

1985
11-7 AA

TRANSCRIPT OF PROCEEDINGS

LEGAL SERVICES CORPORATION

ORIGINAL

In the Matter of:

COMMITTEE ON AUDIT AND
APPROPRIATIONS

Pages: 1 through 118

Place: Anaheim, California

Date: November 7, 1985

Acme Reporting Company

Official Reporters
1220 L Street, N.W.
Washington, D. C. 20005
(202) 628-4888

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LEGAL SERVICES CORPORATION
COMMITTEE ON AUDIT AND APPROPRIATIONS

President's Conference
Room A & B
Holiday Inn
1850 S. Harbor Blvd.
Anaheim, CA

Thursday,
November 7, 1985

The meeting convened at 8:30 a.m. on Thursday,
November 7, 1985.

COMMITTEE MEMBERS PRESENT:

PEPE L. MENDEZ, Chairman
PAUL EAGLIN
LORAIN MILLER
LEANNE BERNSTEIN
HORTENCIA BENAVIDEZ
CLAUDE SWAFFORD
BASILE J. UDDO
ROBERT A. VALOIS

OTHERS PRESENT:

SID RADUS
BOB COHEN
JOEL THIMELL
MICHAEL COSTER
GARY SINGSEN
GEORGIE FELTZ
MARY BURDICK

P R O C E E D I N G S

1
2 CHAIRMAN MENDEZ: Ladies and gentlemen, if I
3 could have your attention, please. The Legal Services
4 Corporation Committe on Audit and Appropriations has been
5 called to order. And for those of you in the audience, there
6 are some booklets over here if you haven't seen them on the
7 committee's materials.

8 At this time the Chair will entertain a motion
9 for the approval of the agenda, and I would just make a
10 few comments before we do that, that there are several members
11 of the audience who have asked me to take them out of turn
12 and they have other commitments, local bar individuals, and
13 we will be happy to do that. And if I could have their
14 names, I will take you as soon as I get that, and we will
15 take everybody that wishes to make comments at the end of
16 the agenda except those who have other pressing commitment.

17 With that in mind, do I hear a motion to approve
18 the agenda?

19 By the way, for the record, committee member
20 Paul Eaglin is present, committee member Leon Bernstein,
21 the Chair Pepe Mendez, Hortencia Benavidez is present. We
22 have a quorum.

23 Let the record also reflect that Lorain Miller
24 is present, that Claude Swafford is present, and Bob Valois.

25 MR. EAGLIN: I move to approve the minutes, the

1 agenda, I'm sorry.

2 MS. BERNSTEIN: I second it.

3 CHAIRMAN MENDEZ: There has been a motion and a
4 second to approve the agenda. Is there any comments or
5 discussion? All in favor?

6 (Chorus of ayes.)

7 CHAIRMAN MENDEZ: Fine, the agenda is approved.
8 The second matter is the approval of the draft
9 minutes. I have reviewed the minutes and they appear to
10 me that there is nothing major to change. Mr. Smegal was
11 not -- was unable to attend today, and he advised me that
12 on page 5 -- who is going to make the corrections in the
13 official minutes?

14 Okay, on page 5, the first full paragraph, it starts
15 with "Mr. Smegal," second line should be "than" instead
16 of "then". And in the third line after "programs", Mr.
17 Smegal wants to insert the following which if there is no
18 objection the Chair will entertain a motion to insert it,
19 "Slated for cuts in the corporation's fiscal year 1986,"
20 that's what Mr. Smegal wishes to insert in there, and I
21 believe that that reflects his intent. And let me just
22 read the sentence as corrected. "Mr. Smegal stated that
23 the Board should go on record that if Congress provides more
24 money than the Board requested, that programs slated for
25 cuts in the corporation's fiscal year 1986 budget will

1 be entitled to an appropriate share of the extent it is
2 Congress' intent to restore those cuts."

3 MR. EAGLIN: I move to approve the minutes with
4 the amendments you have just read.

5 CHAIRMAN MENDEZ: Do you understand?

6 VOICE: Yes.

7 CHAIRMAN MENDEZ: There is a motion to approve.
8 Second?

9 MS. BERNSTEIN: I second.

10 CHAIRMAN MENDEZ: Are there any other modifications
11 or additions?

12 MS. BERNSTEIN: Well, I am okay with what I think
13 Mr. Smegal meant, but the sentence to me doesn't make --
14 I am trying to make sense out of the sentence. However,
15 that's okay with me in terms of the sense of it, but I am
16 not sure that gramatically it makes sense.

17 CHAIRMAN MENDEZ: I think there should be on the
18 fourth line down it should be "Congress' intent," and if
19 we put "Congress'" rather than just "Congress", that it makes
20 sense then.

21 No other amendments appearing. All in favor of
22 the minutes as amended, please say aye.

23 (Chorus of ayes.)

24 CHAIRMAN MENDEZ: Opposed.

25 (No response.)

1 CHAIRMAN MENDEZ: The minutes pass unanimously,
2 as amended.

3 Now, before presenting the revision of Appendix
4 6, I would invite Mr. Sid Radus and Mr. Bob Cohen to
5 come up. They are our close, in a sense.

6 MR. RADUS: Mr. Chairman, members of the board
7 and the committee.

8 We are your hosts. We are very pleased and very
9 honored that you have accepted our hospitality. You have
10 asked us to set forth for you certain procedures that we
11 have used in our Legal Aid Society.

12 First, you have asked us how we set our priorities.
13 Historically, we had attempted to set up public meetings
14 to have our client population come to those meetings, and
15 express their needs to us. Unfortunately, the public
16 meetings did not result in establishing the priorities of
17 our client population but, rather, of certain special
18 interest groups, and we found that they were very unproductive.

19 In order to establish what our client population's
20 needs were, we were fortunate in being able to obtain the
21 services of a group of people from a social ecology department
22 of the University of California at Irvine, who did a legal
23 demographic study for us among our client population to
24 determine what they felt the needs were.

25 After we obtained that information, we correlated

1 it with our statistics which we have gathered over a number
2 of years to determine how that study correlated with our
3 actual experience.

4 Also, to determine whether there were any trends
5 in shift of needs of our client community, we applied that
6 process continually, and will do so again in the future.
7 The program that we are preparing to submit to you this
8 year was prepared on that basis.

9 In order to review our performance in meeting those
10 priorities, we periodically review the statistics taken by
11 our staff as to the intake needs as stated by our clients,
12 correlated with our actual experience in actually working
13 through the various cases.

14 That information is correlated periodically against
15 our needs, and we do it on a rather random basis so that
16 at no one period of time can we pack any one meeting to
17 throw a bias one way or the other.

18 The programs have basically and with very little
19 variation followed the priorities that we established at
20 the beginning of the year.

21 In establishing our budget, we looked first, of
22 course, to the amount of funding that will be available to
23 us. That funding is not determined by us but, of course,
24 is determined by you on the basis of funds allocated by
25 Congress and the formula that you use for distribution of

1 those funds. We review our client needs and the priorities
2 that we have set which we submit to you for your approval,
3 and after you approval. We allocate as much of the assets
4 as is necessary to proportionately meet the needs of our
5 client population.

6 In no event, and in no year in the past in my
7 experience have we ever had sufficient funding to meet all
8 of the needs of all of our clients. It's unfortunate that
9 those funds are not available, but we do prioritize, we do
10 allocate in accordance with those priorities, and we attempt
11 to use as much volunteer help as we can to supplement the
12 funding that you give us to meet the priorities that we
13 have established and you have approved.

14 In order to review the performance of our director
15 and our staff, we have fortunately a fairly close-knit
16 community. The board, of course, like every other board
17 consists of attorneys and of members of the community. The
18 members of the community represent client groups, and we
19 get input back from them as to the kind of service that our
20 staff and its director have supplied to our client community.

21 We also at the end of each case do a client
22 interview, or take a client information sheet as to how the
23 client views the quality of the services that we have
24 submitted to them.

25 In addition, I might tell you that I personally

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1 and several of the other attorneys on our board have an
2 opportunity to view and to evaluate the performance of the
3 attorneys who are actually on the firing line. I myself
4 and the certified specialist in family law, I have an
5 opportunity to observe the attorneys from the Legal Aid
6 Society in their performance of their duties in the courtroom.
7 I can see how they handle the cases, how they represent
8 the clients. I also sit as a judge pro tem in the Superior
9 Court here in Orange County which gives me an additional
10 opportunity to be able to observe the performance of these
11 people.

12 In observing the performance of the attorneys,
13 it's also not too difficult to observe the performance of
14 the support staff behind the individuals who are appearing
15 in court. They are well prepared, they do a very credible
16 job for our clients. And very frankly, I am proud to be
17 a member of the board of this particular organization.

18 Basically, I think that also really kind of tells
19 you how we evaluate the performance, and also whether we
20 are meeting the local needs. Let me tell you that we are
21 not meeting the local needs. The only reason we are not
22 meeting the local needs is the limitation of funds.

23 Within the limitation of the funds that we have,
24 I think that our client population has expressed their
25 continuing satisfaction with our performance. There are

1 some special interest groups that would like to have us
2 allocate more funding to their particular pet project. We
3 are not interest in pet projects of any one organization.
4 We are interested in serving our client population generally
5 and the general needs of that population.

6 Our feedback from our client members of the board
7 and our closing interviews with our clients and just the
8 general contact that each of us has with the community
9 indicates that we are meeting the needs of our client
10 population within the limitation of the funds provided.

11 CHAIRMAN MENDEZ: Mr. Radus, how long have you
12 sat on the board?

13 MR. RADUS: I have been on the board what, five,
14 six years now, I believe.

15 CHAIRMAN MENDEZ: Six years, and you told me
16 previously you were appointed by the bar?

17 MR. RADUS: That's right. I am appointed by the
18 Orange County Bar Association. I am also a member of the
19 executive committee of our board.

20 CHAIRMAN MENDEZ: Did you attend their meeting
21 yesterday.

22 MR. RADUS: Yes.

23 CHAIRMAN MENDEZ: Can you tell me --

24 MR. RADUS: Unfortunately, I had to leave at
25 1:15.

1 CHAIRMAN MENDEZ: Okay. At the time that you
2 attended the meeting had they passed the audit -- excuse
3 me, the reapplication for --

4 MR. RADUS: Let me be perfectly frank with you.
5 At the time I left it was under discussion. I had reviewed
6 the proposal myself, and had asked Mr. Pepperbridge, another
7 member of the board, to accept my proxy to vote in favor
8 of.

9 CHAIRMAN MENDEZ: Okay. Just out of curiosity,
10 can you tell me how in prior years did you -- was this
11 activity that you, the discussion yesterday similar to what
12 you did in prior years?

13 MR. RADUS: Yes, it was. In the last several
14 years, we have had the advantage of having the UCI studies
15 available to us also. We look at the --

16 CHAIRMAN MENDEZ: UCI?

17 MR. RADUS: The University of California at Irvine
18 social ecology department study of our client needs, surveys
19 taken by them independently which we correlate with our
20 own statistics.

21 CHAIRMAN MENDEZ: I would be very interested in
22 seeing what these surveys, how they are composed.

23 Bob, can we have you send it to Joel Thimell
24 over there and we will -- so we can look at them?

25 They are questionnaires?

1 MR. COHEN: Oh, yes.

2 CHAIRMAN MENDEZ: Of some sort. We are interested
3 in seeing how various groups throughout the country determine
4 what their client needs are, and I haven't seen too many
5 that have it done independent.

6 MR. COHEN: We would be happy to forward that to
7 you.

8 MR. RADUS: We have the advantage of having the
9 University of California at Irvine with a social ecology
10 department readily available to us.

11 CHAIRMAN MENDEZ: Does anyone else have any
12 questions?

13 MS. SWAFFORD: I have a question.

14 CHAIRMAN MENDEZ: Please.

15 MS. SWAFFORD: I was just interested in, you
16 mentioned that there were special interest groups who would
17 be coming to you for pet projects. What -- can you give
18 me an example of some of the things that you all do not do
19 because you feel that they are not representative of what
20 your other client needs are?

21 MR. RADUS: Yes. It's not that they are not
22 necessarily synonymous with our client needs. The only problem
23 we run into is specifically one of organization that has
24 appointed itself as an advocate for certain people who are
25 having housing problems. And they are insisting or have

1 attempted to insist that we are the attorneys for that
2 specific group, not for our clients who may also be members
3 of that group. We serve our clients; we do not serve
4 any special interest group. We operate on a client basis.
5 We must as attorneys representing the poor.

6 Now, we do represent certain organizations when
7 they are the client in a class action type of situation,
8 but we do not segregate our services between clients and
9 representation of the group itself. We are not attorneys
10 for the group; we are attorneys for the clients.

11 CHAIRMAN MENDEZ: Leanne.

12 MS. BERNSTEIN: What kind of criteria do you use
13 as a board of directors in determining whether or not a
14 class action is the appropriate method to utilize?

15 MR. RADUS: Again, we only look at a class
16 action where it serves our general client population need --

17 MS. BERNSTEIN: Does --

18 MR. RADUS: Just let me say that we have not
19 filed any class actions.

20 MS. BERNSTEIN: Well, I am just -- he had
21 mentioned this and I am just interested in whether there
22 is a specific set of criteria that are used, because the
23 act is somewhat vague as to whether, you know, the approval
24 process. I just wondered what your particular --

25 MR. RADUS: We have not been faced with the situation

1 where we had a well defined class action, per se. Every
2 case that we have handled has been on an individual client
3 need basis.

4 CHAIRMAN MENDEZ: We are from all over the
5 country, and we -- when we came in and visited Bob's
6 group yesterday, we saw some things about the Omicus Publico
7 and while I am -- he enlightened me, I would like to have you
8 enlighten us for the public as to the relationship and how
9 that works.

10 MR. RADUS: Well, let me -- as a working volunteer
11 member of Omicus Publico, let me illucidate a little bit.

12 The funding for the admnistration of Omicus
13 Publico comes from the Orange County Legal Aid Society.

14 CHAIRMAN MENDEZ: Right.

15 MR. RADUS: But only for administration.

16 CHAIRMAN MENDEZ: Just briefly would you please
17 describe what Omicus Publico is?

18 MR. RUDUS: Oh, all right. Omicus Publico is
19 just what it's name implies, it's the friend of the public.
20 It is an organization that handles the assignment of
21 indigent client cases to volunteer private attorneys to
22 handle those cases on a "free" basis. I myself handle six
23 such cases a year. I commit at the beginning of the year,
24 as do the other attorneys on the panel, to handling a certain
25 number of cases. They are assigned on a rotational basis

1 in accordance with the number of cases each attorney
2 volunteers to accept.

3 In large part, those cases are an overflow from
4 the Legal Aid Society and are cases which they do not have
5 the funds to handle. So, these are as you might say surplus
6 cases, but they are not surplus because we are dealing
7 with people and people's needs and you can't categorize
8 that way.

9 But it is an organization that attempts to provide
10 services where services are not otherwise available to
11 the indigent.

12 CHAIRMAN MENDEZ: Now, you also have in your
13 program something that's unique to California, and that is
14 a referral for fee.

15 MR. RADUS: That is our lawyer's referral service,
16 yes, and it has been operating much longer than I have been
17 in practice, by the way. It was originally operated by
18 our Legal Aid Society at the time Legal Aid Society was a
19 function of the Lawyers' Wives of Orange County, and Legal
20 Aid was funded in part by the lawyers' wives and their
21 volunteering contributions. And from the fees charged were
22 lawyer referral.

23 Fortunately, we have gotten beyond that point
24 because it was only able to satisfy an insignificant portion
25 of the problem.

1 CHAIRMAN MENDEZ: Well, the monies that you are
2 receiving are not really insignificant. Bob told me they
3 are something around \$25,000 or so this last year.

4 MR. RADUS: That's historically, not now. Let
5 Bob tell you exactly how we apply those monies.

6 MR. COHEN: A few years ago we had been receiving
7 monies from the Bar Association's Referral Service, and
8 then when the Bar Association went through a reorganization
9 of its staff, we negotiated out separating the cases that
10 we would refer from the cases they would refer, and with
11 their permission, we sought State Bar certification of our
12 own separate referral service, and have been using the
13 income derived from referring cases to supplement the
14 services that we can provide in our community.

15 The basic procedure we use in referring cases
16 is that a client who is referred to a private attorney gets
17 one-half hour consultation free. And the attorney, if he
18 or she accepts a case, pays Legal Aid immediately I believe
19 \$15.00 for -- as advance on the amount of fee which would
20 finally be paid.

21 The case remains open at Legal Aid until it is
22 closed by the attorney. And when it's closed by the
23 attorney, we receive between 10 and 25 percent of the fee
24 obtained by the attorney, depending on the amount which the
25 attorney receives. It's a graduated scale.

1 Our agreement with participating panel attorneys
2 is that they may not charge a client more than they would
3 normally charge a client, and that the difference comes
4 solely from their fee.

5 CHAIRMAN MENDEZ: Now, you have an ethics
6 opinion that says that this is okay to do.

7 MR. COHEN: Oh, yes, this is perfectly in accord
8 with the State Bar rules. They allow this sort of
9 arrangement for the provision of legal services to the poor.

10 MR. VALOIS: Are these clients otherwise eligible?

11 MR. COHEN: These are clients who might be
12 eligible, or who are not eligible, but they have matters
13 that we would not undertake such as fee-generating cases.
14 And other clients who are not eligible for our services and
15 don't have fee-generating cases, they would also be subject
16 to this sort of arrangements. Clients know upfront what
17 our arrangement is with the attorneys. And they voluntarily
18 choose to use our referral service or to go elsewhere.

19 Most of the time, in fact, practically all of the
20 time if someone has come over to Legal Aid, they use the
21 panel that we have set up.

22 MR. VALOIS: Can you just give me a brief
23 categorization of what kinds of cases you are talking about?

24 MR. COHEN: There are --

25 MR. VALOIS: PI?

1 MR. COHEN: -- mainly PI, family law, there is
2 some criminal defense matters, and probate; just a whole
3 range of cases that come through our offices that we cannot
4 handle. Some -- as a matter of fact, we only receive
5 fees from approximately 20 percent of the cases that we refer
6 out. Some of the time clients don't keep their appointments
7 with private attorneys. About 50 percent of the time or
8 more, the attorneys do not reach an agreement with the
9 client regarding providing services.

10 In those 20 percent of the cases, we have found
11 it to be more than enough to justify our effort. It is
12 something we would have to do anyway. We would have to
13 make -- we would have to tell someone what they should do
14 about their matter. We just can't say, well, leave. And
15 with just a little more effort, we make the referall to
16 private bar and we can recycle money that would otherwise
17 be lost.

18 MR. VALOIS: Thank you.

19 CHAIRMAN MENDEZ: Does anyone else have any
20 questions of these two gentlemen?

21 Thank you very much for attending. We appreciate
22 your time.

23 MR. RADUS: Thank you. We appreciate the
24 opportunity.

25 CHAIRMAN MENDEZ: At this time we will take item

1 item 3 on the agenda, Revision of Appendix VI of the Audit
2 and Accounting Guide. And I will ask Mr. Thimell and
3 Mr. Coster to please come forward.

4 So that we have the record clear, Mr. Thimell
5 is on the left, and Mr. Coster is the man on this side.

6 I have reviewed the Appendix VI. Is there any
7 particular changes that you have before I start asking
8 questions?

9 MR. COSTER: Yes, there is one specific change
10 in the language on Appendix VI as it was provided to the
11 board in the raspberry, I believe now red covered version.

12 MR. THIMELL: Page 19 of the Audit Appropriations
13 Committee book, the first page of Appendix VI. At the
14 very bottom of that page, the last paragraph, the first
15 sentence states that the board has adopted a policy
16 requiring the reporting of expenses on a function basis
17 for all financial reports for periods beginning after
18 Jnauary 1, 1986.

19 We would like to insert following "beginning",
20 "on or after," "on or". So, it should read "beginning on
21 or after January 1, 1986. Because, in fact, most financial
22 periods do begin January 1st, and we want to make it
23 clear that those periods would be captured as well.

24 MR. COSTER: This is the first of several
25 recommendations that have been received from the field since

1 this committee met in Washington last month, and a very
2 significant one. In fact, their first one has been -- their
3 recommendation has been adopted to bring us in conformance
4 with previous discussions with the board and with the
5 content of Section 2-1.4 of the Audit Guide.

6 That is the only change we would like to put forth
7 to the committee.

8 CHAIRMAN MENDEZ: I have questions. Page 24, it's
9 the last page of the appendix. It says at the bottom of
10 that, "The accompanying footnote sare an integral part of
11 this statement. (Not presented in Audit Guide example.)"

12 Tell me what you are saying.

13 MR. COSTER: I'll answer that.

14 All of the financial statements that are presented
15 to the corporation on an annual basis are a package and
16 of significant parts, some would say the most important
17 part are the auditor's footnotes to the financial statements.
18 Therefore, all of our illustrative statements in this
19 Audit Guide contain that notation that the accompanying
20 footnotes are an integral part of the financial statements.
21 That's boilerplate language for accountants.

22 CHAIRMAN MENDEZ: All right.

23 MR. COSTER: That additional notation is that
24 we have not included them here, however.

25 CHAIRMAN MENDEZ: All right. If you are going

1 to say it for the -- because this says the accompanying
2 footnotes, to me says it's part of the footnotes on this
3 diagram are not necessarily anything else. But with
4 regard to all audit reports, we require footnotes. Is that
5 a fair statement?

6 MR. COSTER: That's an identical statement.

7 CHAIRMAN MENDEZ: It's not identical. You are
8 saying like an accountant says it, and I want to make sure
9 that we understand what that means. Make sure that you clean
10 that up a little bit where it says the footnotes are
11 required on all audit reports, because here it just says
12 accompanying footnotes, and it refers to this document.

13 MR. THIMELL: That should be a parenthetical
14 statement that that actual sentence --

15 CHAIRMAN MENDEZ: Yes.

16 MR. THIMELL: -- is the language that should be
17 on that statement, but the whole thing is an illustration,
18 and that sentence needs to be there as stated, or we should
19 add in parenthesis that this is simply a requirement for
20 each and every such statement.

21 CHAIRMAN MENDEZ: That's correct.

22 MR. THIMELL: Okay.

23 MR. COSTER: Mr. Chairman, there is one recommenda-
24 tion that has been received from Mr. Gary Singson that --

25 CHAIRMAN MENDEZ: Only one?

1 MR. COSTER: Beg your pardon?

2 CHAIRMAN MENDEZ: Only one?

3 MR. THIMELL: One of many.

4 MR. COSTER: There is one of many that the staff
5 finds to be of note, and does not feel strongly one way or
6 the other, and I know that you probably want to speak on
7 that at least, and that regards the financial statement
8 that is now in front of you on page 23 of your board book,
9 committee book.

10 The central column headed "Client Service - PAI"
11 are in a most novel fashion broken out into two different
12 columns in the financial statement. That was something that
13 we had never discussed with the committee, something that
14 is not mandated by 70.10 but seems to be desirable from the
15 staff's point of view.

16 Mr. Singen had pointed out, and he can speak on
17 this, that that is an unnecessary breakdown and that that
18 would create rather gruelling bookkeeping requirements over
19 and above that of the statement itself, if they were to
20 break down the staff time of those who are involved in
21 PAI into how much time was in Judicare, how much time
22 was in ProBono services.

23 We ask your opinion on that, and if you feel
24 that that's a necessary breakdown, the staff is not --

25 CHAIRMAN MENDEZ: At least for the first year,

1 I would think it would be satisfactory, at least from the
2 Chair's viewpoint, and I would be willing to be educated
3 by the rest of my board to have it just as PIA - Client
4 Service, one column.

5 Well, everybody is learning and unless we see there
6 is some abuse, I think that would be, at least for the first
7 year because everybody is learning and I don't want everybody
8 to unduly, make an undue effort on these things.

9 MR. COSTER: And that is the second and final
10 change that we have to present to you today.

11 CHAIRMAN MENDEZ: Okay. Now, before I ask for
12 public comments, I have had various discussions with people
13 in the field on what functional accounting is and this fairly
14 well sets forth what we want. And for the field, and to
15 make sure the record is clear, if we look at page 23, in
16 past years essentially what we have been asking for, for
17 instance, on the last column "Comparative Totals", what we
18 have essentially in the past years been asking for is the
19 final columns, '85 versus '86. What we are doing now is
20 we are spreading this out.

21 You will be required to give us an audit at the
22 end of this year, at the end of FY-86 with regard to the
23 final column of giving it a total as accurate and as
24 complete as in past year, because that's not what the change
25 is about. But we will expect a good faith effort with

1 respect to the functional parts of that. And we are asking
2 for a good faith effort. You will not be held -- you will
3 be held to a good faith compliance with regard to the first
4 part. For FY-87, you will be held to absolute -- to the
5 same standards with regard to functional accounting as you
6 will be with regard to the overall this year and as you were
7 in the past.

8 But for the first year until everybody is educated,
9 you are expected to be in good faith compliance.

10 Yes, John.

11 VOICE: Mr. Mendez, you mentioned this year a
12 couple of times in that statement. Were you referring to
13 fiscal year 1986 as this year?

14 CHAIRMAN MENDEZ: Fiscal year, excuse me, fiscal
15 year. We are doing this for fiscal year '86.

16 VOICE: There is no requirement for any format
17 of functional accounting in the audit that will be done
18 for the current year.

19 CHAIRMAN MENDEZ: No, no, no. We don't -- what
20 I am discussing this year, I am discussing --

21 VOICE: '86.

22 CHAIRMAN MENDEZ: -- '86. The reference should
23 have been clear to that.

24 Now, Gary, I know that you have very few comments
25 and they will be as your usual brilliant referrals and we

1 will either accept them or reject them like we usually do.
2 Would you please come forward?

3 Identify yourself for the record.

4 MR. SINGSEN: For the record, my name is Gary
5 Singesen and I appear today on behalf of the project advisory
6 group, and I am delighted to be here and see you all again.
7 I would like to introduce the person to my left.

8 (Pause while microphones are moved around.)

9 CHAIRMAN MENDEZ: Now, for the other mikes and
10 the other --

11 (Pause.)

12 MR. SINGSEN: I would like to introduce the person
13 to my left. This is Georgie Feltz, that's F-E-L-T-Z.

14 CHAIRMAN MENDEZ: Georgie?

15 MR. SINGSEN: Georgie. Georgie is the
16 comptroller for the Legal Aid Society of Alameda County,
17 which is Oakland, California. Before being in that
18 position, she worked as a contract accountant for a number
19 of programs here in California. And before that for five
20 or six years, she was a management specialist in the
21 corporation's San Francisco regional office. A management
22 specialist, as you know, focuses on the management,
23 accounting, financial side of program operations, provides
24 training, technical assistance, oversight and the like
25 with such issues.

1 I asked Ms. Feltz to join us today because I thought
2 she might be able to be helpful in thinking about Appendix
3 VI and what I think is probably the most difficult issue
4 which is how we move forward to actually implement functional
5 accounting through Appendix VI and the staff process.

6 CHAIRMAN MENDEZ: Just a couple of questions first.
7 Are you a CPA?

8 MS. FELTZ: No, I am not.

9 CHAIRMAN MENDEZ: Did you take education or is
10 it all just training through programs you worked with?

11 MS. FELTZ: I have formal training in accounting
12 and I have also worked in nonprofit accounting. Well, I
13 have worked in accounting, but I was doing -- working in
14 nonprofit accounting for the past 19 years or so.

15 MR. SINGSEN: One procedural question just in terms
16 of what's the best way to proceed this morning. Obviously,
17 we all have the same interest, which is to deal with these
18 issues clearly but quickly.

19 My thought is this. It seems to me there is one
20 body of issues that have to do with how we move from this
21 appendix --

22 CHAIRMAN MENDEZ: Let me ask you a question first.
23 Are there any technical comments that you have about Appendix
24 VI?

25 MR. SINGSEN: There are a number, yes.

1 CHAIRMAN MENDEZ: Let's address those first.

2 MR. SINGSEN: Okay. There is one problem with
3 doing that but let me suggest a solution to it.

4 One of the technical problems has to do with the
5 implementation language which has already been slightly
6 modified by the "on or after" language proposed by the staff.
7 That's one of the technical issues, but what it does is
8 raise the issues of how we go forward. Why don't I hold
9 that as the last one and then we will talk about the
10 implementation and the staff process issues as a group with
11 that particular clause of Appendix VI as the backdrop for
12 discussion.

13 CHAIRMAN MENDEZ: That's fine.

14 MR. SINGSEN: Let me then introduce Ms. Feltz to
15 speak briefly about her own experience with the programs
16 here in California and what it may suggest to you with
17 regard --

18 CHAIRMAN MENDEZ: Yes, but let's touch on the
19 technical changes to Appendix VI other than that first.

20 MR. SINGSEN: Okay. I think you all now have,
21 or we mailed if not provided to you, the memo that I wrote
22 on November 2, 1985. Does anybody not have a copy of this
23 one? I think you all have it, right?

24 If you will turn to page 4 of that memorandum,
25 you will find the beginning of the discussion of the

end #1

#1

1 specifics of Appendix VI. The top of page 4 discusses the
2 provisions that it's in the Audit Guide 2-14, which is a
3 three paragraph statement of what functional accounting is,
4 a statement that implementation is to begin for periods on
5 or after January 1, and a reference to Appendix VI.

6 There is a technical issue there which has to do
7 with functional accounting. Do you want to discuss it here
8 or would you prefer to put off that issue until tomorrow?

9 CHAIRMAN MENDEZ: That issue is not before us.

10 MR. SINGSEN: I understood that that was -- I wanted
11 to ask the question.

12 CHAIRMAN MENDEZ: Yes.

13 MR. SINGSEN: At the bottom of page 4, the first
14 item in Appendix VI is the one we are going to come back
15 to; that is, the method of implementation for functional
16 accounting.

17 At the top of page 5, the second issue relates
18 to some language questions in the functional accounting
19 appendix. If you take a quick look at page 9 of my
20 memorandum, what you have provided there is a proposed
21 redraft of the appendix in which each of the changes that
22 I am going to suggest is presented with underlining, and each
23 deletion which I would suggest is in brackets so that this
24 first point that I want to talk to you, for example, the
25 actual lanaguage that relates to the issue appears on

1 page 9 in the paragraphs that begin "Functional area
2 column headings" in all capitals.

3 While I am talking about the issue, you may want to
4 be looking at the language on page 9 where the language
5 changes occur that I am talking about making.

6 What are the language changes? Basically, they
7 are language changes that come out of the AICPA Statement
8 of Position 78-10. And the proposal is that we use language
9 which is out of 78-10, or closer to 78-10 so that accountants
10 who are going to be interpreting what functional accounting
11 is about can use the literature and understand clearly
12 how it relates to the words that we are using.

13 The first example is a very simple one. We have
14 a column called "Administrative" in our draft on the exhibit,
15 the proposed statement. In 78-10, the name for that concept
16 is management in general, and I think we probably ought to
17 use the same language that 78-10 uses to describe what that
18 topic is.

19 The second example is that in our current draft
20 we don't use either of the words that an accountant would
21 be likely to use to indicate how to figure out which sub-
22 categories, which priority areas to list. The word in
23 78-10 that appears is "significant"; that is, there is
24 enough going on in that area, enough money being spent so
25 that for disclosure purposes it makes sense to break it

1 out as a separate priority.

2 Right now we don't give guidance in our draft
3 language that really suggests how to separate out the
4 different priority areas. Obviously, a place where we spend
5 1 percent of our money doesn't deserve a separate column,
6 but a place where we spend 30 percent of our money clearly
7 does; it's very significant from an accounting point of
8 view. "Significant" is the word that an accountant probably
9 would use and 78-10 uses to describe when you want a separate
10 subcategory.

11 The next point is that in our draft schedule
12 we have, our exhibit to Appendix VI, we have basically
13 three kinds of areas, functional areas being shown. One
14 is called client services, and that includes the priorities.
15 The other service, the PAI. The second is the supporting
16 services, administrative and general, management and general,
17 fundraising. The third is legislative and administrative
18 advocacy.

19 78-10 suggests that there are just two types of
20 services. The words are slightly different. They are
21 program activities and supporting activities. We are using
22 the language client services and supporting services
23 instead. I don't think that's significant. I think we can
24 stay with those two categories.

25 But throwing in the third category of legislative

1 and administrative as if it were neither a supporting
2 service or a client service strikes me as not appropriate
3 under 78-10.

4 CHAIRMAN MENDEZ: Well, I can eliminate your
5 discussion. I wanted that there. And as long as I am
6 the chairman and I think I've got the votes, that's going
7 to stay.

8 MR. SINGSEN: Now, let me make clear what I am
9 saying at this point. I have a second point to suggest to
10 you and I think I understand your position on the second
11 point.

12 But the first point is simply that we move that
13 column over and state it as a client service since, in fact,
14 under the act it's pretty much got to be a client service
15 if it's legal. It's a different question from what we
16 ought to be showing legislative and administrative advocacy
17 on the schedule. I understand that you feel strongly that
18 we should.

19 CHAIRMAN MENDEZ: And I feel strongly that it
20 should be an independent --

21 MR. SINGSEN: It's neither a supporting service
22 nor a client service.

23 CHAIRMAN MENDEZ: I understand your argument.
24 I also know what I feel and believe, and I told the staff
25 that that's the way I wanted it, and your arguments do not

1 sell me.

2 MR. SINGSEN: There is a small technical problem
3 that will arise for some auditors. 78-10 provides that
4 once an organization, such as this one, makes the decision
5 to change its approach and to adopt in something like
6 78-10, functional accounting, the decision has to be carried
7 through and the auditors must comply with 78-10.

8 For an auditor to find a new category may prove
9 difficult. It's not going to be an appropriate statement
10 under 78-10.

11 CHAIRMAN MENDEZ: It may prove difficult, but
12 78-10 is the generall overall umbrella, and if we make
13 specific directions, the auditor has to follow the directions
14 that we specifically make over 78-10.

15 MR. SINGSEN: I understand that the auditor will
16 have to find a way to provide the information to you. The
17 auditor may not be properly able to certify a statement.
18 He may have to give a qualified opinion if he can't
19 characterize this as a program activity.

20 CHAIRMAN MENDEZ: That's fine. That's the reason
21 I understand now why Mr. Coster said that he wanted all those
22 footnotes included.

23 MR. COSTER: If I could interject, Mr. Singesen.

24 A lot of these points are based on the idea that
25 78-10 is -- had mandatory language or that it contains one

1 CHAIRMAN MENDEZ: Probably? When's the last
2 time you looked at it?

3 MS. FELTZ: We were doing -- in the summer sometime

4 CHAIRMAN MENDEZ: Can you tell me what 78-10 is?

5 MS. FELTZ: As different from what Gary is
6 talking about or --

7 CHAIRMAN MENDEZ: Just briefly describe to me
8 what -- when we say 78-10, what does it mean?

9 MS. FELTZ: It talks about a statement of
10 functional accounting, is that what you mean?

11 CHAIRMAN MENDEZ: All right. No, 78-10 is -- Gary,
12 would you please tell us what 78-10 is?

13 MR. SINGSEN: 78-10 is a statement of position
14 by the AICPA with regard to nonprofit accounting and
15 includes language regarding functional accounting in some
16 of its paragraphs.

17 CHAIRMAN MENDEZ: All right. It's generally used
18 by most nonprofits.

19 MS. FELTZ: It is generally used by most nonprofits?

20 CHAIRMAN MENDEZ: Yes, as their guide.

21 MR. SINGSEN: Well, it's a series of position
22 statements and what generally accepted accounting positions --

23 CHAIRMAN MENDEZ: But especially the major big
24 eight firms use that as a --

25 MR. SINGSEN: Well, I think it is quite extensively

1 used.

2 CHAIRMAN MENDEZ: Yes.

3 MR. SINGSEN: It's a guide. Of course, when you
4 are doing a corporation's set of books, you use the Audit
5 Guide.

6 CHAIRMAN MENDEZ: Well, do you find that this
7 would be difficult -- this language would be difficult to
8 apply?

9 MS. FELTZ: Yes, I think it would be extensive
10 and it would take a long time to do it. I don't think it's
11 impossible, but I think it would cost a lot.

12 CHAIRMAN MENDEZ: And if we held a series of
13 meetings to educate auditors or select a national auditing
14 firm to do the auditing, that would eliminate most of these
15 difficulties, wouldn't it?

16 MS. FELTZ: I can't answer that. I don't think
17 that addresses the problem of the program accountant who
18 is going to have to be doing the accounting. I haven't
19 really thought about the auditing issues, to tell you the
20 truth. I have been thinking about the internal program
21 accounting issue.

22 CHAIRMAN MENDEZ: Please continue.

23 MR. SINGSEN: The issue around "significant"
24 is that there is not guidance in the language for what
25 level of detail in statement of priorities we are supposed

1 to put into the statement of expenses by function.

2 CHAIRMAN MENDEZ: Now, this is a philosophical
3 statement, would you agree with that?

4 MR. SINGSEN: No, I'm afraid it's more than that.
5 In the absence of something written down, this is actually
6 a set of guidelines that will have to be complied with.
7 Somebody is going to have to read them and read between the
8 lines and decide what kind of a statement is --

9 CHAIRMAN MENDEZ: Mr. Coster, are you preparing
10 to go forward and -- as my recollection of our notes
11 indicates that six to eight weeks before we enact all of
12 the guidelines with regard to functional accounting and
13 the various steps.

14 MR. COSTER: That's correct.

15 CHAIRMAN MENDEZ: And how are you progressing
16 with that?

17 MR. COSTER: All of our efforts to date have been
18 devoted towards the development of this statement with as
19 much field has been as possible from Mr. Singsen only so
20 far. The scope of that input is anticipated to be
21 substantially broadened, exposure to program that are
22 currently reporting on a functional basis and other
23 programs that are not so reporting but do have effective
24 accounting systems in place and running.

25 CHAIRMAN MENDEZ: Do you still anticipate within

1 six to eight weeks having all of the steps in place and
2 descriptions of how you apply functional accounting and how
3 minutely or how broadly they are to be?

4 MR. COSTER: Oh, yes. A principal consideration
5 is that is the corporation going to provide assistance,
6 accounting assistance that will be much broader than simply
7 the functional reporting requirement. Meaning is the
8 corporation going to in the next three or four months
9 generate some technical assistance or say computer programs
10 that will be made available to programs who choose to select
11 it will do accounting work, their conventional accounting
12 work as well as their functional accounting reporting.

13 If we start looking at that, that moves deadlines
14 for those program up and that there would be more time
15 involved in the corporation offering its support to those
16 programs.

17 But in terms of specific requirements or specific
18 decisionmaking on what qualifies as a client service that
19 should be separately columnized, how a program can decide
20 how to report their PAI in one column or two, should they
21 decide to go that way, things that are specific but still
22 would require decisionmaking by the program themselves is
23 much less far away. And we are talking six to eight weeks
24 still. And that's a written product. They would have the
25 input of the programs, experts in the industry such as we

1 had the opportunity to hear earlier who are not involved
2 specifically in legal services, the talent that is on the
3 corporate staff, very broad spectrum of people having a
4 chance to participate.

5 CHAIRMAN MENDEZ: All right, six to eight weeks.
6 Let's say by the 31st of January, are we going to have this
7 all complete?

8 MR. COSTER: Yes, we are.

9 CHAIRMAN MENDEZ: Now, if we have this all
10 completed by the 31st of January, this will not be in place
11 by the first of the year. Will the parties be able to go
12 back, and what one of the statements I made before is that
13 we expect a good faith effort during this entire year, and
14 good faith going back and being able to segregate those out.

15 MR. COSTER: Yes. There have been a number of
16 proposals from Mr. Singen, other people, employees of the
17 corporation on how to make estimates for the year, whether
18 we should require the specific reporting during the six
19 months, the second six months of the year and then back those
20 allocation formulas into the first 12 months, whether it
21 would be based on a sampling procedure of two two-month
22 periods during all of '86. But the intent is to develop
23 a device that shoots for the same target but it doesn't
24 require us to modify our goals in Appendix VI for 1986, but
25 allows a good faith effort to comply and recognizes that

1 the programs are being asked, particularly in programs that
2 have less capable accounting systems, are being asked to
3 significantly upgrade their reporting abilities.

4 There are programs, as we know, that are in the
5 field that are reporting -- that have at the choice of a
6 menu item on their accounting system have the ability to
7 produce these statements now. It would be a two-day project
8 for one of their staff accountants to design a report and
9 start producing it.

10 There are other programs that cannot reconcile
11 monthly bank statements.

12 Your recognition or the committee's recognition
13 of that spectrum of skills is important to the program. And
14 as you said, a good faith effort by each program in light
15 of their abilities is to be expected in 1986.

16 CHAIRMAN MENDEZ: Now, let's address some issues,
17 one of the issues he is raising is how to divide out the
18 priorities and how many priorities we wish to tell the
19 programs to do. Has there been -- Mr. Singesen, how would
20 you suggest we do this?

21 MR. SINGESEN: I would suggest that you use the
22 concept of significance that will give you something quite
23 similar to what is shown in your exhibit, three, four, five
24 program services areas specifically identified.

25 CHAIRMAN MENDEZ: Let's go a little bit further

1 on their major functional characteristics.

2 CHAIRMAN MENDEZ: Let me give you several
3 hypotheticals. Let's say we have a program that has
4 three priorities. One does 50 percent, one does -- and the
5 other two are 25 percent each.

6 MR. SINGSEN: Clearly would have all three of
7 them.

8 CHAIRMAN MENDEZ: All right. A program has
9 10; 50 percent, 20 percent, 10 percent, and the rest of them
10 spread out.

11 MR. SINGSEN: Clearly would have the rest of them,
12 and I don't know what each auditor would do with the 10
13 percent one; you would clearly have the other two.

14 CHAIRMAN MENDEZ: Same type of categories --

15 MR. SINGSEN: I think, for example, a significant
16 gap between the first three or four and the rest would
17 probably mean the rest would show as an other category.

18 CHAIRMAN MENDEZ: That's fine. So far we are
19 not at variance.

20 Same 10 categories, and all 10 equally 10 percent
21 each.

22 MR. SINGSEN: Assuming they were totally distinct,
23 which I don't think they could be, I don't know what they
24 would do.

25 CHAIRMAN MENDEZ: But this is an assumption.

1 MR. SINGSEN: I do't know what an auditor would
2 do. My guess is what the auditor would do is pull several
3 together and find a name for a broader category that
4 encompasses rather than show 10 separate functions.

5 Now, program size would matter here. A \$10 million
6 program might show more priorities if it had that situation
7 than \$100,000 program.

8 CHAIRMAN MENDEZ: All right. So, what we are talking
9 about, one, is the size of the program.

10 MR. SINGSEN: I think that's relevant.

11 CHAIRMAN MENDEZ: And, two, is what the proportion
12 of time is.

13 MR. SINGSEN: That's right. Or expense.

14 CHAIRMAN MENDEZ: Right. And if they are relatively
15 equal in time, it seems to me that they ought to be broken
16 out equally.

17 MR. SINGSEN: The only problem there is if you
18 have got too many, you would not have a terribly meaningful
19 disclosure.

20 CHAIRMAN MENDEZ: All right. Now, you have
21 proposed that we set some, or you think that I should
22 artificially set some amount? At least a quarter has to
23 be broken out, a quarter of your activities. I think that
24 would be a fair statement.

25 MR. SINGSEN: I certainly think if you said that

1 there would be no problem. Clearly that would be significant.

2 CHAIRMAN MENDEZ: And if I said 15 percent.

3 MR. SINGSEN: It's closer. I think that's a
4 tougher question and, frankly, I would go and ask some
5 audit people that question, whether that would be a sensible
6 way to approach this issue.

7 CHAIRMAN MENDEZ: Okay. You have some guidelines,
8 gentlemen.

9 MR. COSTER: We had a sense that 15 percent is
10 the appropriate figure when you look at it on a percent
11 basis. A program that is a multi-million dollar program
12 may have such a -- may find that a lower percentage would
13 be the result, but they wouldn't be basing that on percentage.
14 They would be saying where are we spending significant dollars
15 and at that point \$700,000 out of say a \$7 million program,
16 that runs out at about 10 percent, and it may be so
17 significant expenditure of dollars that they can afford to
18 buy a little bit wider paper and come up with a few more
19 columns for it.

20 We know that any program would have a minimum --
21 we expect that any program would have a minimum of three
22 columns under the client service staff attorney set that
23 they would show in this statement, and that there would be
24 another legal and there would be a minimum of two priorities
25 disclosed.

1 We should add that the statement shows priority
2 1, 2, 3 and 4, and there has been I think some significant
3 comment that priorities are not always numbered by programs,
4 and we have never asked them to rank their priorities.
5 In this case, priorities 1, 2, 3 and 4 is as much as an
6 identifier since we don't have labels in there. It could
7 well be referred to as A, B, C and D.

8 CHAIRMAN MENDEZ: I think those of us that have
9 been dealing with this fairly frequently understand that.
10 I don't know whether the other individuals would do that.
11 So, when you make your example, why don't you say that
12 priority 1, 2, 3 and 4 is not necessarily the order, but
13 it's subject head and we did it for convenience.

14 MR. SINGSEN: One thought about this issue of
15 how to designate it. If we are going to develop some
16 guidelines, they are obviously going to need to speak to
17 this. We are talking now about the basic statement of the
18 policy which will be used as guidance initially certainly,
19 and probably for the staff to develop its further guidelines.

20 I am not sure I have heard anything that suggests
21 this concept of significance is inappropriate and it is
22 78-10's standard. Is there any real problem with using it?

23 CHAIRMAN MENDEZ: There is no problem with using
24 significance, except for the fact that we have to define
25 what 15 percent, any program over -- I mean any item over

1 15 percent is automatically, and if they are -- let's see,
2 how many times does 15 go into 100? It goes in --

3 MR. COSTER: Six.

4 CHAIRMAN MENDEZ: Six times.

5 MR. SINGSEN: And 10 left over.

6 CHAIRMAN MENDEZ: If there is more than six
7 categories, we have to think about how we phrase the thing.

8 MR. THIMELL: It's really not going to be very
9 likely because one of those, you know, probably consume
10 quite a bit more than that, and you are just going to end
11 up whittling it down. I mean there is probably only going
12 to be four more than 15 percent, and one of them being 30
13 or 25 percent. It's not very likely it will all come out
14 exactly the same breakout.

15 CHAIRMAN MENDEZ: I have -- tell me, gentlemen,
16 do you have any problems with significance if we define it
17 at 15 percent?

18 MR. COSTER: Well, with that definition, yes, I
19 do. We had the opportunity to talk to a program person,
20 I don't recall who, yesterday who said that their program
21 breaks out into 10 to 12 priorities every year.

22 Now, 10 to 12 priorities presumes that most of
23 those, you may only have two that rise above 15 percent.
24 You may have none that rise above 15 percent. It clearly
25 not what you intended by setting the standard at 15 percent.

1 I think there is --- there could be a misunderstanding
2 promoted with the inclusion of the sentence in the last,
3 the last sentence in that functional area paragraph,
4 because it just distinguishes between client service and
5 supporting service, and we have got a lot more columns.
6 So, I think there would be an inference there that we have
7 adopted what we rejected.

8 MR. SINGSEN: Actually, if you are referring to
9 the legislative and administrative, since you have denominated
10 it either client or supporting, you have simply said you
11 are going to report it. This sentence wouldn't affect it
12 since this only says you report each significant client or
13 supporting.

14 CHAIRMAN MENDEZ: Maybe I could shorten this
15 discussion. The Chair would --

16 MR. SINGSEN: It seems like it's possible.

17 CHAIRMAN MENDEZ: In the language on board book
18 page 20, the Chair would entertain -- would move to delete
19 most of this -- it's the third line down.

20 MR. SINGSEN: In which paragraph?

21 CHAIRMAN MENDEZ: The second paragraph under
22 Functional Area Column Headings. We have, "The client
23 service subcategory headings are based on a determination
24 of the areas of the law in which the program provides, "
25 delete "most of its," and put in "significance".

1 CHAIRMAN MENDEZ: All right, now, let's make
2 sure that we understand. The rest of it you are talking
3 about is 2(P).

4 MR. SINGSEN: The last sentence we have to talk
5 about.

6 CHAIRMAN MENDEZ: The last sentece of?

7 MR. SINGSEN: Of this paragraph. In my redraft --

8 CHAIRMAN MENDEZ: "In some instances," starting?

9 MR. SINGSEN: "In some instances, it may be
10 appropriate to identify a client service subcategory based
11 on the type of service involved. For example, telephone
12 advice or advice in free service."

13 I am thinking about several programs that have
14 a unit whose work is entirely telephone advice, handling
15 a large volume of phones on anything.

16 CHAIRMAN MENDEZ: I have no difficulty with that.
17 I think that one of the things we need to do when we are
18 talking about this if you have to define what priorities
19 are, give a series of examples of what the examples are.
20 And I think that's going to be -- not in this appendix.

21 MR. SINGSEN: Right.

22 CHAIRMAN MENDEZ: But should be in a series of
23 examples of what, assuming that that all fits in well and
24 there is some such unit or something like that that provides
25 significant service at significant levels --

1 MR. SINGSEN: And is the way they have set the
2 priority.

3 CHAIRMAN MENDEZ: That's the priority.

4 MR. SINGSEN: Now, did -- I'm sorry.

5 CHAIRMAN MENDEZ: Mike or Joel, do you have any
6 problem with that?

7 MR. THIMELL: I don't have any problem with going
8 ahead and defining priorities as we intend them to be
9 broken out in this statement or guidelines. But as to his
10 specific comment, I think we are confusing cost center
11 accounting with functional accounting again, and that this
12 would tend to be a cost center report which would not really
13 report the functions that were being served, but would simply
14 lump case types and functions within this cost center and,
15 therefore, disport everything else.

16 CHAIRMAN MENDEZ: Well, however, one of the things --

17 MR. COSTER: If they want to put them there --

18 CHAIRMAN MENDEZ: If you are providing telephone
19 advice on certain types of things.

20 MR. COSTER: Yes, if it's a functional --

21 CHAIRMAN MENDEZ: Because that's what those units
22 usually are. They are providing advice on a certain functional
23 type, divorces, or housing, or one specific item. I have
24 no difficulty with that.

25 MR. COSTER: Well, to address your question in

1 particular, that is part of the discovery stage in getting
2 this other document together. What we would like to hear
3 about all the different ways they are being broken down.
4 But I am very concerned that we don't cause programs to
5 go through new priority-setting processes next year where
6 they divide up priority -- one priority is the work we
7 do at our desks, the other one is work that we do in court,
8 and the third is work we do on the phone.

9 Now, even if that's cost center at best, it is
10 not an informative statement for them or for us.

11 CHAIRMAN MENDEZ: That's --

12 MR. SINGSEN: I am actually trying to raise a
13 different problem. I am not arguing for cost center as
14 your standard. I am trying to --

15 CHAIRMAN MENDEZ: I understand what you are saying
16 on that and as long as the unit is doing one type area
17 if it's giving advice across the board, that's not appropriate,
18 all types of groups.

19 MR. SINGSEN: I'm not sure I understand.
20 If you are saying that it would be inappropriate to have
21 two experienced lawyers working full-time providing telephone
22 advice --

23 CHAIRMAN MENDEZ: That's appropriate.

24 MR. SINGSEN: -- on whatever comes in.

25 CHAIRMAN MENDEZ: That's appropriate, but that's

1 not functional accounting.

2 MS. BERNSTEIN: Right.

3 MR. SINGSEN: There would be no substantive
4 orientation of that work. Now, the case types would be
5 right across the board, I mean everything that happened,
6 and you would be dealing with 10 minute increments per
7 call. It would be physically possible to break those out
8 by categories of the calls, but the priority of the program
9 that that set up is probably to provide a very high volume
10 of advice service, not to provide the substantive area of
11 services.

12 CHAIRMAN MENDEZ: Well, however, that does not --
13 I would have to see a specific example of that before I
14 would say that that's appropriate, not in general. Because
15 in general, I think that that is not appropriate. I think
16 that's a cost center approach.

17 If they are giving specific advice on specific
18 things, that's fine. And we were just down in San Diego
19 and they are doing an across the board type information
20 and they are breaking it out and they do, in fact, break
21 it out by subject matter. And if you are giving advice,
22 it seems to me you have to break it out by subject matter.
23 And if you are giving very significant advice to an
24 individual that you need to state the type of advice that
25 it is, and you can break that out fairly easily. I don't

1 see it as a difficulty.

2 MR. SINGSEN: Okay, I think I --

3 CHAIRMAN MENDEZ: I understand your --

4 MR. SINGSEN: -- in one way it's not difficult.

5 CHAIRMAN MENDEZ: I understand your --

6 (Simultaneous conversation.)

7 MR. SINGSEN: -- system in order to break all those
8 10 minute items out easily.

9 MR. COSTER: Gary, it's been the topic of many
10 discussions with monitors and office field services of
11 days gone past and monitor audit compliance that services
12 provided in that fashion where a record is not kept of who
13 talks to that person and what the topical area in which
14 they gave advice --

15 MR. SINGSEN: I don't mean to suggest that those --

16 MR. COSTER: -- and how long they talked, you are
17 looking at malpractice.

18 MR. SINGSEN: No, I'm not saying the records aren't
19 kept. I am saying the program priority --

20 MR. COSTER: Okay, I understand.

21 MR. SINGSEN: -- is clearly the volume advice.
22 Things like a prepaid legal services plan that puts its
23 own advice out in front and it's a major element of the
24 service because it's telephone advice.

25 (Simultaneous conversation.)

1 MR. COSTER: -- get into the staff studies phase,
2 if you will, we are going to know for sure how frequent this
3 is an occurrence. I would suggest that if we find a program
4 that has made an intelligent decision to set as a priority,
5 because of their geography, or maybe the handicapped nature
6 of their population or something to provide telephone
7 service on all areas of law that are otherwise within their
8 priorities is something that possibly, possibly that would
9 be a perfect way to divide up the statement and they might
10 decide to schedule out in addition to that statement where
11 that telephone advice was given.

12 CHAIRMAN MENDEZ: As a general policy matter,
13 I don't want to say that in here. I think it's something
14 that an individual program can address and bring to the
15 attention of the auditor and to the attention of the
16 individual that's going out and giving them advice, and
17 between the two of them, they can make that determination
18 if it's appropriate. That is not what we are interested
19 in in terms of functional accounting.

20 For their own management tool, that may well be
21 very appropriate, and in a lost of instance probably would
22 be very appropriate to. But in terms of what we are doing,
23 the minimum standards that we want to have, I don't think
24 that's necessary.

25 MR. SINGSEN: Okay. What I assume that means

1 is that the staff doing the work on the guidelines will
2 try to come to grips with it, to some degree.

3 CHAIRMAN MENDEZ: They will attempt to determine
4 that. And it is, it seems to me in the very least on a
5 program like that, it would be a very appropriate management
6 tool. But whether -- I am not sure that it's an appropriate
7 tool that we want to have, and I think that it would be wise
8 to make some reference that a tool like that might be
9 broken out for the program as a management tool.

10 All right, let me see, we have taken care of
11 paragraph 2.

12 MR. SINGSEN: Yes, if you go down to the next
13 paragraph, there is another language issue. The substitution
14 of management in general or administrative. It's not a
15 major substantive issue at all. It's one of those language
16 things.

17 CHAIRMAN MENDEZ: And we have already made the
18 determination on that one before, I think, up above.

19 MR. SINGSEN: I'm sorry, I didn't think we had
20 talked about the term "management in general" as opposed
21 to "administrative". I may have mentioned it but I didn't
22 think there had been actually any specific discussion.

23 MR. THIMELL: We have no objection to that.

24 MR. COSTER: Nor do we see any urgent need.

25 MR. SINGSEN: -- about urgency, it's not a

1 substantive issue. It' just we might as well use 78-10
2 language when we have got --

3 MR. COSTER: I have shown you, Mr. Singsen,
4 different places in 78-10 where they have used different
5 headings. And I think that the gist of this whole Statement
6 of Position is to tailor statements that will be helpful
7 to our program, and that the AICPA went to some distance
8 not to articulate standards that might not fully benefit
9 a program.

10 you know, in an attempt to conform to their
11 language, you might receive less than the full benefit that
12 could be derived from the statement. So, I don't know.
13 I think the sense of the staff is we are not concerned
14 about absolute word-by-word conformity, and that at some
15 places we intentionally modified and other places we
16 used terms that were very specifically from 78-10.

17 MR. SINGSEN: Let me ask a simple question. Is
18 there any difference between what AICPA calls management
19 in general, and what the draft calls administrative?

20 CHAIRMAN MENDEZ: Well, since I am the final
21 arbitrator, my committee is, I really hate to lump "general"
22 under management, because that indicates to me that there
23 is a lot of different things that could be placed in there.

24 MR. SINGSEN: Where is "general" if it's
25 administrative and fundraising as the two categories of

(Begin 3A)

1 CHAIRMAN MENDEZ: Just restate for the record that
2 the sentence will read as follows. The corporation has
3 determined that administrative (unallocated management in
4 general) fundraising our necessary for the dual purpose of
5 disclosure to third parties and internal management.

6 MR. SINGSEN: I am going to ask probably a silly
7 a silly question. Give me a quck answer. Who are third
8 parties as opposed to funding sources?

9 MR. COSTER: Potential funding sources for starters.

10 MR. SINGSEN: All right let me ask it quite
11 differently. Who is the second party?

12 MR. COSTER: We are the second party. Congress is
13 a third party. The General Accounting Office is a third
14 party. The general public is a third party.

15 MR. SINGSEN: So it is second and third parties that
16 we are interested in here?

17 CHAIRMAN MENDEZ: Second party? I am curious why
18 third party was the language used.

19 MR. SINGSEN: Well, the corporation is the subject.

20 CHAIRMAN MENDEZ: It is not a substantive problem
21 because it is not a substantive statement so I am not going
22 to ask.

23 MR. SINGSEN: For the purpose of disclosure I think
24 that there is --

25 MR. THIMELL: You could just strike it, and say it

1 was a dual purpose of disclosure and internal management.

2 MR. SINGSEN: You could do that. I don't think it
3 hurts there. I just said I was not clear if there was anything
4 meant by it.

5 CHAIRMAN MENDEZ: I would feel more comfortable if
6 we have in there because you will know that there is potential
7 disclosure to Congress. There is potential disclosure to the
8 corporation and funding sources. I think it is. It does
9 not hurt anything.

10 MR. SINGSEN: No, I don't think so.

11 MR. VALOIS: Mr. Chairman, if the same question
12 arises among the programs, would we help them by saying it to
13 third parties such as Congressmen, funding sources and so
14 forth and internal management because the same question might
15 arise.

16 CHAIRMAN MENDEZ: Such as? Just give examples.

17 MR. EAGLIN: (Such as, for instance, however, we are
18 going to do it.)

19 CHAIRMAN MENDEZ: Such as the corporation. All
20 right.

21 MR. EAGLIN: Fine.

22 CHAIRMAN MENDEZ: Congress and funding sources.

23 MS. BERNSTEIN: Put the general public as one.

24 MR. SINGSEN: The true funding source.

25 MS. BERNSTEIN: If we are going to give all these

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1 language up a bit.

2 MR. THIMELL: So we have internal management and
3 disclosure to third parties such as the general public,
4 the corporation, Congress, and funding sources period.

5 CHAIRMAN MENDEZ: Period.

6 MR. THIMELL: So we do not need a parens then. We
7 will set it off with commas.

8 CHAIRMAN MENDEZ: Gary, you understand what we are
9 doing?

10 MR. SINGSEN: Yes.

11 CHAIRMAN MENDEZ: Do you have anything else with
12 regard to functional area?

13 MR. SINGSEN: You mean to those paragraphs?

14 CHAIRMAN MENDEZ: Those paragraphs, right.

15 MR. SINGSEN: No.

16 CHAIRMAN MENDEZ: All right, now what about with
17 regard to allocation?

18 MR. SINGSEN: The allocation of expenses suggestion
19 is simply what are the current parameters is the most effec-
20 tive way to say is meant. I do not think that there is
21 substantive a difference between what I wrote and what is in
22 the draft.

23 It is not in fact correct that each expense category
24 has different characteristics. Some of them are the same, but
25 each has to be analyzed separately, but the language is not

1 implementation. It appears to be.

2 MR. SINGSEN: Yes, but it is indeed I think the
3 fact that the current direct is not this year since the
4 language now is persistence in learning about this accounting
5 practice, and then continues, further guidelines and technical
6 assistance is, but I think it should be are available through
7 the corporation. So I think both of them --

8 CHAIRMAN MENDEZ: Should be are.

9 MR. THIMELL: Yeah.

10 MR. SINGSEN: I think both of them are speaking to
11 now.

12 MR. THIMELL: Yeah, we could clearly put in imple-
13 menting instead of learning about to make it, you know --

14 MR. COSTER: Or assistance with this accounting
15 practice. That gives it a longer --

16 CHAIRMAN MENDEZ: I am sorry?

17 MR. COSTER: I say assistance with this accounting
18 practice. That gives it a long-lived tone as you were con-
19 cerned about. Don't use the term implementing or learning
20 about, or anything that sounds -- that refers to it simply
21 as a start-up situation.

22 MS. BERNSTEIN: What meaning is there?

23 CHAIRMAN MENDEZ: For assistance.

24 MR. COSTER: For assistance with this accounting
25 practice, is that what you are saying?

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1 MS. BERNSTEIN: Good old English teacher's teaching.

2 MR. SINGSEN: But just to write this many words is
3 entitled to a couple of wrong essays.

4 CHAIRMAN MENDEZ: Any other comments specifically?

5 MR. SINGSEN: Yes, do we want to refer to training
6 here?

7 MS. BERNSTEIN: I think technical assistance absorbs
8 training.

9 MR. SINGSEN: It certainly does in common language.
10 We have a problem of history that it is meant something
11 different in this organization. We can have it mean whatever
12 we want to have it mean. I think Mr. Mendez has said that
13 several times.

14 CHAIRMAN MENDEZ: That is right I have. We fight
15 it whatever way we want to fight it as long as it is consistent.

16 MR. SINGSEN: Again I think this issue relates to
17 the issue of the whole implementation process. If the plan is
18 to go to a stage where we have decided what kind of technical
19 assistance, what kind of training, what kind of other report
20 is going to be provided, that will tell us what this is going
21 to say.

22 CHAIRMAN MENDEZ: I feel comfortable. Let's put,
23 for the guidelines, training and technical assistance of a.

24 MR. SINGSEN: Now the last clause there refers to
25 what Mr. Coster mentioned earlier which is that we may get to a

1 stage where the corporation is going to offer computer hardware
2 or software assistance at least in appropriate circumstances.
3 Do you want not to anticipate that at this point?

4 MR. COSTER: We had better get it in by March.

5 MR. SINGSEN: I mean I know it is something you
6 would like to have happen.

7 MR. COSTER: Yes. There are a couple of things that
8 I have high priorities on, and that is one of them. I really
9 believe that is really an important tool for all programs.

10 CHAIRMAN MENDEZ: And accordingly that last ending
11 of the sentence that has been proposed by Mr. Singesen is
12 adopted?

13 MS. BERNSTEIN: No, it is not adopted.

14 MR. SINGSEN: It is not adopted.

15 MS. BERNSTEIN: It would not be long range words.

16 MR. EAGLIN: We understand that is what we are doing,
17 but the language --

18 CHAIRMAN MENDEZ: We will put it in here. We have
19 not made any other modifications. The last modification we
20 made is are. Any other technical problems.

21 MR. SINGSEN: At the end of Appendix 6 here --
22 we have got a couple back at the beginning, but the end of
23 Appendix 6, there is no other issue of substance.

24 CHAIRMAN MENDEZ: At the end, okay.

25 MR. SINGSEN: Of this thing, yeah.

1 CHAIRMAN MENDEZ: What about the example?

2 MR. SINGSEN: We have already discussed all but one
3 of the issues in the exhibit.

4 CHAIRMAN MENDEZ: What is the one remaining?

5 MR. SINGSEN: The one remaining issue -- but I think
6 you have spoken your answer before I have answered the question
7 -- is whether legislative and administrative is shown as a
8 separate column even though a substantial portion of it is
9 within priority areas and you will not get a complete expense
10 statement by priority area.

11 CHAIRMAN MENDEZ: How do we break it out then?

12 MR. SINGSEN: I think there are two options, one
13 very unpleasant looking, the other simpler. One option is
14 to have along with all the normal natural expense categories a
15 separate thing as big as all of them which says legislative
16 and administrative salaries, et cetera, et cetera, et cetera.

17 I think that is probably not a good idea. The other
18 is the one that we talked about two weeks ago, that you ask
19 for a separate schedule, but report all expenses from the
20 priority areas on your functional expense statement.

21 CHAIRMAN MENDEZ: The same applies to PAI?

22 MR. SINGSEN: I think PAI is administratively very
23 difficult because what you are dealing with is second and
24 third party transactions with subgrants and pro bono lawyers
25 and distribution of the intake and referral process. The

1 case types may be extremely difficult. You are deal with
2 a lot of time from non-lawyers, so I think administratively
3 that you are dealing with --

4 CHAIRMAN MENDEZ: But attracting the same arguement.

5 MR. SINGSEN: Well, we said that two weeks ago, and
6 I think it is. I think PAI becuase of the regulations are a
7 real clear function.

8 CHAIRMAN MENDEZ: Now, it is.

9 MR. SINGSEN: Yeah.

10 MR. THIMELL: Are you recommending that we adopt a
11 second schedule for legislative and administrative advocacy?

12 MR. SINGSEN: Well, as you know my recommendation is
13 probably not to have this listed as a separate schedule or
14 as a separate column because I don't think either way is the
15 right way, but you will obviously have the authority, and if
16 you want a functional statement that covers all the expenses,
17 this way will not get it.

18 CHAIRMAN MENDEZ: I have been having a colloquy here,
19 and I am not sure that we are all on the same wave length.

20 MR. EAGLIN: I had a question with respect to that.
21 He is referring to a meeting that I was not able to attend.

22 MR. SINGSEN: I am sorry.

23 MR. EAGLIN: Was that the idea of instead of this
24 example, 1612 could possibly be one of these priorities.

25 MR. SINGSEN: No.

1 CHAIRMAN MENDEZ: Whatever, and instead of having it
2 all there, we set up the separate line item, functional item
3 saying this. Now, his statement is that you do not get a
4 complete priority determination, functional determination if
5 you do it the other way. I recognize that, and that is an
6 issue.

7 What we need to do is because this is an issue that
8 has been set forth before us before. This first year we need
9 to see what results then, and then if does not work out after
10 we will revisit it. That is the way my perception of it is.
11 Do you understand?

12 MR. EAGLIN: I was trying to understand the reference
13 to this second schedule. That threw me.

14 MS. BERNSTEIN: Do you understand what he is saying?

15 MR. EAGLIN: Yeah.

16 MS. BERNSTEIN: You would just duplicate this at the
17 bottom.

18 MR. SINGSEN: That is an option, but try and find
19 out.

20 MR. EAGLIN: Yeah, that is what I want to do, and
21 then at the end of the year, we will make a determination.

22 MR. SINGSEN: Okay, I have a couple more points.

23 CHAIRMAN MENDEZ: Are they technical language? I
24 think we have taken care of everything.

25 MR. SINGSEN: I have two more points. One is purely

1 actually had some decrease to offset the benefit that they got
2 from having a record.

3 CHAIRMAN MENDEZ: Well, I was just down in San Diego,
4 me and my fellow board members went down there, and you could
5 not help and be impressed and believe. In some of the informal
6 conversations we had various members of the staff led us to
7 believe that by doing what they are doing in the auditing, in
8 the functioning and in determining that type of activity that
9 they may well be working faster.

10 MR. SINGSEN: Oh, there are clearly many management
11 techniques that are related to how well you keep track of what
12 you are doing that have some potential to improve the
13 quantity of services. The more efficient you become, the more
14 likelihood there is.

15 Functional accounting is not going to do that. What
16 you saw in San Diego is light years beyond functional
17 accounting. It really is not an accounting system. It is the
18 whole program processing system which is quite sophisticated.

19 CHAIRMAN MENDEZ: But that system, the whole purpose
20 of this is eventually to interrelate functional accounting,
21 the CSR materials so that it will all be done very efficiently
22 without duplicating efforts.

23 MR. SINGSEN: I am not going to push this. I
24 understand that this issue is one on which the staff and I
25 differ. It seems to me that we ought to say clearly that

1 oversight is the major purpose, and that probably not an
2 accurate statement to say we are going to increase services
3 through going to functional accounting, but this is after all
4 courtatory language rather than operating language.

5 MS. BERNSTEIN: Pepe, one of the other -- you know
6 one consideration that we talked about around the edges, and
7 is not in this courtatory language, is services responsive to
8 client needs.

9 In other words the priorities are kind of questioned.
10 It is just not a question of more services. I agree with Pepe.
11 I think that that will be the ultimate result of this, but the
12 other question is as a management tool to make sure that the
13 program is in fact, you know, correctly assessing the priorities
14 with regard to what -- and is meeting the priorities that they
15 have set out in terms of what clients actually need. Do you
16 see what I am saying?

17 MR. THIMELL: Yeah, I think that is in the third
18 sentence here of that paragraph. It assists program managers
19 to better discern the operational progress of the grantee,
20 improve supervision, set service priorities and to direct its
21 future.

22 MS. BERNSTEIN: Yeah, but I am saying that in the
23 last sentence maybe the inclusion -- this language is kind of
24 immediate and not perfect, but more and more responsive
25 legal services. You know something to the effect that if not

1 just a matter of you know --

2 MR. THIMELL: Quantity that they employ.

3 MS. BERNSTEIN: Quantity, but it is also a matter
4 you know of whether or not it is meeting the actual authorities
5 and procedures needed to define.

6 I don't know. The language is -- I am not upset by
7 the language that is here, but that might be also a direction.

8 CHAIRMAN MENDEZ: I was going to get out of here by
9 10:00 o'clock.

10 MS. BERNSTEIN: I will be quiet then.

11 MR. COSTER: More and more responsible is fine with
12 the staff. I think that is excellent word choice. Does that
13 address some of your concerns?

14 MR. SINGSEN: I am not -- the problem I have got is
15 with the word, more.

16 MR. COSTER: With more being there at all.

17 MR. SINGSEN: Right.

18 MR. EAGLIN: Does it change that?

19 CHAIRMAN MENDEZ: No, we are not changing anything.

20 MS. BERNSTEIN: The staff wants it that way.

21 MR. EAGLIN: I just notice at the beginning there
22 you probably should have or conform this language to the
23 change we made in which we recognize the general public as one
24 of the third parties, on that third line there.

25 CHAIRMAN MENDEZ: Of which?

1 what item?

2 MR. SINGSEN: Page 59 of the red book.

3 MR. EAGLIN: What is that?

4 MR. SINGSEN: Do you have this?

5 MR. EAGLIN: In the red book?

6 MR. SINGSEN: It is back here in the back, yeah. It
7 is the only place we have the language. It is sideways of
8 course.

9 CHAIRMAN MENDEZ: Now, some of these did not turn
10 out very well.

11 MR. SINGSEN: Right, this is not any of that. This
12 is a separate issue about functional accounting.

13 CHAIRMAN MENDEZ: You have discussed this with them
14 about -- I think this tell us.

15 MR. SINGSEN: Yeah, but we did not have time to get
16 everyone -- this is new because this was put in having to go
17 to functional accounting to separate functional accounting from
18 cross-center accounting which the previous paragraph on the page
19 deals with.

20 We are looking now at the paragraph at the bottom,
21 lefthand corner of the sideways page. Do you see where I have
22 got a little red under the functional versus actual?

23 CHAIRMAN MENDEZ: Oh, yeah.

24 MR. THIMELL: Page 59.

25 MR. SINGSEN: Right. Has everybody got that, page 59?

1 The issue is simply this. Right now it says, the monthly
2 reporting package must be designed to facilitate functional
3 reporting. As a practical matter a monthly report on a
4 functional basis is certainly not intended by what we have
5 writted so far, and is probably not a good internal control
6 device.

7 I would suggest we change it to a periodic and --

8 MR. COSTER: From a procedural standpoint
9 that in --

10 MR. SINGSEN: No.

11 MR. COSTER: Is this something that was retyped
12 by the corporation staff?

13 MR. SINGSEN: This was created between the 25th and
14 now I believe.

15 MR. COSTER: Well, in that case that language is not
16 in what was referred to the board.

17 MR. THIMELL: That is not correct. The Committee
18 made the point that this section previously was combined.

19 MR. SINGSEN: Right.

20 MR. THIMELL: The cost center and functional reports
21 were one combined package, and the decision was to separate the
22 two to show that we still encourage cost center reporting if
23 programs feel it is helpful, but that we were going to require
24 the functional. So the language is simply basically split
25 and made parallel, but we have no objection as to striking

1 MR. SINGSEN: This level of detail unless you have
2 got -- I mean this is a side subject.

3 CHAIRMAN MENDEZ: Yeah.

4 MR. SINGSEN: We can talk about it some more in the
5 guideline discussion. Monthly probably will not be useful
6 for most purposes.

7 CHAIRMAN MENDEZ: Quarterly I think would be for
8 most purposes.

9 MR. SINGSEN: Unless there are some other system
10 that is providing the same information effectively. In which
11 case I would say half-yearly for budget purposes.

12 CHAIRMAN MENDEZ: Okay.

13 MR. SINGSEN: By this I am answering the question.
14 This is one tool and it depends how the program manages, how
15 effective the tool is. Other than the question, the substan-
16 tial question --

17 CHAIRMAN MENDEZ: Now, that, I will tell you this.
18 I want to bring this or you to bring this issue up on page 59
19 tomorrow.

20 MR. THIMELL: Okay.

21 CHAIRMAN MENDEZ: But, we --

22 MR. THIMELL: We are not changing it today, but we
23 we will change it tomorrow.

24 CHAIRMAN MENDEZ: Right.

25 MR. SINGSEN: We will make the recommendation as we

1 before the Committee in the December meeting.

2 This is how it reads, however. Between now and
3 January 31 the staff is going their study with the consultation
4 of consideration of comments from people who are both using
5 it or not using functional accounting in the field, an analysis
6 of what type of reporting is going to give us the most results,
7 the best costs, a look at different computer systems and
8 manual systems that would accommodate this type of reporting,
9 that sort of a comprehensive study which may involve some
10 visitation, expected to involve some visitation to programs
11 that have this in effect.

12 The corporation's own resources including OIM,
13 the controller's office and monitoring auditing and compliance
14 at a minimum will be consulted as will the various talents
15 and interests of field programs.

16 During February and March and going into April
17 training whether it be on the resulting reports and how to
18 keep records on a manual basis, or the implementation of a
19 possibly be designed computer program to run on the IBM PC's
20 that are being provided to the field programs, will be
21 conducted.

22 The subject of the training of course is not defined
23 at this point because we don't know what the book is going to
24 have in it at the end of January 31st.

25 Next, knowing that an accounting system is only

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1 going to be reliable until after it has been tested and the
2 people have had their questions answered -- people who are
3 using it have had their questions answered, we would anticipate
4 that during May and June of '86 programs would after having
5 decided how they were going to do their functional reporting
6 would run it in a good faith testing effort learning how to
7 do it, but at the lastest they would start on that May 1 of
8 1986 which would give them two months worth of experience with
9 their system and interface with their accountant and assistance
10 from the corporation before they would reach July 1 which is
11 the last date of the implementation.

12 The last phase is the six months starting June 1 of
13 1986 during which -- I beg your pardon, July 1 of 1986, during
14 which the programs would be expected to have a largely tested
15 and trained, and effective accounting system to collect the
16 information necessary for reporting functional, or reporting
17 expenses on a functional basis.

18 CHAIRMAN MENDEZ: For the entire year, the program
19 is to restate its good faith effort for the entire year with
20 regard to functional accounting?

21 MR. COSTER: Yes.

22 CHAIRMAN MENDEZ: We will in our training sessions
23 advise the different groups how to comply with functional
24 accounting for the first six months.

25 MR. COSTER: Yes, this is where we are talking about

1 the cooperation and good faith effort on both parts in terms
2 of determining what is a reasonable and yet effective way to
3 handle the first six months of the year knowing that we are
4 not going to have the level of detail in January and February
5 of '86 that we expect to have as of July 1 and moving forward.

6 Nevertheless how are we going to provide a statement
7 on a 12-month basis, recognizing that we lose some of the
8 accuracy and definition that we have in a 12-month super duper
9 statement, that we explain to them how to handle those first
10 six months.

11 CHAIRMAN MENDEZ: John, does that answer a lot of
12 your questions.

13 MR. MOLA: I have a couple. The first is -- I have
14 made this point before. We had some experience in the
15 corporation in developing computer software around accounting.
16 As you recall last year there were a number of technical
17 assistance grants given to the program in hardware and software
18 for accounting packages and training that was done last year.

19 Unfortunately there is still a number of programs,
20 probably the majority who were recipients of the technical
21 assistance grants who have not yet been able to get that
22 hardware and software to work for them.

23 I have talked with Mr. Coster about this, and hope-
24 fully whatever is developed with functional accounting, it is
25 going to be a much more user-friendly system and not as complex

1 CHAIRMAN MENDEZ: I will want to know how it is
2 going and I might even ask them to provide me with one so that
3 I can try it just to make sure, to make the determination. I
4 have used systems before, and I think that might be a wise
5 determination so that we can get that set.

6 Well, I have agreed with that. There are two
7 things that we want to make sure on these systems. One is
8 to make sure it is user-friendly, and two to make sure that it
9 does not overwhelm the machine.

10 MR. MOLA: The second thing is that if we do come up
11 with a clean software package that meets everybody's needs,
12 that we purge the existing IBM PC to this other accounting
13 package so that we utilize the new version.

14 CHAIRMAN MENDEZ: I have asked them. John Asher,
15 I don't know if John told you, but he asked me about that.
16 We talked to Mr. Frey, and he says that you can convert over
17 to the other one, that you can use the new systems that we are
18 speaking of with the old one, but we may well in fact, and
19 I will ask Mike to go check because there were a couple of
20 groups that are using the system that you have and it is
21 difficult for you.

22 There are some of them that are successfully using
23 it and like it, but the large majority do not. I think that
24 we need to take that into account.

25 MR. MOLA: Fine.

1 second.

2 MS. BERNSTEIN: I don't care.

3 CHAIRMAN MENDEZ: We are making an effort to buy
4 computers for all of the field programs, for all programs. I
5 should not say field, for both CSR data. We are making an
6 effort to buy and obtain functional accounting type materials.

7 We are making an effort, and in fact I see
8 Mr. Bailey in the back -- John, I would like you at the next
9 meeting advise us how appropriate it is for us to withhold
10 or allocate funds from field programs and do all of the auditing
11 ourselves for next year, and auditing on all of the programs.

12 The other thing that I will note, and I have had
13 various comments about various items through the months and
14 the last few days, we were in Orange County and Bob Cohen
15 who was here earlier advised us yesterday as we went through
16 his program -- he advised us yesterday that he had spoken with
17 Touche Ross and some private funds that they received Touche
18 Ross told him was not subject to LSC conditions, and we happen
19 to believe they are. I think it might be appropriate for us
20 to re-examine that whole issue because even a firm like
21 Touche Ross sometimes does not know all of the breaks.

22 It might be wise for us to start bringing in
23 accountants and auditors that really do know that and pay
24 close attention to those things.

25 MR. SINGSEN: As you know the issue of private funds

1 and precisely where the reach of the corporation extends in
2 its thoughts is on our agenda for tomorrow.

3 CHAIRMAN MENDEZ: Yes.

4 MR. SINGSEN: So we can all learn more.

5 CHAIRMAN MENDEZ: But there was no issue even raised
6 about that.

7 MR. SINGSEN: Okay.

8 MS. BERNSTEIN: Pepe, I have a question to Mike in
9 terms of the schedule that is talking about. I have no
10 problems with the good faith efforts, and I think the
11 incremental kind of approach makes a lot sense. The only
12 concern I have with a schedule like this is there can be the
13 misunderstanding that programs are not to start the actual
14 implementation until July 1.

15 In other words by setting that up as the date, that
16 -- and as long as we have got it perfectly clear that
17 programs that are able to do it and exert a good faith effort
18 to do it as soon as possible during the year because that is
19 going to help you in terms of looking at the whole year.

20 CHAIRMAN MENDEZ: Functional accounting is starting
21 January 1. That is clear. How we make the determination with
22 regard to the various months before July 1--

23 MR. COSTER: That is what we are working on between
24 now and July 30th.

25 MR. THIMELL: Part of a good faith effort will be

1 consulting with their local CPAs, consulting with the
2 corporation and reviewing those guidelines for as early as
3 possible implementation.

4 MS. BERNSTEIN: Okay.

5 MR. THIMELL: I think that is under that ruberic.

6 MS. BERNSTEIN: Okay, as long as that -- I mean all
7 of this, you know imbedded procrastinaters, it could be yuck.

8 MR. COSTER: I think that the deadline you mentioned
9 -- I may have mislead you, Ms. Bernstein. July 1 is not the
10 date at the very latest we would expect you to do functional
11 accounting. Knowing that it takes some experience with the
12 program to develop reliable data, we would think that -- we
13 anticipate that May 1st which is 60 days prior would be the
14 last date of which a program would be in a full and running,
15 testing out their functional accounting data collection systems.

16 MS. BERNSTEIN: We really have eight months.

17 MR. COSTER: Eight months?

18 CHAIRMAN MENDEZ: But the first several months --

19 MS. BERNSTEIN: I understand and I endorse the
20 good faith --

21 MR. THIMELL: In a 12-month statement.

22 MS. BERNSTEIN: --you know approach to this year's
23 worth of functional accounting.

24 MR. SINGSEN: May I make one suggestion. I think
25 I understand where you are coming from and what you are saying.

1 Until the staff works through the guideline process, the
2 end of January, my own sense is it would be a mistake for a
3 program to make any significant investment in order to modify
4 its records, its recordkeeping, because they ought to pay
5 attention to what the staff comes up with. Even in a program
6 that has got some records that they can produce something with,
7 while the message is you know get the best you can and as soon
8 as you can, I think the message ought to be, and how we
9 communicate it I don't know, but it ought to be don't invest
10 a lot of money before you find out what these guidelines are.

11 MS. BERNSTEIN: Granted, but we have got some charts
12 and some information, and the thinking between now and
13 January 1st as well as communication with the corporation, I
14 think goes into how quickly thereafter it is going to work
15 out.

16 CHAIRMAN MENDEZ: I agree with both of you. One
17 don't spend the money, and two, think about it and start
18 believing that this is what is going to happen. Once you see
19 the guidelines, then you can start spending the money and
20 accurately pursue what is necessary.

21 MR. SINGSEN: Now, I have not heard any real response
22 on this issue. Do you want to know how much this is going to
23 cost?

24 CHAIRMAN MENDEZ: If you have it.

25 MR. COSTER: On another issue.

1 MR. SINGSEN: I am sorry. If that is the end of
2 that, I have got something else I need to say for whatever it
3 is worth.

4 CHAIRMAN MENDEZ: Do you have any other responses?

5 MR. COSTER: On the cost issue?

6 CHAIRMAN MENDEZ: Yes.

7 MR. COSTER: Only that in keeping the cost for this
8 whole program in line, I would not recommend we spend a lot
9 of time looking at -- let me rephrase that. I think costs
10 need to be consideration from the first step on this program.

11 You have not been specific about what sort of
12 report you want, or that you are asking the board to ask for,
13 and we will certainly provide whatever information we can
14 realistically get for the board that they desire to have.

15 I will agree with you that if we came up with wildly
16 different statistics on the cost issue, and are we going to
17 dedicate the 80 man-hours to the cost issue and still have
18 equally unreliable and inconsistent data, I don't know. If
19 the board wants us to spend that kind of time, we will.

20 MR. SINGSEN: I certainly would not say that you and
21 I came up with wildly different figures because I am the only
22 one that I know of that came up with any figures at all. They
23 were wildly different just by themselves.

24 It seems to me that we have a concern for two sets
25 of wildly different figures. I came up with a range that the

1 bottom is between \$5 and \$10 million, and the top end close
2 to \$20 million. I honestly don't know where the cost will go.
3 It depends very much on the guidelines. Clearly it is going
4 to be in the numbers of millions of dollars to have this
5 information provided. That is not bad necessarily.
6 It could be the best money ever spent, but it is a
7 lot of money. It is more money than we have spent in many of
8 the major functions in this organization, and as an allocation
9 decision, a functional allocation decision conceivably, we
10 ought to know what it costs. That is all I am saying.

11 You ought to ask your staff, and if they don't do it
12 by January 1, that does not matter. If they do it in March,
13 you know after they have got their guidelines figures out and
14 they really know what it is beginning to look like then, it is
15 okay, but you ought to find out how much this is really costing
16 to get the information.

17 CHAIRMAN MENDEZ: As part of your duties give us a
18 good faith estimate of what the actual cost will be.

19 MR. COSTER: I will be glad to.

20 CHAIRMAN MENDEZ: I don't want any speculative five
21 minutes a day, \$18 million a year type estimate. I don't want
22 any of that.

23 MR. COSTER: One other thing regarding these reports
24 and that is something that is unspoken in all of the audit
25 guides when it comes to its applicability to deal with the

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1 programs, and that is some recipients have got radically
2 different reporting needs, national support, state support,
3 et cetera.

4 The statement that is attached is intended to
5 typify what we are looking for from basic field programs, and
6 we recognize that the reporting requirements would be
7 different, but that functional accounting requirements are
8 as effective to all recipients as they are with basic fields.

9 CHAIRMAN MENDEZ: That is -- I think we made that
10 perfectly clear from day one, that functional accounting is
11 required of everyone.

12 Now, the chair moves that this committee recommend to
13 the board the adoption of Appendix 6 as amended as part of the
14 auditing and accounting guide. Do I hear a second?

15 MS. BERNSTEIN: I second it.

16 CHAIRMAN MENDEZ: Is there any discussion?

17 MR. SINGSEN: I would give just a couple of comments.

18 CHAIRMAN MENDEZ: Okay.

19 MR. SINGSEN: We have not put anything into the
20 second paragraph on purpose that indicates anything, then
21 period starting on or after January 1. None of this colloquy
22 has been reflected there. Do you want to put a sentence in
23 which says the staff is going to come out with some guidelines?

24 CHAIRMAN MENDEZ: I will tomorrow present a sense of
25 the board resolution reflecting all of this.

1 MR. SINGSEN: And communicate that in some fashion.

2 CHAIRMAN MENDEZ: We will publish it.

3 MR. SINGSEN: That is my only comment.

4 CHAIRMAN MENDEZ: All right thank you. Does the
5 committee have any other comments?

6 MR. EAGLIN: I just wondered if he was asking for
7 some figures?

8 CHAIRMAN MENDEZ: None other than what is at the end
9 of that. No, he was asking about -- I think you were asking
10 about the colloquy that we just had.

11 MR. SINGSEN: That is correct.

12 CHAIRMAN MENDEZ: And we are going to present a
13 sense -- I have asked these gentlemen to prepare a resolution
14 to me so that I can read it in and that we have got it in
15 writing so that everybody has it, and we will send it out to
16 all of the local boards. We will do that as a sense of the
17 board tomorrow.

18 I don't think it is necessary that we do that as
19 a committee, but it is worth it as the board is a whole.

20 MS. BERNSTEIN: I would also say that I think it is
21 more appropriate to do like that rather than as we talk long
22 range, short range.

23 MR. SINGSEN: I feel comfortable with that proposal.

24 CHAIRMAN MENDEZ: All right, all in favor?

25 (Ayes respond.)

1 CHAIRMAN MENDEZ: Opposed?

2 (No response.)

3 CHAIRMAN MENDEZ: The ayes have it. We are finished.

4 Now, the next item is 86 COB. We still have not received any
5 information of progress. My instructions is that we will not
6 handle the 86 COB, but my instructions for Mr. Thimell is
7 go back up there and tell them what we are supposed to do if
8 we don't get it passed next month because we are running kind
9 of short on what we are going to tell our programs.

10 MR. THIMELL: Find out what we should do?

11 CHAIRMAN MENDEZ: Yes, with regard to the programs.

12 MR. THIMELL: Okay.

13 CHAIRMAN MENDEZ: If the programs are to continue
14 in '87 if they don't tell us anything further. Yes, John?

15 MR. MOLA: A related issue similar to the J series
16 estimate, for the first time in the 1986 refunding application,
17 we have been asked to estimate the dollar expenditures split
18 between 81A and A3. The estimate that we made --

19 CHAIRMAN MENDEZ: 81A and A3 are the --

20 MR. MOLA: The statutory sections that deal with
21 grants for provisional services and A3 are various other
22 functions.

23 CHAIRMAN MENDEZ: Your question is what?

24 MR. MOLA: Since this is the first time out of the
25 base field applications outside of state support that we have

1 been asked to categorize funding as included in 81A and A3
2 and to make estimates. My question is whether it good faith
3 estimates are made by the field programs and secured, whether
4 those estimates will be held to the detriment of any base
5 field program to support anything if they turn out in 1986 not
6 be accurate.

7 CHAIRMAN MENDEZ: Just a minute. John, it will be
8 good faith.

9 MR. MOLA: Excuse me?

10 CHAIRMAN MENDEZ: It will be a good faith application
11 this year. Next year you may it will be held --

12 MR. MOLA: In a simliar fashion is it another
13 incremental worry period for us?

14 CHAIRMAN MENDEZ: Yes.

15 MR. MOLA: The best job in '86 will be held to our
16 detriment before long.

17 CHAIRMAN MENDEZ: That is right. Then, as I stated
18 before, good faith. If we discover somebody is not giving us
19 an estimate in good faith and is wild, you know we will look
20 at it.

21 MR. MOLA: Understood, but our best projection.

22 CHAIRMAN MENDEZ: That is correct. Yes, ma'am?

23 MS. DOVER: Maggie Dover. Does that mean that there
24 is definitely not going to be a reallocation of the state
25 support funding issued?

1 CHAIRMAN MENDEZ: I told her that I would like to have
2 her come out and make her statements to us.

3 MS. DOVER: It is my position as being the state
4 support center that gets the lowest per capita funding that it
5 may be a little bit different than what you expect. You would
6 think that I probably would be in favor of reallocating the
7 money so that it would mean that my budget go up to \$89,000
8 from \$85,000.

9 I believe that my clients have as much right to
10 representation as anybody else's clients. However, I think
11 that doing it this late in the year is very unwise in that
12 it disrupts all programs not just mine since I have to send in
13 a funding application next week based on \$35,292 as opposed to
14 what I had last year when the field programs could afford to
15 supplement my budget up to a little over \$80,000.

16 What you are talking about for some people is a choice
17 between reallocation going up and down. My choice is clear.
18 I am going down, and that is all right as long as I know it,
19 but as you all know too I have asked for some supplemental
20 -- some consideration for some supplemental funding out of
21 your year-end monies or whatever discretionary funds that you
22 have in order to allow us to go ahead and operate.

23 I think that disrupting all support programs now by
24 coming up with some reallocation that we would be expected to
25 put in place whenever the Congress decides to act, does a

1 disservice to our clients. I think not knowing what to expect
2 is much worse than knowing the worst.

3 I do. I think keeping people up in the air, not
4 knowing what to do and what you are going to do next year,
5 and I am talking about our clients now and what they can expect
6 to receive from us, is just not fair. I would ask the board
7 to go ahead and make some recommendation on what you are going
8 to do about state support.

9 CHAIRMAN MENDEZ: Well, let me just address your
10 it is just not fair statement. Congress has told us in essence
11 not to do anything until they tell us how much money we are
12 going to get, and they are giving us some language that they
13 are asking us whether we are going to live by. Several people
14 have asked me whether I am going to live by that individually,
15 and said, yes, I will live by that. That is my sense.

16 I don't know what the rest of my board members are
17 going to do, but the language that they told us is aside from
18 that there are some issues about state support, national
19 support, that sort of thing. Within the line items we are
20 still considering that issue, and if they would -- if Congress
21 would have given us a total and said you are free to do
22 -- act within the consolidated operating budget earlier, we
23 would have done so.

24 MS. DOVER: Well, Mr. Mendez, I have never accused
25 the Congress of being fair either, and I am not now, but I

1 the regional training centers.

2 We have the same goals which is to deliver high
3 quality, low cost service specifically geared to the needs
4 of local Legal Services attorneys, and we hope that we can
5 work together and not against each other in reaching this
6 goal.

7 Therefore I hope that you will take a first step
8 and will continue our funding as you go through your evalua-
9 tion process to determine whether we are in fact the best
10 training that can be provided for local Legal Services
11 attorneys.

12 Does anyone have any questions?

13 CHAIRMAN MENDEZ: Paul, question?

14 MR. EAGLIN: No.

15 CHAIRMAN MENDEZ: Thank you, very much for coming.

16 MS. BURDICK: Thank you for your time.

17 CHAIRMAN MENDEZ: Give my best to Mr. McGiver.

18 MS. BURDICK: I will.

19 CHAIRMAN MENDEZ: I hope he gets well soon. Is
20 there any public comment?

21 (No response.)

22 CHAIRMAN MENDEZ: If not, we are adjourned.

23 (Whereupon, at 11:25 a.m., the meeting was
24 concluded.)

25

REPORTER'S CERTIFICATE

1
2
3 DOCKET NUMBER:

4 CASE TITLE: Committee on Audit and Appropriations

5 HEARING DATE: November 7, 1985

6 LOCATION: Anaheim, California
7

8 I hereby certify that the proceedings and evidence
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10 notes reported by me at the hearing in the above case before
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12 and that this is a true and correct transcript of the case.
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