is that the projections that  
18 appeared to be consistent with where we were in June  
19 seem to have born out and are now the subject of some  
20 modification.

21 I'm on page 136.

22 MR. GESSNER: The regional office adjustment,  
23 of course when we met in June the Board had not yet acted

1 on the staff's recommendation for a consolidation of  
2 the Office of Field Services. After the consolidation  
3 was approved, revised budgets for those regional offices  
4 were prepared as part of the third quarter review. There  
5 were some cost savings as far as the actual closing of  
6 those offices which were closed and some saving also  
7 for monitoring efforts that have slipped somewhat due  
8 to just normal operating conditions.

9 MR. SMEGAL: The other comment, if you look  
10 to June, from the numbers we had then, the Office of  
11 Field Services is going to be under budget by about a  
12 million and a quarter. And I understood the explanation  
13 at that point to be the monitoring that was going to  
14 go on the rest of the year. We now have two additional  
15 months of information, spending information and we are  
16 now projecting a year end variance of roughly \$940,000,  
17 plus an internal budget modification of another \$60,000,  
18 which brings it up to a million.

19 And if I project the next two months correctly,  
20 we are still going to be under budget another \$100,000  
21 or so.

22 MR. GESSNER: That is very much up in the air  
23 where we are going to end up exactly. We went through

1 a very rigorous review internally of each expenditure  
2 category and each operating division. And what you have  
3 before you is our best estimate as of the middle of August  
4 of where we are going to end up by September 30.

5 MR. SMEGAL: The only other question I would  
6 have is on line 12 where you had at the beginning of  
7 the year back in October of '84 for fiscal year '85 a  
8 \$200,000 unallocated reserve. We increased that by \$191,000  
9 in March. And we now have increased that to \$409,000.  
10 And we have yet to spend any of it.

11 MR. GESSNER: Our internal budget management  
12 process is somewhat of a departure from that which existed  
13 previously. What we do is we look quarterly at each  
14 operating unit and adjust the total budget to match year  
15 end projections primarily so that divisions aren't operating  
16 with huge budgets when they are not going to need them.

17 The net effect of all these adjustments is  
18 put into the unallocated line. In a few instances, there  
19 were additions as part of the third quarter review. In  
20 most there were reductions.

21 So the change to unallocated quarterly is the  
22 net effect of those adjustments.

23 MR. SMEGAL: How much do we have in for monitoring

1 under the Office of Field Services in fiscal year '86?

2 MR. GESSNER: Fiscal year '86? We will have  
3 the \$936,000.

4 MR. SMEGAL: Let's set that aside. What do  
5 you have in fiscal year '86 budget?

6 MR. GESSNER: We haven't put together our '86  
7 operating budget yet. They will have what they need  
8 to get the job done.

9 MR. SMEGAL: Out of the fiscal year '86 budget?

10 MR. GESSNER: Out of the fiscal year '86 budget  
11 and --

12 MR. MENDEZ: And the carryover that we have.

13 MR. GESSNER: And the carryover. The uncommitted  
14 carryovers as well as the committed carryovers. We are  
15 asking that the \$800,000 be retained to be used for FY  
16 86 operations.

17 MR. SMEGAL: Well, Dave, isn't the reality  
18 of what's happening here is we've got a budget of \$305  
19 million or a benchmark of \$305 million for fiscal year  
20 1986. And if I recall, we have either held or reduced  
21 Roman numeral III to \$10 million, I think, isn't it from  
22 12.9?

23 MR. GESSNER: We have gone from an FY '85 appropriation

ria

1 of \$11.3 to an FY '86 request of \$10.7. How the appropria-  
2 tion will come out of Congress, I don't know. But the  
3 difference between the \$11.3 and the \$12.9 is the '84  
4 carryover that was put into certain activities in manage-  
5 ment administration for '85 and continuing on into '86.

6 MR. SMEGAL: Well, following up my conversation  
7 that we had earlier, aren't we just really kidding ourselves?  
8 We're not going to operate next year with \$10.7. We  
9 are really going to operate on all this carryover. So  
10 we are deluding ourselves and Congress into thinking  
11 we really are operating under Roman numeral III with  
12 what we've got in the budget and we can't do it with  
13 that kind of money next year. Fiscal year 1986 is not  
14 \$10.7 million. It is \$10.7 million plus all this other  
15 carryover that we are going to use in fiscal year 1986  
16 for stuff that we should be funded for in fiscal year  
17 1986, which is running Corporation management and grant  
18 administration.

19 Isn't that true?

20 MR. GESSNER: In part.

21 MR. MENDEZ: Before he answers that, I want  
22 to put my two cents worth in.

23 Part of this, we have made some commitments

1 this year. And even though they are going to expended  
2 next year, the commitment is this year and we need to  
3 allocate and we have allocated those funds and it takes  
4 some time to get those processes done.

5 And whether they come now or next year, the  
6 allocation is done now.

7 MR. SMEGAL: Well, I can accept that with respect  
8 to monitoring which is \$936,000. You have another \$800,000  
9 and you are going to have \$300,000 and then \$100,000.

10 MR. GESSNER: Let me go through each of these.  
11 The \$300,000 is not going to be part of the normal operations.  
12 That is a special allocation. That is a special non-  
13 operating expense.

14 The \$91,000 is a very rough estimate of what  
15 is going to be left out of the \$170,000. It could be  
16 zero. It could be \$150,000.

17 MR. SMEGAL: My point is not criticism of the  
18 carryover funds.

19 MR. GESSNER: I know what you are saying.

20 MR. SMEGAL: My point is a concern that we  
21 are not being realistic with Congress in going up there  
22 and saying we are going to run this program for \$10.7  
23 million when in reality we are not.

1 MR. GESSNER: Well, I don't know that we said  
2 that we are going to run the program for \$10.7 million.  
3 We went to Congress and said we need \$10.7 million in  
4 1986 dollars to run the program. I don't think that  
5 is saying the same thing. I agree that we are not going  
6 to run our 1986 program on \$10.7 million.

7 MR. SMEGAL: Well, you heard my point.

8 MR. MENDEZ: Any other discussion?

9 (No response.)

10 MR. MENDEZ: None appearing, I am going to  
11 adjourn.

12 I notice your hand. You have only two minutes.  
13 Terry, I'm sorry, but I am tired.

14 MR. ROCHE: One minute.

15 2.1 in grants and management administration  
16 carryover, 1.1 admitted in 1 and 2, transfer 2.5 to the  
17 field this session. We can all get out of the room.

18 I won't haggle about the rest of it. I won't  
19 tell you about the fact that the Corporation has not  
20 yet moved and there has got to be a whole bunch of money  
21 in that management budget for moving. I don't think  
22 it is going to happen.

23 That is all I need to say. I will write you

1 another memo. Good night.

2 MR. MENDEZ: So we can get a few things and  
3 so we can all go home, we had some discussion today about  
4 annualized funding for law schools and we had some other  
5 discussions about the three national support centers  
6 that were otherwise funded.

7 This is directing my favorite whipping boy.  
8 I want to have reports at the next meeting concerning  
9 those two issues and how much they are going to cost  
10 if we refund them and whether we should or not make them  
11 annualized.

12 MR. VALOIS: The Chairman of the Provisions  
13 Committee is going to make a report to the Acting Chairman  
14 of the Board tomorrow and make certain recommendations  
15 with respect to the expenditure of funds that we discussed  
16 this morning.

17 MR. MENDEZ: But do we have good numbers?

18 MS. BERNSTEIN: Yes, we discussed that this  
19 morning.

20 MR. MENDEZ: We'll need to act on that tonight.

21 MR. VALOIS: I don't know how you do that proce-  
22 durally. I am not on this Committee.

23 MS. BERNSTEIN: Let me. I'm on both committees.

1 I move to accept the recommendations of the  
2 Committee on the Provisions for the Delivery of Legal  
3 Services regarding the annualization of funding for the  
4 law school clinic program as outlined in the discussion  
5 this morning.

6 There is a more long-winded motion that I gave  
7 to the Chairman here. We did it in the Provisions Committee.

8 MR. MENDEZ: Do I hear a second?

9 MS. BENAVIDEZ: There is a motion and a second.

10 MS. BERNSTEIN: I am going to back up because  
11 I am not sure if --

12 MR. VALOIS: I don't know how we get from here  
13 to there and I don't want you to do something that forecloses  
14 it.

15 MR. MENDEZ: Let the record reflect that Hortensia  
16 seconded the motion.

17 All in favor say aye.

18 (Chorus of ayes.)

19 MR. EAGLIN: What is the question? Is this  
20 the motion relating to something that took place this  
21 morning at another meeting?

22 MR. MENDEZ: Yes.

23 MR. EAGLIN: I'm not a member of that Committee

1 then, right? So I'm out of this, right?

2 MR. MENDEZ: No.

3 MS. BERNSTEIN: You can vote for or against  
4 recommending this to the Board.

5 MR. MENDEZ: All right. The motion is to fund  
6 law school clinics on an annualized basis and use our  
7 funds to --

8 MS. BERNSTEIN: Using unallocated Reggie (phonetic)  
9 funding annually.

10 I'm sorry.

11 MR. GESSNER: Would that be redirecting 1985  
12 to establish that or would that be 1985 carryover issue?

13 MR. VALOIS: I don't know the answer to that.

14 MR. GESSNER: Well, you can establish that  
15 now.

16 MR. MENDEZ: I would prefer that you get the  
17 Board to say tomorrow that this is -- to direct my committee  
18 to find the funds.

19 MR. VALOIS: I guess the Board can do anything  
20 that you can do.

21 MR. MENDEZ: Yes.

22 MR. VALOIS: I'm just putting you on notice  
23 that we are going to do that tomorrow.

1 MR. MENDEZ: Okay.

2 MS. BERNSTEIN: We had a motion and a second.  
3 It's sitting here on the table.

4 MR. MENDEZ: All in favor say aye.

5 (Chorus of ayes.)

6 MR. MENDEZ: All opposed?

7 MR. EAGLIN: No.

8 MR. MENDEZ: The ayes have it.

9 Do I hear a motion to adjourn?

10 MR. SMEGAL: Let me say something. I made  
11 some statements. They weren't intended to be critical  
12 of you, Dave. I think you are doing a hell of a job.  
13 I appreciate all your good efforts.

14 MR. MENDEZ: We'll continue at 8:00 o'clock  
15 tomorrow morning in the Lee, Arlington, Potomac room.

16 (Whereupon, at 8:10 o'clock p.m., the hearing  
17 was adjourned.)

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CERTIFICATE OF REPORTER

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I, Kathleen G. Matthews, a Certified Verbatim Reporter, do hereby certify that the foregoing proceedings are true and correct to the best of my knowledge and ability; and, that I have no interest in said proceedings, financial or otherwise, nor through relationship with any of the parties.

*Kathleen G. Matthews*  
KATHLEEN G. MATTHEWS, CVR,  
COURT REPORTER