

ORIGINAL

RECEIVED

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

JUL 20 1994

Executive Office

AUDIT AND APPROPRIATIONS COMMITTEE MEETING
OPEN SESSION

Friday, July 15, 1994
9:25 a.m.

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

BOARD MEMBERS PRESENT:

Maria Luisa Mercado, Chairperson
John T. Broderick, Jr.
Douglas S. Eakeley
Edna Fairbanks-Williams
Thomas F. Smegal, Jr.

STAFF PRESENT:

Martha Bergmark, Executive Vice President
Patricia D. Batie, Secretary
David L. Richardson, Comptroller and Treasurer
Edouard Quatrevaux, Inspector General
Gerry Singen

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

P R O C E E D I N G S

CHAIRPERSON MERCADO: Let's call the meeting to order.

First of all, I do want to apologize to our guests that are presenting before us. We're in a little bit of a quandary this morning in that we're going to have our executive vice president and president be at two or three different places for executive session and we're trying to get Ms. Bergmark back over here so that we can do executive session.

But first of all, for the record, I would like to note that this morning we do have a quorum of the Committee of Audit and Appropriations. Mr. Smegal and Mr. Broderick are present at the meeting, therefore, we can -- the committee can go ahead and conduct business and take action on different items.

For the benefits of Mr. Broderick and Mr. Smegal and any other members of the public that were not present at the meeting last night, we did not take any action. However, we did consider and review the budget and expenses for the period ending May 31, 1994, as well as the period ending June 30, 1994. And we also considered Item No. 4, Consideration

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 and Development of Plans To Utilize Uncommitted Funds.

2 Without necessarily redoing all the presentation,
3 there should be documents that were provided to you from the
4 Legal Services Corporation Consolidated Operating Budget work
5 sheets for a nine month period ending June 30, 1994, and it
6 should be at your place setting. Let me go ahead and give
7 you that.

8 If there is any particular questions that you might
9 have, the key things in the budget are that we're pretty much
10 -- you know, as far as the field programs and other programs,
11 delivery services, everything is being expended to schedule.
12 About the only items that are different are the \$500,000 that
13 we got in emergency funds that means there would be a
14 modification of the budget, although that's being asked of us
15 at this time to approve, it is merely noted and we'll
16 probably have to present it in the August meeting.

17 The other items that would have been different in
18 the May -- is that the MNA Budget would have to expend
19 \$45,000 in Federal Workers' Comp for that quarter, and so
20 that is the difference expenditure. Other than the regular
21 expenditures, monthly expenditures were fairly much on target
22 as far as the percentage of expenditures that we've had thus

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 far during this fiscal year.

2 As far as the deficit reduction, we're bringing in
3 funds sufficient to cover that for this first year. And,
4 hopefully, we'll bring in more money through interest so that
5 we can have either some carryovers or some initial monies for
6 vote initiatives that we can work on.

7 So, Mr. Richardson, if there are some other keys
8 areas that I may have omitted, real quickly, as we're trying
9 to do this without having to go through the whole line item
10 on the financial statement.

11 MR. RICHARDSON: Madam Chair, the only thing that I
12 would add is that we are averaging approximately \$25,000 a
13 month in interest income. So we will have that added to the
14 budget. We also have an adjustment on the expenses for 400
15 Virginia Avenue. So there's an additional miscellaneous
16 income item that will be coming in of approximately \$50,000.

17 So we will be well over \$526,000 that we originally
18 estimated and it appears at this point it could be as much as
19 \$75,000 over that amount.

20 MR. SMEGAL: For the entire year?

21 MR. RICHARDSON: For the entire year.

22 MR. SMEGAL: Why is the interest so unexpected?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Why wouldn't we have had that in the budget to begin with?

2 MR. RICHARDSON: Traditionally, we do not put the
3 interest in the budget. I had estimated it and actually it's
4 just a factor of how quickly the grantees put their checks in
5 the bank. Sometimes there's a little additional, because we
6 do not put money out for investment. When we write checks,
7 we deposit the money and if it takes three or four days for
8 the checks to cash or if it takes a week, that's the interest
9 we get.

10 If there is an unexpected with the \$50,000 windfall
11 for 400 Virginia Avenue, because for a number of years, they
12 have been contesting the taxes on the 400 Virginia Avenue
13 property and they have met with one of their tax coordinated
14 reviews, so there is the \$50,000 windfall there, coming back
15 which has also increased taxes for that two-year period, as I
16 recall.

17 MR. SMEGAL: The building was going to -- the
18 building was contesting and they were successful and we get a
19 benefit from that?

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

21 MR. SMEGAL: We haven't been any more successful at
22 renting or subleasing the remaining space?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. RICHARDSON: We do have two new subleases. One
2 is with ESSI, which is an engineering group with NASA, and
3 we're getting approximately \$7,000 a month additional rental
4 income there. We also got one with a Mr. Jones, who is
5 another contractor with the government. That one is \$1,950 a
6 month. So we do have some additional income coming in.

7 Mr. Jones, I spoke with him last week, he tells me
8 he hopes to double that in the next six months, but that is
9 predicative of him receiving additional government contracts.

10 MR. SMEGAL: Refresh my memory, our lease over
11 there extends to next June, June 30th?

12 MR. RICHARDSON: August '95.

13 MR. SMEGAL: August, thanks. Thank you.

14 CHAIRPERSON MERCADO: The only other area that I
15 just wanted to bring to your attention is that the funding on
16 competition initiative may be something that we may need to
17 look at to see whether or not we want to free up that money
18 for something else, because just looking at it, at least
19 right now, is to what is going through going Congress as far
20 as funding. It doesn't seem like they're going to fund the
21 remaining phase of the competition initiatives, so we may
22 need to look at something else that we do with that funding.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 I think, other than that -- unless Gerry wanted to
2 add something to that?

3 MR. SINGSEN: I just had one thing. There was a
4 question raised last night about the funding for the client
5 involvement planning meeting, which is going to happen in
6 another month or so. And David Richardson looked into that
7 last night and we talked this morning.

8 And I think that the sources of funding for that
9 meeting will be first the Board Initiatives line where it
10 looks like we will have some money left at the end of the
11 accounting for the search process. Second, the Board of
12 Directors own budget, which has some flexibility in that if
13 we needed to, we could go to the contingency funds that have
14 been allocated to particular purpose.

15 But it looks like that meeting will probably come
16 in at the first places that I mentioned.

17 CHAIRPERSON MERCADO: And do we have an estimate of
18 what that's going to cost?

19 MR. SINGSEN: We don't have an estimated but we're
20 working with the people. Mr. Hale, who is managing for the
21 staff in that process, may have developed an estimate but we
22 haven't gotten that from him at this point.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: Okay. Edna, do you have any
2 particular information on that that you all have discussed in
3 the committee?

4 MS. FAIRBANKS-WILLIAMS: No. Except that we have
5 solicited people from all over the country, so the fly-in
6 time and things will be approximately a lot like the Board
7 fly-in time would be and things like this, because there's
8 two from New England, there's one from the Southwest, and
9 we've scattered it like that.

10 CHAIRPERSON MERCADO: Pretty much, I think, at this
11 point as I said, they're not asking for an approval of a
12 modification of the budget. They're going to request it at
13 our August meeting. It's pretty much just presented for our
14 review and can accept the report as presented to us at this
15 time.

16 MR. SMEGAL: The Board's budget will come in 50
17 under or so? 50 or 60 under?

18 MR. RICHARDSON: Yes, sir. I believe so, at this
19 point.

20 CHAIRPERSON MERCADO: Oh. One -- I must note this
21 for the committee members who were not here last night is
22 that is has been recommended to us that in order for us to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 have up-to-date current financial statements, that it might
2 be useful -- and this is for the whole board, not just for
3 the Audit and Appropriations Committee -- to have the Board
4 Meeting somewhere around the 20th of the month, so that we
5 can get current -- instead of being, you know, a month or a
6 month and a half behind on expenses, that we have our
7 meetings then, rather than in sort of like the middle of the
8 month, where you're going to -- the 14th or 15th, which is
9 the difference of five or six days.

10 I know that at some of the meetings we've already
11 got scheduled for the rest of the year. Some of them would
12 be kind of hard to move, because they were tied in to other
13 events. In the areas where we can accommodate that, it would
14 be helpful. I understand that we may have caused Mr.
15 Richardson not to celebrate his Fourth of July weekend,
16 because we had him work overtime to get his stuff for us. So
17 I apologize for that, but we're also very grateful to you
18 that you did.

19 And we'll talk to the rest of the Board and try to
20 keep those times in mind so that we can get more current, up-
21 to-date information. Any other questions or comments?

22 MR. SMEGAL: No, ma'am.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: Okay. We'll just accept your
2 report as presented then. Thank you.

3 I'm sorry. We actually forgot one item that we
4 needed to do, which is the approval of the minutes of the
5 June 17th meeting. If people had any changes, additions or
6 deletions to the minutes?

7 (No response.)

8 CHAIRPERSON MERCADO: The only thing that I do have
9 here is, I'm not sure where they got this from, is that where
10 it states who the people were attending the meeting, it had
11 William McCalprin and Martha Bergmark. I don't believe they
12 were at the meeting, so they just got them confused with the
13 meeting across the hall. You know, Doug was there and
14 Alexander was there for part of the meeting. I know he was
15 having to go back and forth between both meetings.

16 But I don't recall that -- other than that, pretty
17 much everything else that's in there is correct, because the
18 correction to the resolution that had been passed at the
19 meeting before was made.

20 MR. BRODERICK: I didn't want to correct that, I
21 was not here at the meeting, so I can't independently verify
22 that those people were not here. I don't know how you want

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 to address that issue.

2 MR. SMEGAL: I have the same disability.

3 MR. SINGSEN: Mr. Richardson and I were present and
4 both agree that the Chairman is correct. So if you can take
5 it on the advice of -- or testimony of witnesses in order to
6 be able to amend the draft minutes.

7 MR. BRODERICK: Are you under oath?

8 MR. SINGSEN: As a Quaker, I actually am affirming
9 at all times.

10 MR. BRODERICK: I see.

11 M O T I O N

12 MR. SMEGAL: I would move the minutes be approved
13 as amended by those in the audience.

14 MR. BRODERICK: And I would second that.

15 CHAIRPERSON MERCADO: All those in favor?

16 (A chorus of ayes.)

17 CHAIRPERSON MERCADO: Objections?

18 (No response.)

19 CHAIRPERSON MERCADO: Abstentions?

20 (No response.)

21 CHAIRPERSON MERCADO: Motion carries.

22 I would like to just advise our guests that will be

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 presenting on Item 5 and Item 6 of the agenda, for some
2 discussion or infraction, if you will, within your
3 presentations.

4 As I mentioned earlier, we are having some time
5 reorganizing with our executive vice president to be here
6 during the Executive Session and trying to work also with Mr.
7 Broderick's schedule since he needs to go up to the Hill for
8 part of this morning.

9 So if you will indulge us for a few minutes during
10 that time so that we could go ahead and take action on a
11 couple of the items that this committee needs to take action
12 on and we would certainly appreciate it. But, meanwhile, we
13 will go ahead and proceed with Item 5 of the agenda and then
14 as we get an executive here for Executive Session, then we
15 will start at that time.

16 So, Mr. Singsen and guests, the group presenting
17 Item 5.

18 MR. SINGSEN: Let me begin by saying that I've
19 asked Regina Rogoff who is the co-chair of the Funding
20 Criteria Committee of the Project Advisory Group to join me
21 for this discussion.

22 As you've already noted from the materials for this

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 meeting a great deal of the work in the last decade about how
2 to distribute funds within line items, whether if you use
3 formulas and if you use formulas, what formulas, has emanated
4 from the work of the Funding Criteria Committee and a variety
5 of subcommittees within that committee that reach out into
6 the delivery community for expertise, and the committee then
7 assesses options and makes recommendations based on those
8 options.

9 What this discussion concerns is how the
10 Corporation might decide to distribute money to the
11 annualized grantees within about eight line items in the
12 budget where we have such grantees. These line items are
13 basic field, Native American, migrant, supplemental field,
14 national support, state support, regional training centers,
15 and computer assisted legal research.

16 In each instance, we have the roof of grantees who
17 are each year receiving a grant and are entitled to continue
18 receiving that grant to be refunded unless we institute
19 denial of refunding procedures or during the course of the
20 grant year, suspension or termination of a grant. Under the
21 appropriations statutes for the last decade or so, there has
22 been an injunction on the Corporation to continue the funding

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 of each of these grantees at the level of the prior year at
2 least.

3 And then for some of the line items, for example,
4 basic field, almost every year, I think, there has been a
5 specific formula set forth in the Appropriations Act for how
6 the Corporation should distribute funds to the grantees, the
7 increase in funds to the grantees within the line item. On
8 other occasions, rather than in the appropriation, there has
9 been guidance from the Congress in the conference report from
10 the joint conference of the House and the Senate regarding a
11 distribution formula to use.

12 So, for example, I believe last year, the current
13 year's funds, that the conference report specified the
14 funding approach for state support and for regional training
15 centers. And the appropriation actually had the language for
16 the approach on basic field and migrant programs. This year,
17 as you know, we have an Appropriations Bill which has been
18 passed in the House. That bill contains an appropriation of
19 \$415 million and has within it an allocation formula directly
20 specifying how the Congress intends the money, the increased
21 money that goes to basic field programs, to be distributed.

22 The House committee report does not contain

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 directions as to any other line. So that the Corporation
2 under the House bill will have to make decisions about the
3 funding and how to distribute the increases in funding that
4 go to the lines for each of the seven other lines. For basic
5 field, however, what the House bill says is that half of the
6 increase should be distributed to all programs on a per
7 capita basis. That is, half of the money would be
8 distributed a few cents per poor person to every basic field
9 program based on the population of individuals identified in
10 the 1990 census as living below the poverty level within the
11 jurisdiction of the program.

12 The other half of the basic field increase, the
13 formula that's in Appropriations in the House would be used
14 to raise the floor, that is the lowest level funded program
15 would get a small increase in their level of funding. But
16 programs that weren't at the floor, or just above it and
17 picked up as the increase happened, would not see an increase
18 under that half of the increase coming in the House bill.

19 The Senate subcommittee and the committee have now
20 approved an appropriation level of \$400 million. Since that
21 represents no increase, there are no formulas at all in
22 either the Senate Appropriations Bill or in the report

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 language. Obviously, if that number maintains on the floor
2 of the Senate and they go to conference and there is an
3 increase, there will have to be a decision made by the
4 conference committee about whether any formula, the one on
5 basic field or none at all perhaps, would be in the final
6 Appropriations Act. And we won't know for a while what
7 that's going to be.

8 So that's the context of this discussion.
9 Basically the Corporation, since 1984, has been receiving
10 directions from the Congress on one or more formulas for
11 distribution. Prior to 1984, the Corporation had essentially
12 unfettered discretion but was held in the Congress, of
13 course, as each budget request, what it wanted to do with the
14 money and was then feeling constrained in its distribution of
15 funds to go ahead with the plans that it laid out in the
16 budget request.

17 And, indeed, for the later half of the '70s, the
18 first few years of the Corporation's existence, the major
19 distributional questions had to do with expanding defined
20 programs for new areas where there were no service providers
21 and bringing the programs throughout the country that already
22 existed up to a floor that simply didn't exist when the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Corporation came into existence.

2 When the Corporation came into existence, Georgia
3 Legal Services was funded to serve the population which it
4 was responsible for about \$1 a poor person. The programs in
5 New England, the highest funded region, were funded for an
6 average of about \$7 a poor person and the original formulas
7 had actually had something to do, the goal was \$7 a poor
8 person, with the fact that in New England that was about the
9 average funding that the programs were receiving for the poor
10 people who lived there.

11 So the history of this discussion is the
12 Corporation had a lot of discretion in the past, got much
13 less during the last decade, probably we'll have some
14 assuming there's an increase this coming year. And today's
15 discussion is intended to work through each of these line
16 items to examine some of the principles and issues that arise
17 in thinking about distribution and to prepare the way for
18 decisions that the Board will have to make in time to get
19 grants out to programs in December.

20 What that means to the practical matter is that the
21 absolute last time that this Board could make a decision
22 about distribution probably would be at its November meeting.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Obviously, it's not desirable to run up that close, and so
2 what we as the staff hope to be able to do is to have
3 completed the process of presenting to you recommendations
4 about distribution formulas by the October meeting.

5 But we intend between now and then to examine, to
6 work very closely with the delivery working group and its
7 subgroups, with the uniting support process, with the Funding
8 Criteria Committee and PAG, its parent, to field programs,
9 with the communities of service providers that are involved
10 in each of these areas to develop an effective set of
11 recommendations for the distribution of whatever increases
12 that we have and to bring those recommendations in,
13 conceivably, some of them either next month or in September,
14 but certainly all by October. And that would cover these --
15 the whole eight group of line items.

16 So that's the process that I wanted to offer to
17 this discussion, and what I propose to do is to go one by one
18 through each of these eight areas and say a couple words
19 about principles in one and then have a discussion about it
20 and then move to the next. There is some logic to this
21 process in the sense that things -- that basic field, by far,
22 is the most elaborated discussion and you've seen a lot of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 material about the basic field distribution approach in the
2 past, so those terms like equalization and fill-up-the-cup
3 and the like are familiar.

4 Some of the other lines we've had very little
5 discussion about. And my sense is particularly with the
6 House Appropriations Bill containing a formula that most of
7 our time will be most fruitfully spent on the other lines
8 where you're likely to have to make decisions during this
9 next couple of months.

10 Regina, I don't know whether you would like to make
11 any initial statement before we start in on any specific line
12 items, you're certainly welcome to.

13 MS. ROGOFF: Possibly just to introduce myself to
14 the Board. I am Regina Rogoff R-o-g-o-f-f, and I am the
15 director of the Legal Aid Society of Central Texas, and I am
16 also co-chair of the Funding Criteria Committee of the
17 Product Advisory Group. My co-chair Andy Steinberg has been
18 before you a number of times. And, being in Massachusetts,
19 it has been easier for him to attend your meetings, but this
20 time it was my opportunity and so I'm pleased to be here.

21 I'm especially pleased to be able to be speaking on
22 behalf of the field, because this is such a collaborative

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 moment in history for us. You are fortunate to have Gerry
2 Singsen who has served as a consultant to the field for a
3 number of years in helping us grapple with some of these
4 complex issues and try to reach consensus within the field
5 community about what are our funding principles and what are
6 our funding goals and how do we reconcile those.

7 As Gerry was talking one of the thoughts that I had
8 -- I just wanted to share was, he indicated that in the last
9 '70s the dollars per poor person in the highest funded
10 programs in the country and the goal that was established in
11 the '70s was \$7 a poor person. Where we are in the '90s is
12 less than \$10 a poor person. And we're -- I don't remember
13 if it's nine --

14 MR. SINGSEN: \$9.68.

15 MS. ROGOFF: We have not come very far in terms of
16 the resources that are really available to the delivery of
17 legal services on a day to day basis that our field programs
18 are engaged in. And I just wanted to share with you that
19 comparison that from the late '70s to the mid-'90s we've
20 gained under \$3, \$2.68 a poor person in order to deliver
21 legal services.

22 CHAIRPERSON MERCADO: I always use the can of peas

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 analogy, because I know that when I was going to law school
2 in the late '70s, a can of peas used to cost 21 cents, and
3 it's now 79 cents, and yet people are still not very much
4 above, higher than the minimum wage than they used to be at
5 that time. So that the cost that we're doing is \$7, it's
6 \$9.68, then we're just not getting the same value for the
7 dollar that we've got.

8 And of course, that's where the whole discussion
9 that went into the 848 in support, if we could just convince
10 the Hill that that's the real picture of poverty out there.

11 MS. ROGOFF: I'll keep the can of peas image in
12 mind.

13 CHAIRPERSON MERCADO: That's so much easier for
14 people to see that, you know, these are the same poor people
15 that are having to live on that same dollar and not being
16 able to buy as much for it and, likewise, we cannot provide
17 as much services with that money as well. And I'm sorry, I
18 interrupted you, go ahead, Ms. Rogoff.

19 MS. ROGOFF: Oh. No. No. I was completing. I
20 just wanted to say that I'm here to answer any questions that
21 I can or to -- if I don't have the answers, to try to get the
22 information back to you so that your decisions can be well-

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 informed.

2 CHAIRPERSON MERCADO: I know that one of the things
3 that was very evident in going up, and I'm sure as you
4 testified before the Hill as well, was the need by Congress
5 to have a lot of specifics of the whole -- what we're going
6 to do with increased funding, than merely to say that basic
7 field was going to get a proportionate share, that funding
8 somehow didn't seem to suffice for a lot of the folks, and
9 that they wanted to see if there were going to be programs,
10 how those were going to be allocated, how they were going to
11 be shared within the broad U.S. or what a few dollars could
12 do, whether it was for institutionalized care, and of course
13 for a million dollars, you can't do a whole lot country-wide.

14 In part then, I think the struggle within the Audit
15 and Appropriations and, of course, the Board, in trying to
16 present a rationalization of funding, the Congress was to
17 some extent, I think, the inability to have some of the
18 specifics, although, we're always told that it's better not
19 to have a lot of specifics.

20 However, they insisted on specifics and maybe to
21 the extent that we can have some discussions about some of
22 the areas and some of the priorities that funding in a more

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 specific manner that we can argue and make a better case for,
2 then we'd like to have some of those discussions.

3 Now, some of them, obviously, we're not going to
4 have a whole lot to do with, but they're going to say per
5 capita we're given half of the increase across the board to
6 all the basic fields and there is not a whole lot of
7 discussions about that actually.

8 It's the other discretionary items that we would
9 really like a lot of input from the field on how they see our
10 priorities, because you're the ones that are on the front
11 lines day to day, dealing with clients day to day and their
12 needs. And we want to make the most effective and efficient
13 use of the money that we get.

14 MS. ROGOFF: We'll be happy to work with you on
15 that. And that's why in addition to the Funding Criteria
16 Committee we talked about this. We have established work --
17 the working group to really add issues that, really, for over
18 a decade we weren't in a position to critically address and -
19 - I mean, I really find it very, very exciting that we're
20 taking on all these issues and looking at the delivery system
21 and wanting to assure that what we're doing is the best
22 system and the highest quality delivery that we can produce.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 So we will be working with you.

2 MR. SINGSEN: Should we proceed?

3 CHAIRPERSON MERCADO: Yes.

4 MR. BRODERICK: I think that would be helpful.

5 Yeah. I would be very curious to know what your thoughts
6 are, you're not going to have a final report or
7 recommendation to us until sometime this fall?

8 MR. SINGSEN: That's right. Maybe September, maybe
9 October. For example, the National Support discussions in
10 collaborations have been going on quite intensely for
11 sometime and still have some decisions and some things to
12 work through before the staff can make a recommendation as
13 we'll see as we talk about it, that's the area in which the
14 greatest discussion about funding has resided and probably
15 will continue to. We don't want to be premature in our
16 recommendations. We want to make sure we've worked it
17 through.

18 On the other hand, with regard to Native American
19 fundings or supplemental field funding, the issues are pretty
20 straightforward, and while we're not going to make any
21 recommendations for action today, I daresay as it seems
22 necessary, we could have, because I think the issues are

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 pretty straightforward.

2 And we might very well have come in with a basic
3 field formula, Native Americans, supplemental field, computer
4 assisted legal research, a group of them in September for
5 discussion which involves less complex issues or in which
6 collaboration has been completed before we can finish on,
7 say, national support.

8 MR. BRODERICK: Have we taken a position in
9 testimony on Capitol Hill for fiscal 1995 on how these
10 increased funds, if they are in fact secured, will be
11 distributed?

12 CHAIRPERSON MERCADO: Yes.

13 MR. SINGSEN: The House committee chose consciously
14 not to put any formulas in, left that question up to us, and
15 there's no language. The Senate hasn't spoken to it and, of
16 course, it's irrelevant if they give us no increase.

17 MR. BRODERICK: But did the House inquire, even
18 though they haven't put anything in other than on basic
19 field? Did they inquire of us on the Hill how those
20 increases, if they are to be secured?

21 MR. SINGSEN: Yes. They did and what we proposed
22 was just what we've said now we hope we'll be able to do,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 which is that the Corporation be given the discretion to work
2 these issues through at staff and board levels and reach the
3 best judgments about the way to do it, rather than having a
4 provision in the appropriations that said how to do it.

5 MR. BRODERICK: But we didn't give them a forecast
6 as to how we thought that discretion would be exercised?

7 MR. SINGSEN: We did not. We did not.

8 MR. BRODERICK: All right.

9 MR. SINGSEN: Of course, we assured them on the
10 reasonableness of what we would do.

11 CHAIRPERSON MERCADO: Excuse me. I guess that
12 maybe that doesn't full answer his question, because we did
13 give them an amount of what we would use, whether it was for
14 clinical programs, for attorney recruitment and retention,
15 for client involvement or whatever. We did give them
16 figures. They weren't necessarily based on any formula or
17 anything, it was more a sense of what do we get done and, you
18 know, we did it 425, 450, and 475.

19 We had already done the \$500 million budget
20 request, and a lot of that actually was done just quickly,
21 very quickly from one day to the next almost, because the
22 Hill wanted that information.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And we don't want to be in a position, definitely,
2 for the remainder of the negotiations and not for next year
3 to where we're caught in that sort of a bind where we're
4 having to make decisions that may not necessarily reflect
5 what the field may feel are priorities, because they are the
6 ones out there with the client community. But that we're
7 making them on our best judgement of what is available and
8 what we can do and some of the input that the Board had
9 already had from the different panels or different
10 constituencies out there as to what they thought Legal
11 Services ought to be providing delivery of legal services to.

12 But they were not based on what I called a reasoned
13 dialogue between field and the board and our other
14 constituencies and why we ought to prioritize attorney
15 retention better than something else and what percentage of
16 any of that funding, depending on the funding, should go. I
17 mean, that is pretty much an Executive Board decision that
18 was done from one day to the next, I think.

19 MS. ROGOFF: If I can, I think that where there are
20 two issues that are being kind of discussed simultaneously.
21 One is the amount allotted to the total line, whether it's
22 recruitment and retention or one of the existing lines,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 migrant, state support, national support, where in some
2 instances we've talked of a new concept called Linkage Plus,
3 where we're trying to move to different goals and different
4 ratios between basic field and other effective lines that are
5 of a more supportive nature and the distribution within the
6 lines, that at whatever funding level we actually are awarded
7 by Congress, how does that distribution take place.

8 So those are two both important issues, but I think
9 that what we were -- so there's two different things that are
10 being talked about. One is the total line and how much was
11 being asked of Congress for the line individually, and the
12 other is, within each of the lines how it is we recommend as
13 the Legal Services field community that the Board exercise
14 its discretion in distributing those funds.

15 CHAIRPERSON MERCADO: And that's where we ran into
16 problems, because when we talked about having, you know, \$15
17 million for attorney recruitment and retention in a
18 particular category, they wanted to know specifically how is
19 it that we were going to spend their money in attorney
20 recruitment and retention. Does that mean Reggies, does that
21 mean, you know, law school combined programming and, you
22 know, we usually just sort of sit there and maybe come out

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 with some ideas or whatever.

2 But it really wasn't a discussion that had gone
3 into any extent as far as this Board was concerned in those
4 areas. Now, maybe the field had had those discussions, but
5 we didn't necessarily have access to that information. And I
6 think that that was a lot of the frustration on the Hill in
7 not knowing specifically from us, yes, that's the category of
8 money we're giving you for that category, but how are you
9 going to spend it and specifically, what are you going to do
10 with it and how is it going to help my state or my area.

11 That was a difficult response for us to give them,
12 because we really hadn't looked at those particulars and know
13 that that's how we wanted it to do, but give us the
14 discretion to run the programs the best way that can be done
15 with this amount of money. And they didn't want to hear
16 "discretion."

17 One of the many discussions that was on the Hill
18 was that they do not want to give us this money so that we
19 could just run wild and do all kinds of things with it. At
20 least, that was the presentation that was given from members
21 on the Hill and, correct me if I'm wrong, if that's not
22 pretty much their sense of it.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And so part of what we're dealing in this
2 discussion is the two-fold thing. The general bottom-line
3 distribution but also to the how we get there and how do we
4 prioritized within those areas.

5 MS. ROGOFF: And if I could make one other comment
6 along those same lines. I do think that Congress is treating
7 things in two different ways. New money that hasn't already
8 been a part of the appropriation, I think, is where they're
9 directing most of that inquiry. And you're absolutely right,
10 the issues surrounding recruitment and retention are
11 obviously things that they, not really quizzed, but grilled
12 Board members about.

13 But in the area of existing lines, I think that
14 they seem to be more inclined to give this Board the
15 discretion to decide how, within the lines, it should be
16 distributed. So, again, we're coming back to, you know, how
17 to do two things. One is where the Board and where the field
18 is encouraging Congress to give this Board new money for
19 innovation, to help stimulate the program in ways that we
20 haven't had the capacity to do before. The Reggie-type issue
21 being an example, how to help programs recruit and
22 retain competent legal staff.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 But I think within existing lines, the Congress
2 appears to be -- at least the House, so far, has inclined to
3 give this Board discretion to make decisions about the
4 distribution formulas.

5 MR. SMEGAL: Madam Chair, if I may?

6 CHAIRPERSON MERCADO: Yes, go ahead.

7 MR. SMEGAL: And maybe I'm saying the same thing,
8 maybe I'm not tuning in at the proper point here and maybe
9 this has already been said, but with respect to what I --
10 what we got under Gerry's memo of July 8th, is a series of
11 documents that go back to 1987. There's two things I would
12 like to have clarified for me. One, we had a \$43 million
13 increase as we came in and that was distributed in some way
14 to the extent that that distribution was not out of the rote
15 step that has been going on since I was first here, I'd be --
16 I'd appreciate having my memory refreshed.

17 In addition to that, though, in view of the fact
18 that the stuff in here goes back to '87, let's assume at some
19 point that we're going to get \$15 million. What -- I'd like
20 to hear, where you all are and what we do with that.
21 Alternatively, if we only get \$400 million, do we have any
22 discretion, that being the same number we had in fiscal year

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 '94, '95.

2 I'd be curious to know if we have any discretion as
3 to moving any of that money or because it has now been
4 earmarked for the past year, are we limited in doing exactly
5 the same thing with that \$400 million if we only get \$400
6 million? Anyway, maybe that's what's been said up here for
7 the last 20 minutes and I just wasn't tuning in.

8 MR. SINGSEN: I think those are two actually
9 slightly different questions.

10 CHAIRPERSON MERCADO: Yeah. They are.

11 MR. SINGSEN: In terms of the 1994 --

12 MR. SMEGAL: Good. Alzheimer's is just, you know,
13 it's just really tough. Sorry.

14 MR. SINGSEN: The 1994 appropriation came from the
15 Congress with almost no discretionary money in it.

16 MR. SMEGAL: Okay.

17 MR. SINGSEN: And with formulas for funding for
18 distribution within line items for basic field and migrant
19 and conference report distribution formulas for state support
20 and regional training centers.

21 MR. SMEGAL: So that was all lock-step?

22 MR. SINGSEN: That was all lock-step. And the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 distribution approach for Native Americans, for supplemental
2 field, for computer assisted legal research, and for national
3 support was done as lock-step. Although, technically, there
4 was a little room on the increase which there could have been
5 some discussion about changing grant money in --

6 MR. SMEGAL: So we have chose not to make those
7 changes?

8 MR. SINGSEN: Correct.

9 MR. SMEGAL: We stay in rote?

10 MR. SINGSEN: And it was pretty clearly intended
11 that the money be distributed out, although the Congress did
12 not specify that everybody got a percentage increase.

13 MR. SMEGAL: All right.

14 MR. SINGSEN: There was a \$100,000 in Board
15 initiatives, which was the major discretionary item, and you
16 had a budget of \$10.9 million for management and
17 administration, which as you know, turned out not to be quite
18 adequate given the deficit situation. So that you had almost
19 no money to look at for discretionary purposes during 1994.

20 MR. SMEGAL: And, in fact, if what we get this year
21 is \$400 million, we are in the same position then? Is that
22 fair?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SINGSEN: Very close.

2 MR. SMEGAL: Okay.

3 MR. SINGSEN: We would have to see the language
4 that with it, to make up a hypothetical would just -- not
5 something anybody has proposed. The Corporation, if there
6 were no line items in the budget of \$400 million, it would
7 have discretion to eliminate a program, law schools. We
8 could eliminate the law school program.

9 But if there are line items that say you're to
10 spend \$1.4 million out of \$400 million next year on law
11 schools, then unless you went back to the Congress and sought
12 a new appropriation, which would revise the appropriation, a
13 freedom to change from that, you'd have to spend the \$1.4
14 million on law schools. And you would have, again, only the
15 \$100,000 in board initiatives plus whatever funds hadn't been
16 expended this year as discretionary funds, plus whatever
17 money was available in the other available income category,
18 interest income and the like.

19 So you would have a small amount of discretionary
20 money, if you have a million dollars, but it wouldn't be very
21 much and you'd still be retiring the deficit. At 415, there
22 will be some rote. Let me give you these, which are simply a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 distribution showing the House committee figure at 415 and
2 where it puts the money and --

3 MR. SMEGAL: I want the record to reflect I'm not
4 some sort of shell that just asks these questions because
5 Gerry asked me to ask them.

6 MR. SINGSEN: If you look down the right hand side,
7 it shows the percentage increases going to different line
8 items and there's a considerable variation, national support
9 going up by 12 percent, basic field going up by only 2.6
10 percent, for example.

11 The distribution discussion within line items that
12 we are having this morning is about what you do with that 12
13 percent in national support, with the 8.4 percent in migrant.
14 And, obviously, at \$400 million, we wouldn't have that
15 discussion, because the increases wouldn't be there.
16 Clearly, if the Congress were to offer discretion without
17 shifting money around, you could do it, but they haven't, and
18 there will be line items.

19 The discussion next week when the committee meets
20 about the 1996 budget requests will include a discussion of
21 what a table like this ought to look like in the '96 budget
22 request, about how much money you want to seek in increases

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in different line items in '96.

2 That discussion about the '96 budget number, the
3 mark, will eventually lead to a discussion about distribution
4 within the line items in '96, but as this year also, the
5 discussion of distribution within line items will come after
6 we're much closer to knowing how much money we've got, at
7 least that's the way it has been done in the past.

8 And the discussion about next year's mark will
9 start with the question of allocating a mark between line
10 items as opposed to the distribution within line items, which
11 is today's topic about the '95 budget, which is now getting
12 closer.

13 MR. BRODERICK: May I ask a question?

14 MR. SINGSEN: Yes.

15 MR. BRODERICK: Prior to 1984, you said that the
16 Corporation had very broad discretion in distributing
17 increases. Was that true within the basic field program as
18 well? In other words, were we dealing with formulas as we're
19 now dealing with, for increases in basic field?

20 MR. SINGSEN: The process had some discretion in it
21 that's not been there since '84. But what we were telling
22 the Congress in the '70s is, "We want \$300 million, and what

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 we want to do is to expand so that there's a basic field
2 program responsible for every county in the country and
3 funded at the \$7 per poor person," or \$7.35, as inflation
4 began to be taken into account or \$7.72 what the numbers
5 changed to in '79 and '80. So that we've got this minimum
6 access to legal services in every county.

7 We did not say which programs were going to get the
8 increase in '77 or '78. We had a process for deciding where
9 to put the new money. There were, of course, basic field
10 programs around the country already covering much of the
11 country, but not at \$7. And so part of the new money went
12 for expansion, to open new areas, and part of the money went
13 for equalization.

14 And there would be a distribution between expansion
15 and equalization of the budget request. Congress, however,
16 would grant an appropriation of a flat amount without making
17 the distinctions, and the Corporation would then have to
18 decide with the amount it is given how much to expansion, how
19 much to equalization. And in that era, the Corporation was
20 using cost of living increases as a way to increase program
21 grants so that there was also a discussion each time where,
22 in the budget request, the Corporation had said, "Hey, the 11

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 percent inflation is what we're going to see in '79."

2 The increase that was sought was much less than the
3 total that was needed to do everything and so maybe only a
4 five-and-a-half percent cost of living increase was added to
5 the existing grants as part of the grant making process.

6 Those decisions will be within the discretion of
7 the Corporation and made after the Congress had set up the
8 figure. The budget request also showed amounts for national
9 support, state support and, in the end, Congress wasn't
10 appropriating by line item at that time.

11 MR. BRODERICK: With respect to basic field
12 programs, we're going to talk about the other seven items and
13 the House appropriations legislation has certain formulas
14 for the increases. But it seems to me we're talking at the
15 margins, aren't we?

16 I mean, the money is really in basic field and the
17 increases are really in basic field. Have we given up that
18 fight? I mean, why are we not -- why aren't we concerned
19 that we don't have any discretion in basic field? Why aren't
20 we pursuing that? It seems to me we're dealing at the
21 margins.

22 MR. SINGSEN: I guess there's two answers, there's

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the one on basic field is that when the Corporation put in
2 its proposals at 425, 450 and 475, in consultation with the
3 chair of this committee and the chair of the Board, the
4 decision was made that we would include in our proposals, the
5 formula for distribution in basic field which was the same as
6 the formula that the Project Advisory Group was proposing and
7 that the House committee included. So that in a way, the
8 Corporation did take a position by suggesting that formula
9 which was the 50-50 formula.

10 MR. BRODERICK: The formula that's now in existence
11 is a formula that's satisfactory to the field?

12 MR. SINGSEN: Yes, it is. If in the '95
13 Appropriation Bill in the House, that's right. And
14 satisfactory also to the management and to the chair of the
15 Board and the chair of the committee, acting on behalf of the
16 Board.

17 MR. SMEGAL: And that formula is a continuation of
18 the formula that's been there?

19 MR. SINGSEN: It's actually a slight modification.
20 Each year has been different, and 50-50 is not what was done
21 last year.

22 MR. SMEGAL: All right.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. ROGOFF: This is one of those things that the
2 Funding Criteria Committee devotes an incredible amount of
3 time and energy to -- tries to bring together all elements of
4 the community. And, of course, after the '90 census, we had
5 gone from a point where almost all programs were funded at an
6 equal floor to a situation where the range had been
7 completely skewed, where based on whether an area had gained
8 or lost population either their dollar per poor person had
9 gone up or down.

10 So you were now taking the same grant size and
11 dividing by an entirely new number of potential clients in
12 the service area. My program went from having 135,000
13 eligible low-income people in the service area in the '80
14 census to having over 190,000, which was over a 40 percent
15 increase in the eligible population.

16 And so what the PAG community has tried to do, is
17 return to equalization, recognizing that no program has
18 enough money to do the job and so we don't want to start
19 hacking away at programs and destroying programs that are
20 delivering important services, even if their population had
21 increased and may have even slightly decreased. But they
22 still were not even at minimum access, which is a concept

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that we had used over the years to help adjust for inflation,
2 and it's described what our goals for funding were.

3 And so this is really going -- you have inherited a
4 formula that has worked itself through field community and
5 each year has been refined, where we have, for example, moved
6 away from COLAs, which have a disequalizing effect, to this
7 more neutral concept of dollars per poor person which
8 corresponds to the actual client base as opposed to COLAs
9 which are automatically, you know -- the more money you have,
10 if you have a COLA, the more money you can get, and have
11 tried to recognize that programs at all funding levels,
12 whether they gained or lost population still need to have
13 some new dollars periodically in order to stay viable and
14 because our communities exist not just on LSC dollars, but
15 the effect of IOLTA, I'm sure you're all familiar with.

16 Look what's happened in the last couple of years
17 with IOLTA and interest rates. And so formulas are trying to
18 hold our community together and move as quickly as we can
19 towards the principle we have of equalization. And we
20 thought this formula was moving us in that direction.

21 MR. BRODERICK: Thank you.

22 MR. SINGSEN: So in response to Mr. Broderick's

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 question, do you have the June 10 memo from last month's
2 meeting here by any chance?

3 MR. BRODERICK: I don't know. It's not in your --
4 not in this book?

5 MR. SINGSEN: No. That's the July. Tom, maybe you
6 could grab one from that pile for John.

7 MR. BRODERICK: Thank you.

8 MR. SINGSEN: Attachment 1 to that material is the
9 Corporation's submission to the House at 425, 450 and 475,
10 and it includes the language that we had included in our
11 proposals for the distribution formulas and a cover letter
12 from President Forger that sent it over. So that's
13 Attachment 1 there, if you want to look further at that.

14 MR. BRODERICK: Okay. Thank you.

15 MR. SMEGAL: Regina, is it an oversimplification to
16 say that the 50-50, in effect, is 50 percent distribution on
17 the 1980 census, a continuation of that, and 50 percent
18 distribution on the 1990 census, is that valid?

19 MS. ROGOFF: Yes. That's an oversimplification. I
20 don't think that's really true.

21 MR. SMEGAL: Okay.

22 MR. SINGSEN: We've done, just with the increases

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 in '93 and '94, a long way towards the equalization goal. I
2 think we're in like 96-and-a-half percent of all the basic
3 field money is distributed to the programs at the \$9.68
4 level. Only three-and-a-half percent of all our basic field
5 money is being used for funding that's above \$9.68.

6 So the move towards the goal of equalization, the
7 98 percent, while it takes a fair amount of money to get
8 those last legs up to 98 percent, is nevertheless -- it's a
9 very close thing in terms of having money distributed the way
10 the Congress, in prior years and I think certainly the field
11 all along, has thought we should be. So the 98 -- the '90
12 census is very much driving our distribution at this point.

13 MS. ROGOFF: And I think it's important for us to
14 convey to you the fact that the field, two of the basic field
15 programs haven't said all the money needs to go to basic
16 field. We've taken a bigger picture approach, I think,
17 recognizing that the field relies on the support community
18 and that the support community is further behind in the goals
19 that we have established for what is the short-term
20 relationship we'd like to have, which is basically that --
21 that the support entities of national support and state
22 support, in particular, should be at 4 percent of the field

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 funding in order for them to have enough critical mass to
2 service the field.

3 If a support unit has only one or two people or --
4 and it's trying to help 300 programs around the country on
5 some important area of a poverty law, it doesn't have the
6 critical mass to really be effective. And so what we have
7 done is say don't -- even in this year where we're trying to
8 preach equalization, give all the new money, if there is to
9 be any new money, to basic field. But make sure that the
10 other components of the delivery system receive enough money
11 to be able to move towards their goals also of adequately
12 servicing the field.

13 MR. SMEGAL: You're saying 4 percent each for
14 national and state?

15 MS. ROGOFF: Yes.

16 MR. SMEGAL: So in full eight. You're talking 8
17 percent, is what you're talking, right?

18 MS. ROGOFF: Cumulatively, yes.

19 MR. SINGSEN: 108 percent, if you will, is the
20 target.

21 MR. SMEGAL: Okay.

22 MR. SINGSEN: For the basic field and for the total

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 field is 100 and the two support systems another 8 percent.

2 MR. SMEGAL: Thank you.

3 CHAIRPERSON MERCADO: Go ahead.

4 MR. SINGSEN: We might want to start on looking at
5 specifics with the Native American programs, because while
6 they are different, each of these lines is different than
7 basic field, they present a fairly straightforward discussion
8 to begin thinking about what we're doing when we distribute
9 funds.

10 The Native American program grants as they
11 currently are, are Appendix 3 to the July Committee Meeting
12 Book, and so you might want to turn and just take a quick
13 look at that.

14 MR. SMEGAL: Are the Native American counts based
15 upon Native Americans or Native Americans at the --

16 MR. SINGSEN: There are no Native American counts.
17 That's the first place of difference. The Native American
18 programs serve populations on and near reservations,
19 particular tribal populations for the most part and sometimes
20 several tribes. And if you look at the list of funding, you
21 will probably be surprised to discover, for example, a very
22 small grants in areas like Connecticut and Maine as well of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 course as the huge grant to the Navajo reservation in Arizona
2 and New Mexico.

3 MR. SMEGAL: What's the grant to the Nett Lake
4 Indians in northern Minnesota?

5 MR. SINGSEN: I don't know the grant to a
6 particular tribe.

7 MR. SMEGAL: What's Minnesota?

8 MS. ROGOFF: I'm looking.

9 MR. SINGSEN: I'm looking, too. Is Onishanabi
10 Minnesota?

11 MS. ROGOFF: Yes.

12 MR. SINGSEN: The Onishanabi program has \$247,000.

13 MR. SMEGAL: My question is one of curiosity. I go
14 to northern Minnesota where I grew up, and there is an
15 industry up there now, not just in northern Minnesota, but
16 throughout Minnesota, that's tied in as it is across the
17 country with some interesting gambling facilities.

18 And there's a lot of money flowing into those
19 indian tribes from those of us who go and contribute.

20 MR. SINGSEN: And the answer is --

21 MR. SMEGAL: How do we factor that in?

22 MR. SINGSEN: So far, we haven't. It's a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 relatively recent phenomenon. A somewhat less recent
2 phenomenon is the oil money in Oklahoma.

3 MR. SMEGAL: Sure.

4 MR. SINGSEN: But there are a great many Native
5 Americans in Oklahoma who are poor and the service, the
6 eligibility level question, which is of course determined of
7 intake for each applicant for services to a Native American
8 program just as it is to a basic field program, is something
9 that has to be met before services are provided.

10 So that somebody who is a distributee of casino
11 profits or oil lands is not going to show up in our offices
12 and be eligible for services. On the other hand, a great
13 many Native Americans are neither the recipients of casino
14 money nor oil money and are coming into our offices and are
15 coming into our offices in large numbers.

16 MR. SMEGAL: And we do have that kind of data
17 demonstrating what our offices are servicing with respect to
18 those who are eligible?

19 MR. SINGSEN: We do have eligibility in a number of
20 cases and total kinds of cases, all of the normal measures.
21 And, of course, we monitor the programs. We receive
22 applications for funding. We look at data about what they've

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 been doing. We examine their case loads and we're moving
2 toward a much greater in order to pay attention to their
3 performance. So we --

4 MR. SMEGAL: If we look at the amount of service
5 being provided by a basic field program in terms of eligible
6 persons being serviced and applied those numbers to the
7 eligible persons being serviced in the Native American
8 programs, can we then extrapolate as to what the Native
9 American programs should be getting by way of relative
10 funding? I mean, is that some way to go? Gerry, you say we
11 don't have any counts, but can we get there that way?

12 MR. SINGSEN: Let me back up a step --

13 MR. SMEGAL: Or maybe we have gotten there that
14 way.

15 MR. SINGSEN: -- to say a couple of things that
16 take us in that direction. First, I say we don't have any
17 counts. What I meant to say is, we aren't funding programs
18 on the basis of any counts.

19 MR. SMEGAL: Yes. I understand that.

20 MR. SINGSEN: There are census counts of tribal
21 members, of Native Americans living on and near reservations,
22 there are very substantial disputes about the validity of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 those counts. There was huge increase in self-identified
2 Native Americans in the '90 census compared to the '80
3 census, not at all birth-based, clearly having to do with the
4 choice of people counted in the census to indicate their
5 heritage.

6 And we have not -- the Corporation has not, and
7 this goes right back to the '70s, established a way to use a
8 count and have the kind of a distributional approach that
9 we've got for Native -- for basic field or migrants in the
10 Native American population.

11 Now, there's an inquiry about that going on.
12 Native American programs are thinking about it and trying to
13 figure it out. I think the Corporation is very likely to
14 examine that question in the '90s in a way that hasn't been
15 examined since the late '70s. There was a crude population
16 base in the '70s for the purposes of establishing new
17 programs and doing expansion. And, indeed, there was a
18 different funding approach for new Native American program
19 services in '77 and '76, and maybe '78 and then it changed,
20 than was used in basic field.

21 One of the things the corporation did back in the
22 late '70s was to examine the special access problems of a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 variety of populations that were subjects of Legal Services
2 programs service and the problems of access in the special
3 legal problems, both got looked at. And so I've got here in
4 front of me the report of what's called the 10-07H Study.
5 And the 10-07H Study looked at the special legal problems and
6 access problems of limited English-speaking people, of
7 migrant and seasonal farm workers, of rural poor, of
8 veterans, of Native Americans, of the elderly, and of the
9 handicapped. And these are the reports on those issues.

10 MR. SMEGAL: Those are dated when?

11 MR. SINGSEN: This is -- actually it's a document
12 accepted by the Board in 1980 and the database is '78 and
13 '79.

14 MR. SMEGAL: Okay.

15 MR. SINGSEN: What they showed, which is no
16 surprise, is that in each of these populations, there were
17 immense special legal problems.

18 Native Americans, for example, have a completely
19 separate tribal jurisdiction, a separate set of courts, a
20 separate dispute resolution process, advocates who are
21 licensed in other ways than by the state bar, and a set of
22 legal issues which are unique tribe by tribe. Each tribe has

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 its own legal system and its separate jurisdiction outside of
2 the United States Government.

3 And our programs have to provide legal services
4 that take that into account. This is quite complicated.
5 Indeed, some of the interjurisdictional issues between the
6 United States Government and tribal government get messed up
7 in the kind of representation approaches. Other than Native
8 American tribes, of course, we don't have those issues in our
9 other programs. The question for funding is whether you pay
10 attention to those kinds of special issues in determining how
11 to fund a program.

12 If you think about our basic field funding for a
13 minute, remember how we fund, we fund at \$9.68 per poor
14 person. Where are all the legal needs in that funding
15 formula?

16 Well, they're subsumed in the count. We
17 essentially say a person equals a bundle of needs and we
18 amass the people and use that as the proxy, instead of
19 looking at the needs. The \$9.68 funds judicare delivery
20 systems, pro bono service delivery systems, staff attorney
21 systems, staff attorney systems using experienced lawyers,
22 staff attorney systems using outreach, a huge variety.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And we take no account in our funding of basic
2 field in the choice of delivery system or the specific cost
3 characteristic of the delivery system. Obviously, we could
4 have a funding formula but it would be incredibly
5 complicated, it would require a great deal of data.

6 Now, Native American programs have unique service
7 characteristics, access problems unlike those, except,
8 perhaps, in rural areas, because of course most tribes are in
9 rural areas, and legal problems unlike anybody else's. How
10 do we take those things into account?

11 Well, the answer is, we don't. We do not have at
12 this point a funding formula that addresses those special
13 characteristics, either of access or of legal problems.
14 Instead, we've got a historical base of funding roughly based
15 on an old count, but not in a count that we trust or use, and
16 then we increase the funding by a percentage each year.

17 Clearly, if we want to be more intentional in our
18 funding, we need to learn more and we need to think about
19 whether that's the right way to fund Native American programs
20 in the future, assuming that we have increases in funds to
21 distribute, whether there would be a better way.

22 But right now, neither the Corporation nor the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Native American programs are in a position to propose a more
2 sensible approach in continuing, essentially, a tribal
3 jurisdiction base funding system that's roughly proportional,
4 but not accurately proportional, to the presence of large
5 numbers of low-income Native Americans.

6 MR. SMEGAL: So we're not going to have a
7 presentation on doing something differently?

8 MR. SINGSEN: Not this year. The Native American
9 programs are working on how they might encourage the
10 Corporation to approach this issue with more intelligence and
11 information than the current system.

12 MR. SMEGAL: And will that be Mary or somebody
13 making that presentation?

14 MR. SINGSEN: Certainly, she'll be part of that
15 discussion. But the Corporation needs to have its own
16 ability to think about these questions developed and put into
17 play, and right now it isn't. And so with this line item, in
18 all likelihood, we'll be talking in 1995 about a distribution
19 approach which is, again, based on historical funding, not on
20 a specially thought-through characteristics and, certainly,
21 not based on the distinctions between the special legal
22 problems of the Navajo and of the Onishanabi.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: You know, one of the things
2 that I want to look at while we're looking at other client
3 involvement, community training, if part of the traditional
4 tribal advocacy deals with sort of ADR-type processes within
5 tribal law, that we should have, maybe, look at some of that
6 client community be covering training or advocacy, do some of
7 the ADR, you know, rather than having the one on one ratio
8 between, you know, a paralegal and staff attorney because of
9 that need.

10 I mean, in order to be able to service more people
11 within that category, I know we've talked about in general as
12 far as client involvement, is that, we, being one of the
13 pieces within client involvement and there was a piece that
14 was pretty much accepted by everyone on the Hill as far as
15 making clients more self-sufficient in a variety of ways so
16 they are able to do that through administrative proceedings
17 or just simple formatting.

18 I mean, I'm sure that they, even within a tribal
19 court system, you know, have problems whether it's food
20 stamps or AFDC or whatever, that a lot of the client
21 community at least some of them that could be trained to do
22 that to expand a broader base of people that we can assist

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 within that system.

2 So I would want to incorporate that client
3 involvement piece in there somehow to deal with that
4 particular issue with them. And I mean, that's just a
5 recommendation, because obviously, we haven't had a full
6 board discussion, but I was just looking at different ways
7 and how we can expand the level of services that we're able
8 to provide within the limited funds that we have as well.

9 MR. SINGSEN: I've actually made a note that the
10 question about casino profits leads to the question about
11 funding strategies for Native American programs, which I
12 haven't thought about before. And that probably we ought to
13 be encouraging along with the many other approaches that the
14 fundraising project, which is going to be talked about, I
15 guess, tomorrow, are trying to help programs pursue.

16 We may even hear tomorrow that the casino profits
17 are on the list of fundraising strategies that the
18 fundraising project is pursuing.

19 MS. ROGOFF: Bingo certainly has been.

20 MR. SINGSEN: Perhaps the second line that it would
21 be easy to move to is the supplemental field line. You'll
22 find the supplemental field materials as Appendix No. 4 in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 the July materials. This is the list that we talked about
2 briefly last night, the survivors from the demonstration
3 project.

4 CHAIRPERSON MERCADO: And, Ms. Rogoff, you would be
5 interested to note that there were no Southwest programs
6 under the judicare programs the judicare program. And I
7 thought, well, you know, we have such special populations in
8 that area, why don't we have some in here.

9 But in any event, he did explain all the different
10 priorities in its funding, but it's -- and I know that PAG
11 tries to do this, but we need to sort of -- in when we look
12 at prioritizing the funding, we need to look at making sure
13 that, in as much as we can, have the diversity of covering
14 different regions and different access issues that, you know,
15 different regions would have versus another region, whether
16 it's rural or urban, whether it's monolingual, bilingual,
17 tribal, I mean, just a variety of factors to be able to look
18 at the delivery systems and how best to deal with them in
19 those areas.

20 And it was just a particular note, because there
21 weren't -- there was nothing other than that one California
22 one, there wasn't a Southwest.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. ROGOFF: Yes. And if I can take a liberty to
2 comment on that. If you look at the last page of the
3 materials in this section, it shows you how the locations and
4 the funding levels -- this is a relatively small line item
5 within the total budget. And the position that PAG has taken
6 is through the delivery working group to look and see whether
7 this model -- how this model fits in and possibly make the
8 recommendation about whether or not it should be retained.
9 These programs are not considered when the funding for the
10 local programs are counted. So they're not included in that
11 funding base.

12 And one of the things I think is a lesson to be
13 learned from this, these are all programs that I'm sure are
14 doing excellent work and you know, again, as we said earlier,
15 no area is adequately funded to meet the needs, but as you
16 pointed out, none are in the Southwest and many are in areas
17 that not only didn't increase in population but lost
18 population. There is a great desire to have flexibility and
19 discretion and it's a field that somehow formulas are -- can
20 be seen as very arbitrary.

21 The advantage of formulas is that we don't get
22 into, what happened in this situation, where experimental

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 programs get locked in and then are -- have a self-sustaining
2 quality that once it's in the budget it's very hard for
3 something to ever come out. And the formulas tend to be more
4 equalizing and, of course, from the PAG perspective, we are
5 looking at the delivery system, not making any
6 recommendations about any individual line, right now.

7 And this is a line that continues to provide
8 services to clients. But I use this just as a way of
9 commenting on the downside of discretion, sometimes.

10 CHAIRPERSON MERCADO: Well and, again, I think that
11 because part of the emphasis of these particular programs was
12 to look at the different delivery systems for the different
13 target groups that, again, I think that in the Southwest, you
14 do have sort of a different factoring and a lot of it deals
15 with language, accessibility, and rural issues as well. And
16 I just thought it was interesting it didn't have them. Plus,
17 also, a lot of Native Americans live as well in the
18 Southwest.

19 MR. SINGSEN: Now, just to put a little more
20 context in this, just to understand the distribution question
21 and how it comes up. At first from the table I handed out a
22 few minutes ago, you'll note that the entire amount of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 distribution that we're talking about in 1995 is \$31,000.

2 So, that how to distribute \$31,000 among 10
3 grantees is not a major policy issue this year, assuming we
4 get the \$31,000, but let's assume we do.

5 Regina is correct in describing this as a
6 disequalizing consequence, but the other way to see it is
7 that this is the historical demonstration of learning by a
8 Board that experimented with discretionary fashion in the
9 '70s. These are the best of the demonstration programs, the
10 ones that showed they were cost-effective, that they produced
11 quality work, that were the models for effective ways to use
12 private lawyers in delivery.

13 And that Board thought these were such excellent
14 programs, that's what you'll find in the record of the
15 discussion of these grants, that it would simply be shame to
16 lose them, and it wasn't tenable to say to the local program,
17 "You must take \$100,000 of your funding away, let two lawyers
18 go in order to fund these great programs."

19 And so they definitely created a disequalizing
20 group of programs and some of them in areas with relatively
21 high funding already, like Boston and San Francisco and
22 Washington, D.C. But they kept them because of their

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 excellence. So that it's a lesson of another kind as well.
2 As you experiment in client involvement, you may decide that
3 something works very well.

4 If it should happen to be in the shape of a special
5 program, you'll face the same concern; what do you do once
6 you decide something really works if it's not something you
7 simply get every program in the country to do? It may not be
8 that way with client involvement at all, my guess is it
9 isn't. Nonetheless, that's where these come from.

10 For funding purposes, of course, they are very
11 simple. They've gotten cost of living, got the percentage
12 increases, and I cannot imagine another recommendation this
13 year, because there is simply no basis for any other kind of
14 change. If we were looking at a 50 percent increase in
15 funding, we would have a very different sort of discussion.

16 It's really, though, a discussion about the
17 allocation among line items as opposed to the distribution
18 within line items, almost certainly.

19 Are there questions about supplemental field or
20 should we go on to another line?

21 CHAIRPERSON MERCADO: No. Go ahead and go on to
22 another line.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SINGSEN: Okay. The third in these is the
2 computer assisted research line, I think, which is Appendix
3 8. Very like, if you will, the supplemental field programs,
4 except that these come from an innovation rather than from
5 demonstration projects, were put in place to provide a
6 specialized kind of service to a group of programs, are
7 funded at a level that is supposed to allow a basic amount of
8 operations in each of the programs that has the grant taken
9 in -- taken search queries or providing research information
10 through Lexxus, Westlaw, and they have continued to function
11 in that fashion, over the years.

12 By this time 10 years after, 12 years after
13 starting this group of grants, there is a serious substantive
14 question about whether this will continue in the future to be
15 the most efficient way to provide access to computer research
16 as opposed to more localized direct access for programs.

17 So that, again, we're dealing with a relatively
18 small amount of money, \$4,000 in 1995, so that the
19 distributional issue is not the issue that matters here. On
20 distribution, we'll undoubtedly propose just to do it across
21 the board.

22 But the substantive question which would probably

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 be a question for 1996 in terms of where we're headed in the
2 support effort with computer assisted legal research and
3 what's the best way to get computer assisted research in the
4 programs and help programs with access that tool, that's a
5 discussion about this line item as opposed to about
6 distribution within it.

7 CHAIRPERSON MERCADO: Well, in one of the things
8 that, I think at some point and hopefully sooner than later,
9 that both the Board and the field need to have discussions
10 about is how do we make the libraries that we have not only
11 more accessible in -- I mean, with all the advent of
12 computerization, whether it's CD-ROMs where you can have your
13 library on CD-ROM, you know, saving not only building space
14 but book costs over the years.

15 Those are some things that I'd be interested in us
16 looking at how we could be more effective, have it at our
17 fingertips, a lot of the most up to date law or about
18 advocacy for our clients, and at the same time, maybe,
19 reducing some of the costs in other areas. And I think
20 eventually that's something we ought to look at. Maybe the
21 up-front cost maybe higher, but I think in the long run,
22 you'd probably be best served, you know, by having that type

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 of legal research available to our lawyers regardless of
2 whether they're in a rural area or in an urban area.

3 MR. SINGSEN: And indeed, a group of people and
4 programs that are specially expert on technological
5 approaches has offered to the Corporation a proposal for how
6 we might think through the questions of CD-ROM for the
7 clearinghouse, CD-ROM for federal and state libraries, CD-ROM
8 for special research materials. There is already HandsNet in
9 place, most programs participating. Its capacity could be
10 increased. So the inquiry on technology is very much on the
11 table. Of course, the money is not on the table, \$4,000
12 won't get us very far.

13 CHAIRPERSON MERCADO: No. I know that and these --
14 I mean, we didn't even -- even though it's something that I
15 know we've discussed with some of the programs in the field,
16 it was not a discussion point that we had on the Hill.

17 And I wish that we could have had, because I think
18 that those are the kinds -- some of the things that perhaps
19 some of the Congressional folks may have wanted to hear about
20 how we can make the advocacy that we do much better for our
21 clients, our ability to access information quickly, whether
22 you're in a rural area or in an area that has no law schools

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 or county law libraries are available to you to do that
2 research, able to have access to a CD-ROM or HandsNet or
3 something to this effect, to make us effective advocates,
4 because I have just sort of a broad overview of it, not a lot
5 of the particulars of what the cost would be or not.

6 Although, in my mind, I think that would be the
7 best way for us to make it easier.

8 CHAIRPERSON MERCADO: But in any event, I think
9 that those are some of the areas where some extension as far
10 as whether our state support centers do that, whether our
11 regional training centers do that. Just show you a variety
12 of models. Because you've got state laws and then you've got
13 federal laws, and who handles what.

14 Some of those discussions on how can we best
15 provide advocacy for our people in the field. And that those
16 are some of the things that are legitimate, and that are
17 legitimate requests of expenditures that I think we can
18 justify, knowing that at the fund end, it's going to be a
19 greater number amount of dollars, but, I think, in the long
20 run, would serve us well.

21 So at some point, I want, I guess, some kind of
22 discussions on what some of those costs are. And I do know

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that some of the programs are doing some of that, but very
2 few of them. I mean, most of them don't even have up-to-date
3 computers to even do their day-to-day legal work, much less,
4 discussing the CD ROM library or Handsnet or having data
5 banks or pleadings that you can just access through the
6 computer on a statewide network of through programs or
7 whatever.

8 But those are some of the things that -- I would
9 like us to look at some figures, so that when we do go up to
10 the Hill, we can talk about some substantive areas that need
11 a lot of help and a lot of updating to make us more effective
12 and to allow us to do a greater amount of work.

13 MR. SINGSEN: We certainly, in the staff, share
14 your interest in ways to pursue this. And, as I say, there's
15 already some work going on for that.

16 The next line item I think we should talk about is
17 the migrant line item. And it's more complicated than the
18 first three because it has a population count; it has
19 unequalized programs; and it's got some issues about emphasis
20 and where we're headed in the funding, which we haven't had
21 to deal with in talking about Native Americans and
22 supplemental field and computer assisted legal research.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 The table of funding levels for migrants is
2 Attachment 4 to the June memorandum. If you take a look at
3 that for a minute; that's really where we should start the
4 discussion.

5 Now, Ms. Fairbanks-Williams, do you have the June
6 memo by any chance with you? Can you give me a copy of it?

7 MS. WILLIAMS: Yeah. We have some back here.

8 MR. SMEGAL: I'm selling these. These are very
9 expensive.

10 MR. SINGSEN: Priceless object.

11 If you look at this for a moment, the middle column
12 is called the "1994 Migrant Annualized Level." And that is
13 the actual grant levels for the programs listed on the left.
14 But the column I want you to look at is the "Migrant Per
15 Capita Level," which is the column to the left of the grant
16 levels, and you'll see that the floor in migrant components
17 in programs is \$5.62 per poor person.

18 Now, we have to stop for a minute and say, "Per
19 poor person?" Because, of course, there's a count problem
20 with migrants, which is, they don't stay in one place during
21 the course of the year.

22 And during the '70s, the Corporation had a count

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 based on a study by a man named Lillisant. Currently, the
2 Corporation has count based on a study conducted by the
3 Thomas River Migrant Center.

4 MS. ROGOFF: The count is the Migrant Atlas. The
5 distribution is the --

6 MR. SINGSEN: Is the Migrant Atlas. I'm sorry.

7 And the count which takes account of the fact that
8 people are in the jurisdictions of these programs for less
9 than the whole year, is the population based on 1,661,000,
10 which you see in the first column of numbers, and is the
11 distribution -- it's on a percentage allocation base -- of a
12 total population of 1.6 million, which has been determined to
13 be the appropriate funding target population for thinking
14 about the distribution of funds to migrant programs.

15 MR. SMEGAL: I'm only slightly confused.

16 MR. SINGSEN: I'm more than slightly confused
17 myself.

18 MR. SMEGAL: In the middle of the first page of
19 Attachment 4, there's a total of the first 10 or 11 programs.

20 MR. SINGSEN: Correct.

21 MR. SMEGAL: And that's where the \$5.62 comes in.
22 The programs beyond that all have higher migrant per capita

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 funding. What is the distinction we're making here?

2 MR. SINGSEN: Because the number \$5.62 in the total
3 there is simply the addition of all the programs that are at
4 \$5.62 and are listed above that total.

5 MR. SMEGAL: So you've taken the programs that are
6 at what has been computed to be \$5.62, and you put them above
7 the line?

8 MR. SINGSEN: I think that's a confusion in the way
9 this table's presented. The right-hand side of this table is
10 prepared for the purposes of looking at the specific
11 increases in funding and how much they could get the floor up
12 to. And so that line that you're looking at is an
13 accumulation of the 10 or so lines above it, for the purposes
14 of trying to figure out how much money we've got at the
15 floor, and how much it would cost to raise the floor funding
16 level above \$5.62.

17 But what we've got is New Hampshire Legal
18 Assistance with a migrant program funded at \$5.62 receiving
19 \$8,171; Legal Services Corporation of Iowa getting a grant of
20 \$30,997 at \$5.62 per poor person. And if you add all of
21 those numbers down to the total, they add up to the \$4.1
22 million.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Okay. I understand.

2 MR. SINGSEN: And then, starting from there,
3 Neighborhood Legal Services in South Carolina is at \$5.66 per
4 poor person. It's above the floor. So its grant of
5 \$163,000, if you divided it by the people that it serves, the
6 28,891 --

7 MR. SMEGAL: No, I understand the math. I was just
8 curious as to --

9 MR. SINGSEN: Why it was there. It's there for
10 calculation purposes, to be able to think about the effect of
11 another \$10,000 or \$100,000 on the floor.

12 MR. SMEGAL: And is the effect that that's -- 2, 4,
13 6, 8, 10, 11 -- these programs have -- it's been determined
14 what their population in terms of migrant was, and that's
15 been multiplied by 5.62, and you get the dollar amount?

16 MR. SINGSEN: You're reversed. The dollar amount
17 came first.

18 MR. SMEGAL: Okay. So then you had to go out and
19 find the count that matched up to give you \$5.62 to put it in
20 this column?

21 MR. SINGSEN: What we did was we took the actual
22 grant they have. When we had the Thomas Rivera Center study,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 it gave us the count that they were serving with that grant.
2 And division told us the level at which they were funded.

3 The funding level was an accident. It was not
4 based on this count. It was based on the earlier count.

5 MR. SMEGAL: But I'm amazed to see that 11 programs
6 came out exactly at \$5.62 on that arbitrary process.

7 MR. SINGSEN: Oh, I'm sorry. Because we had been
8 given increases in the last couple of years, these programs
9 were funded at lower than \$5.62. And they've only been
10 raised --

11 MR. SMEGAL: So they got there. Okay. They got
12 the \$5.62. This is the floor.

13 MR. SINGSEN: That's right.

14 MR. SMEGAL: All right. I understand. Thank you.

15 MR. SINGSEN: Now, as you can see, going down the
16 page, many migrant programs are funded at considerably higher
17 levels than the floor.

18 CHAIRPERSON MERCADO: Now, what are we saying is
19 the floor for basic field?

20 MR. SINGSEN: I have \$9.68. And in the migrant
21 line in the House bill, there's an increase of \$1,071,000.
22 If we were to simply use it all to raise the floor, to give

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 it to the programs that are lowest funded, to raise them up,
2 it would get the new floor up to \$6.60 or thereabouts.
3 Because, as you can see from that calculator on the right, it
4 would take \$853,000 simply to bring the floor up to \$6.43.

5 So equalizing the migrant programs to a higher
6 floor uses money quickly. Those numbers down the right tell
7 you what's necessary if you simply are adding them to the
8 floor, to reach higher levels.

9 The distribution question, however, raises for us
10 -- one other thing I need to say.

11 You remember in the linkage plus discussions we
12 talked about the need for putting more funding into migrant
13 programs because they've been held back. Well, you're now
14 looking at one evidence of how they've been held back.

15 These low levels reflect, in part, the fact that
16 migrant programs have not been the programs most favored in
17 the congressional end of appropriation process. Instead, in
18 the '80s, they were the subject of very, very harsh attacks
19 throughout the period. Attacks which this Corporation did
20 not always choose to resist.

21 CHAIRPERSON MERCADO: Now is the ultimate goal at
22 some point in time to have all programs, regardless of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 whether they're basic field or migrant or Native American,
2 whatever, be at the same floor level?

3 MR. SINGSEN: It could be, but that is not yet the
4 policy of the Corporation. The basic field programs, there
5 has been a decision in the past to go for equalization and to
6 go for minimum access, which was a target, as you know, of
7 over \$20.00 per poor person.

8 The Project Advisory Group proposes that migrant
9 programs be brought to a level that is equalized with basic
10 field, and that that be done through the linkage plus
11 process.

12 Clearly, it's got to go a lot further as a
13 percentage increase than basic field does, to catch up with
14 basic field. That's what that chart that we've looked at
15 before is about. But the Corporation does not have an
16 affirmative policy about its own goals for migrant funding,
17 for minimum access, or equalized dollars per poor.

18 And going back for a moment to our earlier
19 discussion, remember that migrants are another group of
20 clients that were talked about in 10-07H study. There again,
21 there are, of course, unique delivery problems, of access.
22 There are unique legal problems.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And even if we did say that we wanted to get to the
2 same floor level for migrant as for basic field, we still
3 would be paying no particularized attention to the
4 distinctions, the special legal problems, and the unique
5 access problems of migrants.

6 And part of the long-term discussion is whether
7 formulas that are treating all people the same in terms of
8 their needs, by just counting them, are the way that we want,
9 in the long run, to be thinking about the service that we're
10 trying to provide.

11 It has clearly been, in the past, the best the
12 Corporation thought it could do.

13 CHAIRPERSON MERCADO: Now, I don't want to divert
14 too much from this, but I still want to make sure to note it
15 before I forget. The 10-07H study was done -- what -- almost
16 20 years ago or 18 years ago?

17 MR. SINGSEN: Certainly, 15, yeah.

18 CHAIRPERSON MERCADO: Fifteen years ago. Is there
19 any discussion in the field about whether or not there should
20 be maybe an updated study, the special delivery problems that
21 there may or may not be.

22 I mean, there's been a lot of factors that have

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 come into play within the last 15 years in our client
2 populations that might be looked at that would affect the
3 manner in which we prioritize funding: whether, in effect, a
4 particular group, because they do have greater problems to
5 access, or because you might have more urbanization in
6 different areas.

7 Those are different factors that we want to look
8 at. Or where there's homelessness. Just a variety of
9 different issues that maybe were not issues that were
10 considered when the study was done 15 or 20 years ago. And
11 is it time for us to update that? Being more current. What
12 those needs are and those special problems are. This was for
13 the elder and the institutionalized.

14 MR. SINGSEN: The delivery working groups subgroups
15 include examinations of the characteristics of service in
16 each of these lines. But I can't tell you that there's any
17 systematic proposal that I'm aware of for a new version of
18 10-07H at this moment. Clearly, it is 15 years.

19 There has been, of course, some work on some of
20 these issues over those years. The migrant programs
21 themselves and others have paid attention to the evolution of
22 migrant legal needs. It's not a static situation either

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 among migrants or among their providers.

2 But so far, there's been no proposal for a
3 systematic examination or a systematic review of these
4 different distribution approaches to the special population.

5 And as you have pointed out, there are quite a few
6 special populations that don't have special funding lines.
7 And I'm sure -- I've actually heard this discussion enough to
8 be very sure -- that from the ones that we've named to the
9 urban impacted segregated black communities in the Northeast,
10 or Hispanic communities in the Southwest, that there are
11 special legal needs and even special access problems in those
12 communities as well.

13 So the discussion of how to pay attention to
14 particular needs and particular groups of clients can be both
15 very complicated, and perhaps, very important to the Board.

16 CHAIRPERSON MERCADO: I want to note that one of
17 the key things that I have been told, in particular, in a lot
18 of the urban areas is that it has become very difficult for
19 client community to have to come into one downtown office
20 where there are no neighborhood, if you will, offices for a
21 lot of the client population because of gentrification or
22 urbanization or what have you, have no access to low-income

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 housing where they live, and so they live much further away.
2 And by public transportation and just their own
3 transportation, it's difficult to get downtown.

4 And I know, in particular, in Chicago and some of
5 the L.A. area I've had those particularly brought to my
6 attention. While I was in the Houston are and San Antonio.
7 And all I could state is that we should look into those
8 access issues.

9 I do know that in a lot of areas, especially rural
10 areas, a lot of those offices in the rural areas were closed
11 down. And whether it's circuit riding or phone-in intake --
12 has taken the place of actual one-to-one representation of
13 people. And so those are additional access issues that we
14 need to deal with.

15 So, again, in looking at how those particular
16 problems affect different client communities -- and I'm not
17 sure whether it's just an ongoing study of the delivery
18 system or whether it requires a new 10-07H study -- we have
19 to, again, in looking at how we justify the kind of funding
20 that we need to even meet minimum access, that we have to
21 paint a very real picture of the problems that our client
22 community has in access to legal services.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. ROGOFF: If I can just comment on that, Ms.
2 Mercado. I think everybody in the field shares the concern
3 about the emerging issues and unmet needs that exist. And as
4 I said, even programs that are higher funded still are
5 turning away people. There is no program yet that has the
6 capability to meet all the needs in that service area.

7 What I think this leads to, in a way, is the next
8 agenda item and discussion of the mark. And, unfortunately,
9 what we have is the conflict that you already pointed out
10 between the political reality of what Congress is asking us
11 and what Congress is willing to do in this area on behalf of
12 poor people, and the reality of what needs to be done in
13 order to achieve even the minimum access goal.

14 I always wonder, how do I explain to people what
15 the PAG mark is, and I think that, well, you do a better job
16 than I can because you're very good at homing in on all of
17 those.

18 Sometimes I think that those of us in the field
19 start taking for granted the fact, well, yeah, you can't
20 operate a program and keep open small offices throughout
21 urban areas. It's just not economically feasible.

22 We become managers, in a way, our own bureaucrats

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 rather than, as you said, looking at how that impacts the
2 clients' ability to really utilize our services.

3 I think what we've tried to in PAG through our mark
4 discussions is reinvigorate the vision of justice. What is
5 it that we are about? What is it that we want to achieve?
6 And then trying to figure out, as best we can, it's not
7 always easy, what the cost of that vision is. And not just
8 limit ourselves in terms of, you know, what the available
9 dollars are.

10 Because it's very hard, within the confines that
11 you're working in right now to move money from one place to
12 another. I mean, each of the things that's being funded has
13 a rationale and has a validity. And so prioritization
14 between the needs of rural poor or urban impacted poor or
15 migrants or Native Americans becomes really difficult.

16 We have a very, I think -- I was going to say
17 tenuous; it's not really tenuous -- a very well developed
18 balance within this budget and appropriation that tries to
19 address in some way all of those things that have been
20 identified historically.

21 The reason, for example, that PAG's budget at such
22 a mark seeks an appropriation for the institutionalized is

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that that is a group that is not included in the poverty
2 count that the U.S. Census conducts. And so that existing
3 funding has not ever been appropriated with that in mind.

4 I mean, it's just that that is not a group that
5 gets counted. They are in the total population, the total
6 count, but they're not in the poverty count. So that is how
7 we have gotten to the point of feeling that that group is one
8 that needs special attention.

9 Again, a study of this magnitude has its own costs,
10 too. And where those dollars will come from to undertake
11 anything of that magnitude, which is another --

12 CHAIRPERSON MERCADO: And part of it is painting
13 this picture in some way that becomes real. Again, going
14 back to the Hill and stuff. I was looking at a news story
15 last night where they caught the guy that was going around
16 killing people here in D.C. And it turns out he was a St.
17 E's person that was released because they had no more room to
18 put him in. He killed, like, I don't know, 8, 10, 12,
19 people. Correct me if I'm wrong.

20 He's not going to stand trial because they have
21 found he is psychotic; he's mentally ill. And yet, you know,
22 a lot of lives are lost as a consequence of that.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 There are a lot of different ways, I think, in
2 which legal services -- part of dealing with the
3 institutionalized, whether or not they get representation to
4 have care that is needed for them. And part of the
5 consequences of that is to a community, whether it's in
6 crime, whether it's, in many cases, just increasing the load
7 of homelessness or whatever that we have out there. And we
8 have to paint that picture in a different way.

9 One of the things that maybe we didn't do as good a
10 job in painting is the whole relationship between poverty and
11 the great increase in crime or homelessness and everything in
12 the urban areas. And somehow those two didn't mesh.

13 And while, on the one hand, we had Senator Hollings
14 we needed 100,000 cops in the street and more DEA people and
15 more FBI people, that there wasn't a correlation to the
16 preventive side of poverty and what leads a lot of people to
17 be there: their lack of education or lack of access or lack
18 of housing or care and all these other kinds of things.

19 That those were not meshed very well. And that
20 part of the preventive crime package is dealing with some of
21 these issues on the front end.

22 And I want us to be able to bring in some of them.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Again, sort of going back to looking at the study, at what --
2 I had hoped we would be able to have some better information
3 at hand that we can present to justify those increases and
4 justify the minimum access, not only in terms of access, but
5 in the sense of dealing with some of the issues that are more
6 relevant to the average citizen out there, who is not part of
7 the poverty community, either in its service or in its
8 delivery. On how we can have them buy into that on the
9 preventive side.

10 It's, of course, a lot of hindsight. But we need
11 to do it more.

12 MR. SMEGAL: Jerry, on the sheet you passed out
13 that shows how \$15 million would be distributed were we to
14 get it, and trying to correlate that with Attachment 4. This
15 increase would put the migrant program somewhere between 643
16 and 670, if I understand the accumulated cost over on the
17 right.

18 MR. SINGSEN: Right.

19 MR. SMEGAL: And what's the basis of selecting that
20 number other than throwing a dart at the wall?

21 MR. SINGSEN: None.

22 MR. SMEGAL: How did you get this number?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SINGSEN: The 643 and the 670, or the number
2 that's here on the congressional table?

3 MR. SMEGAL: Well, I understand it's the 643 and
4 the 670 in the cost extrapolated out to the right of 853,000
5 versus the next step up, would a million, four or five.

6 My question is, why \$1,071,000?

7 MR. SINGSEN: Partly, the answer is the obvious:
8 that the committee in the House was prepared to allocate \$415
9 million, and then had to figure out how to distribute it.
10 And could have, I suppose, distributed it straight, you know,
11 percentage increase: \$15 million over \$400 million for every
12 line.

13 In fact, the staff person who did this process for
14 the committee in the House did something more complicated.
15 He had numbers from the Corporation for distribution of \$425
16 million. He also had a proposal from PAG for distribution of
17 \$425 million among the lineups.

18 He took a calculation of \$415 million over \$425
19 million, which produced a fraction a little less than one --
20 97 percent, something like that -- and then multiplied that
21 reduction fraction times the higher of the PAG or Corporation
22 number proposed at \$425 million. And that's the actual

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 mathematics of how this came.

2 In the distributions that we both had, PAG's number
3 on migrants was higher than the Corporation's. So this
4 number -- \$13,830,000 -- is equal to 415 over 425 times PAG's
5 proposal at 425.

6 MR. SMEGAL: I see. Now I understand how that
7 number was arrived at. But now I'm curious as to how you get
8 back to 415 if, in one occasion, you take the PAG number and
9 the other occasion you take the Corporation number. How did
10 he work that out? That's a more general question.

11 MR. SINGSEN: On two lines -- the client
12 initiatives and CALR -- he didn't use that approach. He
13 fixed it on those two lines.

14 MR. SMEGAL: Client initiative and what else?

15 MR. SINGSEN: CALR. I take it back. Client
16 initiative's not the plug. I actually have to go back and
17 look at my notes to find the other plug. But on two of the
18 lines, he multiplied 415 over 425 times the lower of the two
19 proposed.

20 MR. SMEGAL: Right. But that doesn't necessarily
21 equalize this.

22 MR. SINGSEN: Well, in your Corporation's

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 management administration 12.5, instead of what was --
2 basically, what he did was he backed into the bottom line
3 \$415 million using this calculation. And then, of course,
4 basic field -- that's obvious; I forgot that, of course --
5 basic field didn't get calculated this way.

6 MR. SMEGAL: It didn't.

7 MR. SINGSEN: No. Basic field was the big plug
8 after he had the other costs.

9 MR. SMEGAL: So he looked at the smaller of the
10 line items, arbitrarily decided he like PAG's number with
11 respect to some of them --

12 MR. SINGSEN: Mostly took just the higher of the
13 two.

14 MR. SMEGAL: Okay. The higher of the two between.
15 And then equalized it --

16 MR. SINGSEN: Basic field had to take the lump,
17 which, of course, basic field has most of the money, so that
18 it changes its percentage.

19 MR. SMEGAL: So he got the 2.6 for basic field,
20 which probably wasn't anybody's number.

21 MR. SINGSEN: Correct. And isn't 415 over 425
22 times anybody's number, either.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Thank you. Now I understand why this
2 number looks like nothing else.

3 CHAIRPERSON MERCADO: Sausage.

4 MR. SINGSEN: We aren't quite done with our
5 discussion of migrant, because while I can tell you something
6 about how this money could be used to raise the floor, the
7 question is, do you want to use this money to raise the
8 floor?

9 Or do you want to use this money to raise the floor
10 -- for example, 15 migrant components and programs will get
11 all of the increase, and the rest will get none because
12 they're above that \$6.43 per poor person already.

13 So do you want to do something like basic field,
14 where part of the money is given out to raise the floor, and
15 part of the money is given out to give every program an
16 increase?

17 And this takes us back, of course -- we've had the
18 discussions before, and you've seen the materials before --
19 about the different ways to distribute money to all programs
20 in a group. And I'm going to mention them and just say what
21 they are in a sentence each.

22 You could give everybody a cost of living increase.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 You could take half of \$1,071,000 and give everybody whatever
2 it would be. A 4 percent increase in their grant. And then
3 take the other half and use it to raise the floor. And that
4 would mean you'd only have half a million to raise the floor,
5 and the floor would be a little less than \$6.00 if you did it
6 that way.

7 You could use the per capita approach, instead of
8 cost of living. That is, you'd give out a few cents per poor
9 person to every migrant program. That is, every program
10 would get an increase.

11 But the difference between cost of living and per
12 capita is, if you increase everybody's per capita, then their
13 relative positions in funding to each other stay the same.
14 If you do it by percentage, the program that's in \$20.00 per
15 poor person gets twice as big an increase as the program
16 that's at \$10.00 per poor person, because the base to which
17 you're applying the percentage is bigger.

18 MR. SMEGAL: But isn't that the same effect when
19 you use COLA?

20 MR. SINGSEN: Yeah. That's what COLA uses. Per
21 capita, everybody goes up, and the distance between a \$10.00
22 and \$20.00 program stays \$10.00.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Per capita and by COLA.

2 MR. SINGSEN: By COLA -- you have 2 percent of
3 COLA. The \$10.00 program would go to \$10.20. The \$20.00
4 program would go to \$20.40. And it would be \$10.20 per poor
5 person a head, as opposed to where it is now: just \$10.00 a
6 head.

7 MR. SMEGAL: Right. And that's the same thing
8 you'd get with COLA.

9 MR. SINGSEN: COLA, cost of living, does that. Per
10 capita doesn't. If you did 30 cents per poor person to every
11 program, then \$10.00 would go to \$10.30 --

12 MR. SMEGAL: Now, wait a minute. If you increased
13 the \$10,00 by 2 percent and the \$20.00 by 2 percent, you
14 still get the same \$20.40 and \$10.20.

15 MR. SINGSEN: Yes. Correct.

16 MR. SMEGAL: And if you increase for per person,
17 you're going to do the same thing. It's going to come out
18 exactly the same.

19 MR. SINGSEN: No.

20 MR. SMEGAL: Why not?

21 MR. SINGSEN: Here's what it'll do. Here's the two
22 approaches. The per capita approach: 30 cents per poor

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 person. The 2 percent approach, a COLA or cost of living
2 approach. If you raise this program by 30 cents --

3 MR. SMEGAL: Oh, okay. Now I understand. I got
4 you.

5 MR. SINGSEN: Right?

6 MR. SMEGAL: No, stop. I'm with you.

7 MR. SINGSEN: I know you've got it, but I'm not
8 sure the others got it. So I'm just going to finish it out.
9 So that's the difference.

10 Now, if you're interested in equalization as a
11 goal, then per capita makes it easier to keep working towards
12 equalization, because you don't push the higher funded
13 programs up further away from the lower funded programs.

14 MR. SMEGAL: Well, but you don't gain, either.

15 MR. SINGSEN: You don't gain either. If you put
16 the money to the floor, then you bring the bottom up closer,
17 but you don't gain in the middle.

18 So there's a third approach called fill-up-the-cup.
19 Now, I'm hoping I can draw you a picture that shows fill-up-
20 the-cup, but I'm not quite so sure.

21 Essentially, here's the proposal on fill-up-the-
22 cup. Let's say you're shooting to get everybody to \$20.00,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 and you've got some programs at \$10.00 and some programs at
2 \$5.00 now. The "cup" is the distance between here and here.
3 So for a \$5.00 program, that's a \$15.00 gap. For the \$10.00
4 program, it's just a \$10.00 gap.

5 Let's say that you can give out some money. And
6 we've seen the other two ways. But let's say you can give
7 out enough money so that you can take care of 10 percent of
8 the gap. You add up, for every program, how far they are
9 from \$20.00, and you get the total gap for all the programs,
10 together.

11 And let's say the total gap in migrant programs is
12 \$14 million of gap. If you had \$14 million right now, you
13 could get them all to \$20.00. I made that number up; I
14 haven't actually checked it.

15 You have \$1.4 million to give out. You could take
16 \$1.50 of this gap and raise the \$5.00 program to \$6.50. The
17 \$10.00 program would only get 10 percent of a \$10.00 gap; it
18 would go to \$11.00. So you'd be bringing them closer
19 together if you used fill-up-the-cup.

20 And that's the approach that Congress put into many
21 of the appropriations formulas for basic field during the
22 late '80. A fill-up-the-cup to minimum access approach, as

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 opposed to either cost of living or per capita or raise-the-
2 floor. Although, certainly, raise-the-floor was also in
3 there in most of the formulas.

4 So those are distribution methods available to you
5 that we've thought of so far. You can probably think of some
6 others.

7 MS. ROGOFF: This is why for basic field we have
8 moved away from COLA.

9 MR. SINGSEN: Now, the last thing I want to say is
10 very radical. It is to be in the discussion, even though I
11 am certainly not proposing it as something you should do.

12 These are all formulas based on some idea of
13 equity, which says it matters to the Corporation that where
14 there are poor people, there's a fair share of the money.
15 And right now, in migrant, we can see we're not doing a
16 particularly good job of fair-sharing if counting poor people
17 is the way to figure out fair shares.

18 But there's nothing in the law that says fair share
19 is your principle. You could decide that migrants in Texas
20 matter more than any other migrants, and put all your new
21 money in Texas.

22 Obviously, that would be very upsetting to many

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 other programs. But nevertheless, discretion, a goal which
2 isn't defined by these principles of equity that look, in
3 turn, to counts of poor people and assume away all questions
4 about the delivery system by having just a flat number, are
5 not writ in stone.

6 I will not propose to you today and I don't think
7 we will propose to you this fall that these kinds of
8 distributions -- anything that says we should use a
9 discretionary approach, targeted approach, that isn't
10 population based for distributing increases in 1995. But a
11 discussion about grant approaches really can't be complete
12 without at least saying this. And at some time in the future
13 it may be relevant in some of these lines that there are
14 other ways to think about your job.

15 When we get to national support, it'll be relevant
16 this year.

17 CHAIRPERSON MERCADO: One of the things that I
18 would want to see some discussion on, and you've probably had
19 it already within your Funding Criteria Committee, is that in
20 some states it really doesn't make any sense to provide
21 migrant funding of an \$8,000 budget or a \$10,000 budget. I
22 mean, you can't even hire an attorney or a paralegal to do

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 some of that work.

2 And looking at how you coordinate within those
3 different areas, whether either to have regional areas or two
4 or three-state areas, or just a variety of factors, where you
5 can use the expertise of programs that are primarily funded
6 to do that way.

7 Or, you know, be able to sort of do like a support
8 center, for example, that can go to Lubbock. If someone has
9 economic development expertise in Austin, in a support
10 center, and can come and do full counsel or second chair or
11 do a case that is important and necessary but that you might
12 not necessarily have someone there year round doing that kind
13 of work.

14 It may be a concept that we ought to look at in
15 some of the more migrant servicing programs where you don't
16 have a lot of year-round population or even a high number of
17 population. It doesn't make sense to just sort of, you know,
18 spatter it around.

19 I know that some of the Southeast project directors
20 have looked at doing some of that regionalization of migrant
21 services, so to speak. And doubling up in partnerships with
22 programs that do have a lot more expertise and experience, to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 more effectively provide delivery of services.

2 MR. SINGSEN: I think there are two parts to that.
3 The part that you've mentioned which is where there are
4 substantial numbers of migrants, a variety of programs and
5 alternative ways to deliver than just these state-by-state,
6 single-grant approaches.

7 The other is, if you look in New England, for
8 example, we've got \$8,000 in Vermont, \$7,000 in New
9 Hampshire, and a very small population of migrants. And
10 whether or how service to migrants in those areas is
11 delivered is a completely different question than the
12 question you're asking: consolidating those two states isn't
13 going to make a significant difference.

14 And so, another question is, where we've got very
15 small numbers of migrants, what is it that we're hoping to
16 accomplish with a little funding? Of course, it's still only
17 a little funding, so it may not be worth a lot of investment
18 and analysis to try to answer.

19 I think the Delivery Working Group and the migrant
20 community both believe those questions need to be thought
21 about, and we're hoping to work with them and develop better
22 ways of delivering services, including mergers, including

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 multistates, including other approaches that take advantage
2 of support possibilities.

3 CHAIRPERSON MERCADO: I know. I mean, I remember
4 going to do cases in Arkansas and Missouri and stuff on
5 migrant cases that home based migrants out of Texas. So it
6 didn't seem to me that it made sense -- if they're not doing
7 that year round, because most of the litigation ends up being
8 later -- that you have a program set up in there.

9 But that you have the access to be able to do those
10 cases in those areas, to help people who are in those states.
11 But where you don't have as high a population or service
12 area, that we find a different way of dealing with those
13 cases and with those problems. Rather than renting a whole
14 new office and setting up a whole structure for maybe a one-
15 attorney office or a two-attorney office for that whole
16 state.

17 MR. SINGSEN: There's been some history as well.
18 Lawyers and paralegals from Puerto Rico coming up the East
19 Coast with people who are settled out or who are based out of
20 Puerto Rico not as migrants but are in the stream for part of
21 the year and who are clients of the program in Puerto Rico
22 and encounter issues upstream. So I think there are a lot of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 possibilities of that kind at work.

2 MR. SMEGAL: Of these 46 programs on Attachment 4,
3 how many of them are stand-alone migrant programs as opposed
4 to being a component of another one of our base field
5 programs?

6 MR. SINGSEN: Very few.

7 MR. SMEGAL: Two?

8 MR. SINGSEN: Even -- our work in legal services
9 is, although it started out as a subgrantee of the Rochester
10 program --

11 MR. SMEGAL: The one in New York.

12 MR. SINGSEN: Yeah. Does Texas Rural get any? Of
13 course, it does. All the others, maybe.

14 MR. ROSENTHAL: Michigan.

15 MR. SINGSEN: Michigan is completely independent
16 basic field?

17 MR. ROSENTHAL: Yeah.

18 MR. SINGSEN: Okay.

19 MR. ROSENTHAL: And then Pennsylvania subgrants
20 with CRLA.

21 MR. SMEGAL: Well, my question may be not as
22 relevant as I thought it was going to be. The reality --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SINGSEN: Let me just say that this is Roger
2 Rosenthal, director of Migrant Legal Action Program.

3 MR. SMEGAL: Sure.

4 MR. SINGSEN: He can answer any of these questions
5 much better than --

6 MR. SMEGAL: The reality is that in 44, let's say,
7 out of the 46, that this is a component of an ongoing base
8 field program.

9 MR. SINGSEN: Although the tail and the dog is a
10 question for some of them. CRLA, for example.

11 MR. SMEGAL: This is a pretty good sized bit of
12 funding.

13 MR. SINGSEN: The migrant program funding may be
14 bigger than the basic field funding.

15 MR. SMEGAL: But in the reality of the office, when
16 somebody walks in the door, there is no distinction made --
17 let's go to one that says -- in the Oregon Legal Services
18 Program, for example. There's no distinction made when that
19 eligible person walks in the door as to whether they're
20 coming in under the migrant half or the other half. So
21 nobody's saying to them, "Hey, we only have \$5.62 for you, as
22 opposed to \$9.37 if you came in with a different hat on."

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Right?

2 You walk in the door; you get the services.

3 MR. SINGSEN: I think that's not quite right.

4 MR. SMEGAL: No?

5 CHAIRPERSON MERCADO: No.

6 MR. SINGSEN: For example, let me talk about
7 Evergreen Legal Services, which I've heard described in some
8 detail recently.

9 MR. SMEGAL: Okay. Let's talk about that.

10 MR. SINGSEN: Evergreen Legal Services has a
11 specialized unit for migrant service. Every person in the
12 unit speaks Spanish. Every person in the unit has some
13 personal history related to migrant work: home, family,
14 something like that.

15 A migrant who comes in for service is referred to
16 that unit. The unit's staffing is based on the available
17 funding. If they had twice as much money, they'd have more
18 staff. There are priorities for that staff. Some migrants
19 will be turned away because they don't fit within the
20 priorities which are based on the absence of enough funding
21 to serve as many people as they would like to.

22 So in Connecticut, I'm sure what you said is

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 exactly right. Where there's a \$6,000 grant. But in
2 Evergreen, I don't think it's right.

3 CHAIRPERSON MERCADO: No. It's not true in Texas,
4 either.

5 MR. SMEGAL: In Evergreen, when they've expended
6 their \$599,554, they close the door and lock it?

7 MR. SINGSEN: Yes, I think that's right.

8 MS. ROGOFF: Well, they budget that amount for the
9 entire year.

10 MR. SMEGAL: They have an office in a different
11 place? Okay, but the door is open and more people are coming
12 in than they can service, so they're going to lock that door
13 and those people are then --

14 MS. ROGOFF: You don't lock the door; you just turn
15 people away.

16 MR. SMEGAL: However you want to describe it. But
17 the point is, those people can't just say, "Oops. This
18 door's locked. I'm going to go in this other door now and
19 get some services."

20 MS. ROGOFF: No.

21 MR. SMEGAL: That's not going to happen?

22 MR. SINGSEN: Essentially not.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: And that's true in Texas,
2 too. In West Texas, the Texas Rural Legal Aid programs are
3 only migrant programs, and people may come in there with all
4 kinds of legal problems. But if they're not a migrant and
5 their case is not within a migrant priority, they get no
6 service.

7 MR. SMEGAL: So generally speaking, Roger, the
8 funding we're seeing here is, in effect, the funding that's
9 available for migrants. We don't get an over-the-dam flood
10 into the other side of the program, and the migrant who comes
11 in is going to get serviced anyway.

12 MS. ROGOFF: It's a little bit more complicated
13 than that because the migrant offices -- and, Roger, you may
14 want to come to the table to make clear whether we were
15 giving an accurate picture -- focus on issues that are unique
16 to migrant workers, not just on the person as a migrant but
17 focus largely on labor law issues, OSHA and habitability
18 issues, the things that are related to their migrant status.

19 There is another issue underlying this that I
20 hesitate to call a double count -- but migrants are included
21 in the General Census. And so, if there is a migrant farm
22 worker wanting a divorce, that person is probably -- and you

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 should correct me if I'm wrong -- not necessarily going to
2 receive that service through the migrant office, but through
3 the general program.

4 MR. SMEGAL: So the reality is maybe that person
5 came in through the other door.

6 MR. SINGSEN: Right.

7 MR. ROSENTHAL: But it's the exception rather than
8 the rule that a migrant would be served in sort of a basic
9 legal services type of issue like a family law problem.
10 Migrants really are not served but by the migrant programs in
11 most instances.

12 It depends on the state, because each state has the
13 discretion to organize in whichever manner they want to. But
14 there really is a pretty bright line, generally.

15 MS. ROGOFF: But a lot of it has to do with the
16 access issues. I mean, in Texas, it's so remote. I was
17 going to say, I actually have been to Hereford, Texas, on one
18 occasion, and I will never go back there. It is very
19 difficult to staff offices like that in those very remote
20 areas, to get attorneys to set up practice and to work in
21 areas that are largely hostile to the service that we're
22 providing. The migrants aren't hostile, but --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Is data kept -- I'm not suggesting it
2 should be, and please don't read this into what I am saying
3 -- but is data kept if a migrant comes in to one of the
4 larger programs that has some ability to keep data of this
5 type, and the legal service to be provided is of the domestic
6 relations type rather than something related primarily to the
7 migrant worker? How would that data be accumulated? Would
8 the Legal Services Corporation see it as a migrant coming in
9 for legal services, or as a poor person coming in for a
10 domestic relations matter?

11 MR. SINGSEN: The migrant component keeps data and
12 reports it on the case service reports.

13 MR. SMEGAL: Irrespective of the service provided.

14 MR. SINGSEN: As the migrant component. So its
15 clients who have been identified as migrants and thereby put
16 into the migrant component will come out with that divorce
17 work being counted as one of the cases handled, and, indeed,
18 family law cases do show up as a significant portion.

19 Although -- and I don't have the data in front of
20 me -- if you look at the distribution of case types among
21 migrant programs, you'll find that it's quite different than
22 the distribution of case types among basic field programs.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And that these family matters are much lower, as a percentage
2 of the total. And that benefit and issues of various kinds
3 are a good deal higher, and so are employment issues, a good
4 deal higher: employment, work-condition related issues.

5 In Native Americans, by contrast, you won't find
6 that kind of a distribution pattern, but you'll find a much
7 higher percentage of the total case load is in the
8 miscellaneous category. Because none of their tribal cases
9 fall in the standard definitions. They're counted as
10 "other." So we do get those kinds of indications of
11 difference in the service patterns in the case reports.

12 MR. ROSENTHAL: There's also one other very
13 critical factor with respect to service to migrant farm
14 workers, which is a consequence of the key characteristic of
15 their lives, which is mobility. And that is that the concept
16 of a migrant coming in to an office is quite a foreign
17 concept in most programs.

18 In a home based area, that might happen on
19 occasion. But, certainly, in parts of Texas like the
20 Panhandle and in parts of California, where people are mobile
21 and they're going through labor camps, they're not going to
22 -- either don't have access to come in to the office, or they

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 just don't do it.

2 And in the vast majority of programs in the stream,
3 what has to happen is that the farm worker advocates go into
4 the labor camps or they go into the areas where farm workers
5 are known to congregate, and that's how they make the client
6 contact.

7 So that is a pure matter of resources and
8 specialization, where there would be no interaction with a
9 basic field staff at all.

10 MR. SINGSEN: In terms of our discussion today, the
11 purpose is to get on the table the kinds of issues that arise
12 in thinking about distribution. Programs in the migrant
13 community, working with PAG and the Funding Committee, have
14 developed a position about what they think would be the
15 appropriate distribution of the increases among migrant
16 programs.

17 It takes part in these different discussions. It's
18 got a fill-up-the-cup element, for example, where the cup is
19 not defined as minimum access -- and please forgive me for
20 all of this complexity; we don't have to deal with it
21 mathematically today. Where the cup is defined as the
22 average funding level of all migrant programs. So that their

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 fill-up-the-cup would give some money to, perhaps, half of
2 all the migrant programs. Half being possibly above the
3 average; it may not be exactly that.

4 Whereas fill-up-the-cup to a minimum access target
5 of \$20.00 and some change would reach all but a small number
6 of the migrant programs with at least a little money.

7 And the staff is going to be examining that and
8 will come forward with a proposal which I'm sure will be
9 heavily informed by what the migrant community is proposing.
10 We intend to examine this and think about it and see what we
11 think, for the Corporation's purposes, would be the ideal
12 recommendation.

13 In the interests of time, we might be wise to move
14 on at this point.

15 But I want to say one thing about the purpose of
16 this meeting, which is, one of the things the staff wants is
17 not only the questions you ask now, but any requests for more
18 information or for data runs. If you'd like to see how some
19 options look, we would be glad to provide whatever would be
20 helpful for thinking about these distributional questions.

21 We've probably got until the September meeting
22 before we'll have a number of things on the table for a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 decision about distributional approach. By then, we should
2 have clearer information about the final appropriation level,
3 and know what we're working with. And we will be, between
4 now and then, working to develop information, to work with
5 the field, to work with all of the different constituents
6 interested in each of these lines.

7 And you certainly ought to continue to let these
8 concepts work in your own minds, and think about what you'd
9 like to know.

10 MR. SMEGAL: It seems to me, as someone who's been
11 around here for a while and not been in a position to
12 distribute different amounts, that a whole bunch of these
13 things are really arbitrary, and we're not going to be in a
14 position to say which is better. Someone's going to have to
15 give us a recommendation of: it's fill-up-the-cup, it's get
16 to the average, it's whatever, with some justification for
17 doing it that way.

18 The simplest way is the simplest way, but that may
19 not be what you're recommending. And if it isn't, it seems
20 to me that the recommendation should come with some reasoning
21 why we shouldn't do it in a nice, simple way that everybody
22 up on the Hill can understand. That we're trying to get to a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 level of dollars per indigent, and we're not going that way
2 this time; we're going to the other ways.

3 I mean, the numbers we have here on the sheet you
4 passed out, Jerry, are just purely arbitrary. Somebody up
5 there on the Hill decided to play with the numbers. Now,
6 well intentioned, obviously, as we all are.

7 But if you want us to make some decisions, it's
8 going to have to be, give us the benefit of somebody's
9 thinking as to why this arbitrary approach is better than
10 these other 12 arbitrary approaches. Because, otherwise,
11 we're just going to go pick up the one of the 13 that seems
12 least arbitrary.

13 MS. ROGOFF: If I can just comment on that from the
14 field perspective. I realize how arbitrary some of this does
15 seem, but we -- and actually, the final, the numbers that
16 Congress chooses are what we all --

17 MR. SMEGAL: Regina, I'm using the word in a very
18 loose sense. I mean, none of them are arbitrary, but they're
19 all based upon a different approach to funding. And it seems
20 to me that what's going to be helpful to this Board --
21 they're peas. There's 18 different varieties of peas; now
22 you want us to buy one can of peas. You've got to tell us

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 why.

2 MS. ROGOFF: Yes. And I think --

3 MR. SMEGAL: And I think you should tell us why.

4 MS. ROGOFF: Absolutely.

5 MR. SMEGAL: I don't want you to hand me 17 cans of
6 peas and say, "Figure out which one you want to buy," because
7 I'm just going to go eenie-meenie-meinie-mo.

8 MS. ROGOFF: What we've tried to do, and the role
9 that the Funding Criteria Committee plays in the legal
10 services community is to bring all the interest groups to the
11 table, all the players, basically, and then to try to have
12 some principles the community -- and the community is
13 represented by the Project Advisory Group -- have bought
14 into.

15 Among those principles, and I'm sure Andy has said
16 this in the past to you, and I'll say it, and I'm sure we'll
17 all repeat these: Because we always try to test any
18 potential formulas for distribution or anything else against
19 the principles. Do they further or do they set back the
20 principles?

21 For example, we have abandoned colors, because they
22 are not furthering the principle of equalization.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: They perpetuate the imbalance. Right.

2 MS. ROGOFF: And so we also had, in addition to
3 equalization, have had a principle around holding harmless,
4 and have agonized with incredible, I think, effort and
5 intelligence and concern around, if there isn't new money,
6 and equalization is a principle, can you continue
7 indefinitely to hold harmless for that new money? Our
8 equalization principle assumes new money, and it's not there;
9 what happens?

10 Many of our principles can come in conflict with
11 each other in the real world politic when we have to deal
12 with what Congress is or isn't willing to do.

13 And, for example, you see in the migrant line, over
14 the years, we've always urged linkage for migrants as well
15 as other lines. Well, when Congress hasn't done that, it's
16 moved them farther back from what their goal and the
17 principle that we've established for that is.

18 And so what we have done to try to correct that,
19 which is also a principle that we've applied in national and
20 state court funding is the concept of linkage plus. That
21 there's got to be some catch-up.

22 If you're trying to implement this principle of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 what the relationship between some of these entities is and
2 basic field, then to get there, you have to invest more than
3 just the linkage, if you've fallen behind. Those are some of
4 the examples.

5 I think it's partly why each line ends up having a
6 slightly different formula that we're recommending from the
7 field. You are absolutely correct that we need to be able to
8 explain that, justify it. And what we have tried to do
9 through the PAG process is keep everybody at the table with
10 disparate interests, with competing demands and priorities,
11 and try to negotiate out in that context formulas that adhere
12 to the principles and that the communities of interest are
13 willing to accept.

14 And so we often look to the community of interest
15 to guide that discussion, but not necessarily to determine
16 the outcome. We would look to migrants to say, "How does
17 your community think money should be distributed?" But we
18 would look to state support for that. And then, those
19 recommendations are considered within the FCC where it's not
20 just the community of interest, but it's all the other
21 competing interests saying, "Well, why should we have COLA
22 here when we've abandoned COLA somewhere else?"

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Can you justify going -- in the history of your
2 line item, this should be treated differently than our
3 principles of having to treat something otherwise.

4 And that, even from FCC, which only makes
5 recommendations, but is representative of the entire
6 community, goes on to the Steering Committee, which
7 represents the even larger community.

8 And even at that point, it's tested again and has
9 to withstand the real competing interests of geography and
10 the local economies and all of the variables that -- Maria
11 has articulated some of them this morning.

12 And out of that, hopefully we have developed some
13 funding formulas that may not be perfect and may sometimes
14 seem downright squirrely, to tell you the truth, and hard to
15 explain to this Board or to Congress.

16 But that, as I have said, used this opportunity to
17 reiterate what our processes are because I think it's a very
18 legitimate process.

19 And then, even beyond that, your staff will
20 independently be looking at what our work product is. And if
21 it doesn't make sense from the staff's perspective, if we
22 come in with something that the staff feels was not

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 appropriate for the Corporation, given the interests that the
2 Corporation has and the Corporation's reality vis-a-vis
3 Congress. And all of that is where it will ultimately come
4 to.

5 Hopefully, some of it will be on the same track;
6 we'll be saying the same thing. Reading off of the same
7 sheet. And sometimes we won't be.

8 MR. SMEGAL: Well, to get it down to a simple
9 analogy: Let's assume there are 13 ways to get from here to
10 New York, and they're all credible ways. The roads are
11 paved. You don't have to cut across any fields.

12 Last year or the year before, at some point, when
13 there was a different fact circumstance: a recommendation we
14 should go up this road.

15 What I'm hearing you say is that -- COLA was the
16 road. We got another road here. It's paved the same way,
17 and we're going to recommend that this year. And I'm saying,
18 what's going to be helpful to us is to tell us why we're
19 going to take that road this year.

20 And the public opinion poll we certainly are
21 sensitive to, that some majority of those to whom we're
22 responsible believe that's the road we should take this year.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 I appreciate knowing about the 13 roads, but don't leave me
2 to try to pick out my own road. Somebody's got to tell me
3 which road is recommended.

4 And I understand I'm not getting that today; I
5 understand you're telling me about the roads and where we've
6 been in the past and how we got there.

7 MR. SINGSEN: We certainly intend, as I've said, to
8 come in with specific proposals, in your terms, about the
9 road to take. And hopefully, having heard this discussion
10 and participated in it so that the dimensions of the choices
11 are clear, the road may have a couple of turns in it, but it
12 will seem like the right road.

13 MR. SMEGAL: All right. Thanks.

14 MR. SINGSEN: The next area I propose to talk about
15 is probably the one that people perceive is the most
16 complicated, although, in some senses, it's really very
17 simple. But I'll say that with a smile, given how everybody
18 seems to react to it. And that's state support.

19 And state support is a system in 50 states, plus
20 the jurisdictions outside the 50 states, where we've got
21 programs.

22 If you will start just by taking a look at the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 State Support Appendix, which is Appendix 6 to the July memo.

2 CHAIRPERSON MERCADO: July?

3 MR. SINGSEN: July.

4 I'm conscious of the time, and we'll try to just do
5 something brief on each of the remaining ones. We have not
6 yet seen the executive vice president, as far as I know.

7 CHAIRPERSON MERCADO: I just got called a few
8 minutes ago, just to say that the executive vice president is
9 still in the executive session of the Ops & Regs Committee.
10 And it seems like they may be a little bit longer. So we can
11 go ahead and continue with our items that we have and the
12 items that we have to take action on.

13 We may have to cut into some of the time, Bucky's
14 committee, Provision for Delivery of Legal Services. And
15 he's willing to recess at such a point in time that our
16 executive vice president makes it over here, so that our
17 appropriations can finish its meeting and conclude its action
18 items.

19 That's the status of where we're at. So go ahead
20 and proceed.

21 MR. SINGSEN: State support is a system, if you
22 will, overlaid on all of our field programs. State support

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 is providing support services, training technical assistance,
2 substantive work, advocacy assistance and co-counseling -- a
3 whole range of services -- to the basic field programs, and
4 also, in many places, to the migrant programs, the Native
5 American programs, and the supplemental field programs
6 located within the state.

7 In the late '70s, the Corporation conducted a study
8 which isn't here in this pile -- and the pile's actually
9 slightly smaller -- on the support system. The national
10 state support technical assistance and training.

11 And in the state support analysis, the conclusion
12 was that in an ideal world, you would have a state support
13 system using up an amount of resources equal to about 8
14 percent of the field resources in that jurisdiction. That
15 that was about the right correlation between the kinds of
16 functions that state support performs in a state.

17 CHAIRPERSON MERCADO: Did you say 6 percent?

18 MR. SINGSEN: I said 8 percent.

19 CHAIRPERSON MERCADO: Eight percent.

20 MR. SINGSEN: That was a wholly unrealistic number,
21 then and now. We don't have anything like enough money to do
22 that. And as a short-term goal in 1979-1980, the planning

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 process concluded that we should shoot for 4 percent of the
2 field funding as the interim goal for the level to bring
3 state support to.

4 Through the '80s, there were several studies, a
5 couple of them by an individual, Erika Black, and then a more
6 extensive one put together by the field: The State Support
7 Programs, conducted by Jerry Wein out of Rochester, New York,
8 which examined the underpinnings of that conclusion, which
9 examined the state support function, confirmed the need for
10 the funds, and that 4 percent was a sensible interim goal.

11 And the project adviser of the group's Funding
12 Committee and Steering Committee have reached that
13 conclusion, and, indeed, the Congress in its appropriation
14 last year wrote in a formula in the conference report for
15 funding state support which was using the idea of the 4
16 percent as part of its understanding of what should be going
17 on.

18 The second problem is, what 4 percent looks like
19 begins not to make sense in many states which are relatively
20 low in total poverty population.

21 And so, in addition to the 4 percent goal, in
22 states which have smaller poverty populations, the analysis

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 has always been that there needed to be some minimum size
2 operation. The figure that's been used is \$175,000.

3 It has some empirical base. It could probably bear
4 some re-examination. It's been around for enough years that
5 it may not even represent inflation being taken into account.
6 But for the moment, the minimum size of \$175,000 per state is
7 perceived as the appropriate funding level minimum for state
8 support.

9 So that in states where 4 percent doesn't produce
10 \$175,000, the goal is \$175,000. The minimum size.

11 However, even that doesn't work. If you've got a
12 state with \$600,000 in total funding, it doesn't make sense
13 to have \$175,000 more for state support. That's increasing
14 the grant to the state by a third.

15 And so, the third level in this calculation is that
16 in states that have very few poor people, the goal would be
17 that 10 percent of the funding of that state be the state
18 support goal.

19 And so we have, in the end, a three-level process,
20 where the real goal is the 4 percent. But in smaller states,
21 \$175,000 is the minimum size. And in the very smallest
22 jurisdictions, we're looking at 10 percent as the,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 essentially, again, picked out of the air, reasonable level
2 for the state support function.

3 CHAIRPERSON MERCADO: When you look at the 10
4 percent of total, is there a figure as to what amount of
5 money that particular state would have gotten if it had
6 \$600,000 instead of \$1 million? And what's the amount?

7 MR. SINGSEN: What you do is you add together --
8 you can now look at this table in front of you. Over on the
9 left you'll see columns labeled "Basic Field," "Native
10 American," and "Migrant," and "Totals." So that you can find
11 the actual total funding in each state.

12 And if you look down at Maine -- Pine Tree Legal
13 Assistance -- Pine Tree has \$1,715,000. Ten percent of that
14 would be \$171,000. And so Pine Tree's an example of a state
15 where the goal for right now would be to get it up to
16 \$175,000 -- the minimum.

17 Four percent of \$1,715,000 would be only \$60,000-
18 some.

19 MR. SMEGAL: Which page, Jerry?

20 MR. SINGSEN: This is in the Appendix --

21 MR. SMEGAL: I'm in the Appendix.

22 MR. SINGSEN: First page, of the State Support

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Appendix 6.

2 MR. SMEGAL: Six. Right.

3 MR. SINGSEN: It's a table.

4 MR. SMEGAL: You're on the first page of the table?

5 MR. SINGSEN: Yes.

6 MR. SMEGAL: Oh.

7 MR. SINGSEN: And I'm looking at the --

8 MR. SMEGAL: Got you. Yes.

9 MR. SINGSEN: So basically, in looking at Pine
10 Tree, you'd be looking at \$175,000 as the minimum funding
11 target. Not the 4 percent, because 4 percent would not
12 produce a minimum size state support operation.

13 Now, there are a couple of more complexities here.
14 But that's the basic issue.

15 Obviously, when you have a little bit of money, you
16 then approach the problem of how you move towards targets
17 that you can't possibly reach, and a fill-up-the-cup approach
18 is the answer to that in the state support area. With, just
19 as there was last year for basic field, an initial 2.5
20 percent cost of living. That's on this table. You can see
21 the 2.5 percent increase column here. This table shows you
22 the calculation for the '94 grants.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 And for '95, we'd have the same kinds of questions
2 we've looked at before. First: Are they sensible targets?
3 And we'll give you a recommendation on that. Second: Do we
4 do something with either a COLA or a per capita using the
5 population of the state or some other approach so that
6 everybody gets at least some increase against stagnancy.

7 CHAIRPERSON MERCADO: Well, again, though, my
8 question was, at what point do we decide that we're going to
9 use a 10 percent rather than \$175,000 base?

10 MR. SINGSEN: When 10 percent produces a number
11 less than \$175,000, you use 10 percent.

12 CHAIRPERSON MERCADO: Okay.

13 MR. SINGSEN: So the states funded at less than a
14 total of \$1,750,000, the target would be 10 percent.

15 Now, that will slide over, for example, for Pine
16 Tree, as it gets to a place where 10 percent is over
17 \$175,000, as it will next year with an increase. It'll stick
18 at \$175,000 as its goal until it reaches the place, which it
19 may never do, where 4 percent is greater than \$175,000.

20 And saying it this way is more complicated than
21 showing it in terms of running through and doing examples.
22 But the basic point is there are a series of targets which

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 take account of the fact that there is some minimum size that
2 seems reasonable for state support, and that there's a target
3 of 4 percent.

4 There's one other complexity. If you look down the
5 page to the next state, after Pine Tree, you'll discover
6 Massachusetts. The total funding in Massachusetts in 1994 is
7 \$6 million. Four percent of \$6 million would be \$241,168.
8 You see that in the column "State Target Amount." The
9 current funding for state support in Massachusetts is
10 \$510,000 for the Massachusetts Law Reform Institute.
11 Actually, it's 523; 523 was the outcome of this process.

12 So they're at 8 percent already, or 12 percent,
13 actually. They're over the 4 percent target. And so all
14 they got last year was the 2.5 percent increase. Just like
15 the higher funded basic field programs.

16 Now, what we'll do is we'll examine this and bring
17 you a recommendation about it, but I am fairly confident that
18 we'll continue with the practice, particularly with -- and
19 this year we're looking at an increase of 9.7 percent for
20 state support. And for the distribution of that money across
21 the states, I'm sure that the basic element will include
22 taking account of the long-term 4 percent goal and the desire

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 to build up, on a relatively fair basis, towards that goal,
2 across all states.

3 There's one other issue you should know about and
4 we'll have to bring you recommendations about. There are
5 five jurisdictions that haven't had state support until this
6 year, when they got \$20,000 planning grants.

7 CHAIRPERSON MERCADO: Well, part of what I'm
8 looking at is, for example, looking at Massachusetts, you've
9 got the Mass Law Reform Institute, that gets -- the state
10 support center -- \$510,769.

11 Then you've got Center for Law and Education, which
12 I'm assuming is the national center --

13 MR. SINGSEN: Right. But it's not included in
14 these calculations.

15 CHAIRPERSON MERCADO: No. I know. I'm just
16 looking at -- you've got, and I don't know whether it's
17 Western Mass -- is it a law center or a legal services --

18 MR. SINGSEN: No. That's Andy Steinberg's program,
19 actually. Western Mass Legal Services.

20 CHAIRPERSON MERCADO: Okay. Okay.

21 MR. SINGSEN: The supplemental field program also
22 wasn't included in these calculations.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Okay. Summarizing what you're doing
2 here: The object is to bring everybody up 2.5 percent as a
3 minimum, and use the rest to raise every state support center
4 to where they get closer to 10 percent of the monies that are
5 going into the state otherwise through basic field, Native
6 American, and migrant.

7 MR. SINGSEN: Right. To their target. Some of
8 it's a 10 percent target; some of it's \$175,000; some of it's
9 a 4 percent target. Depends on the size of the state's
10 funding. I may have explained that when you were out of the
11 room.

12 MR. SMEGAL: Yeah, you may have. And I'm looking
13 at California, which is at 4 percent of \$39 million, almost
14 \$40 million. That would be \$1.6 million. The state
15 support's at \$1.4, so that's less than 4 percent. But the
16 recommendation there would be 2.5 percent of that number --
17 no, it's actually 2.5 percent of some other number, I guess.

18 MR. SINGSEN: If you look at the column called
19 "State Target Amount," towards the right. See that column?

20 MR. SMEGAL: Right. Yeah.

21 MR. SINGSEN: The 4 percent figure in California is
22 \$1, 569,000.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: Okay. All right. Yeah.

2 MR. SINGSEN: Excuse me. This is the 1994
3 calculation. So that in 1994, after getting the 2.5 percent,
4 California had state support funding that was 91.471 percent
5 of its target. A little less than its target. So it got an
6 increase beyond the 2.5 percent which took account of the
7 fact that it was -- I'm sorry, I may be wrong about that.

8 MR. SMEGAL: It looks like the 2.5 percent is
9 exactly --

10 MR. SINGSEN: Only got the 2.5. Right. I'm sorry;
11 I'm wrong.

12 MR. SMEGAL: And what was the rationale there?

13 MR. SINGSEN: What they tried to do was to raise
14 the target -- see the "Raise the Target" column?

15 MR. SMEGAL: Right.

16 MR. SINGSEN: So that every state got up to 49.8
17 percent of its target. California was above 49.8 percent of
18 its target, so it didn't take in the raising towards the
19 target; it only got the 2.5 percent.

20 MR. SMEGAL: And the 49.8367 percent is what?

21 MR. SINGSEN: Is the amount of money that was
22 available. It's a fill-up-the-cup approach. You took the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 total gap and you figured how much progress you could make
2 towards the target, and the answer was, you could raise it up
3 so that the floor is 49 percent of the target. California
4 being funded better than that with the Western Center, wasn't
5 able to achieve any increase on the fill-up-the-cup approach.
6 It's a relatively high funded state support state.

7 MS. ROGOFF: By contrast, if you live in Texas,
8 which immediately precedes California, you have the other
9 picture, which is a relatively low funded state support
10 state, where at the end of '93, the state support grant for
11 the state was only 34 percent of the target, at \$416,000.
12 And that to raise the target to the 49.8 percent cost just
13 under \$200,000. And so Texas was now at the floor, the 49.83
14 percent.

15 MR. SMEGAL: Well, no. Actually, to raise it to
16 49.8367 if I read this table correctly would have required
17 \$197,081, and what they got was actually a little more than
18 that.

19 MR. SINGSEN: That's because they also got the 2.5
20 percent first.

21 MS. ROGOFF: That's right.

22 MR. SINGSEN: So that the 34 percent of the target

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 is after giving them their 2.5 percent. Everybody got 2.5.
2 Then the percent of target is calculated, and the cup is
3 partially filled.

4 MR. SMEGAL: All right.

5 CHAIRPERSON MERCADO: But they're still at half
6 funding that a --

7 MR. SINGSEN: Right. They're still only at 49
8 percent of their target, compared to California, which is at
9 97 percent of its target, and Massachusetts, which is over
10 100 percent of its target. Over 200 percent of its target.

11 I will offer only one small side comment. In the
12 world of state support, there are five or six state support
13 centers that were specially created in the '60s, along with
14 the first national support centers. And they were created to
15 test the model, and they were funded quite well.

16 MR. SMEGAL: So they're all ahead, and they
17 continue to be ahead.

18 MR. SINGSEN: And they are Mass Law Reform, Legal
19 Services of New Jersey, Michigan Legal Services, Western
20 Center, I think Ohio State may have been in that group. And
21 then, along the way, a sixth was created: The Greater
22 Upstate Law Project in New York.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MS. ROGOFF: I think what we're seeing is that in
2 the late '70s, during expansion, the Southwest -- those were
3 the extension programs. The West and Southwest. There
4 weren't legal services programs there before, and so a lot of
5 effort went into expansion. But those programs that have
6 virtually all been at the floor remain at the floor, whereas
7 because of the anomalies of the existing programs and
8 established track records, programs in other parts of the
9 country have higher funding levels.

10 Which is why one of our goals is equalization, to
11 bring those that have always been at the floor and where
12 there have been increasing populations, both in the '80s
13 Census and the '90s Census. So as you think about
14 discretionary funding, that might be one of the things.

15 I didn't say that on behalf of PAG; I said that on
16 behalf of my own state and region.

17 MR. SINGSEN: Or even on behalf of the state
18 support, delivering work --

19 CHAIRPERSON MERCADO: Yes. Jerry knows my comments
20 about the Southwest and how it gets continuously omitted in
21 funding of special projects and programs.

22 MR. SINGSEN: I actually wanted to make another

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 comment, as well. Which is that if you think about the
2 programs I named -- Massachusetts Law Reform, Legal Services
3 of New Jersey, Western Center -- we've just names three of
4 the premier programs in the country, by many people's
5 estimation. So that it may be that a large state support
6 center is an extremely effective and efficient way to deliver
7 services. It may be totally idiosyncratic.

8 But one of the conundrums here is that funding
9 policy isn't always about service delivery. It's sometimes
10 about some other issues that matter, too. Like equity. And
11 before we jump to one approach or another, the staff is going
12 to have to be careful to give you recommendations that don't
13 bargain incorrectly among these issues.

14 CHAIRPERSON MERCADO: What I would definitely like
15 to see -- I've spent some time, in and out, looking at how
16 the Western Poverty Law Center runs. And I, personally,
17 especially in a state as large as Texas, would want to see a
18 support center that had the ability, the co-counsel, to do
19 the impact litigation statewide on issues that affect our
20 client population in different areas. To do that in a sort
21 of team approach, in a way that Western Poverty Law Center
22 does that.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 That sort of would be my ideal of what support
2 centers would do, aside from the research and back-up that
3 they do, but also to be able to provide additional attorneys
4 to do that kind of work who have the expertise and the
5 experience, versus, your rookie in the field that's only been
6 there a year or two trying to learn the ropes.

7 I mean, that's sort of what support centers would
8 do, aside from the research and background that they do, but
9 also to be able to provide additional attorneys to do that
10 kind of work, who have the expertise and the experience,
11 versus, you know, your rookie in the field that's only been
12 there a year or two trying to --

13 MS. ROGOFF: You know, that particular program also
14 receives the computer assistance legal research grant and
15 also has the training component. Again, I think a lot of
16 these situations, we're talking about that critical mass:
17 where, at what point do you have the capacity to really do
18 the services that you're talking about a program ideally
19 offering?

20 Whether it's a political field program -- is there
21 a critical mass aside for which a local field program
22 shouldn't fall into order to be effective in delivering its

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 services, whether there's a -- is there a migrant size grant
2 for which you can't be effective, a state support grant? As
3 you can see, we are working to try to find the right balance,
4 recognizing the limitations of resources and the demands, the
5 competing demands for the resources available.

6 MR. SINGSEN: It might be useful to move on to
7 regional training centers for a minute here. Again, we --

8 CHAIRPERSON MERCADO: What appendix was that?

9 MR. SINGSEN: That's the -- I think it's the next
10 one, yes, appendix 7. We are dealing here with \$7,500 to
11 distribute for a very complicated discussion, at least
12 potentially, although I don't propose to really have it this
13 morning, about the distribution program. Regional training
14 centers are one of the four areas that PAG proposed for
15 Linkage Plus. The goal was .29 percent of the same field
16 funding that we looked at before, but the field funding for
17 the whole region.

18 And the reason that these long tables are here for
19 just five grants is because it accumulates the money in the
20 whole region, not just state by state, before determining
21 what .29 percent is as a target and how to apply it. Again,
22 this is a formula which was in a Senate committee -- a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 conference committee report as part of the '94 appropriation,
2 so that there is some Congressional support for this
3 complicated fill-up-the-cup approach to .29 percent as a
4 target.

5 The regional training centers, as you'll see if you
6 look closely at it, the column there says 3 percent increase
7 as opposed to a 2 1/2 percent increase, and I don't really
8 propose to spend much time on the construction of this table.
9 The principles here are the same. The amount of money is
10 determined by the line item that Congress gives us. And the
11 questions here would be two: one, do we have the same sense
12 of the target here that we have for state support and other
13 funding lines?

14 And the history is much shorter. Regional training
15 centers were created in 1981-82. They were put in place as
16 the corporation left the business of centralized training
17 management. They provide support to training efforts around
18 the country. They seem to do quite a good job at it. They
19 don't have, however, much of a history of why .29 percent is
20 exactly the right target. It's more like \$7 a poor person
21 was a good number in part because the New England region had
22 funding at about that level in 1974.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 So here your staff needs to take a look at some of
2 the basic assumptions on which there's less history to bring
3 you a recommendation, and, obviously, again, we'll do that in
4 collaboration with PAG and with the regional training centers
5 themselves. So, function is important.

6 MR. SMEGAL: Let me ask you a question. These
7 regional training centers are different than the regional
8 offices that once existed back when I first came on this
9 board. These were created when, '91?

10 MR. SINGSEN: Eighty-one.

11 MR. SMEGAL: So they were on at that same time?

12 MR. SINGSEN: Yes.

13 MR. SMEGAL: Were we dealing with these?

14 MR. SINGSEN: Yes. Indeed, there was a major
15 litigation trying to defund them in '83-'84, and the court
16 held that they were an annualized grantee and could only be
17 defunded through the hearing process.

18 MR. SMEGAL: All right. And there are five?

19 MR. SINGSEN: Five of them. There's a list of them
20 back in the supportive materials -- it's a little easier to
21 look at -- on page 3 of Mary Burdick's memo, which has got
22 the letterhead of National Training Coordinating Council. So

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 there's five of them. The western regional center is located
2 in Denver. The northeast is at Mass Law Reform. The midwest
3 is in Indiana. The southeast is in Arkansas. And the
4 Western Center on Law and Poverty serves the west coast --
5 just California and Nevada and Washington.

6 MR. SMEGAL: They are up in the western regional?

7 MR. SINGSEN: Right. Each of these has a rather
8 large jurisdiction, obviously, with its small amount of money
9 is able to only on a very spot careful basis provide help,
10 but it does maintain a training library. It provides
11 assistance and planning training. Each of them has several
12 staff people who work with programs throughout the region and
13 with associations of project directors and training
14 responsible people in the local programs to provide as much
15 help as possible with these small grants. But, again, the
16 principal issues here are the same as the ones we have now
17 pretty fully explored.

18 MS. ROGOFF: Well, and this is another area. I
19 think Gary correctly points out that the target is very
20 arbitrary. What is being done, I hope, I believe, through
21 the working groups is a discussion of the training needs of
22 programs and some deliberation over whether this is the model

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that best fulfills those training needs.

2 MR. SMEGAL: These numbers on page 3 that you just
3 pointed -- or these five programs, the approximate funding
4 there is about 700,000. So that number, actually, the 795
5 represents -- they got an across-the-board 12 percent last
6 year when we went from 357 to 400?

7 MR. SINGSEN: Well, the numbers in the memo are
8 actually from '92, so it's two years worth of increases that
9 you're looking at.

10 MR. SMEGAL: They total roughly 700, and what these
11 programs got in fiscal year '94 was 795.

12 MR. SINGSEN: Correct.

13 MR. SMEGAL: So in a way they got there was some
14 direct line percentage of some increase across the board?

15 MR. SINGSEN: Right. Yes.

16 MR. SMEGAL: Okay.

17 MR. SINGSEN: Well, they actually got the way they
18 got there between '93 and '94 because the table shows that
19 there were at 711,000 in '93, and it went to 795 in '94,
20 using the calculation method that's here in these tables.
21 Okay?

22 MR. SMEGAL: Thank you.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SINGSEN: The last area is national support,
2 and we're back to a nice, simple table. The national support
3 table is in appendix 5. In 1994, the increase was an across-
4 the-board COLA-type increase based on '93 levels and the new
5 money. And for '95, working, as I've already said, in close
6 collaboration with the delivery working group subgroup, with
7 the uniting support process, and with the support centers
8 themselves, we plan to develop an approach in -- which is
9 quite -- which has some targets and directions unlike any we
10 have talked about so far.

11 That is, it will be based on the substantive needs
12 of the support community and how best to put the increase to
13 use in that community. We'll have those recommendations by
14 October. We certainly hope we will, anyway. And they will
15 be taking account of the possibility that there are gaps in
16 what the support centers were able to do as well as the needs
17 of the support centers, the continuity of their service
18 delivery.

19 And, as I say, what is going on, I think, is pretty
20 well along already is a discussion within the national
21 support community as part of the uniting support and as part
22 of the delivery working group, taking account of changed

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 needs over more than a decade, because, of course, these
2 centers are the same centers that were around about 1982,
3 with one exception. One center was added, the center in
4 Indiana.

5 So there's a lot of figuring out to do in this
6 area, but it's not driven and hasn't been driven by formulas,
7 so you'll get quite concrete, substantive recommendations in
8 this area. It makes the presentation we have to make about
9 distribution formulas very short.

10 MR. SMEGAL: I have no questions, Madam Chair.

11 MR. BRODERICK: I'm not in a position to ask
12 questions. I apologize to you. I left because I had to go
13 over and meet with Senator Gramm, so I was not here. I
14 didn't mean to be rude to you, but I had that appointment.
15 So I apologize.

16 MR. SMEGAL: Did he tell you his story about how he
17 was sued by Legal Service Corporation lawyers over the date
18 of his election? Did he tell you that? He likes that story.

19 MR. BRODERICK: Yes, he covered that.

20 MR. SMEGAL: Did he?

21 MR. BRODERICK: I did not comment on it.

22 MR. SINGSEN: That completes the series of

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 discussions for information preparation on the line items in
2 which we have annualized grants and have to make decisions
3 about how to distribute increases as part of a '95 budget.
4 We'd be glad to take questions.

5 And I again say to the degree there are desires and
6 information and further exploration that you'd like to make
7 between now and September, when I think we'll come in with
8 the first set of recommendations on some of these for actual
9 decision-making, please let us know and we'll try to develop
10 whatever would be useful to you, and we will, of course, be
11 coming in with very specific recommendations for how to do
12 each of these lines.

13 MR. SMEGAL: Have you got any comments on the House
14 staffers' proposal that management and administration be
15 raised 14.4 percent?

16 MR. SINGSEN: We have done a preliminary budget,
17 and I think Mr. Richardson may be in a position to provide
18 that to the board just for information purposes before the
19 end of this meeting about a \$12.5 million budget that will
20 work with the kinds of changes and goals and desires we have
21 about working more closely with programs, on program
22 improvement, on evaluation of performance, as well as taking

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 care of the many critical accountability functions, doing the
2 business of making the grants, and maintaining the
3 organization itself in the way that it should be done, and
4 retiring the deficit, too.

5 So we do think 12.5 million will certainly meet our
6 needs. Were the Senate bill to become law, where we have a
7 \$10.9 million appropriation, that we would clearly have
8 another extremely tight year, and it would significantly
9 affect our ability to do the improvements in our work with
10 field programs around performance assessment and technical
11 assistance. We'd obviously do the best we could, but it
12 would be much tighter if that happened, of course.

13 MR. SMEGAL: Thank you.

14 CHAIRPERSON MERCADO: Now, at the August meeting
15 were some of these areas going to be fleshed out a little bit
16 more for discussion purposes, or --

17 MR. SINGSEN: At the -- sorry. I was going to say,
18 at the August meeting the major focus will not be on the 1995
19 budget and the distribution questions, but on the -- we will
20 obviously have some '95 issues, but the '96 budget, the mark
21 and the allocations among line items in the mark will be our
22 primary focus.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 We're going to talk about that briefly here now,
2 but the questions that we've talked about in the past about
3 Linkage Plus, about our strategies with regard to approaching
4 the Congress, about where the emphasis for '96 should be
5 substantively will be the major purpose as opposed to the
6 distributional issues in '95 which we have been laying the
7 groundwork on today.

8 And in that meeting, which is not followed
9 immediately by a board meeting, but the board meeting comes
10 in September, and we'll obviously be preparing the mark that
11 we intend to recommend to the board, and probably there will
12 be some questions that will need to be resolved and a lot of
13 thinking that will need to happen between August and
14 September about what it is that the board wants to recommend
15 to the Congress and to the President for '96. So that's the
16 big piece of business that's coming up.

17 CHAIRPERSON MERCADO: I'm sorry. Logistics. Now,
18 as far as item 6 of the agenda, are we ready to discuss a
19 preliminary, a very preliminary discussion, unless Mr.
20 Broderick came back with \$500 million from Senator Gramm.

21 MR. BRODERICK: Pockets full of money. I don't
22 know how we'll spend a billion dollars, but --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. SMEGAL: A billion? Oh, God. He always was a
2 tightwad.

3 MR. SINGSEN: Madam Chairman.

4 CHAIRPERSON MERCADO: Yes.

5 MR. SINGSEN: On item number 6, which is the
6 initial discussion about the budget mark for fiscal year
7 1996, the staff is not at this time prepared to offer a
8 figure or a target or a distribution among the line items.
9 We do anticipate the process that just was described at the
10 end of the prior item in terms of working that out and
11 obviously will have staff recommendations for you.

12 However, the Project Advisory Group and its
13 steering committee reached some conclusions about a possible
14 mark at a meeting in the spring, and I believe that Ms.
15 Rogoff is prepared to share the information with the board at
16 this preliminary stage about what the steering committee
17 conclusion was. And we thought that we probably should have
18 that on the agenda and hear that at this time, as well as
19 taking any questions or guidance or suggestions that you'd
20 like us to pursue.

21 CHAIRPERSON MERCADO: That's fine.

22 MS. ROGOFF: And, actually, I feel like during the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 course of our earlier discussion I addressed some of that.
2 In Mr. Broderick's absence I probably should reiterate some
3 of it, but without being redundant, and recognizing that the
4 hour is late.

5 The Project Advisory Group's position on the mark
6 is one that we feel is a major sea change for us, not really
7 in '96, but it was in '95, when we reoriented from a minimum
8 access approach which was based on a formula to provide two
9 attorneys for every 10,000 poor people to a visionary
10 approach. We feel that looking into the future, we should be
11 stating for this board, for Congress, and for the public what
12 the real needs for legal services are in the client
13 population and what the real need is in terms of Legal
14 Service's delivery systems to be able to meet the client
15 need.

16 And so that the minimum asset figure for '95 that
17 I'm sure you're familiar with was 848 million, roughly \$20
18 per poor person. At the outset we talked about how limited
19 our progress has been from the late seventies, when we were
20 at \$7 per poor person, to 1994, when we were at \$9.68 a poor
21 person. We have a long way to go even to reach minimum
22 access over twice where we are now in order to be at \$20 a

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 poor person or 848 million overall.

2 But that is not the mark that we are urging.
3 Nobody would be unhappy if we were able to persuade Congress
4 that we should achieve that. But we feel that it's very
5 important both internally and externally for the people who
6 work in the field as well as for the people who receive our
7 services and for this body to realize that the need -- that
8 the goal shouldn't be a mechanical goal of minimum access,
9 but it should be a visionary goal of equal justice for poor
10 people.

11 And we estimate, and I'm not really prepared to go
12 into the details of it today, but we estimate that the cost
13 of that is in excess of \$3 billion. not all of which clearly
14 can or should be borne by the federal government or the Legal
15 Service Corporation. There is an important role for state
16 IOLTA programs, for state legislatures, for other types of
17 funding entities to try to contribute to that visionary
18 ultimate goal, which hopefully is attainable at some point.

19 But there is an important role for the Legal
20 Services Corporation to play, and we have -- we believe that
21 that is to provide roughly one-third of the larger amount.
22 And that one-third just above \$1 billion; \$1.1 billion is the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 mark that the Project Advisory Group would be urging this
2 body and urging on Congress.

3 Earlier we talked about principles and rationales
4 and the need to be able to justify what we are seeking and
5 what we are doing with the funds that we receive, and it is
6 our very, very strongly held sense of our community that the
7 people who work in legal services work and have stayed in the
8 field and in this community out of a vision that can only be
9 described as equal justice for the poor, and that we want
10 this corporation to carry that message to Congress about the
11 values, the principles, and the needs for equal justice.

12 So that the mark that I would urge you today and
13 urge you to adopt later when you actually address this is the
14 \$1.1 billion that the Project Advisory Group members have
15 endorsed. Thank you.

16 MR. BRODERICK: I'd just like to comment. And I
17 hope that my comments aren't the result of my most recent
18 meeting.

19 (Laughter.)

20 MS. ROGOFF: I knew that the timing of this was
21 not --

22 MR. BRODERICK: And I hope they're not

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 misconstrued, because I genuinely --

2 MS. ROGOFF: And I am from Texas.

3 MR. BRODERICK: Yes. And I genuinely appreciate
4 your feelings. But there is, and I think all of us have seen
5 this year, and I have seen within the last hour, a very
6 genuine political reality that we need to deal with. And I
7 think all of our discussions, although they shouldn't be
8 limited by that political reality, they at least need to be
9 tempered by it.

10 And I'm not persuaded that the best way to skin
11 this cat is to continually go in front of the Congress of the
12 United States at a time when we are trying to reassert and
13 reestablish who we are and what we are --

14 MS. ROGOFF: Okay.

15 MR. BRODERICK: -- and continually tell them that
16 their appropriations, if we were to adopt that budget mark,
17 are really paltry and a third of what we really need for poor
18 people in the United States, because what I think it does is
19 to fan the debate at the margins. And I think when that
20 occurs the broad middle gets hurt. It's not an easy problem
21 to resolve. But I think that we have to look realistically
22 at where this corporation has been over its life history and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 particularly where it's been in the last decade.

2 And if we're going to move this corporation to a
3 point where the volume is lowered and it is perceived more
4 institutionally than it is now, I'm not sure, respectfully,
5 that we can do it by being visionary in terms of dollars,
6 because I think it's pretty clear on Capitol Hill that that's
7 not their mood. And there are a lot of federal programs that
8 are undergoing cuts as opposed to increases.

9 And so some of it is just tempered by my
10 experiences as a trial lawyer. I really hate to ask a jury
11 for more money than I think realistically they're ever going
12 to give me, because they'll probably give me half of what I
13 hope for. And so I think that's something that has got to be
14 debated here. I think our goals are mutual. I mean, I think
15 our goals are probably identical. It's the timing and the
16 tactic that I think is very critical for all of us.

17 And having just come from a very pleasant meeting
18 with Senator Gramm, I think he would have passed out if I had
19 said to him, respectfully, what I just heard. I would have
20 needed smelling salts. And his point of view needs to be
21 recognized and dealt with and respected, I think, if we're
22 going to move this agenda forward over time.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 So I look forward to the debate and the discussion,
2 and I appreciate and -- genuinely appreciate the dedication
3 of the people in the field who have been doing this for years
4 and with little progress. And so I can imagine the
5 frustration. And please don't misapprehend what I'm saying
6 here. But I just think we've got to rethink and reform how
7 we approach the Congress of the United States.

8 MS. ROGOFF: Well, I will say for people in the
9 field that we are practical as well as visionary, and we can
10 be pragmatic as well as idealistic, and we recognize
11 political realities. I do think that the point and the
12 message that I believe I have been asked to convey on behalf
13 of the field is -- and needs to be stated by someone about
14 what the real, real needs are before we start getting
15 practical, and so that we don't lose sight of the fact -- we
16 don't start thinking of the practical solution as the end
17 result in and of itself, but we recognize that that is only a
18 compromise with the realities that we all live with at the
19 national, local, you know, state levels.

20 I think that our principles which we work very hard
21 to adhere to are things that I would hope that you would
22 recognize as valuable principles, such as equalization, so

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that as we look at what the pragmatic alternatives are to the
2 visionary goals, that those discussions are informed by
3 concepts of equalization and hold harmless and moving forward
4 as a community and Linkage and Linkage Plus, and as we assess
5 all of these elements within our community to assure that we
6 are delivering the services, that the support systems
7 actually are capable of doing what we ask of them and what we
8 would like to see them do, and as the model ones that -- I'm
9 not sure you were.

10 Maybe you can read from the transcript later, but
11 some of the things the model programs are able to do and Ms.
12 Mercado was saying that she would really like to see all
13 programs be able to do. And those may be within what I
14 understand to be the political realities and not the ideal
15 goals. So, if we could try to keep in mind the principles
16 which help inform the compromises.

17 MR. BRODERICK: I appreciate that. Thank you.

18 CHAIRPERSON MERCADO: For what it's worth, John,
19 Senator Gramm treated me very nicely, too, and felt that all
20 the money that New Jersey had should go to Texas.

21 (Laughter.)

22 CHAIRPERSON MERCADO: So, you know, for whatever

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 that's worth on convincing. But we know we have a great
2 amount of work to do, not only as a board, but the broader
3 community of friends and allies out there on the Hill,
4 because it is in how we present the picture. And I know John
5 was absent for a lot of that discussion. But one of the
6 things that all the Congressional people kept throwing at us
7 was, you know, this big crime bill, this, you know, putting
8 100,000 cops more on the street, all the crime prevention.

9 And, you know, the fundamental that everyone will
10 tell you in research that has been done for years and years,
11 and realities, our realities that we understand, is that a
12 lot of it is on the preventive side and the front end rather
13 than at the back end, building more prisons and putting more
14 cops on the street, that you have to start it on the
15 preventive side.

16 And this is where legal services falls in. And I
17 don't think that we've sold that package as well or
18 negotiated our argument as well as perhaps we should have.
19 We had so little time to do that in. We were just sort of
20 brought in and hit the ground running. And, hopefully, we'll
21 have a better chance this year to make our case for why it
22 isn't just an idealism, but, in fact, it's pragmatics, and

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 pragmatics that affect the big middle group that you were
2 talking about within their own front -- front and back yards,
3 both as well.

4 So those are the kinds of coordinated efforts and
5 strategies that we need to work with the field and with our
6 greater support group out there. And I was just giving a
7 small example to a couple of the other members a little while
8 ago about the fact that we haven't, again, utilized a lot of
9 our allies.

10 The 515 programs in housing were recommended to get
11 zero funding from the House and the Senate. And because of
12 the new dynamics in Congress, it was the Black Congressional
13 Caucus and the Women's Caucus and Hispanic Caucus that got
14 out there and they got it back up to two-thirds of the
15 funding that it ought to be, although everybody thought it
16 was dead in the water.

17 I don't think that we have worked our allies as
18 strongly as we could have and should have, and maybe that
19 means I need to come a couple of days earlier, or all of us
20 do, or, you know, continue to rely on our friends to do even
21 more work that needs to be done, to tell them that it's their
22 priority. And when we discussed it initially with them, you

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 know, they said, "If you get into trouble, come back to us
2 and then we'll, you know, get up there and fight for you."

3 And it was just so evident to me to see that
4 difference that that coalition of people could make in
5 Congress, that we need that same kind of advocacy for Legal
6 Services on the Hill for us. I just don't think it's there at
7 this point, not because they don't care, but because they
8 don't think or have not been advised that it's a problem and
9 that we really need their help. So we just need to work
10 them.

11 MS. ROGOFF: Thank you very much.

12 CHAIRPERSON MERCADO: Thank you.

13 MR. BRODERICK: Thank you.

14 CHAIRPERSON MERCADO: What we're going to do real
15 quickly is go ahead and take the open discussion of how the
16 selection or the different areas of qualifications that the
17 inspector general looked at for reviewing the accounting
18 firm. Then we will recess very quickly to just grab some
19 just very quick lunch, and we will have a working lunch
20 executive session to deal with the audit, and so that Bucky's
21 committee can start up soon thereafter.

22 At 2 o'clock. Okay. Bucky's committee will start

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 at 2 o'clock. So we need to really move the other area. So,
2 Mr. Quatrevaux, whomever else you have with you, if we could
3 do the public part of our presentation regarding the
4 selection of the accounting firm, why don't we do that?

5 MR. QUATREVAUX: Thank you, Madam Chair. I am only
6 here at the table to introduce the assistant IG for audits,
7 Karen Voellm, who when you last saw her was departing Atlanta
8 having been told there was a tree that had gone through the
9 roof of her home. So, with that, Karen.

10 MS. VOELLM: Thank you. Good morning, Madam Chair
11 and committee members. The tree is gone. The leaves are
12 back. So we are back in business.

13 I am here to describe for you the competitive
14 procurement process that we went through in getting to this
15 point of having recommendations for the financial statement
16 of the corporation. We modeled the process after the GAO
17 guidelines and other IG shop models, procedures. I'm going
18 to bring you up to date where we are since we last spoke in
19 Atlanta.

20 We mailed 21 requests for proposals. We advertised
21 the RFP in the Washington Post. On May 23, we held a
22 bidders' conference. Fifteen firms attended that conference.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 Following the conference, we provided responses to additional
2 questions that were raised by the potential bidders. From
3 that process came eight proposals that were received by the
4 June cutoff date. The proposals were put through a three-
5 stage evaluation. We had initial review, a technical
6 evaluation, and a cost evaluation.

7 During the initial review, we looked at it -- we
8 had to determine that the proposals had, indeed, come in on
9 time, that the technical and cost proposals had been properly
10 submitted, and that is, we had required that the two aspects
11 be submitted in sealed -- separate sealed envelopes, and we
12 did this so that the technical evaluation wouldn't be tainted
13 by the knowledge of what the cost was. We wanted to have a
14 completely isolated, independent technical review.

15 We also looked for certifications. We needed to
16 know whether or not the firm understood the RFP. And we also
17 checked their record to make sure that they had had no
18 substandard audit work within the past three years. After
19 that process, the eight technical proposals were evaluated
20 for merit by the source selection team. The team consisted
21 of our supervising senior auditor, Charmaine Romear, who is
22 here, and two other members of the audit staff, Jerome Rogers

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 and Reggie Brockington.

2 Collectively, two of these people are CPAs, one is
3 an MBA, and all of them are qualified under the government
4 auditing standard. They have met their continuing education
5 requirements.

6 The source selection team evaluated the technical
7 aspects based on prior auditing experience with government
8 auditing standards. Qualifications of the staff included a
9 number of years' experience the various staff members had and
10 also on their demonstrated understanding of the tasks to be
11 performed for this audit. We looked at such things as their
12 understanding of audit methodology and planning and review,
13 sampling of testing.

14 After that process was completed, each of the eight
15 proposals were reviewed by each of the three team members.
16 We didn't divide them up. We had everybody look at
17 everything independently. After that process was completed,
18 then we unsealed the cost proposals and looked at them for
19 their price on an annual basis, their price over a three-year
20 basis. We looked at the number of hours they had proposed.
21 We also looked at the ratio of senior staff auditor hours to
22 junior staff auditor hours.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 After each cost proposal was reviewed, the team
2 members then ranked the technical and cost proposal and
3 developed a composite rating. From that process, we are
4 recommending several firms to you. They all seem to be
5 fairly -- very well qualified, and we are happy to recommend
6 them. That, basically, is the process that we followed thus
7 far.

8 CHAIRPERSON MERCADO: Okay. I know that when we
9 had the discussion in Atlanta, when we were looking at the
10 different standards and criteria, there's a couple of factors
11 that were evident. One, the corporation in and of itself did
12 not have criteria that dealt with affirmative action as far
13 as bidding its contracts out to firms, whether it was for
14 that or any other kind of work.

15 And we had required that in the guidelines that you
16 had, aside from the GAO and other IG guidelines that you have
17 for auditing, that we also wanted to look at the aspects of
18 affirmative action policies as well as the aspects of prior
19 experience to either nonprofit or legal services type
20 auditing as well. Were those two factors also taken into
21 account?

22 MS. VOELLM: To overcome the affirmative action

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 issue, in developing the RFP we were very careful to look at
2 various lists that the Small Business Administration had
3 developed, that the Department of Labor had developed, and
4 also it had opened it up to the Washington Post, and believed
5 that we covered large Big Six firms, we covered medium-sized
6 firms, we covered minority-owned firms.

7 MR. QUATREVAUX: We, also, in the RFP, had, as we
8 came to Atlanta, most of the covered classes already
9 contained in our RFP when we were planning it. We then
10 compared that after we got the comments, and we were
11 satisfied that we had accommodated those interests. We have
12 also referred to the general counsel of the corporation the
13 larger problem of not having an affirmative action policy
14 with regard to our contracting and procurement.

15 MR. BRODERICK: Can I ask you -- maybe you
16 identified it and I didn't hear it -- there were three people
17 on a team that evaluated these proposals?

18 MS. VOELLM: Yes.

19 MR. BRODERICK: Can you tell me who those three
20 people were?

21 MS. VOELLM: Yes. One of them is our supervising
22 senior, Charmaine Romear, Jerome Rogers, who is out on the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 road right now, as well as Reggie Brockington.

2 MR. BRODERICK: The process, the time involved in
3 evaluating the eight proposals, can you give me some sense of
4 how much time we're talking about?

5 MR. QUATREVAUX: It was rushed because of the date
6 of this meeting. The closing date for bids was the 30th of
7 June. But we also did a little midnight work as well. But I
8 know that until -- well, until Monday the 11th, when we sent
9 the memo out, the process went right up until then, until
10 that time.

11 MR. BRODERICK: All right. Thank you.

12 MS. VOELLM: It was a good, solid week of effort.

13 MR. BRODERICK: And the recommendations that you
14 will be making, not at this moment, but you are comfortable
15 -- I'm speaking to Mr. Quatrevaux now. You are comfortable
16 that the people who are recommended are qualified, and you've
17 had adequate time to evaluate and analyze what has been
18 submitted?

19 MR. QUATREVAUX: Absolutely.

20 CHAIRPERSON MERCADO: Now, one of the questions
21 that I had, just looking back through some of the Audit and
22 Appropriation Committee meetings from previous years, you

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 know, just for me, that I just sort of get a sense of what
2 they were doing, it seemed that management had input and, in
3 fact, up until, I guess, this year or whatever had a lot of
4 input into who the auditor or the auditing firm was that did
5 the auditing.

6 And I understand some of the principle for which,
7 you know, the IG is being responsible for this, but it would
8 seem to me that there would be some utility in having the
9 entity that is being audited to have some input or at least
10 might have some knowledge of what auditing firms are out
11 there and what their work may or may not be, I mean, you
12 know, in sort of a bar sense.

13 I know most nonprofit corporations that were
14 involved, and most of the auditing selection is done by the
15 corporation itself. I mean, obviously, where the boards are
16 doing that, that's done. To what extent was there input from
17 management reviewing any of the auditing selection?

18 MR. QUATREVAUX: In this process?

19 CHAIRPERSON MERCADO: Yes, sir.

20 MR. QUATREVAUX: None by intent. The reason is to
21 shield the corporation and management from any criticism or
22 appearances of impairment. Management is responsible for

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 financial management. Congress, in passing the Inspector
2 General Act in 1978, cited as the principal reason the
3 failure of the federal agency managers to properly manage
4 audit and investigative affairs, and that's why they were
5 centralized.

6 In 1990, Congress passed the Chief Financial
7 Officers Act, which removed from the cabinet secretaries the
8 authority to conduct audits and vested it with the inspector
9 general. The result has been that it has now been
10 demonstrated that many federal agencies have financial
11 systems that are so poor that they can't even produce a
12 financial statement. So the Congress, at least the piece of
13 it that I'm associated with, is convinced that that was a
14 good move, and I suspect in further legislative action in the
15 next session that that will even be expanded.

16 MR. EAKELEY: Does that mean that it's not helpful
17 for us to know management's comments or views on the
18 different firms that you have selected to recommend?

19 MR. QUATREVAUX: I don't know how it could be
20 helpful.

21 MR. EAKELEY: Management might have some experience
22 or insights into the different firms. That's not relevant?

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: I know from looking at some
2 other nonprofits, even some of the ones that are based here
3 in Washington, that, you know, the experience of some of the
4 firms and sort of the information or history as to their
5 practice and their work as to whether or not they are having
6 difficulties with the auditing they have done.

7 And it would seem like there would be some kind of
8 input as to whether or not one firm versus another firm may
9 have had a better reputation or better experience, expertise
10 in doing that, and I think that is sort of at the level that
11 we're looking at as far as having some sense of input.

12 MR. QUATREVAUX: I think part of the distinction is
13 that we're talking about \$400 million of federal funds. I
14 really think that it accrues to the benefit of the
15 corporation to have a process by which those funds are
16 audited that can be above reproach and criticism, no matter
17 how well founded.

18 MR. EAKELEY: But, really, isn't the audit covering
19 the operations of an entity with a \$12 million budget, not
20 400 million? I mean, is that really fair, Ed?

21 MR. QUATREVAUX: Well, I see your point. I can't
22 disagree. But nevertheless, I guess what I should say to

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 you, perhaps, is, there's an expectation, there's a
2 misunderstanding by some of the auditors, as you encountered.
3 There are some people who appropriate funds to us who sort of
4 think we are, indeed, a federal agency.

5 MR. EAKELEY: No, but, I mean, it makes eminently
6 good sense for you to select and supervise the conduct of the
7 audit by the outside auditors on behalf of the corporation
8 and the board. I'm just -- it seems to me that the
9 safeguards are already pretty much in place, and if there's
10 relevant insights or perspective that we can get from
11 management, who, after all, are our management, then it seems
12 to me we risk losing that relevant information if we don't
13 seek their comments on the firms being selected.

14 MR. QUATREVAUX: Let me say this.

15 CHAIRPERSON MERCADO: Okay. Well, let me put it in
16 a different way. We, as the head of the corporation, the
17 board of directors, have to decide or recommend to you based
18 on the recommendations and your evaluation of what you have
19 done. Well, this management head may not have the experience
20 of on site, knowing what some of these firms have done or not
21 done because we're not here and we haven't been here for, you
22 know, the last 15 years or 20 years that it's been in

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 practice, and what these firms do or don't do, what their
2 expertise is or isn't.

3 And in that sense, even though it's the head
4 deciding, the head to some extent has to have some input from
5 its own staff as to what some of that information is
6 relevant, whether it's to prioritizing the funding, whether
7 it's to audit. I don't see how we can act in a vacuum
8 without having the benefit of our own management team.

9 And they may have no recommendation. They may not
10 know anything at all about these folks. But it would seem to
11 me that the better rationale would be to have some input so
12 that hopefully we get the best auditing firm that both, you
13 know, the IGS recommendation and hopefully through whatever
14 reputation or experience the management has or has heard, I
15 mean, whether or not they have been audited by these firms,
16 but other entities or corporations have or have not been.

17 MR. QUATREVAUX: Well, the only thing I guess I can
18 add that hasn't already been said is that we are your
19 internal audit staff. We have the expertise. There's no one
20 on the corporate staff with that expertise. We have gone
21 through a process that was modeled on both the GAO guidelines
22 and the federal acquisition regulations to ensure competitive

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 procurement. We have gone to a lot of trouble to do that and
2 thus a considerable amount of time. If we don't want that
3 kind of process, disciplined process, then we shouldn't have
4 invested that effort.

5 CHAIRPERSON MERCADO: Well, I guess I don't think
6 that there is any disagreement that you have the expertise or
7 have gone through the process. The question is, is it useful
8 and is it relevant to have input from management, who is in
9 many ways sort of our eyes and ears to a lot of things about
10 how this corporation ought to function or not function,
11 should they have some input or some recommendation into it.
12 Whether you listen to it or not or whether you follow it or
13 not, you know, I guess, is totally and entirely up to you.
14 But shouldn't they at least have the access to you to provide
15 some of those recommendations or some of those observations
16 on these firms?

17 MR. QUATREVAUX: Sure. I couldn't object to that.
18 And, for you, you can get your input, you know --

19 CHAIRPERSON MERCADO: That's what I'm saying.

20 MR. QUATREVAUX: -- as you see the need to do so.

21 CHAIRPERSON MERCADO: Yeah.

22 MR. BRODERICK: Very briefly, I think I am more

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 inclined to accept the comments I hear in this sense. It
2 seems to me many things in this corporation are more
3 complicated than they need to be and that there is from time
4 to time a suspicion that I think is counterproductive to the
5 effective functioning of this corporation.

6 The gentleman sitting at that table is the
7 inspector general of this corporation, designated as such by
8 statute. He has very discrete duties. He has fiduciary
9 obligations, it seems to me, to us and to the Congress of the
10 United States. I am perfectly comfortable with the Office of
11 the Inspector General telling me after an exhaustive process
12 who ought to audit our books.

13 I think it would be helpful, perhaps, to have
14 management's input. But I'm not sure it's essential, and I'm
15 not sure that the process is as easily fashioned as you might
16 think and that conflicts could therefore develop, and turf
17 battles develop, and politically I think it looks bad. I'm
18 confident as a member of this board that if the inspector
19 general of this corporation, after the kind of review that
20 we've talked about, advises us who should audit our corporate
21 books, that's good enough for this board member.

22 And while I think it might be nice if the

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 management also had an input, I don't think it's essential,
2 and I think you just create gray lines when you ought to have
3 bold lines. And I think that's a clear example of where the
4 buck stops, and it stops out there and ought to stay there.
5 That's my two cents.

6 I think I have confidence in the people at that
7 table to tell me who ought to audit the books of this
8 corporation. I think we as a board ought to determine what
9 that process should be in coordination with them. But I
10 don't think that we need to trouble the management of this
11 corporation, which has very discrete functions that this
12 gentleman and the staff do not have. It would overlap. I
13 think at some point we've got to let people do their job and,
14 hopefully, do it well.

15 MR. SMEGAL: Is it appropriate to make a motion,
16 Madam Chair?

17 CHAIRPERSON MERCADO: Well, I think that --

18 MR. SMEGAL: Do we need a motion? Are we going to
19 have a recommendation to the board?

20 CHAIRPERSON MERCADO: Well, we're going to have a
21 recommendation to the board, but some of that is going to
22 have to go into executive session to discuss the particulars,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 pros and cons among the firms that they're looking at, and
2 then we'll have to come back out again in open session to
3 vote on whatever recommendation we're going to take.

4 MR. SMEGAL: I just had a three-hour executive
5 session across the street.

6 CHAIRPERSON MERCADO: We're going to recess very
7 quickly, go have our lunch, come back over here.

8 MR. SMEGAL: No, no, no, no. I just had a three-
9 hour executive session on the Sunshine Act. Can we go into
10 executive session on this, given --

11 MR. QUATREVAUX: Yes, the Job Council has certified
12 closure under the Sunshine Act.

13 MR. EAKELEY: Was that before or after Judge
14 Green's decision in Wilkinson?

15 MR. QUATREVAUX: After.

16 CHAIRPERSON MERCADO: Okay. If we don't have any
17 other further comments in open session on the selection
18 process, what we're going to do is recess, get our lunch real
19 quickly, come back over here and go into executive session,
20 and our executive vice president is here so that she can
21 participate, and I and told Mr. Singesen and Mr. Richardson to
22 be here as well, and, again, because of just the input or

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 knowledge more than anything else, because I don't feel that
2 I have it.

3 MR. SMEGAL: Well, in line with our chair's
4 comments, is it clear what we're going into executive session
5 for?

6 CHAIRPERSON MERCADO: Yes. We're going to discuss
7 the specific details of the top firms that they have looked
8 at, that they are recommending we should consider for
9 selection to do the audit. And then we will, knowing the
10 particulars, then we will go back into open session to take a
11 vote on what it is we want to do.

12 MR. SMEGAL: That is the only issue to be discussed
13 in executive session?

14 CHAIRPERSON MERCADO: That is the only issue to be
15 discussed in executive session. That's right.

16 MR. SMEGAL: And the contribution that Mr. Singsen
17 and Mr. Richardson will make to that will be what?

18 CHAIRPERSON MERCADO: Just as far as whether they
19 have any information one way or the other as far as the firms
20 are concerned. And they may or may not, because they don't
21 even know who the firms are.

22 MR. SMEGAL: Isn't that inconsistent with what our

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 fellow board member has just said?

2 CHAIRPERSON MERCADO: It is inconsistent. And part
3 of the problem that I'm having as a board member is that we
4 rely on our staff to provide information to us on key
5 components of what we ought to do. And in all corporate
6 situations, the board of directors, whoever they are, rely on
7 their staff to give them information and input about relevant
8 issues that they ought to take or make a decision on. And I
9 honestly don't believe that we can do that without having
10 that input. As I said, whether or not they listen to it or
11 take that, that's totally up to them, but we need the benefit
12 of that input as a board.

13 MR. EAKELEY: Or we may. We don't know. But it
14 seems to me there's no necessary inconsistency. John's point
15 is that the inspector general charged with this
16 responsibility should be relied upon to discharge it as he
17 sees fit. He brings his recommendations with the appropriate
18 judgments to the board. We have a decision to make. We
19 don't know whether or not management has some perspective to
20 lend, but we're just asking them to stand by for potential
21 comment on that issue.

22 CHAIRPERSON MERCADO: And they may have none,

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 because ultimately it has to be the inspector general that
2 does this audit independently that they are charged to do
3 this with. We understand that. The problem is that we, as a
4 board, need to have some input from our staff about some of
5 these decisions that are very relevant and very key to the
6 function of this corporation. I mean, I am not disagreeing
7 with you.

8 MR. BRODERICK: And the board can do it once. I
9 just, you know, I just think we need to simplify the process
10 in this corporation, and when we have someone designated,
11 whose job it is, whose competence, in my view, is
12 unquestioned, and they tell us that this is who we should
13 use, I don't think you should ask those who are to be audited
14 how they feel about those who are going to audit them. I
15 just don't think that makes sense, not because I attribute
16 bad will or inappropriate conduct. Don't misunderstand me.

17 I just don't think you say to someone who is going
18 to be audited, "Here's a list of eight people. How do you
19 feel about them?" That seems backwards to me. I think we
20 have someone who is charged with it. They ought to come in
21 and make recommendations. We are free to ask them questions
22 and ultimately make the selection, but I just think it looks

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 bad. I just think it looks bad.

2 MR. EAKELEY: It's going to be on the record in the
3 presence of the inspector general.

4 MR. BRODERICK: I understand, but as one board
5 member -- not that I don't care what management has to say.

6 MR. EAKELEY: What if they say, "This firm was
7 indicted for fraud the other week?" Is that --

8 MS. FAIRBANKS: Or what if they say they are very,
9 very hard to work with is their reputation all around town?

10 MR. BRODERICK: Well, I don't feel as a board
11 member that I want to select an auditing firm to audit
12 management of this corporation based on what management tells
13 me they think about them. I just don't think that process is
14 right. I may be a minority of one here. But I assume that -
15 -

16 MR. SMEGAL: Well, no, you're not. You're a
17 minority of two.

18 MR. BRODERICK: That wasn't the point of --

19 MR. SMEGAL: Well, the kind of questions that were
20 just raised, I think, can be asked by this board. What is
21 their reputation? We don't need a member of the Legal
22 Services Corporation staff to ask the question for us.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 MR. EAKELEY: Right. Right. But we --

2 MR. SMEGAL: But we can ask that question.

3 MR. EAKELEY: Right. But why do we exclude our own
4 management from the group of people to whom the question is
5 posed? And is it just -- I mean, I understand the appearance
6 point, and I think we tried to safeguard that, and I think
7 that leaving it to the inspector general to shape the process
8 is a very important part of that safeguarding. But do we
9 really need to be -- is it that critical, central to the
10 appearance point to exclude management from availability for
11 comment if --

12 MR. SMEGAL: Well, so the purpose of Mr. Singen
13 and Mr. Richardson being there is to answer our questions
14 rather than pose their own questions?

15 CHAIRPERSON MERCADO: Well, I mean, and the vice
16 president, the executive vice president.

17 MR. SMEGAL: No, I understand, but whomever.

18 CHAIRPERSON MERCADO: Yeah.

19 MR. SMEGAL: It isn't for them to be in a position
20 to question the judgment of the inspector general --

21 CHAIRPERSON MERCADO: No.

22 MR. SMEGAL: -- but to answer our questions as --

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929

1 CHAIRPERSON MERCADO: That is correct.

2 MR. EAKELEY: That was what I was --

3 M O T I O N

4 MR. SMEGAL: Well, I'm satisfied they should be
5 there, if that makes any difference, and I propose we go into
6 executive session after lunch, consistent with our published
7 announcement to that effect.

8 MR. EAKELEY: In the form of a motion?

9 MR. SMEGAL: Yes.

10 MR. EAKELEY: I'll second that.

11 CHAIRPERSON MERCADO: Okay. We're going to move to
12 recess for lunch right now and then immediately come back to
13 closed session, executive session. We're going to work in
14 the -- because Bucky needs this room in a few minutes.

15 MR. SMEGAL: Until 2:00. We are going to recess
16 and then come back into open session and adjourn by 2:00?

17 CHAIRPERSON MERCADO: No, we're going to recess,
18 come back to closed session.

19 MR. SMEGAL: Right, but then before we adjourn --

20 CHAIRPERSON MERCADO: We will go back into open
21 session, take a vote in open session based on the information
22 and discussion that we've had.

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803

WASHINGTON, D.C. 20006

(202) 296-2929