

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

FINANCE COMMITTEE

Friday, August 23, 2002

3:53 p.m.

The Marriott at Metro Center
775 12th Street, N.W.
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

Nancy H. Rogers, Chair
Edna Fairbanks-Williams
Douglas S. Eakeley (ex officio)
John N. Erlenborn

BOARD MEMBERS PRESENT:

Hulett H. Askew
LaVeeda Morgan Battle
F. William McCalpin
Maria Luisa Mercado
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

John Eidleman, Acting Vice President for Compliance and
Administration
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary

STAFF AND PUBLIC PRESENT:

Mauricio Vivero, Vice President for Governmental Relations and Public Affairs
Randi Youells, Vice President for Programs
Leonard Koczur, Acting Inspector General
Laurie Tarantowicz, Assistant Inspector General and Legal Counsel
David Maddox, Assistant Inspector General for Resource Management
David L. Richardson, Acting Vice President for Administration, Treasurer, and Comptroller
Catherine Sulzer, Deputy Director, Office of Governmental Relations and Public Affairs
Patricia Hanrahan, Special Assistant to the Vice President for Programs
Leslie Russell, Director, Office of Information Technology
Michael Genz, Director, Office of Program Performance
Robert Gross, Senior Program Counsel, Office of Program Performance
Alice Dickerson, Director, Office of Human Resources
Frank Strickland, Attorney, Strickland Brockington Lewis, LLP
Robert Dieter, University of Colorado
Michael McKay, McKay Chadwell
Linda Perle, Senior Staff Attorney, Center for Law and Social Policy
John Pickering, Wilmer, Cutler & Pickering, representing the American Bar Association
James Martin, Former Executive Firor, Legal Aid of West Virginia
Julie Strandlie, Director of Grassroots Operations, American Bar Association
Robert Steptoe, Representative from Congressman Capito's Office
Paul Julien, Executive Director, Southern Arizona Legal Aid

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MOTIONS: 5, 6, 62, 71, 77

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

2 MR. EAKELEY: I am banging the gavel on behalf of
3 finance committee chair Nancy Hardin Rogers, who is on the
4 telephone and who, having -- and who will now take over the
5 meeting.

6 And Nancy, as I mentioned just a moment ago, we
7 have at the table with Mauricio Vivero John Pickering and Jim
8 Martin. And I'll let you have the meeting, or have your
9 meeting back.

10 CHAIR ROGERS: Good afternoon, everybody. The
11 meeting has been called to order. I wonder, Doug, if you
12 could note who is present besides myself by phone.

13 MR. EAKELEY: Present at the table at the moment
14 are Ernestine Watlington, Edna Fairbanks-Williams, John
15 Erlenborn, Hulett Askew, and F. William McCalpin. LaVeeda
16 Morgan Battle was here and will be back shortly. Oh, and
17 Maria Luisa Marcado is on her way back, also.

18 CHAIR ROGERS: Thank you very much, Doug.

19 I believe we will start with the approval of a
20 revised agenda. And let me propose a revision, and that is
21 to move the speakers who are coming to speak on the budget
22 mark -- I believe it is John Pickerington -- Pickering, I am
23 sorry, James Martin, Mauricio Vivero -- to the beginning
24 after the approval of the minutes.

25 We have three action items, and one of those action
26 items is the budget mark, which is, I believe, the subject of
27 their discussion. I propose to leave the budget mark where
28 it is, number 7 on the agenda in your agenda books, but move
29 the speakers up to number 3, right after the minutes.

30 Is there a motion to that effect?

31 M O T I O N

32 MS. FAIRBANKS-WILLIAMS: So moved.

33 MR. EAKELEY: Second.

34 CHAIR ROGERS: All in favor?

35 (A chorus of ayes.)

36 CHAIR ROGERS: Opposed?

37 (No response.)

38 CHAIR ROGERS: Motion carries.

39 MR. EAKELEY: And Nancy, say hi to LaVeeda, who is
40 coming back in.

41 CHAIR ROGERS: Hi, LaVeeda.

42 MS. BATTLE: How are you, Nancy?

43 CHAIR ROGERS: I am fine, thanks.

44 Is there a motion to approve the minutes that are
45 in the book, the agenda book?

46 M O T I O N

47 MR. McCALPIN: So move.

48 MS. FAIRBANKS-WILLIAMS: Second.

49 CHAIR ROGERS: All in favor?

1 (A chorus of ayes.)

2 CHAIR ROGERS: Opposed?

3 (No response.)

4 CHAIR ROGERS: Thank you very much. I think they
5 are approved.

6 The next item is to hear from John Pickering, James
7 Martin, and Mauricio Vivero. And I understand that you are
8 already at the table. Is that right?

9 MR. PICKERING: Correct.

10 CHAIR ROGERS: Well, welcome, and we are anxious to
11 hear your comments as they pertain to the FY 2004 budget
12 mark. And Mr. Pickering, would you like to begin?

13 MR. PICKERING: Thank you, ma'am. I have, and will
14 submit for the record, copies of a memorandum setting forth
15 the American Bar Association's recommendation for the
16 forthcoming budget for the corporation.

17 We urge that you request an appropriation next year
18 of \$502 million. That returns LSC to the 1995 funding level,
19 adjusted for inflation. We believe that that is the minimum
20 that we should have, and consequently we are strongly in
21 support of 502 million.

22 We recognize that that may not be achievable in a
23 single year, and that we may have to move toward that goal in
24 increments of three years. But I would like to add to what
25 is in the written memorandum I am submitting. I would like
26 to add the urgency of the matter.

27 The need for legal services for the poor and the
28 moderate poor continues to grow, and we still have never been
29 able to begin to make a dent in the 70 percent of the unmet
30 legal needs of the disadvantaged citizens.

31 Even with all of the add-ons that come, not only
32 from LSC but from IOLTA, from the states, and from private
33 giving, we are forced to turn away about one in ten people.
34 And we are having more and more trouble trying to reach the
35 needs of what I call the moderately poor, who may not be able
36 to qualify completely for some of the programs.

37 Federal funding has not kept pace with the needs,
38 and the states and the IOLTA program are falling back. As
39 you know, the states have budgetary problems, and that
40 impacts their ability. The IOLTA program has been beset with
41 the low interest rates, which have cut the yield in many
42 states.

43 Plus, and I don't want to be alarmist, but plus the
44 fact the IOLTA program itself faces serious question in the
45 Supreme Court of the United States this coming term, when the
46 Court will consider the validity of the state of Washington
47 program, and perhaps along with it the Texas program,
48 following remand from the Supreme Court.

49 The ABA would urge you to send a strong message of

1 support for the needs of legal services, and we stand ready
2 to work with the Commission -- the Corporation in any way
3 that we can to try to achieve a significant level of funding.

4 It is a pleasure on behalf of the ABA and the
5 Standing Committee on Legal Aid and Industry Defense that I
6 represent here. I thank you very much for this opportunity,
7 and I will submit now copies of this memorandum for the
8 record.

9 CHAIR ROGERS: Thank you very much, Mr. Pickering.

10 MR. PICKERING: I would be glad to answer any
11 questions if there are any at this time, or wait -- defer to
12 the rest of the panel.

13 CHAIR ROGERS: Thank you very much. First, we
14 thank you for taking your time to come to speak on behalf of
15 the ABA and SCLAID to the board and to the committee of the
16 board. We appreciate that contribution of your time to the
17 same interests that all of us have.

18 And I wonder now if there are any questions from
19 members of the committee or other board members?

20 MR. EAKELEY: Nancy, we are distributing
21 Mr. Pickering's statement right now. But I think we will
22 probably prepare to go ahead with Mr. Martin.

23 CHAIR ROGERS: Thank you very much, Mr. Pickering.

24 MR. PICKERING: Thank you, ma'am.

25 CHAIR ROGERS: Mr. Martin?

26 MR. MARTIN: Thank you. As I prepared to come here
27 today, I thought, finances and budget are sometimes dry.
28 Although they are critical parts of what we do, they are
29 sometimes hard to talk about. And I tried to think of some
30 good examples of client stories, anecdotes, if you will, that
31 would help make my presentation come more to life.

32 When I did that, I came up with a different
33 approach that I'd like to use. It reflects the work that we
34 do. On every working day, every working day of the entire
35 year, the lawyers, the paralegals, the advocates of Legal Aid
36 of West Virginia are actively handling between 1500 and 2000
37 cases on behalf of our low-income clients.

38 On every working day, between 30 and 50 of those
39 cases are closed. On every working day, between 30 and 50
40 new cases are opened on behalf of clients who have presented
41 problems, situations, crises to us.

42 Out of the cases that we close, about 30 to 40 of
43 every hundred cases are handled and closed after hearings,
44 trials, litigation, before courts and judicial agencies,
45 administrative agencies, at every level of the state and
46 federal system in West Virginia. The other work that
47 we do, the other cases that we handle, include things like
48 drafting advance directives; clinics; helping people avoid
49 problems, including litigation, through teaching those

1 clients how to represent themselves, how to address their own
2 problems.

3 This work by our staff members, our volunteer
4 lawyers, and others participating with the program, is
5 duplicated by legal services programs every day in every
6 state and territory of our country. The amount that is
7 accomplished, the work that is done, the help that is
8 provided to our clients, is impressive.

9 But as was just noted, no study that has been made
10 shows that more than 20, 25, at most maybe 30 percent of the
11 needs of our low-income clients are actually being met. The
12 problem is dramatic. The availability of resources is
13 limited, and that's what the budget mark is about.

14 I speak here today as legal director Legal Aid of
15 West Virginia, as a representative of the National Legal Aid
16 and Defenders Association, as an ABA member, as a
17 practitioner handling cases on behalf of our clients, and as
18 a former attorney in private practice.

19 Legal Aid of West Virginia is a statewide program,
20 newly formed at the beginning of this year from the merger
21 process which the Legal Services Corporation sponsored,
22 pushed, and convinced us we should undertake. It has been a
23 very successful merger. We have many new projects underway
24 in West Virginia, and we have to deal with funding problems.

25 In 1995, in the state of West Virginia, we had 33
26 lawyers who were supported by Legal Services Corporation
27 funding. Today, in 2002, we have 25, not 33. We have lost
28 eight lawyers, and the eight lawyers we have lost is
29 primarily because of the impact of inflation on the user of
30 the LSC money that is available to us.

31 That is a remarkable change. The absolute dollars
32 from LSC have increased, but inflation has reduced their
33 value to us. Just as the work I said that we undertake every
34 day on behalf of our clients is duplicated in the rest of the
35 country, so is this loss that we are experiencing from the
36 inflation, the effect of inflation, on the LSC appropriation,
37 being duplicated for every program across the country.

38 What you do, the members of the board of directors
39 of the Legal Services Corporation, is important. What you do
40 here is urgent. The time for really bold leadership is now.

41 Congress will surely not increase support to our programs
42 and to the Legal Services Corporation unless you ask Congress
43 to do that.

44 Keeping programs strong and accessible to clients
45 is a vital role for you to fill as our partners in the equal
46 justice system. We need your support and help. We need
47 increased funding from the Legal Services Corporation.

48 National Legal Aid and Defenders Association
49 recommends a budget mark of \$506.4 million for the Legal

1 Services Corporation for FY 2004. This is stated and
2 reported on in a letter that was sent from Don Saunders to
3 John Erlenborn as president of the Legal Services
4 Corporation, and I believe you have copies of that letter.
5 This is not an overwhelming increase in the LSC appropriation
6 amount. It really is not much more than an adjustment for
7 inflation.

8 Funding at this level does include a few new
9 things. Legal Services Corporation management, oversight,
10 and administration are all included, but there is also
11 support, newly increased support, for training, for a new
12 program for pensions, and for student loan forgiveness.
13 These are vital items for the field programs in recruiting
14 and retaining staff.

15 I speak to this on a personal level. I have three
16 children. Two of them have already gone to law school. One
17 of them is in practice down in North Carolina, where I can
18 say he chairs the county pro bono committee, so I am very
19 proud of him.

20 My second son just graduated, took the bar exam,
21 and is now, as we know, waiting for results. And my second
22 son asked me if he should think about working for legal
23 services program.

24 And I had to tell him to think very hard and long
25 about that because he has more than \$60,000 in student loans.

26 And although our starting salaries in West Virginia are
27 roughly competitive with the public defender and agencies
28 like that -- they are a couple of thousand higher; we are
29 starting at about 32,000 -- they go up very slowly.

30 And if he is going to pay off those student loans,
31 he is going to have real hard time doing that in legal
32 services. And that experience is duplicated not only in West
33 Virginia, but across the entire United States.

34 And it is very tough for me to say to one of my own
35 children, I don't think you ought to try working for legal
36 services program because I don't think you can afford to do
37 that. That is a very hard thing.

38 The suggested NLADA mark was reviewed and
39 unanimously endorsed by the statewide planning group in West
40 Virginia, a statewide planning group supported and created in
41 part through the efforts of the Legal Services Corporation.
42 This group includes program board members; the leadership of
43 our state bar; representatives of the state and federal
44 judiciary, including the chief judge of the Southern
45 District, United States District Court for West Virginia;
46 domestic violence victim support groups and leadership;
47 clients; and private counsel and political leaders.

48 Like many programs throughout the country, in fact,
49 Legal Aid of West Virginia has close ties to our bar, and we

1 have had continuing effective and strong support from our
2 congressional delegation. And in fact, I would like to take
3 a moment to recognize something.

4 We have had particularly useful help from Senator
5 Byrd's office and from Representative Capito's office in
6 dealing with the Department of Justice on the Violence
7 Against Women Act funds, and Representative Capito's office
8 has a representative here today, Robert Steptoe, who is a
9 staff member of Representative Capito.

10 And to remind those of you who are not familiar
11 with working in small, rural states, West Virginia is a small
12 place, although as was noted earlier, we are actually
13 bigger -- we have counties that are bigger than some other
14 Eastern states, but we would handily fit, I think, within
15 southern Arizona.

16 Rob Steptoe's father was the lawyer with whom I
17 first worked when I started in private practice. And that is
18 true in West Virginia, and it is one of the reasons that in
19 our state, we have close ties, because we have a small bar.
20 It's only 4,000 people in the entire bar.

21 To show you the decline in absolute numbers of
22 legal services lawyers, in 1980, legal services lawyers were
23 almost 4 percent of the membership of the entire bar. In
24 2002, we are .9 percent of the entire bar.

25 The client population has not diminished by a
26 factor of three or four. The client population has dropped
27 by a few percentage points. The number of legal aid and
28 legal services staff lawyers to serve those people has
29 dropped dramatically in relation to the rest of the bar.

30 Finally, I have a short word on the possibility
31 that lesser funding than the \$506 million recommendation will
32 be achieved. The pension, training, and loan forgiveness
33 programs suggested are critical. So is avoiding the
34 devastating fund losses to programs from census-based
35 population shifts.

36 Those census-based shifts are logical. They are
37 important to implement. But they hurt programs in some
38 instances quite severely. West Virginia stands to lose over
39 \$400,000 in funding from the Legal Services Corporation from
40 a census-based shift.

41 We recommend that the first \$19 million of any
42 increase in appropriations received be directed to equalizing
43 the impact of those shifts. That will avoid the losses to
44 the programs that are now losing money because of the census-
45 based funding shifts. We strongly support the new programs
46 suggested, the student loan forgiveness programs, the
47 training, and the pension study programs.

48 What you do, as I said, is important. What you do
49 is critical. You are the only people who can approach

1 Congress on our behalf and request a fund increase for the
2 entire legal services program throughout the country.

3 You remain, for our program and for most programs
4 in the United States, the largest single funding source, the
5 most stable funding source we have, the only source whose
6 entire purpose is providing representation to low-income
7 people in civil cases.

8 Because of that, we strongly urge you to go to
9 Congress and take a position asserting and requesting that
10 \$506.4 million be appropriated for Legal Services for FY
11 2004. Thank you, and if you have questions, I will be happy
12 to answer.

13 CHAIR ROGERS: Thank you, Mr. Martin. We
14 appreciate very much your coming from West Virginia and
15 describing not only the reasons behind the NLADA
16 recommendation, but also the impact on the delivery of legal
17 services in West Virginia.

18 Are there questions from committee members or other
19 board members?

20 MR. EAKELEY: I think we're going to hold for the
21 third presentation, and then address questions to the panel,
22 perhaps, Nancy.

23 CHAIR ROGERS: Okay. Well, thank you. And
24 Mauricio, are you ready?

25 MR. VIVERO: Yes. Good afternoon. I am here to
26 present management's recommendation for LSC's budget mark for
27 fiscal year 2004. The management team requests the board
28 approve a preliminary budget figure of \$415 million,
29 including 20 million for technology grants, for fiscal year
30 2004; and to authorize the board chairman and LSC president
31 to begin immediately budget discussions with the
32 administration.

33 Our recommendation is based on a combination of
34 factors. Most urgently, it is a response to the reality that
35 non-LSC funding sources are declining at an alarming speed as
36 a result of plunging federal interest rates and the ongoing
37 uncertainties in the stock market.

38 In addition, LSC's budget has been flat for three
39 years. Our grantees have not seen a significant federal
40 increase since 1994. Those gains were wiped out by Congress
41 just two years later, and many of our programs still have not
42 recovered from the fallout of the 1996 cuts.

43 As all of you know, LSC now has in its possession
44 poverty population figures from the 2000 U.S. census. The
45 census figures reveal that more than 36 million Americans are
46 now eligible for LSC-funded services, yet we can afford to
47 fund fewer than 4,000 full-time attorneys to serve those in
48 need. The LSC poverty population from 1990 to 2000 increased
49 by 5.75 percent.

1 Because LSC continues to be the single largest
2 funding source for legal aid, we believe the time has come to
3 advocate for a higher funding level, one that acknowledges
4 our present inability to help all those low-income clients
5 Congress has directed us to serve.

6 We in management realize that achieving this 415
7 million funding goal merely takes us back to funding levels
8 approved by Congress almost a decade ago, when Congress
9 passed 415 for LSC's '95 appropriation.

10 An increase back to '95 levels will still leave us
11 a long way from fully addressing our problems. Today, it
12 would take a congressional investment approaching \$700
13 million to fund us at 1980 levels. But in advocating for
14 more resources, we have to start somewhere. An increase to
15 415 would mark an important first step in addressing the
16 funding crisis facing our programs.

17 I do not use the word "crisis" lightly. Dramatic
18 declines in major non-LSC funding sources, and stagnation in
19 the state civil justice spending, have greatly guided our
20 thinking in developing this proposal.

21 Revenue from IOLTA accounts represent the largest
22 non-LSC funding source for legal aid, and IOLTA interest
23 rates have hit an all-time low. Worse still, the prognosis
24 is bleak for a full recovery, and that's assuming the U.S.
25 Supreme Court doesn't strike down IOLTA altogether.

26 The IOLTA crisis is a result of multiple interest
27 rate cuts by the Federal Reserve. The Fed rates now are
28 roughly one-fifth of what they were a decade ago, and banks'
29 interest rates have paralleled this decline.

30 Projected shortfalls are more severe in some states
31 than others, but almost every IOLTA program in the nation
32 expects to incur significant revenue losses in 2002 and 2003.

33 Those losses will range from \$100,000 figures to seven-
34 figure losses in Ohio, Washington, Massachusetts, and
35 Illinois. California may be the hardest hit, with a
36 projected IOLTA loss of \$3.8 million for 2002.

37 These numbers would be alarming even if the rate
38 drops were expected to be short-lived. Unfortunately,
39 there's historic evidence to suggest that these sinking IOLTA
40 rates may never fully recover. The last time IOLTA programs
41 faced rate cuts of this magnitude was in the early '90s, when
42 rates were cut in half, from an average of 5 percent to 2.5.

43 Even after the economy rebounded, IOLTA rates
44 continued to lag behind. The IOLTA leaders we have consulted
45 fear that a repeat of this trend could leave rates hovering
46 indefinitely below 1 percent.

47 Traditionally, when Congress' investments and IOLTA
48 investments were both static, the legal services community
49 would seek resources from state legislatures and private

1 foundations. Unfortunately, those wells have also run dry.

2 This fiscal year, state governments will run an
3 aggregate deficit of \$58 billion, according to the National
4 Conference of State Legislatures. The ABA's project to
5 expand resources in legal services is estimating that no
6 activity this year in terms of new funding will be at the
7 state level.

8 The last line of defense for our programs,
9 foundation giving, is also down as a result of the stock
10 market declines. America's ten biggest foundations are
11 reporting asset losses of \$8.3 billion for the first half of
12 2002. Foundations' shrinking endowments mean legal services
13 will get a proportionally smaller piece of that pie.

14 I'd like to close by saying that I feel we have
15 built a strong foundation with the Congress and the White
16 House to make our case for more funding. LSC's approach for
17 the last two years has been to partner with the
18 administration and support a level funding request, this
19 notwithstanding the vast unmet legal needs of our clients.

20 I believe those were the right choices at the time
21 we made them, for they allowed us to establish strong
22 relationships with the administration and to acknowledge the
23 real budget realities of our time, such as the need to shift
24 resources to fund the war on terrorism. We are grateful for
25 the President's support.

26 While no one will deny that those budget pressures
27 remain -- for example, just yesterday the Senate Budget
28 Committee estimated the deficit for 2003 will be \$180
29 billion -- the urgent needs of our clients compel us to act
30 now and to expend some of this hard-earned capital to make
31 the case for more resources.

32 That concludes my presentation. Thank you for your
33 attention.

34 CHAIR ROGERS: Thank you, Mauricio.

35 I think that, Doug, you indicated there was some
36 interest in talking about this subject with all three
37 panelists there. We have budget mark recommendations that
38 vary from 502 million -- I'm sorry -- 506.4 million to 415
39 million.

40 I propose we actually vote on the budget mark later
41 in the agenda after we've discussed the 2002 and 2003
42 operating budget. But I wonder if there's some discussion of
43 the committee or other board members at this point.

44 MR. EAKELEY: Nancy, this is Doug. I'd like to
45 just ask the panel to focus and develop a little bit more of
46 this concept of vast, unmet need. Mr. Pickering in his
47 statement reports that various credible studies, state and
48 national, and I believe the last national study was the ABA
49 study --

1 MR. PICKERING: Right.

2 MR. EAKELEY: Continued to show that despite the
3 combined efforts of legal aid programs and private bar pro
4 bono attorneys, as many as 80 percent of those in poverty
5 need legal help but cannot obtain it.

6 And I gather that the reduction in overall
7 alternative resources has really exacerbated rather than --
8 obviously it hasn't narrowed that gap. But would any of you
9 care to comment -- we had asked the Congress for an
10 appropriation, I think, two years ago for another national
11 legal needs study. We were unsuccessful in obtaining it.
12 But I remember a decade ago our predecessor board going to
13 the Congress using that exact phrase, vast, unmet need for
14 legal services. But in any event, Mr. Pickering,
15 I've read your statement. But I think -- you were nodding
16 your head with me. How do we develop this message and bring
17 some credibility with it?

18 MR. PICKERING: Well, I simply think that every
19 study that has been made continues to emphasize the need.
20 There are such horror stories -- I mean, most of the aid
21 which is with Legal Services funds and other funds are
22 matters that are essential to the life and the well-being of
23 a major part of our citizens.

24 Domestic relations problems, violence against
25 women -- there was a recent program that I read in one of the
26 southern states about help to battered immigrant women who
27 have no idea of what their rights are, who are the prisoners
28 of their abusive spouses, and with help from legal services
29 providers, are able to resume a life and work and custody of
30 their children freed of that terrible amount of abuse.

31 There is also a lot of work done and needed in
32 getting the vast program of federal benefits, that ranges all
33 the way from the farmers legal action group in Minnesota
34 dealing with the devastation of river flooding in that state,
35 to the ordinary crop loan subsidy programs and the protection
36 against foreclosures on the family farms.

37 It is a wide array of services. We are very proud
38 of the modules. Our slogan is "Equal justice under law."
39 But we fall so short of meeting that need. And I have never
40 known a worse time in my 60 years of practice. The amount of
41 pleas that come to my law firm for assistance from a whole
42 range of worthy organizations who are seeing their funding
43 cut back on a whole variety of things -- you heard from Mr.
44 Vivero the private foundation funding is dried up and IOLTA
45 has shrunk. And if the IOLTA programs are knocked down, the
46 need for federal funding just becomes enormously more.

47 While I appreciate budget realities, I think it's
48 the time to try to have realities about the delivery of
49 justice, the most precious commodity of our society.

1 I spoke the other day at the ABA pro bono lunch,
2 and I was -- read the Preamble to the Constitution of the
3 United States. And the second item in that Preamble is to
4 establish justice. It comes before providing for the common
5 defense.

6 And I think that while we can't be stupid in our
7 requests, the time has come when we ought to push. And I can
8 assure you, the American Bar Association, with whatever
9 resources it can bring to bear, is ready to support a request
10 in the range of \$520 million plus. I don't quarrel with what
11 NLADA has suggested, which is a little more. But I do think
12 that we need to go beyond what was the funding level in 1995
13 and adjust it at least for inflation. And that brings us to
14 the \$520 million figure that I have suggested.

15 MR. McCALPIN: Madame Chair?

16 CHAIR ROGERS: Yes.

17 MR. McCALPIN: This is Bill McCalpin. Let me
18 direct a question to Mauricio.

19 Can you in any way identify the differences between
20 your figure of 416 and the 502 or 4 figure? Can you tell us
21 where in terms of size and nature those differences might be?

22 MR. VIVERO: Well, it's a little bit complicated.
23 If you accepted the line items proposed by NLADA, you would
24 reduce the amount in basic field grants. Our proposal, if
25 accepted, has only one additional line item, which is for
26 technology grants.

27 So there's a policy decision there in terms of
28 distinguishing the budget details. Our figure is basically
29 the '95 figure. And as a shorthand on what the other figures
30 are, it's basically '95 figure adjusted for inflation.
31 That's the major difference of the two numbers.

32 Could I add -- could I respond to Doug's question
33 about need? Our budget request, whatever the figure is for
34 2004, will, I think, more than adequately demonstrate and
35 explain the various need studies that have been done in
36 states since the ABA benchmark study.

37 The most recent excellent study was done in Oregon
38 at a very low cost. We are encouraging state justice
39 communities to go ahead and do these studies, since we were
40 not able to fund a national study. There has been studies in
41 Florida and a dozen states. And there's plenty of evidence
42 to suggest we're not meeting the need at approximately the
43 80/20 figures that Mr. Pickering mentioned.

44 MR. MARTIN: And if I might, just a couple of very
45 quick points on the same set of topics. We followed the ABA
46 study in 1993 in West Virginia with a state survey, which
47 essentially came to the same results. One of those pieces
48 was that one in seven low-income households had a problem
49 that needed assistance with a lawyer to be resolved

1 successfully in 1993.

2 Using that level, this year in West Virginia there
3 would be more than 45,000 families that need the help of a
4 lawyer. We're able to help, using LSC and IOLTA funds,
5 between 7 and 8,000. And that's at about the 20 percent
6 level. That means 80 percent of those people are not going
7 to get help.

8 I can tell you anecdotally lots of stories about
9 time spent on the phone with people trying to give them
10 advice about situations that when I hang the phone up, I know
11 they are not going to be able to resolve most of the time.

12 But I can give you a couple of other concrete
13 examples. On IOLTA, if you want to see what really happened
14 to the interest rates, in December of 2001 -- because I serve
15 on our state IOLTA committee -- we projected interest rates
16 for 2002 -- we thought we were being optimistic, but we
17 didn't think we were being wildly optimistic projecting 2
18 percent interest rates in May of 2002.

19 We compiled the interest rates from the banks that
20 were participating. We had multiple banks paying interest
21 rates of .20 percent, not 2 percent, but 2/10ths of a
22 percent. And the average came out to about .28 percent. The
23 highest we saw was 1 percent.

24 The effect on revenue for West Virginia alone for
25 all of the IOLTA programs -- not just legal services, but all
26 of the IOLTA programs in West Virginia -- went from projected
27 revenue of about \$900,000 to projected revenue of under half
28 a million dollars, under \$500,000, almost a 50 percent loss
29 in anticipated funding there.

30 MR. PICKERING: There's one additional matter
31 regarding the IOLTA returns. In the beginning, many
32 financial institutions looked on this as a very good, broad
33 social program. Here in the District of Columbia, for
34 example, we were able to get banks to waive all service
35 charges on IOLTA accounts.

36 The banks are no longer doing that, by and large.
37 So as interest rates have gone down, bank service charges
38 have gone up and it is getting hard, even at the modest
39 interest rates, to have any net return on the IOLTA funds.

40 So that's another reason why we just have to try to
41 put the case as to the Federal Government is going to have to
42 step up more than it has in the past. We are appreciative of
43 the fact that the current administration, we no longer have
44 to fight to keep the Corporation alive. But we do have to
45 fight for our clients and get more money to close the gap
46 between our promises and our performances.

47 MR. EAKELEY: Can I just ask -- Nancy, it's Doug
48 again.

49 CHAIR ROGERS: Yes.

1 MR. EAKELEY: Can I just ask a follow-up question
2 of Jim Martin that follows up on Bill McCalpin's question to
3 Mauricio?

4 Jim, the words are on record as supporting student
5 loan forgiveness, among other things, and we've tried to put
6 our money where our hearts are when it comes to opportunities
7 for training.

8 But what are the cost elements in the budget mark
9 proposed by NLADA for training pensions and student loan
10 programs? Do you have those handy, by any chance?

11 MR. MARTIN: Yes. I think I have them right in
12 front of me, and I also think I can remember them off the top
13 of my head. There is 17 to \$22 million is the proposal for
14 the -- I thought I had the letter in front of me and I don't
15 have that, so I'll just --

16 MR. EAKELEY: Well, we can refer to -- I mean,
17 we'll make the letter a part of the record.

18 MR. MARTIN: It is in the report, but it is -- 17
19 to \$22 million is the estimation for the costs on the student
20 debt assistance and the staff pension. We recognize that,
21 for example, knowing the absolute cost of a pension plan that
22 would cover legal services programs nationally is not
23 possible right now.

24 We don't know what the absolute cost would be. But
25 we do know that it would be a start if we could spend \$10
26 million on loan forgiveness and another -- a total of 17 to
27 \$22 million, which is what is listed in this report, for the
28 two combined.

29 We also asked for \$10 million for training and
30 publications. This is a significant increase over the
31 current levels that have been proposed. It is there because
32 we need that kind of training for the advocates in the field
33 offices, the lawyers and paralegals, to have the materials,
34 to have the capacity to go into court and adequately
35 represent our clients.

36 So that total of about \$32 million out of the \$504
37 million is the part that is suggested that is new and is a
38 significant new increase over the prior proposals, as
39 Mauricio addressed them.

40 MR. ERLNBORN: Nancy, John Erlenborn.

41 CHAIR ROGERS: Yes, John.

42 MR. ERLNBORN: By the way, I'm looking forward to
43 seeing you in Columbus next week.

44 CHAIR ROGERS: Yes. I am, as well.

45 MR. ERLNBORN: Referring to the letter from the
46 NLADA, one of the things that they said in that letter to me
47 was rather telling. In 1996, the budget for that year,
48 because of the action of Congress, reduced by one-third the
49 funding for the LSC in the prior year.

1 It was part of what was loudly spoken about and
2 cheered about in the far right element in the Congress. I
3 served in the Congress, and I would hope that I would never
4 have the kind of mean approach that they had for the LSC in
5 that year of 1996. It was, you know, said time and time
6 again that this was the first step; in two more steps, they
7 would wipe out the Legal Services Corporation altogether.

8 The 415 budget mark, 506 million budget mark, or
9 whatever might be approved by Congress -- at least the 400
10 million mark, in my opinion, maybe 415 -- I could really
11 applaud any one of them. Any one of them would give us some
12 or more of relief that we desperately need.

13 I think the 415 million, in wiping the effects --
14 and it would wipe out the effects -- of that reduction of
15 1996, without that, although the administration -- while the
16 President was running for office, running for president, and
17 while he's been president, he has expressed his support of
18 the Legal Services Corporation.

19 Unless they wipe out the attack on the Legal
20 Services Corporation perpetuated in 1996, that is sort of a
21 hollow promise, a hollow support. What we need is to have an
22 appropriation that would show that we have put behind us any
23 thought that the arch-conservatives in Congress might have
24 had of destroying the Corporation. And that, I think, is an
25 absolute minimum of what we should expect to get.

26 CHAIR ROGERS: Thanks, John. Are there other
27 comments?

28 MS. MERCADO: No. I just had a question from the
29 presenters on the panel. Madame Chair, this is Maria Luisa
30 Mercado.

31 CHAIR ROGERS: Yes, please.

32 MS. MERCADO: Was whether in the figures that
33 you're looking at -- I know they were looking at the figures
34 comparative to 1995, but are we incorporating in that the
35 2003 census and the fact that we now have more poor people on
36 the rolls than we did before?

37 And I don't mean on the rolls in the sense that
38 these people are on welfare. In fact, most of them are
39 working poor, working one or two jobs at minimum wage and
40 still under the poverty guidelines.

41 Whether those numbers included that -- or we're not
42 even including that. We're just looking at a raw figure of
43 '95 to today.

44 MR. MARTIN: Well, I think they are included to the
45 extent that the census figures are reflected in the funding
46 to the field programs because the absolute number of poor
47 people has increased by about 6 percent. If funding remained
48 exactly where it is, that would be the same as a 6 percent
49 loss or more to each individual program.

1 And it is from that and the adjustment for the
2 census losses that NLADA asserts the position that the first
3 \$19 million of any increase should go to make adjustments for
4 that. After that, it is in some way a reflection of the
5 increased need because of the population, as well as an
6 adjustment for the inflation loss since 1995.

7 But the first 19 million is a direct response to
8 the 2000 census data that is now becoming applicable.

9 MR. EAKELEY: Mauricio, have we or will we be able
10 to compile for our report to the Congress and our discussions
11 with OMB the losses in the aggregate of funding represented
12 by the reduction in the IOLTA returns?

13 MR. VIVERO: We will have -- yes. We will have
14 very good estimates for 2002, and can give them a national
15 picture of how much is being lost.

16 CHAIR ROGERS: I mean, because the presentations
17 make several different points, one of which is just simply to
18 restore funding to where we were before the attacks came as a
19 message.

20 But you have since then the increases in the costs
21 of the delivery of service, the increases in the number of
22 people living in poverty, and an absolute -- not a relative,
23 an absolute reduction in funding available from other
24 sources, all combined to exacerbate this vast unmet gap
25 between resources and need.

26 MR. PICKERING: If I might add to that -- John
27 Pickering again -- we also have discovered areas that we
28 didn't have back in 1995. And I refer to two major national
29 disasters, wholly apart from September 11. One was the
30 flooding in North Carolina, with enormous losses to the
31 livestock farmers there, heartbreaking stories of how whole
32 farms raising pigs, all the pigs were drowned and so on.
33 Legal Services of North Carolina was there and was able to
34 help the people.

35 You have now in Minnesota flooding of the various
36 rivers up there, coupled with the drought, and the problems
37 which the ordinary farmer has in trying to navigate the maze
38 of federal regulations, and so on, calls for additional work.

39 So we have new areas of need. We have increased
40 population of need. And that's the basic reason for
41 trying -- I mean, we're not doing much more than restoring --
42 as Mr. Erlenborn has said, getting back to the playing field
43 that we were in before the real attacks came on the
44 corporation. And we ought to regain at least that much
45 ground.

46 CHAIR ROGERS: Thank you, Mr. Pickering.

47 Anything further from any of the members of the
48 committee? Any of the board members, other board members?

49 MR. EAKELEY: I think our thanks for Mr. Pickering

1 and Mr. Martin to come and share their views and their
2 various organizations' representative views, and to Mauricio.

3

4 MR. PICKERING: Thank you very much.

5 MR. MARTIN: Thank you.

6 CHAIR ROGERS: Thank you.

7 The next report, I think, is from David Richardson.
8 Is there anyone else coming to the table there? Report on
9 internal budgetary adjustments.

10 MR. EAKELEY: David is on his way up with John
11 Eidleman.

12 CHAIR ROGERS: John and David, I think, are going
13 to give us a background report. The background report is in
14 the context of three votes, three action items.

15 One is the consolidated operating budget for fiscal
16 year 2003, the temporary -- I'm sorry, temporary operating
17 budget for 2003, the second is the revisions to the
18 consolidated operating budget for fiscal year 2002, and the
19 third is the budget mark for fiscal year 2004.

20 MR. EIDLEMAN: Madame Chair, John Eidleman. One of
21 the obligations that this board has given me is to supervise
22 the comptroller's office. So I have been working very
23 closely with David, but I'm actually going to ask him to make
24 the presentation because at this point, I'm still learning
25 from him, being my mentor.

26 So David, would you proceed?

27 MR. RICHARDSON: Sure.

28 MR. EAKELEY: Actually, David has mentored all of
29 us in the last nine years and really done a wonderful job at
30 it.

31 MR. RICHARDSON: The first thing is on page 236 of
32 your board book, is the report on the finances through June.
33 Since we have the projections based on this June spending, I
34 would just quickly give you a couple of the percentages that
35 are here, and report very broad numbers. And then we'll
36 report in more detail with the projections.

37 Through June, we have, of course, our budget that
38 we are showing in column one. The budget is \$336,805,000,
39 basically. And we have expenses, contracts through our
40 grantees and expenses through the Corporation, of
41 \$325,084,000. So the remaining funds there is \$11,720,000.

42 When we get into the projections, you'll see that
43 we are planning on spending the vast majority of that money.

44 But there is some of that that will be carried over.

45 The funds from the field program, which is the
46 delivery of legal services -- and this, just to bring to your
47 recollection, is added up, so when you look at the field
48 programs, you'll see that there is \$5,279,000 remaining there
49 to be spent this year.

1 You see the breakout between the basic field, the
2 U.S. Court of Veterans Appeals, grants from other funds, and
3 the technology initiative. And then within the corporate
4 management and administration, that is also additive of A and
5 B, which is management and administration.

6 We have the remaining funds in management at this
7 point of \$4,745,000, and within the inspector general,
8 \$1,696,000. And those will add up to the total amount of the
9 funds that are remaining at this point.

10 One of the problems that we've had that you've
11 heard very candidly talk of is the expression of the interest
12 money that we are getting. We had originally projected
13 \$275,000 in interest for this year. We broke that out as
14 175,000 of it went to support management and administration,
15 and then 100,000 was included with grants from other funds
16 available.

17 We are going to be significantly short of that
18 dollar mark for this year. I got a statement earlier in the
19 week that we are now receiving .8 percent per annum on our
20 money. It is significantly lower, and is going lower, it
21 seems like, each week.

22 And when you look at that on page 237, you'll see
23 that 275,000 is compared to what we have received to date,
24 which is basically \$83,000. So we have a shortfall at this
25 point of \$192,000.

26 The percentages that are significant to our
27 particular presentation, if you'll look at the management and
28 administration, this is also delineated in the budget report.

29 We are at 75 percent of the year through June. Our spending
30 is basically 65 percent. And within those areas, we're well
31 within each of the budget areas.

32 And if you'll look at page 239, you'll see that
33 those are expressed there as far as a budget, the expenses
34 through June and the unexpended balance. And each one of
35 those, the quick benchmark being 75 percent, you'll see that
36 each one of those is under that figure at this point.

37 On the next page, 239 -- 240 is for some reason --
38 oh, it's stuck together -- is the inspector general. And
39 their budget is at 41.25 percent of the annual budget.

40 If I could just back up for a moment, within
41 management and administration, when you look at page 238,
42 you'll see the spending by office. And that also, of course,
43 is contained in the consolidated operating budget report.

44 The items there, the larger items that you see, all
45 fall within the budget. But as far as the spending for the
46 board of directors, you see that that is \$99,900 through
47 June. The executive office has spent \$565,000. The legal
48 affairs, 653,000. Government affairs, 455,000. Our human
49 resources, 331,000.

1 The management and administration has spent \$1.787
2 million, the significant amount there being that the
3 occupancy cost for the Corporation is the \$962,000, and that
4 is for the Corporation as a whole. The operating expenses,
5 the 154,000, is the commercial liability insurance package,
6 the rental of equipment, supplies for the Corporation. So
7 those are the two significant items there.

8 Information technology, and this is where we buy of
9 computers and it's charged to this particular budget, you'll
10 see that the capital expenditure there is basically 57-
11 almost \$58,000. Total amount spent is 815,000.

12 I should mention there that there is \$100,000 spent
13 in consulting. Most of that has been for security of our
14 network and upgrading of our network. I've reported to you
15 in the past, if you'll recall, that last year when we got the
16 different Chinese viruses, we were hit twice.

17 We have secured our servers and our network to a
18 higher degree, tightening down the systems to the point now
19 where we have not seen any significant viruses or inflictions
20 of intrusions into our network systems.

21 Within the program performance, you see that we've
22 spent 1,977,000 for this year. The larger items there, of
23 course, is your salaries. There's some consulting, almost
24 300,000. That money is going to the technology initiative,
25 state planning, the capability assessments, and there's more
26 money that will certainly be spent in the next three months
27 there.

28 It's sort of the season for that. This budget in
29 itself is not linear. It's not spent in 1/12ths. So
30 basically, from July, August, and September, when they're
31 getting ready to make funding decisions for the next year,
32 that spending picks up for the program performance people.
33 And while many people are out on vacations and taking it
34 easy, they're gearing up doing more spending and more
35 planning and preparing for the next year.

36 Within the program information management, you'll
37 see that there's 540,000 spent there, and within the
38 compliance and enforcement, \$1,584,000. A large part of
39 that, of course, is the \$153,000, almost -54,000, that
40 they've spent, and that is of course the money where they go
41 into the field to do their case management reports and
42 reviews, and the funds that it costs them there.

43 That's sort of a quick overview of what we've spent
44 through June. And then, of course, the next item is what we
45 have as far as the projection of expenses. And I've passed
46 out a sheet to each of you. And Ms. Rogers, this is the
47 information that you had reviewed yesterday, and you got a
48 fresh copy of this morning.

49 CHAIR ROGERS: Yes. I have it.

1 MS. BATTLE: I've got just a question.

2 MR. RICHARDSON: Certainly.

3 MS. BATTLE: I don't understand. And I know the
4 based on the way that the budget is presented, we don't have
5 all of the details. But we did hear during the provisions
6 committee meeting that we had a consultant working on the
7 diversity initiative who donated something in the area of 200
8 hours -- 250 hours in order to complete that project because
9 it was outside of the budget.

10 And I'm noticing that the consulting budget is only
11 45 percent expended. So it's not near the 72 percent or 75
12 percent which would correlate with where we are in the year.

13 Does it have to do with the allocation that you had
14 within the consulting line item as to why the funds were not
15 available to pay for the work that was done there, or -- I
16 just want to get an understanding as to where we are and
17 whether there are funds available to address that.

18 MR. RICHARDSON: I have total budget information,
19 in summary, that has been supplied by the Office of Program
20 Performance. There is a good deal of spending that is
21 projected in the next quarter, but I don't have a breakdown
22 with me as to what that spending would be.

23 But, for instance, if I can turn to it here,
24 program performance for the period of July through September
25 is projected to spend \$395,000 on consulting. So as far as
26 the breakdown of that, I know that there's some capability
27 assessments. There's some technology money in there.

28 But as far as money earmarked specifically for
29 diversity or other issues, I don't have that information with
30 me.

31 MS. BATTLE: I guess my question is, just looking
32 at it globally, if the projects that are already identified
33 are fully discharged over this next quarter, are there
34 dollars left in consulting that could meet the need of making
35 sure that the consulting that we did retain gets paid for the
36 work that was done?

37 MR. RICHARDSON: Absolutely. The report that is
38 before you, the next thing that we'll look at, shows that
39 there's \$823,000 in funding that's not earmarked at this
40 point for any particular project.

41 So when you look at netting the amount of interest
42 that we're not going to get and the amount of carryover,
43 we're going to have in the neighborhood of \$675,000 that is
44 not earmarked for any particular project that currently is
45 being shown, and when we look at 2003, will help support the
46 2003 operations.

47 MS. BATTLE: Which gets back, I guess, to my pt. I
48 did hear you mention that we potentially would have a
49 carryover. It just seems to me that I know that we do have

1 budgets, and we have allocations that we make based on our
2 expectations.

3 MR. RICHARDSON: Right.

4 MS. BATTLE: And then we retain people to do that
5 work. But if we retain people and they, in order to complete
6 a professional project for us, run out of what we have
7 allocated for them, but they do, you know, a professional job
8 for us, it just seems to me that if we have the dollars
9 available, maybe this board can address making sure that they
10 get paid for it.

11 MR. RICHARDSON: I don't know the circumstances of
12 that. But, for instance, there's a lot of occasions where
13 you employ a consultant for 30 hours to do a project, and
14 it takes 35 hours. And you pay them the dollar figure of
15 their contract, but then the additional five hours that they
16 work over the amount that they had originally projected is
17 sort of their operating cost.

18 MR. EAKELEY: Or their choice to donate their
19 services.

20 MR. RICHARDSON: Which is what I'm hearing was
21 done, was they completed the project and it cost them more
22 hours than they original projected to date. That's the same
23 thing with the reg/neg process, you know, where the gentleman
24 wanted to complete the process. So he committed his time pro
25 bono after receiving the amount of the contract -- the
26 contractual amount that was due him.

27 MR. ERLNBORN: If you'd yield, I think what
28 LaVeeda is trying to get at, and I would agree with her if we
29 both are thinking the same thing, the different elements of
30 the Corporation -- for instance, the executive offices --
31 have their own allocations for things like consulting.

32 MR. RICHARDSON: Yes.

33 MR. ERLNBORN: And OLA, Office of Legal Affairs,
34 has its allocation for consulting. And I think what has
35 happened with OLA was that they ran over what was anticipated
36 to be spent.

37 That doesn't mean that in other places in the
38 Corporation, or maybe even within OLA, they may have had
39 anticipated expenditure which they were exceeding. IT
40 doesn't mean that the whole corporation is running out of
41 consulting money, which it might appear here with these gross
42 figures. And I think that's the point that you were trying
43 to get at.

44 MS. BATTLE: Exactly.

45 MR. RICHARDSON: The gross figures themselves point
46 out that there is basically \$800,000 of money that was in the
47 budget that is not being earmarked to be spent. A director
48 could earmark any bit of that money.

49 For instance, I mean, we're speaking of the program

1 performance. Their budget, as this reflects -- get the
2 correct amount here -- is \$3,144,000. They've spent to date
3 \$1,977,000. In the final quarter, they are projected to
4 spend \$1.1 million, round figures. And even at that, they're
5 still projected to have \$62,000 in carryover.

6 So if there is a consultant that they would like to
7 hire that's not included in their projections, they have
8 \$61,000 that is available to them to spend. And if it
9 happens that they need \$100,000, we could certainly move
10 money within other areas to make that available to them.

11 MR. EAKELEY: Well, this gets back to an earlier
12 discussion. But we've done this this way for so many years
13 now, but it's very difficult to look at these figures and
14 look at the proposal for the temporary operating budget for
15 the next fiscal year based on continuing appropriations, and
16 see whether and to what extent the Corporation's or the
17 board's priorities are being funded and operations being
18 conducted in accordance with those priorities.

19 And I don't know what the Corporation could do with
20 the 600,000, or leave a margin of 400,000, in terms of
21 further advancing some of the programmatic initiatives, or
22 the training and technical assistance, or the compliance
23 functions.

24 But I would just invite management to sort of focus
25 on that. It's an opportunity, I think, to do a little bit
26 more in the priorities indicated if we could.

27 MR. ERLNBORN: I think one thing that I have to
28 worry about is that the expenses overall for -- the total
29 budget --

30 MR. EAKELEY: Sure. Absolutely.

31 MR. ERLNBORN: -- for the coming fiscal year is
32 going to be higher than the current fiscal year. And so if
33 we happen to have a few thousand dollars over -- I mean,
34 under-spent in the current year, it's very comforting to know
35 that we can transfer some of those funds that were not spent
36 in this year, although appropriated.

37 MR. EAKELEY: Yes.

38 MS. FAIRBANKS-WILLIAMS: We have to have a search
39 for an inspector general and so on, and support that.

40 MR. ERLNBORN: And for a new president.

41 MS. WATLINGTON: Nancy, I've been holding my hand
42 up, and I forgot that you're not able to see. That what John
43 has said, as a director, it is comforting to have that money.
44 Because I remember the first -- that speaker that was here
45 from Colorado.

46 There's always emergencies, too, unexpected things,
47 you know. So when you are having a budget overall, it's
48 always very comforting to know that you have those -- you
49 know, somehow you can operate a budget much better know that

1 that is there.

2 So, you know, I don't think that would be of any
3 concern. I think that's a comforting budget to look at.

4 MS. MERCADO: Nancy, this is Maria Luisa Mercado.

5 CHAIR ROGERS: Yes, Maria Luisa.

6 MS. MERCADO: One of the things that I was looking
7 at, and looking at consulting lines, is that I was also
8 looking at the inspector general's nine-month period
9 category. And in their consulting line, they have an
10 unexpended balance of \$618,197, which is 14 percent, almost
11 15 percent, of their budget.

12 And of course, I don't know whether that's already
13 committed or not, and I'm sure that our inspector general
14 could probably tell us that. But my question went to that in
15 the diversity initiative, in the diversity consulting, it's
16 not just a consultant that dealt solely with the Office of
17 Program Performance, but it is an issue that deal with across
18 lines and everything that we do as a legal services entity.

19 And in looking at if you're having to pull some of
20 those funds from different consulting lines, for example, and
21 including some of the inspector general or other lines -- or
22 maybe we can't do anything with that; I don't know. I'm just
23 asking.

24 MR. RICHARDSON: If I could speak to that, because
25 we have a line item budget, we have the money for basic field
26 technology, management, administration, and IG. We cannot
27 move money between the four lines. We would have to have
28 congressional relief to do that.

29 MR. ERLNBORN: But if you want to move money
30 within M&A from one place to another, or within the field one
31 place or another, that's all right. It's only if you're
32 trying to move from M&A to field or vice versa.

33 MR. RICHARDSON: That's correct. Within the
34 management budget, the president has the discretion to move
35 the money around, yes.

36 MR. McCALPIN: Nancy, this is Bill McCalpin.

37 CHAIR ROGERS: Yes, Bill.

38 MR. McCALPIN: I'd like to ask another question.
39 Do we -- I notice that we are spending 20.8 percent of the
40 personnel compensation benefits for personnel benefits.

41 Do we have any idea how that ranks with government
42 agencies, other non-profits, that sort of thing? In other
43 words, it doesn't seem to me to be excessive; I wonder if
44 it's even low. But 20.8 percent of the total compensation
45 benefit package goes for benefits. Do we have any idea how
46 that stacks up?

47 MR. ERLNBORN: Bill, if you'd yield, I don't. And
48 that particular fact was kind of brought to my attention as I
49 went over these papers in anticipation of this meeting, in

1 preparation.

2 It does seem to me to be on the high side.
3 However, all of our employees are limited in compensation,
4 direct compensation, because of our status. And we do have a
5 good health plan, for instance. We have a good 403(b)
6 pension plan, which is both contributory and matching a part
7 of that contribution.

8 I'd say you'd have to look at this, in my opinion,
9 as total compensation, putting together the direct
10 compensation and the employee benefits, and compare that with
11 other people -- with people in other positions.

12 MR. McCALPIN: John, my point wasn't that I thought
13 it was excessive. If anything, I thought maybe it was on the
14 low side.

15 MR. ERLÉN BORN: It may be. I don't know.

16 MS. WATLINGTON: Well, Bill, you remember a couple
17 years ago, I mean, when we were on the ops and regs
18 committee, Joan Kennedy, who was the director of human
19 resources did all that research and came up with the type of
20 package that the employees now have, and compared it to make
21 sure that it was being compared with other agencies of this
22 type of size.

23 MR. EAKELEY: Nancy, Alice Dickerson has come to
24 the table. Let me point out that we're well over time, and I
25 think the only issue to be presented to the board for
26 approval with respect to the current operating budget is a
27 movement of one set of funds from one category to another in
28 the amount of \$14,550. Right?

29 MR. RICHARDSON: That is correct, sir. There are
30 some adjustments within budgets that are fairly minor in
31 nature. But it does not affect the total overall budget. So
32 that's the reason you have a resolution in front of you that
33 basically matches that which was passed in January.

34 MR. EAKELEY: Well, why don't we let Alice address
35 the issue that was presented, and then maybe, Nancy, if we
36 could move on to the adjustments portion of the agenda.

37 MS. DICKERSON: Nancy, if I may respond to
38 Mr. McCalpin's question on the benefits.

39 CHAIR ROGERS: Thank you, Alice.

40 MS. DICKERSON: Generally, throughout the industry,
41 benefits run in the 30 to 35 percent range of compensation
42 benefit total. So we are low. And yet we have an excellent
43 benefits package. We've been able to apply cost management
44 strategies and do the best we can to keep that number down.

45 MR. McCALPIN: I think we can take some credit --
46 I'm not sure "credit" is the right word -- for the fact that
47 we have been very parsimonious, really, with respect to
48 benefits by comparison with the industry, certainly.

49 CHAIR ROGERS: Thank you, Alice and Bill.

1 MS. DICKERSON: You're welcome.

2 CHAIR ROGERS: Are we ready to consider the
3 recommendation for -- the revision of the consolidated
4 operating budget for fiscal year 2002? Is there any further
5 discussion on that action item?

6 MR. EAKELEY: The action item is -- I mean, is to
7 approve the recommendations for reallocations. But the only
8 reallocation shown on the chart is the 14,550 moved from
9 executive office to government relations. Am I right about
10 that, David?

11 MR. RICHARDSON: That is correct, sir.

12 MR. McCALPIN: What page are you on?

13 MR. EAKELEY: That's page -- that's the handout
14 that's consolidated operating budget for FY 2002.

15 CHAIR ROGERS: This is Resolution No. 2002-013?

16 MS. FAIRBANKS-WILLIAMS: Yes.

17 MR. RICHARDSON: That is correct.

18 CHAIR ROGERS: Is there any further discussion of
19 the action that's contemplated by that resolution that's 013?
20 (No response.)

21 CHAIR ROGERS: Hearing none, is there a motion for
22 approval -- for recommending approval of the resolution to
23 the full board?

24 M O T I O N

25 MS. FAIRBANKS-WILLIAMS: So moved.

26 MR. EAKELEY: Second.

27 CHAIR ROGERS: All in favor?

28 (A chorus of ayes.)

29 CHAIR ROGERS: Opposed?

30 (No response.)

31 CHAIR ROGERS: It stands approved.

32 The next action item is Resolution No. 014, which
33 is before you, and this is approval of a temporary operating
34 budget for fiscal year 2003. David, do you have more
35 comments before the board begins -- committee and board begin
36 commenting on that?

37 MR. RICHARDSON: I will make just a very brief
38 comment. The memo that I've given to you explains how I have
39 come up with the numbers for the temporary operating budget.

40

41 There is a couple items just to mention here. The
42 appropriation amount, the proposed appropriation amount, that
43 was approved by the Senate Appropriations Committee was
44 \$329,300,00. There was a later amendment on the floor that
45 suggested that it would increase 4.1 percent for
46 compensation, and give an additional \$97,000, but it was not
47 broken out or given to any particular line item. So I've not
48 included it here, thinking that, you know, it has not yet
49 been approved, and this is a flat budget as to what we

1 receive this year.

2 We are aware that there is a change. There is a
3 million-dollar reduction in the technology money from last
4 year to this year, with \$900,000 of that going to management
5 and administration and 100,000 going to the IG.

6 The carryover that we just went through comes into
7 this particular budget. I have given you an Attachment A to
8 the first one, first memo, and it does show that the
9 appropriation, the projected -- and all these are
10 projected -- appropriation is \$329,300,000.

11 It shows the deferred revenue -- and if I can just
12 speak to that for a moment also, this morning you heard a
13 report in regards to the technology grants. Letters are
14 going out in mid-September. Any contract that is executed,
15 completed, and returned to the Corporation would reduce this
16 \$4.8 million because it would be spent in fiscal year 2002.

17 So there may be some adjustments to this figure,
18 along with the fund balance. We have the \$777,000 that is in
19 management and administration, the 114,000 that I've
20 identified, the grants from other funds available, and then
21 the inspector general carryover.

22 Additionally, I've got interest income, and I've
23 reduced that from 275,000 to 100,000 based on the interest
24 rates at this point. And then Mauricio has given me a figure
25 of 65,000 for the Equal Justice Magazine, and that was used
26 to help increase his particular budget in coming into 2003.

27 So basically, I've got a temporary operating budget
28 of \$335,900,000. This is a little different approach than
29 was taken last year. Last year I asked you to approve a
30 temporary operating budget for management and administration
31 and inspector general alone.

32 The reason I have done this is because the board
33 passed a consolidated operating budget in January. We had
34 already made awards at that time and cut checks. So I have,
35 to improve the process, to be more forthcoming, developed
36 this particular budget.

37 But it is with the understanding that it is a
38 projection, and so in the resolution that you have, we're
39 asking -- or at least management is asking that you approve
40 this budget subject to the appropriation. And it's also -- I
41 should have added in the resolution, subject to more correct
42 carryover figures, so that we will make sure that we are
43 spending money -- and, of course, we always do, but just to
44 be full and forthcoming, to have an adjustment.

45 And perhaps we'll do that at your next meeting, if
46 you meet in October or November, maybe come back with an
47 adjustment to the temporary operating budget before we go to
48 the annual meeting and have the full consolidated operating
49 budget.

1 MS. BATTLE: So do we need to amend this
2 resolution, or just breathe into it what you've told us?

3 MR. RICHARDSON: I think if we just breathe into
4 it. We watch it very carefully, and we're very careful with
5 that, to make sure that we do not spend over the allotted
6 amount.

7 CHAIR ROGERS: So the proposal is that the board
8 approve Resolution 014, 2002-014. And with that, you say
9 that that would represent approval of the attachments as
10 well?

11 MR. RICHARDSON: That is correct, ma'am.

12 MR. EAKELEY: Nancy, this is Doug Eakeley. Could I
13 ask a question and make a comment?

14 CHAIR ROGERS: Yes, please.

15 MR. EAKELEY: Or make a request and ask a question?
16 Is management proposing that we reduce technology grants by
17 a million dollars and increase the M&A line by 900,000,
18 assuming flat funding?

19 MR. RICHARDSON: That is what was requested in the
20 appropriation request, yes.

21 MR. EAKELEY: Okay. What is the justification for
22 that? What are we going to do -- just can somebody explain
23 why we're being asked to do that?

24 MR. RICHARDSON: Last year, when budgets were put
25 together, actually the first budget for 2003 was over \$14.5
26 million. It was discussed at that point that we could not,
27 you know, ask for -- we of course were asking for almost --
28 we had talked about a 396 million request. We had also
29 talked about a \$375 million request.

30 When it was determined that we could not -- that we
31 had to stay with the President's request and request to
32 freeze funding because of the salary increases that the
33 Corporation had given, because of the increase in rent, there
34 was a determination that there was additional money needed.

35 Basically, I was asked to cut the budget from 14
36 million five down to under \$14 million. So I did that, and
37 then there was the adjustment that was made, and I actually
38 thought in consultation with you, in regards to making the
39 adjustment.

40 MR. EAKELEY: Is the 900,000 sort of -- are we
41 locked into the \$900,000 increase in the M&A line because of
42 the essentially fixed personnel and occupancy costs, or are
43 there spending initiatives embedded within that are funded at
44 the expense of technology grants?

45 MR. RICHARDSON: It's salary continuation
46 increases, and the increase in rent, and continued operations
47 with travel for compliance, and the program performance, the
48 litigation. We have been through, much like we do each
49 quarter, a complete analysis of what money we anticipate to

1 need for the coming year. I have a budget by office that
2 explains where the money is going and how the money is to be
3 spent very generally.

4 But, of course, we do operate under a rolling
5 budget concept, that we would come back and project a full
6 budget to you in January, and if there is additional comments
7 or needs that the board identifies, then we could address
8 those.

9 MR. EAKELEY: Well, we can't do it here, but here
10 comes the request part of the follow-up to the question.
11 This is precisely the area where I think having the board
12 focus a lot more on planning and priorities might inform the
13 budget process, and where we also need to understand more of
14 what it is that management proposes to do by way of spending
15 priorities, activities, operations.

16 And then I know that that's not a lot. You're
17 locked into most of that M&A line. But I think that at the
18 next board meeting, it would be very helpful if we could sort
19 of engage in more of a discussion about the resource
20 allocations and activities implicit in the temporary proposed
21 consolidated operating budget numbers.

22 MR. RICHARDSON: If you would -- we can do that,
23 certainly. If you don't mind, after this meeting, if we can
24 spend about ten minutes, I have some information, and see if
25 that would suffice. And if you need it broken down further,
26 we can do that.

27 MR. EAKELEY: No. I'm just -- I'm suggesting not
28 at an after-meeting -- although I welcome that. But I think
29 that the board ought to be more engaged in the -- or at least
30 informed of and have the opportunity to engage in a
31 discussion about choices, spending choices, budget
32 allocations, priorities of expenditure within spending
33 categories, and the like.

34 And that's not -- I'm prepared to vote for the
35 resolution as proposed. But I'm just saying at the next
36 board meeting, as we take a closer look at this, it would be
37 helpful to have that discussion.

38 CHAIR ROGERS: David, you had mentioned that
39 certainly there would be a reconsideration of this in January
40 since this is only the temporary budget. I assume it's also
41 possible at the very next board meeting to have something of
42 a reconsideration, knowing that some commitments will be made
43 based on the temporary operating budget, but not as many as
44 would be made by January. Is that correct?

45 MR. RICHARDSON: That is true. And certainly,
46 whenever the next meeting might be, we may have an approved
47 appropriation at that point. So we would have firmer numbers
48 there. We would have more firm numbers on carryover. So we
49 can certainly have it revisited at the next meeting. That's

1 not a problem.

2 CHAIR ROGERS: I think -- I hear some concern about
3 that and some -- I think some request on the part of the
4 board, perhaps, to look at it more substantively at the next
5 meeting. And that gives everyone an opportunity to get
6 questions they might have answered by you in the interim.

7 MR. RICHARDSON: That's fine. I can do that.

8 MR. EIDLEMAN: Madame Chair, this is John Eidleman. As
9 you know, I told you that President Erlenborn appointed a
10 budget committee early in July that I chair, along with the
11 other vice presidents, and working closely with David.

12 And we've been looking very carefully at how the
13 budget has been distributed and created. And in this
14 collaborative effort, I think we are looking at the desire of
15 the board and the programs and the initiatives, and I think
16 we can certainly then report at the next board meeting what
17 we've done and why we've done it.

18 M O T I O N

19 MR. EAKELEY: Good. That would be really welcome.
20 Meanwhile, I move the resolution.

21 CHAIR ROGERS: Is there a second?

22 MS. FAIRBANKS-WILLIAMS: Second.

23 CHAIR ROGERS: Any further discussion?

24 (No response.)

25 CHAIR ROGERS: All those in favor say aye.

26 (A chorus of ayes.)

27 CHAIR ROGERS: Those opposed say nay.

28 (No response.)

29 CHAIR ROGERS: The resolution is recommended for
30 approval to the full board.

31 That leaves us with the remaining business of the
32 budget mark. That's listed as 015 in the materials in front
33 of you. And I have a question here, David. There has been
34 discussion not only on the overall mark, which
35 recommendations from the ABA and NLADA, of course, are
36 considerably higher than the staff recommendation reflected
37 in 015.

38 But also, each of those has some recommendations
39 about specifics. The resolution that we have before us
40 doesn't recommend any specific allocation, just the mark. Is
41 that all that we need to vote on today?

42 MR. EAKELEY: Nancy, it's Doug again. I think so.

43 I think that the resolution also that we have before us
44 gives John Erlenborn and me authority to negotiate with OMB,
45 as the board has authorized us in the past, so that we can
46 fully engage in what is usually an iterative process.

47 CHAIR ROGERS: Is there any discussion of the
48 proposed staff budget mark reflected in Resolution No. 2002-
49 015?

1 MS. MERCADO: I have one question. And it gets
2 back to something that our president said, so that I can make
3 sure that I understand it. And that is, does the 415 reflect
4 getting us back before the attack to the level with a
5 recognition of anything other than what that budget mark was?

6 In other words, there now is a new census. There
7 now also is, I guess, a matter of inflation or just general
8 increased costs. Does this budget mark include all of that,
9 or is it simply the 415 where we were before?

10 MR. ERLNBORN: I will give you my quick answer,
11 but you ought to have Mauricio, who's the expert on this,
12 give you the final.

13 My answer is, I believe that's sufficient to cover
14 what we would have gotten up to with inflation at this time
15 if we hadn't had that cut.

16 MR. EAKELEY: We were -- we had an appropriation of
17 415, which we got by having the Senate tack on 15 million to
18 what the House had voted. And we never got to spend that
19 415. The 15 was rescinded. We got the 400, and then we got
20 chopped a third the next year. Is that accurate, Mauricio?

21 MR. VIVERO: That is correct. The 415 represents
22 the high water mark. If you were to adjust that for
23 inflation, you'd come up with the ABA figure, or roughly the
24 NLADA figure.

25 Our recommendation, as Jo0hn said, is only -- we
26 are trying to deal with the increases in the number of poor
27 people, but it is a symbolic number, taking us back to the
28 high water mark. It is not a calculation of that number plus
29 inflation.

30 MS. BATTLE: Okay.

31 MR. EAKELEY: And I have just one comment, if I
32 might offer as well. And I probably need not nor should I
33 remind the board that I'm the one who recommended, as our
34 first budget mark, going with an inflation-adjusted former
35 high water mark of the McCalpin board, taking the 300 million
36 in 1980 and adjusting that upwards.

37 MR. McCALPIN: 320.

38 MR. EAKELEY: 320?

39 MS. BATTLE: To, what was it, 900?

40 MR. EAKELEY: Don't. Don't.

41 MR. ERLNBORN: Don't ask.

42 MR. EAKELEY: But I think that our budget mark has
43 to be more than aspirational. I know I can speak for
44 everyone around this table when I say that if we had the
45 means to bridge this vast gap, we would readily do it and
46 cross it in an instant.

47 But we don't have those means. We have enjoyed
48 firm support by the President and, really, bipartisan support
49 in the Congress. And these are difficult fiscal times

1 nationally. They're even worse at the state level. And we
2 heard about the private sector, with IOLTA and foundation
3 funding.

4 But I think that it's important that we maintain
5 our credibility with OMB and our ability to work with the
6 White House and the Congress. And my own inclination is to
7 go with a recommendation of the people who are really much
8 closer to the scene than we are, as we come in periodically,
9 and stay with the 415.

10 CHAIR ROGERS: I assume that, Doug, you would feel
11 that this gives you the authority to adjust the 415 upward
12 if --

13 MR. EAKELEY: I certainly would -- yes.

14 CHAIR ROGERS: -- if the same realities would
15 indicate that were possible?

16 MR. EAKELEY: Yes, indeed.

17 CHAIR ROGERS: Is it -- I take it, too, that it's
18 sense of the board that were it possible in terms of our
19 relations with Congress and the administration to move it
20 upward, the board would like to do so?

21 MS. FAIRBANKS-WILLIAMS: Yes.

22 MS. BATTLE: Absolutely.

23 MR. McCALPIN: The sky's the limit.

24 MR. ERLNBORN: Nancy, on the other hand, we may be
25 forced into moving down.

26 MR. EAKELEY: Yes.

27 CHAIR ROGERS: I understand that, too. That's
28 clearly contemplated. I just wanted to be sure that the
29 other side is also contemplated in this resolution.

30 MR. EAKELEY: We intend to be team players, but to help
31 and hopefully move the ball forward.

32 CHAIR ROGERS: Is there any discussion on the
33 Resolution 015 on the budget mark?

34 (No response.)

35 CHAIR ROGERS: Is there a motion that we recommend
36 the budget mark to the full board?

37 M O T I O N

38 MR. ERLNBORN: So move.

39 MS. FAIRBANKS-WILLIAMS: Second.

40 MR. EAKELEY: Second. I'll third it.

41 CHAIR ROGERS: All in favor?

42 (A chorus of ayes.)

43 CHAIR ROGERS: Opposed, nay?

44 (No response.)

45 CHAIR ROGERS: The recommendation to recommend the
46 Resolution 015 is approved.

47 Is there any further business?

48 M O T I O N

49 MR. ERLNBORN: I move we adjourn.

1 CHAIR ROGERS: Is there any public comment?
2 MR. McCALPIN: Do you want it seconded?
3 MR. EAKELEY: No public comment, Nancy, so far.
4 CHAIR ROGERS: Okay. There's a motion to adjourn.
5 Is there a second?
6 MR. EAKELEY: Second.
7 CHAIR ROGERS: All in favor?
8 (A chorus of ayes.)
9 CHAIR ROGERS: We stand adjourned.
10 (Whereupon, at 5:19 p.m., the meeting was
11 acjourned.)
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