

LEGAL SERVICES CORPORATION

PROVISION FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE

OPEN SESSION

Friday, May 12, 1995

2:00 p.m.

Legal Services Corporation
750 First Street, Northeast
11th Floor
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

Hulett H. Askew, Chair
Nancy H. Rogers
Edna Fairbanks-Williams

BOARD MEMBERS PRESENT:

F. William McCalpin
Maria Luisa Mercado
Ernestine P. Watlington
John G. Brooks
Douglas S. Fakeley (ex-officio)
John T. Broderick, Jr.

STAFF PRESENT:

Martha Bergmark, Vice President
Patricia Batie, Secretary
Renee Syzbala/OIG
Karen Voellem/OIG
Merceria Ludgood/OPS
Chris Sundseth/OPS
Victor Fortuno, General Counsel
David Richardson, Treasurer/Comptroller
Edouard Quatrevaux, Inspector General

OTHER:

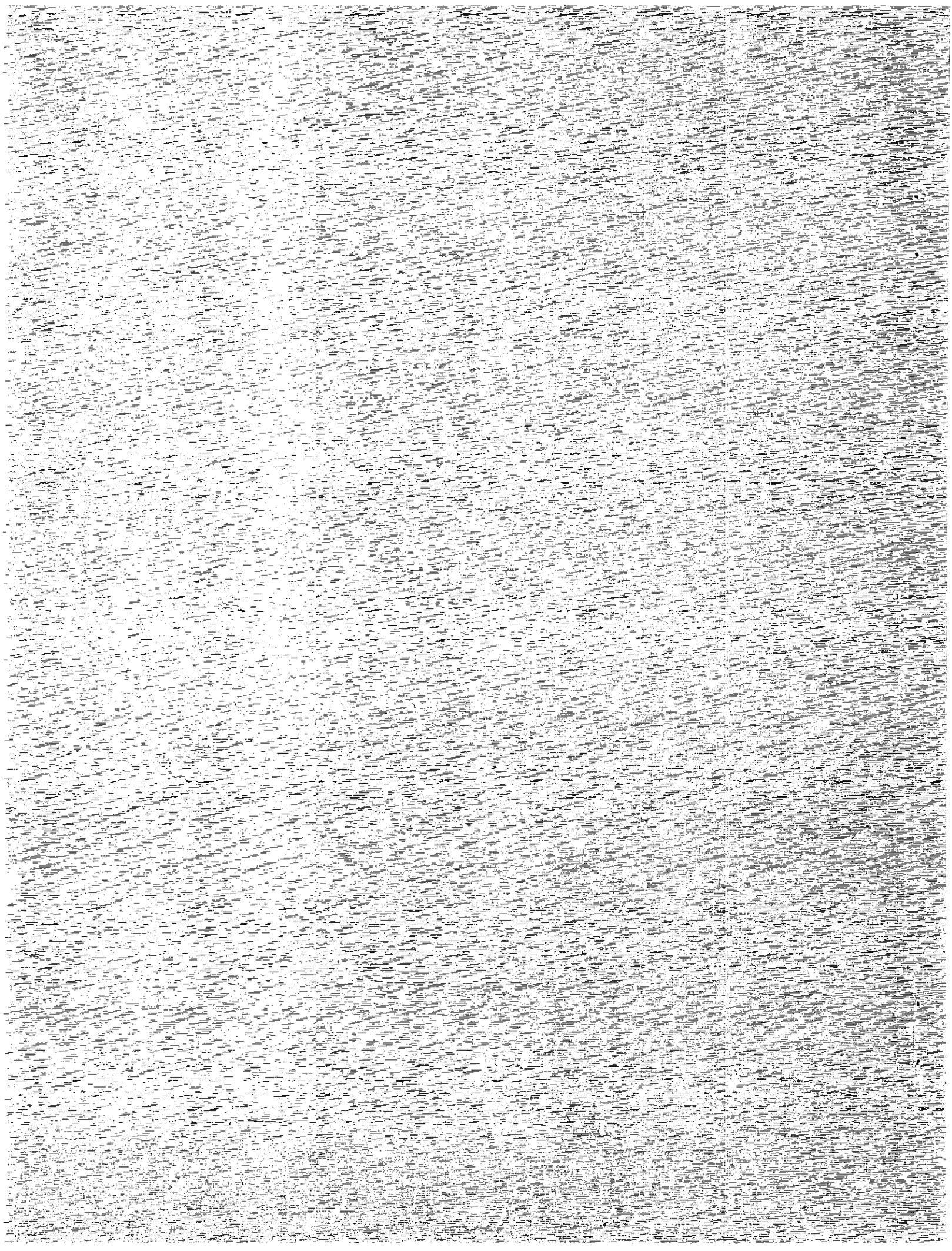
Jim Caldwell, Court of Veterans Appeals

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MOTIONS: 3, 4, 38

P R O C E E D I N G S

1
2 CHAIRMAN ASKEW: Come to order, please. This is
3 the meeting of the Provisions for the Delivery of Legal
4 Services Committee. I'd like to note for the record that
5 committee members Edna Fairbanks-Williams and Nancy Rogers
6 are here and that Doug Eakeley, the other member, will be
7 joining us shortly.

8 Approval of the agenda is the first item. Let me
9 make one note. We're going to reorder -- I'm going to
10 request that we agree to reorder Items 4 and 5 and deal with
11 the transfer of local program audit review function first and
12 then the Veterans Grant Initiatives second. If that's
13 amenable to the committee members, I'll call for the approval
14 of the agenda.

M O T I O N

15
16 MS. FAIRBANKS-WILLIAMS: So moved.

17 CHAIRMAN ASKEW: Second?

18 MS. ROGERS: Second.

19 CHAIRMAN ASKEW: All those in favor say aye.

20 (A chorus of ayes.)

21 CHAIRMAN ASKEW: The agenda is approved. Approval
22 of the minutes of the March 17th meeting. The agenda looks

1 confusing because there are two dates there, the first is our
2 regular committee meeting, the second is the joint meeting we
3 held with the Operations and Regulations Committee. So the
4 first approval is of our regular committee meeting, which are
5 Pages 47 through 50 of the book.

6 M O T I O N

7 MS. ROGERS: So moved.

8 CHAIRMAN ASKEW: Second?

9 MS. FAIRBANKS-WILLIAMS: Second.

10 CHAIRMAN ASKEW: All those in favor say aye.

11 (A chorus of ayes.)

12 CHAIRMAN ASKEW: And now the approval of the joint
13 minutes.

14 MS. ROGERS: So moved.

15 CHAIRMAN ASKEW: Let me suggest that I think we
16 need to make two changes in those minutes. I'm a little
17 upset Mr. McCalpin didn't pick this up, since this is both
18 Operations and Regulations and Provisions, but at the bottom
19 of Page 52, the top of Page 53, the minutes read, "The
20 proposed policy statement jointly developed by the delivery
21 working group and the regulations working group." I believe
22 that's incorrect.

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1 It should read something to the effect, and I'll --
2 "The proposed policy statement on private attorney engagement
3 prepared by the staff utilizing statements developed by the
4 delivery working group and the regulations working group was
5 circulated in the legal services community." The statement
6 we were discussing that day was the one prepared by the
7 Corporation, not prepared by these other groups. So I would
8 propose that change in the minutes.

9 And, secondly, down at the bottom, it says, of that
10 Page 53, it says, "During discussion the committees decided
11 not to circulate the proposed policy statement," I would
12 suggest we change that to "Committees decided to delay
13 circulation of the policy statement." And "Merceria Ludgood,
14 Director of OPS reported that she intended to hire a
15 consultant to conduct a study," I believe it's, "Going to
16 conduct an analysis of the available data on private attorney
17 engagement," which is underway.

18 Are those changes clear? Any question about those
19 changes? Mr. McCalpin?

20 MR. MCCALPIN: What do you suppose is the effect of
21 having these minutes approved in different form by --

22 CHAIRMAN ASKEW: By two different committees? Did

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1 your committee review these or approve these yesterday?

2 MS. WATLINGTON: Because we had an amendment to
3 make to it or something, because --

4 MR. MCCALPIN: No amendments were made.

5 CHAIRMAN ASKEW: The only thing I could suggest is
6 if we agree to the change today, they'd be sent back to your
7 committee at your next meeting for review and approval at
8 your next committee meeting.

9 With those changes, do I have a motion that they be
10 approved?

11 M O T I O N

12 MS. ROGERS: So moved.

13 MS. FAIRBANKS-WILLIAMS: So moved.

14 CHAIRMAN ASKEW: Second?

15 MS. ROGERS: Second.

16 MS. FAIRBANKS-WILLIAMS: Second.

17 CHAIRMAN ASKEW: All those in favor say aye.

18 (A chorus of ayes.)

19 CHAIRMAN ASKEW: All right. That brings us to Item
20 3 on the agenda or Item -- excuse me, Item 5 which we're
21 moving up, which is consider and act upon proposal to
22 transfer a local program audit review function. Martha is

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1 going to bring us up to date on how we got to this
2 recommendation.

3 And my understanding is Ed Quatrevaux had a
4 conflict at 2 o'clock and had to leave to attend another
5 meeting which he had informed me of, and if we had started on
6 time, he would have been here to participate in this
7 discussion. He's not here. My understanding is Renee will
8 be here to answer questions from the Inspector General's
9 Office if we have them; is that right?

10 Handed out to you earlier, unfortunately, it was
11 supposed to -- it was left at the hotel but the hotel did not
12 get it to you -- is a memo from Laurie Tarantowicz in the
13 General Counsel's Office, the legal analysis of the issues
14 involving the transfer of responsibility dated May 10th,
15 1995, the audit duties of the Inspector General.

16 I realize you probably haven't had a chance to read
17 that since it got to you late. I did have a chance to read
18 it and I'm going to ask Martha to bring us up to date on
19 where we are with this and then we'll have a full discussion
20 of this recommendation that we transfer the audit duties.
21 Martha?

22 MS. BERGMARK: Last fall the Office of Inspector

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1 General approached management with a proposal to reassign
2 certain responsibilities related to audits from management
3 responsibility to the Office of Inspector General. And at
4 that time they provided us with a memo that the board now has
5 under cover of a March memo from the OIG explaining their
6 reasons for having reviewed the work that goes on within LSC
7 and made an assessment that certain functions should have
8 been transferred to the OIG.

9 This Board's prior Board, predecessors, adopted a
10 resolution in February of '93 that found that the --
11 essentially all of the functions performed by OPEAR were what
12 were called program operating responsibilities and should
13 continue to be performed by OPEAR. That resolution was
14 apparently adopted pursuant to some negotiations that were
15 going on at that time between management and IG and was a way
16 of resolving the question then, although subsequent
17 negotiations continued to happen.

18 And then when this management team came on, those
19 negotiations were resumed given the IG's view that it's under
20 the IG Act, responsibility for setting policy, governing
21 financial statement audits of recipients and setting of the
22 Audit Guide ought to be a responsibility of the OIG.

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1 We reviewed the documentation that was provided us
2 by the IG, had a series of meetings with the IG staff over a
3 period of months talking about the specific practicalities of
4 such a change, and undertook some legal research and factual
5 investigation. And Laurie Tarantowicz is here from our OGC
6 office who sort of headed up that effort for us.

7 And the packet that I know some of you actually got
8 and apparently some didn't, the packet of information
9 includes Laurie's legal memorandum as well as a summary of
10 the survey results that the OGC obtained in consulting with
11 other designated Federal entities and Federal agencies who
12 operate similarly, that is, that they have some of their
13 money going out as grants to recipients that are then subject
14 to audit requirements of their own and that those audits are
15 performed by independent public accountants and inquiring
16 with those agencies as to how they divide up their
17 responsibility between IG and management for handling of
18 audits.

19 So the packet that you have before you now
20 includes, first, the resolution that was adopted by the Board
21 in February of '93, second, Laurie's legal memorandum on the
22 subject, third, the summary --

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1 MS. FAIRBANKS-WILLIAMS: All of us don't have it
2 yet.

3 MS. BERGMARK: All of you still don't -- I thought
4 they got distributed this morning.

5 CHAIRMAN ASKEW: I thought it was distributed right
6 before lunch.

7 MS. FAIRBANKS-WILLIAMS: We have the resolution
8 here, but that's all I have.

9 MS. WATLINGTON: Mine is here.

10 MS. FAIRBANKS-WILLIAMS: No. All I have is this.

11 MS. BERGMARK: If we have other copies of that
12 packet, we could distribute them. I apologize, Edna.

13 MS. FAIRBANKS-WILLIAMS: Wait a minute. Wait a
14 minute. I got it.

15 MS. BERGMARK: Okay.

16 MS. FAIRBANKS-WILLIAMS: It was underneath that
17 book.

18 MS. BERGMARK: The final item in that packet is a
19 proposed resolution and when Bill got here yesterday he did
20 carefully go through the memorandum and the resolution and
21 had what I think was really a good suggestion, which was the
22 original draft that you see in your packet simply referenced

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1 the February 1993 resolution and undertook to revise a
2 portion of it. I think Bill rightly pointed out that the
3 better practice would be to be able to operate with one
4 resolution and to amend this new one so as to repeal the old
5 one, but accomplish what the recommendation is to you.

6 And let me just summarize quickly what our
7 recommendation is to you that is incorporated in the
8 resolution.

9 MS. FAIRBANKS-WILLIAMS: So this single one is the
10 one that you want now?

11 CHAIRMAN ASKEW: That's right.

12 MS. BERGMARK: The one we would like to you look at
13 now is the one that you got -- I guess it's not designated at
14 the top, but it's separate from the original packet. So I
15 would like to just call your attention to that resolution
16 now.

17 The IG Act requires that this Board, as the head of
18 -- the designated head of this designated Federal entity for
19 IG purposes, review the functions that are performed within
20 the agency and determine which functions within it are those
21 that should -- that are properly related to the operation of
22 the Office of Inspector General, and that it transfer

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1 responsibility for those functions to the Office of Inspector
2 General.

3 For example, one example of that that already
4 happened here was that responsibility for the Corporation's
5 own audit was transferred here-to-fore to the inspector
6 general. And that it make a determination as to whether the
7 functions are properly within the spectrum of those that the
8 OIG ought to perform and that it would enhance implementation
9 of the IG Act to transfer it and must also make a
10 determination that it is not transferring what are called
11 program operating responsibilities.

12 So our inquiry on your behalf as management was to
13 look at the function that the inspector general was proposing
14 for transfer and attempt to make a recommendation to you
15 about whether it would fit with the IG Act to do it this way
16 and to make sure that we were not seeking to transfer a
17 program auditing responsibility.

18 And we made that determination based on our legal
19 research and on our factual inquiry among other agencies as
20 well as our factual inquiry internally. It seemed to us
21 appropriate to transfer responsibility for establishing
22 policy governing financial statement audits of recipients of

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1 the Corporation, review of recipients' financial statement
2 audits to identify issues for audit resolution, and
3 assessment of the quality of such audits and that those
4 functions are properly those that should be undertaken by the
5 Office of Inspector General.

6 And there is one very minor change that I want to
7 propose to you in the latest draft that you have before you,
8 it's on Page 2, in Subparagraph 4, the second line,
9 "Conducted in accordance with the auditing standards
10 prescribed by the Corporation." The IG staff suggested that
11 we say, "The Corporation's Office of Inspector General," here
12 rather than just "Corporation," although, I think Corporation
13 subsumes it, but for further clarity that is what is intended
14 that would happen.

15 As a practical matter for us, this completes the
16 review of Corporation functions. I think the OIG and
17 management agree that this completes the review of functions
18 at LSC for purposes of any proposed transfer to the Office of
19 Inspector General.

20 This transfer will take place without the transfer
21 of resources. There will be no transfer of resources
22 involved, and that the IG will -- under this structure --

1 publish the proposed Audit Guide in the Federal Register for
2 comment and that the Audit Guide will back before the Board
3 in July, after the comment period, but under the direction of
4 the IG in terms of processing your review and comment on
5 proposed changes to the Audit Guide.

6 And finally, the final thing that we haven't
7 resolved here and is one item that we left open at the
8 committee meeting this morning was what committee should have
9 jurisdiction for purposes of reviewing the Audit Guide when
10 it comes back from comment in making any suggested changes to
11 the IG for purposes of incorporation in a final Audit Guide.

12 And the Audit Guide, as we've discussed in previous
13 Board meetings, the key policy sort of shift that is
14 incorporated in a move to an new Audit Guide is the adoption
15 of government auditing standards, which the inspector general
16 has been insistent with us for quite some time that that was
17 a move that we needed to make. So we're incorporating that
18 recommendation to you as well, that we go to government
19 auditing standards.

20 CHAIRMAN ASKEW: That's it?

21 MS. BERGMARK: That's it.

22 CHAIRMAN ASKEW: Thank you, Martha. Renee, would

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1 you like to add anything or do you just want to answer
2 questions?

3 MS. SYZBALA: No, that was a good summary.

4 CHAIRMAN ASKEW: Okay. Great. Any questions of
5 Martha? Any discussion of the recommendation that we've got
6 before us, to the resolution. John?

7 MR. BROOKS: Two, a question and a comment. I
8 can't believe that Mr. McCalpin missed what I believe is a
9 typo in the --

10 (Laughter)

11 CHAIRMAN ASKEW: He's having a bad afternoon, isn't
12 he?

13 MR. McCALPIN: Maybe I put it in.

14 MR. BROOKS: In the second, "Be it further
15 resolved," which is near the bottom of Page 2, "Be it further
16 resolved that pursuant to the IG Act in carrying out the
17 functions hereby transferred the Office" -- no, I'm sorry, I
18 thought that transferred to the Office.

19 MR. McCALPIN: No, the IG will keep.

20 MR. BROOKS: It comes out all right, I'm sorry.
21 My question is Subparagraph 1, "developing suggested
22 procedures," suggested to whom?

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1 MS. BERGMARK: We've been around the block on that
2 question quite a few times, Mr. Brooks, the --

3 MS. SYZBALA: I think that's simple. I mean, the
4 answer is to the auditor. That's the purpose of the Audit
5 Guide is to tell the auditor, suggest to the auditor should
6 look at. So they are suggested procedures to the auditor.

7 MR. BROOKS: Would it help to say that in the
8 resolution.

9 CHAIRMAN ASKEW: To the auditor.

10 MR. McCALPIN: Well, procedures for auditor
11 assessment, but doesn't it say it?

12 MS. MERCADO: It's self-explanatory, I think.

13 MR. McCALPIN: Suggested procedures for auditor
14 assessment so they are procedures for auditor assessment.

15 MS. SYZBALA: But it could also state easily about
16 developing suggested procedures to the auditor for
17 assessment. I mean, it says the same thing, but that's the
18 intent.

19 CHAIRMAN ASKEW: Okay.

20 MS. BERGMARK: Okay. I thought you were asking a
21 different question.

22 CHAIRMAN ASKEW: Okay. We'll change that wording,

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1 say, "Developing suggested procedures to the auditor for
2 assessment of compliance."

3 MR. McCALPIN: Wait a minute. Wait a minute.
4 That's not very well stated. "Suggested procedures to the
5 auditor," you're suggesting to the auditor, you're not
6 procedure to the auditor. It seems to me that that is a
7 fairly clumsy English structure.

8 MS. MERCADO: The original, I think --

9 CHAIRMAN ASKEW: Let's go back and just leave it
10 the way it was originally written. Maria?

11 MS. MERCADO: Yes. I just wanted to ask where in
12 this resolution or if there is some other document,
13 memorandum or something that speaks to the fact that we're
14 not transferring any resources to conduct this function.
15 It's not in the resolution, and I just don't want, later on,
16 to there be a misinterpretation of what there was or there
17 wasn't.

18 I mean, I understand you had those discussions, but
19 there should be something in writing, whether it's a
20 memorandum or whether -- of understanding or whether it's
21 this resolution that includes that there is not a transfer of
22 resources in order to do this function.

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1 MS. BERGMARK: Well, I guess we had thought that
2 just my stating it into the record was sufficient. If it
3 would be helpful for Renee or someone on behalf of the IG to
4 acknowledge that that is our agreement and understanding,
5 that would be fine.

6 MS. SYZBALA: I also might be mistaken, but I
7 think it's mentioned --

8 MR. McCALPIN: We can't hear you, Renee.

9 MS. SYZBALA: I'm sorry. I could be mistaken but I
10 think it's mentioned in the OIG's SAR, that the proposal is
11 to transfer without resources. I mean, it's in black and
12 white somewhere.

13 MS. BERGMARK: Oh, it says here that --

14 MS. SYZBALA: But I can state for the record that
15 that's the deal. I mean, we understand that the transfer is
16 without resources.

17 MS. BERGMARK: And the report reads, "It appeared
18 that agreement was reached at one point, but the transfer
19 stalled over resource issues. The OIG subsequently agreed to
20 accept the transfer without resources." That's in the
21 semiannual report.

22 M O T I O N

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1 MS. ROGERS: I move the recommendation by the
2 Committee of this resolution as amended.

3 CHAIRMAN ASKEW: Is there a second?

4 MS. FAIRBANKS-WILLIAMS: Second.

5 CHAIRMAN ASKEW: Any further discussion of the
6 resolution? Committee members, all those in favor say aye.

7 (A chorus of ayes.)

8 CHAIRMAN ASKEW: Any opposition?

9 (No response.)

10 CHAIRMAN ASKEW: Okay. We'll present this to the
11 Board in our meeting, either this afternoon or tomorrow.
12 Thank you, Martha and Renee.

13 The next item on the agenda is to hear a report on
14 the Veterans Grant Initiatives. I'll ask Merceria Ludgood to
15 come forward and Chris Sundseth. Merceria, will you
16 introduce this item to us, please?

17 MS. LUDGOOD: Chris Sundseth will make the report
18 for the -- on the Veterans Grant. Chris has primary
19 responsibility for managing LSC's involvement, and we also
20 have here as a guest today, Jim Caldwell, who is the court
21 liaison to the project as Chris will describe.

22 MR. SUNDSETH: Thank you, Merceria. I'll just give

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1 you a quick, in a nutshell, what the grant is, how it
2 operates and then talk about what's done this year and then
3 if there are any questions, I'll entertain those. If there
4 are any questions regarding the court's appropriations
5 process or the court's policies regarding this grant, Jim
6 Caldwell from the court can answer those.

7 This is the third fiscal year that this grant has
8 operated. Essentially, the Congress appropriates money to
9 the U.S. Court of Veterans Appeals, and then the Court of
10 Veterans Appeals sends money by an intricate, bureaucratic
11 process to the Corporation through the treasury. My time and
12 expenses on this grant are reimbursed to the Corporation and
13 the Corporation then makes grants to the two grantees in the
14 same manner than we do with our regular grantees on a monthly
15 basis.

16 We designed, myself and Jim from the court and a
17 few other people designed this thing three years ago,
18 essentially as a structure that was described in a request
19 for proposals and then when the various organizations bid on
20 those proposals it was under that structure. And the way it
21 works is, we have a screening unit that takes cases and
22 screens them for merit and basically does a legal outline, a

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1 road map, for the pro bono attorney to use.

2 Then we have another component that recruits and
3 trains attorneys and the outreach and education unit actually
4 was so successful in the first year that we had to slow them
5 down. They were recruiting and training far more attorneys
6 than we had cases available to take. It's really a model of
7 success, I think, in pro bono recruitment.

8 You were all handed a little two-page handout that
9 shows tables of results from the first two years, and the
10 second page is the fiscal year so far, the data we have. And
11 essentially, the most important numbers are the ones on the
12 right side at the bottom of each table. The far right number
13 is the number of cases that have actually been placed with an
14 attorney and the number next to that, on the left of that, is
15 the cases that have been screened.

16 And every time a case is screened -- well, let me
17 start at the beginning. When an appellant files pro se at
18 the court, the court automatically sends that appellant
19 request for participation form, informing them that there is
20 a program that provides attorneys free of charge. If they're
21 interested, they sign a little card that allows the screening
22 unit to screen their case. Every case that is screened for

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1 merit, that appellant either receives a representative, an
2 attorney, that is, or receives something on the order of
3 brief service and advice.

4 If their case is found -- for instance, there is
5 new and material evidence that should be opened back at the
6 regional office, they get advice in that instance. So the
7 people that are being helped through this program aren't only
8 the ones reflected in the numbers at the far right of cases
9 placed. Every case that's screened, that person gets an
10 individual letter that details sort of where he or she should
11 go from there.

12 This year the court has already completed all of
13 its appropriations hearings. And in their appropriations
14 hearings, they asked for Fiscal Year '96 to be funded at the
15 full level for the grant with the caveat that if LSC's
16 request for half-funding is approved, then the court will
17 thereby reduce its request by the half figure amount.

18 The best intelligence that Jim and others at the
19 court get from the Hill so far is that there is no way to
20 tell right now how it's going to come down, how their
21 appropriations -- they're facing the same sorts of problems
22 as every Federal agency is, in terms of losing part of their

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1 appropriation. In terms of getting a cut, it's not at all
2 clear yet how the pro bono program fares.

3 It should be noted, I don't know if the Board has
4 been made aware of this or not, but the American Legion on
5 its own this year approached our appropriations subcommittee,
6 the LSC's appropriations subcommittee and in a very
7 compelling letter thoroughly endorsed the entire LSC budget
8 request, and I think that kind of support from that quarter
9 is really unprecedented. And clearly, it's this program that
10 is sparked their interest in Legal Services and what we do
11 here.

12 That's basically it.

13 CHAIRMAN ASKEW: Any questions for Chris?

14 (No response.)

15 CHAIRMAN ASKEW: Thank you for coming. Thank you,
16 Mr. Caldwell for being here. Merceria, anything else you
17 want to bring to our attention.

18 MS. LUDGOOD. There is another handout. In the
19 last meeting, Ms. Fairbanks-Williams wanted numbers on the
20 number of clients served by law school clinics, and there is
21 another handout which is styled, "Law School Clinics," which
22 chronicles the '93-94 year and then '95 to date, our cases to

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1 date. And that's just for your information. That's it.

2 CHAIRMAN ASKEW: Thank you. I'm sorry, Doug has
3 left, but there was one item we forgot to deal with when we
4 passed the resolution, and that's the Ad Hoc Committee's
5 designation of responsibilities under the various committees
6 and the item that we did not decide at the Ad Hoc Committee
7 meeting, which is which committee properly has responsibility
8 for the issues regarding grantee audits.

9 It was listed on the chart as falling under the
10 responsibility of the Provisions Committee, but we left it
11 open for discussion at this meeting whether that is the
12 appropriate place where that issue should reside. Is there
13 any discussion of that? Maria?

14 MS. MERCADO: I think that the basic question comes
15 back to whether -- and the resolution speaks to this --
16 whether or not the auditing function that the IG is taking
17 from management deals only with a financial audit. If it's
18 only with a financial audit, I think that that aspect, by its
19 very nature, belongs in the Finance Committee.

20 If we're talking about an auditing that deals with
21 performance evaluation, the whole function and structures of
22 the grantees, then that belongs under Provisions. And so,

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1 there is a distinction there, and my sense of it from the
2 discussions and the negotiations and looking at the
3 resolution, that is the financial audit part of it that the
4 IG has taken part of it. And so that, in fact, you have made
5 it into two functions, because any programmatic aspects of
6 the grantee audit goes back to management for you guys to
7 handle. They don't handle those aspects of the audit.

8 CHAIRMAN ASKEW: In terms of follow up?

9 MS. MERCADO: In terms of follow up, but that the
10 financial end of it, they will. And so maybe that in that
11 same sense, that the financial audit statements maybe should
12 be reviewed, in conjunction, reporting to the Finance
13 Committee and the function that deals with program issues on
14 the grantee audits, that those go to Provisions. That's just
15 -- from looking at it and trying to sort of keep a picture of
16 it.

17 MR. McCALPIN: Bucky?

18 CHAIRMAN ASKEW: Yes, Bill?

19 MR. McCALPIN: I think that we were fairly specific
20 in the second "Resolved" clause when we said, "Establishment
21 of policy governing financial statement audits, review of
22 recipients' financial statement audits, the assessment of the

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1 quality of such audits." Now, I understand that there is a
2 gray area between pure financial audit and an audit that goes
3 beyond that, but I think that in major part, what they're
4 going to be establishing policy for, reviewing, and
5 evaluating are financial audits. And it would just seem to
6 me automatic, that that ought to go to the Finance Committee.

7 CHAIRMAN ASKEW: The way this is worded here under
8 the Provisions is, "Address policy issues regarding grantee
9 audits, including performance evaluations and compliance
10 monitoring." The way that's worded, I think it clearly
11 stays under the Provisions Committee as a part of the
12 delivery of legal services.

13 MR. McCALPIN: Except that I think if you read
14 Laurie's memo carefully, that that is not the major thrust of
15 what they're doing. And that to the extent -- and, you know,
16 that's part of the reason why the establishment of procedures
17 for auditor assessment of compliance has to be worked out
18 with management and in large measure I believe that when
19 matters relating to delivery, quality of service are
20 concerned, the IG doesn't pass on that.

21 CHAIRMAN ASKEW: That's correct.

22 MR. McCALPIN: He sends it back. So if the IG

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1 isn't going to pass on that, I think the subject matter
2 belongs in your committee, but I don't think that that is the
3 major thrust of what this is about.

4 CHAIRMAN ASKEW: I guess what I'm trying to avoid
5 is having two or even three committees, you know, cross over
6 each other on this and have one committee have major
7 responsibility for it, and it be clear in everybody's mind
8 both the Board but also the Inspector General's staff where
9 the authority rests.

10 MS. ROGERS: I'm guessing -- I wish we had someone
11 here from the Inspector General's Office -- that they would -
12 -

13 MS. BERGMARK: We could get them back.

14 MS. ROGERS: They might believe that they should
15 report directly to the Board and not to a committee. I'd be
16 interested to hear their viewpoint on that.

17 CHAIRMAN ASKEW: Yeah. And Ed is not here, I know
18 he's left the building and that he may be the most
19 appropriate person to speak to that. I have no object, to be
20 honest at bottom, that this go to the Finance Committee as
21 part of its responsibility, but I think there are going to be
22 times where it crosses over the Provisions, into our

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1 jurisdiction, and I'd like to avoid that to the extent
2 possible.

3 MR. McCALPIN: But I think it's more likely that
4 there will be financial matters come up that you would have
5 to refer to the Finance Committee. It seems to me that if
6 there is going to be some cross reference, there be less
7 going from Finance to you than from you to Finance, in
8 reviewing what's going on.

9 CHAIRMAN ASKEW: Without any input -- Leslie, are
10 they available?

11 MR. RUSSELL: They all went downstairs. I can call
12 them.

13 MS. BERGMARK: Why don't you do that?

14 MR. RUSSELL: You want me to call them up?

15 MS. MERCADO: Yeah.

16 CHAIRMAN ASKEW: I would prefer to get some input
17 from the Inspector General before we make a decision on this,
18 and if none of them are available, we may have to delay a
19 decision on this until they're available.

20 MS. BERGMARK: I would say that the main event is
21 going to be the Audit Guide itself, getting the Audit Guide
22 back and providing the Board's feedback on whatever ought to

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1 be in the Audit Guide, and that beyond that, it's going to be
2 much more a reporting function that is not unlike what
3 Provisions is going to get, you know, in terms of how many
4 programs have we reviewed in a particular time period, what
5 are we finding to be the case about them, and so forth.

6 So it is information that ultimately the whole
7 Board will want, but I think in consistent with this
8 morning's discussion about streamlining and starting with a
9 committee, you know, having a committee starting point, that
10 that needs to be the case here as well.

11 MR. McCALPIN: I think the area you're talking
12 about comes much closer to programmatic activities, which is
13 an area denied the IG.

14 CHAIRMAN ASKEW: Right. Program operating
15 responsibility. Right.

16 MS. MERCADO: You know, in the Finance Committee
17 delves into, and I think we got into this at our first year
18 of dealing with different meetings that the Finance Committee
19 does get into other areas that supposedly are the purview of
20 other committees. Only it's only discussing the financial
21 aspect of it, rather than whether or not programmatically
22 that is something that the Corporation ought to do or not do.

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1 And so that's why I was suggesting that as far as
2 the grantee audits are concerned, that they are likewise in
3 that manner, that the financial statement auditing guides are
4 the purview of the Finance Committee, but that anything that
5 deals with programmatic evaluations, performance evaluations
6 of grantee audits and that that goes under the purview of
7 Provisions. I don't know that it -- I don't know that it's
8 necessary to pull them to different ways, because they're two
9 totally different functions that they're doing anyway.

10 CHAIRMAN ASKEW: Well, the next time this will be -
11 - the next item will be when we receive comments back on the
12 Audit Guide, where those comments will be considered so
13 that's really the most practical effect of the decision we
14 make here today, which will be happening in July, not at a
15 June meeting, but in July.

16 MS. BERGMARK: Right.

17 CHAIRMAN ASKEW: So let's wait, let's get comments
18 from the IG and let's make a decision as far as I'm
19 concerned. I don't have any objection, frankly, that it be
20 in the Finance Committee. It gives us an opportunity to
21 meddle in your business, since you're always meddling in
22 ours, right?

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1 There is no other item on the agenda for this
2 committee; is that right?

3 MS. MERCADO: Is it?

4 MS. ROGERS: Bucky, Karen is here.

5 CHAIRMAN ASKEW: Karen, could you come forward for
6 just a minute and let us ask you a question. I hate to put
7 you in this spot, with Ed not here, but we were discussing
8 where the jurisdiction rests for -- which committee of the
9 Board has proper jurisdiction of grantee audits. And the
10 outline that we are working from has it listed under the
11 Provision of the Delivery of Legal Services Committee.

12 Ms. Mercado, as chair of the Finance Committee has
13 made the point that she believes that's really a financial
14 matter and would properly rest before the Finance Committee.
15 We're not sure whether the Inspector General has a point of
16 view on that or a position or recommendation for the Board on
17 that matter, in terms of which committee properly has
18 jurisdiction over this. If so, we would like to hear it,
19 before we ultimately make a decision.

20 MS. VOELLEM: Well, that's interesting. I hadn't
21 given this any thoughts.

22 CHAIRMAN ASKEW: Here's Renee. Do you want me to

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1 repeat what I just said?

2 MS. SYZBALA: This is which committee, is that what
3 this is about?

4 CHAIRMAN ASKEW: Yes.

5 MS. SYZBALA: You know, we really didn't discuss
6 purposely for this, so I'm not sure I'm speaking for Ed. My
7 impression was that Ed and Martha were of a common mind on
8 it, and that the bottom line was it should be one committee.
9 And I think that was Provisions, but that's my -- I think
10 Martha knows better than I do what Ed's view was.

11 MS. BERGMARK: Well, I think we definitely -- I'm
12 sure that that was the case, was reference to discussion of
13 this transfer of the responsibility from OPEAR to OIG, and we
14 really, I don't think, had reached any sort of agreement in
15 terms of ongoing responsibility or, you know, general
16 supervision or whatever you want to call it.

17 So we -- I don't think we did really reach that
18 question, and I know I don't have a strong view about it one
19 way or the other, but it should be one committee.

20 MS. SYZBALA: Without Ed here, then the OIG really
21 doesn't know what its opinion is.

22 (Laughter)

1 MS. MERCADO: Just briefly for your point of
2 reference is that the resolution we just passed a few minutes
3 ago dealt with the transferring of the financial statement --
4 that part of the auditing of the grantees to the OIG.

5 And it is in that respect, the financial audits,
6 and then also looking at the Audit Guide, as to who has the
7 responsibility of it. Since all of it is financial, it would
8 seem, by its natural purview, that it would be under the
9 finance committee, because anything that deals
10 programmatically with the grantee audits, it goes back to
11 management, that they handle that.

12 MS. SYZBALA: The one comment that I can make about
13 that is that the effect of the switch to GAGAS, to government
14 auditing standards is to add on to the financial audits a
15 compliance, a financial compliance segment that will be
16 administered by the OIG to the extent that we control the
17 document, but that management will decide the contents of, in
18 terms of the regs to be audited. And this will take the
19 place, to some extent, of monitoring from outside the
20 corporation in to the grantees. So it is partly now
21 subsuming a monitoring function beyond the audit, financial
22 audit function for the Corporation.

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1 That was part of the recommendation on the MAC
2 performance review, the monitoring performance review that
3 our office did kind of right when you were coming on, that we
4 were duplicating efforts between what auditors should do and
5 what the Corporation should do. So the Corporation is now
6 giving to the auditors a portion of its monitoring function,
7 and that will be picked up in the Audit Guide.

8 MS. MERCADO: Well, see, that's not what the
9 resolution -- the whole discussion on the resolution was,
10 because I think if it had been, I think the discussion would
11 have been different, because there was never any discussion
12 about the fact that the IG is taking over a monitoring
13 function.

14 MS. SYZBALA: It's not.

15 CHAIRMAN ASKEW: It's not.

16 MS. BERGMARK: It's not.

17 MS. SYZBALA: It's absolutely not, but the
18 resolution speaks to the compliance supplement and the way in
19 which the IG will get from management the regs that are to be
20 covered in the compliance supplement, which is part of
21 management's monitoring function.

22 CHAIRMAN ASKEW: And if an issue comes out of that

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1 compliance monitoring, it would go to OPEAR for resolution.

2 MS. SYZBALA: Absolutely. It should -- it also
3 says that.

4 CHAIRMAN ASKEW: Right.

5 MS. SYZBALA: I mean, the resolution says that we
6 will send all programmatic issues that arise from the
7 compliance auditing part of it to management. Management is
8 also going to get copies of the audit and do their own thing.

9
10 MS. MERCADO: Well, I guess, because you mentioned
11 a minute ago that you would be subsuming monitoring
12 functions.

13 CHAIRMAN ASKEW: No. The IG wouldn't be subsuming,
14 the Audit Guide.

15 MS. SYZBALA: The external independent auditor is
16 going to be doing a part of this function for LSC, which is
17 the way it's done in the Federal community at large, that is,
18 once you're paying for the audit and there are standards by
19 which auditors can check compliance with financial regs, you
20 make your auditor do that, because it doesn't cost much more
21 and it's a lot cheaper than you doing it.

22 What our performance audit found was that 75

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1 percent -- I could be wrong, it's a long time since I've read
2 it -- but just about 75 percent of what MAC was doing in the
3 field in terms of monitoring, was financial related, was
4 wholly duplicative of what auditors should have been doing
5 and therefore was wasteful and inefficient and uneconomical.

6 CHAIRMAN ASKEW: This goes back to the Cotton &
7 Company report.

8 MS. SYZBALA: That's the one I'm talking about.

9 CHAIRMAN ASKEW: Things we discussed a year ago
10 about transferring more responsibility to the IPAs to do some
11 of this, to free us up to do more peer review and quality
12 assurance.

13 MS. SYZBALA: Exactly.

14 CHAIRMAN ASKEW: Bill?

15 MR. McCALPIN: Bucky, I think that the key is what
16 Renee has said, that it's financial compliance, that it seems
17 to me that what your committee deals with are the
18 programmatic activities of the grantees which we are not
19 transferring, and that's why I said that it seemed to me that
20 the logical place was Finance, because your committee deals,
21 I believe, with programmatic activities which we are not
22 transferring.

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1 CHAIRMAN ASKEW: Right.

2 MS. SYZBALA: That's right.

3 CHAIRMAN ASKEW: Let's do this. Our committee
4 probably doesn't have the authority to make this decision
5 anyway, what I would suggest is when the Ad Hoc Committee
6 makes it report which will either be later this afternoon or
7 tomorrow, that you report that this function will be
8 transferred to the Finance Committee, as a part of your
9 recommendation to the Board on this list of jurisdictional
10 items.

11 If Ed is back here by then and would like to speak
12 to it at that time, he'll have a chance to speak to it before
13 the full Board, before we make a final decision.

14 MS. SYZBALA: He's due back at 3:30.

15 MS. ROGERS: We might just raise it for discussion
16 at the Board level, because I don't have enough of that
17 committee here to ask them if they would consent to amending
18 in that way.

19 CHAIRMAN ASKEW: Okay. But we won't decide it
20 here, because we really don't have the -- the Provisions
21 Committee doesn't have the authority to decide the
22 jurisdictional issue, but we will leave that open for full

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1 board decision when the Ad Hoc Committee report is made. And
2 then you could alert Ed that if he'd like to speak to the
3 issue then, he'll have the opportunity to do so.

4 But I think we've reached a consensus here about
5 what are the functions and exactly what is being talked about
6 here so we can make a decision when the time is right at the
7 Board meeting. Thank you both.

8 MS. SYZBALA: Thank you.

9 CHAIRMAN ASKEW: Is there anything else to be
10 brought to the attention of the Committee? Any public
11 comment?

12 (No response.)

13 CHAIRMAN ASKEW: Is there a motion that the
14 Committee adjourn?

15 M O T I O N

16 MS. FAIRBANKS-WILLIAMS: So moved.

17 CHAIRMAN ASKEW: Second?

18 MS. ROGERS: Second.

19 CHAIRMAN ASKEW: All those in favor say aye.

20 (A chorus of ayes.)

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