

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

TELEPHONIC MEETING

Thursday, May 19, 2005  
2:00 p.m.

Legal Services Corporation  
3333 K Street, N.W., 3rd Floor  
Washington, D.C.

BOARD MEMBERS PRESENT:

Frank Strickland, Chairman  
Lillian BeVier  
Robert J. Dieter  
Herbert S. Garten  
Maria Luisa Mercado  
Michael McKay  
Florentino A. ("Lico") Subia  
Ernestine Watlington

STAFF PRESENT:

Helaine M. Barnett, President & ex officio  
Board Member  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary  
David Richardson, Treasurer & Comptroller  
Patricia D. Batie, Manager of Board Operations  
Mattie Condray, Senior Assistant General Counsel  
Thomas Polgar, Acting Director, Office of Governmental  
Relations & Public Affairs  
Laurie Tarantowicz, Assistant Inspector General &  
Legal Counsel  
Thomas A. Fuentes, Nominee, LSC Board of Directors  
Joyce Raby, Office of Program Performance  
Danilo Cardona, Director of Office of Compliance and  
Enforcement  
Thomas Coogan, Office of Inspector General  
John Meyer, Office of Information Manager  
Charles Jeffress, Chief Administrative Officer  
Deidre Crockett, Office of Compliance & Enforcement

## C O N T E N T S

	PAGE
Roll Call	3
Approval of Agenda	6
Consider and act on Board of Directors Response to the Inspector General's Semiannual Report to Congress for the period of October 1, 2005 through March 31, 2005	6
Consider and act on other business	44
Adjournment of meeting	47
MOTIONS: Pages 7, 31	

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

(2:05 p.m.)

1  
2  
3 MR. STRICKLAND: I would like to call to order  
4 the meeting of the Board of Directors of the Legal  
5 Services Corporation, a telephonic meeting, scheduled  
6 for May 19, 2005 at 2:00 p.m. and we are commencing at  
7 about 2:05 p.m.

8 I think the first order of business would be  
9 to ask first each member of the Board of Directors to  
10 identify himself or herself for the record and for the  
11 court reporter. I will start.

12 This is Frank Strickland. Anyone else want to  
13 go next?

14 MS. BEVIER: Lillian BeVier.

15 MS. WATLINGTON: Ernestine Watlington.

16 MR. MCKAY: Mike McKay.

17 MR. FUENTES: Nominee, Tom Fuentes.

18 MR. STRICKLAND: Okay, we have Herb Garten?

19 MR. GARTEN: Yes.

20 MR. STRICKLAND: Lico, are you there?

21 MR. SUBIA: Yeah, I'm here.

22 MR. STRICKLAND: Okay. Lico Subia.

1 MS. BARNETT: You have more than a quorum, Mr.  
2 Chairman.

3 MR. STRICKLAND: Mike McKay. Do we know if  
4 David Hall is going to join us?

5 MS. BeVIER: He is supposed to join you, yes.

6 MR. STRICKLAND: All right, well why don't  
7 we -- I will declare that we have a quorum and perhaps  
8 we should also identify -- have each person around the  
9 conference table there in Washington to identify  
10 himself or herself for the record, would you all do  
11 that, please?

12 MS. BARNETT: Yes, we will. Tom, would you  
13 like to begin?

14 MR. COOGAN: Sure. Tom Coogan

15 MS. BARNETT: From the OIG.

16 MR. COOGAN: Yes.

17 MS. TARANTOWICZ: Laurie Tarantowicz from the  
18 OIG.

19 MR. FORTUNO: Victor Fortuno, General  
20 Counsel's Office.

21 MR. CARDONA: Danilo Cardona, Director of  
22 Office of Compliance and Enforcement.

1 MS. BROWNING: Dawn Browning, Office of Legal  
2 Affairs.

3 MR. RICHARDSON: David Richardson,  
4 Treasurer/Controller.

5 MS. CONDRAY: Mattie Condray, Office of Legal  
6 Affairs.

7 MS. RABY: Joyce Raby, The Office of Program  
8 Performance.

9 MS. BARNETT: Helaine Barnett.

10 MR. POLGAR: Tom Polgar, Government Relations  
11 and Public Affairs.

12 MR. MEYER: John Meyer, Office of Information  
13 Manager.

14 MR. JEFFRESS: Charles Jeffress, Chief  
15 Administrative Officer.

16 MS. CROCKETT: Deidre Crockett, Office of  
17 Compliance and Enforcement.

18 MS. BATIE: Pat Batie, Office of Legal  
19 Affairs.

20 MS. BARNETT: That completes the roll call in  
21 the conference room.

22 MR. STRICKLAND: That's a full house.

1 MS. BARNETT: It is.

2 MR. STRICKLAND: I'm glad you could fit  
3 everybody around the table.

4 MS. BARNETT: Not quite but we fit in the  
5 room.

6 MR. STRICKLAND: And I didn't get the name of  
7 the person after Tom and before Victor.

8 MS. TARANTOWICZ: That would be me. That's  
9 Laurie Tarantowicz.

10 MR. STRICKLAND: Thank you.

11 All right, I think the first item of business  
12 then is to approve the agenda. Any objection to  
13 approving the agenda unanimously?

14 (No response.)

15 MR. STRICKLAND: Hearing none, I will declare  
16 the agenda approved unanimously and will move next to  
17 act on the Board of Directors' response to the  
18 Inspector General's Semi-Annual Report to Congress for  
19 the period of October 1, 2004 through March 31, 2005,  
20 and I trust that everyone received their Board books  
21 which includes the Semiannual Report to Congress for  
22 that period and -- I'll tell you what, to get into a

1 position for discussion, I would entertain a motion to  
2 approve the report.

3 Is there such a motion?

4 (No response.)

5 MR. STRICKLAND: No motions?

6 MS. BeVIER: To approve the report or to  
7 approve our response?

8 MR. STRICKLAND: Sorry. I beg your pardon. I  
9 misspoke. Thank you. It is our response that we need  
10 a motion for. So having been corrected, is there a  
11 motion to approve the LSC response?

12 M O T I O N

13 MS. BeVIER: So moved.

14 MS. WATLINGTON: I second.

15 MR. STRICKLAND: Second. All right. Now,  
16 let's have any discussion that you guys want to have  
17 regarding that.

18 MR. GARTEN: Frank, I have a question -- and  
19 Herb Garten here.

20 MR. STRICKLAND: Go ahead.

21 MR. GARTEN: Can we go into Executive Session?

22 MR. STRICKLAND: I don't think we can. Vic,

1 you could advise us on that but I don't think we are --  
2 didn't we publish a notice of this telephonic meeting  
3 in the Federal Register?

4 MR. FORTUNO: Yes, and it was noticed as an  
5 Open Meeting although the Board may under specific  
6 circumstances go into an Executive Session even when it  
7 hasn't been noticed but it would have to determine an  
8 on-the-record vote that corporation business requires  
9 it, that no earlier notice was possible and would have  
10 to specify the basis for it and it would have to be one  
11 of those enumerated in the government Sunshine Act.

12 So, there is a mechanism for doing so if you  
13 would like to but those are the requirements. Does it  
14 fall under one of the bases provided in the Sunshine  
15 Act for going into Executive Session and that the Board  
16 take that on-the-record vote.

17 MR. STRICKLAND: I don't know whether we are  
18 going to get to that or not but --

19 MR. GARTEN: That answers my question, Frank.

20 MR. STRICKLAND: Okay. All right, so I take  
21 it then, Herb, that you are not going to make a motion  
22 that we try to fit under one of those categories and it

1 would proceed in a public meeting?

2 MR. GARTEN: That's correct.

3 MR. STRICKLAND: Okay. Well, you have before  
4 you then -- and there has been a motion -- and you have  
5 in your Board book over a tab a proposed response to  
6 the IG's SAR, is there any discussion of that?

7 We do have a proposed amendment to that that  
8 was circulated by fax, did everyone get that?

9 Helaine, could you tell us a little bit about  
10 that?

11 MS. BARNETT: Yes. If you will look at page  
12 43 of the Board's book which is 17, our draft proposed  
13 response, and if you will look at the first paragraph  
14 under rulemaking activities, we are proposing a  
15 revision to the second sentence of the draft that you  
16 have at the request of the Office of the Inspector  
17 General to rewrite the second sentence; and if you have  
18 in front of you the track changes, you will note we  
19 have rewritten the second sentence and then added a  
20 third sentence in that paragraph.

21 MR. STRICKLAND: Yes, I have that. Did all  
22 other board members receive the fax that has the

1 proposed amended language?

2 MS. BeVIER: I did not. I wonder if it is  
3 possible to read it.

4 MS. BARNETT: I will be happy to read it. I  
5 will just read that whole paragraph perhaps would be  
6 the best way so --

7 MR. STRICKLAND: Do you have the requisite  
8 page, Lillian?

9 MS. BeVIER: Yes, I do.

10 MR. STRICKLAND: Okay. Good.

11 MS. BARNETT: So under "Rulemaking  
12 Activities," the proposed revision paragraph would read  
13 as follows including the proposed revision.

14 "During this reporting period, LSC continued  
15 consideration of the open rulemaking on its regulation  
16 on financial eligibility, appearing at 45 C.F.R Part  
17 1611. The OIG provided comments on the rulemaking to  
18 the Operations and Regulations Committee ("the  
19 Committee") of the Board of Directors during the  
20 reporting period. During April, the Committee and the  
21 Board carefully considered the OIG's comments.  
22 Although LSC will publish a new proposed revision to the

1 Part 1611 regulation for comment during the next  
2 reporting period (which will include a detailed  
3 statement of LSC's authority and policy bases for its  
4 proposed changes), LSC nonetheless wishes to respond to  
5 the OIG's comments."

6 MR. DIETER: Frank, I have a question.

7 MR. STRICKLAND: Go ahead.

8 MR. DIETER: This is Rob Dieter. When I read  
9 through this, it sounded to me like the LSC had already  
10 taken a position on the changes when my understanding  
11 was, you know in San Juan, that we were simply voting  
12 to open them up for public comment.

13 MR. STRICKLAND: Correct me if I'm wrong,  
14 Helaine, but what I think what Rob is saying is  
15 essentially correct. If we change now what we would  
16 publish for public comment the proposed rule in the  
17 Federal Register, that opens up the formal public  
18 comment period, is that where we are?

19 MS. BARNETT: Yes, it is and that is -- what  
20 it says is that we will publish the proposed revision  
21 for comment.

22 MR. DIETER: Well, look at the second

1 paragraph starting with "First, the OIG," the second  
2 sentence there it sounds to me when I read it, "LSC  
3 believes that the proposed regulatory requirements are  
4 consistent with the applicable laws." You know and I  
5 read -- and there is further through this language it  
6 sounds to me like we have taken the position you know  
7 that these rules are -- you know, that we have  
8 basically voted to endorse these rules.

9 MS. CONDRAV: Hi, this is Mattie Condray. The  
10 stuff that is in here is very similar to what is  
11 actually going to be in the proposed rule. One of the  
12 things that the corporation does is explain the basis  
13 for its proposals and the basis for what the  
14 corporation was proposing was that the corporation  
15 believes that what it is proposing if it eventually  
16 adopts it is in fact consistent with our statutory  
17 requirements.

18 That is not to say that the corporation may  
19 not upon further reflection change its mind and to the  
20 extent it chooses to do so, that difference of opinion  
21 and reconsideration of opinion will be thoroughly  
22 discussed in whatever final rule is adopted. But, in

1 approving for publication the notice of proposed  
2 rulemaking, the corporation was taking certain policy  
3 positions as of the time of that decision being open to  
4 comments and further consideration.

5 MR. DIETER: Well, then do you think that we  
6 should have an explanation in here that's more along  
7 those lines than what is in here?

8 MR. POLGAR: This is Tom Polgar. The one  
9 other thing is I think the Board is free to change its  
10 mind on any specific part of the regulation but I don't  
11 think the Board would knowingly publish for public  
12 comment a rule that it believed was inconsistent with  
13 the LSC Act.

14 MR. DIETER: Well, I mean when I raised the  
15 issue in San Juan all I understood we were voting on  
16 was just to publish it and it would be public comment  
17 and then at that point in time, we'd take a vote  
18 whether or not we -- after a discussion and  
19 consideration -- whether we want to adopt it or not  
20 adopt it and that simply putting it forward in its  
21 existing form for comment was just a way of moving the  
22 discussion, you know consideration of the rule, forward

1 from that point of view.

2 I mean when I started reading this --

3 MS. MERCADO: Excuse me, Maria Luisa Mercado.

4 MR. STRICKLAND: Maria Luisa, we have on the  
5 table a motion to approve the LSC's response to the  
6 IG's Semiannual Report and we are just at the moment  
7 discussing the proposed amendment that appears on page  
8 43 in your book and you should have gotten a fax with  
9 that proposed amendment.

10 MS. MERCADO: Yes.

11 MR. STRICKLAND: All right, that's where we  
12 are and welcome aboard.

13 MS. MERCADO: Thank you.

14 MR. STRICKLAND: Go ahead, Rob, you were in  
15 the middle of a comment.

16 MR. DIETER: Yeah, it -- well, that was my  
17 impression, that there wasn't really a need at that  
18 time to you know contest particular language of the  
19 rule or that sort of thing because that would come at a  
20 later point after you know full consideration and that  
21 when I read this, it sounds like LSC has concluded that  
22 this rule should be adopted in its you know current

1 form and that the IG's interpretations have been you  
2 know rejected by the Board.

3 MR. FORTUNO: This is Vic and I think that  
4 this publication represents a rule that the corporation  
5 proposes to adopt in the specific wording that was  
6 voted on by the Board and public in the Federal  
7 Register. So, it is language that the corporation  
8 proposes to adopt and that language was developed with  
9 input with various parties.

10 Now there will be further comment but I think  
11 it is language that was crafted and voted on and  
12 published as something the corporation proposes to  
13 adopt.

14 MR. MCKAY: This is Mike McKay. I'm not sure,  
15 Vic, if the position is that we can't say it. I guess  
16 what I hear Rob saying and I agree is should we be  
17 saying it.

18 MR. DIETER: Right.

19 MR. MCKAY: Yeah, we've analyzed. Certainly  
20 our committee spent a lot of time on it. It's bounced  
21 up to the Board a couple of times but when we say we  
22 are going out for public comment, it is also telling

1 whoever is making comments that we will, with an open  
2 mind, listen to those comments and by engaging in the  
3 discussion now in this way, instead of saying it is  
4 open for public comment again, we will respond to the  
5 OIG in due course once the final decision is made after  
6 public comments as opposed to what we have said.

7           It might even have a bit of a chilling effect  
8 on someone -- why should I take the time. It looks  
9 like they have already made their decision.

10           MS. MERCADO: No. This is Maria Luisa. I  
11 mean historically the Board has to propose something.  
12 We can't possibly think of all the finite language or  
13 provisions that you want in a rulemaking and part of  
14 what rulemaking is saying is that the committee and the  
15 Board have reviewed it with whatever input they have  
16 had and this is what the rule is being proposed.

17           We know through the process of publishing it  
18 in the Federal Register that we are going to get  
19 comments and inputs that may end up in resulting in the  
20 final analysis or the final rule that we adopt being  
21 something different than what is being proposed, but  
22 for right now this is what we are proposing. I don't

1 think it is inconsistent.

2 MR. DIETER: It is just a level of detail. I  
3 mean my impression when I read this was I didn't  
4 understand in San Juan, for example, that you know we  
5 have gone down the road this far in terms of a  
6 judgement by management that we conclude that this  
7 proposal you know meets all the regulatory  
8 restrictions, et cetera.

9 It just seems to me that all we need to do to  
10 put in there that we received their comments and that  
11 we have determined to publish it you know for comment  
12 by the public and you know as Mike said in due course  
13 will be taking into account you know all points of view  
14 from you know whoever chooses to come at that before  
15 the Board takes action but when I read that LSC  
16 believes that "the proposed regulatory requirements are  
17 consistent with applicable laws," I guess it is  
18 implicit to some extent in deciding to go forward and  
19 publish it, but when you read it in black and white  
20 there as an assertion, it sounds like the Board of  
21 Directors has endorsed this existing language and has  
22 concluded that you know this meets all objections and

1 that we basically are going to adopt it as it is.

2 MS. MERCADO: Well, I don't read it that way.

3 MR. DIETER: I mean, I just didn't understand  
4 why we need the level of detail of this when you know  
5 personally you know I haven't made up my mind one way  
6 or another on it. I want to hear all the comment and I  
7 don't want to have it represented that we have made up  
8 our mind yet. It sounds to me like we have as I read  
9 this language. It seems to be making a case that we  
10 have determined that this is you know the --

11 MR. STRICKLAND: Rob, what we are doing here,  
12 it seems to me, in this reply is we are recognizing the  
13 fact that the IG in its report comments on group  
14 representation and the fact that we're considering  
15 proposed revisions to Rule 1611 and therefore we are  
16 just saying in so many words, all right, we got your  
17 comments and here is our view on it.

18 In other words, we are saying I believe we  
19 think it is appropriate to go ahead and publish the  
20 rule for public comment. I presume that could include  
21 comment from the OIG, Congress and anybody else. We  
22 are at the stage where our Operations Committee has

1 spent a lot of time on this as has the Board we are  
2 ready to publish it for such comment.

3 I think it is -- as you said a moment ago or  
4 somebody did -- implicit when we publish we think there  
5 is a legal basis for it or we wouldn't be publishing  
6 it, but we are not adopting anything. We are just  
7 simply putting this statement in our reply to the IG  
8 report, as the OIG said something about it in his  
9 report.

10 MR. DIETER: Well, it is a responsive -- it's  
11 the second paragraph there that -- you know, to me when  
12 I read it -- I guess I have to know a lot more  
13 background about what it means when you publish  
14 something for public comment, but my understanding when  
15 I raised the question in San Juan, this is a way of --  
16 you know it is a way of seconding the motion to get a  
17 discussion going you know on the issue and that you  
18 know we don't need to --

19 MR. GARTEN: Well, maybe we can address your  
20 problem by adding a clause of after the "LSC  
21 appreciates the OIG's comments, LSC believes that the  
22 proposed regulatory requirements are consistent with

1 the applicable laws: semicolon, and add this --  
2 However, the Board in due course and after public  
3 comments, we have come to a final conclusion regarding  
4 the proposed rule. That makes it clear that the Board  
5 hasn't come to a final conclusion and what will take  
6 place.

7 MR. MCKAY: This is Mike McKay. I like the  
8 idea. I'd like to somehow insert -- I'm concerned  
9 about the appearance that we have already made a final  
10 decision.

11 MR. GARTEN: That will address it, Mike.

12 MR. MCKAY: Well, I would like to add a  
13 clause, if you don't mind, a suggestion that we will  
14 carefully consider public comment as part of our  
15 process.

16 MR. GARTEN: That's similar to what -- that's  
17 fine with me.

18 MR. MCKAY: Yeah.

19 MS. MERCADO: I agree that for those that have  
20 a little bit of caution I guess feel for the language  
21 that is there that Herb's statement sort of clarifies  
22 it, but the reality is even if we had all voted and

1 agreed one-hundred percent on what the language would  
2 be under the rulemaking process and under the federal  
3 guidelines, we would still have been required to print  
4 that in the Federal Register and even though the whole  
5 Board one-hundred percent agreed on all the language,  
6 it would still be open to public comment and public  
7 input from any entity involved out there.

8           It makes no difference whether or not you all  
9 agreed or didn't agree or whatever. It would still be  
10 subject to public comment to come back to the Board for  
11 a final adoption to the rule.

12           MR. DIETER: I understand but I mean if you  
13 changed that sentence to read, for example, Although,  
14 LSC appreciates OIG's comments, OIG believes that the  
15 proposed language should go forward for public comment  
16 at this time. You know that is a completely different  
17 connotation than the language here where we say that we  
18 believe they are consistent with applicable law.

19           MS. MERCADO: But it is consistent law;  
20 otherwise --

21           MR. DIETER: But I haven't voted on that yet.  
22 That is what I'm saying. I haven't consented with

1 that issue to vote up or down. I'm not saying which way  
2 I'm going to vote but I don't think we need to stake  
3 out a position so strongly at this particular point.

4 MS. CONDRAY: This is Mattie Condray. For the  
5 purposes of what you are looking at with the response  
6 to the SAR, my comment is not going to that. My comment  
7 is just a little more background to respond to the  
8 concerns that you raise, and I think that Mike chimed  
9 in with, about staking out a position in a proposed  
10 rule and chilling comment.

11 The agency is generally required in fact to  
12 state its basis for its reasoning on the assumption  
13 that if nothing else changed and this is the rule that  
14 is adopted, the agency has to justify what it is  
15 proposing. I think I'm just kind of summarizing what  
16 Tom and Vic already said.

17 Also, I can assure you that after, you know 17  
18 years of rulemaking, no matter how strongly an agency  
19 stakes out a position, my experience has not been that  
20 anybody is chilled about submitting comments and I  
21 certainly don't think our interested parties will feel  
22 chilled in the least against submitting comments, if

1 they disagree with anything the corporation is  
2 proposing, so I just offer that to hopefully provide a  
3 little insight into the rulemaking process generally  
4 and to kind of alleviate any concern on that matter.

5 With that as background, I'm not arguing  
6 against the suggested assertions into this paragraph in  
7 the SAR. I'm not trying to do that so --

8 MR. STRICKLAND: All right. Mattie, I presume  
9 when you talk about public comment it is not uncommon  
10 -for example, if our Oversight Committee had comments  
11 to plug those into the public comment process just  
12 below everyone else; is that correct?

13 MS. CONDRAV: Oh, absolutely.

14 MR. STRICKLAND: But we could hear from the  
15 House Judiciary Committee?

16 MS. CONDRAV: Sure.

17 MR. STRICKLAND: And in fact as some of you  
18 may know, the three of us together with Helaine -- that  
19 is, Mike McKay, Lillian and I together with Helaine  
20 visited our Oversight Committee within the past several  
21 days to discuss the proposed rule. That is something  
22 we decided to do after the Ops and Regs Committee met

1 in Charlottesville.

2           The idea was that we take that committee to  
3 the Hill so we had a pretty freewheeling exchange about  
4 it and it wouldn't surprise me at all if that committee  
5 has comments if and when we publish this in the Federal  
6 Register.

7           MS. BeVIER: Also, I think it is very  
8 important -- at least I inferred from our conversation  
9 with them -- that we make clear that we invite their  
10 input. I mean however that gets phrased the important  
11 thing is that willingness to keep the dialogue open and  
12 I realize that's implicit in publishing this, you know,  
13 it's a proposed rule.

14           But, they seem quite taken with the  
15 reassurances that, in particular, Mike McKay was so  
16 elegant in conveying to them, that we wanted to hear  
17 what they had to say and that we hoped that they would  
18 let us know what their views were on this.

19           MS. CONDRAY: This is Mattie again. That's  
20 fine. I don't know what Tom's plans were but I found  
21 out this morning that the rule will be in Tuesday's  
22 Federal Register so we will have the formal published

1 copies as of Tuesday morning and we can get a copy over  
2 to the committee you know with a little note saying,  
3 Hot off the presses. Please feel free to comment.

4 I mean, obviously it implicit in the  
5 publication as you said but if that little gesture,  
6 sending it to them with a note, is going to help that  
7 is certainly acceptable.

8 MR. DIETER: I guess I'll make a motion that  
9 the sentence be changed to read, Although LSC  
10 appreciates the OIG's comments, LSC believes that the  
11 proposed regulatory language should go forward for  
12 public comment, and if you want to add something  
13 regarding you know inviting and welcomes or looks  
14 forward to that process or something to indicate  
15 something consistent with what Lillian mentioned.

16 MR. STRICKLAND: Well, we had a moment ago a  
17 proposal from Herb that left the -- did someone -- are  
18 we trying to say that we don't think the regulatory  
19 requirements are consistent with applicable laws?

20 MS. CONDRAY: I don't think we would like to  
21 say that.

22 MR. DIETER: No, we are just saying that we

1 don't affirmatively state that they are.

2 MR. POLGAR: This is Tom Polgar and just for  
3 the record, I believe that everything that is in those  
4 paragraphs is basically pulled out of the Notice of  
5 Proposed Rulemaking that is being published on Tuesday.

6 Mattie didn't write new language for this.  
7 She shortened language that is in the MPRM.

8 MS. CONDRAY: That's correct.

9 MR. STRICKLAND: All right, so we are already  
10 out in public or we will be on Tuesday with this  
11 language so I would think that rather than rewriting  
12 that particular piece of it that perhaps we might want  
13 to -- back to what --

14 Herb, do you have written down what you said  
15 and perhaps we could just put a semicolon in --

16 MR. GARTEN: A semicolon after "applicable  
17 laws" however, the Board in due course and after public  
18 comments, will come to a final conclusion regarding the  
19 proposed rule and Mike McKay had a variation of it  
20 which sounded fine to me.

21 MR. STRICKLAND: What was yours, Mike, would  
22 you repeat that?

1           MR. McKAY: My suggestion was that we'll  
2 listen carefully and welcome the public comments but I  
3 think that is implicit in Herb's language which I have  
4 heard now for the second time and I'm very comfortable  
5 with it as proposed.

6           MS. MERCADO: I am, too.

7           MR. STRICKLAND: All right. Rob, can you live  
8 with that position?

9           Recognizing that the language of this  
10 paragraph is in the proposed rulemaking --

11          MR. DIETER: No, I understand. That's already  
12 left the station, so to speak, but frankly I'm  
13 uncomfortable with the statement that says, LSC  
14 believes X,Y,C with regards to something this important  
15 when I haven't voted whether or not I believe that.  
16 You know, I'm not going to hold the whole thing up. I  
17 just you know don't understand why we can't just say  
18 that we have taken that into consideration and we have  
19 published it for comments instead of staking out a  
20 position on the belief that it is consistent with  
21 applicable law. I guess I just didn't understand the  
22 significance of the vote to publish it for comment, so

1 it's fine go ahead and add Herb's qualifications in  
2 there.

3 MR. STRICKLAND: All right. May I make a  
4 suggestion then that we consider -- maybe we can do  
5 this all in one -- did someone make a motion to amend  
6 the language here, is that already on the floor?

7 MR. DIETER: I made one but --

8 MR. STRICKLAND: No, I'm talking about the  
9 original amendment that was transmitted by facsimile.  
10 Did somebody -- I've lost track of what we have done.

11 MS. MERCADO: When I got on the phone, you  
12 said that someone had amended --

13 MR. STRICKLAND: Yeah, we were discussing  
14 that. We need an amendment to that amendment.

15 MR. MCKAY: I'll move to that amendment.

16 MS. MERCADO: I second his amendment.

17 MR. STRICKLAND: I think what we have before  
18 us is the need to vote on the amendment and an  
19 amendment to the amendment. The amendment is that the  
20 language that is in your faxed materials on page 43  
21 that Helaine read to us and the amendment to the  
22 amendment is in the second paragraph after the words,

1 "applicable laws." There would be a semicolon followed  
2 by, however, the Board in due course and after public  
3 comments, will come to a final conclusion regarding the  
4 proposed rule, period.

5 So, why don't we take first a vote. Is there  
6 further discussion?

7 (No response.)

8 MR. STRICKLAND: Hearing none, let's take a  
9 vote on the -- any objection to considering those two  
10 amendments together?

11 MS. MERCADO: No.

12 MR. STRICKLAND: All right. Let's then  
13 proceed to a vote on the two amendments that I just  
14 summarized.

15 All those in favor of the amendments, please  
16 say Aye.

17 (Chorus of ayes.)

18 MR. STRICKLAND: The two amendments are  
19 approved by unanimous vote and I think then the next  
20 item would be to see to a vote on the main motion and  
21 that is to approve LSC's reply to the IG's Semiannual  
22 Report, is there any further discussion on that?

1           MS. BARNETT: Mr. Chairman, on page 46 there  
2 is one paragraph on the Pilot Internet Air Travel  
3 Ticket Purchase Program that we are recommending be  
4 deleted.

5           MR. STRICKLAND: Its entirety?

6           MS. BARNETT: Yes, reference to it in its  
7 entirety, deleted.

8           MR. STRICKLAND: So beginning with the word  
9 "pilot" and down to the word "appropriate"?

10          MS. BARNETT: Correct.

11          MS. BeVIER: I'm sorry, what page is that on?

12          MS. BARNETT: It's on page 46 of the Board  
13 book and page 20 of the proposed response.

14          MR. STRICKLAND: All right, then is there any  
15 objection to deleting that section of our reply as  
16 suggested by President Barnett?

17          MR. McKAY: Would you please identify it one  
18 more time?

19          MR. STRICKLAND: It's on page 46 of your Board  
20 book and it's toward the end of the page. It's the  
21 "Pilot Internet Air Travel Ticket Purchase Program."

22          MS. BeVIER: Would it be foolish to ask for

1 the rationale for the deletion?

2 MS. BARNETT: We are happy to provide it and  
3 I'll have Charles Jeffress address that.

4 MR. JEFFRESS: Thank you. This is Charles  
5 Jeffress. I was researching this at the time that the  
6 draft went out to you and this program is perfectly  
7 legal of course what we are doing but it points out the  
8 inadequacies of the government travel contract with the  
9 airlines.

10 I think there are folks who would take offense  
11 at our pointing out those inadequacies and if it is not  
12 necessary to point them out, I think it would be the  
13 better part of discretion just to leave it out of the  
14 report. We are doing the right thing to do for the  
15 corporation and saving us money but I would recommend  
16 that we not rub somebody's face in the fact that their  
17 contract is inadequate.

18 MS. BeVIER: That's a good reason. Thank you.

19 M O T I O N

20 MS. MERCADO: I so move that amendment.

21 MR. STRICKLAND: All right. Is there a second  
22 to that?

1 MS. BeVIER: Second.

2 MR. STRICKLAND: Moved and seconded that we  
3 delete a paragraph of the section on page 46 of the  
4 Board book and page 20 of the report, Pilot Internet  
5 Air Travel Ticket Purchase Program.

6 All those in favor of that motion, please say  
7 aye.

8 (Chorus of ayes.)

9 MR. STRICKLAND: Approved unanimously. Unless  
10 there is further discussion, let's proceed to vote on  
11 the main motion, which is to approve LSC's reply to  
12 this Semiannual Report to the OIG.

13 MR. DIETER: Frank, this is Rob Dieter again.

14 MR. STRICKLAND: Yes, sir.

15 MR. DIETER: On page three at the bottom, I  
16 didn't quite understand you know why we needed to go  
17 into such detail with regard to the TIG Grant because  
18 when I read the OIG report nothing really you know  
19 stood out and as I read this, then suddenly it really  
20 draws my attention to it. I went back to look at it  
21 and I didn't see anything in there that was that  
22 startling that seemed to deserve this much discussion.

1 You know, it didn't seem to be that big a deal. Is  
2 there something that is going on there that is not  
3 apparent, I guess?

4 MR. STRICKLAND: Could someone around the  
5 table like to comment on that?

6 MS. RABY: This is Joyce Raby with the Office  
7 of Program Performance Technology Initiative Grant  
8 Program and we only wanted to point out in our response  
9 to the OIG that there is a section on the bottom of the  
10 payment schedule. The discussion seems to be a  
11 difference in interpretation around an evaluation was  
12 agreed to between LLC staff and the grantee of the TIG  
13 Grant and the OIG is looking at the evaluation as  
14 presented in the application.

15 TIG grants have a payment schedule and a grant  
16 award letter that we consider to be the sort of final  
17 agreement between the LSC and the grantee and the  
18 evaluation was not fully documented in the payment  
19 schedule. There is just a statement that says "an  
20 evaluation will be completed," and so all we were  
21 attempting to do was sort of respond back and say there  
22 is another way of looking at the way the agreement

1 between the grantee and LSC was defined and so on the  
2 payment schedule at the very bottom it just says that  
3 there will be a final report and an evaluation, and our  
4 response was merely to make that point.

5 MR. DIETER: Well, I guess -- all the IG says  
6 you know on page five, six of their report is, it says  
7 because the grantee submitted an alternative report to  
8 satisfy LSC requirements, we did not recommendations to  
9 the grantee but I didn't see that that was necessarily  
10 something that needed such a long or direct defense. I  
11 mean, it just really drew my attention to it when I  
12 read the response as opposed to when I read the OIG  
13 report, but --

14 MS. RABY: Well, if you look at page five of  
15 the OIG's Semiannual Report to Congress at the very  
16 bottom, it says that, "The grantee meant the  
17 significant deliverables of the grant but did not fully  
18 comply with the grant requirements to measure the  
19 impact of the grant."

20 MR. DIETER: Right.

21 MS. RABY: And that is what we are responding  
22 to. We are saying that they did based on the payment

1 schedule and the agreement which is our opinion the  
2 agreement between us, not the application. The  
3 application is a proposal of a project. It doesn't  
4 represent the final negotiated agreement between LSC  
5 staff and the grantee about the project and so we were  
6 drawing their attention to that as being the thing to  
7 measure whether or not the grantee complied with the  
8 requirements of the grant, not using the application as  
9 the thing to measure whether or not they were in  
10 compliance.

11 MR. DIETER: I still don't you know see why it  
12 is necessary to go into such detail and make a  
13 confrontational issue about it because it just seems to  
14 me the IG just says it provided us an alternate  
15 justification and that's the end of it but -- I'd  
16 probably take it out.

17 MS. MERCADO: Well, I mean we are being  
18 basically docked for not being good managers of the  
19 fund because these grantees aren't meeting the  
20 requirements and without --

21 MR. DIETER: I mean there are --

22 (Simultaneous speaking.)

1           MS. MERCADO:  -- that is not an accurate  
2 conclusion.  Then whoever reads this document is going  
3 to assume all the negative that is embedded in that  
4 statement.

5           MR. DIETER:  I just don't see that the OIG's  
6 statement on this is that strong condemnation of our  
7 handling of the money.  It just seemed to me -- when I  
8 read it, it looked to me like there was some -- you  
9 know, somebody hadn't crossed all the T's and dotted  
10 all the I's but basically everything was okay and they  
11 were satisfied and so they weren't going to make an  
12 issue out of it.

13           MS. RABY:  This is Joyce again.  That is  
14 correct.  I mean the grantee did do with the money with  
15 the money on the -- I mean, the project was implemented  
16 as described and as agreed to.  I mean, this is  
17 fundamentally a procedural issue.

18           MR. GARTEN:  Rob, Herb here.  If we took out  
19 the third paragraph and just went in with the first  
20 two, would you be satisfied?

21           MR. DIETER:  Who, me?

22           MR. GARTEN:  Yeah.

1           MR. DIETER: Well, it's the second paragraph  
2 really that's the one that sets up the --

3           MR. GARTEN: But they say that they should be  
4 able to respond to the accusation, so it is very mild  
5 in the second paragraph and you leave out the third  
6 paragraph.

7           MR. DIETER: I guess I'm just pointing it out  
8 as a strategic matter. To me, it really drew attention  
9 to this and set it up as a -- there is a disagreement  
10 here that is worthy of a half a page in this report and  
11 to me when I read the OIG Report, initially I didn't  
12 even flag that in any way because it just looked to me  
13 like there were some minor technicalities that may not  
14 have been complied with and they were satisfied with  
15 what LSC did and -- you know, it is indicated but it's  
16 not something that means that it ought to be looked  
17 into further.

18           But then when I read this -- especially it is  
19 on the very first page of the response -- suddenly I  
20 got real curious about what this whole thing was about  
21 but you know maybe I'm going on faith.

22           MR. GARTEN: I think they have to respond. On

1 page 12, they indicate they are going to do a broader  
2 review of the program that will be subject of an OIG  
3 order later this year, so I think we should give them  
4 an opportunity to respond. It doesn't have to be as  
5 long as they propose but at least respond to it.

6 MR. STRICKLAND: You are referencing page 12  
7 of the OIG's Report, Herb?

8 MR. DIETER: It's page six.

9 VOICE: Page six of the IG Report.

10 MR. GARTEN: Yeah, but page 12 of ours.

11 MR. DIETER: Herb, page three of ours.

12 MR. GARTEN: Sorry. Where is it that you say  
13 you are going to do --

14 MR. DIETER: It's at the top of page six of  
15 the IG Report.

16 (Simultaneous speaking.)

17 MR. GARTEN: -- our comment that they expect  
18 the OIG vote later this year.

19 MR. DIETER: Right.

20 MR. GARTEN: So, it seems to me that that may  
21 be part of the reason why they want it on record right  
22 off the bat that they don't agree with part of the

1 conclusions.

2 MS. MERCADO: And in addition, because if in  
3 fact their audit shows incorrect data or information,  
4 there is no sense the IG wasting funds or resources to  
5 do an audit on that particular aspect -- and in fact,  
6 our explanation takes care of it.

7 MR. DIETER: Well, I don't know if you can go  
8 that far but --

9 MS. MERCADO: Well, (inaudible) them waste  
10 more resources on other things that didn't have all the  
11 information.

12 MR. DIETER: Well, it's fine to go forward  
13 with it. It just seemed to me that this was one -- on  
14 the first page of the report to devote this much time  
15 to something that is not that you know clearly  
16 contested by the OIG just seemed to me to draw  
17 attention to it, but I'll move onto the next comment  
18 which is on page 10 at the bottom of the Board book on  
19 this staff initiative.

20 This is just a point of clarification. It says  
21 that "Collecting data from its grantees on the number  
22 of potential clients," and I was wondering is the word

1 "potential" supposed to be eligible clients?

2 MR. POLGAR: Yes.

3 MS. BARNETT: Yes, it is supposed to be --

4 MR. DIETER: Page 10, at the bottom of the LSC  
5 draft. Page 10 in the top corner. It's page 36 of the  
6 Board book, I think it is.

7 MR. POLGAR: Rob, in answer to your question.

8 In that spot, potential clients and eligible clients  
9 was intended to be synonymous, so is synonymous.

10 MR. DIETER: Okay. I mean, is there a problem  
11 with changing the word to "eligible"?

12 MS. CONDRAY: This is Mattie Condray. This is  
13 a matter of just drafting. If you take out the word  
14 "potential," client kind of assumes somebody has been  
15 in fact accepted for service, so I would suggest you  
16 keep in "potential" and add "eligible," potential  
17 eligible clients or use the word that is going to be in  
18 the notice of proposed rulemaking of "applicants,"  
19 eligible applicants, because that is the difference  
20 between somebody who is seeking service and somebody  
21 who has actually been accepted for service -- but I'm  
22 just throwing that out as an English thing.

1 (Simultaneous speaking.)

2 MR. DIETER: -- go forward in terms of the  
3 study, not really whether we should quibble about the  
4 language in the report but just for my information.

5 You know there is a difference between people  
6 calling and saying I've got this general problem and  
7 somebody saying, Oh, we are going to send you over to  
8 X, Y, Z or we don't do those kind of cases or you need  
9 to talk to the public defender versus someone who --  
10 you are eligible; we don't have the resources and the  
11 time to take your case. I think we are trying to  
12 measure that latter group.

13 MS. BARNETT: This is Helaine and, Rob, you  
14 are absolutely right that is the group we are trying to  
15 capture and we would have no problem in adding "a  
16 number of potential eligible clients," because that is  
17 who we are trying to capture.

18 MR. DIETER: Okay. Well, the only -- on page  
19 14 again, there is a point of discussion but there is a  
20 reference in here in the middle of the Pilot Loan  
21 Repayment Assistance Program, that on January 7th LSC  
22 submitted a report describing a pilot program to

1 Congress and I would I guess suggest that in the future  
2 if we are sending reports to Congress that the Board be  
3 provided with copies because I don't recall getting a  
4 copy of that.

5 MR. POLGAR: I wasn't here on January 7th.

6 MS. BARNETT: I thought we had submitted a  
7 copy but I will confirm that that is so but my  
8 understanding is that we provided a copy to the Board.

9 MR. POLGAR: It may have been in the February  
10 Board book but I will check. I mean, I was here when we  
11 did the February Board book but I wasn't here when we  
12 did the --

13 MR. DIETER: There was something but it just  
14 didn't look like something that had been forwarded to  
15 Congress in the format -- and I may be wrong on that.

16 MS. BARNETT: I think it was a letter.

17 MR. POLGAR: It was done in the form of a  
18 letter from Helaine. It was a congressionally mandated  
19 report. They gave us I think 30 days to submit it from  
20 the time they adopted the Omnibus Appropriations Bill  
21 and of course with the holidays involved, I think  
22 Helaine just drafted it up and sent it out.

1 MR. DIETER: Okay. I'm just pointing it out.

2 MR. STRICKLAND: Well, Helaine, just out of  
3 abundance of caution if you could -- even if it has  
4 been circulated -- recirculate it?

5 MS. BARNETT: I'll be happy to.

6 MR. STRICKLAND: Thank you very much.

7 MR. POLGAR: We would note that the  
8 announcement of the LRAP Pilot Project and the program  
9 applications were sent out yesterday, so all the  
10 programs now have it.

11 MR. DIETER: Could you send me a copy of  
12 those? I just wanted to see what they look like.

13 MR. POLGAR: Certainly.

14 MS. BARNETT: Be happy to.

15 MR. STRICKLAND: Any other points to cover?  
16 Anyone else?

17 (No response.)

18 MR. STRICKLAND: All right. As far as I can  
19 tell, we made a change on page 10 of your Board book to  
20 insert the word, "eligible" on that page.

21 Are there any other changes to LSC's reply?

22 (No response.)

1           MR. STRICKLAND: All right, hearing none and  
2 approval, we will consider the report to have that  
3 additional word in it as we vote on it -- the reply,  
4 that is.

5           All those in favor of approval of the LSC  
6 reply to the OIG Annual Report, please say aye?

7           (Chorus of ayes.)

8           MR. STRICKLAND: Unanimous approval.

9           Any other business that we need to consider or  
10 act on today?

11          MS. BARNETT: Mr. Chairman, this is Helaine.  
12 I would just note for the Boards' information that  
13 probably while everybody was on this conference call,  
14 you will be receiving a fax at your offices requesting  
15 notational vote, so I just ask that the Board look for  
16 that.

17          MS. BeVIER: May I please ask you to send that  
18 fax to my home address, my home fax?

19          MS. BARNETT: Of course.

20          MR. STRICKLAND: When will that be, Helaine,  
21 later this week?

22          MR. POLGAR: No, it's out or at least I

1 certainly hope it is out and it should already be in  
2 your office.

3 MR. STRICKLAND: Okay. It's self-explanatory  
4 but for your information, it's -- OIG submitted a  
5 supplemental report to the Congress on the A Street --  
6 and we have worked on and prepared a supplemental reply  
7 from LSC IG's supplemental report, so that is what we  
8 are circulating for notational vote.

9 MR. DIETER: Yeah, I was going to ask if Tom  
10 and Frank and Herb could stay on the line I guess while  
11 we are all connected.

12 MR. POLGAR: I certainly can.

13 MR. STRICKLAND: It's okay with me.

14 MS. BARNETT: One other matter, Mr. Chairman,  
15 would you as chairman or members of the Board like to  
16 see the revisions that you approved today before we  
17 submit it?

18 MS. WATLINGTON: This is Ernestine. I'd like  
19 to. There are some matters that I don't understand.

20 MS. STRICKLAND: Okay, we could certainly get  
21 that to you.

22 MS. BARNETT: So would you like it faxed to

1 all Board members?

2 (Simultaneous speaking.)

3 MS. BeVIER: I need it.

4 MS. BARNETT: I'm sorry, was that Lillian  
5 speaking?

6 MS. BeVIER: Right.

7 MS. BARNETT: So Lillian and Ernestine and  
8 anybody else like a copy?

9 MS. MERCADO: All you need to do is to send me  
10 just the actual page that you amend, not the whole  
11 document.

12 MS. BeVIER: Yeah, I could do with that but I  
13 don't want you to have to send the whole thing.

14 MR. STRICKLAND: Right. I'd like to get the  
15 changed pages.

16 MS. BARNETT: Okay, why don't we circulate the  
17 changed pages by fax.

18 MR. STRICKLAND: I do want to make it clear in  
19 case I didn't, in the vote on the main motion it  
20 included the previously approved amendments of Herb  
21 Garten, et cetera, in addition to that word, okay, just  
22 to make the record clear.

1           Anything else to come before the meeting  
2 today?

3           (No response.)

4           MR. STRICKLAND: All right. I entertain a  
5 motion to adjourn and after that, I would ask Herb  
6 Garten and Rob and Tom to remain on the line.

7           MR. FUENTES: Which Tom is that you are  
8 seeking?

9           MR. STRICKLAND: Tom Polgar.

10          MR. FUENTES: Okay, good-bye then.

11          MR. STRICKLAND: And thanks very much, folks,  
12 we are adjourned.

13          (At 3:00 p.m, the meeting of the Board of  
14 Directors adjourned.)

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