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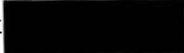
TO: Elana J. Tyrangiel

FROM: Frank R. Trinity 

DATE: May 21, 2009

SUBJECT: Materials regarding CNCS Inspector General

Following our discussion today, I have compiled materials relevant to Gerald Walpin's performance and conduct as Inspector General for the Corporation for National and Community Service.

Please let me know if you have any questions. You may reach me at , or 



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May 21, 2009

MEMORANDUM FOR THE RECORD

FROM: Frank R. Trinity
General Counsel



SUBJECT: **GERALD WALPIN'S PERFORMANCE AND CONDUCT AS INSPECTOR GENERAL**

In my position as General Counsel I have observed the following issues with Gerald Walpin's performance and conduct as Inspector General.

A. **St. HOPE Academy. Tab 1.**

- The Inspector General engaged in inappropriate public commentary on pending matters, failed to provide relevant material to agency and U.S. Attorney decision-makers, and submitted a "Seven Day" Special Report to Congress contrary to the applicable provisions of the Inspector General Act.

B. **Equal Opportunity Issues. Tab 2.**

- The Inspector General approved a parody with ethnic, gender, and other stereotypes; when management informed him that it had caused offense to at least one employee in the Office of Inspector General, he declined to take corrective action.
- In rendering a decision removing an OIG employee, the Inspector General commented at length on the employee's protected EO activity.
- The Inspector General complained to the CEO about an inter-generational awareness program conducted by the Corporation's EO office, calling it a "wasteful use of Corporation assets for an insufficient, if any, Corporation purpose."
- In meetings with the Board of Directors and the Chief Executive Officer, the Inspector General repeatedly disparaged the Corporation's EO office's ability to conduct investigations -- while the EO office was conducting an investigation involving the Office of Inspector General.

C. **CUNY AmeriCorps program. Tab 3.**

- The Inspector General substituted his personal views for policy judgments made by Congress, recommending that the Corporation recoup up to \$75 million from CUNY.

D. **Disregard of Miscellaneous Receipts Act. Tab 4.**

- The Inspector General, over the General Counsel's objections, recommended that the CEO deposit recovered funds in violation of the Miscellaneous Receipts Act (a statute with potentially criminal sanctions).

E. **Disclosure of confidential White House communications. Tab 5.**

- Over OMB's objections and contrary to OMB Circular A-11, the Inspector General disclosed confidential OMB budget deliberations in his personal introduction to a Semi-Annual Report to Congress.



Department of Justice

Acting United States Attorney Lawrence G. Brown
Eastern District of California

FOR IMMEDIATE RELEASE
Thursday, April 9, 2009
www.usdoj.gov/usao/cae

CONTACT: Lauren Horwood
PHONE: 916-554-2706
usacae.edcapress@usdoj.gov

UNITED STATES SETTLES CLAIMS ARISING OUT OF ST. HOPE ACADEMY'S SPENDING OF AMERICORPS GRANTS AND EDUCATION AWARDS

Federal Suspension of St. HOPE Academy, Kevin Johnson & Dana Gonzalez Will Be Terminated

SACRAMENTO, Calif. – Acting United States Attorney Lawrence G. Brown announced today that St. HOPE Academy has agreed to pay \$423,836.50 to settle allegations that St. HOPE did not appropriately spend AmeriCorps grant awards and education awards in accordance with the terms of grant requirements and did not adequately document its expenditures of grant awards. The amount of the civil settlement represents one-half of the \$847,673 in AmeriCorps grant funds received by St. HOPE Academy. During the relevant time period, Sacramento Mayor Kevin Johnson was Chief Executive Officer of St. HOPE and Dana Gonzalez was the Executive Director of St. HOPE. Under the terms of the agreement, which includes mandatory grant administration training for Mayor Johnson and Ms. Gonzalez, suspension from federal programs will be terminated.

“The agreement reached strikes a proper balance between accountability and finality. St. HOPE Academy must pay a significant amount for its improper handling of AmeriCorps funds. The lifting of the suspension against all parties, including Mayor Johnson, removes any cloud whether the City of Sacramento will be prevented from receiving much-needed federal stimulus funds,” said Acting U.S. Attorney Brown.

According to Assistant United States Attorney Kendall J. Newman, the lead government attorney in the case against St. HOPE, AmeriCorps grant funds were awarded by the State of California to St. HOPE and administered by St. HOPE during 2004 through 2007. Additionally, AmeriCorps members were entitled to Education Awards if they fulfilled their service requirements for St. HOPE according to the terms of the grant requirements. The United States contends that St. HOPE did not appropriately spend the grant awards according to the terms of the grant requirements and did not adequately document its expenditures of the grant funds.

On September 28, 2008, the Debarment and Suspension Official for the Corporation for National and Community Service (the “Corporation”), notified St. HOPE, Johnson, and Gonzalez that they were suspended from participation in federal procurement and non-procurement programs for a temporary period of time pending completion of an investigation by the United States Attorney’s Office, or conclusion of any legal or debarment proceedings resulting from the investigation of the alleged misuse of federal funds provided in support of the AmeriCorps grants.

In settlement, St. HOPE acknowledged that it did not adequately document a portion of its

expenditures of the grant awards. The settlement terms are:

- St. HOPE will make an initial payment of \$73,836.50 by electronic transfer within five business days from today;
- Kevin Johnson will pay \$72,836.50 of the initial payment by St. HOPE, with possible repayment to Johnson by St. HOPE when it is financially able to do so; and
- Dana Gonzalez will pay \$1,000.00 of the initial payment by St. HOPE.
- St. HOPE has entered into a stipulated judgment for \$350,000.00, plus five percent annual interest, payable at \$35,000 annually for 10 years, the final payment of which will include interest.

Within five business days from today:

- Johnson and Gonzalez shall each register to take an online course offered by Management Concepts titled "Cost Principles";
- Johnson and Gonzalez will provide written proof to the Corporation of having registered for the course.

Within 120 days from today:

- Johnson and Gonzalez will complete the course; and
- Johnson and Gonzalez will provide written verification under oath of having completed the course.

As part of the settlement, the Corporation will terminate the suspension of St. HOPE, Johnson, and Gonzalez from participation in federal procurement and non-procurement programs upon all of the following occurring:

- The settlement agreement having been signed by all parties;
- St. HOPE having made the Initial Payment of \$73,836.50;
- St. HOPE having signed the Stipulated Judgment;
- Johnson and Gonzalez having made payments to St. HOPE; and
- Johnson and Gonzalez having provided verification of having registered for the "Cost Principles" course.

Additionally, the Corporation will not institute debarment proceedings against St. HOPE with respect to the AmeriCorps grants so long as it complies with the terms of the settlement agreement. The Corporation also will not institute debarment proceedings against Johnson and Gonzalez with respect to the AmeriCorps grants so long as they comply with their obligations under the settlement agreement, including certification of the course completion.

###

KJN

Corporation for
**NATIONAL &
COMMUNITY
SERVICE**

OFFICE OF INSPECTOR GENERAL

August 7, 2008

Lawrence G. Brown, Esq.
First Assistant United States Attorney

John Vincent, Esq.
Chief of the Criminal Division

Kendall J. Newman, Esq.
Chief of the Civil Affirmative Section

Office of the United States Attorney
for the Eastern District of California
501 I Street
Suite 10-100
Sacramento, CA 95814

Re: Kevin Johnson and Dana Gonzalez

Via Federal Express

Dear Messrs. Brown, Vincent, and Newman:

I am forwarding to each of you herewith our referral to your office for criminal and civil prosecution of Kevin Johnson and Dana Gonzalez, respectively President/CEO and Executive Director of the St. HOPE Academy ("SHA"), for false and fraudulent conduct in connection with \$845,018.75 in Federal funds, disbursed to and for SHA under a grant to SHA covering grant years 2004-05, 2005-06, and 2006-07. Accompanying the 30 page referral are two binders of supporting documents referenced in the referral providing evidentiary support for the statements in the referral. (I have not burdened Mr. Brown with the evidentiary binders, but, if I am incorrect in my assumption that he would prefer not to receive them, I will forward another set to him on his request.)

As detailed in the accompanying referral, Mr. Johnson converted for his personal use and for the use of St.HOPE Academy (Mr. Johnson's controlled entity) the portion (\$677,310.77) paid directly to SHA, and fraudulently caused the Government to disburse the balance (\$167,707.94) to persons not entitled to benefit. Violations of various Federal penal statutes, including obtaining by fraud Federal funds under a grant (18 U.S.C. § 666), filing of false and fraudulent claims (18 U.S.C. § 287), and the making of false and fraudulent statements (18 U.S.C. § 1001) are detailed.



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U.S. DEPARTMENT OF JUSTICE

*United States Attorney
Eastern District of California*

*Lawrence G. Brown
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April 29, 2009

Kenneth W. Kaiser, Esq.
Chair, Integrity Committee
Counsel of the Inspectors General on Integrity and Efficiency
c/o Criminal Investigative Division
Federal Bureau of Investigation, Department of Justice
935 Pennsylvania Avenue, NW
Washington, DC 20535-0000

Re: United States v. St. HOPE Academy, Kevin Johnson & Dana Gonzalez

Dear Mr. Kaiser:

I am the Acting United States Attorney for the Eastern District of California. I am writing to express my Office's concerns about the conduct of the Corporation for National and Community Service (CNCS) Inspector General, Gerald Walpin, and his staff in the handling of United States v. St. HOPE Academy, Kevin Johnson & Dana Gonzalez.

In our experience, the role of an Inspector General is to conduct an unbiased investigation, and then forward that investigation to my Office for a determination as to whether the facts warrant a criminal prosecution, civil suit or declination. Similarly, I understand that after conducting such an unbiased investigation, the Inspector General is not intended to act as an advocate for suspension or debarment. However, in this case Mr. Walpin viewed his role very differently. He sought to act as the investigator, advocate, judge, jury and town crier.

Very briefly, this matter resulted from the alleged misuse of AmeriCorps grant funds by St. HOPE Academy, and the involvement in the alleged misuse by St. HOPE's then Chief Executive Officer Kevin Johnson, and Executive Director Dana Gonzalez. Kevin Johnson is a former NBA basketball player, and was a Sacramento mayoral candidate, subsequently elected Mayor, when this matter first came to light during fall 2008. Thus, this matter received significant local press coverage.

United States v. St. HOPE Academy, et al.

April 29, 2009

This matter was referred to our Office on August 7, 2008. However, even before our Office officially received this matter, we learned about it in April and June 2008 through articles in the Sacramento Bee newspaper, including comments from an IG spokesperson. Moreover, we considered the IG referral somewhat unusual in that it was accompanied by a letter from Mr. Walpin (enclosed) explaining that he viewed the conduct in this case as egregious and warranted our pursuing the matter criminally and civilly.

Within a few weeks thereafter, on August 25th, we met with Mr. Walpin and 2 investigators from his office. We expressed our concerns that the conclusions in their report seemed overstated and did not accurately reflect all of the information gathered in their investigation. We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent.

Despite our expressed concerns and the need for further analysis, the next we learned of this matter was again through the Sacramento Bee newspaper. First, on September 5, 2008, an IG spokesperson informed the newspaper that the matter had been referred to our Office, but also added that a "referral means that it's our opinion that there is some truth to the initial allegations..." Second, Mr. Walpin apparently advocated to have St. HOPE, Johnson and Gonzalez immediately placed on a list of parties suspended from receiving federal funds. We learned of that determination through Sacramento Bee articles quoting extensively from a *press release* issued by Mr. Walpin's office on September 25, 2008. Not only was it extremely questionable for Mr. Walpin to issue a press release, it contained statements such as: "[i]f we find really egregious stuff and we want to stop the bleeding, we seek immediate suspension..." Moreover, the IG publically released the findings of his investigation.

On September 26, 2008, I participated in a conference call in which then U.S. Attorney McGregor Scott emphatically informed Mr. Walpin that under no circumstance was he to communicate with the media about a matter under investigation. We also informed Mr. Walpin that his actions were hindering our investigation and handling of this matter. In fact, as a result of Mr. Walpin's public pronouncements on the eve of the mayoral election, McGregor Scott felt compelled to inform the media that our Office did not intend to file any criminal charges.

During the following months our Office was involved in actively pursuing a potential civil case in this matter, working with investigators in the IG's office, obtaining additional discovery, and negotiating a possible resolution. On March 24, 2009, the Sacramento Bee published an editorial (enclosed) that this matter needed prompt resolution. On that same day, an attorney in my Office telephoned Mr. Walpin concerning the ongoing efforts to attempt to resolve the matter. First, although Mr. Walpin stated that he did not make debarment determinations, he made it clear that he would advocate and seek to control the outcome so that St. HOPE and Mayor Johnson were debarred for 3 years. Second, he stated that he had sent a *letter to the editor* to the Sacramento Bee. I promptly called Mr. Walpin and asked him to retract the letter, and reminded him about our previous admonition that he should not be communicating with the press. I advised Mr. Walpin that Kevin Johnson's status as Mayor did not entitle him to a "free pass", but the matter merited a certain level of sensitivity. Needless to say, my comments fell on deaf ears, and the Sacramento Bee gladly ran Mr. Walpin's letter as a special editorial (enclosed).

United States v. St. HOPE Academy, et al.
April 29, 2009

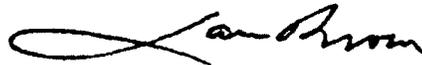
Negotiations continued between my Office and counsel for St. HOPE and Mayor Johnson. As part of that process, St. HOPE's counsel provided evidence that they asserted helped establish that a significant portion of the AmeriCorps grant funds were appropriately expended. For example, the referral from the IG expressly concluded that St. HOPE "AmeriCorps Members Performed No Tutoring." However, the evidence St. HOPE provided included a statement from Herinder Pegany, the Principal of an elementary school, stating that St. HOPE AmeriCorps members had performed after-school tutoring at his school. When asked to review this material, members of Mr. Walpin's office revealed that CNCS investigators had interviewed Mr. Pegany and had obtained a similar statement from him, *but did not include it in their report or disclose it to my Office.*

When confronted by the non-disclosure, Mr. Walpin sought to defend why his office had not included all of the relevant material in their referral. Moreover, Mr. Walpin advised an attorney in my office that once again he was writing to the Sacramento Bee (enclosed). Only by calling upon General Counsel for CNCS were we able to convince Mr. Walpin not to send his letter to the newspaper.

Ultimately, despite the hindrance of Mr. Walpin, due to the extraordinary assistance of CNCS General Counsel Frank Trinity and Associate General Counsel Irshad Abdal-Haqq, we were able to negotiate a resolution of this matter very favorable to the interests of the United States. Although I have stated repeatedly in this letter that our Office does not believe in trying a matter in the media, it is worth noting that in a column in the Sacramento Bee newspaper the day after the settlement was announced, the columnist concluded: "Johnson and his nonprofit will repay half of the \$847,673 in grants. Johnson will take an online course on federal grants. And Sacramento is clear to tap millions in federal dollars....The conclusion wasn't a slap on the wrist or fraud. It was the system rising above those who cheapened it."

In summary, the IG should be a fact-finding impartial investigative arm of the CNCS agency. Although I recognize that a strong IG is necessary to ensure that allegations of wrongdoing are investigated, I believe that Mr. Walpin overstepped his authority by electing to provide my Office with selective information and withholding other potentially significant information at the expense of determining the truth. I believe that rather than ensuring protection of a respected federal agency, he tarnished its reputation. Please contact me if you need additional information.

Sincerely,



LAWRENCE G. BROWN
Acting United States Attorney

Enclosure

cc: Alan Solomont, Chairman CNCS
Stephen Goldsmith, Vice Chairman CNCS
Nicola Goren, Acting CEO CNCS

I would hazard a guess that most U.S. Attorney's offices have had experience in prosecuting those violations in the context of a for-profit Government contractor, but not in the context of a not-for-profit Government grantee. No one hesitates for a moment in prosecuting a for-profit Government contractor who executes a contract with the Government to produce a specified product, but instead uses the Government funds for other purposes, such as financing other non-contract activities, and, to obtain the Government funds, misrepresents to the Government that the funds had been used for the contract specified activities. This type of criminal conduct has occurred, for example, in the cost-plus contract context, when the contractor uses its labor and material for a non-contract activity but charges those costs to the Government contract.

That is essentially what our accompanying referral shows occurred here, except that the recipient was not a for-profit entity but a not-for-profit entity, obtaining Government funding by proclaiming its purpose was to do a specific and identified type of activity to benefit the community, and instead used the funds and labor financed by the Government for other purposes.

Prosecution here would be in furtherance of the formation late in 2006, by the Criminal Division of the Justice Department of the National Procurement Fraud Task Force, of which I am now a member. As the Deputy Attorney General then stated, in announcing this new endeavor, because "[w]e simply cannot tolerate fraud and abuse in government contracting, it is necessary" to increase criminal enforcement in areas of procurement fraud" -- which he specifically defined as including "grant fraud" -- to make clear to the "public" that "anyone who is cheating the system will be held accountable." To that end, the DOJ "encourage[s] agencies to refer more cases for civil and criminal prosecution." And DOJ, in the announcement of this initiative, stated that "the key to a renewed and sustained effort against procurement fraud is an energized and empowered IG community working in tandem with Federal prosecutors." That is exactly what this IG office is endeavoring to do here.

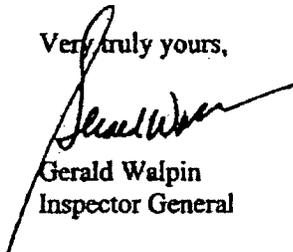
In some ways, this type of crime is worse in the not-for-profit context than in the for-profit context. While I certainly do not minimize the importance of preventing fraud and improper conversion of Government funds in the for-profit context, the primary damage to the Government is usually money. In contrast, in the not-for-profit context about which I write, the damage to the Government has two important aspects: certainly improper taking of Government funds is one; but the second is the serious adverse effect it has to this important Government program to incentivize Americans to volunteer for the benefit of the community and those in need of assistance. At the heart of this referral is AmeriCorps, a Congressionally-mandated program, involved here, to obtain mainly young-adult Americans who contribute a block of their time to revitalize a community and tutor young disadvantaged in order to raise their educational prowess. When those who sign up to do this work (for a *de minimis* living allowance and, on completion of the required number of hours, an Education Award up to a maximum of \$4725 which can be used for tuition or payment of college loans), are not used to do the specified tutoring and community improvements, but instead for menial tasks, these volunteers become discouraged and, when the reality of their AmeriCorps time becomes known to prospective volunteers, it turns them off and disparages the reputation of the AmeriCorps program as a whole.

In addition, because the grant world seems to have its own means of communication, the fact that principals of a grantee engaged in this type of conduct without any significant penalty weakens any deterrence against similar conduct by others.

Because of the importance that I and my office put on this referral, I, together with my two Special Agents, Jeffrey Morales and Wendy Wingers, who have pursued this investigation, would like to meet with the three of you in your office to discuss this matter, at the earliest time after you have had an opportunity to review it. I will call you to discuss a date that meets your schedule.

When we fix on a date, I would appreciate the opportunity of greeting Scott McGregor, the U.S. Attorney, or, at his decision, having him join in our discussion. For that reason, I am forwarding to him a copy of this letter (without the accompanying material) with a cover note.

Very truly yours,



Gerald Walpin
Inspector General



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Service

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St. HOPE, Principals Suspended

Meet
Inspector
General
Gerald Walpin



Created by the National and Community Service Trust Act of 1993, the Corporation for National and Community Service provides opportunities for Americans of all ages and backgrounds to serve their communities and country through three programs: Senior Corps, AmeriCorps, Vista, and Learn and Serve America. For more information on the Corporation's programs, please visit

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The 1993 Act also established the Office of Inspector General. The OIG conducts and supervises independent and objective audits and investigations of Corporation programs and operations to weed out wrongdoing, waste and inefficiency. Also, based on the results of these audits and investigations, the OIG recommends policies to Corporation management to promote economy and efficiency and prevent and detect, waste, fraud and abuse.

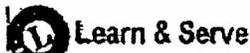
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**Office of Inspector General
Corporation for National and Community Service**

FOR IMMEDIATE RELEASE

Contact:

William Hillburg, Director of Communications
(202) 606-9368

WASHINGTON, DC (September 25, 2008) - The Federal agency in charge of the AmeriCorps volunteer program on Wednesday (September 24) suspended St. HOPE Academy, Kevin Johnson, its founder and former president, and Dana Gonzalez, executive director of St. HOPE's Neighborhood Corps, from all access to Federal grants and contracts for up to one year.

The decision of the Corporation for National and Community Service ("Corporation") resulted from a recommendation made by the Office Inspector General ("OIG"), which was based on information developed in an investigation of St. HOPE and its principals, which is ongoing. The suspension, which immediately went into effect September 24, bars St. HOPE Academy, Johnson and Gonzalez from receiving or using funds from any Federal agency for up to one year, or pending completion of the OIG investigation.

The OIG, in its recommendation for suspension, cited numerous potential criminal and grant violations, including diversion of Federal grant funds, misuse of AmeriCorps members, and false claims made against a taxpayer-supported Federal agency.

"I appreciate the Corporation's action in implementing our recommendation and in supporting our ongoing investigation," said Inspector General Gerald Walpin. "Given that there exists evidence to suspect improper and fraudulent misuse of grant funds and AmeriCorps members, it is important that immediate action be taken. Between now and the completion of the OIG's investigation, we must protect the public interest from the potential repetition of this conduct by this grantee and its principals."

In its written suspension decision, the Corporation cited numerous AmeriCorps grant violation and diversions of Federal funds. It stressed that "the diversion of grant funds is so serious a violation of the terms of the grant agreement that immediate action via suspension is required to protect the public interest and restrict the offending parties' involvement with other Federal programs and activities."

Under the terms of its Corporation grant, St. HOPE officials agreed to deploy their Neighborhood Corps AmeriCorps members to tutor students at its charter schools, redevelop one building per year in Sacramento's Oak Park neighborhood and coordinate marketing and logistics for St. HOPE's Guild Theater and Art Gallery.

The cited violations of St. HOPE's grant agreement included:

- Misusing AmeriCorps members, financed by Federal grant funds, to personally benefit Kevin Johnson, including driving him to personal appointments, washing his car and running personal errands.
- Unlawfully supplementing St. HOPE staff salaries with Federal grant funds by enrolling two employees in the AmeriCorps program and giving them Federally funded Corporation living allowances and education awards.
- Improperly using members to engage in banned political activities, namely supporting the election of Sacramento School Board candidates.
- Improperly taking members assigned to serve in Sacramento to New York City to promote St. HOPE's establishment of a Harlem charter school.
- Misusing AmeriCorps members, who, under the grant, were supposed to be tutoring elementary and high school students, to instead serve in clerical and janitorial positions at St. HOPE's charter schools.
- Misusing AmeriCorps members to recruit students for St. HOPE's charter schools.

St. HOPE Academy, Johnson and Gonzalez each has the opportunity to challenge the suspensions, and has 30 days to respond to the Corporation.

During the suspension period, St. HOPE Academy, Johnson and Gonzalez will be included in the Excluded Parties List System, a database maintained by the U.S. General Services Administration (www.epis.gov). The list is used by all Federal agencies to determine the eligibility of individuals and organizations to receive Federal grants and contracts.



The Bee of The Sacramento Bee

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Feds investigating St. HOPE find 'numerous' potential violations

By Terri Hardy - thardy@sacbee.com

Published 11:52 am PDT Thursday, September 25, 2008

Federal agents investigating Kevin Johnson's St. HOPE nonprofit volunteer program found "numerous potential criminal and grant violations," according to a press release issued today by a federal inspector general.

For the first time, the Inspector general's office revealed details of its months-long probe. On Wednesday, the findings of that investigation triggered a halt of federal funding to Johnson, a former top St. HOPE executive Dana Gonzalez and at least a portion of the St. HOPE organization.

The suspension of funding will last up to 12 months or until the completion of the federal probe, according to federal officials. In a contract with the federal volunteer program AmeriCorps, St. HOPE's service group received \$807,000 between 2004 and 2007.

"Given that there exists evidence to suspect improper and fraudulent misuse of grant funds and AmeriCorps members, it is important that immediate action be taken," said Gerald Walpin, Inspector General for the Corporation for National and Community Service, in the press release. The corporation oversees AmeriCorps.

Added Walpin: "Between now and the completion of the investigation, we must protect the public interest from the potential repetition of this conduct by this grantee and its principals."

Johnson is challenging Mayor Heather Fargo in the Nov. 4 election for Sacramento's top elected post. Johnson and St. HOPE officials have said they are cooperating in the investigation. They maintained in earlier interviews that any problems with the Hood Corps grant were limited to minor administrative errors.

Hood Corps no longer receives federal funding, and Gonzalez left the organization in August.

Federal agents in April launched an investigation into St HOPE's Hood Corps operation after The Bee raised questions about the program. Agents recently turned over findings from their investigation to the U.S. Attorney's office in Sacramento, where prosecutors will decide whether to file charges.

Among the potential violations federal investigators identified in the Inspector general's statement:

- Misusing AmeriCorps members, financed by federal grant funds, to personally benefit Johnson, including driving him to personal appointments, washing his car and running personal errands.
- Unlawfully supplementing St. HOPE staff salaries with federal grant funds by enrolling two employees in the AmeriCorps program and giving them federally funded corporation living allowances and education awards.
- Improperly using members to engage in banned political activities, namely supporting the election of Sacramento school board candidates.
- Improperly taking members assigned to serve in Sacramento to New York City to promote St. HOPE's establishment of a Harlem charter school.
- Misusing AmeriCorps members, who, under the grant, were supposed to be tutoring elementary and high school students, to instead serve in clerical and janitorial positions at St. HOPE's charter schools.
- Misusing AmeriCorps members to recruit students for St. HOPE's charter schools.

In its contract with AmeriCorps, St. HOPE agreed to tutor students at its charter schools, redevelop a building a year in Sacramento's Oak Park neighborhood and to coordinate marketing and logistics for St. HOPE's Guild Theater and Art Gallery, according to federal officials.

St. HOPE Academy, Johnson and Gonzalez each has the opportunity to challenge the suspensions and 30 days to respond to the corporation, the statement said.

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THE SACRAMENTO BEE [sacbee.com](http://www.sacbee.com)

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Editorial: AmeriCorps case needs resolution

Published Tuesday, Mar. 24, 2009

Since AmeriCorps began in September 1994, about 2,600 nonprofit and community groups a year have worked with volunteers to improve communities. For their service, volunteers get a \$4,725 education award for college or graduate school and a living allowance.

Unfortunately, but not surprisingly, some nonprofit organizations working with AmeriCorps volunteers have run into problems that range from human error and ignorance of regulations to outright fraud.

In Sacramento, St. HOPE Academy's Neighborhood Corps ("Hood Corps" for short), received federal grants from 2004 to 2007. Under these grants, AmeriCorps volunteers were supposed to tutor students at St. HOPE's charter schools, redevelop one building a year in Oak Park and coordinate marketing and logistics for the Guild Theater and 40 Acres Art Gallery.

The AmeriCorps' office of the Inspector general began looking at Hood Corps in April 2008; in preliminary findings last September, it found that two St. HOPE employees received AmeriCorps living allowances and education awards - duplicating their salaries.

The inspector general also found that AmeriCorps volunteers were engaged in activities beyond the scope of the grant - such as recruiting students for Sac High and for a new charter opening in Harlem and doing clerical tasks at Sac High. The IG found that AmeriCorps volunteers were driving St. HOPE founder Kevin Johnson around, washing his car and picking up his dry cleaning. They also handed out fliers recommending a slate of Sac City school board candidates.

Johnson has admitted "administrative errors." The usual remedy in these cases is repayment.

In some cases, there is also a fine. (That's what happened when the YMCA of New York was found to be padding AmeriCorps volunteer hours in a tutoring program).

In Sacramento, the IG's findings have not led to criminal charges. In November, the U.S. attorney said the material submitted by the IG fell short of proving criminal conduct and sent the case back for more information. The matter is dragging on.

Normally, such slowness wouldn't matter. But in this case, the IG took the unusual step of suspending St. HOPE Academy, Johnson (now Sacramento's mayor) and former Hood Corps

director Dana Gonzalez (now a mayoral volunteer) from receiving federal funds for up to a year pending completion of the investigation.

Now, the city of Sacramento has received an opinion that Johnson's suspension may preclude the city from getting federal funds if he influences their use. And the IG's office has "declined to say when the review would be finished."

Given the potential consequences of a suspension, the IG's office should either expedite the case - getting repayment and/or fines under way - or lift the suspension if the case is expected to drag on indefinitely. The original reason for suspension was to protect the public from "potential repetition of this conduct" while the investigation was ongoing. Johnson and Gonzalez have stepped down from their positions at St. HOPE and Hood Corps, so that should no longer be a concern.

This situation cries out for resolution. This is a case where everybody would be better off if the nonprofit and the IG reach a repayment settlement for the errors and move on.

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My View: The federal aid ball is in Johnson's court

Special to The Bee

Published Tuesday, Mar. 31, 2009

Your March 24 editorial, without basis, attacks my Inspector General office for "dragging on" with our investigation of St. HOPE Academy and its principals so that the city of Sacramento may be precluded "from getting federal funds" due to the fact that on Sept. 24, 2008, Mr. Kevin Johnson was suspended "from receiving federal funds."

The relevant law - which I would have thought that you would have researched before writing your editorial - demonstrates that you are targeting the wrong entity for any delay of the determination of whether Johnson's suspension was appropriate.

Some background: As Inspector general, I am duty-bound to take action to uncover and to prevent fraud and waste in the almost \$1 billion of taxpayers' money that is disbursed by the Corporation for National and Community Service.

Under controlling regulations, suspension from receiving or controlling federal funds is one of the tools available, where there "exists ... adequate evidence to suspect ... commission of fraud ... making false claims ... or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects (the person's) present responsibility ... or violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as willful failure to perform in accordance with the terms of one or more public agreements or transactions."

For a suspension to occur, my office must recommend the suspension to the deciding official (who is not in my office) and provide adequate evidence to support the suspension to the deciding official. That was done here. The suspending official there - after notified Johnson of the suspension.

Most important is that the regulations give any person or entity suspended - including Johnson - the right "to contest a suspension" by "provid(ing) the suspending official with information in opposition to the suspension ... within 30 days after (receipt of) the Notice of Suspension." The opposition submission cannot rely on "a general denial"; instead, it must include "specific facts that contradict the statements made in the Notice of Suspension."

Thus, contrary to your editorial, the ball on the suspension has been in Johnson's court since

the order of suspension was issued.

Apparently, he made the decision not to appeal the suspension by providing specific facts that would show to the neutral suspension official that the suspension was not warranted. If, as you charge (without basis), that suspension in these circumstances was an "unusual step," the procedures allowed Johnson to seek to lift the suspension. He decided not to do so.

Your editorial also refers to a criminal investigation or civil monetary recovery or settlement. I do not comment on such matters unless they are public.

But, in any event, those legal avenues are irrelevant here as they are in no way connected with the ability of the city of Sacramento to obtain federal funds – only the suspension order has that effect.

ShareThis

Gerald P. Walpin is the inspector general of the Corporation for National and Community Service.

202+608+9388

Ken Johnson
916-554-2839

12:05... p.m. 04-02-2009

1/1

4/2/09

Draft from G. Walpin

Mr. Johnson was entirely within his legal right to continue litigating the issue of his suspension in the press by disseminating his lawyer's letter to the Deciding Official, rather than using the legal procedures available to him to apply to lift the suspension by submitting "specific facts" to show that he did not commit the specific wrongdoing of which he was advised in the Notice of Suspension.

The Office of Inspector General will not, however, join in this litigation in the media by commenting on the facts which are to be decided by the independent Deciding Official.

In response to the repeated questions by your newspaper seeking information as to the number of suspensions in the past, the Office of Inspector General is not the Deciding Official and does not have such records. But we will note the obvious irrelevancy of those questions. Is the newspaper suggesting because, in this office's experience, most grantees do not commit criminal acts, and therefore only a very small percentage of grantees are referred for criminal prosecution, that a grantee who does commit a criminal act should not be prosecuted? Likewise, the suspension sanction is utilized only where warranted to protect Federal funds. Given the current atmosphere, in which all elements of our country - government, media, and citizens in general - are properly asking for greater protections against misuse of taxpayers' money, all Inspectors General cannot be asked to do less.

Trinity, Frank

From: Trinity, Frank
Sent: Friday, May 08, 2009 4:43 PM
To: Walpin, Gerald
Cc: Park, John
Subject: RE: Your Special Report on St. Hope Academy matter

This is not, as you have put it, a matter of hostility toward your office. Nor is it a matter of “bickering.” These are, in fact, matters of substance under the Inspector General Act.

You have now variously asserted that the Special Report is issued under

- Sections 3, and 4(a)(5) of the Inspector General Act (as stated in the Special Report)
- Sections 4(a), 5(d) and 6(a) of the IG Act (as stated in Jack Park’s email of 5:18 pm on May 7, 2009)

After we reviewed your report, we faced discrepancies between the report’s written citations of sections 3 and 4(a)(5) as the reporting authority and your orally-expressed expectation that we provide comments within 7 days. My asking for clarification was necessary and not a “procedural detour.”

Jack’s initial response to this understandable inquiry itself presented discrepancies. It stated that we had been advised that we had seven days to respond, raising the specter of the report actually being issued under section 5(d). However, it stated as well, that the OIG intended to distribute the report to whom it saw fit, when it saw fit, and with whatever response to the Corporation’s accompanying report that it saw fit. None of those assertions is in fact consistent with section 5(d). Thus, we were again faced with a patent ambiguity – created by OIG – of whether the OIG in fact intended this to be a seven-day letter under section 5(d). At 4:41 pm, I asked simply for an unambiguous clarification of this point. At 5:18 pm, Jack Park replied, for the first time in any recorded context, that the report was issued under the authority of section 5(d).

Whether the Special Report is issued under section 5(d) is not a matter of “petty bickering”. Section 5(d) is not merely a part of the OIG’s general authority to keep Congress informed of the Inspector General’s views. Section 5(d) is to be invoked upon a determination that there is a matter that is “particularly serious or flagrant.” In light of this, section 8F(d) of the IG Act requires the agency head to report the matter to the Board of Directors “[n]o later than the date on which the Inspector General ... reports a problem, abuse, or deficiency under section 5(d).” In short, we needed to be clear on the status of the Special Report in order to know whether the Acting CEO had to transmit your report to the full Board of Directors. Once we had Jack Park’s answer to that question at 5:18 pm on May 7, 2009, your report was transmitted to all members of the Board.

With the Acting CEO’s immediate responsibility fulfilled, we moved on to preparing to distribute your report, and the CEO’s response. However, in so doing we still faced inconsistencies in your Office’s stated positions. In our view, it is clear that the invocation of section 5(d)’s criteria of “particularly serious or flagrant” (as inherent in Jack Park’s 5:18 pm email on May 7, 2009) also carries with it the assurance that the reporting mechanism therein provided would be complied with. However, Jack Park’s statements in his 3:59 pm email on May 7, 2009 recited a set of expectations that was inconsistent with the section 5(d) reporting mechanism. We also believe that the specific reporting

mechanism set out by the Congress in section 5(d) is not to be ignored. As part of that mechanism we believe it is implicit that the agency be given the opportunity to prepare its response before any congressional offices are notified, and that the agency be further given the opportunity to provide its response to congressional offices directly (without further "reply" from the OIG). This is simply the state of the law.

Because your office stated a different expectation, we needed to clarify our position. This is what my email of 10:39 this morning did. Because of Jack Park's statement at 5:18 last night that this was a report under section 5(d), the full Board of Directors is now aware of this matter. I advised the members of the MAG committee (and in partial preparation for its upcoming meeting) of what we understood to be the applicable reporting requirements, including my view that communication of the report outside the regime set forth in section 5(d) is contrary to the provisions of section 5(d).

Frank R. Trinity
General Counsel
Corporation for National and Community Service
202-606-6677 (direct)

From: Walpin, Gerald
Sent: Friday, May 08, 2009 12:34 PM
To: Trinity, Frank; Park, John
Cc: Tanenblatt, Eric; Alan D. Solomont; SGoldsmith; Goren, Nicola
Subject: RE: Your Special Report on St. Hope Academy matter

I write in response to your email sent today at 10:39 a.m. in order to set out OIG's position clearly and unambiguously for you and for the MAG Committee members. I would not have even bothered to respond, except that, after a series of many emails, including three from you, on this subject, you now decided to send a copy to members of the MAG Committee.

You are correct that the Special Report cited, as OIG's authority to issue it and deliver it to Congress, sections 4(a) and 6(a) of the Inspector General Act. There can be no dispute that these sections provide that authority to OIG.

As we were preparing to meet with Ms. Goren and you on Wednesday, I wanted to provide you with a copy of the Special Report and give Ms. Goren the option of providing a response to it. I then, for the first time realized that the right of agency response is contained in section 5(d), which is another section authorizing this report by OIG, and, in order to give Ms. Goren that response opportunity, orally informed you that OIG considers that the Special Report was authorized by all three sections.

Although you knew that we had so informed you at our meeting, on Thursday, you, by email, asked for written confirmation that "this report is made under section 5(d) of the Inspector General Act." My Special Assistant Jack Park responded that it "was authorized and made pursuant to sections 4(a), 5(d) and 6(a)," confirming also that we "specifically included section 5 (d)" because it was the only section which "authorizes an agency response ... even though other sections, by themselves authorize the Report."

You then promptly advised that you understood "that the Special Report is issued and subject to the provisions of section 5 (d) ..., and we shall act accordingly." One would have thought that this procedural detour was concluded.

But now, a day later, you are replying again, objecting to OIG's performance of its duties under sections 4(a) and 6(a), because they do not have the same terms as section 5(d), and suddenly included the MAG Committee members in the distribution.

I have no objection to full disclosure to the MAG Committee members, and, indeed asked previously for, and still welcome, their participation in the merits of the underlying issue – although I did not, and would not, have initiated their involvement in what appears to be petty bickering.

The fact remains that OIG was authorized to issue the Special Report to Congress, without an opportunity for the Corporation to respond, under sections 4(a) and 6(a). We added section 5(d) to benefit the Corporation with a right of response. That you

are criticizing OIG for doing that unfortunately is another demonstration of the hostility you have repeatedly expressed, since David's departure, toward OIG.

-----Original Message-----

From: Trinity, Frank [mailto:FTRINITY@cns.gov]

Sent: Fri 5/8/2009 10:39 AM

To: John J. Park

Cc: Gerald Walpin; Tanenblatt, Eric; Alan D. Solomont; SGoldsmith; Goren, Nicola

Subject: Your Special Report on St. Hope Academy matter

Your email below to me dated May 7, and sent at 5:18 p.m. says as follows:

"The Special Report was authorized by and made pursuant to §§ 4(a), 5(d), and 6(a) of the Inspector General Act. Of those provisions, only § 5(d) authorizes an agency response, within seven calendar days, and we wanted to give the Corporation the opportunity to respond. We therefore specifically included § 5(d) for that reason even though the other sections, by themselves, authorized the Report" (emphasis added).

I wish to note for the record that, contrary to your statement that you "specifically included § 5(d)" the report itself specifically references other sections of the IG Act but does not reference section 5(d). Your email to me dated May 7, sent at 5:18 p.m. was the first time your office had specifically referenced section 5(d).

I'm writing to provide notice that, in accordance with section 5(d) of the Inspector General Act, the Corporation's Acting CEO will distribute your report to the committees or subcommittees of the Congress on or before May 14th., seven calendar days from the date you disclosed that the report was issued pursuant to section 5(d).

The Corporation's distribution of the report on or before May 14th shall include any comments that the agency head deems appropriate.

Section 5(d) makes no provision for the agency head to provide comments to the IG in advance of distribution. Your assertion that OIG plans to distribute the report, the Corporation's comments, as well as any subsequent IG "reply" is not in accordance with section 5(d).

Regarding your disclosure yesterday that your office has already distributed the report directly to Congressional staff members, we believe that such distribution is contrary to the provisions of section 5(d).

Frank R. Trinity

General Counsel

Corporation for National and Community Service

202-606-6677 (direct)

5/9/2009

From: Trinity, Frank
Sent: Thursday, May 07, 2009 5:45 PM
To: Park, John
Cc: Walpin, Gerald
Subject: RE: Your Special Report on St. Hope Academy matter

Given your response below, notwithstanding the fact that the Special Report references only sections 3 and 4 of the Inspector General Act, we now understand that the Special Report is issued under and subject to the provisions of section 5(d) of the Inspector General Act, and we shall act accordingly.

Frank R. Trinity

General Counsel

Corporation for National and Community Service

202-606-6677 (direct)

From: Park, John
Sent: Thursday, May 07, 2009 5:18 PM
To: Trinity, Frank
Cc: Walpin, Gerald
Subject: RE: Your Special Report on St. Hope Academy matter

The Special Report was authorized by and made pursuant to §§ 4(a), 5(d), and 6(a) of the Inspector General Act. Of those provisions, only § 5(d) authorizes an agency response, within seven calendar days, and we wanted to give the Corporation the opportunity to respond. We therefore specifically included § 5(d) for that reason even though the other sections, by themselves, authorized the Report.

From: Trinity, Frank [<mailto:FTRINITY@cns.gov>]
Sent: Thursday, May 07, 2009 4:41 PM
To: John J. Park
Cc: Gerald Walpin
Subject: RE: Your Special Report on St. Hope Academy matter

I need to know specifically whether this report is made under section 5(d) of the Inspector General Act. Please advise immediately, given the seven-day deadline that you reference.

Frank R. Trinity

General Counsel

5/9/2009

Second, we note that your Semiannual Report, which we are due to transmit to the Congress by the end of the month, makes reference to this matter and states that you will be separately reporting on it. Does that mean that you will transmit your Special Report following the transmission of the SAR? If not, when do you expect to transmit the Special Report (if you have not already done so)?

Finally, can you make available to us an electronic version of the report?

Frank R. Trinity

General Counsel

Corporation for National and Community Service

202-606-6677 (direct)

Corporation for National and Community Service

202-606-6677 (direct)

From: Park, John
Sent: Thursday, May 07, 2009 3:59 PM
To: Trinity, Frank
Cc: Walpin, Gerald
Subject: RE: Your Special Report on St. Hope Academy matter

In response to your questions, I note:

1. When we gave the report to Nicky yesterday, we advised both of you that the Corporation's response was due in seven days.

2. In response to a request from the Ranking Member of the House Oversight and Government Reform Committee, we delivered a copy to the Chair and to minority Committee staff on Tuesday, May 5. Similarly, we also delivered a copy to staff for Senator Grassley and counsel for Senator Hatch. As to those distributees, we have advised them that, when we receive the Corporation's response, we will give them a copy.

Those distributions are independent of the Semiannual report.

If any other member or staff requests a copy, we will furnish it to them. On May 13, 2009, seven days from yesterday, when we receive the Corporation's response, we will disseminate as we see fit both the Special Report and the Corporation response, as well as any reply we deem appropriate.

3. We will send you an electronic copy of the text of the Special Report. Unfortunately, we do not have the exhibits available by that means.

From: Trinity, Frank [<mailto:FTRINITY@cns.gov>]
Sent: Thursday, May 07, 2009 12:23 PM
To: Gerald Walpin
Cc: John J. Park
Subject: Your Special Report on St. Hope Academy matter

To follow up on your providing Nicky with a copy of your Special Report to Congress, I wanted to ask for clarification of several points.

First, you provided a copy to Nicky without a cover letter on the status of this matter. I want to be sure as to whether you are expecting or awaiting a response from Corporation management and, if so, the time frame.

5/9/2009

**Office of Inspector General
Corporation for National and
Community Service**

**Special Report to Congress
From
The Office of Inspector
General
Of
The Corporation for
National and Community**



Corporation for
**NATIONAL &
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Special Report to Congress
From
The Office of Inspector General
Of
The Corporation for National and Community Service

This special report is issued to Congress in performance of the Congressional mandate to this Office of Inspector General for the Corporation for National and Community Service (“Corporation”), that we keep Congress “fully and currently informed . . . concerning . . . serious problems, abuses and deficiencies relating to the administration of programs and operations administered or financed by” the Corporation. 5 U.S.C. ¶ App. §§ 3, 4(a)(5).

Summary

Following a thorough investigation by Special Agents of this Office of Inspector General (“OIG”), on August 7, 2008, we sent a referral for criminal and/or civil prosecution to the United States Attorney for the Eastern District of California, concerning St. HOPE Academy (“St. HOPE”), a grantee from the Corporation, and its two principals, Kevin Johnson and Dana Gonzalez. Earlier, on May 21, 2008, OIG sent to the Corporation’s Debarment and Suspension Official a referral requesting prompt suspension of St. HOPE, Johnson and Gonzalez from being able to receive or participate in future grants of Federal funds. Based on the detailed facts establishing misuse of the grant funds provided to St. HOPE, the Debarment and Suspension Official, on September 24, 2008, specified six acts of diverting grant funds to non-grant purposes, found that “immediate action is necessary to protect the public interest,” and suspended all three respondents “from participating in Federal procurement and nonprocurement programs and activities.” Although the notice of suspension afforded each respondent the opportunity to lift the suspension by submitting “specific facts that contradict” the findings contained in the Suspension notice, none of the respondents exercised that right.

Even so, on April 9, 2009, the Corporation, by the Debarment and Suspension Official and the Corporation’s General Counsel, joining the United States Attorney for the Eastern District of California, but excluding the OIG (which had been the sole moving force in both proceedings), executed a settlement agreement of questionable value, but which vacated the

suspensions and precluded the debarment of any of the respondents -- all without any facts to contradict the previous findings which, the Debarment and Suspension Official had found, required holding that these respondents were each not responsible, and therefore should not receive further Federal funds.

This 180-degree turnaround was based on the change of circumstances of Respondent Johnson, who had, after directing St. HOPE's misuse of the grant funds provided to it and receiving the suspension notice, become Mayor of Sacramento. The suspension was lifted because, as one Corporation official put it, the Corporation could not "stand in the way of Sacramento" -- thereby effectively stating that, while Respondent Johnson was not sufficiently responsible to receive further Federal funds in his management position as a grantee, he suddenly became sufficiently responsible when elected Mayor of a city receiving substantially more Federal funds -- akin to deciding that, while one should not put a fox in a small chicken coop, it is fine to do so in a large chicken coop!

The settlement accepted by the Corporation leaves the unmistakable impression that relief from a suspension can be bought. In addition, media pressures and political considerations both appear to have impacted the Corporation's decision here.

The Corporation -- in a departure from talking to and working with OIG on any matter in which OIG has an interest and/or involvement -- refused to discuss this "settlement" with OIG and obtain OIG's views on the terms, and merely informed OIG of the "done deal" after it had been signed. The Corporation not only improperly "sold" a suspension away as part of a monetary settlement, but, due to its rush to conclude the "settlement" without any OIG input, entered into a settlement that does not even protect the Corporation's ability to receive the amount promised by St. HOPE in it. Further, the Corporation's action represented an unnecessary insult to the OIG staff, which had worked unselfishly long and hard to uncover the facts which substantiated the charges.

A. The Grant

After submitting a proposal to the California Service Corps (the California State Commission), St. HOPE was awarded a three-year grant under which it received AmeriCorps grant funds (totaling \$847,673 in direct grants and in education awards for AmeriCorps members assigned to St. HOPE) that originated with the Corporation. In its proposal, St. HOPE itself wrote the requirement that the grant funds must be used for the purpose of:

- “(1) providing one-on-one tutoring to [Sacramento] elementary and high school students;
- “(2) managing the redevelopment of one building a year in the Oak Park [the Sacramento neighborhood in which St. HOPE operates]; and
- “(3) coordinating logistics, public relations, and marketing for the Guild Theater and Art Gallery events, as well as hands-on workshops, guest artist lectures, and art exhibitions for Sacramento High School for the Arts and PS7 Elementary School [in Sacramento].”

Ex. 1.

Those specified activities were to accomplish the following purposes:

- “(1) to improve the reading and math achievement of 100 elementary and high school students . . . as part of the after school program; (2) to stimulate economic growth in Oak Park by managing the redevelopment of the Walton Pediatrics building, an investment of \$1.6 million into the community; (3) to increase arts programming in Oak Park; and (4) to recruit and train 500 volunteers to complete 10,000 hours of service in Oak Park.”

Ex. 2.¹

Significantly, the grant documents restricted St. HOPE’s ability to change its plan and grant obligations. The grant application that St. HOPE filed through the California State Commission (which is named “California Service Corps”) provided, in part, “[sub]grantee may not revise the [described] ‘Scope of Work,’” for which the grant funds were to be used, “without written approval” of the California Service Corps. Ex. 3. St. HOPE never sought or obtained that required written approval. Further, any “changes in the scope, objectives or goals of the Program” could not be made without “prior written approval of the [Corporation’s] AmeriCorps

¹ The grant paperwork for the 3-year grant and for the second and third years contains the same language as in the first quotation above. The second quotation is substantially identical, with only the identity of the building to be redeveloped being changed and the numbers of volunteers recruited and trained being reduced.

Program Office.” Ex. 4. Again, no such prior written approval was sought or obtained by St. HOPE.

Finally, the “Agreement Summary” portion of the grant, which the California State Commission provided to St. HOPE with the Notice of Grant Award, expressly reiterated that, when St. HOPE spent grant funds, its spending had to be in compliance “with all provisions of the grant [and] . . . in accordance with . . . [the] representations made in support of the approved Grant Application.” Ex. 5.

The requirement that grant funds be used only for the community service purposes specified in the grant precluded St. HOPE from using the grant funds to pay for any of the expenses it had or would have had without the grant. Thus, unless expressly provided for in the grant, St. HOPE could not use grant funds to pay all or part of the salaries of its employees or the costs associated with its administrative or management structure. Further, the controlling statute, 42 U.S.C. § 12637, prohibits grant funds or service-providers financed with grant funds from being used to fill positions that have been or reasonably could be filled by someone in the community. See also 45 C.F.R. § 2540.100(f).

In the context of St. HOPE, these restrictions meant that, among other things, St. HOPE’s AmeriCorps members, who were supposed to be tutoring, could not be put to work washing Johnson’s car, running personal errands for him, helping him to land a new school contract across the country from Sacramento, or engaging in partisan political activities;² likewise, St. HOPE could not take its employees and, without changing their job duties, make them AmeriCorps members and pay them, in full or part, with grant funds -- all of which, as discussed below, the evidence establishes was done with AmeriCorps members.

B. OIG Becomes Involved

It is, in retrospect, ironic that it was the Corporation (through its Office of Grants Management), together with the California State Commission, which, on April 17, 2008, advised

² 45 C.F.R. § 2520.65(a)(5) specifically prohibits use of AmeriCorps members for “partisan political activities, or other activities designed to influence the outcome of an election to any public office.”

this Office of the irregularities at St. HOPE, thereby sparking this OIG investigation. Promptly, on April 23, 2008, two OIG Special Agents, Supervisory Special Agent Jeffrey Morales and Special Agent Wendy Wingers, from this Office traveled from Washington, DC, to Sacramento to investigate that information. When those Agents deployed, neither they nor this Office had reached any conclusions whether the allegations were true, much less had any predetermined outcome in mind. Rather, they were as interested in disproving as in proving the allegations.

While those Agents were in Sacramento, on April 25, 2008, the Sacramento Bee (the local newspaper) related that, after a teacher at Sacramento High School reported that Kevin Johnson had inappropriately touched a female student who told the teacher about the incident, Johnson's personal attorney and business partner investigated the complaint for the school. The Sacramento Bee reported that the student later recanted, and that Sacramento police investigators found no merit to her complaint. It also reported that the teacher resigned and, in his resignation letter, asserted, "St. HOPE sought to intimidate the student through an illegal interrogation and even had the audacity to ask me to change my story." Ex. 6.

We immediately recognized what appeared to be improper handling of this allegation by St. HOPE and unethical conduct by Mr. Johnson's attorney in investigating, supposedly on behalf of St. HOPE, a serious allegation of misconduct by that attorney's business partner and client. *See, e.g.*, California Rules of Professional Conduct Rule 3-310 "Avoiding the Representation of Adverse Interests."³

St. HOPE said that it had handled the allegations properly, but the Sacramento Bee reported that California law required that law enforcement authorities be notified immediately when school officials learn of such an allegation, and that, despite that requirement, the female

³ (B) "A [lawyer] shall not accept or continue representation of a client without providing written disclosure to the client where...the [lawyer] has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter, . . .

(C) A [lawyer] shall not, without the informed written consent of each client...accept representation of more than one client in a matter in which the interests of the clients potentially conflict..."

Of course, Mr. Johnson, an interested party, could not provide that consent on behalf of St. HOPE. Only the Board of Directors could do so after full written disclosure. While in these circumstances, it would have been a breach of the Board's fiduciary duty to have consented, there is no evidence of either full disclosure to the Board or its consent.

student was questioned as part of the school's investigation -- by Johnson's business partner and attorney -- before the police were called.

Between April 23 and June 28, 2008, those OIG Special Agents made five trips related to the investigation, conducted 26 interviews and reviewed a substantial quantity of documents. Significantly, when our Agents twice asked to interview Mr. Johnson, the response was, first, that Mr. Johnson did not have time for an interview, and, when the second request was made to his attorney, the Agents were told that they must first brief Mr. Johnson's attorney on the facts known to the Agents after which Mr. Johnson's attorney would decide if Mr. Johnson would be interviewed. The Agents then briefed Mr. Jacobs with the relevant facts but, despite the Agents' repeated requests for an interview with Mr. Johnson, Mr. Jacobs responded that Mr. Johnson's schedule would not permit time for that purpose -- *i.e.*, Mr. Johnson effectively declined to be interviewed.

Although this office was not the source, OIG's involvement did not pass without press notice. As early as April 26, 2008, the Politicker.com website reported that "a governor's office staff attorney confirmed that federal officials began [an] inquiry after seeing the newspaper's [*i.e.*, the Sacramento Bee's] coverage." Ex. 7. Subsequently, on June 30, 2008, the Sacramento Bee reported that OIG agents made "a second visit to Sacramento in late May, after extending their initial stay in April by several weeks."⁴ Ex. 8. While "[f]ederal officials" would not comment on the investigation, some of those interviewed talked with the Bee's reporter. *Id.*

On Friday, September 5, 2008, the Sacramento Bee reported, "Federal agents investigating the use of taxpayer dollars by Kevin Johnson's St. HOPE have turned the case over to the U.S. Attorney's Office in Sacramento, officials confirmed yesterday." The Sacramento Bee quoted, among others, the spokesman for this Office and then-United States Attorney McGregor Scott. What the Sacramento Bee does not say is that the spokesman for this Office did not confirm or deny the existence of a referral.⁵ The Sacramento Bee does state, "U.S.

⁴ OIG Agents were in California from April 23 to May 9, 2008, and again from May 27 to May 30, 2008. In addition, an OIG Agent traveled to West Point, NY, on May 13, 2008.

⁵ The spokesman for this office was called by a reporter for the Sacramento Bee and asked, among other things, whether this OIG presented a referral for prosecution to the United States Attorney; the OIG spokesperson told the

Attorney McGregor Scott confirmed Thursday evening that ‘we are in receipt of the Inspector General’s report and we are . . . reviewing it.’” Ex. 9.

D. The Suspension

The Federal government has created a Debarment and Suspension procedure, covering all Federal agencies, to protect all Federal agencies from giving Federal funds to a person or entity which, in prior dealings with any single agency, has shown a lack of responsibility to use in a proper manner Federal funds entrusted to that person or entity. Under the controlling regulations, a person or entity may be suspended when there “exists . . . adequate evidence to suspect . . . commission of fraud, . . . making false claims, . . . or commission of any other offense indicating a lack of business integrity or honesty that seriously and directly affects [the person’s or entity’s] present responsibility . . . or violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as willful failure to perform in accordance with the terms of one or more public agreements or transactions.”

2 C.F.R. §§ 180.700(b), 180.800 (a)(4), (b).

On May 21, 2008, this office forwarded to the Debarment and Suspension Official a 13-page recommendation, signed by the Inspector General and the Supervisory Special Agent on this investigation, that St. HOPE, Johnson and Gonzalez be suspended, detailing the evidence substantiating their violations, and thereafter provided to that official the voluminous evidence relied upon. After studying all the evidence provided, and obtaining the legal advice and assistance of the Corporation’s General Counsel, the official issued his decision: By letters dated September 24, 2008, the Corporation suspended St. HOPE, Johnson, and Gonzalez “from participation in Federal procurement and nonprocurement programs and activities.” Exs. 10, 11, 12.⁶

reporter that he could neither confirm nor deny the existence of a referral. At that point, the reporter learned that the United States Attorney had confirmed its existence, and rang off, telling our spokesman that there was no further need to talk with him.

⁶ That the official issued his decision without notice to the respondents is consistent with prescribed procedure. A leading Government Contracts treatise points out, “an agency is not required to provide notice that it is contemplating the suspension of a contractor. Usually, once a contractor receives notice that it has been proposed for debarment or suspension, it is already included on the GSA’s List of Parties excluded from Federal Procurement and Nonprocurement Programs.” Cibinic & Nash, *Formation of Government Contracts*, 3d (1998), 487. The treatise states further, “No notice of contemplated proceedings is required.” *Id.* at 488.

In the Notice of Suspension, the Corporation's Debarment and Suspension Official stated that the information that he received "is adequate to allow me to suspect that there has been on your part a willful failure to perform in accordance with the terms of a public agreement, and other causes of so serious or compelling a nature that it affects your present responsibility." Exs. 10, 11, 12 at 2 (internal citations omitted). And, "[t]he evidence is adequate to suspect that you have committed irregularities which seriously reflect on the propriety of further Federal Government dealings with you." *Id.* He then provided respondents with notice of the specific instances of the diversion and misuse of Corporation grant funds that, in his judgment, warranted suspension (and followed each by the textual explanation providing additional specification):

1. Using AmeriCorps members to "recruit[] students for St. HOPE Academy;"
2. Using AmeriCorps members for political activities in connection with the "Sacramento Board of Education election;"
3. Taking grant-funded AmeriCorps members "to New York to promote the expansion of St. HOPE operations in Harlem;"
4. Assigning grant-funded AmeriCorps members to perform services "personally benefiting . . . Johnson," such as "driving [him] to personal appointments, washing [his] car, and running personal errands;"
5. "Supplementing staff salaries by converting grant funds designated for AmeriCorps members," by enrolling two St. HOPE Academy employees "into the AmeriCorps program for the 2004/2005 grant year" without changing their duties, thereby improperly using grant funds so that one St. HOPE employee's "salary was then paid through the AmeriCorps program," plus she "received an [AmeriCorps] living allowance and an education award," and the other employee's salary, which was not paid from the grant, "was supplemented by both an AmeriCorps living allowance and an education award;" and
6. Improperly using AmeriCorps "members to perform non-AmeriCorps clerical and other services" that "were outside the scope of the grant and therefore were impermissible" for "the benefit of St. HOPE."

Id. at 2-3.

The Suspension notice then advised each respondent:

"In accordance with 2 C.F.R. 180.720-745, within 30 calendar days of your receipt of this notice, you may submit, in person, in writing, or through your representative information and argument in opposition to this suspension, including specific facts that contradict the statements contained in this notice."

Id. at 3.

Notwithstanding the fact that their responses were due within 30 days after their receipt of the letters, we have been informed that no respondent made any submission to seek rescission of the suspension, and instead all requested multiple extensions of time, which the Corporation granted.⁷

On September 25, 2008, the suspension was reported by the media. On September 26, 2008, Mr. Johnson issued a statement (Ex. 13), calling the suspension "politically motivated," and proclaiming that he had "cooperated with the Federal government from day one," and that he "instructed attorneys to formally fight these crazy meritless allegations." There were many untruthful assertions in his statement: *E.g.*, (1) Clearly no one from OIG in Washington, DC, had any interest in the Sacramento Mayoral election, and therefore could have no political motivation for an investigation into St. HOPE, commenced in April 2008, at the request of the Corporation, but we did have our sworn obligation to investigate and pursue credible allegations of fraud and misuse of Corporation grant funds; (2) Mr. Johnson had in fact refused to cooperate with the OIG investigation -- he had, as described above, effectively declined to make himself available for an interview; and (3) He had clearly not instructed his attorneys to fight the suspension by following available procedures to seek to lift the suspension by providing facts which contradicted the findings made by the Suspension Official which warranted the suspension.

After the primary election and before the November run-off, on October 27, 2008, a weblog entry posted by a Sacramento Bee writer reported that, following referral of the OIG report to the U.S. Attorney's Office, the writer talked to the U. S. Attorney. The entry continued, "When I asked him about the report last month, U.S. Attorney McGregor Scott told me that he was 'sensitive to the bigger picture,' and promised to move 'as expeditiously as we can in a

⁷ We believe that any records relating to the suspension process are held by the Corporation's Debarment and Suspension Official, its Office of General Counsel, or both.

professional manner to make the decisions required of us in a timely manner.’ By timely, I hoped Scott meant before the election. That’s just nine days away.” Ex. 14.

In the November run-off election, Johnson defeated the incumbent mayor. Shortly after the election, on Thursday, November 6, 2008, the Sacramento Bee reported that the United States Attorney had announced a decision not to file any criminal charges (Ex. 15). As OIG had received no such notice from that office, the IG spoke to the United States Attorney who informed the IG that he had been misquoted. On the following day, the Sacramento Bee reported that the correct statement was that the United States Attorney “has asked for additional information and is awaiting an answer from Federal investigators,” and made clear that “[n]o final decision has been made about whether there is any basis to proceed on either a civil or criminal front.” Ex.16. The Sacramento Bee also wrote, “He [*i.e.*, McGregor Scott] also said the Inspector General’s office is conducting a ‘line-by-line audit’ of [St. HOPE’s] Hood Corps.” *Id.*⁸

E. Post-Election Events

Those November elections also resulted in the election of Barack Obama as President, who was sworn in on January 20, 2009. One of President Obama’s first initiatives resulted in the enactment of ARRA, the stimulus legislation. With the prospect that stimulus funds might make their way to Sacramento, Johnson and the City each began looking at the effect of the suspension on the City’s ability to receive and spend new Federal money from procurement and non-procurement programs.

In early March or before, both the media and Johnson directed their attention to the potential effects of the suspension of now-Mayor Johnson and Gonzalez, who was reported by the Sacramento Bee on January 29, 2009, to be an unpaid volunteer to his administration (Ex. 17).

The Sacramento Bee reported that “[s]hortly after Johnson’s election last November, City Attorney Eileen Teichart hired Frederick M. Levy [a Washington, D.C. attorney] - regarded as an

⁸ The Sacramento Bee wrote, “William Hillburg, a spokesman for the inspector general, said Thursday he could not confirm his office was doing an audit and could not comment on the investigation.” Ex. 16.

expert on government contracting and compliance - to determine whether Johnson's inclusion on that [suspension] list posed an issue when it sought Federal funding." The Sacramento Bee continued that Levy, in his opinion provided to the City on March 13, 2009, had concluded that the "City of Sacramento likely is barred from getting Federal money -- including tens of millions the City is expecting from the new stimulus package -- because Mayor Kevin Johnson is on a list of individuals forbidden from receiving Federal funds." Ex. 18.

At this point, Johnson still did not exercise his right to seek to have the suspension lifted by submitting to the Debarment and Suspension Official "specific facts that contradict the statements contained in" the suspension notice -- the requirement, as he had been informed, to seek lifting of the suspension.

Instead, Johnson's lawyer, Matthew G. Jacobs, wrote three letters. In the first (Ex. 19), dated March 16, 2009, to Assistant United States Attorney Kendall Newman,⁹ Mr. Jacobs wrote that the purpose of his letter was "(1) to establish that at least a large portion of the moneys provided to St. HOPE Academy . . . pursuant to the Grants was utilized to perform services within the scope of work of those Grants, (2) to establish St. HOPE's poor current financial condition, and (3) to demonstrate through accounting records the specifics of how St. HOPE spent the grant monies." Ex. 19. Mr. Jacobs quickly acknowledged that "[w]e have not yet been able to fully accomplish the third objective, although we are willing to continue trying . . ." -- despite the express requirement that St. HOPE was required to maintain such records (*e.g.*, Section V E of the AmeriCorps Grant Provisions) and thus an admission that St. HOPE had failed to perform in that regard as required by the grant provisions. While Mr. Jacobs asserted that the principal of PS7 Elementary School and several former St. HOPE AmeriCorps members could confirm that those members "did indeed spend many, many hours engaged in direct, one-on-one tutoring," he ignored the mandate, in the grant application (Narrative pp. 25-26) (Ex. 20), that all tutoring done must be documented in Tutoring Logs, which St. HOPE never was able to produce. Mr. Jacobs offered "to continue to work toward a more robust determination that grant monies were used in furtherance of the Grants" -- a "more robust determination" that, of

⁹ Newman sent a copy of that letter to OIG, which was received on March 26th, although not all exhibits were provided to us.

necessity, could only mean documentation as required by the Grant provisions; but, this offer was, as will be shown, ignored by the Corporation in what quickly became an express train to lift the suspension.

Significantly, Mr. Jacob's 14-page, single-spaced letter did not address any of the six specifications (quoted pp 10-11 above) which were the basis for the suspension.

Mr. Jacobs, in his second letter, also addressed to AUSA Newman, dated March 18, 2009, confirmed the settlement offer he had telephonically communicated to AUSA Newman, of a cash payment of \$50,000 plus a stipulated judgment in the amount of \$250,000, both to be paid by St. HOPE (Ex. 21).

Mr. Jacobs wrote a third letter, dated March 31, 2009, to the Corporation's Debarment and Suspension Official (Ex. 22). Again, Mr. Jacobs did not address any of the six specifications in the Suspension Notice. Instead, he complained about the fairness of the suspension process. He said that the suspension was not challenged because, among other reasons, none of those suspended had applied for or were applying for Federal funds. He explained, "[h]owever, now that there appears to be an issue regarding whether federal agencies will permit an entirely separate entity altogether -- the City of Sacramento -- to participate in federal programs because of the Corporation's placement of our clients (and particularly, Mayor Johnson) on the Excluded Parties List, this matter has become extremely urgent, and must be resolved immediately." He ended by claiming that the suspension violated respondents' constitutional rights and threatened that, unless the Corporation "immediately withdraw[s] or rescind[s] its suspension," he would "seek legal redress with the courts."

F. U.S. Attorney's Consultation With OIG

From the first involvement of the United States Attorney's office, when OIG sent its referral, the United States Attorney's office had dealt solely, as is customary, with the OIG as the investigatory agency which had done the investigation and made the referral. The United States Attorney's office had not contacted the Corporation.

AUSA Newman early on recognized that he needed, and requested, OIG's help to obtain critical documents, books and records from St. HOPE which, under the grants, it was required to maintain, but had never produced for examination. For example, the General Ledger, a required financial document, which essentially records all receipts and all disbursements, with source and recipient identification, was never fully produced, despite repeated requests by OIG agents. On September 11, 2008, AUSA Newman asked OIG auditors to prepare a report on St. HOPE's financial records to determine the extent of St. HOPE's liability to return any or all of the grant funds it received. OIG auditors advised that an attempt should be made to obtain substantial amounts of St. HOPE's financial records which had not been produced. With AUSA Newman's concurrence, OIG then prepared and, on October 1, 2008, served on St. HOPE (with a copy provided to AUSA Newman) a subpoena requiring production of 16 specified types of documents (Ex. 23), including "General ledger and other accounting records detailing transaction-level support for Federal and match expenditures claimed on the financial status reports" filed by St. HOPE. The grant provisions and relevant regulations required St. HOPE to maintain most of the 16 specifications of documents (and good business practices would have called for the maintenance of the remainder), but St. HOPE had not produced them in response to OIG agents' earlier requests.

After repeated requests by St. HOPE for extensions of time, partial productions, notice to St. HOPE's attorney of St. HOPE's non-compliance -- on all of which AUSA Newman was kept informed -- on November 24, 2008, Special Agent Morales forwarded to AUSA Newman a list, prepared by OIG Auditors, of the St. HOPE documents needed to perform a fiscal review, and which should have been produced in response to the subpoena. On December 2, 2008, OIG asked AUSA Newman for assistance to enforce the subpoena to obtain full compliance. Two weeks later, AUSA Newman asked OIG to draft an affidavit in support of an enforcement proceeding he would commence. OIG proposed and then provided that affidavit on January 8, 2009, and, on January 22nd, AUSA Newman asked for certain alterations, which were done with a corrected affidavit e-mailed to AUSA Newman on January 23rd. AUSA Newman and OIG agreed that St. HOPE's failure to produce documents it was required to maintain provided us no comfort that we could rely on St. HOPE for financial transparency.

On February 4th, AUSA Newman informed OIG Supervisory Special Agent Morales that St. HOPE's attorney was furnishing additional documents and that OIG auditors should provide their report based on the documents St. HOPE provided. OIG auditors did so, providing their report on March 18th (Ex. 24). The report noted that St. HOPE had failed to provide the following documentation: "Source documentation for costs charged to the grant; complete general ledger (only a partial ledger was produced); reconciliation of costs charged on the Financial Status Report to the general ledger, including match funds; explanation of the methodology for allocating costs between match and Federal share; [and] identification of the accounting system used." The report's conclusion was straight forward:

"None of the costs charged to the grant are allowable, primarily because the AmeriCorps members' service activities were not consistent with the grant requirements.

" * * *

"Contrary to . . . grant requirements and prohibitions, we found that St. HOPE AmeriCorps members performed little, if any, of the service agreed to and stipulated under the grant. Instead, they were used for non-authorized and prohibited activities, including service that displaced St. HOPE employees, a violation of 42 U.S.C. § 12637 *Non duplication and Non displacement*. We also found instances where AmeriCorps living allowances and benefits were unlawfully used to supplement the salaries of St. HOPE employees.

"Another grant requirement is that all allowable cost must be adequately documented We found an almost total lack of documentation to support St. HOPE's performance of the grant, despite our repeated requests to St. HOPE for grant-related documents."

As noted above, AUSA Newman forwarded to OIG Mr. Jacobs' letter of March 16, 2009, which was received by OIG on March 26th. On Friday, March 27th, when the IG first saw the letter, he asked Agents Morales and Wingers to provide him with their comments by Monday, March 30th. The IG analyzed both Mr. Jacobs' letter and the Agents' memorandum, and on March 31st requested the Agents' assistance in drafting a response which we prepared and sent to AUSA Newman on April 6, 2009.

On April 1, 2009, the United States Attorney's Office appeared to continue working with OIG, as the investigative agency with which it would work, by asking this Office for OIG's views regarding a potential settlement, conveying terms that respondents had proposed (we later learned, on March 18th), which were \$50,000 immediately and \$250,000 over five years. AUSA Newman asked that we provide a proposed counter-offer and the minimum amount we believed would be acceptable. Although the IG stated that it was important for the United States Attorney's office to have OIG's response to Mr. Jacobs' March 16, 2009, letter to be able to analyze OIG's settlement views, AUSA Newman stated that he would like to have our views on the dollar amount of a settlement and thereafter receive our response to Mr. Jacobs' letter. He also demurred to the IG's suggestion that he wait until we had been able to obtain the Corporation's views, which we had sought to take into account in providing our views. He insisted that we provide our views on April 2nd. (His reason for such a rushed schedule later became apparent, as discussed below.)

Therefore, on April 2, 2009, the IG provided the following to AUSA Newman in a telephone conversation: (i) an opening counter-offer of \$170,000 immediately (covering the amount paid for education awards from the National Service Trust funds) and \$400,000 over five years; (ii) the minimum of \$100,000 immediately, an additional \$70,000 in one year, and \$300,000 over the following four years; (iii) sufficient guaranties of payment; (iv) any settlement being pushed on the basis of factual assertions made in Mr. Jacobs letter could not be properly evaluated by the U.S. Attorney's office without OIG's reply, to be shortly provided, to Mr. Jacobs' letter, and OIG's interviews of the witnesses on whom Mr. Jacobs relied, which, the IG said, we would expeditiously do; and (v) that it would be improper to include the suspension in any settlement because that issue must be decided on whether the respondents are responsible for future grants, not whether they have paid for prior misuse of grant funds. In one of our March conversations with Acting U.S. Attorney Larry Brown, he had referred to the suspensions as "the 800-pound gorilla" in any settlement negotiation.

OIG had kept the Corporation's General Counsel, Frank Trinity, informed of both the settlement proposal made by respondents' attorney and OIG's position, including that it would be improper to negotiate the suspension as part of any monetary settlement. Mr. Trinity stated

that he agreed that it would be improper. As to the monetary terms of the settlement, on April 1, 2009, the IG informed the Corporation's Director of Grants Management, Margaret Rosenberry, of St. HOPE's settlement proposal terms and asked her to provide OIG with the Corporation's analysis for OIG to consider. The IG left a voicemail message to the same effect for Mr. Trinity. We did not obtain that Corporation input on the monetary amount in time to meet AUSA Newman's schedule for OIG to take that into consideration.

In the afternoon of April 2, 2009, after the IG had spoken with AUSA Newman, Ms. Rosenberry, together with a member of Mr. Trinity's staff, Irshad Abdal-Haqq, met with members of OIG staff to review the facts and seek the Corporation's view on the monetary amount of any settlement. Special Agents Morales and Wingers set forth the relevant facts -- including highlights of Mr. Jacobs' March 16, 2009, letter -- provided them documents as requested, and told them that, if they wanted any other documents, they had only to ask. At no time did either request a copy of Mr. Jacobs's March 16th letter.¹⁰

After the IG's April 2, 2009, telephone conversation with AUSA Newman, he and his office suddenly ceased talking with OIG personnel about this case. He apparently did not like (i) our opposition to any settlement that voided the suspension without allowing the Debarment and Suspension Official to determine, based on evidence, including any contradictory evidence respondents would furnish, whether Johnson and the other respondents were sufficiently responsible to be trusted with more Federal funds, and (ii) our view that Mr. Jacobs' summary of what his witnesses said should not be the basis of triggering a settlement, without giving OIG Special Agents an opportunity to interview those witnesses (although, during their investigation, the OIG Agents asked St. HOPE's Attorney for the current addresses, the response had been that they were not known to St. HOPE). Instead, as we were informed late in the evening of April 2,

¹⁰ The Corporation's General Counsel, who was not present at that meeting, subsequently accused OIG of withholding the letter and declined to reconsider when OIG pointed out to him that the letter was the subject of discussion at that meeting. Indeed, OIG agents present stated at the meeting that they thought it necessary to reinterview the Principal of PS7, who Mr. Jacobs wrote in his letter had told him that the AmeriCorps members had in fact performed tutoring -- contrary to what the Principal had previously told the Agents. In addition, they reported that, of the nine interviews on which Mr. Jacobs relied in his letter, the agents had interviewed only two (one member and the PS7 Principal) and they had provided information contradictory to Mr. Jacobs' interviews. The Agents also informed Ms. Rosenberry and Mr. Abdal-Haqq that they had told AUSA Newman that, if any weight was being given to those interviews, the Agents wanted to reinterview two of them and interview the others, but AUSA Newman had stated that he put no weight in those interviews by Mr. Jacobs.

2009, by e-mail from Mr. Trinity, AUSA Newman "reached out to [Mr. Trinity]," immediately following my advice to him of OIG's position on settlement, and AUSA Newman and Mr. Trinity agreed that AUSA Newman's "office will deal with [Mr. Trinity] as the point of contact." (Ex. 25). From that date, the United States Attorney's office started dealing solely with Mr. Trinity.¹¹

On Monday, April 6, 2009, as OIG had promised AUSA Newman, OIG e-mailed him our seven page analysis of and response to Mr. Jacobs' March 16, 2009, letter (Ex. 26). We provided a copy of this letter to Corporation General Counsel, Mr. Trinity. Noting that "Mr. Jacobs concedes that St. HOPE cannot 'demonstrate through accounting records the specifics of how St. HOPE spent the grant monies'," OIG showed AUSA Newman why the explanations that Mr. Jacobs offered for that failure were without merit. First, as to AUSA Newman's assertion that it was normal for grantees not to have documentation, our letter pointed out that it was absurd to suggest that a Federal agency would overlook the absence of required financial documentation. Contrary to Mr. Jacobs' assertion that OIG, not St. HOPE, had the St. HOPE invoice documentation, OIG noted that OIG did not have the "contemporaneous invoices St. HOPE provided to" the California State Commission. Moreover, Mr. Jacobs' general assertions that St. HOPE generally did what it was supposed to do with the Federal funds failed for lack of support. Our letter pointed out that the grants did not set out general obligations, "but rather fix[ed] more specific objectives and methods to document the use" of the Federal funds.

Likewise, our letter pointed out that Mr. Jacobs failed to provide documentary support for his assertion that some tutoring had been done. The grant program required that a "Tutoring Log" be kept, but none was ever produced in response to OIG requests. OIG noted that Mr. Jacobs' reliance on "interviews" was misplaced because, while OIG obtained 26 interviews -- almost all of people in the Sacramento area -- Mr. Jacobs primarily relied on conversations with individuals from remote areas whom OIG could not interview because, as already noted, when OIG had asked for the current addresses of those individuals, St. HOPE's attorney said that that the information was not available. In addition, for all but two individuals, Mr. Jacobs did not

¹¹ While Mr. Trinity wrote in that e-mail that the U.S. Attorney would also continue to seek OIG's input, in fact the U.S. Attorney's office, once it had received Mr. Trinity's agreement to by-pass OIG, never again communicated with OIG and dealt solely with Mr. Trinity.

provide interviews of people OIG had talked to, and the interviews of those two individuals by OIG and by Jacobs were contradictory. Finally, Mr. Jacobs' reliance on a telephone conversation that he put into the text of an e-mail is hardly a procedure most conducive to obtaining the facts.

Later that day, Tuesday, April 6, 2009, the Corporation informed OIG of its evaluation of the claims against St. HOPE to OIG. In an e-mail to Supervisory Special Agent Morales, the Corporation's Office of Grants Management gave a value of \$250,000 - \$335,000, exclusive of penalties. Remarkably, the low figure is lower than the offer that St. HOPE had made.

G. The Settlement

Without informing OIG -- and without seeking OIG's input on the terms and provisions of the settlement agreement -- on April 9, 2009, the United States Attorney announced the settlement of the Government's claims against St. HOPE, Johnson and Gonzalez. Ex. 27. The Settlement Agreement was signed on behalf of the Government by AUSA Newman, William Anderson "Acting Chief Financial Officer and Debarment and Suspension Official on behalf of the Corporation for National and Community Service," and Frank R. Trinity "General Counsel on behalf of the Corporation for National and Community Service."

I. The Settlement Agreement Terms

The Settlement Agreement (Ex. 28) provided:

(i) St. HOPE would make an immediate payment of \$73,836.50, and execute a stipulated judgment for an additional \$350,000, to be paid \$35,000 annually for ten years, plus 5% annual interest.

(ii) "to assist St. HOPE in paying" the initial \$73,836.50 amount, Johnson agreed to pay St. HOPE \$72,836.50 and Gonzalez agreed to pay St. HOPE \$1,000.00 "in time for St. HOPE to make the Initial Payment . . . pursuant to the terms of this Settlement Agreement." Further, it provides that "Johnson and St. HOPE may enter into an agreement whereby St. HOPE agrees to repay Johnson when St. HOPE has the financial ability to do so while still meeting all of its other financial obligations."

(iii) "Johnson and Gonzalez shall register to take an on-line course offered by Management Concepts titled 'Cost Principles'" and "complete the course within 120 days . . . , and shall provide written verification under oath of having completed the course."

(iv) "The Corporation shall terminate the suspension of St. HOPE, Johnson and Gonzalez . . ." and "agrees not to institute debarment proceedings against" them "so long as they comply with their obligations under this Settlement Agreement."

(v) St. HOPE, but not Johnson and Gonzalez, "agrees that it may be considered a high-risk grantee by the Corporation for a period of two years."

(vi) "St. HOPE warrants that it has reviewed its financial situation and that it is currently solvent within the meaning of 11 U.S.C §§ 547 (b)(3) and 548 (a)(1)(B)(ii)(I), and will remain solvent following payment to the United States of the \$73,836.50."¹²

2. Analysis of the Settlement Agreement

Analysis of the Settlement Agreement makes clear that it was a rush job to paper a settlement, while failing to contain provisions to protect the Government's ability to receive even what, on the surface, it was supposed to receive:

(i) Johnson and Gonzalez were, as the Settlement Agreement recites, the President and Chief Executive Officer, and Executive Director, respectively of St. HOPE. Thus, they directed and were responsible for the misuse of Grant funds which led to the Settlement Agreement. Johnson is reported to be more than financially able to pay the full judgment due the Government. On the other hand, St. HOPE is, as discussed below, in poor current financial condition, to say the least. Moreover, as a not-for-profit entity, whatever assets it has and will have in the future are from grant funds and charitable contributions. Yet, except for the advance to St. HOPE of funds for St. HOPE's initial payment -- under a provision which allows Johnson to get it back from St. HOPE -- Johnson assumes no liability for the amount the Government

¹² The cited sections do not, in fact, define solvency, but instead deal with preferences. As the \$73,836.50 was essentially an exchange transaction, which could have been accomplished as well by Johnson's and Gonzalez's payment directly to the Government on St. HOPE's behalf, it is questionable that this reference has any relevance, other than further wallpapering.

should be repaid. The effect is to penalize the charitable entity, not the people who misused it. If that charitable entity were not burdened by a 10-year obligation to repay, it could put those funds to use serving a community purpose. Penalizing the CEO would have properly penalized the person responsible for the misdirection of the charitable entity, without detracting from funds being directed for community purposes.

(ii) The Government received no guaranty of, or security for, the ten annual payments of \$35,000 plus interest which was the only payment promised to the Government, in addition to the initial \$73,836.50 payment. As discussed below, the facts known to the Corporation, when it signed the Settlement Agreement, make obvious that St. HOPE's financial condition permits no assurance that these amounts will be paid.

(iii) While Johnson and Gonzalez provided St. HOPE with respectively \$72,836.50 and \$1,000.00 so that St. HOPE could make its initial payment of \$73,836.50, the Settlement Agreement permits Johnson and St. HOPE to "enter into an agreement whereby St. HOPE agrees to repay Johnson when St. HOPE has the financial ability to do so while still meeting all of its other financial obligations." Significantly, no time period is specified before St. HOPE may so agree, and no standards are set forth objectively to determine that condition; thus, there is no protection against St. HOPE's immediately paying it back to Johnson. That is particularly true given that the Agreement contains St. HOPE's warranty that it is currently solvent. And if St. HOPE repays Johnson and is thereafter unable to make any or all of the ten annual payments, the Government has no recourse against Johnson even to disgorge that repayment of \$72,836.50.

(iv) St. HOPE agreed "that it may be considered a high-risk grantee by the Corporation for a period of two years" -- presumably burdening St. HOPE's ability freely to obtain grant funds. But St. HOPE, as an entity, does not act by itself as a robot; for it to have acted improperly, it had to have been directed by Johnson and Gonzalez, its CEO and Executive Director. Yet, those who directed the wrongdoing are authorized to seek and receive control over new Federal grant funds without any high-risk label.

(v) Johnson's and Gonzalez's agreement to "register to take an on-line course offered by Management Concepts titled 'Cost Principles'" is pure wallpapering. One of our leading Certified Public Accountants has advised that this course is designed primarily for accountants and those performing accounting and bookkeeping functions, not to train someone in ethical issues involving the misuse of funds for a purpose other than for which it was provided. A review of the course book (Ex. 29) requires that conclusion in the listing of the following "Learning Objectives:"

- "discuss factors affecting allowability of costs;
- "classify costs as typically direct or indirect;
- "determine the allowability of selected items of cost;
- "review grant application budgets to determine cost allowability;
- "analyze spending decisions to determine whether they are allowable;
- "gain insight into grant cost disallowances by exploring agency and court decisions."

As already noted, the misuse here did not involve accounting "cost principles," but the ethical misuse of Federal grant funds for personal use and benefit of the CEO, contrary to the specified purpose for which the grant funds had been provided.

(vi) The Corporation's acceptance of St. HOPE's warranty that "it is currently solvent . . . and will remain solvent following payment to the United States of the" \$73,836.50 underlines the wallpaper nature of this Settlement Agreement.

First, the warranty that the payment of the \$73,836.50 will not cause St. HOPE to become insolvent is meaningless. That payment could cause St. HOPE to become insolvent only if the payment came from St. HOPE's assets or, conceivably, if St. HOPE accepted a liability to repay that amount. The Settlement Agreement was written carefully to avoid either condition, and to allow St. HOPE to agree to repay Johnson only at an unspecified time in the future, *i.e.*, after St. HOPE's payment of the \$73,836.50, thus making axiomatic that the payment could not make St. HOPE insolvent, if it were solvent before that payment. The Agreement, however, allows such repayment by St. HOPE to Johnson the following day or anytime thereafter.

Second, significantly, Johnson was not required to warrant St. HOPE's solvency or guarantee St. HOPE's payment of the full amount to be given to the Government.

Third, and most significant, the information provided by St. HOPE itself, known to the Corporation, casts overwhelming doubt on St. HOPE's solvency, its ability to continue as a "going concern" (the customary audit term), and establishes that St. HOPE is in such a precarious financial condition that it is highly unlikely that St. HOPE will ever pay the remaining \$350,000 to the Corporation.

As the Settlement Agreement recited, St. HOPE's cash flow and current assets did not allow it to pay the \$73,836.50 initial installment. Johnson and Gonzalez had to provide those funds.

Also, Mr. Johnson's attorney, in his March 16, 2009, letter, himself described St. HOPE's financial condition as "precarious." He recited that, as of January 31, 2009, St. HOPE had net assets of \$2,943,700 and total debt of \$1,876,620, with \$1,502,762 of the total assets being "accounts receivable, which St. HOPE will likely not realize." Excluding that amount from the realizable assets results in more debt than assets, or insolvency. Even all the assets as listed are not available to St. HOPE to pay its debts: Johnson's attorney disclosed that "the investments' category reflects a \$1,122,642 endowment from a separate 501(c)(3) organization, the St. HOPE Foundation, in an account at Merrill Lynch" which "are controlled by the Foundation, not St. HOPE."

Further, Johnson's lawyer disclosed that, for the single month of January 2009, St. HOPE sustained a net loss of \$57,750 and for the eight months ending January 31, 2009, St. HOPE sustained a net loss of \$725,103, and described St. HOPE as "hemorrhaging cash at an alarming rate."

Clearly, continuation of this "hemorrhaging cash at [that] alarming return" in the future would make the Corporation's collection from St. HOPE even more dubious. And Johnson's attorney disclosed that St. HOPE's "projection shows that for each month between February and

June 2009, except for April, St. HOPE will sustain a net cash loss of between \$50,808 and \$91,739." Johnson's attorney therefore concluded that "it is readily apparent that St. HOPE will soon be completely out of cash, with little or no revenue to supplant the loss." He concluded that "for current purposes, the 'ending cash' accessible funds total for April 2009 is \$38,139; May 2009 is -\$12,669; and June 2009 is -\$74,477" with "next fiscal year's projections look[ing] even worse" -- which, he then represents, project "ending cash' as really -\$136,285 in July 2009 and -\$632,171 in June 2010."

That reality makes the Corporation's release of Johnson and Gonzalez from their joint liability in return for this worthless judgment against St. HOPE a waste of a Corporation cause of action asset and, frankly, a farce.

(vii) As discussed below, the stated motivation for both the Corporation and the U.S. Attorney to rush into this settlement was to rescind the suspension of Johnson which precluded the City of Sacramento from receiving Federal grant funds. As already noted, the suspension procedure exists to protect Federal funds so that they are not entrusted into the control of someone who has, by his previous record with Federal funds, been shown not to be trustworthy. Thus, if the Corporation and the U.S. Attorney wanted to reconcile both the protections of the suspension procedure and the desire to allow the flow of Federal funds to Sacramento, they could have insisted that an independently appointed "Federal Funds Guardian" be appointed to review and safeguard the City's use of Federal funds, in place of the Mayor, until (and if) the Debarment and Suspension Official made a determination that the factual record presented to him warranted no suspension or debarment. While such provision might have been politically distasteful to Johnson, the responsibility of both the Corporation and the U.S. Attorney's Office was to protect Federal funds without regard to any impact -- favorable or unfavorable -- on Johnson's popularity. But, no such provision was even suggested by either the Corporation or the U.S. Attorney's Office.

* * *

If OIG had been allowed to provide our analysis of the Settlement Agreement before the Corporation rushed to sign it, our office would have provided the above objections. In fact, any

attorney, interested in protecting his/her client's interests, would have seen these same objections. But the Corporation rushed to execute the Settlement, rather than taking the time needed to obtain OIG's comments and thereby protect the interests of the Corporation and Federal taxpayers.

H. Media and Political Pressure for Settlement

Shortly after the Sacramento Bee endorsed Mr. Johnson for Mayor on October 19, 2008 (Ex. 30), the Sacramento Bee's weblog first suggested, on October 27, 2008 (Ex. 14), that the "U.S. Attorney should resolve St. HOPE and Johnson questions." That did not cause any material expedition of the U.S. Attorney's progress.

Suddenly, with the enactment of stimulus legislation, a well-orchestrated push to force a settlement, which would include the lifting of the suspension -- without Johnson's need to provide facts to contradict the grounds for the suspension -- commenced. On March 16, and 18, 2009, as noted, Mr. Johnson's attorney wrote two letters to AUSA Newman requesting such settlement and lifting of the suspension. On Sunday, March 21st, the Sacramento Bee headlined an article "Mayor's status may imperil Sacramento's Federal stimulus funds, lawyer says," and reported that, in a statement, Johnson "said he is confident the issue can be resolved quickly" (Ex. 18). On Tuesday, March 24, 2009, the Sacramento Bee published an editorial "AmeriCorps case needs resolution" and opined that "[t]his is a case where everybody would be better off if the nonprofit and the IG reach a repayment settlement for the errors and move on" (Ex. 31).¹³ On April 1, 2009, the Sacramento Bee reported that "Sacramento Mayor threatens to sue over his suspension from receiving U.S. funds" (Ex. 33), quoting Johnson's attorney's letter of March 31, 2009, to the Debarment and Suspension Official, a copy of which had apparently been provided to the Sacramento Bee by Johnson's attorney's simultaneously with forwarding it to the Corporation. Finally, on April 3rd, the Sacramento Bee published another editorial that a "repayment settlement" should be reached (Ex. 34).

¹³ Misstatements in this editorial prompted the IG to respond to defend the OIG. Ex. 32.

I. Serious Adverse Effects of this Rushed Settlement

Between August 7, 2008, when OIG made its referral to the United States Attorney's Office, through at least February 2009, there was no communication to the OIG that the U.S. Attorney's Office sought to expedite the review and conclusion. Indeed, our Agents' requests to expedite subpoena enforcement to obtain documents from St. HOPE were, to put it mildly, not handled in an expedited manner.

The only circumstance that changed was the sudden media and political pressure to settle the matter monetarily and lift the suspension. These pressures had the desired effect. OIG, which has the responsibility to ensure the non-fraudulent and non-wasteful use of Federal grant funds, and to protect Federal funds in the future from those who have shown lack of responsibility, was not diverted from its responsibility. But the U.S. Attorney's Office and the Corporation -- both of which also are duty-bound to protect Federal funds -- were detoured from that obligation.

The first hint was when the Acting U.S. Attorney described the suspensions as the "800 pound gorilla" obstacle to reaching a conclusion of OIG's referral to his office. Then, after it was made clear that OIG would not agree to any settlement that rescinded the suspensions without an evidentiary showing that convinced the Debarment and Suspension Official that his previous findings were not correct, the U.S. Attorney's Office stopped dealing with OIG and found a more pliant and sympathetic partner in Corporation management. As Nicola Goren, the Corporation's Acting CEO, said to the IG, in the presence of Mr. Trinity -- in response to the IG's comment that no facts have been presented to alter the findings made by the Debarment and Suspension Official (with the advice of Mr. Trinity) -- Mr. Johnson's lack of responsibility, as demonstrated in the findings, had to be ignored because the Corporation could not "stand in the way of Sacramento getting stimulus money." A similar statement was made by Acting U.S. Attorney Brown; "The lifting of the suspension against all parties, including Mayor Johnson, removes any cloud whether the City of Sacramento will be prevented from receiving much-needed federal stimulus funds" (Ex. 27). Significantly, neither the Corporation's Acting CEO nor the Acting U.S. Attorney ever suggested that the suspension was lifted because the evidence did not support the suspension decision made more than six months before on the basis of

specific findings of wrongdoing. They could not make such representation because the factual record before the Debarment and Suspension Official remained unaltered.

The decision by the Corporation and the U.S. Attorney to cut out OIG and agree to this Settlement Agreement was injurious to the Federal government as a whole and specifically to the Corporation and the hard-working and dedicated staff of the Office of Inspector General.

First, the settlement sends the signal that acceptance of a grantee or its principal as "responsible" can be purchased in a monetary settlement, overriding all evidence of wrongdoing previously found to warrant a suspension, without the presentation of any contradicting evidence. Settlement Agreements are supposed to settle the liability of the grantee and its principals for past wrongdoing. The Federal government created the suspension process to insulate all parts of the Federal government from providing Federal funds to those whose past conduct, with respect to any one agency, demonstrates that they are not sufficiently responsible to be awarded Federal funds from that agency or any other in the future. Reimbursing the Federal government for past irresponsible conduct, when caught, does not by itself provide evidence of responsibility in the future to handle Federal funds in a proper manner.

Second, as discussed above, the Settlement Agreement, poorly drafted (except as it was drafted to favor Johnson), provides no protection of the Corporation's interests. While papering it to appear, as the Sacramento Bee reported (Ex. 35), on April 9, 2009, that "Johnson and his nonprofit St. HOPE Academy have agreed to give back half of the \$847,673 in federal grants it received," in fact that is false. Johnson is paying nothing; while he advanced \$72,836.50 to St. HOPE for St. HOPE to pay its obligation under the Settlement Agreement, Johnson has no obligation to pay one cent of the grant-half touted to be paid back to the Corporation, and he can very promptly even obtain reimbursement from St. HOPE of the amount he advanced to St. HOPE.

Moreover, as discussed above, St. HOPE's financial condition is so precarious that it is unreasonable to count on St. HOPE to be able to make the ten years of payments provided by the Settlement Agreement.

In these circumstances -- and assuming *arguendo* that repayment of one-half of the Federal funds provided to St. HOPE (but not used as required by the grant terms) is an appropriate monetary settlement -- no attorney representing the interests of the Corporation should agree to that settlement without security or guaranties. It is obvious that leverage was on the side of the Corporation's attorneys, as Johnson badly wanted the settlement. Yet, the Corporation's attorneys accepted a settlement with no security or guaranties. In these circumstances, the touting of this settlement as monetarily in the Corporation's interests in that it will receive back one-half of what it provided to St. HOPE is an attempt to pull the wool over the public's eyes.

Likewise, as discussed above, Johnson's agreement to take a course for accountants and bookkeepers -- but not an ethics course -- is more wallpapering to fool the public.

If OIG had been consulted on this Settlement Agreement instead of being excluded, OIG would have pointed out these and the other obvious deficiencies discussed above in the Settlement Agreement. All of them make a mockery of the time, energy and money that OIG expended in performing its duty -- to investigate and bring to justice anyone who engages in fraud, waste and abuse of Federal funds.

That raises the third adverse impact of this Settlement Agreement. When the IG assumed the position of Inspector General, he told Corporation management and his staff that he believed the OIG existed to help the Corporation ensure that Congressional funds provided to it are in fact used for the Corporation's specified (and good) purposes, and are not wasted or fraudulently taken. To accomplish that end, the IG believed, and has so acted since then, in having frequent direct communication with Corporation management, and, absent some unique circumstance (which has not occurred), keep Corporation management informed of OIG activities, findings and recommendations. Until this episode, Corporation management has done the same.

While OIG and the Corporation have not agreed on all issues, we have openly discussed them and neither has shut the other out in full disclosure of what is intended to be done and in seeking the other's views before finalization.

What the Corporation did here in shutting OIG out of the finalization of an investigation and our audit section's review which OIG had, as normal procedure, totally controlled, unnecessarily tore asunder the trust OIG had in Corporate management.

But even worse, it has, understandably, adversely affected the morale, and attitude towards the Corporation, of the hard-working dedicated OIG staff. These men and women -- investigators and auditors -- have spent long hours investigating, reviewing, analyzing, and acting on the voluminous evidentiary record they created, and which caused the Corporation Debarment and Suspension Official to find that it created a sufficient record warranting suspension of St. HOPE, Johnson and Gonzalez. Also, they provided an evidentiary record to support criminal charges and/or full civil recovery against them. As detailed in the IG's April 6, 2009, letter to AUSA Newman, there could be no doubt that Gonzalez, whom Johnson delegated to sign required representations to the Government to obtain grant funds, made misrepresentations to obtain those funds; indeed, in interviews conducted by OIG agents, she admitted sufficient facts to support a criminal charge. These agents also provided more than sufficient evidence to establish that the grant terms were violated as to the full amount of grant funds St. HOPE received, and evidence that Johnson personally directed all of St. HOPE's activities, including particularly the use of AmeriCorps members. Such evidence would readily support the imposition of civil penalties to be paid directly to the U.S. Treasury of two to three times the amount of established damages under the Federal False Claims Act -- an amount that neither the Corporation nor the U.S. Attorney's Office even bothered to ask for or leverage in its so-called settlement negotiations with Johnson, Gonzalez, and the St. HOPE's lawyers.

The OIG staff rightfully feel that no good reason existed to sell their time and effort for a worthless settlement that "cleanses" the respondents' wrongdoing. And even more distasteful to them is that, after all they did on this matter, the U.S. Attorney and the Corporation shut them out from any input on, or knowledge of, the settlement until it was executed and publicly announced.

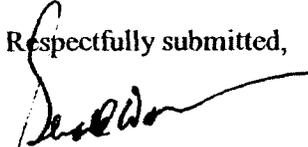
This was an exercise of, at least, terribly poor judgment by the Corporation and the United States Attorney's Office which, apparently, had another agenda -- not that of protecting Corporation grant funds.

Conclusion

As we indicated at the beginning of this report, we believe it is OIG's obligation under statute to report these matters to you. In addition, it is the IG's position that he does so because, as long as he is in this position, he will stand by OIG's hard working staff whenever they are improperly treated for doing their job, and doing it well.

The IG and members of OIG staff are available to discuss this with you or your staff, at your request. Please call the IG directly at (202) 606-9390.

Respectfully submitted,



Gerald Walpin
Inspector General



Robert J. Walters
Assistant IG for Investigations



Stuart Axenfeld
Assistant IG for Audit

Corporation for
**NATIONAL &
COMMUNITY
SERVICE** ★★

May 12, 2009

The Honorable Edward M. Kennedy
Chairman, Committee on Health,
Education, Labor, and Pensions
U.S. Senate
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Kennedy:

Enclosed is a Special Report to the Congress from the Inspector General of the Corporation for National and Community Service. The Special Report expresses the Inspector General's concerns about the negotiation and resolution of United States v. St. HOPE Academy, Kevin Johnson & Dana Gonzalez. We have been advised that the Inspector General considers this Special Report to be a communication to the Congress under section 5(d) of the Inspector General Act of 1978. Section 5(d) requires that we forward this report to appropriate committees and subcommittees of the Congress, along with comments the Corporation deems appropriate.

The Acting United States Attorney for the Eastern District of California, in announcing the terms of a Settlement Agreement on April 9, 2009, stated as follows: "The agreement reached strikes a proper balance between accountability and finality." The Acting U.S. Attorney also issued a letter of commendation, dated April 17, 2009, praising our Office of General Counsel for its outstanding work in resolving the matter to protect the interests of the United States while ensuring a just result.

We are constrained from commenting substantively on the Inspector General's Special Report because we have been advised that the Acting United States Attorney for the Eastern District of California has formally communicated concerns about the Inspector General's conduct in this matter to the Chair of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency. Upon the completion of the Integrity Committee's consideration of this matter, we will promptly provide our comments on the Special Report.

We are available to answer whatever questions you may have regarding this matter, consistent with respecting the Integrity Committee's process.

Sincerely,



Nicola Goren
Acting Chief Executive Officer

cc: Senator Enzi



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Additional Addressees for Distribution of "Special Report to the Congress From the Office of the Inspector General of the Corporation for National and Community Service"

The Honorable Michael B. Enzi
Ranking Member, Committee on Health,
Education, Labor, and Pensions
U. S. Senate
835 Hart Senate Office Building
Washington, DC 20510

The Honorable Tom Harkin
Chairman, Subcommittee on Labor, Health and
Human Services, Education and Related Agencies
Committee on Appropriations
U. S. Senate
131 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member, Subcommittee on Labor, Health and
Human Services, Education and Related Agencies
Committee on Appropriations
U. S. Senate
156 Hart Senate Office Building
Washington, DC 20510

The Honorable Joseph I. Lieberman
Chairman, Committee on Homeland Security
and Governmental Affairs
U. S. Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member, Committee on Homeland Security
and Governmental Affairs
U. S. Senate
350 Dirksen Senate Office Building
Washington, DC 20510

The Honorable David R. Obey
Chairman, Subcommittee on Labor, Health
and Human Services, Education and Related Agencies
Committee on Appropriations
U. S. House of Representatives
2358 Rayburn House Office Building
Washington, DC 20515

The Honorable Todd Tiahrt
Ranking Member, Subcommittee on Labor, Health
and Human Services, Education and Related Agencies
Committee on Appropriations
U. S. House of Representatives
2441 Rayburn House Office Building
Washington, DC 20515

The Honorable George Miller
Chairman, Committee on Education and Labor
U. S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

The Honorable Howard P. McKeon
Ranking Member, Committee on Education and Labor
U. S. House of Representatives
2101 Rayburn House Office Building
Washington, DC 20515

The Honorable Edolphus Towns
Chairman, Committee on Oversight
and Government Reform
U. S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Darrell E. Issa
Ranking Member, Committee on Oversight
and Government Reform
U. S. House of Representatives
B350A Rayburn House Office Building
Washington, DC 20515

The Honorable Charles E. Grassley
U. S. Senate
135 Hart Senate Office Building
Washington, DC 20510



OFFICE OF INSPECTOR GENERAL

May 13, 2009

The Honorable Edward M. Kennedy
Chairman, Committee on Health,
Education, Labor, and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Kennedy:

By letter dated May 12, 2009, Nicola Goren, Acting Chief Executive Officer, Corporation for National and Community Service, forwarded to you a Special Report prepared by my Office ("OIG") regarding the waste of assets in, and impropriety of, the settlement of claims by the United States against St. HOPE Academy, Kevin Johnson, and Dana Gonzalez. That Special Report was submitted to Congress pursuant to, among other provisions, section 5(d) of the Inspector General Act of 1978, as amended. Section 5(d) calls for the agency head to transmit the report to the appropriate committees or subcommittees of Congress within seven calendar days **"together with a report by the head of the establishment containing any comments such head deems appropriate."**

Instead of submitting any comments, however, the Corporation has declined to do so, on the ground that it is constrained from doing so because the Acting United States Attorney for the Eastern District of California "has formally communicated concerns about [OIG's] conduct in this matter to the Chair of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency."

On May 12, we saw, for the first time, a copy of the April 29, 2009, letter to which Ms. Goren refers. That letter and the concerns it raises are entirely separate from the wisdom and propriety of the settlement of the claims that the United States had against St. HOPE, Johnson, and Gonzalez. It is, likewise, entirely separate from the Corporation's responsibility to provide its response to our Special Report to Congress and, for that reason, should not be used to table the Special report until it is "old news." We see no reason for Congress to wait for an uncertain period of time for the Corporation's comments.

Indeed, since April 7, 2009, before the settlement was announced, Ms. Goren and the Corporation's General Counsel knew of OIG's dissatisfaction with the contemplated settlement, which was announced on April 9. So did the United States Attorney's Office because we wrote to it about the proposed settlement on April 6, 2009. In short, all concerned knew some time ago of OIG's concerns about the proposed settlement, and also knew that we would perform our duty



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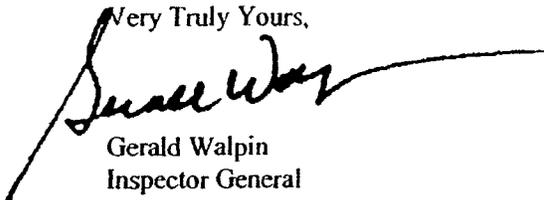


to report to Congress our views of its impropriety. The Corporation should not need an open ended extension of time to submit any comments it may have regarding the Special Report.

For our part, we believe the complaint of the Acting United States Attorney to be without merit and will push for its prompt resolution by the Integrity Committee. This Office's Special Report, which you have been provided, contains many facts relevant to the merits of that complaint. While this is not the forum to respond in detail to the Acting United States Attorney's complaint, I note, as an example, that the Acting United States Attorney complains that his Office first learned of our Office's determination to seek the immediate suspension of St. HOPE, Johnson, and Gonzalez through a newspaper article on September 25, 2008. In fact, a copy of this Office's referral of those three respondents for suspension was sent to the United States Attorney's Office on July 9, 2008, after that Office was telephonically advised of it on June 30, 2008. Further, at a meeting in the United States Attorney's Office on August 25, 2008, attended by various Assistant United States Attorneys, including the now Acting United States Attorney, and three representatives of OIG, the subject of OIG's suspension request was discussed. And, on September 9, 2008, the United States Attorney's Office supplemented OIG's suspension request with its own letter to the Debarment and Suspension Official, asking that, if the suspension were ordered, the Corporation "not conduct fact-finding" as part of its consideration of the suspension referral. Thus, the Acting United States Attorney's assertion of no knowledge of the suspension referral until reading about it in the newspapers is totally false.

In conclusion, the Corporation has no good reason for withholding its response. We believe Congress is entitled to learn at this time – not a year later – if the Corporation has any defense to what this Office believes to be conduct contrary to its responsibility to protect Federal funds and the interests of the United States Government. We ask Congress to direct the Corporation to furnish its comments at this time.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Gerald Walpin", with a long, sweeping horizontal line extending to the right.

Gerald Walpin
Inspector General

May 18, 2009

MEMORANDUM FOR NICOLA GOREN, ACTING CHIEF EXECUTIVE OFFICER

FROM: Frank R. Trinity *Frank R. Trinity*
General Counsel

SUBJECT: Settlement Agreement in St. HOPE Academy matter.

This memorandum addresses the Corporation's involvement in settlement negotiations in United States v. St. HOPE Academy and responds to the Inspector General's objections to the process and substance of the Settlement Agreement in that matter as expressed in his Special Report.

A. Corporation's involvement in settlement negotiations

On April 2, 2009, the United States Attorney's Office for the Eastern District of California contacted me and asked our agency to participate in settlement discussions in this matter. At all times thereafter, the Corporation acted in support of the U.S. Attorney's negotiations. As General Counsel, I coordinated the Corporation's involvement in those negotiations and communicated the Corporation's views to the U.S. Attorney's office.

Federal funding for the City of Sacramento was at risk because Kevin Johnson -- two months before being elected Mayor -- had been placed on the Excluded Parties List based on information provided to the Corporation by the Inspector General. Other Federal agencies were actively considering whether to suspend funding to the City of Sacramento. Accordingly, we gave due consideration to a global settlement, including lifting the suspension, if the terms of the settlement were appropriate. On April 9, 2009, the matter was settled, the terms of which are a matter of public record.

While an Inspector General has no statutory entitlement to participate in an agency's deliberative process, including the settlement of a civil matter or a suspension, it has been our practice for the Inspector General's Office to serve as point of contact with the United States Attorney's Office on pending civil recovery matters until settlement is actively discussed. At that point, I am usually asked to participate on behalf of the agency to communicate the agency's approval of the terms of any settlement agreement. Because St. HOPE Academy, Kevin Johnson, and Dana Gonzalez were in serious discussions with the United States Attorney's Office about possible settlement, my communications with the U.S. Attorney's Office were not unusual.

The Inspector General objects to his not being included in the discussions between the United States Attorney's Office and Corporation management, as our

agency considered settlement terms. In normal circumstances we would have involved the Inspector General to a greater extent, as our agency considered the settlement terms under discussion. However, in this particular matter, I concluded that the Inspector General was not likely to serve as a productive participant in the agency's deliberative process. I shared the same concerns that were expressed to me by the Assistant United States Attorney about the Inspector General's public commentary on the matter and the Inspector General's failure to disclose material relevant to considering possible settlement terms.

B. The Inspector General's public commentary on a pending matter

The Inspector General repeatedly provided commentary about this matter in the media, including, among other statements:

- While the Inspector General's suspension recommendation was pending within Corporation management, the Inspector General's spokesman publicly branded those subject to suspension as "pariahs".
- For months following management's suspension decision, the Inspector General posted a press release announcing the suspension on his website, including having the words "NEWS FLASH!" in large red letters repeatedly flash on the top portion of the Inspector General's home page, just above a photograph of the Inspector General.
- While settlement discussions were underway, the Inspector General authored a detailed op-ed published in the Sacramento Bee on March 31, 2009.

See Attachment A.

In connection with the March 31, 2009, op-ed, the Special Report says that "[m]isstatements" in a Sacramento Bee editorial "prompted the IG to respond to defend the OIG." (page 24, note 13, and Exhibit 32 to the Special Report.) The Inspector could have corrected any misstatement with a factual note of correction. Instead, the Inspector General's personal op-ed, published on March 31, 2009, goes well beyond any factual corrections and makes the following comment:

...contrary to your editorial, the ball on the suspension has been in Johnson's court since the order of suspension was issued.

Apparently, he made the decision not to appeal the suspension by providing specific facts that would show to the neutral suspension official that the suspension was not warranted. If, as you charge (without basis), that suspension in these circumstances was an 'unusual step,' the procedures allowed Johnson to seek to lift the suspension. He decided not to do so.

I generally defer to the Inspector General's choices on how to communicate with the public on any matter of his interest. However, I considered the Inspector General's public commentary while decisions were pending within the Corporation and the United States Attorney's office to be inappropriate. The nature of the public commentary caused me to question the Inspector General's objectivity in this matter.

C. The Inspector General's selective disclosure of information

When Corporation management became involved in settlement discussions, the Inspector General's conduct deepened my concern about his objectivity and judgment, specifically his producing documents to support his position while not producing documents to present the other side's position.

On or about Wednesday, April 1, 2009, the Inspector General requested that our Grants Management Director review certain documents to help evaluate a settlement offer made by St. HOPE Academy, Kevin Johnson, and Dana Gonzalez.

At a meeting conducted in the Office of Inspector General on Thursday, April 2, 2009, OIG staff provided two OIG documents to our Grants Management Director (and an Associate General Counsel representing my office). I was not at the meeting but I was briefed by the Grants Management Director and my OGC colleague. The OIG documents (provided to CNCS for review) stated that "no tutoring" was performed by the St. HOPE Academy program. OIG staff did not provide a document in its possession recently prepared by St. HOPE Academy's counsel. The St. HOPE Academy counsel document (not provided to CNCS for review) stated that substantial tutoring was performed, based on statements attributed to former program participants.

Whether tutoring was in fact performed by the program was a material fact in evaluating potential settlement terms. On Monday, April 6, in the presence of the Grants Management Director, Special Assistant to the IG Jack Park, and Assistant IG for Audit Stuart Axenfeld, I expressed concern to the Inspector General about OIG not having provided the St. HOPE Academy counsel letter representing that tutoring had in fact been performed. The Inspector General initially expressed uncertainty as to whether he had the St. HOPE Academy counsel letter at the time of the April 2 meeting. Assistant IG for Audit Axenfeld said to the Grants Management Director, "I gave you everything I had." Mr. Walpin, at meeting's end, stated that even if he had the letter he wouldn't have provided it.

On Tuesday morning, April 7, I visited the Inspector General in his office. I told him that I was not accusing him of withholding or concealing documents, but that I believed that he had shown a lack of candor in not producing the St. HOPE Academy counsel letter for our review in connection with the settlement discussions.

In the Special Report, the Inspector General acknowledges that OIG received the St. HOPE Academy letter on March 26, 2009, a week before the April 2 meeting with the CNCS Grants Management Director. Given these facts, the Special Report's explanation for OIG not providing the letter -- (management "had only to ask" for the document) -- confirms my earlier conclusion that the Inspector General actions fall short of the fairness and candor that I believe is necessary for an Inspector General to work effectively with agency management. I lost confidence in the Inspector General's being able to provide an objective view of the matter and to be fair in participating in the agency deliberative process.

D. The Inspector General's complaints about the settlement terms are without basis.

The Inspector General calls the Settlement Agreement with St. HOPE Academy a "worthless judgment" and a "farce." The Special Report criticizes the security -- not the amount -- of the payment required under the Settlement Agreement.

On the issue of security for the settlement amount, the Assistant United States Attorney, who has substantial experience in resolving civil matters on behalf of the United States, specifically negotiated the security terms. We discussed the issue prior to executing the agreement and I was fully satisfied that the terms provided an appropriately high level of security to the United States in connection with the required payment.

The Inspector General's Special Report omits a material term of the Settlement Agreement on this point. As part of the Settlement Agreement, St. HOPE Academy also entered into a Stipulation for Consent Judgment giving the United States an enforceable judgment against St. HOPE Academy in the full amount of \$350,000. See Attachment B.

The Inspector General claims that the Agreement would allow St HOPE Academy to repay Kevin Johnson the amount he has paid on St. HOPE's behalf, with no recourse to the government if that repayment makes St. HOPE Academy insolvent. In fact, there is substantial recourse to the Government even under the scenario posited by the Inspector General. First, the Inspector General overlooks that a repayment to Mr. Johnson that would make St. HOPE Academy insolvent would place both St. HOPE and Mr. Johnson in violation of the Settlement Agreement. The Government would have direct recourse against Kevin Johnson

in that event. Second, any such payment by St. HOPE Academy officials would give the Government recourse against those officials in their personal capacities under section 3713 of Title 31 of the U.S. Code.

Finally, regarding the type of training course required for respondents to satisfy their obligations under the Agreement, I note that our Debarment and Suspension Official, like the authority cited by the Inspector General, is a Certified Public Accountant, and that he determined that the course included the appropriate elements for the two individual respondents.

Conclusion

The Settlement Agreement results in one-half of all awarded funds repaid to the Government, participation in the financial settlement by the two individual respondents, required coursework in grants management by the two individual respondents, and high-risk grantee designation of St. HOPE Academy. I believe that these terms, which are a matter of public record, are fair and just.

The fact that the Inspector General was not fully involved in the final negotiations of this matter was the result of (1) the Inspector General's questionable public commentary prior to settlement and (2) the Inspector General's selective disclosure of relevant material when management was considering settlement terms.

As General Counsel on behalf of the Corporation, I worked with senior agency officials to provide timely and effective input to the United States Attorney's Office in resolving a very important matter. We carefully considered the issues, worked closely with the Assistant United States Attorney handling the matter, deliberated within the agency's management and governance structure, and determined that entering into the Settlement Agreement was the right thing to do. Nothing in the Special Report causes me to change my view that we proceeded in the interest of our agency, the Government, and the public.

Attachment A

THE SACRAMENTO BEE sacbee.com

This story is taken from Sacbee / Our Region

Hood Corps probe expands

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Published Monday, Jun. 30, 2008

The continuing federal investigation into St. HOPE's Hood Corps has expanded to more deeply scrutinize the volunteer program's use of public dollars, say those familiar with the probe.

Agents Jeffrey Morales and Wendy Wingers made a second visit to Sacramento in late May, after extending their initial stay in April by several weeks. They interviewed teen volunteers, parents, teachers and administrators affiliated with St. HOPE, the nonprofit that operates Hood Corps. They traveled to Humboldt County and West Point.

Initially, the agents were dispatched to Sacramento on April 24 to examine allegations of sexual misconduct, Hood Corps' mandatory church attendance and compulsory physical training – activities prohibited on the federal dime.

Federal officials would not talk about the Hood Corps investigation but said their rules are clear.

"No church on our time, and it cannot be required," said William O. Hillburg, a spokesman for the inspector general's office conducting the investigation. "No political activity at all on our time, and it can't be required. No residential requirement at all."

At issue is \$807,000 in federal AmeriCorps money that Hood Corps collected from 2004 to 2007. Though funding for the program was not renewed last year, if theft of public funds is found, fines could be assessed and other federal funding withheld from every program administered by St. HOPE, according to Hillburg.

Kevin Johnson, former NBA star and current mayoral candidate, is St. HOPE's founder and served as CEO until this month. Johnson has built his political campaign on his efforts to improve Oak Park, from redevelopment to charter schools to the Hood Corps, which he has compared to an urban Peace Corps.

Neither St. HOPE nor Johnson responded to questions from The Bee about the investigation. Instead, they issued one-paragraph statements saying they were cooperating with the agents but could not comment on specifics until the probe is complete.

At a televised candidate forum in early May, Johnson was asked about the investigation. "I

feel very confident in what St. HOPE has done," he said. "If St. HOPE did not do something as well as it should have, we would certainly rectify that immediately, but we'd have to hear back from them."

The federal investigation was sparked by a report of alleged sexual misconduct last year involving Johnson and two teen volunteers. That report, filed by a teacher at Sacramento High School, was found to be without merit by police – but still became the catalyst for the investigation because it was not reported to AmeriCorps.

AmeriCorps currently has 75,000 volunteers – called "members" – serving in 4,100 nonprofits nationwide. Members are paid a small living allowance and, if they put in a specified number of hours, earn an education award for college: \$4,725 for 1,700 hours over the course of a year.

About 100 programs currently are under investigation, according to Hillburg. His office is part of the federal Corporation for National and Community Service, one of AmeriCorps' umbrella organizations.

Agents are checking whether St. HOPE's Sacramento High School used Hood Corps funds to augment employee salaries, sources close to the investigation told The Bee.

Among those interviewed by the federal agents was Sheila Coleman, a dance teacher at Sac High and a Hood Corps member in 2005.

That year, Coleman received a salary of \$20,225 from St. HOPE public schools plus a \$13,000 living stipend for her Hood Corps work, according to documents obtained by The Bee through a public information act request.

Coleman did not return calls for comment.

Allen Young, Coleman's former principal, said the teacher worked full time in 2005 and her salary would have been approximately \$35,000.

Young said he learned about St. HOPE's decision to tap into funds for Hood Corps volunteers during a budget meeting when an employee from St. HOPE Human Resources told him of the plan.

"She said we had 'X' amount of money to hire staff. She said some of Sheila Coleman's salary would be paid for from some other tab – Hood Corps," said Young, who also has been in contact with agent Morales. "I didn't give it a second thought. I thought it must be OK to do that."

Allison Alair, a former St. HOPE teacher and administrator, said she met with agent Morales in May and has exchanged e-mails with him since then.

Alair said Morales questioned her about her allegation that Johnson and Dana Gonzalez, a top St. HOPE executive, directed Hood Corps members to help her sell school uniform shirts. "From Day One, Kevin and Dana told me to use Hood Corps students if I needed anything done," she said.

Alair said Morales also asked questions about Johnson's role in Hood Corps.

"He wanted information on Kevin, on his position, on his power," Alair said. "He wanted me to tell him the chain of command and specific examples about how Kevin himself directed certain activities."

Such questions – aimed at nailing down who is responsible – are crucial in every investigation, according to Hillburg.

Hood Corps – short for "Neighborhood Corps – was founded in 1998 by Johnson as a cornerstone of his St. HOPE organization. He continued in an active role in the program during the AmeriCorps years, according to Hood Corps participants and St. HOPE documents.

In its original contract with AmeriCorps, Hood Corps said its volunteers would perform a range of community service including tutoring, public relations for the Guild Theater and art gallery, and managing "redevelopment of one building per year in Oak Park."

Some volunteers said those things were among their duties. But Jonathan Beacham, a full-time Hood Corps fellow in 2004, told The Bee that his main duty was to be assistant manager for Uncle Jed's Cut Hut, a barbershop operated by St. HOPE.

Others told investigators that their tasks differed greatly from the contract, including chauffeuring Johnson, washing a St. HOPE van and scrubbing the toilets at the nonprofit's Guild Theater, according to four former members who spoke to The Bee after talking to the agents.

Changing duties in that way is prohibited, according to Hillburg, because it can undermine the very aspects of a program that won it funding. "You must abide by the contract," he said.

In addition to conducting interviews, Morales and Wingers also are reportedly combing through documents – including timecards – gathered under federal subpoena.

Agents always look hard at volunteers' timecards, Hillburg said, considering them the only true measure of work done.

"They have to be signed by the member and by a supervisor," he said. "If you sign a wrong time sheet, that's fraud and a federal charge.

Tamara Shelton, a full-time 2005 member, said she told the agents she never filled out a time sheet.

"We never kept track – they did that for us," according to Shelton, who dropped out of the program after struggling with the physical training.

Depending on the agents' findings, AmeriCorps investigations can have heavy consequences.

If warranted, Hillburg said, the agency can place a nonprofit or individual employees under a temporary federal suspension, cutting off all federal funding until the probe is completed. After the conclusion of the case, federal officials also can yank federal funding for up to three years – a punishment known as "debarment."

Under debarment, Hood Corps and other St. HOPE programs – including Sacramento Charter High School and PS 7, which last year received \$1.3 million in federal funds – could be placed

on a national list barring them from receiving any type of federal money, including student lunch funding, student loans – even federally backed mortgages.

"I call it the 'pariah list,' " Hillburg said.

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Call The Bee's Dorothy Korber, (916) 321-1061 or Terri Hardy at (916) 321-1073.



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Created by the National and Community Service Trust Act of 1993, the Corporation for National and Community Service provides opportunities for Americans of all ages and backgrounds to serve their communities and country through three programs: Senior Corps, AmeriCorps, Vista, and Learn and Serve America. For more information on the Corporation's programs, please visit

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The 1993 Act also established the Office of Inspector General. The OIG conducts and supervises independent and objective audits and investigations of Corporation programs and operations to weed out wrongdoing, waste and inefficiency. Also, based on the results of these audits and investigations, the OIG recommends policies to Corporation management to promote economy and efficiency and prevent and detect, waste, fraud and abuse.



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**Office of Inspector General
Corporation for National and Community Service**

FOR IMMEDIATE RELEASE

Contact:

William Hillburg, Director of Communications
(202) 606-9368

WASHINGTON, DC (September 25, 2008) - The Federal agency in charge of the AmeriCorps volunteer program on Wednesday (September 24) suspended St. HOPE Academy, Kevin Johnson, its founder and former president, and Dana Gonzalez, executive director of St. HOPE's Neighborhood Corps, from all access to Federal grants and contracts for up to one year.

The decision of the Corporation for National and Community Service ("Corporation") resulted from a recommendation made by the Office Inspector General ("OIG"), which was based on information developed in an investigation of St. HOPE and its principals, which is ongoing. The suspension, which immediately went into effect September 24, bars St. HOPE Academy, Johnson and Gonzalez from receiving or using funds from any Federal agency for up to one year, or pending completion of the OIG investigation.

The OIG, in its recommendation for suspension, cited numerous potential criminal and grant violations, including diversion of Federal grant funds, misuse of AmeriCorps members, and false claims made against a taxpayer-supported Federal agency.

"I appreciate the Corporation's action in implementing our recommendation and in supporting our ongoing investigation," said Inspector General Gerald Walpin. "Given that there exists evidence to suspect improper and fraudulent misuse of grant funds and AmeriCorps members, it is important that immediate action be taken. Between now and the completion of the OIG's investigation, we must protect the public interest from the potential repetition of this conduct by this grantee and its principals."

In its written suspension decision, the Corporation cited numerous AmeriCorps grant violation and diversions of Federal funds. It stressed that "the diversion of grant funds is so serious a violation of the terms of the grant agreement that immediate action via suspension is required to protect the public interest and restrict the offending parties' involvement with other Federal programs and activities."

Under the terms of its Corporation grant, St. HOPE officials agreed to deploy their Neighborhood Corps AmeriCorps members to tutor students at its charter schools, redevelop one building per year in Sacramento's Oak Park neighborhood and coordinate marketing and logistics for St. HOPE's Guild Theater and Art Gallery.

The cited violations of St. HOPE's grant agreement included:

- Misusing AmeriCorps members, financed by Federal grant funds, to personally benefit Kevin Johnson, including driving him to personal appointments, washing his car and running personal errands.
- Unlawfully supplementing St. HOPE staff salaries with Federal grant funds by enrolling two employees in the AmeriCorps program and giving them Federally funded Corporation living allowances and education awards.
- Improperly using members to engage in banned political activities, namely supporting the election of Sacramento School Board candidates.
- Improperly taking members assigned to serve in Sacramento to New York City to promote St. HOPE's establishment of a Harlem charter school.
- Misusing AmeriCorps members, who, under the grant, were supposed to be tutoring elementary and high school students, to instead serve in clerical and janitorial positions at St. HOPE's charter schools.
- Misusing AmeriCorps members to recruit students for St. HOPE's charter schools.

St. HOPE Academy, Johnson and Gonzalez each has the opportunity to challenge the suspensions, and has 30 days to respond to the Corporation.

During the suspension period, St. HOPE Academy, Johnson and Gonzalez will be included in the Excluded Parties List System, a database maintained by the U.S. General Services Administration (www.epls.gov). The list is used by all Federal agencies to determine the eligibility of individuals and organizations to receive Federal grants and contracts.

THE SACRAMENTO BEE sacbee.com

This story is taken from *Sacbee* / Our Region

Kevin Johnson: Probe concerns 'absurd'

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Published Saturday, Sep. 27, 2008

Mayoral candidate Kevin Johnson returned to Sacramento Friday and immediately went on the offensive, saying it was "absurd" to suggest his placement this week on a list of people who can't do business with the federal government could hurt his ability to act as Sacramento mayor.

Johnson whipped through a hefty schedule of appearances and events, several of them with NBA star Shaquille O'Neal. O'Neal was keynote speaker at an evening fundraiser for St. HOPE Academy, the Oak Park-based nonprofit founded by Johnson. About 700 people attended the dinner at the Hyatt Regency hotel downtown.

Along with Johnson, St. HOPE Academy this week was placed on a list of people and organizations barred from receiving federal funds or contracts. The suspension could last up to a year or until completion of a federal probe into St. HOPE's management of federal funds used in its volunteer Hood Corps program.

Johnson insisted Friday his placement on the list would not hinder the city's ability to receive and spend federal dollars if he is elected mayor.

"That's absurd," he said. "As mayor, I'm going to go out there and shake down as many resources as I can for Sacramento."

City Attorney Eileen Teichert, after a day researching the matter, offered a similar assessment Friday. "We are still digging further to try to achieve some sort of finality to our opinion," she said. "I can tell you at this point in time we do not believe it should impact the city's ability to obtain any federal funding."

Teichert said it remains uncertain whether Johnson could vote on federal funding matters while suspended. Out of town on a family matter, Teichert said she would be reviewing the question further when she returns next week.

Frederic Levy, a Washington attorney who specializes in federal contracting, said cities applying for federal funding are required to disclose if a top official or board member is barred from receiving federal funding. That disclosure, Levy said, "doesn't mean the federal

government won't make the award. It's discretionary."

The city likely would need to include a footnote in grant applications saying that appropriate measures would be taken "to ensure no improprieties in the use of the funds," Levy said.

Mayor Heather Fargo has remained mum on the topic of Kevin Johnson all week. She was installed Friday as president of the League of California Cities, and was busy with events surrounding that installation, said her campaign manager, Dale Howard.

"She's been pretty much under lock and key," he said.

Johnson spent the last few days in New York City, where he attended a fundraiser for his mayoral campaign. He returned Friday morning, in time to introduce Caroline Kennedy at a luncheon fundraiser for presidential candidate Barack Obama at Mason's Restaurant downtown.

He also appeared on a radio show and attended an event to promote green energy at California State University, Sacramento. He watched as dozens of excited children mobbed O'Neal during an appearance at the Boys & Girls Club in downtown Sacramento.

After O'Neal left in his stretch Hummer limousine, Johnson held a press conference in the club's sweltering gym to address questions about St. HOPE's Hood Corps program.

The federal funding suspension was triggered by a months-long investigation into Hood Corps' use of AmeriCorps funds. Federal agents recently turned over findings from their investigation to the U.S. attorney's office in Sacramento, where prosecutors will decide whether to file charges or seek restitution.

On Thursday, the federal AmeriCorps agency cited numerous violations of St. HOPE's grant for its urban Peace Corps-style program. In its contract with AmeriCorps, federal investigators said, St. HOPE agreed that volunteers would tutor students, redevelop one building a year in Oak Park and help in marketing and operations at the organization's theater and art gallery.

Among the grant violations federal agents cited:

- Supplementing St. HOPE school staff salaries with federal grant funds by enrolling two employees in the AmeriCorps program.
- Using AmeriCorps members, financed by federal grant funds, to drive Johnson to personal appointments, wash his car and run personal errands.
- Using AmeriCorps members to campaign for school board candidates.
- Using AmeriCorps members to serve in clerical and janitorial positions at St. HOPE's charter schools.

Johnson did not dispute that most of the activities took place, but took issue with whether it constituted misuse of federal money, and said it did not constitute "gross negligence."

"I'm very confident the U.S. attorney is not going to find that these allegations are

egregious," he told The Bee in an interview between events.

"From an administrative standpoint, could we have dotted our i's and crossed our t's better? Certainly. And we should be held accountable for whatever those things are."

St. HOPE runs an array of nonprofit endeavors, including public charter schools in Sacramento and New York, a development company, an art gallery and Hood Corps.

Johnson ran all the St. HOPE programs until he stepped down from his official positions early this year. He said St. HOPE Academy, which runs Hood Corps, is separate from the schools and the development company, and that those operations won't be affected by the federal suspension of funds.

The federal government has declined to provide clarification on whether that is the case.

The suspension of Johnson and St. HOPE was trumpeted in huge red headlines Thursday on the Web site of Gerald Walpin, inspector general of the Corporation for National & Community Service. It was Walpin's office that conducted the investigation.

Matt Jacobs, a former federal prosecutor who is representing Johnson, questioned why Walpin's office publicized the suspension rather than waiting for the U.S. attorney to decide whether the case merited criminal or civil charges, or a fine. He speculated that the federal agency was trying to pressure the U.S. attorney's office.

"You don't see the FBI or the IRS doing this," Jacobs said. "They turn in their report to the U.S. attorney and let the process work. I've seen these little Podunk agencies get excited about their cases. They've come to me when I was in U.S. attorney's offices. And you say, 'I don't think so.' They get very mad about it."

Walpin did not respond to a request for comment Friday.

On his Web site, in a description of his role, Walpin says rooting out misuse of federal funds is one of his priorities. "The reality is that such misconduct takes precious resources away from deserving people, the same way the theft of a welfare check hurts a single mother who needs that money to buy milk for her children," Walpin wrote.

Johnson supporters contacted Friday said the federal actions have not dissuaded them from backing Johnson for mayor.

"It certainly doesn't affect my support," said Sacramento City Councilman Steve Cohn. "I'm puzzled by the federal government wanting to release this information before they decide what they're going to do."

Local architect Ron Vrilakas said he could understand how such violations could happen.

"I'm not whatsoever alarmed by what I've read," Vrilakas said. "It's not surprising that in a small nonprofit doing a lot of things, there could be minor variations on what they had these young people doing. I know that as a small-business owner you wear a lot of hats, and I imagine that's the way things operated there as well."

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THE SACRAMENTO BEE sacbee.com

This story is taken from Sacbee / Opinion

My View: The federal aid ball is in Johnson's court

Special to The Bee

Published Tuesday, Mar. 31, 2009

Your March 24 editorial, without basis, attacks my Inspector General office for "dragging on" with our investigation of St. HOPE Academy and its principals so that the city of Sacramento may be precluded "from getting federal funds" due to the fact that on Sept. 24, 2008, Mr. Kevin Johnson was suspended "from receiving federal funds."

The relevant law – which I would have thought that you would have researched before writing your editorial – demonstrates that you are targeting the wrong entity for any delay of the determination of whether Johnson's suspension was appropriate.

Some background: As inspector general, I am duty-bound to take action to uncover and to prevent fraud and waste in the almost \$1 billion of taxpayers' money that is disbursed by the Corporation for National and Community Service.

Under controlling regulations, suspension from receiving or controlling federal funds is one of the tools available, where there "exists ... adequate evidence to suspect ... commission of fraud ... making false claims ... or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects (the person's) present responsibility ... or violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as willful failure to perform in accordance with the terms of one or more public agreements or transactions."

For a suspension to occur, my office must recommend the suspension to the deciding official (who is not in my office) and provide adequate evidence to support the suspension to the deciding official. That was done here. The suspending official there- after notified Johnson of the suspension.

Most important is that the regulations give any person or entity suspended – including Johnson – the right "to contest a suspension" by "provid(ing) the suspending official with information in opposition to the suspension ... within 30 days after (receipt of) the Notice of Suspension." The opposition submission cannot rely on "a general denial"; instead, it must include "specific facts that contradict the statements made in the Notice of Suspension."

Thus, contrary to your editorial, the ball on the suspension has been in Johnson's court since

the order of suspension was issued.

Apparently, he made the decision not to appeal the suspension by providing specific facts that would show to the neutral suspension official that the suspension was not warranted. If, as you charge (without basis), that suspension in these circumstances was an "unusual step," the procedures allowed Johnson to seek to lift the suspension. He decided not to do so.

Your editorial also refers to a criminal investigation or civil monetary recovery or settlement. I do not comment on such matters unless they are public.

But, in any event, those legal avenues are irrelevant here as they are in no way connected with the ability of the city of Sacramento to obtain federal funds – only the suspension order has that effect.

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Gerald P. Walpin is the inspector general of the Corporation for National and Community Service.

Attachment B

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Settlement Agreement") is entered into by and between the United States of America ("United States"), acting through the United States Attorney's Office for the Eastern District of California, on behalf of the Corporation for National and Community Service, an agency of the United States Government (the "Corporation") (hereafter collectively referred to as the "United States"); and St. HOPE Academy ("St. HOPE"), through its authorized representatives, Kevin Johnson, individually ("Johnson"), and Dana Gonzalez, individually ("Gonzalez"), through their authorized representatives. Hereinafter, the United States, St. HOPE, Johnson and Gonzalez are jointly referred to as "the Parties."

II. PREAMBLE

As a preamble to this Settlement Agreement, the Parties agree to the following:

A. AmeriCorps grant funds were awarded by the State of California to and administered by St. HOPE under grant award numbers 03AFHCA002Y11-F102, 03AFHY12-F102, and 06AFHY13-F102 ("AmeriCorps Grants"). Additionally, AmeriCorps members were entitled to Education Awards if they fulfilled their service requirements for St. HOPE pursuant to the terms of the grant requirements. The Education Awards and grants awarded to St. HOPE (collectively the "Grant Awards") totaled \$847,673.00.

B. During the majority of the relevant time period herein, Johnson was the President and Chief Executive Officer of St. HOPE, and Gonzalez was the Executive Director of St. HOPE.

C. The United States contends that St. HOPE did not appropriately spend the Grant Awards pursuant to the terms of the grant requirements, and did not adequately document its expenditures of the Grant Awards.

D. By letters dated September 24, 2008, the Debarment and Suspension Official for the Corporation, notified St. HOPE, Johnson and Gonzalez that they were suspended from participation in Federal procurement and nonprocurement programs for a temporary period of time pending the completion of an investigation by the United States Attorney's Office, or the conclusion of any legal or debarment proceedings resulting from the investigation, of the alleged misuse of Federal funds provided in support of the AmeriCorps Grants.

E. This Settlement Agreement is not an admission of liability or fault by St. HOPE, Johnson or Gonzalez, nor a concession by the United States that its claims are not well founded. However, as acknowledged below and in the attached Stipulation for Judgment, St. HOPE acknowledges that it did not adequately document a portion of its expenditures of the Grant Awards.

F. To avoid the delay, uncertainty, inconvenience, and expense of further litigation, the Parties mutually desire to reach a full and final settlement of the Parties' claims with respect to the AmeriCorps Grants and Grant Awards and the related claims and investigation, pursuant to the Terms and Conditions set forth below.

G. Although issues of suspension and possible debarment are ordinarily addressed by the Corporation separately from resolution of any civil claims, at the request of St. HOPE, Johnson and Gonzalez for a global resolution of all matters related to the AmeriCorps Grants and

Grant Awards, this Settlement Agreement also addresses the resolution of suspension issues and further proceedings, if any, related to debarment proceedings.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions, terms, and obligations set forth in this Settlement Agreement, the Parties agree to settle this matter as follows:

III. TERMS AND CONDITIONS

I. In consideration of the obligations of the Parties set forth in this Settlement Agreement, St. HOPE agrees to pay the total sum of Four Hundred Twenty-Three Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$423,836.50) (the "Settlement Amount"). St. HOPE shall pay the Settlement Amount to the United States as follows:

a. An initial payment of Seventy-Three Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$73,836.50) (the "Initial Payment") by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of California. St. HOPE agrees to make this electronic funds transfer within 5 business days of this Settlement Agreement being signed by all parties.

b. Johnson believes that St. HOPE has played a significant role in the community and he believes that it will continue to do so. Johnson has decided to assist St. HOPE in paying the settlement amount and agrees to pay Seventy-Two Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$72,836.50) of the Initial Payment by paying such amount to St. HOPE in time for St. HOPE to make the Initial Payment to the United States pursuant to the terms of this Settlement Agreement. Johnson and St. HOPE may enter into an agreement

whereby St. HOPE agrees to repay Johnson when St. HOPE has the financial ability to do so while still meeting all of its other financial obligations.

c. Gonzalez believes that St. HOPE has played a significant role in the community and she believes that it will continue to do so. Gonzalez has decided to assist St. HOPE in paying the settlement amount and agrees to pay One Thousand Dollars (\$1,000.00) of the Initial Payment by paying such amount to St. HOPE in time for St. HOPE to make the Initial Payment to the United States pursuant to the terms of this Settlement Agreement.

d. St. HOPE shall enter into a stipulated judgment for the remainder of the Settlement Amount, Three Hundred and Fifty Thousand Dollars (\$350,000.00), plus 5% annual interest. Such amount shall be paid by certified check payable to the United States Department of Justice in the amount of Thirty-Five Thousand Dollars (\$35,000.00) annually for ten years, each payment being due on or before April 15th of each year. The first payment pursuant to the Stipulated Judgment is due on or before April 15, 2010. The final payment shall be in the amount of Thirty-Five Thousand Dollars (\$35,000.00), plus the interest due and owing on the stipulated judgment, and shall be due on or before April 15, 2019.

2. Within 5 business days of this Settlement Agreement being signed by all parties, Johnson and Gonzalez shall register to take an on-line course offered by Management Concepts titled "Cost Principles", and shall provide written proof to the Corporation, through its counsel, of having registered for the course. Johnson and Gonzalez agree to complete the course within 120 days of this Settlement Agreement being signed by all parties, and shall provide written verification under oath of having completed the course.

3. The Corporation shall terminate the suspension of St. HOPE, Johnson and Gonzalez from participation in Federal procurement and nonprocurement programs upon all of the following:

- a. This Settlement Agreement having been signed by all parties;
- b. St. Hope having made the Initial Payment pursuant to the terms of Paragraph 1a-c above;
- c. St. HOPE having signed the Stipulated Judgment in accordance with Paragraph 1d above;
- d. Johnson and Gonzalez having made the payments in accordance with Paragraph 1b-c above; and
- e. Johnson and Gonzalez having provided verification of having registered for the course in accordance with Paragraph 2 above.

4. The Corporation agrees not to institute debarment proceedings against St. HOPE with respect to the AmeriCorps Grants and Grant Awards so long as it complies with the terms of this Settlement Agreement. The Corporation also agrees not to institute debarment proceedings against Johnson and Gonzalez with respect to the AmeriCorps Grants and Grant Awards so long as they comply with their obligations under this Settlement Agreement, including the certification of course completion pursuant to Paragraph 2 above.

5. Once the Corporation has terminated the suspension against St. HOPE, Johnson and Gonzalez, nothing herein is intended as a prohibition against their applying for federal grants. However, St. HOPE agrees that it may be considered a high-risk grantee by the Corporation for a period of two years, until April 15, 2011. After April 15, 2010, and upon the

request of St. HOPE and its submission of any supporting documents, the Corporation agrees to reconsider this high-risk designation to determine if it should be rescinded.

6. Subject to the exceptions in Paragraph 7 below, in consideration of the obligations of St. HOPE, Johnson and Gonzalez in this Settlement Agreement, and conditioned upon the full payment by St. Hope of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby releases St. HOPE and its current and former directors, officers, agents, shareholders, and employees (including Johnson and Gonzalez), from all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, and expenses, which the United States has or may have relating to the application and handling of the AmeriCorps Grants and payment of the Grant Amounts, investigation and litigation of this matter (including public statements), and matters related to the suspension and possible debarment of St. HOPE, Johnson and Gonzalez, including under the False Claims Act, 31 U.S.C. §§ 3729-3733, or the Program Fraud Civil Remedies Act and its implementing regulations, 31 U.S.C. §§ 3801-3812, 45 CFR Part 2554.

7. Notwithstanding any term of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person are the following claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, United States Code (Internal Revenue Code);
- b. Any criminal liability; and
- c. Any liability to the United States (or its agencies) for any conduct other than that explicitly released in this Settlement Agreement.

8. In consideration of the obligations of the United States set forth in this Settlement Agreement, St. HOPE and its current and former directors, officers, agents, shareholders, and employees (including Johnson and Gonzalez), hereby release the United States and its employees, former employees, agents, agencies, and departments from all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, and expenses, which they have or may have as of the Effective Date of this Settlement Agreement relating to the application and handling of the AmeriCorps Grants, payment of the Grant Awards, investigation and litigation of this matter (including public statements), and matters related to the suspension and possible debarment of St. HOPE, Johnson and Gonzalez.

9. The Parties to this Settlement Agreement shall bear their own costs, attorneys' fees, and expenses incurred in any manner in connection with the investigation, litigation, and resolution of this matter.

10. This Settlement Agreement is binding upon St. HOPE's successors, transferees and assigns. Otherwise, this Settlement Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity not expressly released by this Settlement Agreement.

11. The individual signing this Settlement Agreement on behalf of St. HOPE represents and warrants that he or she has the power, consent, and authorization of St. HOPE to execute this Settlement Agreement.

12. The individuals signing on behalf of the United States represent that they are signing this Settlement Agreement in their official capacities and that they are authorized to execute this Settlement Agreement.

13. Each Party represents and warrants that it has not transferred anything being released under this Settlement Agreement, and is not aware of any such transfer, and that the Party is not aware of any prohibition of any type that prevents the Party from performing the terms of this Settlement Agreement.

14. St. HOPE warrants that it has reviewed its financial situation and that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and will remain solvent following payment to the United States of the Settlement Amount.

15. The Parties warrant that, in evaluating whether to execute this Settlement Agreement, they (i) have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to St. HOPE, Johnson and Gonzalez, within the meaning of 11 U.S.C. § 547(c)(1), and (ii) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which St. HOPE, Johnson or Gonzalez was or became indebted on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

16. Nothing in this Settlement Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of Title 26, United States Code (Internal Revenue Code).

17. Each Party warrants that it has been represented by, and has sought and obtained the advice of, independent legal counsel with regard to the nature, purpose, and effect

of this Settlement Agreement. This Settlement Agreement was negotiated by the Parties and their respective counsel, each of whom had the opportunity to participate in the drafting thereof. The Parties hereby declare that the terms of this Settlement Agreement have been completely read, fully understood, and voluntarily accepted following opportunity for review by legal counsel of their choice.

18. Each Defendant warrants and represents that it is freely and voluntarily entering into this Settlement Agreement without any degree of duress or compulsion whatsoever, after having been apprised of all relevant information and data by its legal counsel. Defendants further warrant and represent that no other party or its representative has made any promise, representation or warranty, express or implied, except as expressly set forth in this Settlement Agreement, and that the Defendants have not relied on any inducements, promises, or representations made by any Party to this Settlement Agreement, or its representatives, or any other person, except as expressly set forth herein.

19. The Parties understand and acknowledge that if the facts relating to the application and handling of the subject grants and payment of the grant amounts are found hereafter to be different from facts now believed by any Party described herein to be true, each Party expressly accepts and assumes the risks of such possible difference in facts and agrees that this Settlement Agreement shall remain effective, notwithstanding any such differences.

20. The Parties expressly recognize that the United States may publicly disclose this Settlement Agreement, and information about the case and this Settlement Agreement.

21. This Settlement Agreement constitutes the complete agreement between the Parties, and supercedes and replaces all prior negotiations and agreements, whether written or

oral, relating to the application and handling of the subject grants and payment of the grant amounts

22. This Settlement Agreement may be executed in counterparts, and each of the counterparts taken together shall constitute one valid and binding Settlement Agreement between the Parties.

23. This Settlement Agreement may not be altered, amended, or modified, except by a writing duly executed by authorized representatives of all of the Parties.

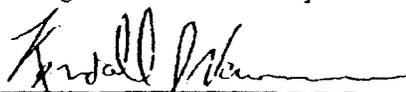
24. This Settlement Agreement is governed by the laws of the United States. The Parties agree that, should any judicial action be required to enforce or interpret this Settlement Agreement, or to resolve any dispute hereunder, the exclusive jurisdiction and venue for such action shall be in the United States District Court for the Eastern District of California.

25. This Settlement Agreement is effective, final, and binding as of the date of signature of the last signatory to the Settlement Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

UNITED STATES OF AMERICA

Dated: April 9, 2009

LAWRENCE G. BROWN
Acting United States Attorney

By: 

KENDALL J. NEWMAN
Assistant United States Attorney
Chief, Civil Affirmative Section

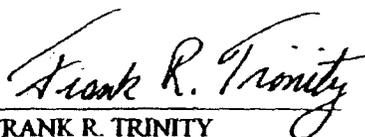
Attorneys for
United States of America

Dated: April 9, 2009



WILLIAM ANDERSON
Acting Chief Financial Officer and
Debarment and Suspension Official
on behalf of the Corporation for National
and Community Service

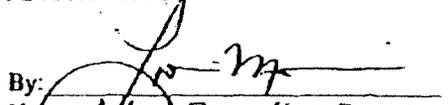
Dated: April 9, 2009



FRANK R. TRINITY
General Counsel
on behalf of the Corporation for National
and Community Service

ST. HOPE ACADEMY

Dated: 4/9/09

By: 
Name: Acting Executive Director
Title: Lori Mills

Approved as to form:

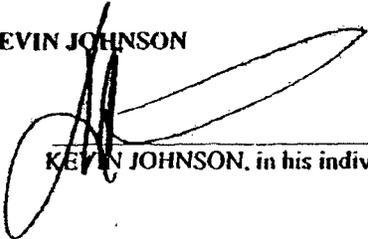
Dated: _____

SEGAL & KIRBY

MALCOLM S. SEGAL, Esq.
Attorneys for St. HOPE Academy

KEVIN JOHNSON

Dated: 4/9/09



KEVIN JOHNSON, in his individual capacity

Approved as to form:

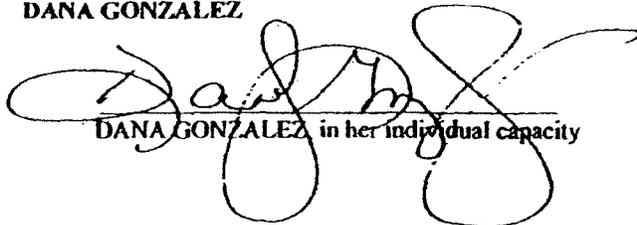
Dated: _____

STEVENS, O'CONNELL & JACOBS LLP

MATTHEW G. JACOBS, Esq.
Attorneys for Kevin Johnson

DANA GONZALEZ

Dated: 4/9/09



DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: _____

THE LAW OFFICES OF RICHARD PACTHER

RICHARD PACTHER, Esq.
Attorney for Dana Gonzalez

ST. HOPE ACADEMY

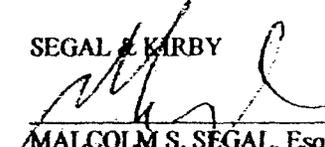
Dated: _____

By: _____
Name:
Title:

Approved as to form:

Dated: 04-09-09

SEGAL & KIRBY


MALCOLM S. SEGAL, Esq.
Attorneys for St. HOPE Academy

KEVIN JOHNSON

Dated: _____

KEVIN JOHNSON, in his individual capacity

Approved as to form:

Dated: _____

STEVENS, O'CONNELL & JACOBS LLP

MATTHEW G. JACOBS, Esq.
Attorneys for Kevin Johnson

DANA GONZALEZ

Dated: _____

DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: _____

THE LAW OFFICES OF RICHARD PACHTER

RICHARD PACHTER, Esq.
Attorney for Dana Gonzalez

ST. HOPE ACADEMY

Dated: _____

By: _____
Name:
Title:

Approved as to form:

Dated: _____

SEGAL & KIRBY

MALCOLM S. SEGAL, Esq.
Attorneys for St. HOPE Academy

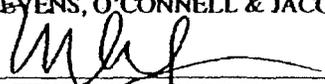
KEVIN JOHNSON

Dated: _____

KEVIN JOHNSON, in his individual capacity

Approved as to form:

Dated: 4/9/09

STEVENS, O'CONNELL & JACOBS LLP


MATTHEW G. JACOBS, Esq.
Attorneys for Kevin Johnson

DANA GONZALEZ

Dated: _____

DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: _____

THE LAW OFFICES OF RICHARD PACHTER

RICHARD PACHTER, Esq.
Attorney for Dana Gonzalez

1 LAWRENCE G. BROWN
Acting United States Attorney
2 KENDALL J. NEWMAN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, California 95814
4 Telephone: (916) 554-2821
5 Attorneys for Plaintiff
United States of America
6
7
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,)	
)	Case No:
13 Plaintiff,)	
)	
14 v.)	
)	COMPLAINT
15 ST. HOPE ACADEMY,)	
)	
16 Defendant.)	
)	
17)	

18
19 Plaintiff United States of America, by and through its
20 undersigned counsel, complains of defendant and alleges as follows:

21 Jurisdiction and Venue

- 22 1. This Court has jurisdiction over this action pursuant to
23 28 U.S.C. § 1345.
24 2. Venue is proper in the Eastern District of California
25 pursuant to 28 U.S.C. § 1391(b).

26 The Parties

- 27 3. Plaintiff is the United States of America ("United
28 States"), acting through the United States Attorney's Office for the

1 Eastern District of California, on behalf of the Corporation for
2 National and Community Service, an agency of the United States
3 Government (the "Corporation") (hereafter collectively referred to
4 as the "United States").

5 4. Defendant St. HOPE Academy ("St. HOPE"), is a nonprofit
6 corporation doing business in Sacramento, California.

7 Allegations

8 5. AmeriCorps grant funds were awarded by the State of
9 California to and administered by St. HOPE under grant award numbers
10 03AFHCA002Y11-F102, 03AFHY12-F102, and 06AFHY13-F102 ("AmeriCorps
11 Grants"). Additionally, AmeriCorps members were entitled to
12 Education Awards if they fulfilled their service requirements for
13 St. HOPE pursuant to the terms of the grant requirements. The
14 Education Awards and grants awarded to St. HOPE (collectively the
15 "Grant Awards") totaled \$847,673.00.

16 6. The United States contends that St. HOPE did not
17 appropriately spend the Grant Awards pursuant to the terms of the
18 grant requirements, and did not adequately document its expenditures
19 of the Grant Awards.

20 7. The United States and St. HOPE have reached a settlement in
21 this matter wherein St. HOPE acknowledges that it did not adequately
22 document a portion of its expenditures of the Grant Awards.

23 8. In settlement, St. HOPE has agreed to repay the total sum
24 of Four Hundred Twenty-Three Thousand Eight Hundred Thirty-Six
25 Dollars and Fifty Cents (\$423,836.50) (the "Settlement Amount"). As
26 part of the settlement of this matter, St. HOPE will have made an
27 initial payment of Seventy-Three Thousand Eight Hundred Thirty-Six
28 Dollars and Fifty Cents (\$73,836.50). St. HOPE agrees to entry of a

1 Stipulated Judgment for the remainder of the Settlement Amount,
2 Three Hundred and Fifty Thousand Dollars (\$350,000.00), plus 5%
3 annual interest.

4 FIRST CLAIM FOR RELIEF

5 (Unjust Enrichment)

6 9. Plaintiff reasserts and realleges, as if fully set forth
7 herein, paragraphs 1-8 above.

8 10. The United States alleges that St. HOPE has been unjustly
9 enriched to the extent that it received and did not appropriately
10 spend the Grant Awards.

11 WHEREFORE, Plaintiff requests judgment against Defendant
12 St. HOPE:

13 1. In accordance with the terms of the Stipulation for
14 Consent Judgment as part of the parties' settlement of this action;
15 and

16 2. For other costs and fees to the extent that Defendant does
17 not fully comply with the terms of the Stipulation for Consent
18 Judgment; and

19 3. For such other and further relief as the Court deems just
20 and proper.

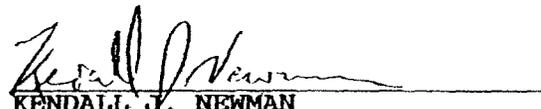
21
22

23 Dated: April 9, 2009

LAWRENCE G. BROWN
Acting United States Attorney

24
25

26 By:


KENDALL J. NEWMAN
Assistant United States Attorney
Chief, Civil Affirmative Section
Attorneys for Plaintiff United States

27
28

1 LAWRENCE G. BROWN
Acting United States Attorney
2 KENDALL J. NEWMAN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, California 95814
4 Telephone: (916) 554-2821
5 Attorneys for Plaintiff
United States of America
6
7
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,)
13 Plaintiff,) Case No:
14 v.)
15 ST. HOPE ACADEMY,) STIPULATION FOR CONSENT JUDGMENT
16 Defendant.)
17)

18
19 It is hereby stipulated and agreed between the United States of
20 America ("United States"), acting through the United States Attorney's
21 Office for the Eastern District of California, on behalf of the
22 Corporation for National and Community Service, an agency of the United
23 States Government (the "Corporation") (hereafter collectively referred
24 to as the "United States"); and St. HOPE Academy ("St. HOPE"), through
25 its authorized representatives, as follows:

26 1. AmeriCorps grant funds were awarded by the State of
27 California to and administered by St. HOPE under grant award numbers
28 03AFHCA002Y11-F102, 03AFHY12-F102, and 06AFHY13-F102 ("AmeriCorps

1 Grants"). Additionally, AmeriCorps members were entitled to Education
2 Awards if they fulfilled their service requirements for St. HOPE
3 pursuant to the terms of the grant requirements. The Education Awards
4 and grants awarded to St. HOPE (collectively the "Grant Awards")
5 totaled \$847,673.00.

6 2. The United States contends that St. HOPE did not
7 appropriately spend the Grant Awards pursuant to the terms of the grant
8 requirements, and did not adequately document its expenditures of the
9 Grant Awards.

10 3. The United States and St. HOPE have reached a settlement in
11 this matter wherein St. HOPE acknowledges that it did not adequately
12 document a portion of its expenditures of the Grant Awards.

13 4. In settlement, St. HOPE has agreed to repay the total sum of
14 Four Hundred Twenty-Three Thousand Eight Hundred Thirty-Six Dollars and
15 Fifty Cents (\$423,836.50) (the "Settlement Amount"). As part of the
16 settlement of this matter, St. HOPE will have made an initial payment
17 of Seventy-Three Thousand Eight Hundred Thirty-Six Dollars and Fifty
18 Cents (\$73,836.50). St. HOPE herein agrees to the entry of this
19 Stipulated Judgment for the remainder of the Settlement Amount, Three
20 Hundred and Fifty Thousand Dollars (\$350,000.00), plus 5% annual
21 interest.

22 5. The United States herein agrees to a payment schedule for St.
23 HOPE in order to cure this debt. St. HOPE shall pay Thirty-Five
24 Thousand Dollars (\$35,000.00) annually for ten years, each payment
25 being due on or before April 15th of each year. The first payment
26 pursuant to this Stipulated Judgment is due on or before April 15,
27 2010. The final payment shall be in the amount of Thirty-Five Thousand
28 Dollars (\$35,000.00), plus the interest due and owing on this

1 10. Payments pursuant to this Stipulated Judgment are to be made
2 by certified check payable to the UNITED STATES DEPARTMENT OF JUSTICE
3 and mailed to:

4 United States Attorney's Office
5 Financial Litigation Unit
6 501 I Street, Suite 10-100
7 Sacramento, CA 95814

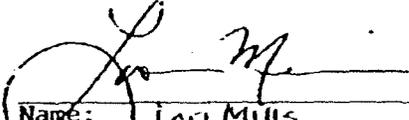
8 Dated: April __, 2009

LAWRENCE G. BROWN
Acting United States Attorney

10
11 By:

KENDALL J. NEWMAN
Assistant United States Attorney
Chief, Civil Affirmative Section
Attorneys for Plaintiff United States

12
13
14
15 Dated: April 9, 2009


Name: Lori Mills
Title: Acting Executive Director
On behalf of Defendant St. HOPE Academy

16
17
18
19 Dated: April __, 2009

SEGAL & KIRBY

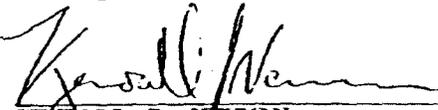
20
21 MALCOLM S. SEGAL, Esq.
Attorneys for Defendant St. HOPE Academy
22
23
24
25
26
27
28

1 10. Payments pursuant to this Stipulated Judgment are to be made
2 by certified check payable to the UNITED STATES DEPARTMENT OF JUSTICE
3 and mailed to:

4
5 United States Attorney's Office
6 Financial Litigation Unit
7 501 I Street, Suite 10-100
8 Sacramento, CA 95814

9 Dated: April 9, 2009

LAWRENCE G. BROWN
Acting United States Attorney

10
11 By: 
12 KENDALL J. NEWMAN
13 Assistant United States Attorney
14 Chief, Civil Affirmative Section
15 Attorneys for Plaintiff United States

16 Dated: April __, 2009

Name: _____
Title:
On behalf of Defendant St. HOPE Academy

19 Dated: April __, 2009

SEGAL & KIRBY

21 MALCOLM S. SEGAL, Esq.
22 Attorneys for Defendant St. HOPE Academy
23
24
25
26
27
28

1 Stipulated Judgment, and shall be due on or before April 15, 2019.

2 6. Notwithstanding the payment schedule set forth above, the
3 United States may record the Consent Judgment herein as a lien against
4 any of St. HOPE's real properties until such judgment is satisfied.

5 7. Upon receipt of all the payments pursuant to the payment
6 schedule above, the final installment will constitute satisfaction of
7 this debt, and the United States shall file a satisfaction of judgment
8 and release all liens related to this Stipulated Judgment.

9 8. If St. HOPE fails for any reason to timely make the payments
10 as prescribed above, the entire balance of the Stipulated Judgment is
11 immediately due and owing, and the United States may pursue all legal
12 remedies to collect the balance of the Stipulated Judgment, including
13 court costs, accrued interest, and any additional fees assessed in
14 order to collect this debt. Enforcement actions may be initiated
15 without prior notice.

16 9. This Stipulated Judgment is binding upon St. HOPE's
17 successors, transferees and assigns.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 LAWRENCE G. BROWN
Acting United States Attorney
2 KENDALL J. NEWMAN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, California 95814
4 Telephone: (916) 554-2821
5 Attorneys for Plaintiff
United States of America
6
7
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,)
) Case No: 2:09-cv-00965 JAM/KJM
13 Plaintiff,)
)
14 v.)
) CONSENT JUDGMENT PURSUANT TO
15 ST. HOPE ACADEMY,) STIPULATION
)
16 Defendant.)
)
17)

18
19 Pursuant to the Stipulation for Consent Judgment filed herewith,
20 judgment is entered in favor of the plaintiff United States of America
21 and against defendant St. HOPE Academy in the principal amount of Three
22 hundred and Fifty Thousand Dollars (\$350,000.00), plus 5% annual
23 interest until paid.

24 IT IS SO ORDERED.

25
26 DATED: April 9, 2009

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE

27
28

For Your Inspection

"Mission First, People and Occasionally, Integrity Why Not?"

Volume III, Issue 17

May 2008

www.cncoig.gov



Office Of Inspector General, Corporation For National And Community Service

OIG Profile

Spitzer Vies to Succeed Wallis

Former New York Governor Eliot Spitzer has emerged as a leading candidate to succeed the retired Linda Wallis as head of procurement for the Office of Inspector General.

Spitzer was most recently associated with Emperor's Club WP, a New York based firm that specializes in the procurement of blondes, brunettes and redheads.

"If selected for this important post, I plan to bring a high level of service and satisfaction to the procurement process," Spitzer said in a phone interview from his field office at the Mayflower Hotel in Washington, DC. "My policy is, vendors either put out or get out."

Spitzer also promised to fulfill every possible fantasy for OIG investigators and auditors.

Audit Manager Rick Sampson, when told that Spitzer specializes in redheads, vowed to immediately order a red, fine-point pen from Spitzer if he is selected for the post.

"I can't think of a better man for the job," said veteran procurer Heidi Fleiss. "He's no babe in the woods when it comes to being discrete and moving funds around."

OIG Hotline!

Phone:

E-Mail:

Wallis Procures Permanent Leisure Status

Linda Wallis, the OIG's stalwart Assistant Inspector General for Support, announced today that she has finally procured her Federal retirement. The name of Linda's GSA-approved retirement vendor was not immediately revealed, but it is known to be owned and operated by a qualified minority-female-veteran-disabled person.

Under the terms of her retirement, the vendor will supply Linda with endless sunny days (not to exceed 24 hours each), lazy mornings (ending not later than 11 a.m., GMT), stary nights (exclusions may be granted, in writing, for periods of cloudiness) and bliss (strictly allocated according to the Federal schedule).

Linda said she plans to spend a lot of time doling out hugs and kisses to her adored grandchildren, "but they are going to have to follow my rules to the T."

To that end, Linda has enrolled each grandchild in the General Services Administration's approved vendor list. Several tots will have to wait for Grandma's hugs and kisses for up to three years. They are currently under debarment from procurement and non-procurement programs for spilling chocolate milk on Linda's prized sofa.

Also, to gain access to Grandma's cookie jar and candy drawer, the kids must first obtain a signed and certified Treat Order (Form M&M, as established under the Federal Munchies Control Act of 1972) and

Panic is Widespread in Linda Wallis's Wake

Inspector General Gerald Walpin reacted calmly to Linda Wallis's imminent retirement, declaring a state of OIG emergency and ordering all department heads to procure enough office supplies to last 10 years. That effort began in earnest today, as Paola Merino took delivery of 2,000 cartons of Post-Its.

Walpin also announced that, henceforth, the Semiannual Report to Congress, a project expertly shepherded by Linda, would be renamed the Triennial Report to Congress and be issued once every three years. He further stated that future OIG budgeting challenges would be reconciled through "creative use of the petty cash account."

With Linda's last day approaching, Audit Chief Carol Bates arranged for Wallis to write and issue 1,500 RFPs for future contract audits, including a planned "Applied-Procedures Evaluation of Costs Incurred by the Corporation for Festivities Marking the 100th Anniversary of AmeriCorps in 2095."

Investigations guru R.J. Walters, facing travel-cost uncertainties, immediately ordered all of his agents

may make withdrawals limited to 100 percent of the established per diem.

Linda's legendary knowledge of Federal procurement, and financial regulations and strategies, has served her well in her retirement planning. For example, she and her husband Dale will be retiring to an oceanfront mansion in Palm Beach, Florida. The Wallis's recent home purchase appears as a line item in the OIG budget titled "post-service domicile acquisition positioned for first responder coastal homeland defense."

Linda and Dale will buzz around their retirement estate in a new 2008 Cadillac Escalade with armor plating and 30-inch stereo subwoofers. It was purchased with funds from an OIG account labeled "Hair Gel Expenses, Senior Special Agent Jeff Morales."

Linda's retirement income will be enhanced with the assistance of the innovative "Zero-Based, Post-Service Compensation System" she developed for the OIG. Whenever she and Dale run short of cash, they can merely add a few zeros to their retirement checks.

"There might be something funny going on with Linda's retirement," said Inspector General Gerald Walpin. "But I'll be damned if any of us can figure it out, and we probably never will. We're up against the master Federal procurer and budgeter of all time in Linda Wallis."

Into the field to "round up the usual suspects" before Linda retired and to hold them in the OIG evidence room pending adjudication.

"She was always tough, but fair," recalled a former OIG vendor. "At first I was bitter when she had me abducted, flown to a Syrian prison and water-boarded after I had sought an extension on our audit contract. "I'll probably never walk again, but I know the importance of Federal procurement regulations thanks to Linda."

Former Deputy Inspector General Robert Shadowens wished Linda well in a call from his Florida fish camp. He also said he would not attend any retirement celebrations unless compelled to do so by an IG subpoena.

"What's Her Name was a valuable part of my team," said former Inspector General J. Russell George, who was reached by phone at his home, where he was awaiting a termite inspection. "But I'm still mystified why she refused to approve my acceptance of a freebie golf trip to Scotland with that nice Jack Abramoff. C'mon, what harm would it have done?"

Trinity, Frank

From: Trinity, Frank
Sent: Tuesday, June 17, 2008 12:31 PM
To: Wasilisin, Andrew
Cc: Minor, Wilsie; Limon, Raymond A; Honnoll, Liz
Subject: Referral of For Your Inspection parody to IG
Attachments: FYIparodyJune08.pdf

This is to memorialize that I provided a copy of a May 2008 parody entitled For Your Inspection to Gerald Walpin in his office this morning. PDF file attached.

I pointed out the language in column 1, paragraph 1, as an example of language that would be problematic under our agency's policy against workplace harassment. I told him that, under our policy, it was up to him to review and take appropriate action. I asked that he notify you if/when he took corrective action.

Frank R. Trinity
General Counsel

6/18/2008

OCR1

CEO/IG correspondence

Trinity, Frank

From: Eisner, David
Sent: Monday, July 07, 2008 6:01 PM
To: Walpin, Gerald
Subject: Generation Awareness Series

This is in response to your email dated June 24 regarding the Generation Awareness Series under the Office of Human Capital. I appreciate your feedback on the particulars of this series and have underscored with the appropriate managers the need for accuracy and attribution of sources in such awareness-building programs. Your point about the potential for stereotyping is well-taken, and should be guarded against in any diversity initiative.

However, I do not agree with your characterization of the series as a “wasteful use of Corporation assets for an insufficient, if any, Corporation purpose.” Building awareness about generational diversity in the workforce is in line with programs sponsored by the U.S. Department of Labor and the Office of Personal Management. The Department of Labor’s Office of the 21st Century Workforce – established by President Bush by executive order signed on June 20, 2001 -- has sponsored workshops entitled “Understanding Generational Differences in the Workplace”. OPM, charged with ensuring that the Federal government has an effective civilian workforce, includes in its leadership development program a two-day course entitled “Leading Across Generations”. And here at the Corporation, I have benefited from the insights and ideas offered by our Office of Civil Rights and Inclusiveness and our Diversity Advisory Council, among other groups, including their efforts to build awareness around generational diversity. With the exception of your feedback, CNCS staff has at all levels expressed support for this program.

The purposes of such awareness-building are to (1) meet the needs of the 21st century workforce, including understanding the effects of demographic trends, as noted in President Bush’s executive order; (2) maintain an environment that is inclusive of individual differences and responsive to the needs of diverse groups of employees, a critical success factor established by OPM in its government-wide Human Capital Assessment and Accountability Framework; (3) reduce conflict and increase productivity in the workplace, as noted in OPM’s leadership program materials; and (4) build a diverse, energized, and high-performing workforce, as articulated in our Strategic Plan.

During my tenure as CEO I have encouraged staff and stakeholders at all levels to engage with each other in sharing their perspectives about how we can better accomplish our mission. Our diversity awareness efforts are a good example of how such dialogue can engage our colleagues in ways that build our sense of teamwork and common goals, despite our individual differences. The success of such efforts is reflected in the Federal Human Capital Survey results for the Corporation, which show significant improvements during my tenure not just in the areas of diversity and leadership, but in areas I believe are related – job satisfaction and fulfillment. For these reasons, the CNCS diversity program has my full support.

1

Trinity, Frank

From: Mercedes P. Merino [m.merino@cncsoig.gov] on behalf of Walpin, Gerald
Sent: Tuesday, June 24, 2008 11:32 AM
To: Eisner, David
Cc: Goren, Nicola; Trinity, Frank; Limon, Raymond A
Subject: Generation Awareness Series from Human Capital

On behalf of Gerald Walpin:

I write to communicate to you various reasons why I am troubled by the issuance, by a Corporation Department with the Corporation's implicit stamp of approval, of the Generation Awareness Series to date.

First, even if valuable, accurate, and non-controversial, are the Corporation's limited assets -- money and staff -- best spent on this project? I am well aware that the budgetary crunch has imposed limitations on the Corporation's main purpose, service, with the need to reduce or, at least, not hire otherwise needed staff. That at least one staff person in Human Capital is assigned to spend time on this project warrants the question whether, if payroll cutting is required, should Human Capital be considered rather than other areas more directed to service.

Second, what is the value to the Corporation's purpose of these simplistic collections of events that occurred during the lives of different generations? I note that this project is produced out of the Diversity unit of Human Capital. The purpose of this series supposedly is to show that all individuals born during a certain grouping of years can be categorized (i.e., stereotyped) into identified personality traits. (e.g., The "Builders" are characterized as "hard worker, respects authority, practical, team player, dedicated, saves [money]" etc.). It seems to me that is not only untrue (because each individual is an individual), but is also contrary to the purpose of diversity understanding: that each individual is different and should not be stereotyped by age, sex, race, religion, etc, but must, instead, be recognized for that person's individual attributes.

I have been told by Ray that this generation series is important to permit supervisors to know how to deal with staff from different generations. Of course, a supervisor should take into account the age, along with other personal circumstances of a staff member, in deciding the most diplomatic and successful way to interact. But that axiomatic recognition is unrelated to whether Benny Goodman or Elvis Presley was popular in a given year (even older persons -- labeled as the Builders generation -- enjoyed and were affected by Elvis Presley, who is listed as a defining event for Baby Boomers).

Third, it is at best simplistic and at worst erroneous. This apparently was created as a cut and paste job by locating information on the internet that someone has written, without any assurance of the accuracy of the substance of the writing. Examples: I am a chronological member of the Builders, as are my many contemporaries. I might be said to fit into the "disciplined, dutiful, conformist, loyal, conservative, experienced and patriotic," which

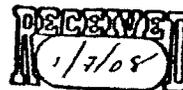
are the words used to describe my generation. But most contemporaries with whom I am friendly do not fit into all those categories. And I am friendly with people of other generations who would be accurately described by such labels.

Statements are made that are simply wrong. I met no American Soldiers (and I met many) who "came home" from service in World War II "questioning the ideals for which they fought" and who didn't view the war as "a patriotic crusade." "Berlin Wall Dismantled" is listed as a determinative event for Generation X (born between 1965-1976). Why was that more determinative of the current personalities of "Generation X" (born between 1965-76) than those of "the Builders" (born 1922-1946) or the Baby Boomers (1946-64), all of whom lived through the same experience? But, as important, the specification of "contributing actions" leading to the opening of the Berlin Wall as "many pro-democracy demonstrations in East Germany and many East Germans migrating into West Germany through Hungary" ignores and demeans American foreign policy which led to the downfall of Communist Russia, which led to Gorbachov's notice to the East German government that Russia would no longer support the East German government, which resulted in the opening of East Germany. People may disagree in degree on the cause of East Germany's collapse, but the Corporation should not be put in the position of posturizing on it.

Finally, the writing is sloppy and internally inconsistent. Passing grammatical and spelling errors, how does describing the Baby Boomers generation as "workaholics" and with a "driven work ethic" fit with the subsequent description of Baby Boomers as "flower children" and "a generation in revolt?"

I could spend pages dissecting the series and specifying many more parts. But the bottom line is that it is wasteful use of Corporation assets for an insufficient, if any, Corporation purpose. I recommend that a careful review be made before this and this type of distribution continue.

Corporation for
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OFFICE OF INSPECTOR GENERAL

MEMORANDUM

TO: Nicola Goren
Acting Chief Executive Officer

CC: Frank Trinity
General Counsel

FROM: Gerald Walpin
Inspector General 

DATE: January 6, 2009

RE: Equal Opportunity Complaint Procedures

During the discussion yesterday that I, Jack and Vince had with you and Frank, we all agreed on the objective in processing Equal Employment Opportunity complaints: a fair and impartial investigation. The issue on which we appeared to seek further guidance is the responsibility of the agency head to ensure and direct the procedure to attain that objective. Therefore, following that discussion, we reviewed the controlling regulations. We believe the following cited regulations impose that responsibility on the Corporation itself and, of necessity, on you as the agency head.

29 C.F.R. §1614.102 (a)(2) mandates that “the agency shall . . . provide for the prompt, fair and impartial processing of complaints in accordance with this part and the instructions contained in the Commission’s Management Directives.” Subsection (a)(4) requires the agency to “designate a Director of Equal Employment Opportunity. . . to carry out the functions” who “shall be under the immediate supervision of the agency head.”

Section 1614.104(a) requires the “agency” to “adopt procedures for processing . . . complaints of discrimination” -- again imposing on the agency, not the EEO Director, that responsibility.

As to procedures to be used in investigating complaints, §1614.108(a) requires that the “investigations . . . shall be conducted by the agency against which the complaint has been filed” -- again a reiteration of the delegation of this responsibility to the “agency.” Subsection (b) gives the agency the discretion to use “any . . . fact-finding methods that efficiently and thoroughly address the matters at issue.”



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The Equal Employment Opportunity Management Directive EEO MD-110, referred to above, specifies that you, as head of the agency, have the responsibility to supervise the work on such complaints, in expressly providing that the **"Heads of federal agencies are responsible for ensuring that employment discrimination complaints are processed fairly, promptly, and in strict accordance with" 29 C.F.R. Part 1614. Chapter 6, ¶VI(c) of that Directive contains the only limitation of agency involvement in the investigations, and that proscribes only that the "person assigned to investigate shall not occupy a position in the agency that is directly or indirectly under the jurisdiction of the head of that part of the agency in which the complaint arose" -- thus making clear that, for example, you, as head of the Corporation, have the duty properly to supervise the person investigating a complaint against OIG.**

This duty is consistent with the undeniable interest of the Corporation in a fair, impartial, and thorough investigation, no matter how it turns out: if management is found to be right, its decisions should be vigorously defended; if wrong, management should take remedial action.

I welcome further discussion of this subject.

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January 26, 2009

MEMORANDUM FOR GERALD WALPIN, INSPECTOR GENERAL

FROM: Nicola Goren *ng*
Acting Chief Executive Officer

SUBJECTS: Response to your concerns regarding the investigation of an Equal Employment Opportunity complaint involving the Office of Inspector General.

You have raised several concerns about the conduct of an Equal Employment Opportunity (EEO) investigation being overseen by the agency's Office of Civil Rights and Inclusiveness (OCR). The investigation involves the Office of Inspector General and you are a fact witness in the matter.

In our meeting on January 5, 2009, you expressed the following concerns:

1. The Complainant's affidavit seems to have been written by her attorney. It is written in the third-person and includes legal citations.
2. When reviewing a draft affidavit, the OIG noted that some portions did not appear to be accurate. When a request was made to listen to the tape of the investigative session that preceded the affidavit's drafting, the OIG was informed that the tape had been destroyed.
3. You suggested that the OIG and the Complainant be given an opportunity to review the investigation and add to its completeness.¹

As agreed in our meeting on January 5, I have followed up with OCRI on your concerns. With regard to your first concern, OCRI advises that there is nothing improper about a Complainant receiving assistance in drafting an affidavit which is signed by the Complainant. With regard to your second concern, OCRI agrees that interview materials should be kept until all affidavits have been signed and returned to the investigator. I am advised that, because that was not done in this matter, the OIG affiant was given an opportunity (and additional time) to make any corrections desired before signing the affidavit. With regard to your third concern, OCRI has provided assurances that it will review the entire record for fairness and legal sufficiency at the conclusion of the official inquiry. If OCRI determines that the official record is deficient, a supplemental investigation will be ordered, in keeping with standard operating procedures for processing Federal sector EEO complaints of discrimination under EEOC regulations and directives.

In our meeting on January 21, 2009, you expressed an additional concern that the process for obtaining affidavits from OIG agency witnesses may have differed from the process for

¹ You also sent a memorandum to me dated January 6, 2009, referring to legal authorities for Federal agency heads to supervise the Director of Equal Employment Opportunity.



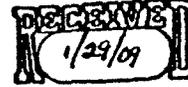
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obtaining an affidavit from the Complainant, and specifically that OIG agency witnesses may not have had an opportunity to provide information in their affidavit beyond the scope of questions posed by the OCRI contract investigator. In addition, you suggested that OCRI contract investigators would benefit from Standard Operating Procedures to ensure fairness and consistency.

As agreed in our meeting on January 21, I have followed up with OCRI on your additional concern. OCRI has provided assurances that it will review the entire record for fairness and legal sufficiency at the conclusion of the official inquiry and will take appropriate action if warranted to correct inconsistencies or omissions. OCRI notes that it holds contractors to the industry standards for processing and investigating EO complaints based on the regulations and guidance set out in 29 CFR 1614, MD-110, and applicable case law.

I have fully considered your concerns, followed up directly with OCRI, and I am satisfied that OCRI is properly carrying out the prompt, fair, and impartial processing of this matter. Mindful that the investigative process is not adversarial in nature, I now consider the matter of your above-referenced concerns to be closed.

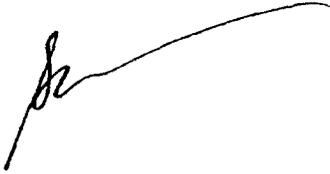


OFFICE OF INSPECTOR GENERAL

MEMORANDUM

TO: Nicola Goren
Acting Chief Executive Officer

CC: Frank Trinity
General Counsel

FROM: Gerald Walpin
Inspector General 

DATE: January 29, 2009

SUBJECT: EEOC Procedures

I write to reply to your Memorandum of January 26, 2009, in which you responded to concerns that I have expressed regarding the Corporation's processing of EEO complaints. I appreciate your following up with OCRI regarding the concerns that I expressed with respect to the handling of an ongoing investigation. Even so, I am afraid that treating my concerns as relating solely to the ongoing investigation gives them short shrift; the concerns that I expressed have systemic implications that I hope that you and the Corporation will address. While, of necessity, my comments about the EEO complaint procedure were based on my Office's experience in the outstanding complaint against my Office, some of my staff, and me – I had no prior experience and therefore no knowledge of the procedure – I made it clear that my comments were aimed at future EEO complaints, whether against the Corporation or my Office, and were not intended to affect the currently outstanding complaint against my Office.

Because some of the confusion may stem from the fact that I am generalizing from a single experience with a process that has had its problems and is not complete, I will attempt to clarify the systemic aspects of my concerns.

In my Memorandum of January 6, 2009, I pointed out that the agency head has ultimate responsibility for the agency's processing of EEO complaints. I do not question the Corporation's decision to retain investigators with appropriate qualifications to do the investigation and make recommendations to OCRI. It is, rather, the instructions (or lack thereof) to the investigators, the apparent absence of enunciated procedures ensuring due process and efficient investigative methods, and the role (or lack thereof) of management in the process that concern me.



Before addressing those concerns, I am certain that you would agree that the goal of the process should be to get to the bottom of the facts, not to vindicate management nor pave the way for an employee's lawsuit. As I wrote in my Memorandum of January 6, 2009, management has an undeniable interest in fair, impartial, and thorough investigations, no matter how they turn out. If corrective action is warranted, management has an undeniable interest in taking that action as soon as appropriately possible. Conversely, if management's decision was justified, that decision should be vigorously defended.

Indeed, given the training and experience of managers and the availability of advice from counsel and the Office of Human Capital, management might well presume that its decisions are defensible and not discriminatory. That does not mean that there may not be exceptions. Nor should the process be weighted against the complainant; neither should the process be weighted for the complainant. Rather, it means that the process should be fair and complete to allow for the defense of defensible decisions and for a complainant with a meritorious claim to be able to sustain it.

In that regard,

1. Defensible decisions can be defended by giving management the right to state its position just as the employee does. That can be done by having the investigator present a list of questions to both parties and ask for a response in writing to those questions. The investigator should also allow both sides to suggest questions each believes to be relevant to a determination for the investigator to ask if he/she believes them warranted. That could remedy the concern that I expressed that a key fact relating to the allegations against me was not elicited by the investigator or addressed in the investigator's questioning of the complainant.

Then, after review of both parties' submissions, the investigator might choose to interview key persons, ask additional questions, or ask for the production of documents.

You state that OCRI will review the entire record for fairness and completeness, and, if it concludes that the record is deficient, it will order a supplemental investigation. It is far more efficient to make a complete record from the start, and the process should be changed to accomplish that. That can be accomplished by setting forth required "fairness" procedures for an investigator to follow.

2. I expressed concern about the fact that, while the respondent received the assistance of counsel in drafting her affidavit, the investigator limited OIG to the draft that she prepared, which was flawed. I believe that the process should be balanced and that, if one side gets the assistance of counsel, so should the other. That can be accomplished if the process outlined in paragraph 1 above is followed. In any event, though, the procedures should be modified to require equal treatment by the investigator.

3. I expressed concern about the investigator's destruction of the tapes of interviews of OIG personnel, and, presumably, although we do not know for certain, of interviews of the complainant. The procedures should be modified to require that the investigator preserve all physical evidence, including any and all audio tapes.

The bottom line of OIG's interest in the Corporation's EEO procedures is (1) the clear reticence of the CEO to perform his/her supervisory role over the process, and (2) the absence of fair due process procedural instructions to investigators – not the outcome of any specific EEO complaint.

Trinity, Frank

From: Trinity, Frank
Sent: Thursday, October 02, 2008 12:57 PM
To: Trinity, Frank
Cc: Minor, Wilsie
Subject: Memo to File, Mtg with IG re personnel matter

Memorandum of meeting with Inspector General to discuss [REDACTED] matter
October 2, 2008

Jerry Walpin (via Jack Park) sent me a copy of his removal opinion dated September 25, 2008. I reviewed it and asked to meet with him to discuss my concerns. I met with Jerry Walpin and Jack Park today in Jerry's office.

I told him that if an action was filed, it would be against the agency, and the OGC presumptively would handle the matter. This raised issues around OIG independence. Jerry indicated he had spoken with another larger agency OIG and believed they would offer their legal services.

I told him that I had reviewed only his opinion and not the underlying exhibits or the record as a whole.

I told him that, in my view, he had a winnable position on removal, based on the use of government resources for for-profit endeavor in an OIG setting.

I told him that the opinion's repeated references to [REDACTED] protected EO activity, the IG's statements on the merits and motivations of that protected EO activity, and the negative inferences he draw against [REDACTED] in connection with her protected EO activity, are likely to be deemed direct, per se evidence of reprisal discrimination. I told him that his self-disclosed obtaining of the EO counselor report would likely be viewed as interfering with the EO process.

I told him I saw three likely outcomes:

1. MSPB finds discrimination and orders [REDACTED] reinstatement.
2. Outside agency makes (or informs management that it will make) a finding of discrimination.
3. EEOC agency makes a finding of discrimination and order [REDACTED] reinstatement.

In all cases, it is likely that substantial attorney's fees will be paid to [REDACTED] counsel, as well as compensatory damages.

I told him that it was my advice that he retract the decision and restore the status quo ante.

I told him that he would be leaving this matter for his successors and that he would have no ability to control the outcome. I told him that his removal opinion would likely be relied upon by itself in a summary judgment decision, so he would have no opportunity to add any future explanation or argument.

He said he disagreed with me. He said that if the law says he engaged in reprisal "then the law is an

ass." He said that he had the right to challenge [REDACTED] invocation of discrimination in his role as deciding official and that he could not accept that she had laid a trap for him.

We agreed that HC would not effectuate the 52 that had been prepared until further instruction.

My understanding is that he will consult with the other OIG office to get their counsel on this matter.

Minor, Wilsie

Not sent --

From: Trinity, Frank
Sent: Saturday, January 31, 2009 6:45 PM
To: Minor, Wilsie; Hilton, Doug

Discussed w/
Jack Park

Subject: DISCUSSION DRAFT memo on OCRI matter -- no response needed, let's talk Monday

DISCUSSION DRAFT

I write to ask the Council's assistance in addressing our Inspector General's repeated actions that could be having the effect of interfering with our agency's equal opportunity (EO) investigative process while compromising the perceived integrity of our agency's Office of Inspector General.

Background

Our agency EO office is currently handling an EO complaint filed by a former OIG employee. The matter is currently in the investigation phase. The IG is one of several fact witnesses.

Since December, the IG has repeatedly complained to our agency head and our Board's Management Committee that the EO investigative process is not providing fair procedures or due process. While the only facts asserted by the IG relate to the pending EO complaint, the IG advises that his concerns relate to our EO office's standard operating procedures.

Our agency head promptly followed up on the facts presented by the IG. The EO office had already addressed one error that had been made in the matter under investigation and gave assurances that it would, at the conclusion of the investigation, review the record for fairness and legal sufficiency in accordance with its standard EO office procedures. Our agency head so advised the IG.

The IG responded with a memorandum reiterating his concerns about the EO office standard procedures and criticizing the agency head's "reticence." The IG also informed our Board Management Committee that if the agency head did not adequately address his concerns he would "report" on it.

My request

I am not in a position to judge the IG's representations that he is not trying to influence the EO matter involving his office. However, regardless of the IG's intent, his repeated complaints during a pending EO investigation involving OIG are having the effect of chilling our EO office's independence.

I have attempted to convey to the IG the sensitivities associated with a pending EO investigation. The IG seems not to perceive the potential impropriety in his repeated complaints about the EO office while that EO office is conducting an investigation involving the OIG.

If an agency manager other than an OIG employee conducted himself in this manner, in my capacity as General Counsel I would intervene to stop it. Because this involves an Inspector General, out of respect for the independence of that office and out of a desire to avoid an outcome that will reflect poorly on this agency, this IG, and the IG community generally, I am asking you to review this situation and provide whatever counsel you can offer the IG, or take whatever action you deem appropriate.

Tab 3

Corporation for
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OFFICE OF INSPECTOR GENERAL

May 20, 2009

TO: Nicola Goren
Acting Chief Executive Officer

Stuart Axenfeld for

FROM: Gerald Walpin
Inspector General

SUBJECT: Management Alert — Additional Funding for Grants Awarded to The
Research Foundation for The City University of New York (RFCUNY)

Pending resolution of the subject finding and recommendation transmitted to you on April 2, 2009, we recommend that the Corporation suspend any additional funding to RFCUNY, including RFCUNY's January 2009 application (09ED096130) or any other direct or indirect applications.

We strongly believe that significant issues, raised both in the draft AUP report and in OIG's separate draft letter report, should be resolved before additional grants are made to RFCUNY. As you know, those issues involve the basic eligibility of the RFCUNY program for grants, as discussed in the OIG letter report, and various issues identified in the AUP, including the misstatements in RFCUNY's grant applications and the significant noncompliances prior to making any awards.

Providing further funding, in the face of these issues, would be, in our view, inappropriate.

If you have questions pertaining to this report, please call Stuart Axenfeld, Assistant Inspector General for Audit, at (202) 606-9360 or me at (202) 606-9366.

cc: Frank Trinity, General Counsel
Kristin McSwain, Chief of Program Operations
Margaret Rosenberry, Director, Office of Grants Management



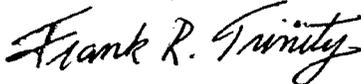
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May 4, 2009

MEMORANDUM FOR NICOLA GOREN, ACTING CHIEF EXECUTIVE OFFICER

FROM: Frank R. Trinity 
General Counsel

SUBJECT: Inspector General's Letter to the Corporation and RFCUNY, dated April 2, 2009

A. Background

This memorandum concerns the Corporation's AmeriCorps Education Award Program grants to the Research Foundation for the City University of New York (RFCUNY) to operate the New York City Teaching Fellows and Teaching Opportunity programs (hereinafter "RFCUNY teacher corps program"). In a letter dated April 2, 2009, the Inspector General concludes that "the AmeriCorps grant was merely 'icing on the cake' for a program that already existed and that RFCUNY was not conducting an AmeriCorps program." The Inspector General's letter¹ recommends that the Corporation –

- terminate our current grant relationship with RFCUNY;
- recover from RFCUNY all grant funds spanning a five-year period, or \$4.2 million;
- recover from RFCUNY all payments made from the National Service Trust to cover program participants' student loan interest, or \$917,000; and
- recover from RFCUNY all payments made from the National Service Trust to provide education awards to program participants, or \$40 million.

The total amount recommended for recovery from RFCUNY in the Inspector General's April 2 letter is approximately \$45.1 million.

The Inspector General states that his recommendations are made "in conjunction with and as a supplement to" a draft Agreed-Upon Procedures Report also provided to the Corporation on April 2, 2009. The Agreed-Upon Procedures Report identifies issues of costs and compliance, including documentation of member eligibility and member service hours -- appropriate for resolution by the Corporation's normal audit resolution procedures.

B. Summary

This memorandum provides my legal opinion that the RFCUNY teacher corps program qualifies for AmeriCorps grant funding as a professional corps program model as recognized by Congress in law, and identifies what I believe to be certain methodological and analytical flaws

¹ The first sentence of the Inspector General's letter describes his letter as conveying "the Office of Inspector General's ("OIG") draft of its finding and recommendation" regarding the Corporation's two grants to RFCUNY (emphasis added).



in the Inspector General's April 2, 2009 letter. Those flaws, in my view, counsel against accepting the Inspector General's recommendations.

In developing my opinion, I reviewed applicable provisions of the national service legislation and other laws, publicly-available reports issued by other Federal agencies concerning the national teacher shortage, RFCUNY's applications and progress reports, information from our National Service Trust, results from a 2006 random survey of AmeriCorps members, correspondence provided by RFCUNY to the Office of Inspector General prior to the issuance of the draft AUP report and the IG letter of April 2, and the April 2 OIG documents. I requested but was not provided the work papers supporting the draft AUP report and, by extension, the IG letter of April 2.

C. The professional corps program model is categorically eligible for AmeriCorps funding.

To be eligible for AmeriCorps funding, an applicant organization must assure the Corporation that the program will (1) address, among other things, unmet educational needs through services that provide a direct benefit to the community in which the service is performed and (2) comply with applicable nonduplication requirements. 42 U.S.C. 12583(a). For teacher corps programs, the unmet educational need is primarily the national gap in education achievement and the shortage of high-quality teachers for low-income public school students. Congress has sought to address the well-documented and long-standing educational gap and high-quality teacher shortage in many ways, including through explicitly including the professional corps as an eligible program model within AmeriCorps.

Section 122(a)(8) of the National and Community Service Act of 1990 specifically endorses funding for a professional corps program that recruits and places qualified participants in positions as teachers in communities with an inadequate number of such professionals. Further, this section expressly permits such individuals to receive a salary in excess of the otherwise-applicable limit on living allowances, under the sponsorship of public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than an education award) of the participants. 42 U.S.C. 12572(a)(8).

The Edward M. Kennedy Serve America Act, enacted as Public Law 111-13 on April 21, 2009, reaffirmed the inclusion of professional corps programs, including teacher corps programs, within AmeriCorps.

D. RFCUNY's grant is designed to expand and strengthen a professional corps program that addresses an unmet need for high-quality teachers in New York City's public schools.

In an effort to address a well-documented shortage of qualified, certified teachers in New York City public schools,² the RFCUNY teacher corps program facilitates an alternative

² RFCUNY's applications for funding each year have identified the teacher shortage areas in NYC in which members are placed, including mathematics, science, Spanish, bilingual education, ESL, and special education.

certification program through which participants teach full-time while remaining enrolled in a teacher education program leading to a Master's degree in the content area of the certification. The program provides for all salaries and benefits of participants and, upon the successful completion of a term of service, participants are eligible to earn an education award.

RFCUNY's applications for AmeriCorps support articulate how the program recruits, trains, and supports highly-qualified new teachers for high-need schools in New York City. The applications describe a rigorous selection process designed to identify individuals with the potential to complete the program and succeed as teachers in a challenging environment. The applications describe how the State of New York and New York City support most of the program's costs. The applications describe the provision of AmeriCorps education awards as critical to attracting and retaining members.

RFCUNY's applications for AmeriCorps funding reflect the judgments of the City University of New York, the New York City Department of Education, and the New York State Education Department -- like that of Congress -- that there is a need for financial incentives above and beyond regular teacher salary and benefits to attract and retain highly-qualified teachers for New York City public schools. In my opinion, the program has been properly classified by the Corporation as a professional corps program model and is legally permitted to operate its AmeriCorps program. The program clearly meets the statutory definition of professional corps, recruiting and placing individuals in positions as teachers in a city that has an unmet need for certified teachers.

Progress reports indicate that the program is achieving one of its primary goals of members continuing to teach in New York City public schools after completing the program, with more than three-quarters of members deciding to continue into their third year. The program also reports progress in increasing the diversity of New York City's classroom teachers, with nearly half of members who are people of color.

Information available from the National Service Trust shows that more than 90% of participants in the RFCUNY teacher corps program successfully completed their terms of service and earned education awards and nearly 87% of those education awards have already been used to defray the member's educational expenses. These figures are significantly higher than those for AmeriCorps programs generally.

My review of the record indicates that there was a strong basis for the Corporation having approved RFCUNY's applications for AmeriCorps support to expand and strengthen a professional corps program designed to address the unmet need³ for highly-qualified teachers in

These shortage areas correlate with those identified by the Department of Education's publication on Teacher Shortage Areas 1999-2000 – 2009-2010, available at <http://www.ed.gov/about/offices/list/ope/pol/tsa.doc>.

³ In examining the requirement that an AmeriCorps program address an "unmet need" the Inspector General focuses on whether the RFCUNY program would exist in the absence of AmeriCorps support. I do not believe that is the appropriate inquiry. Congress has identified the unmet need to be met by professional corps programs – the shortage of teaching and other professionals in a community. 42 U.S.C. 12583(a)(8). In this matter, there is ample evidence that New York City has an unmet need for high-quality teachers in its public schools.

New York City's public schools. Given the express authority for teacher corps programs in the national service legislation, and the articulated nexus between AmeriCorps support and increasing the number of highly-qualified teachers in New York City public schools, the Corporation was well within its authority to approve RFCUNY's applications for grant funds and to make education award and student loan interest payments from the National Service Trust to defray the educational expenses of the teachers who successfully completed the program.⁴

E. The premises for the Inspector General's recommendation are flawed.

Having concluded that the Corporation's support for the RFCUNY teacher corps program is authorized under applicable law, I now turn to the specific bases for the Inspector General's recommended sanction of recovering \$45 million from RFCUNY.

The Inspector General does not dispute that New York City has a need for certified teachers in its public schools or that the RFCUNY teacher corps program addresses that need. The Inspector General states, however, that AmeriCorps grant funds and National Service Trust payments "merely support an existing activity that is already adequately funded in amounts sufficient to attract recruits to become qualified teachers" (emphasis added).

In support of his opinion that AmeriCorps funding is "not necessary", the Inspector General relies on several premises:

1. *Demand for the RFCUNY's program is high, with space available for only 10% of applicants (page 7).*
2. *Five of the six members contacted during the AUP engagement stated that they were not aware of the AmeriCorps education award when they initially applied for the Fellows program (pages 6-7).*
3. *The relatively small amount of the education award is not enough to make a difference in recruiting Fellows (page 7).*
4. *A generalized objection, expressed in various ways:*
 - *The program "does no more than" provide education awards to members who had, prior to becoming an AmeriCorps member, volunteered for this "identical" service (page 1).*
 - *There is no "convincing evidence" that the RFCUNY program's significant benefits to the community are "in any way attributable to AmeriCorps activities" (page 6).*
 - *Because the program already existed, AmeriCorps support is "merely icing on the cake" (page 8).*

⁴ RFCUNY's implementation of the grants is appropriately examined in the upcoming audit resolution process.

None of these premises is a sufficient basis for the Corporation to assert a claim against RFCUNY for \$45 million in previously-awarded grant funds and previous payments from the National Service Trust to program participants.

IG Premise Number 1:

Demand for the RFCUNY's programs is high, with space available for only 10% of applicants.

The Inspector General's view that a program's success in increasing the number of applicants jeopardizes its eligibility for funding has no basis in the national service legislation and runs counter to the ability of teacher corps programs to close the educational gap by recruiting and retaining the best-qualified teachers. A highly-competitive process allows RFCUNY to select the individuals deemed most likely to overcome the many challenges associated with teaching careers in under-resourced schools.

The Inspector General overlooks the fact that a higher number of applicants can strengthen the diversity and professional attributes from which to choose Fellows, ultimately resulting in a higher retention rate, better quality teaching, and better educational outcomes. Increased applicant pools is a positive program attribute, a point repeatedly made in bi-partisan House and Senate colloquies made as recently as March 2009, as well as by Senator Kennedy himself who lauded the Teach for America professional corps program for having received 35,000 applications for just 4,000 positions.⁵

Moreover, the Inspector General renders his opinion about a highly-selective program not needing AmeriCorps support without reference to any objective standard or criterion, and the record does not include any basis for determining that a given number of applicants should trigger a disqualification for funding. The arbitrariness of the Inspector General's recommendation to recoup \$45 million from RFCUNY is further reinforced by the fact that RFCUNY's applications for funding clearly informed the Corporation that the program would rigorously screen applicants and admit only a small percentage.

By expressly authorizing participants to receive an education award in addition to the salaries and benefits otherwise provided to teachers, Congress recognized that additional financial incentives may be necessary to recruit and place qualified participants, and included no basis for requiring disgorgement of grant funds and imposing liability for education award payments because a program is successful in increasing the number of applicants.

IG Premise Number 2: *Five of the six members interviewed were not initially aware of the education award.*

The Inspector General also relies on the fact that five of the six members contacted during the AUP engagement "stated that they were not aware of the AmeriCorps education Award [sic] when they signed up for the Fellows Program." During the five year grant period

⁵ 155 Cong. Rec. H3543, H3549 (March 18, 2009); 155 Cong. Rec. S3822, S3837 and S3842 (March 26, 2009).

under the Inspector General's scrutiny, more than 14,000 individuals enrolled in the program. A sample size of six, on its face, cannot support the inferences drawn by the Inspector General.⁶

Moreover, a brief set of inquiries into other information regarding the RFCUNY programs show that, notwithstanding the interview responses of five of six members interviewed during the AUP engagement, there are documented reasons to believe that the availability of AmeriCorps benefits is, in fact, a substantial factor in recruitment for RFCUNY's teacher corps program. In a survey conducted for the Corporation by the Urban Institute, 81% of the participants interviewed at the RFCUNY program stated that the education award was a factor in their decision to join the AmeriCorps program. This level is significantly higher than the 71 percent of AmeriCorps members across all types of programs who reported that the education award was a factor in deciding to join AmeriCorps.

Finally, the Inspector General's sole focus on initial recruitment is unnecessarily restrictive. The goal of the RFCUNY program -- mirroring the statutory authority for all professional corps programs -- is to recruit and place highly-qualified teachers in New York City public schools. The five members' initial recruitment provides no evidence to question that AmeriCorps benefits support the placement of high-quality teachers by easing their student loan debt and defraying a portion of their educational expenses. A New York State Department of Education report dated May 2, 2008, confirms the need to "offer financial incentives to attract and retain public school teachers because we are competing with other states for the available supply of teachers and with other industries that are attractive to young professionals" (emphasis added).⁷

IG Premise Number 3: *The relatively small amount of the education award is not enough to make a difference in recruiting Fellows.*

The Inspector General views the amount of an AmeriCorps education award to be too small (in comparison to the salaries and benefits available to professional corps participants) to provide an economic incentive for prospective participants to enroll in the program. However, the National and Community Service Act permits participants in a professional corps program to receive a salary in excess of the maximum authorized for other AmeriCorps members -- an amount often comparable to that received by other similarly situated professionals in that community. Thus, the program model expressly provided by Congress acknowledges that the available salary and benefits of these positions are insufficient to attract or retain an adequate number of such professionals, and that the education award would be used as an additional tool to address the shortage.

⁶ The Inspector General's decision not to share the workpapers relating to the sample size of six limits our ability to respond. Without the workpapers, the record available to the Corporation does not show whether the six members were representative of the entire five-year period under the Inspector General's scrutiny, or the questions asked. Without the workpapers, the record does not indicate how the auditors chose a sample size of 20 or the parameters for that decision. There is a serious question in my mind whether the use of that sample for the purposes of the Inspector General's April 2 finding and recommendations is outside the scope of the auditors' determination.

⁷ New York State Department of Education, Progress Report on Teacher Supply and Demand, May 2, 2008, page 6.

Congress has fixed in law the specific amount of the education award and has expressly authorized the education award to be provided to professional corps members in addition to salaries and benefits otherwise provided as part of their position. The Inspector General provides no authority in his letter for substituting his opinion for the judgment of Congress.

IG Premise Number 4:

A generalized objection, expressed in various ways:

- *The program “does no more than” provide education awards to members who had, prior to becoming an AmeriCorps member, volunteered for this “identical” service (page 1).*
- *There is no “convincing evidence” that the RFCUNY program’s significant benefits to the community are “in any way attributable to AmeriCorps activities” (page 6).*
- *Because the program already existed, AmeriCorps support is “merely ‘icing on the cake’” (page 8).*

The Inspector General focuses solely on the relationship between the education award and the initial recruitment of participants and, perceiving an insufficient nexus, he questions the legality of providing AmeriCorps support to the program. As pointed out above, the purpose of the AmeriCorps program is not simply to recruit individuals into teacher corps positions – it is also to support those individuals in completing the program and graduating into permanent teacher positions in New York City public schools serving low-income children.

RFCUNY’s relatively high completion and education award usage rates suggest that the availability of the education award in this case does, in fact, play a critical role in ensuring participants complete the program and become qualified, certified teachers. The Inspector General’s letter does not address that, by design, tuition for the required Master’s degree courses does not become due until the end of the year, enabling participants who successfully complete a year of service to use their education award towards their tuition expenses. The Inspector General’s letter also does not take into account that RFCUNY participants qualify for forbearance in the payment of the student loans while they serve and payment of the accrued interest upon their successful completion of the program. It is reasonable to infer that this additional benefit advances Congress’s goal of promoting the retention of high-quality teachers in communities with a shortage of such teachers. Thus, the AmeriCorps education award does more than provide support to individuals who have entered the program; the education award is a means to increase the number of such individuals who complete the program and become highly-qualified teachers after leaving the program.

The Inspector General sees no “specific identifiable service or improvement that otherwise would not be done with existing funds” because he does not see the RFCUNY teacher corps program, in its entirety, as “an AmeriCorps activity”. But the specific statutory design of professional corps programs allows the entirety of the program to be considered “an AmeriCorps activity.” It is Congress’ intent that AmeriCorps support be provided to salaried professionals if the funded program recruits and places the professionals in communities with a shortage of such professionals. Congress has determined – and recently reaffirmed -- that “AmeriCorps activities” may include a professional corps like RFCUNY’s teacher corps program. Consistent

with Congress' determination, the undisputed success of the RFCUNY program in increasing the number of highly-qualified teachers in New York City schools is properly attributable, in part, to the AmeriCorps support.

The Inspector General's concern on this point re-surfaces OIG's previous argument that teaching professionals should earn service hour credit towards an AmeriCorps education award only for uncompensated service, that is, outside of regular teaching duties in the case of a teaching professional. Under the professional corps authority in the national service legislation, as I have previously opined, the teaching undertaken by professional corps members is an AmeriCorps activity. Therefore, the RFCUNY teacher corps programs' benefits to the students and community -- acknowledged by the Inspector General -- are properly attributable to AmeriCorps activities.

Finally, the Inspector General notes that the program "already existed" and expresses the view that AmeriCorps funding violates the statutory prohibition on duplication. However, one of the purposes of the NCSA is to "expand and strengthen existing service programs with demonstrated experience in providing structured service opportunities with visible benefits to the participants and the community." 42 U.S.C. 12501(b)(6)) (emphasis added). CUNY provided the Inspector General a written summary dated February 10, 2009 which showed that the program has, with support from AmeriCorps, expanded from a pilot of 300 participants to a program that is a major pipeline for thousands of certified teachers to enter the New York City public school system. However, the Inspector General's letter of April 2, 2009 does not acknowledge the specific evidence that RFCUNY's AmeriCorps grant has been instrumental in expanding and strengthening this program.

Congress, the New York State Department of Education, the New York City Department of Education, and the City University of New York, have all determined that additional financial incentives -- including the AmeriCorps education award and payment of student loan interest -- are an important tool in addressing the long-documented shortage of high-quality teachers for low-income children.

F. Conclusion

The findings in the outside auditors' draft report are appropriate for resolution by Corporation management through the standard audit resolution process which will begin at the issuance of the final audit report.

However, the Inspector General's separate letter dated April 2, 2009, fails to make the case for his recommendation that the Corporation recoup \$45 million from RFCUNY. The letter expresses a misunderstanding of the applicable legal framework and rests on flawed methodology. For these reasons, I advise the Corporation not to take any action on the basis of the Inspector General's April 2 letter and instead focus its efforts on the specific findings in the draft audit report.

The Chancellor

OVERNIGHT MAIL

April 30, 2009

Mr. Gerald Walpin
Inspector General
Corporation for National & Community Service
1201 New York Avenue
Suite 830
Washington, DC 20525

Dear Mr. Walpin:

I am the Chancellor of the City University of New York ("CUNY" or the "University") and Chairperson of the Board of Directors of the Research Foundation of The City University of New York ("RFCUNY"). I have received a copy of two documents sent by you on April 2, 2009: (1) the draft report on the Agreed-Upon Procedures for the Corporation for National and Community Service (the "Corporation") Education Award Program Grants Awarded to RFCUNY (the "Draft Report") and (2) the Inspector General's Letter to RFCUNY and the Corporation (the "IG's Letter"). The Program Director for the grants in question will respond separately to the Draft Report. I am writing personally to respond to the IG's Letter because of the extraordinary and unprecedented nature of its contents. My response is based on a factual investigation and legal research undertaken at my direction by staff at both RFCUNY and the University.

The IG's Letter concludes that the Education Award Program ("EAP") Grants made by AmeriCorps to RFCUNY are inconsistent with the statutory provisions governing the Corporation's mission and the purpose of its funding. It further recommends that the Corporation should terminate those grants and recover all education awards and accrued interest awards paid and all grant costs in an amount in excess of \$45 million, and possibly in excess of \$75 million. For the reasons set forth below, that conclusion is not supported by the language or history of the statute or the facts relating to RFCUNY's execution of the program. Nor is there any legal basis for the recovery of such sums.

At the outset, I wish to express my surprise at the IG's Letter. These EAP Grants were first awarded to RFCUNY in 2001 and have been renewed twice. RFCUNY, in partnership with the New York City Department of Education ("NYC DOE"), has executed the Teaching Fellows Program and the University's much smaller Teaching Opportunity Program as described in the grant applications. At no point during the past eight years has any representative of the Corporation ever raised a question about whether these programs were consistent with its statutory purposes. Indeed, if the Corporation had had any doubts on this score, it would not have funded them in the first place or would have terminated them. Instead, the Corporation renewed the grants in 2004 and again in 2007. Moreover, it is my understanding, that the Corporation and Congress regard these professional corps programs as very successful and a high priority for further funding. To be sure, there are some administrative and recordkeeping issues raised by the Draft

Report that need to be addressed and that RFCUNY will address. However, none of these affect the core purpose of the programs. In short, the IG's letter is a challenge to the legality of the Corporation's decision to fund and to continue funding these programs (and other similar programs such as Teach for America), not to anything that RFCUNY has done or not done. As such, it seems inappropriate to place on RFCUNY the burden of justifying the legality of the Corporation's actions and to recommend the recovery of funds spent in accordance with the Corporation's awards to RFCUNY. Nevertheless, I do not want the IG's letter to stand un rebutted until such time as the Corporation takes up this matter. Accordingly, I will answer each of the points raised in the IG's letter.

I also want to state RFCUNY's objection to the procedures followed by the IG. The IG's Letter followed an agreed-upon-procedures ("AUP") engagement regarding these grants. At the outset of that engagement, the parties agreed to and set forth in writing the issues to be considered. The issue of whether the purposes and execution of the grants were consistent with the statute governing the Corporation was not included. As the IG's Letter acknowledges, that issue was not raised until the exit conference on January 28, 2009, several months after the engagement began. It seems rather late in the engagement for such a critical issue to be raised, without prior notice, especially when the issue relates not to the AUP engagement itself, but to an interpretation of law.

In any event, I shall proceed to the respond to conclusions and recommendations contained in the IG's Letter.

FACTUAL BACKGROUND

The New York City Teaching Fellows Program was established as a pilot program in 2000 as a result of collaboration between CUNY, NYC DOE and the New York State Education Department (NYSED). This pilot placed a small cohort of New York City Teaching Fellows into an intensive, summer semester of education course work. Those individuals who successfully completed this intensive experience were granted alternative certification by the NYSED and allowed to teach full-time in underserved schools as long as they remained enrolled in a CUNY teacher education program leading to a Master's degree in the content area of the certification.

The pilot program's first cohort was recruited with the promise of a fully subsidized Master's degree and a full-time teaching job. The pilot proved to be successful in opening a new pipeline of certified teachers for the teaching profession in New York City. However, the need for certified teachers in the New York City public school system was far greater than the 300 teachers produced by this initial pilot. The lack of qualified and certified teacher in NYC public schools was at such a crisis point that the Teaching Fellows Program was called upon to scale-up immediately to meet this need and tripled in size the following year. The development of the partnership between AmeriCorps and the New York City Teaching Fellows Program addressed this staffing crisis and was critical in supporting this scale-up.

Evidence of the unmet need for certified teachers is provided by information collected by the NYC DOE Office of Teacher Recruitment and Quality. The New York City public schools have long suffered from an undersupply of fully credentialed teachers and many educational experts have identified this as one of the most critical needs of the school system. The supply problem has been particularly acute in schools serving high-poverty neighborhoods, including those in the Bronx, Upper Manhattan, and Brooklyn. In 2000, 60% of the 9,000 teachers hired in the New York City school district held only emergency credentials.

Seventeen percent of all teachers lacked full credentials and were concentrated in critical fields, including science (35%), mathematics (23%), special education (22%), and bilingual education (30%). The chronic, and severe, shortage of credentialed teachers hindered school improvement plans and efforts to create educational equity across the district.

Before the inception of the New York City Teaching Fellows Program, existing teacher education programs had failed to meet this need for qualified teachers. The Teaching Fellows Program is targeted at hard-to-staff subject areas and schools and at promoting teacher quality by expanding the pool of fully credentialed teachers. Ninety percent of all New York City Teaching Fellows teach in subject areas that have shortages and work in hard-to-staff schools.

AmeriCorps has provided indispensable help in turning the Teaching Fellows Program into a significant and reliable source of fully qualified and capable teachers for New York City's highest need schools. It was recognized from the beginning that it was not enough to offer a more intensive, alternate, route to qualifying as a teacher; financial incentives would be important for defraying the associated educational costs in order to attract the most talented candidates to teaching.

The AmeriCorps and New York City Teaching Fellows partnership has been a striking success. Since 2005 ninety-two percent of the Teaching Fellows have also enrolled as AmeriCorps members. Today, one out of nine certified teachers in the New York City public school system came through the Teaching Fellows Program.

The financial incentives offered through AmeriCorps are critical for attracting the best candidates and in maintaining tough admissions standards. Indeed, the NYSED has consistently identified financial incentives as one of four key strategies for addressing the teacher shortage and ensuring that school systems can compete for talented individuals, both with other professions and with other states (www.nysed.gov, 2008). The New York City Teaching Fellows Program recruits college graduates who have not had any prior experience as professional teachers. Seventy percent of the Teaching Fellows are career changers who likely incur a salary decrease when switching to a career in teaching. Forty four percent of the Teaching Fellows are between the ages 21-24, and an additional twenty-nine percent are between the ages of 25-29; both groups are likely to enter the program with outstanding student loans.

The New York City Teaching Fellows are recruited and retained with a media campaign designed to call on their sense of civic and national service in addressing this vital need. Our advertisements permeate the New York City subways and are designed to reach career changers with slogans such as, "your most important clients will carry backpacks, not briefcases" and "no one ever goes back 10 years later to thank a middle manager." These advertisements are in line with the spirit of an AmeriCorps program that asks citizens to serve their country, often at the sacrifice of greater financial rewards in other professional fields. AmeriCorps and the educational awards are also featured during recruitment calls to prospective Teaching Fellows. Most importantly, the educational awards allow us to attract and retain the most qualified and diverse applicant pool.

While it is true that the New York City Teaching Fellows received nearly 19,200 applications last year from across the nation, only fifteen percent of those applicants made it through our rigorous vetting process, which includes a lengthy application, transcripts of all college work, and two essays. All materials are screened by a team comprised of experts in the field. This is only the first step in narrowing the applicant pool to a smaller group whose members are selected for in-person interviews and demonstration lessons.

As a result of this interview and demonstration lesson, the applicant group is narrowed even further. This rigorous application and selection process is essential as research shows that teacher quality is the biggest single determinant of student achievement, especially for children from poverty who rely on the public schools to give them the opportunity to gain the skills and knowledge necessary to be successful and productive adults.

Once admitted, the New York City Teaching Fellows enter into an intensive summer "pre-service" program that includes, among others, the requirements that (i) they pass the challenging New York State-mandated Liberal Arts and Science Test (LAST) and the Content Specialty Test (CST); (ii) achieve a 3.0 GPA in their summer college coursework; and (iii) interview and accept a teaching position in a high-needs, New York City public school.

RFCUNY calls this first summer semester "pre-service" in its materials because it is prior to the hiring of the Teaching Fellows as public school teachers and their enrollment as AmeriCorps members.

Upon acceptance into the pre-service semester, information about AmeriCorps is provided to all New York City Teaching Fellow. They receive a personalized web site, MyNYCTF, with an AmeriCorps page through which they can access all pertinent AmeriCorps information. Once the Teaching Fellows have passed their pre-service, summer semester, they receive an AmeriCorps orientation as part of the mid-August ceremonies that celebrate their impressive achievement and success. The call to service is a constant theme throughout these ceremonies and AmeriCorps orientations.

As part of its recruitment efforts, RFCUNY "markets" the AmeriCorps Education Awards as a way for the Teaching Fellows to afford this call to service in New York City. The starting salary of \$45,530 is better than it used to be, but in New York City it does not go far. The Teaching Fellows rely on AmeriCorps education awards to help repay student loans and cover new educational expenses, thereby enabling them to save their salaries for meeting the very high cost of living in New York City.

Without AmeriCorps, it is doubtful that the Teaching Fellows Program would be able to recruit as many highly qualified candidates to come and teach in New York City. The lack of financial incentives would also hamper its ability to recruit from the most diverse pool of candidates. Diversity is one of our major goals. RFCUNY listed increased diversity as a targeted goal in our 2007 AmeriCorps reapplication, and it met and surpassed the targeted percentage goal in 2007 and in 2008.

Hence the partnership with AmeriCorps is vital to the Teaching Fellows Program by enabling it to offer education awards to those candidates who successfully make it through the rigorous application and vetting process, complete the intensive, pre-service summer program, and pass the NYSED required teacher certification exams. These talented individuals have formed the heart of this new program serving hundreds of thousands of students in high need schools and neighborhoods of New York City.

APPLICABLE LAW

The National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993 (hereinafter referred to collectively as the "Act")¹ governs the Teaching Fellows Program.

¹ 42 U.S.C. §§12501 et seq.

Its purposes include "meet[ing] the unmet . . . educational . . . needs of the United States, without displacing existing workers"² and "expand[ing] and strengthen[ing] existing service programs with demonstrated experience in providing service opportunities with visible benefits to the participants and community."³

The legislative history demonstrates the extent to which Congress expected assisted programs to expand and strengthen existing programs: "The national service program will enhance, support, and build on the vast and effective network of service organizations already in place in American communities. Relying on existing structures, resources and experience is absolutely essential in the pursuit of economy and efficiency. It is equally essential to maintaining the self-starting spirit, the pluralism, and the adaptation to local conditions that have always been the basis for creative response to community needs by local government."⁴

Among the types of service programs eligible for assistance is a "professional corps program that recruits and places qualified participants in positions – (A) as teachers . . . providing service to meet educational . . . needs in communities with an inadequate number of such professionals."⁵ Such a program must be sponsored "by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under division D of this subchapter) of the participants."⁶

The Act also contains a provision prohibiting the duplication of services and displacement of workers.⁷ The nonduplication provision states as a general rule: "Assistance provided under this subchapter shall be used only for a program that does not duplicate, and is in addition to, an activity in the locality of such program."⁸ It further states: "Assistance made available under this subchapter shall not be provided to a private nonprofit entity to conduct activities provided by a State or local government agency that such entity resides in unless the requirements of subsection (b) of this section are met."⁹

Subsection (b) contains the nondisplacement provision. It begins by stating the following general rule: "An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use of such employer of a participant in a program receiving assistance under the subchapter."¹⁰ It goes on to make this prohibition more explicit, including a

² *Id.* at §12501(b)(1).

³ *Id.* at §12501(b)(6).

⁴ *Id.* at 36.

⁵ *Id.* at §12572(a)(8)(A).

⁶ *Id.* at §1257(a)(8)(C).

⁷ *Id.* at §12637.

⁸ *Id.* at §12637(a)(1).

⁹ *Id.* at §12637(a)(2).

¹⁰ *Id.* at §12637(b)(1).

prohibition on the "duplication of services" which states: "A participant in any program receiving assistance under this subchapter shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee."¹¹ Thus, the nonduplication and nondisplacement provisions of the Act are not separate prohibitions; they are interconnected by the very structure of the Act. In the case of a program conducted by a nonprofit entity such as RFCUNY, the Act appears to permit duplication as long as there is compliance with the nondisplacement provision. More generally, the two provisions represent the flip sides of the same goal of preventing assisted programs from displacing workers.

This is also made clear in the legislative history of the Act, which states: "The National and Community Service Act strongly emphasizes the creation of meaningful opportunities for participants to provide services that would not otherwise be provided. Only in this way can we ensure that regular employees are not displaced."¹² Thus, the nonduplication provision must be interpreted in light of its purpose in preventing displacement of workers. Although the Act requires that a program satisfy an unmet need, it clearly contemplates the funding of an existing program designed to achieve that goal and does not require that such funding be indispensable to the existence of the program.

ARGUMENT

The Teaching Fellows Program fully complies with the statutory requirements of the Act. It meets unmet educational needs by recruiting, training and certifying highly qualified teachers for New York City's public school system, especially in those schools and classrooms where it is hardest to find and place such teachers. It does so without displacing any existing workers or duplicating an activity otherwise available in a locality. Rather, as specifically contemplated by the Act, the grants have expanded and strengthened an existing service program. That program fits perfectly within the model of a professional corps program, by recruiting and placing teachers to meet educational needs in communities with an inadequate number of such professionals, with the locality paying 100% of the salaries and benefits of the participants and the AmeriCorps grants providing for the costs of administration and for the education awards to the participants for their professional education.

The IG's letter concludes that the grants to the Teaching Fellows Program are not authorized by the Act because they were "merely 'icing on the cake' for a program that already existed." That language, while colorful, is not found anywhere in the Act and does not reflect the actual requirements contained therein. The nonduplication provision does not require, as the IG would have it, that no program is eligible for AmeriCorps funding unless there is proof that such funding is "essential" to recruiting volunteers. That interpretation would involve a wholesale rejection of the Act's approval of assistance designed to strengthen and expand existing programs, particularly using the professional corps model, which assumes

¹¹ *Id.* at §12637(b)(3)(a).

¹² S. Rep. No. 101-76 at 35 (Oct. 27, 1989) (emphasis added). The IG's Letter also cites the definition of "project" as "an activity, carried out through a program that receives assistance under this subchapter, that results in a specific service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned." That language is nothing more than a restatement of the nonduplication and nondisplacement provisions discussed above.

correctly that the education awards provided by the Act will serve to attract more qualified professionals to underserved localities than would be the case in the absence of such benefits.

The conclusion in the IG's Letter is thus based on a fundamentally incorrect interpretation of the Act. Because of that error of law, the factual predicates for the IG's conclusion are irrelevant. As set forth below, they are also erroneous.

1. *The large number of applicants for Teaching Fellow positions does not support the conclusion that there is not an unmet need.*

The IG's Letter correctly notes that applications for Teaching Fellow positions far outnumber the positions available. This is a highly selective program. It was planned to be so. In its 2004 proposal to AmeriCorps, RFCUNY wrote that it anticipated that only about a fifth of applicants would be accepted into the program. This has been a consistent feature of the program. In its 2007 proposal, RFCUNY reiterated that the program was one of the most selective in the country. AmeriCorps has never objected to this selectivity.

RFCUNY is proud to operate a program that selects only the most talented and suitable candidates. It is a signal achievement of the program that it has drawn highly qualified candidates to teaching positions in high-poverty schools that historically have been disproportionately staffed with temporary and uncertified teachers. Indeed, ninety-two percent of 2007 Fellows work in Title I schools, which are federally-designated as serving the highest concentration of students from poor families.¹³ Researchers have found that Teaching Fellows have entered the schools with significantly higher academic qualifications than their predecessors in high-poverty schools, a change that has already benefited the City's students.¹⁴

The IG's Letter argues that the large pool of applicants is evidence that there is no longer an unmet need in New York City's schools. A large pool is not evidence, however, that most of its members would meet the stringent standards required to assume challenging teaching responsibilities. Fellows undergo a very careful selection process that includes submitting essays, a personal interview, drafting of a sample document on-site, and conducting a demonstration lesson. The rigorous selection procedure insures that only applicants with the character, academic skills, and motivation to take on high-needs classrooms actually enter the schools.

The contention in the IG's Letter that the large number of applications for the Teaching Fellows Program demonstrates that there is no unmet need is also contradicted by the legislative history of the recently enacted Edward M. Kennedy Serve America Act, which among other things directs the Corporation to develop a plan to increase AmeriCorps positions to 250,000 by 2017 and reauthorizes the funding of professional corps programs. In passing the Act, Congress recognized the efforts of the thousands of volunteers educating young people in poor and rural schools through the Teach for America Program.¹⁵

¹³ The New Teacher Project. 2009. "A Growing Force: More than 8,300 NYC Teaching Fellows." www.nttp.org/outimpact/impact_nyc.html. Retrieved April 12, 2009.

¹⁴ Boyd, Donald, Hamilton Lankford, Susanna Loeb, Joanna Rockoff, and James Wyckoff. 2008. "The Narrowing Gap in New York City Teacher Qualifications and Its Implications for Student Achievement in High-Poverty Schools." *Journal of Policy Analysis and Management*, Vol. 27, No. 4:793-818.

¹⁵ 155 CONG. REC. S3636-01 (daily ed. March 24, 2009) (statement of Sen. Akaka).

That the Teach for America Program received 35,000 applicants for 4,000 slots was viewed by Congress as a positive sign that volunteers are taking advantage of the opportunities made available by AmeriCorps funding and that there is a need to increase opportunities for more Americans to serve.¹⁶

2. *AmeriCorps Education Awards are important to the Teaching Fellows Program.*

The IG's Letter argues that the AmeriCorps Education Awards could not have spurred participation because members were unaware of them. This claim is made on the grounds that (until recently) the program web site did not announce the AmeriCorps connection and that several program members who were interviewed stated they did not know that their awards came from AmeriCorps.

It should be noted that there appears to be no legal support for the IG's view that lack of widespread publicity about the awards would undermine the Teaching Fellows program. AmeriCorps does not require that programs be identified as affiliates or that those receiving education awards be identified as AmeriCorps members.¹⁷ Nevertheless, RFCUNY regards AmeriCorps membership as a significant benefit both to the program and to the Teaching Fellows.¹⁸ It has always referenced AmeriCorps as part of the Teaching Fellows Program and has recently taken additional steps to provide more visible credit to AmeriCorps for its contribution.

The City Teaching Fellows web site has always included information on AmeriCorps and on the education awards it provides. At times this information has not been on the web site's front page, but it has consistently been placed in the section on member benefits. Candidates who are considering applying are likely to delve into the web site at least to the point of acquiring information on the benefits they might expect. Moreover, at the end of the summer pre-service training, Teaching Fellows are all advised on the application process to become AmeriCorps members and obtain the resulting benefits.

There can be no serious doubt that the AmeriCorps awards are important to Teaching Fellows. It appears that program administrators have chosen not to highlight the awards until participants successfully complete their summer pre-service training and apply for membership. The training is demanding and not all participants succeed in it. For those who do, joining AmeriCorps at the end of the summer just before they assume responsibility for their own classrooms is a final stage in becoming committed teachers in high-needs schools.

¹⁶ 155 CONG. REC. S3841-01 (daily ed. March 26, 2009) (statement of Sen. Enzi).

¹⁷ AmeriCorps. 2007 Education Award Provisions.

¹⁸ The IG's Letter appears to assume that the only legitimate purpose of education awards is to benefit the program. As noted above, they do benefit the Teaching Fellows Program by assisting in the recruitment of the most highly qualified and diverse applicants. However, as noted by the IG's draft report in this very engagement, the Corporation "also provides educational opportunities for those who have made a substantial commitment to service." "Agreed-Upon Procedures for Corporation for National and Community Service Education Award Program Grants Awarded to the Research Foundation of the City University of New York, Office of Inspector General, Corporation for National and Community Service, Prepared by Cotton & Company at 3. The Teaching Fellows have made a very large commitment to service and, like all other AmeriCorps participants who meet the eligibility requirements, are entitled to receive awards on that basis.

Although the AmeriCorps education award is a delayed benefit, it comes at a crucial stage in the Teaching Fellows' transition to becoming full-fledged teachers. The Teaching Fellows become eligible for the awards after they have completed 1700 hours of service. Coming as they do after the Teaching Fellows finish what many find to be a grueling first year, the education awards may fact serve as a welcome inducement to continue in a demanding role. Teaching Fellows are disproportionately placed in high-poverty schools, which most often experience high rates of teacher exit.¹⁹ However, Teaching Fellows have stayed in impressive numbers, helping to significantly narrow the gap between the qualifications of teachers in low- and high-poverty schools.²⁰ Moreover, the education awards can help Teaching Fellows avoid or reduce education debt, which could be a barrier to continuation in the field for teachers who are just beginning to get their professional sea legs.

Nationwide, only about half of those AmeriCorps members who receive education awards actually make use of them. In the New York City Teaching Fellows program, more than ninety-five percent do so. This suggests that these awards are, in fact, operating as intended. They recognize and encourage commitment to service, and they underwrite human capital investment by recipients. In the New York City Teaching Fellows Program, those who have received this investment in turn work to increase the human capital of those in the next generation, their students.

There can be no serious doubt that Teaching Fellows value the education awards. Nevertheless, it is entirely possible that some of them are confused about the institutional role of AmeriCorps in providing the awards. The Teaching Fellows are immersed in several complex organizational relationships: they work as NYC DOE employees; they study as students in graduate programs at a range of area universities; and they receive program materials from RFCUNY. Some of the Teaching Fellows may therefore be unclear about which agency has responsibility for which aspects of the program. This is especially so when they are questioned about the education awards months or years after they applied for them. RFCUNY will certainly endeavor to improve its communications with members so that they understand the auspices of the programmatic support they receive. Nevertheless, their occasional uncertainty on the source of their education awards hardly supports the conclusion that the education awards are not important to the Teaching Fellows Program or that the Teaching Fellows Program is not consistent with the purposes of the Act.

3. *AmeriCorps funding is neither duplicative nor wasteful.*

The IG's Letter recognizes that the Teaching Fellows Program and the Teaching Opportunity Program "appear to contribute substantially to meeting a community need for teachers." It goes on to find, however, that "the AmeriCorps aspects of the program merely support an existing activity that is already adequately funded in amounts sufficient to attract recruits to become qualified teachers." No evidence is cited to support that assertion. Instead, the IG's Letter seeks to impose on RFCUNY the obligation, found nowhere in the Act, to provide "convincing evidence that demonstrates that AmeriCorps funding is essential to recruiting volunteers into the alternative paths to becoming professional certified teachers in New York

¹⁹ Boyd, Donald, Hamilton Lankford, Susanna Loeb, Jonah Rockoff, and James Wyckoff. 2008. "The Narrowing Gap in New York City Teacher Qualifications and Its Implications for Student Achievement in High-Poverty Schools." *Journal of Policy Analysis and Management*, Vol. 27, No. 4:793-818.

²⁰ The New Teacher Project. 2009. "A Growing Force: More than 8,300 NYC Teaching Fellows." www.nttp.org/ourimpact/impact_nyc.html. Retrieved April 12, 2009.

City's public schools or that the benefits, while significant, are in any way attributable to AmeriCorps activities." (Emphasis added.) As noted above, the IG's approach is inconsistent with the Act's explicit inclusion of professional corps programs, the value of which was recognized by President Bush when he directed the Chief Executive Officer of the Corporation that "[g]uidelines for the selection of national and community service programs should recognize the importance of professional corps programs in light of the fundamental principles and policymaking criteria set forth in this order."²¹

To be sure, as a matter of policy, the Corporation should and does seek to ensure that education awards add value to an existing program before it approves an application for funding. Its instructions to grant applicants provide the following guideline: "If you currently operate a community service program and are proposing to make education awards available for those performing service, please describe how the education awards will add value to the program and increase or enhance the program's impact in the community. This 'value added' may be established by: . . . improving the caliber or diversity of members enrolled. . . ." ²² That is precisely how the Teaching Fellows Program justified the renewals of its grants, and the Corporation apparently found that justification convincing. There is no basis for the IG to second-guess the judgment of the Corporation on this matter.

The IG's Letter places emphasis on the fact that funding from NYC DOE far outstrips that from AmeriCorps. Teaching Fellows receive a salary of \$45,530 (plus benefits) from the Department of Education, while they receive an education award of \$4,725 from AmeriCorps. The disproportion is entirely in keeping with professional corps programs generally in which participants are paid salaries from government agencies that employ them. AmeriCorps contributes only education awards and limited operating funds, thereby allowing it to leverage its funding. Any professional salary would exceed an AmeriCorps education award. This is in no way unique to the New York City Teaching Fellows Program, but inheres in the design of all professional corps programs.

This does not mean, however, that AmeriCorps funding is irrelevant or meaningless. In the Teaching Fellows Program, education awards help the Teaching Fellows manage the transition from their original careers to teaching; it also helps them over the enormously difficult period in which they combine teaching with the pursuit of a graduate degree. Congress clearly provided for the funding of professional corps programs on the assumption that the education awards provided by AmeriCorps will, in fact, assist in recruiting teachers and other professionals to work in underserved localities. The Corporation has also recognized the importance of education awards despite their small cost to the Corporation. In responding to comments to the draft changes in the regulations in 2005, the Corporation stated: "The Corporation agrees that the EAP program is a clear example of a sustainable program from a financial perspective. The Corporation is aware of the significant financial contribution and investment that EAPs make in their programs and the relatively small amount of money they receive from the Corporation."²³ In other words, education awards, especially in the context of a professional corps program, are very cost effective. This hardly seems a reason for finding in the context of the Teaching Fellows Program that they fall outside the Act's purposes and should be discontinued.

²¹ Executive Order No. 13331, §3(c)(ix) (Feb. 27, 2004).

²² AmeriCorps Education Awards Program, 2004 Application Instructions at 8-9.

²³ Federal Register, Vol. 20, No. 130 (July 8, 2005) at 39567.

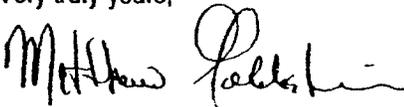
CONCLUSION

There is no dispute that the New York City Teaching Fellows Program has met an unmet social need and has done so with remarkable success. The program's results are clear, they are outstanding; and they are due to the innovative thinking, the hard work, and the contributions of many groups, including RFCUNY, NYCDOE and AmeriCorps. They have worked together, contributing in different ways and in different proportions, and together they have devised and implemented a plan that works. This is the meaning and purpose of a professional corps program.

As noted above, RFCUNY is responding separately to the Draft Report regarding its recordkeeping and administrative procedures. There are a few areas in which it needs to improve its performance. RFCUNY will do so and will ensure that participants adhere to the highest standards of compliance. I note, however, that as a professional corps program, the Teaching Fellows Program has been closely monitored by the institutions in which the Teaching Fellows have worked and studied, especially NYC DOE. Thus, the program has had built-in structural safeguards. I am confident (and there is no evidence to the contrary) that no Teaching Fellow has received an unearned education award and that no Teaching Fellow has entered the public schools without an extremely thorough criminal background check. Whatever recordkeeping errors occurred have never compromised the integrity of the program.

RFCUNY stands by the New York City Teaching Fellows program and is proud of its achievements. The Teaching Fellows program has been enormously successful in meeting a critical social need. Many Fellows have chosen to remain in the schools, demonstrating a continued ethic of service. The program has been cost-effective for AmeriCorps, and it has had the "broad reach" stipulated as a goal of programs supported by the Corporation. RFCUNY has implemented a professional corps program in accordance with the Act, and it has done so to the significant benefit of the people of New York and the United States. Far from being deemed "impermissible," the Teaching Fellows Program should be recognized for its innovation and extraordinary social impact due to the contributions of all of its partner institutions.

Very truly yours,



Matthew Goldstein

cc: Frank Trinity
General Counsel
Corporation for National and Community Service

Corporation for
**NATIONAL &
COMMUNITY
SERVICE** 

May 4, 2009

Honorable Gerald Walpin
Inspector General
Corporation for National and Community Service
1201 New York Avenue NW
Washington, D.C. 20525

RE: Your letter to the Corporation and RFCUNY dated April 2, 2009.

Dear Mr. Walpin:

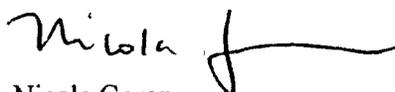
I have reviewed your letter dated April 2, 2009, to the Corporation and to the Research Foundation of the City University of New York (RFCUNY), conveying a draft of your findings and recommendations in connection with Corporation grants 04EDHNY003 and 07EDHNY002 to RFCUNY.

After careful review of your letter, we cannot concur in your draft finding that RFCUNY has never operated an AmeriCorps program. The basis of our position is set forth in the attached memorandum of the General Counsel, which does not agree with your legal analysis or with the conclusions you reach based on the factors you cited in your letter. Specifically, we do not agree with your legal analysis of unmet needs and nonduplication with respect to a professional corps program like the RFCUNY teacher corps. We believe that RFCUNY was and is eligible for AmeriCorps funding because it expands and strengthens a professional corps program addressing an unmet need as specified in section 122(a)(8) of the National and Community Service Act of 1990; in this case addressing the shortage of high-quality teachers in New York City public schools.

Accordingly, the Corporation will not act on your draft recommendations regarding the status of the RFCUNY AmeriCorps grants. General Counsel Frank Trinity and I are available to discuss this matter if you would like.

We will communicate with your office separately in connection with the draft report prepared by your outside audit firm.

Sincerely,



Nicola Goren
Acting Chief Executive Officer



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OFFICE OF INSPECTOR GENERAL

April 2, 2009

Mr. Eric Newman
Program Director,
Research Foundation of the City University of New York
CUNY, Office of Academic Affairs
535 East 80th Street
New York, NY 10021

Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service
1201 New York Avenue, NW, Rm. 10201
Washington, DC 20525

Dear Mr. Newman and Ms. Goren:

This letter conveys the Office of Inspector General's ("OIG") draft of its finding and recommendation regarding the Corporation for National and Community Service ("Corporation") Grant Nos. 04EDHNY003 and 07EDHNY002, which it awarded to the Research Foundation for the City University of New York ("RFCUNY").

INTRODUCTION

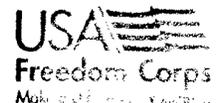
During a recent agreed-upon-procedures ("AUP") engagement regarding these grants, the OIG became aware of apparent discrepancies between the purposes and execution of the grants and the statutorily permissible use of Federal funds disbursed by the Corporation. Following our meetings with Corporation and RFCUNY officials in January and February 2009, on the subject of these Education Award Program ("EAP") grants to RFCUNY and after considering RFCUNY's responses to our inquiries, we have prepared the finding and recommendation that follows. This letter supplements the draft AUP report, which Cotton & Company prepared.

During the exit conference for the AUP engagement with RFCUNY, on January 28, 2009, we presented our initial concerns and requested a written response that we hoped would alleviate our concerns that the RFCUNY EAP grants were not congruent with the statute and purpose of the Corporation's appropriations and its mission. We received RFCUNY's written response, dated February 10, 2009, a copy of which we forwarded to the Corporation. The RFCUNY response did not alleviate but, in fact, heightened our concern that the grants are merely supplementing local programs that already would or do exist even without Corporation funding and do no more than provide education awards to members who had, prior to becoming an AmeriCorps member, volunteered for this identical community service. Thus, we have



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concluded that these grants do not meet the statutory and regulatory requirements that they must fund a service that would otherwise not be provided and that meets a presently unmet need.

BACKGROUND

The Grants. Beginning at least with Program Year 2001-2002 and Grant No. 01EDNNY003, the Corporation has provided several grants to RFCUNY, each of which covered or was expected to cover three program/budget years. These grants provided AmeriCorps-member designations to teachers in the New York City public schools who are participants in the New York City Teaching Fellows Program ("Fellows") and the City University of New York's ("CUNY") Teaching Opportunity Program ("TOP"). These teachers, as AmeriCorps members, had the opportunity to earn education and accrued interest awards, which are funded outside the grants, but through Federal funds that the Corporation obligated at grant award in the National Service Trust ("Trust"). Since that 2001-2002 grant, the Corporation has awarded two more, Grants Nos. 04EDHNY003 and 07EDHNY002, with funds totaling \$4,208,000 covering 5 budget years and which provided for 14,700 member service years ("MSY"), which include 14,300 full-time and 800 half-time members. Those 2004 and 2007 grants are the subject of the agreed-upon procedures engagement performed for the OIG by Cotton and Company. Associated with these two grants are potential and actual obligations/liabilities of the Trust, *i.e.*, as much as \$69.5 million for education awards that could be earned by the members. The Corporation has informed the OIG that it had paid accrued interest payments, totaling about \$917,000, and education awards of about \$40 million from the Trust, as of March 3, 2009.

RFCUNY, in executing the grants, recruited its AmeriCorps members from graduate students whom it had already recruited as Fellows for the same purpose as the grant. The timing for recruitment of TOP teachers into AmeriCorps may be different. In general, Fellows and TOP recruits receive a starting salary of about \$45,530 per year, plus employee benefits and tuition, while pursuing a professional teaching certification by attending graduate courses and teaching in New York City public schools.¹ Corporation funds do not pay the salary and benefits or the tuition for the education required of Fellows and TOP teachers. Those Fellows and TOP teachers who become AmeriCorps members obtain AmeriCorps service hours for the same hours for which they are compensated for teaching, for the hours attending training, the time required to take graduate classes, and for other activities. Usually, these AmeriCorps members earn full education and accrued interest awards because of the many hours involved in teaching and attending graduate courses that are required activities of Fellows and TOP.

The AmeriCorps Program is not a single homogeneous program at RFCUNY and indeed incorporates at least two different programs, Fellows and TOP, to provide alternative paths to becoming fully certified teachers in New York City's schools. However, as shown in the table of statistics that follows, the programs accept only a small number of the applicants for those programs.

¹ The Fellows Program states, "During their time in the Fellowship, Fellows are certified under a Transitional B certificate issued by the state. This certificate is valid for up to three years.... Upon completion of the Master's program ... [and after] teaching for three years (including their time in Fellowship), Fellows may apply for Professional certification." Unlike Fellows, TOP candidates may already have a New York State teaching certificate in certain instances.

Table of Statistics

Program/Description	Applicants	Started Teaching	Selection Rate	Source
Fellows (2000-2008)	134,601	13,523	10%	RFCUNY
TOP (2001-2008)	2,369	863	36%	RFCUNY
	<u>136,970</u>	<u>14,386</u>	<u>10.5%</u>	

Corporation Authorization and Statutory Authority. The National and Community Service Trust Act of 1993, as amended, and as specified below, provides for AmeriCorps grants for service programs that do not duplicate local programs, but, rather, address unmet needs. It permits use of Federal funds for AmeriCorps grants to expand and strengthen existing service programs that have visible benefits for the participants and the community. The Act emphasizes this requirement by providing that AmeriCorps projects must result in a specific identifiable service or improvement that otherwise would not be done with existing funds, and prohibits duplication of projects already carried on in the community.

More specifically:

42 U.S.C. § 12501. **Findings and purpose**

(a) Findings

The Congress finds the following:

(1) Throughout the United States, there are pressing **unmet** human, educational, environmental, and public safety needs.

* * *

(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

* * *

(b) Purpose

It is the purpose of this chapter to--

(1) meet the **unmet** human, educational, environmental, and public safety needs of the United States, without displacing existing works;

* * *

(5) reinvent government to eliminate duplication, support locally established initiatives, require measurable goals for performance, and offer flexibility in meeting those goals;

(6) **expand** and strengthen existing service programs with demonstrated experience in providing structured service opportunities with visible benefits to the participants and community;

(7) **build on** the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens; and

(8) provide tangible benefits to the communities in which national service is performed. **[Emphasis Added]**

42 U.S.C. § 12511. Definitions

For purposes of this subchapter:

* * *

(20) The term "project" means an activity, carried out through a program that receives assistance under this subchapter, **that results in a specific identifiable service or improvement that otherwise would not be done with existing funds**, and that does not duplicate the routine services or functions of the employer to whom participants are assigned. **[Emphasis added]**

42 U.S.C. § 12572. Types of national service programs eligible for program assistance

(a) Eligible national service programs

[T]hese national service programs may include the following types of national service programs:

* * *

(8) A professional corps program that recruits and places qualified participants in positions –

(A) as teachers ... providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;

(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 12594 of this title, as provided in subsection (c) of such section; and

(C) that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than national service educational award under division D of this subchapter) of the participants.

42 U.S.C. 12637. **Nonduplication and nondisplacement**

(a) Nonduplication

(1) In general

Assistance provided under this subchapter shall be used **only for a program that does not duplicate, and is in addition to**, an activity otherwise available in the locality of such program.

(2) Private nonprofit entity

Assistance made available under this subchapter shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) of this section are met. **[Emphasis added]**

EVALUATION AND FINDING

The finding expressed herein goes beyond the findings presented in the AUP draft report, which states, "... our compliance findings when taken as a whole indicate pervasive problems of eligibility, timekeeping, and documentation." The OIG believes that these pervasive problems are directly related to the grantee's reliance upon the existing processes in place for pre-existing non-AmeriCorps programs, *i.e.*, Fellows and TOP. The processes relied upon are contrary to RFCUNY's grant application that indicated how it would provide oversight for the AmeriCorps program and members. In its application for the 2007 grant, RFCUNY stated on page 16:

As for supervision, our program members will be supervised by both their school supervisor, usually an assistant principal, and by our program managers, the AmeriCorps site supervisors who sign the timesheets. These supervisors receive annual training on AmeriCorps guidelines and additional training as needed. They also work in the same office as our AmeriCorps staff, enabling them to confer with our staff regularly.

Our recent engagement found that the onsite supervisors were not always aware that their Fellow or TOP teacher was also an AmeriCorps member. Two of five onsite supervisors interviewed were unaware that their respective teaching Fellow was an AmeriCorps member, and none of the supervisors had access to the member contract and had knowledge of its contents, including prohibited activities.

Onsite supervisors also did not sign AmeriCorps timesheets. The process in place provided for one individual in the central AmeriCorps office, who had no knowledge of members' service, to sign all of the thousands of timesheets. The processes actually in place were not as described in RFCUNY's grant application.

In addition, RFCUNY did not comply with AmeriCorps program requirements for criminal background checks. During and because of the AUP engagement, RFCUNY requested a

waiver to rely upon the criminal background checks of the New York Department of Education. Further, RFCUNY had no plans to comply with requirements for member evaluations although Corporation waivers exempting EAP grantees from the requirement to do member evaluations had expired.

These problems in the RFCUNY program show, in our opinion, that no real AmeriCorps program was in place and that its efforts were mainly devoted to “papering the files” in an attempt to meet the documentation requirements. In some instances, for example, members did not turn in a single timesheet until after the period of service was completed.

Separate and apart from the deficiencies in program operations, we have concluded that RFCUNY is, in fact, operating an impermissible AmeriCorps program. While the Fellows and TOP programs appear to contribute substantially to meeting a community need for teachers, the AmeriCorps aspects of the program merely support an existing activity that is already adequately funded in amounts sufficient to attract recruits to become qualified teachers. RFCUNY’s response has not provided convincing evidence that demonstrates that AmeriCorps funding is essential to recruiting volunteers into the alternative paths to becoming professional certified teachers in New York City’s public schools or that the benefits, while significant, are in any way attributable to AmeriCorps activities.

The following points support our conclusion that RFCUNY’s program is, in fact, not a valid AmeriCorps program:

- RFCUNY has not demonstrated that its grants **result in a specific identifiable service or improvement that otherwise would not be done with existing funds** [See 42 U.S.C. § 12511.(20)].
- The program does not expand volunteerism. Five of the six members contacted during the AUP engagement stated that they were not aware of the AmeriCorps education Award when they signed up for the Fellows Program. The Fellows website was initially silent on AmeriCorps and its benefits as an inducement to become an AmeriCorps member to those who had not yet signed up as a Fellow. Therefore, the education award and accrued interest awards played no part in encouraging them to volunteer.
- In an October 25, 2005, letter in response to a Corporation site visit, RFCUNY stated that:
 1. It would create tools and monitoring devices to insure that all Member files are maintained with the highest levels of diligence and care.
 2. The Program Manager is in the midst of developing a manual on the nuances of processing the enrollment packets, exit forms, timesheets, and file maintenance. The manual is expected to be completed by the beginning of the new calendar year.
 3. It would develop strategies and opportunities for the AmeriCorps connection to be further emphasized.

None of these actions stated in the letter to the Corporation was completed.

- The RFCUNY grant is inconsistent with the statutory purpose of the national service laws because the activity that is performed by the Fellows in New York City would occur

regardless of the AmeriCorps grant, and therefore the program meets no unmet human need.

- The City of New York's Board of Education awarded RFCUNY/CUNY a \$61 million contract (over five years) to fund the tuition of Fellows' required education to become a teacher. In addition, the school system pays each Fellow and TOP teacher approximately \$45,530 per year plus employee benefits to teach in the City's public schools. Without evidence from RFCUNY to the contrary, we believe these incentives are adequate in themselves to attract sufficient numbers of Fellows into the alternative path to becoming a teacher. Indeed, RFCUNY provided information, as shown previously in the table of statistics, that only 10.5 percent of the nearly 137,000 applicants are accepted into Fellows and TOP, establishing both that any AmeriCorps' monetary incentives are not needed to obtain the quota of Fellows – indeed multiples of the number acceptable are waiting in the wings. Thus, the AmeriCorps grants are duplicative and unnecessary to attract teachers into alternative paths to teacher certification. The grants are, therefore, an unnecessary expense to the Corporation.

Pursuant to:

45 C.F.R. § 2540.100, *What restrictions govern the use of Corporation assistance?(e) Nonduplication:* Corporation assistance may not be used to duplicate an activity that is already available in the locality of a program. And, unless the requirements of paragraph (f) of this section are met, Corporation assistance will not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in which such entity resides.

This restriction applies to RFCUNY, which is a private, not-for-profit, educational corporation.

- The Inspector General presented our concerns to RFCUNY at the exit conference on January 28, 2009. RFCUNY responded in a February 10, 2009, letter to the OIG. RFCUNY stated that AmeriCorps has provided indispensable help in turning the Fellows into a significant and reliable source of fully qualified and capable teachers for New York's highest need schools, and that financial incentives would be important for defraying the associated educational costs, if the most talented candidates were to be attracted to teaching.

RFCUNY's response primarily addressed the benefit of the Fellows and TOP programs and did not provide evidence that the AmeriCorps program provided any additional value. The interviews conducted during the AUP engagement found that the AmeriCorps members were not aware of the AmeriCorps education award until after they had applied to become Fellows, which means the award offered no incentive to become a teacher. The full-time education award is \$4,725, representing far less than 10 percent of the annual salary, tuition, and employee benefits that these Fellows received. We therefore believe that the grants do not meet an unmet need and that they duplicate an activity that was already available in New York City.

CONCLUSION AND RECOMMENDATION

The Corporation promotes an ethic of service opportunities for Americans to engage in service that fosters civic responsibility, strengthens communities, and provides educational opportunities for those who make a commitment to service, fostering within them an ethic of civic responsibility.

We conclude that the AmeriCorps grant was merely 'icing on the cake' for a program that already existed and that RFCUNY was not conducting an AmeriCorps program.

Indicative of the RFCUNY recognition that the AmeriCorps facet of the program was not needed to attract teachers to the program was a sudden change in the Fellows website after the January meeting at which we first voiced our concerns. We saw that the Fellows website, after RFCUNY initially responded to our communication of our concerns about the program, in February 2009, added in its Program Overview, a new sentence, "Conditional upon funding and grant approval, Fellows may also be eligible for AmeriCorps Education Awards." That RFCUNY suddenly added that sentence after we had raised the issue of the non-use of the AmeriCorps membership to induce applicants demonstrates RFCUNY's recognition that this lack of inducement puts its program into question. Belatedly adding the sentence does not fill the void.

The costs of the two grants, including costs to the National Service Trust Fund, could exceed \$75 million for currently authorized MSYs. If a third budget year is awarded in amounts and numbers like those for years one and two for the 2007 grant, an additional 3,600 MSYs will substantially increase costs to the Corporation amounting to over \$17 million in obligations to the Trust alone (3600 members X \$4,725).

Recommendation: We recommend the Corporation terminate the grants and recover education awards and accrued interest awards paid, about \$40 million and \$.9 million, respectfully, and all grant costs, about \$4.2 million, and any other amounts paid prior to termination.²

RFCUNY's Response:

Corporation's Response:

OIG's Comments:

Very truly yours,

Gerald Walpin /s/
Inspector General

² This recommendation is made in conjunction with and as a supplement to the recommendations in the AUP report that the Education Awards be disallowed.



OFFICE OF INSPECTOR GENERAL

April 2, 2009

Mr. Eric Newman
Program Director,
Research Foundation of the City University of New York
CUNY, Office of Academic Affairs
535 East 80th Street
New York, NY 10021

Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service
1201 New York Avenue, NW, Rm. 10201
Washington, DC 20525

Dear Mr. Newman and Ms. Goren:

Enclosed for your action are two documents: (1) the draft report on the *Agreed-Upon Procedures for Corporation for National and Community Service (Corporation) Education Award Program Grants Awarded to the Research Foundation of the City University of New York (RFCUNY)*, and (2) the *Inspector General's Letter to the Corporation and RFCUNY*. The Office of Inspector General (OIG) invites you to provide comments on the findings and recommendations in the report and in the Inspector General's letter. Your responses should not be comingled because, while the OIG will consider both responses, the independent auditor on the agreed-upon-procedures engagement will respond only to comments on that document.

Please provide us with any comments on the enclosed documents as soon as possible, but not later than May 4, 2009. We will consider your comments carefully and revise the documents, if we deem it appropriate to correct errors or clarify facts. Typically, we summarize responses after each recommendation in the body of the final report or other document and include responses verbatim as appendices.

The Rehabilitation Act of 1973, as amended (Section 508, 29 U.S.C. § 794d), requires Federal agencies that post information to their websites to meet certain accessibility standards for persons with disabilities. We will post to the OIG's website our final report along with your comments. In order to meet the accessibility requirements, your comments to our office should be sent to us as an electronic Microsoft Word file, Word Perfect file, or as an accessible Portable Document Format (PDF). Scanned documents that result in imaged documents are not accessible. If you choose to send your comments in a non-accessible format, we will convert your comments to a format that meets the Rehabilitation Act's requirements. This conversion process may result in posting your comments to our website as a degraded document or in some cases an unintelligible document.



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If you have questions or wish to discuss the enclosures, please contact Jim Elmore, Audit Manager, at (202) 606-9354 or at j.elmore@cncsoig.gov.

Very truly yours,

Stuart Axenfeld /s/
Assistant Inspector General for Audit

Enclosures

cc: Frank Trinity, General Counsel
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Lois Nembhard, Acting Director, AmeriCorps*State and National
William Anderson, Acting Chief Financial Officer
Rocco Gaudio, Deputy Chief Financial Officer, Grants and Field Financial Management
Sherry Blue, Audit Resolution Coordinator
Sam Hadley, Partner, Cotton & Company LLP

**Office of Inspector General
Corporation for National and
Community Service**

**AGREED-UPON PROCEDURES FOR
CORPORATION FOR NATIONAL AND COMMUNITY
SERVICE EDUCATION AWARD PROGRAM GRANTS
AWARDED TO THE RESEARCH FOUNDATION OF THE
CITY UNIVERSITY OF NEW YORK**

OIG REPORT XX-XX

The attached Draft Audit Report is for review and comment only and not for distribution. Its content is confidential and should be safeguarded to prevent disclosure to parties other than those directly involved in commenting on the issues contained in this report.

Corporation for
**NATIONAL &
COMMUNITY
SERVICE** 



Prepared by:

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This report was issued to Corporation management on xxx xx, 2009. Under the laws and regulations governing audit follow-up, the Corporation is to make final management decisions on the report's findings and recommendations no later than xxxx xx, 2009 and complete its corrective actions by xxxx xx, 2010. Consequently, the reported findings do not necessarily represent the final resolution of the issues presented.

**OFFICE OF INSPECTOR GENERAL
AGREED-UPON PROCEDURES FOR
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
EDUCATION AWARD PROGRAM GRANTS AWARDED TO
THE RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK**

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- A: The Research Foundation of the City University of New York's Response to Agreed-Upon Procedures Report
- B: Corporation's Response to Agreed-Upon Procedures Report

EXECUTIVE SUMMARY

The Office of Inspector General (OIG), Corporation for National and Community Service (Corporation), contracted with Cotton & Company LLP to perform agreed-upon procedures to assist the OIG in grant cost and compliance testing of Corporation-funded Federal assistance provided to The Research Foundation of the City University of New York (RFCUNY). The Corporation awarded two Education Award Program grants to RFCUNY that were categorized as Professional Model grants.

SUMMARY OF RESULTS

As a result of applying our procedures, we questioned education awards of \$16,152,414 and draw downs of \$773,254. In general, we questioned the education awards for members whose eligibility was not established in accordance with grant requirements for criminal background checks. Draw downs were questioned mostly for fixed fees related to members whose eligibility we questioned and also for drawing down in excess of fees earned. In addition, our compliance findings when taken as a whole indicate pervasive problems of eligibility, timekeeping, and documentation. A questioned cost is an alleged violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds or a finding that, at the time of testing, includes costs not supported by adequate documentation. Detailed results of our agreed-upon procedures on claimed costs are presented in Exhibit A.

Participants who successfully complete terms of service under AmeriCorps grants are eligible for education awards and, in some cases, accrued interest awards funded by the Corporation's National Service Trust. These award amounts are not funded by Corporation grants and thus are not included in claimed costs. However, as part of our agreed-upon procedures, and using the same criteria used for the grantee's claimed costs, we determined the effect of our findings on eligibility for education awards and accrued interest awards.

The following is a summary of grant compliance testing results. These results, along with applicable recommendations, are discussed in Exhibit B.

1. RFCUNY drew down more funds than it was due.
2. RFCUNY did not follow certain AmeriCorps Provisions.
3. The supervisory signature on members' timesheets was not the members' supervisor, or that of someone with direct knowledge of hours served by the members.
4. Members did not always record actual service hours on their timesheets.
5. Some members' timesheet hours were not accurately recorded in the Corporation's Web-Based Reporting System.
6. RFCUNY did not require its members to timely submit their member contracts, forms, and timesheets.

7. RFCUNY used preprinted member documentation and did not ensure that all member documentation was completed, signed, and dated.
8. RFCUNY did not maintain documentation to demonstrate that each member's evaluation complied with AmeriCorps Regulations and the Member Agreement.
9. RFCUNY did not maintain documentation to demonstrate that members received criminal background checks and that any background checks conducted complied with AmeriCorps Provisions.
10. RFCUNY entered incorrect member start dates in Corporation systems and in member contracts.
11. Some members worked beyond their contract-end date.

AGREED-UPON PROCEDURES SCOPE

We performed the agreed-upon procedures detailed in the OIG's Agreed-Upon Procedures (AUP) Program for Corporation Education Awards Program Grants to Grantees (including Subgrantees or Sites), dated September 2008, and supplemented on December 1, 2008. Our procedures covered testing of the following grants:

Award Number	Award	Award Period	Total Award	AUP Period	Amount Awarded During AUP Period
04EDHNY003	New York City Teaching Fellows Program	09/01/04-04/01/08	\$2,408,000	09/01/06-04/01/08	\$804,000
07EDHNY002	New York City Teaching Fellows Program	08/01/07-07/31/10	\$1,800,000	08/01/07-07/31/08	\$900,000

The OIG's agreed-upon procedures program included:

- Obtaining an understanding of RFCUNY.
- Verifying that the amount of funds the grantee drew down agrees with the amount due.
- Testing grantee member files to verify that records supported eligibility to serve and education awards.
- Testing compliance of RFCUNY on selected AmeriCorps Provisions, and award terms and conditions.

We performed testing of the Education Award Program (EAP) at RFCUNY from October 2008 through January 2009.

BACKGROUND

The Corporation

The Corporation supports a range of national and community service programs that provide an opportunity for individuals (members) to serve full- or part-time. The Corporation funds opportunities for Americans to engage in service that fosters civic responsibility and strengthens communities. It also provides educational opportunities for those who have made a substantial commitment to service.

The Corporation has three major service initiatives: National Senior Service Corps, AmeriCorps, and Service-Learning (Learn and Serve America). The AmeriCorps Program, the largest of the initiatives, is funded in two ways: grants through the State Commissions, and direct funding to applicants, including funding under the National Direct Program. The Corporation distributes most of the balance of its funding directly to multi-State and national organizations such as RFCUNY through a competitive grant process. Unlike the majority of AmeriCorps grants, EAP grantees, such as RFCUNY, receive only a fixed fee for each member that they enroll. Most other types of AmeriCorps grants fund member living allowances and other benefits.

The Research Foundation of The City University of New York

RFCUNY is a non-profit educational corporation located in New York, NY, that manages private and government-sponsored programs at The City University of New York (CUNY). RFCUNY supports CUNY faculty and staff in identifying and obtaining awards for programs from government and private sponsors, and is responsible for the post-award administration of all such funded programs. While RFCUNY is the grantee, and is ultimately responsible for the management of the awards, the financial and programmatic components of the award are performed by both RFCUNY and CUNY. RFCUNY operates its AmeriCorps grant through the New York City Department of Education's (DOE) New York City Teaching Fellows Program. RFCUNY performs draw downs while CUNY operates the program and ensures compliance with award requirements. The New York City Teaching Fellows program office within DOE assists CUNY in the operation of the AmeriCorps portion of the program.

The RFCUNY AmeriCorps Program uses a Professional Corps program model. Professional Corps programs place members as teachers, health care providers, police officers, childhood development staff, engineers, or other professionals to meet unmet needs in communities with an inadequate number of such professionals. Grantees receive Corporation funding to support program costs, and use their own or other resources to pay the members' living allowance and additional member costs. Unlike other AmeriCorps models, the Professional Corps model has no cap on how much a member may earn while serving.

EXIT CONFERENCE

The contents of this report were discussed with representatives from RFCUNY, DOE, and the Corporation on January 28, 2009. We will summarize RFCUNY's and the Corporation's comments in the appropriate sections of the final report and will include their comments in Appendices A and B, respectively.

OTHER MATTERS

As part of our procedures, we were required to interview 10 members and 10 supervisors. Despite several attempts to conduct the interviews, only six members and five supervisors responded to our repeated requests for interview via telephone. Comments from members and supervisors are included, where applicable in this report. Had we been able to conduct all interviews, additional information could have been provided that might have impacted this report (see Compliance Finding No. 3 for related recommendation).



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February 3, 2009

Office of Inspector General
 Corporation for National and Community Service

**INDEPENDENT ACCOUNTANTS' REPORT ON
 APPLYING AGREED-UPON PROCEDURES**

Cotton & Company LLP performed the procedures detailed in the *OIG's Agreed-Upon Procedures (AUP) Program for Corporation Education Awards Program Grants to Grantees (including Subgrantees or Sites)*, dated September 2008, and supplemented on December 1, 2008. These procedures were agreed to by the OIG, solely to assist it in grant cost and compliance testing of Corporation-funded Federal assistance, provided to RFCUNY, for the awards detailed below.

This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants (AICPA) and generally accepted government auditing standards. The sufficiency of these procedures is solely the responsibility of the OIG. Consequently, we make no representation regarding the sufficiency of the procedures, either for the purpose for which this report has been requested or any other purpose.

Our procedures covered testing of the following awards:

Award Number	Award	Award Period	Total Award	AUP Period	Amount Awarded During AUP Period
04EDHNY003	New York City Teaching Fellows Program	09/01/04-04/01/08	\$2,408,000	09/01/06-04/01/08	\$804,000
07EDHNY002	New York City Teaching Fellows Program	08/01/07-07/31/10	\$1,800,000	08/01/07-07/31/08	\$900,000

We also tested certain grant compliance requirements by sampling 311 members. We performed all applicable testing procedures in the AUP Program for each sampled member.

Program Year	Total Members	Sampled Members
2006-2007	2,543	127
2007-2008	3,674	184

RESULTS OF AGREED-UPON PROCEDURES

We questioned draw downs of \$773,254. A questioned cost is an alleged violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds or a finding that, at the time of testing, includes costs not supported by adequate documentation.

We also questioned Education Awards of \$16,152,414. Grant participants who successfully complete terms of service under AmeriCorps grants are eligible for education awards and repayment of student loan interest accrued during the term of service from the National Service Trust. These award amounts are not funded by Corporation grants and thus are not included in claimed costs. Education awards totaling \$11,340,000 in Program Year (PY) 2006-2007 and \$17,010,000 in PY 2007-2008 were available to CUNY for award to potential members. As part of our agreed-upon procedures and using the same criteria as claimed costs, we determined the effect of our findings on education and accrued interest award eligibility.

Detailed results of testing grant compliance are summarized in Exhibit B. We were not engaged to, and did not perform an examination, the objective of which would be expression of an opinion on the subject matter. Accordingly, we do not express such an opinion. Had we performed other procedures, other matters might have come to our attention that would have been reported.

This report is intended solely for the information and use of the OIG, the Corporation, The Research Foundation of The City University of New York, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

COTTON & COMPANY LLP

Sam Hadley, CPA, CGFM
Partner

**THE RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE AWARDS
CONSOLIDATED SCHEDULE OF CLAIMED AND QUESTIONED COSTS**

Award No.	Fixed Awards			Education Awards
	Awarded	Claimed	Questioned	Questioned
04EDHNY003	\$2,408,000	\$2,408,000	\$104,042	\$715,839
07EDHNY002	\$1,800,000	\$669,212	\$669,212 ¹	\$15,436,575
	<u>\$4,208,000</u>	<u>\$3,077,212</u>	<u>\$773,254</u>	<u>\$16,152,414</u>

RFCUNY drew down more funds than it was due for Award No. 04EDHNY003. The resulting questioned costs of \$43,732 are further discussed in Compliance Finding No. 1. In addition, RFCUNY did not maintain documentation to demonstrate that members had undergone criminal background checks or that the background check for each member complied with AmeriCorps regulations. The resulting questioned costs of \$729,522 and questioned education awards of \$16,152,414 are further discussed in Compliance Finding No. 9.

¹ RFCUNY had drawn down this amount, as of September 2008. Had RFCUNY drawn down the entire PY 2007-2008 award of \$900,000, the entire award would have been questioned.

**THE RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK
COMPLIANCE RESULTS**

The results of our agreed upon procedures identified the following compliance findings:

Finding 1. RFCUNY drew down more funds than it was due.

As discussed in Exhibit A, RFCUNY drew down excess fees of \$43,732 on Award No. 04EDHNY003. RFCUNY performed the draw downs based on actual expenses recorded on its books instead of the actual number of members enrolled in the AmeriCorps program.

AmeriCorps Education Award Program Grant Provisions (2005-2006), Section V.K. *Fixed Amount Award*, states:

Education Award Program Awards are for fixed amounts and are not subject to the Federal Cost Principles. The fixed amount is based on the approved number of members and is funded at the amount per full-time equivalent member specified in the awards. This award is dependent upon the grantee's performance under the terms and conditions of the award. These include properly enrolling the number of members as specified in the award to carry out the activities and to achieve the specific project objectives as approved by the Corporation. Failure to enroll the number of members approved in the grant award may result in the reduction of the amount of the grant.

As detailed below, we calculated \$43,732 of questioned draw downs.

Program Year	(A)* Members Enrolled	(B) Full Time Equivalent	(C) Fixed Amount Per Member ²	(A x B x C) Allowable Amount	Amount Drawn	Excess Amount Drawn
2004-2005	2,692 FT	1.0	\$296.30	\$797,640	\$800,000	\$2,360
2005-2006	2,186 FT 292 HT	1.0 0.5	\$335.00 \$335.00	\$732,310 <u>48,910</u> \$781,220	\$804,000	\$22,780
2006-2007	2,146 FT 397 HT	1.0 0.5	\$335.00 \$335.00	\$718,910 <u>66,498</u> \$785,408	\$804,000	\$18,592

* FT = Full Time; HT = Half Time

² Fixed amount per member was calculated by dividing the grant award amount by the number of available member slots in that year (\$800,000/2,700 in Program Year (PY) 2004-2005 and \$804,000/2,400 in PY 2005-2006 and PY 2006-2007).

Recommendations:

We recommend that the Corporation:

- 1a. Require RFCUNY to strengthen procedures to ensure that it complies with AmeriCorps Fixed Amount Award requirements;
- 1b. Verify implementation of strengthened draw down procedures; and
- 1c. Recover the excess fees drawn down.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 2. RFCUNY did not follow certain AmeriCorps Provisions.

RFCUNY did not follow AmeriCorps Provisions related to member timesheets, orientation training, training limitations, and fundraising limitations, as follows:

Member Timesheets

None of the sampled member timesheets reviewed, for PY 2006-2007 and PY 2007-2008, were dated, as required by AmeriCorps provisions. AmeriCorps Education Awards Program Special Provisions (2005-2006), Section IV.C.2. *AmeriCorps Members*, requires that grantees keep time-and-attendance records for all AmeriCorps members to document their eligibility for in-service and post-service benefits. Timesheets must be signed and dated both by the member and by an individual with oversight responsibilities for the member. RFCUNY representatives were not aware that AmeriCorps provisions required members to date timesheets themselves but were aware of the need for a dated timesheet. As a result, member timesheets RFCUNY provided did not contain a space for the date. Without dated timesheets, the potential exists for members to complete the member timesheets before performing the required service hours. In addition, the grantee and the Corporation cannot use their automated systems to track actual service times and dates.

Orientation Training

RFCUNY did not provide documentation to demonstrate that members in either program year received AmeriCorps Program orientation before starting service. AmeriCorps Education Award Program Special Provisions (2005-2006), Section IV.E.3. *Training, Supervision, and Support*, states that grantees must conduct an orientation for members and comply with any pre-service orientation or training required by the Corporation. In addition, grantees are required to provide members with training, skills, knowledge, and supervision necessary to perform tasks required in their assigned project positions, including specific training in a particular field and background information on the community served. RFCUNY representatives stated that it conducted its orientation sessions during its eight-

week training program held prior to the start of members' service, but did not have the sign-in sheet available. However, three of six members interviewed stated they did not recall attending an AmeriCorps Program orientation. Without proper orientation, members may not be knowledgeable on how to properly fulfill program requirements.

Training Limitations

RFCUNY did not have procedures to ensure that no more than 20 percent of the aggregate of all AmeriCorps member service hours in each program year were spent on training and education activities. According to 45 Code of Federal Regulations (CFR) § 2520.50, *How much time may AmeriCorps members in my program spend in education and training activities?*, no more than 20 percent of the aggregate of all AmeriCorps member service hours may be spent in education and training activities. RFCUNY representatives were unaware of the requirement and were not sure how to demonstrate their compliance with this requirement. Without tracking member-training hours, members may exceed the maximum allowable hours permitted for training.

Fundraising Limitations

RFCUNY did not have procedures to ensure that no more than 10 percent of member service hours were spent on fundraising activities. According to 45 CFR § 2520.45, *How much time may an AmeriCorps member spend fundraising?*, an AmeriCorps member may spend no more than ten percent of their service performing fundraising activities. RFCUNY representatives stated that they did not have a procedure in place to monitor fundraising hours because members did not perform fundraising activities at school and because members spend a significant amount of time outside of the classroom creating lesson plans and attending graduate school. Two of the six members interviewed stated that they participated in fundraising activities. One member stated he sent forms home for a few of his students who participated in a candy sale. Another member stated that she participated in fundraising while she was an AmeriCorps member, but only during weekends. Without procedures for tracking member fundraising hours, members may exceed the maximum allowable hours permitted for performing fundraising activities.

Recommendations:

We recommend that the Corporation:

- 2a. Provide guidance to RFCUNY on proper timekeeping procedures to ensure that it complies with AmeriCorps requirements;
- 2b. Provide guidance to RFCUNY on procedures to ensure that its program conducts, maintains, and retains documentation to support member attendance at orientation;
- 2c. Require RFCUNY to implement procedures to track member training and fundraising to ensure members do not exceed the maximum percentage of hours allowed for those activities; and
- 2d. Verify RFCUNY's implementation of compliant timekeeping, orientation, training, and fundraising procedures.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 3. The supervisory signature on members' timesheets was not the members' supervisor, or that of someone with direct knowledge of hours served by the members.

The Program Manager and staff for RFCUNY signed member timesheets for all sampled members in both program years. However, the Program Manager and staff do not have first-hand knowledge of member activities. Members record both direct and indirect service hours on timesheets. Direct hours include teaching hours, lesson planning, grading papers, faculty meetings, and parent conferences. Members also earn direct service hours for participating in extracurricular activities, such as coaching. Indirect hours include time to attend graduate courses and homework, professional development days/workshops, and training. Because of these varied types of activities that CUNY allows as service hours, a member may need an alternative to having a single "supervisor" verify each type of time served.

AmeriCorps Education Awards Program Special Provisions (2005-2006), Section IV.C.2. *AmeriCorps Members*, requires that grantees keep time-and-attendance records for all AmeriCorps members to document their eligibility for in-service and post-service benefits. Time and attendance records must be signed and dated both by the member and by an individual with oversight responsibilities for the member.

Without procedures to verify member activities or timesheet accuracy, the potential exists for members to perform prohibited activities, report incorrect hours, and receive education awards to which they are not entitled.

As stated on page 4 under the caption, Other Matters, we were unable to contact and interview four of ten members and five of ten supervisors we had selected for interviews. We are concerned that these members did not return our phone calls, even after RFCUNY had assisted us in attempting to contact them.

Recommendations:

We recommend that the Corporation:

- 3a. Provide guidance to RFCUNY on proper member timekeeping procedures to ensure that it complies with AmeriCorps requirements; and
- 3b. Verify RFCUNY's implementation of the revised timekeeping procedures that ensure timesheets are signed by a supervisor having direct knowledge of the members' activities.

- 3c. Verify the existence of the members who did not respond to our repeated requests to interview them.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 4. Members did not always record actual service hours on their timesheets.

RFCUNY provided members with preprinted sample timesheets showing the total number of hours by week and by month that an average member could complete over the course of the service term (ten months for full time members and five months for part-time members). Fifty of 127 sampled members in PY 2006-2007, and 59 of the 184 sampled members in PY 2007-2008 reported hours identical to those provided on the sample timesheets. Further, the sample timesheets included mathematical errors, which were also copied by members to their timesheets.

RFCUNY representatives believed that the preprinted samples they were providing were only an example for members to use as a guide. However, members were copying the preprinted information regardless of their activity. For instance, one member used the preprinted information to report service hours; however, his onsite supervisor noted that the member had been absent several days during the school year.

Recommendations:

We recommend that the Corporation:

- 4a. Require RFCUNY to either remove the sample template timesheet or provide members with proper guidance concerning completing timesheets accurately; and
- 4b. Verify RFCUNY's implementation of revised timesheet procedures to ensure that member timesheets contain actual hours served.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 5. Some members' timesheet hours were not accurately recorded in the Corporation's Web-Based Reporting System.

Timesheet hours for some members were not accurately recorded in the Web-Based Reporting System (WBRS). Timesheets did not support hours recorded in WBRS for 10 of 127 sampled members in PY 2006-2007 and 12 of 184 sampled members in PY 2007-2008. The hours on timesheets for two PY 2006-2007 members did not support WBRS hours used to calculate their partial education awards (the partial education awards were due to compelling personal circumstances).

RFCUNY representatives stated that the differences were due to mathematical errors. AmeriCorps has chosen to avoid requiring specific timesheet procedures that may not be applicable to every program. It is, however, good business practice to check the accuracy of hours recorded on timesheets. Without procedures to verify member activities or timesheet accuracy, the potential exists for members to perform prohibited activities or receive education awards to which they are not entitled.

Recommendations:

We recommend that the Corporation:

- 5a. Ensure RFCUNY strengthens internal controls over timesheet review and reporting hours to the Corporation; and
- 5b. Verify implementation of timekeeping procedures to strengthen internal controls to ensure that hours reported to the Corporation are accurate.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 6. RFCUNY did not require its members to timely submit their member contracts, forms, and timesheets.

Member Contracts and Forms

We reviewed member contracts, enrollment forms, change of status forms, and exit forms for sampled members. Members did not sign member contracts and enrollment forms, and RFCUNY did not enter member enrollment, change of status, and exit forms into WBRS within 30 days after the members started or ended their service. This chart indicates that members were submitting required information, in some instances, long after the 303-day service period had been completed.

The number of late instances for each situation is noted below:

Form	PY 2006-2007	PY 2007-2008	Days Late
Enrollment Form (Approved in WBRS)	30	136	32-369
Enrollment Form (Signed by Member)	30	104	32-369
Change of Status (Approved in WBRS)	4	0	138-513
Exit From (Approved in WBRS)	72	127	31-159
Contract (Signed by Member)	<u>31</u>	<u>104</u>	32-369
Total	<u>167</u>	<u>471</u>	

AmeriCorps Education Awards Program Special Provisions (2005-2006) Section IV.C.1.a.i. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when he or she has signed a member contract. Further, AmeriCorps Education Award Program Special Provisions (2005-2006), Section IV.F.2. *Notice to the Corporation's National Service Trust*, states that the grantee must notify the Corporation's National Service Trust within 30 days upon entering into a commitment with an individual to serve; a member's enrollment in WBRS; and completion of, lengthy or indefinite suspension from, or release from, a term of service.

RFCUNY representatives stated that they have a large program with over 3,000 members and 30 days is often an insufficient or unrealistic time frame for a program of their size. Without timely completion and submission of member contracts and enrollment, exit, and change of status forms, the Corporation cannot maintain accurate member records.

Member Status

As of November 2008, nine PY 2007-2008 sampled members were still classified as "Active" in WBRS; even though the PY 2007-2008 program year ended at the close of the school year in June 2008. RFCUNY representatives stated that these members were still "Active" because the members had not turned in all of their timesheets and exit forms. RFCUNY gives members approximately three months after the end of the program year to turn in timesheets. RFCUNY did not have any written policies and procedures concerning this practice.

AmeriCorps Education Awards Program Special Provisions (2005-2006), Section IV.O.3.c. *Exit/End-of-Term-of-Service Forms*, stipulates that Member Exit/End-of-Term-of-Service Forms must be submitted no later than 30 days after a member exits the program or finishes his/her term of service.

Eligibility

RFCUNY required members to complete, sign, and date a "Member Eligibility Verification Form." On these forms, members marked the type of documentation that they were providing to support citizenship or legal resident status. The forms for 31 of 127 sampled members in PY 2006-2007 and 115 of 184 sampled members in PY 2007-2008 were dated after the members' start dates. The range of days it took citizenship to be verified was 5-97 days in PY 2006-2007 and 2-369 days in PY 2007-2008.

According to 45 CFR § 2522.200, *What are the eligibility requirements for an AmeriCorps participant?*, every AmeriCorps participant is required to be a citizen, national, or lawful permanent resident alien of the United States. Further, AmeriCorps Education Award Program Special Provisions (2005-2006) IV.C.1.a.ii. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when the program has verified the member's eligibility to serve.

Recommendations:

We recommend that the Corporation:

- 6a. Provide guidance to RFCUNY on proper completion of member enrollment, exit, and change of status forms. Such training must be sufficient to ensure actions with regard to such forms be taken within 30 days;
- 6b. Verify that member forms at RFCUNY are properly completed and submitted in accordance with grant requirements;
- 6c. Require RFCUNY to strengthen its member contract procedures to ensure that member contracts are signed prior to the start of service; and
- 6d. Verify that member contracts are signed prior to the start of service subsequent to RFCUNY implementing a revised program.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 7. RFCUNY used preprinted member documentation and did not ensure that all member documentation was completed, signed, and dated.

Standard Documentation

As detailed below, RFCUNY used standard documentation with preprinted signatures.

- The RFCUNY Program Manager did not sign or complete Part 2 of the AmeriCorps Exit Form for members. Part 2 of the Exit Form documents the member's completion of the program, number of hours served, and the member's eligibility for an education award. Instead of completing each Exit Form, RFCUNY Program Manager or Program Assistant attached a photocopy of Part 2 of the member Exit Form, which reported total service hours of 1700 regardless of actual service hours for the member. The form also included the Program Manager's signature and date, which certifies that the member successfully completed service.
- The RFCUNY Program Manager did not sign the Member Agreements for all

members sampled in both program years. Instead, RFCUNY attached a photocopy of the Program Manager's signature and date to each Member Agreement.

The RFCUNY representatives stated that the size of their program and the tight deadlines preclude them from completing forms for each member. Without member specific data on original forms, RFCUNY cannot maintain accurate member records, increasing the possibility that inaccurate information may be entered into WBRS, or that members may receive awards to which they are not entitled.

Member Eligibility Documentation

- Twelve of 127 sampled members in PY 2006-2007 did not complete the self-certification at the bottom of the enrollment form. While these members did not self-certify that they had met the high school education requirement, the members indicated elsewhere on the enrollment form that they had completed at least a high school education.

AmeriCorps Education Award Program Special Provisions (2005-2006) Section IV.M.2. *Verification*, states that to verify that a member meets the requirement relating to high-school education, the grantee must obtain from the member, and maintain in the member's file, a written declaration under penalty of law that the member meets the provision requirement relating to high-school education.

- Three of 184 sampled members in PY 2007-2008 did not complete and sign "Member Eligibility Verification Forms" and four of 184 sampled members in PY 2007-2008 did not date their Member Eligibility Verification forms. The education awards for these members were not questioned because documentation to support citizenship or legal resident status was provided for these members.

According to 45 CFR § 2522.200, *What are the eligibility requirements for an AmeriCorps participant?*, every AmeriCorps participant is required to be a citizen, national, or lawful permanent resident alien of the United States. Further, AmeriCorps Education Award Program Special Provisions (2005-2006) IV.C.1.a.ii. *Member Enrollment Procedures*, states that an individual is enrolled as an AmeriCorps member when the program has verified the individual's eligibility to serve.

RFCUNY did not require members to date all documentation submitted to RFCUNY or resubmit incomplete documents or documents with missing signatures. AmeriCorps requirements do not specifically address procedures for preparing member forms. It is, however, good business practice to sign, date, and complete forms.

Recommendations:

We recommend that the Corporation:

- 7a. Require RFCUNY to discontinue the use of preprinted signatures and service hours on AmeriCorps documentation, including Exit Forms;
- 7b. Require RFCUNY to strengthen eligibility procedures; and
- 7c. Verify that the use of preprinted signatures and service hours has been discontinued on Exit Forms and that eligibility procedures are strengthened.

RFCUNY's Response:

Corporation's Comments:

Accountants' Comments:

Finding 8. RFCUNY did not maintain documentation to demonstrate that each member's evaluation complied with AmeriCorps Regulations and the Member Agreement.

RFCUNY did not have member evaluations for any of its members that complied with its PY 2006-2007 and PY 2007-2008 Member Agreements and Corporation regulations. RFCUNY stated it currently evaluates its members in two areas:

- Members receive ratings from their school administrators. This information is fed to DOE. If a member receives an unsatisfactory rating, DOE notifies RFCUNY, which then terminates the member.
- Members must maintain a grade point average of 3.0 to remain in the program. If the member's grade point average falls below 3.0, the CUNY campuses notify RFCUNY and the member is terminated.

RFCUNY did not participate in the evaluation process and did not have procedures in place to ensure that the process was operating properly. Instead, RFCUNY received evaluation feedback from the DOE only when a member was not performing satisfactorily.

Section III. of the RFCUNY Member Agreement states the following:

The Member understands in order to be eligible for serving a second term of service, the Member must receive satisfactory performance reviews for any previous term of service. The Member's eligibility for a second term of service with this program will be based at least on the end-of-term evaluation of the Member's performance focusing on factors such as whether the Member has:

- Completed the required number of hours;

- Completed assignments, tasks or projects in a satisfactory manner; and
- Completed any other assignments that were clearly communicated both orally and in writing at the beginning of the term of service.

Grantees must comply with their Member Agreement requirements for member performance reviews. While the AmeriCorps requirement for member performance reviews had been waived for Education Award Programs by the Corporation, the requirement in the CFR is applicable for PY 2008-2009. As of November 2008, RFCUNY still had not revised its evaluation procedures, even though PY 2008-2009 started in August 2008.

According to 45 CFR § 2522.220(d), *Participant performance review*, a participant is not eligible for a second or additional term of service and/or for an AmeriCorps education award without mid-term and final evaluations.

The end-of-term performance evaluation will assess the following:

- Whether the participant has completed the required number of hours in order to be eligible for the education award;
- Whether the participant has satisfactorily completed assignments, tasks, or projects; and
- Whether the participant has met any other performance criteria, which has been clearly communicated both orally and in writing at the beginning of the term of service.

Recommendations:

We recommend that the Corporation:

- 8a. Require RFCUNY to revise its member evaluation procedures in order to comply with the Regulations and member agreement; and
- 8b. Verify the revision of RFCUNY's procedures for member evaluations.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 9. RFCUNY did not maintain documentation to demonstrate that members received criminal background checks, and that any background checks conducted complied with AmeriCorps Provisions.

RFCUNY did not maintain documentation to demonstrate that members had background checks or that the background check for each member complied with AmeriCorps regulations.

According to 45 CFR § 2540.205 *What documentation must I maintain regarding a National Service Criminal History Check for a covered position?*, grantees must document the following in writing:

- The identify of the individual in a covered position was verified by examining the individual's government-issued photo identification card;
- Required checks for the covered position were conducted;
- The results of the National Service Criminal History Check were maintained, unless precluded by State law; and
- The results were considered in selecting the individual

RFCUNY had no documentation in its program files to support that background checks were conducted on all members prior to entering school grounds. RFCUNY relied on DOE to ensure background checks were completed on each member. DOE conducts a background check on each member at the State and Federal levels and reviews results prior to the start of the members' enrollment in the AmeriCorps program. Subsequent to our identification of this issue, RFCUNY submitted a request to the Corporation for an 'alternate screening protocol' to rely on efforts of DOE; the request was pending as of January 2009.

A stated in 45 CFR § 2540.40 202 *What two search components of the National Service Criminal History Check must I satisfy to determine an individual's ability to serve in a covered position?*:

Unless the Corporation approves an alternative screening protocol, in determining an individual's suitability to serve in a covered position, you are responsible for conducting and documenting a National Service Criminal History Check, which consists of two search components:

- (a) *State criminal registry search.* A search by the name or fingerprint) of the State criminal registry search for the State in which your program operates and the State in which the individual resides at the time of the application; and
- (b) *National Sex Offender Public Regsity.* A name-based search of the Department of Justice (DOJ) National Sex Offender Public Registry (NSOPR).

Further, 45 CFR § 2540.203 *When must I conduct a State criminal registry check and NSORP check on an individual in a covered position?*, required the State criminal registry check to be conducted on an individual who enrolled or was hired by the program after November 23, 2007. The NSOPR check was required to be performed on an individual who was serving or applied to serve in a covered position on or after November 23, 2007.

Because RFCUNY did not have any written documentation to support that the background checks were conducted and complied with AmeriCorps regulations, we questioned the education awards and related fixed fees for those members who were serving on or applied to serve in a covered position after November 23, 2007.

Award No.	PY	Members	Fixed Fees Questioned	Education Awards Questioned ³
04EDHNY003	2006-2007	190	\$60,310	\$715,839
07EDHNY002	2007-2008	<u>3,674</u>	<u>\$669,212⁴</u>	<u>\$15,436,575</u>
		<u>3,864</u>	<u>\$729,522</u>	<u>\$16,152,414</u>

Recommendations:

We recommend that the Corporation:

- 9a. Determine if RFCUNY's current background check process is acceptable, and if not, provide guidance on procedures that ensure RFCUNY's programs conduct, maintain, and retain documentation to support member background checks are in compliance with AmeriCorps Provisions; and
- 9b. Verify implementation of the background check procedures.
- 9c. Disallow and, if already used, recover education awards and accrued interest awards made to members with questioned education awards. In addition, recover fixed grant fees for any member whose education award was disallowed for reasons of eligibility.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

³ Members may also earn accrued interest awards. Information on accrued interest awards was not available at the conclusion of our fieldwork. If the members' education award is questioned, accrued interest awards for those members should also be questioned.

⁴ RFCUNY had drawn down this amount, as of September 2008. Had RFCUNY drawn down the entire PY 2007-2008 award of \$900,000, the entire award would have been questioned.

Finding 10. RFCUNY entered incorrect member start dates in Corporation systems and in member contracts.

For each program year, all members began on the same date. However, the start date shown on the member contract, as well as the start date in WBRS, was not the actual date members started performing service. RFCUNY changed the start date on the member contract to define groups of members (cohorts) for its internal management purposes.

AmeriCorps Education Awards Program Special Provisions (2005-2006), Section IV.C.1.b. *Member Enrollment Procedures*, stipulates that prior to enrolling a member, AmeriCorps programs are required to sign a member contract with an individual or otherwise enter a legally enforceable commitment as defined by state law.

Recommendations:

We recommend that the Corporation:

- 10a. Provide guidance to RFCUNY on proper member contract procedures to ensure that they comply with AmeriCorps requirements;
- 10b. Require RFCUNY to enter proper dates into WBRS; and
- 10c. Verify implementation of proper member contract procedures and input of proper dates into WBRS.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

Finding 11. Some members worked beyond their contract-end date.

Twelve part-time members of the 127 sampled members during PY 2006-2007 completed service hours beyond the end date specified by the Member Agreement. The member agreement, as well as the member handbook, listed a completion date of December 31, 2006. However, the member agreement was titled "2006 Fall 5 Month Service Learning" and members continued service until January 31, 2007.

The hours members worked beyond their end date are, as follows:

Member	Total Hours From Timesheets	Total Hours Beyond End Date	Net Hours Earned
1 ⁵	1042	200	842
2	1182	250	932
3	1188	256	932
4	1170	250	920
5	1170	250	920
6	1170	250	920
7	1170	250	920
8	1171	250	921
9	1170	250	920
10	1170	250	920
11	1170	250	920
12	1182	255	927

If hours worked beyond the service completion date in their contract were disallowed, one member would not have enough service hours to earn their education award.

Recommendations:

We recommend that the Corporation:

- 11a. Require RFCUNY to amend member contracts to ensure that members do not work beyond the specified end date;
- 11b. Determine if excess service hours are eligible, if not, disallow excess hours and, if already used, recover education awards to members who did not serve the minimum required service hours; and
- 11c. Verify the amendment of the member contract.

RFCUNY's Response:

Corporation's Response:

Accountants' Comments:

⁵ Member would not have obtained the required number of service hours if excess hours are disallowed.

APPENDIX A

**THE RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK'S
RESPONSE TO AGREED-UPON PROCEDURES REPORT**

Draft - For Discussion Purposes Only

APPENDIX B
CORPORATION'S
RESPONSE TO AGREED-UPON PROCEDURES REPORT

Draft - For Discussion Purposes Only

Corporation for
**NATIONAL &
COMMUNITY
SERVICE**

OFFICE OF INSPECTOR GENERAL

To: David Eisner, Chief Executive Officer

From: Gerald Walpin, Inspector General

Cc: Frank Trinity, General Counsel
Nicola Goren, Chief of Staff

Re: Memorandum from Frank Trinity to David Eisner dated April 23, 2008¹

Date: May 6, 2008

As Frank Trinity notes in his Memorandum to you, which, we believe, represents the work of the Corporation's Office of General Counsel ("General Counsel"), there have been extensive discussions on how the Corporation should handle improper end of term service hour certifications for AmeriCorps members. Congress, in its wisdom, has mandated that AmeriCorps members serve a specified number of hours in order to earn an educational award, and the certification that those hours have been earned operates as a gateway to the disbursement of previously encumbered funds from the Trust. General Counsel and OIG have stated and refined their views in a number of memoranda, and it is time for that process to come to an end with a management decision.

In this Memorandum, I will, first, set forth the structure of the Trust, and, then, briefly reiterate OIG's position and respond to the points that General Counsel has raised. I hope to do this by identifying the issues as to which there is still disagreement with sufficient clarity that there will be no need for a responsive memorandum.

The Trust Structure

At the outset, it is important to understand how Congress has structured the Trust, how it determines the amount it appropriates each year for the Trust, and how the protective provisions covering the Trust work.

Congress annually appropriates an amount for the Trust which provides the Trust with sufficient funds to cover the present value of education awards for each member envisaged in the total amount of AmeriCorps grants contemporaneously appropriated. Congress is essentially

¹ I have previously responded to Frank Trinity's memorandum to me of the same date. That earlier reply memorandum from me likewise responds to the last paragraph of Mr. Trinity's memorandum to you. I merely add that, of course, you are free to reject my views in favor of those you received from Mr. Trinity; I, however, would never suggest that you should disregard any views that you receive from any source, but rather analyze any different view that you receive and then make your own conclusions based on your judgment of the merits of the competing views.



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saying to the Corporation that it wants the Corporation to have sufficient funds to finance education awards for the total number of members which the Corporation is thereby authorized to recruit and who validly serve the minimum number of hours required for an education award. Congress also has created a reserve amount in the Trust to cover the possibility that the historical percentages of education awards draw-downs and presumed discount rate are inapplicable in any one year -- again as insurance that the Corporation would always have funds available in the Trust to cover the total number of member slots awarded in grants for each year.

As soon as a grant is made, the Trust amount, applicable to the total number of members for which the grant is made, is automatically encumbered, *i.e.*, that amount can no longer be used by the Corporation for any additional number of members. At the end of the year, the amounts applicable to these members who either never signed up or, if they signed up, didn't fulfill the required service hours, is unencumbered, *i.e.*, the applicable funds again become available for other valid members. Whatever Trust funds remained encumbered at the end of the first year then continue that encumbered status for seven years, during which time these funds would be disbursed to pay the amount of education awards for which the member applies, with any remaining funds in the Trust, not requested by the awardee, unencumbered only at the end of seven years (the statutory time limitation before an award expires).

This procedure ensures that the Corporation would have available the total amount needed to cover recruiting members for the total hours of service to be validly served by the total number of members for which Congress appropriated grant funds.

Issues

A. The Responsible Entity

With respect to which entity is to be held liable for an improper service hour certification, General Counsel and OIG agree that two entities may potentially be liable: (1) the grantee State Commission or national direct, and (2) the subgrantee. The Corporation focuses on the certifying entity, which is usually the subgrantee, while OIG follows a line of privity that runs first to the grantee and then, through the grantee, to the subgrantee. OIG agrees that the certifying party, most often the subgrantee, may well be looked to for primary responsibility for any improper certifications, but believes that the grantee should not be absolved from responsibility.

A construction law analogy is instructive. On large construction projects, the owner contracts with the general contractor, which then subcontracts portions of the work to specialty subcontractors. Even when a portion of the work has been subcontracted, the general contractor remains responsible for its performance and for making sure that any necessary coordination is done. One common issue is the wiring up of mechanical equipment: Who is responsible, the electrical subcontractor that does the wiring for other parts of the project, or the mechanical subcontractor that puts the equipment in place? The owner does not care because it is the general contractor's obligation to coordinate the work of its subcontractors so that the installed equipment works. When the owner complains, it complains to the general contractor, which is

free to try to pass the complaint on to one or both of the subcontractors, but the general contractor's efforts to pass the responsibility on do not absolve it.

In the same way, the Corporation deals directly with the grantee. The Corporation selects the grantee, and the grantee selects its subgrantees. The grantee should be encouraged to stand behind its selection and take steps to make sure that the subgrantee is spending the grant funds consistent with the obligations set out in the grant documents. If the Corporation looks to the grantee, the grantee is free to pass the claim through to the certifying subgrantee, but it is not absolved from potential responsibility by doing so; it is absolved only when the certifying program makes the Trust whole, and not before. It is important to note that one non-pecuniary benefit to holding the grantee responsible is that it induces proper attention by the grantee to its supervisory responsibility over the subgrantee: if the Corporation does not look to the grantee for satisfaction, the grantee will have no incentive to monitor the activities of its subgrantees.

The Corporation's responsibility is to recover funds that have been improperly disbursed, so as to have funds freely available for use for the purpose for which Congress appropriated it: to finance the number of validly serving members envisaged by the appropriations. It should not abandon that responsibility by declaring in advance that it will not pursue grantees unless facts establish that the grantee was involved in the improper certification -- a sure-fire deterrent against the grantee even bothering to get involved in monitoring sub-grantees. Instead, OIG suggests that, if the Corporation is inclined to look at the certifying subgrantee program first, it should treat the grantee as a guarantor. If the subgrantee fails, for one reason or another, to satisfy its responsibility to make the Trust whole, the Corporation should hold the grantee responsible.

B. When the Trust Should Be Made Whole

With respect to the issue that General Counsel has characterized as "Collectible debt vs. contingent claim," the fundamental questions are when a debt arises and the amount of the debt, *i.e.*, when the Trust fund needs to be made whole. In General Counsel's presentation, there is no occasion to make the Trust whole until a debt arises which does not occur until there has been a disbursement, and the amount of the debt is the amount of the disbursement.² OIG does not view the triggering event as the disbursement to the member, but rather to what is in reality creation of the debt to the Trust fund to allow it to use the appropriated funds for the purpose for which Congress appropriated the funds: to use for valid education awards. As discussed above in describing the Congressionally-created Trust structure, funds are put into the Trust to allow use for the intended awards to the intended number of members who are entitled to an award -- who provide the service required. This Trust structure ensures that objective, by encumbering sufficient funds as soon as the grant is issued for a specified number of members. At the end of the year, funds applicable to the number of members who never signed up or who did not perform the required number of service hours are unencumbered, *i.e.*, allowed to be used for other members. Indeed, the purpose of allowing funds in the Trust to be used for valid members

² If General Counsel is correct in this characterization, there would appear to be no barrier to putting all funds recovered back into the Trust under the nonstatutory but well established "refund" exception to the Miscellaneous Receipts Act because those funds are, ipso facto, refunds of funds that have been improperly disbursed.

is emphasized by the ability of the Corporation (through the grantee) to use encumbered dollars in the first year for a "substitute" member, if the first chosen member drops out early.

If a member is awarded an education award to which not entitled, through a grantee's fault, either due to affirmative wrongdoing or passive negligent administration, the effect is that encumbered Trust funds cannot be used for Congress' purpose. The only way to make the Trust fund whole is for the responsible grantee or liable sub-grantee, or both, to make the Trust whole immediately.

The contrary view does not recognize the effect of the grant on the Trust. The grant starts a process of encumbrance that continues with the certification. With certification, the encumbrance can remain in place for up to seven years until the member's ability to draw down the award expires. Again, that encumbered amount will not be available for another AmeriCorps member until up to seven years have run.

Immediate imposition of liability on grantee/subgrantee for improperly encumbered amounts due to education awards furnished to members who did not complete the required service is not only correct, but is the only practical solution. When the member draws the award down in increments, the Corporation's efforts to recover the amounts disbursed from the responsible party will be inefficient, if anything is done at all. Given that reality, it is likely that the Trust will never be refunded the amounts improperly paid, thus precluding use of those funds for their purpose.

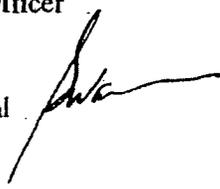
C. Recipient of Recovered Funds

With respect to where the recovered funds should be placed, OIG must make clear that it understands and agrees that, if more than the amount of the actual loss is recovered, the excess goes into the Treasury. But, the first step should be to make the Trust whole.

OFFICE OF INSPECTOR GENERAL

Memorandum

TO: David Eisner, Chief Executive Officer
Frank Trinity, General Counsel

FROM: Gerald Walpin, Inspector General 

DATE: April 25, 2008

RE: One portion of Frank Trinity's memoranda dated April 15, 2008

I received late Wednesday two memoranda from Frank Trinity in response to my memorandum dated April 15, 2008. While I will respond to the merits of his memorandum to David (but, unfortunately, because I will be out of town next week, not until I return), I feel sufficiently troubled by the last page of his memorandum to David, which is essentially repeated in his memorandum to me, that I believe that it requires an immediate response on my part.

At the outset, I never understood that the legal opinion of someone who is the "agency general counsel" is sacrosanct and could not be erroneous, merely because of his position. As much as I respect Frank as a person and as a lawyer, and I believe he reciprocates, just as he has not been shy about disagreeing with my views on certain subjects, it is ludicrous to suggest that I cannot do likewise. Indeed, my duties as IG require that I do so.

As you both know, my practice is to be open with both of you as to my views, and thereby attempt, if at all possible, to reach agreement through communications between us, rather than immediately jumping to air my objections with Congress or other entities. I would not be continuing our candid communication relationship, which I believe is the correct relationship, if I did not candidly express to both of you my disagreement with Frank's legal interpretation on the issue under discussion.

As to the major implication (perhaps even more) in Frank's memos: Under no circumstances would I suggest an avenue which I believed was illegal, and there is no basis for suggesting that to be my view. As I expressly stated at the beginning of the last paragraph of my memorandum, "[w]e believe that 'refund' is the appropriate label, for the reasons discussed above" -- indeed for the reasons discussed at length therein. There is no dispute between Frank and me that, if it is a "refund," it then goes back into the Trust.

What followed in that paragraph reflects my view of what a lawyer should do when advising his client. A lawyer should first determine what is in his client's best interests and then determine if an honest analysis of controlling rules, decisions and statutes would support an opinion which allows the client to do what is in the client's best interests. If an honest analysis would not allow it, then the lawyer must tell the client that it cannot be done.



Seldom -- including on the issue here -- is the issue 100% clear cut. A lawyer, in my mind, should not be a cautious naysayer who takes the safer way out by saying it cannot be done when any question exists. In that spirit, my colleagues and I did a careful analysis. We concluded that it certainly would be in the Corporation's best interest -- and, indeed, consistent with the purpose of the statute and Congressional appropriation -- to return, to the Trust, money erroneously disbursed from the Trust. In that way, the money could be put to its intended use, the provision of education awards to eligible recipients, rather than depriving the Trust of such funds.

Then we analyzed the controlling rules and concluded that they authorized the return to the Trust of refunds made, equal to amounts which had been erroneously disbursed from the Trust.

Then, as a proper supplementary procedure, we analyzed what the danger was to the client, *i.e.*, the Corporation, if our legal opinion was incorrect (recognizing that we too are not infallible). For the reasons set forth, we concluded that there was no material risk.

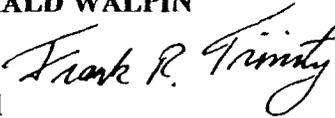
But our doing this thorough analysis provides no basis for the suggestion that it involved our overlooking Congress, the GAO or the Justice Department and their respective views on the Miscellaneous Receipts Act.

Corporation for
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MEMORANDUM FOR GERALD WALPIN

FROM:

Frank R. Trinity
General Counsel



SUBJECT: Your memorandum dated April 15, 2008

DATE: April 23, 2008

Your memorandum of April 15, 2008, to the Chief Executive Officer raised several concerns about how to handle improper end of term service hour certifications for AmeriCorps members. I have provided a memorandum to the Chief Executive Officer explaining our position in the areas you identified as in dispute. I am providing a copy of that memorandum to you.

I am writing separately concerning the following concluding paragraphs in your April 15 memorandum:

In conclusion, the issue comes down to whether the funds recovered are labeled a “refund” or a “miscellaneous receipt.” This labeling decision is outcome-determinative in that refunds go back to the Trust while miscellaneous receipts go to the Treasury.

We believe that “refund” is the appropriate label, for the reasons discussed above. But to the extent the answer is not clear, the Corporation should consider its interests, the equities, and likely downside consequences or risks. The Corporation’s interests are served when the funds recovered are called “refunds” and go back into the Trust. The equities favor the Corporation doing precisely that: The Corporation will be making the Trust whole with funds recovered from a certifying program or member, not entitled to keep them. The downside risk is that someone will disagree – but who? And why? Someone would have to pick that fight, and the Corporation’s position defending the Trust is eminently defensible, particularly as it would be relying on OIG’s advice. The Corporation should do so.

I have several concerns about your concluding paragraphs, but first let me acknowledge your directness, transparency, and candor in our discussion on this and other matters since you began your tenure as Inspector General. You have personally invested many



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hours in discussions with me and many other management officials in determining the best way to resolve the issue of improper service hour certifications. Please take my response in the same spirit of direct and candid dialogue. I feel compelled to put this response in writing for the purposes of the record, as you made the above-referenced recommendation in writing to the agency head.

In my view, the quoted language is reasonably interpreted as (1) advising the agency head to disregard the legal advice of the agency general counsel; (2) providing assurances that no one is likely to disagree if the agency head disregards the legal advice of agency general counsel; and (3) providing assurances that reliance on your contrary advice will serve as a defense in the event of a future controversy. If I have misunderstood your words, please let me know so we can properly understand your position.

First, as explained in more detail in my memorandum of this date to the Chief Executive Officer, it is my view that your legal position on the disposition of recovered funds in excess of an actual loss to the Government is not supported under the Constitutional and statutory framework governing public expenditures. Second, I think in expressing doubt about the likelihood of anyone disagreeing with your position, you overlook the importance placed upon the Miscellaneous Receipts Act by Congress, the Government Accountability Office, and the U.S. Department of Justice. Third, suggesting that an agency head specifically rely on OIG legal advice – contrary to the agency general counsel’s advice – is a problematic precedent, and I would like to discuss this issue with you as part of our ongoing dialogue.

OFFICE OF INSPECTOR GENERAL

April 15, 2008

Memorandum

To: David Eisner

CC: Jerry Bridges
Frank Trinity

From: Gerald Walpin 

Subject: Proposed Guidance on Term Certifications

I thought that it would be appropriate to express to you in writing my disagreement with what I understand to be certain aspects of the yet to be published proposed Guidance on improper end of term certifications, which make members eligible for an Education Award.

Last Tuesday, April 8, 2008, my staff and I met with General Counsel Frank Trinity and members of his staff, and CFO Jerry Bridges, COO Elizabeth Seale, AmeriCorps Director Kristin McSwain, OGM Director Peg Rosenberry, as well as other members of the Corporation staff.

I understand from what was expressed at this meeting (although I still have not seen the latest draft) that, under the proposed Guidance, the Corporation:

- will not hold accountable a direct grantee of Corporation funds for the improperly certified term service, but only hold accountable the so-called “certifying program” that issued the incorrect certification;
- will not declare a debt against the certifying program grantee when the Corporation discovers an improperly certified award, but only upon disbursement of an Education Award amount from the National Service Trust;
- will submit any funds recouped from the certifying program to the general fund in Treasury—and not replenish the National Service Trust from which the Education Award payment was made.

I disagree with these positions, and will address each in turn.



Holding Only the “Certifying Program” Accountable

As you know, two thirds of all of the Corporation’s AmeriCorps grant funds go to State Commissions, whether by formula or competitive grant, which in turn subgrants these funds to AmeriCorps programs in the grantee’s state. It is the Commissions that compete and select the AmeriCorps subgrant programs in their state, draw down the funds from the federal government, and, in turn, use these funds to reimburse the costs of their AmeriCorps subgrantees. Other AmeriCorps funds go to so-called National Direct grantees, which also frequently have subgrants, and, in such instances, perform the same functions toward the subgrantees as the State Commissions.

It is the State Commissions and the National Directs with which the Corporation has a legal relationship, and which the Corporation holds accountable for use of the AmeriCorps grant funds. Yet, within what I understand to be the proposed guidance, the Corporation intends to hold accountable only the subgrantee of a State Commission, or what the Guidance refers to as the “certifying program,” for an improper certification of the term of service, and hence eligibility for an education award, and hold a State Commission, and any other direct grant recipient, harmless, unless finding them “complicit” (an unlikely finding).

I find this is inconsistent with the legal relationship established under federal law and manifested by the AmeriCorps grant agreement, which makes plain that the direct recipient of funds is ultimately responsible for their use. With regard to State Commission responsibilities, the AmeriCorps regulations state that, after the grants are awarded, “State entities will be responsible for administering the grants and overseeing and monitoring the performance and progress of funded programs.” 45 C.F.R. § 2550.80(d). The 2007 AmeriCorps Grant Provisions, as did all prior editions, state:

Grantee, for the purposes of this agreement, means *the direct recipient* of this grant. The term sub-grantee shall be substituted for the term grantee where appropriate. The grantee is also responsible for ensuring that sub-grantees or other organizations carrying out activities under this award comply with these provisions, including regulations and OMB circulars incorporated by reference. **The grantee is legally accountable to the Corporation for use of grant funds and is bound by the provisions of the grant.”**

AmeriCorps Grant Provisions, Section IV.A.4. (emphasis added)

Under this definition of “grantee,” the provisions state that “[t]he grantee has full fiscal and programmatic responsibility for managing all aspects of the grant and grant-supported activities, subject to the oversight of the Corporation” (Section V.A.1); “the grantee must keep time and attendance records on all AmeriCorps members in order to documents their eligibility for in service and post-service” (Section IV.C.2); and “in order for a member to receive a post-service Education Award from the National Service Trust, the grantee must certify to the National Service Trust that the member is eligible to

receive the education benefit" (Section IV.J). Section N.I. states that "[t]he grantee is required to submit to the National Service Trust . . . Exit/End of Term of Service Forms." Ultimate responsibility thus lies with the direct grantee, and ultimate accountability ought to as well.

The limitation that only the "certifying program" is accountable creates a regime wherein it will be unlikely that Federal funds can be recouped. Both the grantee and the subgrantee ought to be held accountable for an improper certification, and the Corporation is well within its rights to proceed against a State Commission or a National Direct grantee, as well as the "certifying program." In law, the Grantee is the contractor with the Corporation, and the subgrantee is the subcontractor chosen by the contractor. The Government regularly holds the contractor liable for its subcontractors' violations of the terms of the contract. No reason exists for a different rule for the Corporation. To the extent that the grantee is held liable, it can, of course, seek reimbursement from the subgrantee, if the latter is still viable.

If the Corporation feels it has no ability to hold the grantee accountable for the improper certification by its subgrantees, it ought to require that the grantee also certify the accuracy of the certification of a term of service for its subgrantees.

When a Debt Should be Establish and Enforced

The guidance, as I understand it, will declare a debt against the "certifying program," not upon the Corporation's discovery of an improperly certified award, but only upon disbursement of the Education Award from the Trust. This, of course, can happen in a piecemeal fashion as the member may not draw down the whole amount, and it may happen years after the Corporation's discovery of the incorrect certification. The logic appears to be that the Corporation has not yet disbursed the funds; therefore, none of the Corporation's assets has been adversely affected.)

I think that this is the wrong view of the situation, both actually and practically. The Corporation has taken the position, rightly I believe, that, where the member acted in good faith, it intends to honor the improper certification, and disburse the Education Award upon presentation of a voucher. Because the Corporation has committed to honor the education award, a liability has immediately been created against the Trust, and no other use can be made for that amount within the Trust, *i.e.*, the Corporation's assets available for use have been adversely affected. (Recall that in 2003, in response to Corporation practices that caused a shortfall in the Trust, Congress amended the National Community Service Trust Act ("NCSTA") to require that the Trust "record as an obligation" an Education Award for each AmeriCorps position when "the Corporation . . . awards a grant." 42 U.S.C. 12605(b)).

Thus, the Trust has a real liability that will become due and owing ~~once~~ a certification has occurred. Because of this, the Corporation should, at that point, attempt to ~~recoup~~ the full amount from the negligent grantee as soon as possible, rather than wait for the member to cash the award, and then declare a debt against the grantee.

Your staff also believes it is best to wait until the member uses the award, and then go to the grantee for the debt, because there is a chance that the award will not be used, and the grantee would have paid unnecessarily. That is imposing an impractical and often impossible burden on the Corporation. First, the certifying program may not exist at that point, and the Government would then not be able to be made whole. The issue is on whom should the risk of ultimate loss be imposed: the innocent Corporation which had no responsibility for ensuring that only entitled members be given an Education Award or the Grantee which assumed that responsibility? Clearly, the Corporation should not shoulder the loss.

Moreover, there is a second practical reason for using the certification of the Education Award as the triggering event, rather than each disbursement of any part of the award. The amount of the Education Award is small enough to make litigation or otherwise pressing the Corporation's claim practically unwise. But when it is divided up into fractional disbursements, the impracticality is even greater.

Again, I would impose the impracticalities of waiting until the seventh year (to determine if any balance of the award was not used) on the grantee, not the uninvolved Corporation, which has the responsibility imposed by Congress of protecting the Trust Fund to ensure it is used only for properly granted Education Awards. As OIG proposes, the grantee would reimburse the Trust Fund for the full amount of the Education Award which, at its award, reduces the funds available in the Trust Fund for valid Education Awards, with the right of the grantee to receive back after seven years any portion of that Education Award not in fact used.

Your staff objected that the Corporation has no authority to do such a thing under the NCSTA. Clearly, what we proposed was consistent with the purpose of the Trust Fund: to ensure the funds be available for use for valid Education Awards, not for invalid expenditures.

Contrary to his position on this subject, your General Counsel has convinced OIG that a literal insistence on following the words of the statute, without analyzing the purpose of and policy supporting the statute, would be incorrect. For example, the Corporation, on the advocacy of your General Counsel, has taken the position under the Act, that an AmeriCorps member who did not complete the term of service (the statutory condition for receiving an Education Award) would be allowed to retain a disbursed Education Award (and also to obtain disbursements thereafter); yet, the General Counsel relies on a very technical reading of the statute to reject our proposed procedure of making the Trust Fund whole by having the responsible grantee pay to the Trust Fund the full amount of the Education Award on its award, thus neutralizing the reduction of available Trust Funds from the award, subject to remitting back amounts determined after seven years not to have been necessary due to the subsequent non-takedown by the eligible member.

The circumstances involving the Trust are unique, and, as all parties will agree, there is no exact standard or binding opinion from a legal authority that addresses what ought to occur when improper payments are made from it. That being the case, and in the face of reasonable interpretations to the contrary, I question the rigidity for viewing our proposal – one difficult to address as other than in the interest of the Government and fairness – as “can’t do.”

Reimbursement to Treasury or a Refund to the National Service Trust?

I acknowledge that there are circumstances under which money the government receives must be regarded as credited to the general fund at Treasury, rather than an agency’s appropriation accounts, pursuant to the so-called Miscellaneous Receipts Act (“MRA”), which states that “an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.” 31 U.S.C. § 3302(b). The funds that go to miscellaneous receipts typically involve fines, penalties, damages to government property, and the theory that they cannot go back to an agency’s appropriation, but to Treasury, is that they are in excess or “an augmentation” of the amounts and purposes for which Congress has already appropriated funds to the agency.

Both the Office of Legal Counsel at the Department of Justice and the Comptroller General have interpreted the MRA to provide an exception for “refunds to appropriations.” This permits repayment to the appropriation for “amounts collected from outside sources for payments made in error, overpayments, or adjustments to previous amounts disbursed.” 69 Comp. Gen. 260, 262 (1990); Op. Off. Legal Counsel 2004 WL 5277346 OLC * 2 (emphasis added). In an early opinion, the Comptroller General stated that “if the collection involves a refund or repayment of moneys paid from an appropriation in excess of what was actually due, such refund has been held to be properly for credit to the appropriation originally charged.” 5 Comp. Gen. 734, 736 (1926)

We have brought this exception to the attention of the General Counsel’s Office. Nonetheless, that office seems to be of the view that permitting the member to keep the award, makes the award a valid expense under the appropriation, and that any amounts refunded from the grantee for a payment made in error, creates an excess or augmentation to the National Service Trust, and therefore any such funds received ought to go to the Treasury accounts. I submit that the proper view is that the grantee is refunding to the Trust amounts for “a payment made in error,” for the improper certification, or, for those hours the member never served, “in excess of what is actually due.” In a sense, both the grantee and the member are jointly and severally liable for the amount disbursed, and the government is making an election to liquidate the debt against the grantee, rather than the member. Note that the Federal Claims Collection Standards states that “[a]gencies should not attempt to allocate the burden of payment between debtors but should proceed to liquidate the indebtedness as quickly as possible.” 45 C.F.R. § 902.4.

Therefore, I question the rigidity for viewing any refunds from grantees to be receipts intended for the Treasury account, and to the detriment of the National Service Trust. What OIG proposes is clearly both fair and consistent with the purpose of Congress which appropriates a specified amount for Education Awards. When an amount is paid from the Trust Fund for an improperly-awarded Education Award, it reduces the funds available for validly-awarded Education Awards below the amount Congress had directed be used for validly-awarded Education Awards. When the grantee repays the cost of an improperly-awarded Education Award, and it goes into the Trust, it returns the Trust Fund amount to the amount Congress intended; if, instead, it goes to Treasury, the amount in the Trust Fund remains below what Congress intended.

In conclusion, the issue comes down to whether the funds recovered are labeled a "refund" or a "miscellaneous receipt." This labeling decision is outcome-determinative in that refunds go back to the Trust while miscellaneous receipts go to the Treasury.

We believe that "refund" is the appropriate label, for the reasons discussed above. But, to the extent the answer is not clear, the Corporation should consider its interests, the equities, and likely downside consequences or risks. The Corporation's interests are served when the funds recovered are called "refunds" and go back into the Trust. The equities favor the Corporation doing precisely that: The Corporation will be making the Trust whole with funds recovered from a certifying program or member, not entitled to keep them. The downside risk is that someone will disagree – but who? And why? Someone would have to pick that fight, and the Corporation's position defending the Trust is eminently defensible, particularly as it would be relying on OIG's advice. The Corporation should do so.

* * *

I suggest that we discuss this subject at your earliest convenience.

Corporation for
**NATIONAL &
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 SERVICE** ★★ ★

MEMORANDUM FOR DAVID EISNER

FROM:

Frank R. Trinity
 General Counsel

Frank R. Trinity

SUBJECT: Inspector General Memorandum dated April 15, 2008

DATE: April 23, 2008

Over the past year we have engaged in extensive discussions with the Inspector General on how the Corporation should handle improper end of term service hour certifications for AmeriCorps members. We seem to have agreement with the Inspector General that, in the absence of a member's affirmative culpability and in the interest of equity, we should leave undisturbed a member's good faith reliance on the end of term certification. We also seem to have agreement on reducing the responsible entity's liability to a pro-rated amount for relatively small errors (with Education Award Programs' liability capped at the per member grant amount).

Please disregard the views ascribed to me in the Inspector General memorandum dated April 15, 2008, as the memorandum contains several material misstatements. My views on this subject are set out herein and in a previous General Counsel memorandum to Chief Financial Officer Jerry Bridges dated June 14, 2007.

The Inspector General expresses concern about three issues:

- (1) Under what circumstances are State Commissions liable for debts associated with improper service hour certifications executed by subgrantee programs?
- (2) What action may we take to protect the Government's financial position if the member has not yet used the education award at the time we identify the error?
- (3) May recovered funds in excess of payments from the Trust be returned to the National Service Trust instead of being paid into Treasury's General Fund as miscellaneous receipts?

State Commission liability

In a State Commission-funded program, there are two entities potentially liable in connection with an improper service hour certification: (1) the state commission; and (2)



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the subgrantee organization. The principal legal authority for pursuing recovery of funds in connection with improper service hour certifications provides as follows:

Any individual who makes a materially false statement or representation in connection with the approval or disbursement of an education award or other payment from the National Service Trust may be liable for the recovery of funds and subject to civil and criminal sanctions.

45 C.F.R. 2526.10(e).

In most cases, a program director or other representative of the subgrantee organization signs the end of term certification, documenting the number of service hours completed by the member. Under this regulation, our strongest case for liability is against the subgrantee organization, the entity that actually executes and transmits the certification to the Government. The draft guidance document therefore focuses on the subgrantee organization. Having said that, the draft guidance document explicitly puts State Commissions on notice that they may also be held accountable for an improper certification. In establishing a debt against a State Commission we would rely on, among other authorities, the sub-statutory provisions cited in the Inspector General's memo. Our decision in a given situation whether to pursue recovery from a State Commission rather than a subgrantee certifying program will be informed by the specific facts surrounding the improper certification, and the Inspector General will have an opportunity to make a recommendation at that time.

Collectible debt vs. contingent claim

The Corporation may establish a debt in connection with any improper payment by the Government. See United States v. Wurts, 303 U.S. 414, 415 (1938) ("The Government by appropriate action can recover funds which its agents have wrongfully, erroneously, or illegally paid"). The amount of the improper payment determines the amount of the debt. As explained by the Government Accountability Office,

... a 'debt,' for purposes of the Federal Claims Collection Act and Standards, requires two elements: there must be an amount of money or property which is owed to the United States, and the government must be entitled to receive it immediately. If it is not immediately payable (as, for example, in the case of loan payments which have not yet become due), then there is no 'debt' upon which collection action can be taken

Government Accountability Office, Principles of Appropriations Law, volume III, page 13-15 (1994). To the extent the National Service Trust has disbursed funds based on an improper certification, we may establish and collect that amount under our debt collection procedures.

By law, a member has seven years to use the education award. 42 U.S.C. 12602(d). Trust records show that members draw down relatively substantial amounts during the first three years with a precipitous drop-off in usage in the last four years of eligibility. Roughly 20% of the amount reserved for education awards goes unrequested at the end of the seven-year period.

If a member has not yet drawn down all or part of an education award, and if we leave undisturbed the member's good faith reliance on the certification of hours, we may assert a contingent claim against the party responsible for the improper certification. The claim would ripen into a collectible debt if and when the member uses the education award. We share the Inspector General's concern about the administrative burdens associated with the contingent nature of the claim. However, we have no legal authority to collect an amount as a debt before there has been an actual loss to the Government. To the extent we wish to collect a debt before the disbursement of funds, we would need to request such authority from Congress in law.

Recovered funds payable to the National Service Trust or to Treasury's General Fund.

Under the Miscellaneous Receipts Act, 31 U.S.C. 3302(b), if any agency collects a debt, the agency must deposit the funds in the Treasury as miscellaneous receipts unless the agency has statutory authority to credit the receipt to an account such as the National Service Trust.

A long-recognized exception to the Miscellaneous Receipts Act is a "refund" representing "amounts collected from outside sources for payments made in error, overpayments, or adjustments for previous amounts disbursed." Government Accountability Office, Principles of Appropriations Law, volume II, pages 6-170-171 (2006). Refunds are defined by the Government Accountability Office as "repayments for excess payments . . . directly related to previously recorded expenditures . . ." *Id.*, at 6-170. While we may retain "refunds" of improper payments in the National Service Trust, we do not have legal authority to adopt a blanket policy of returning all recovered funds to the Trust. To the extent that the recovered funds reflect disbursements from the National Service Trust, we may return them to the Trust. To the extent that the recovered funds reflect the settlement of a contingent liability or civil liability greater than the actual loss to the Government, however, they must be deposited in the Treasury as miscellaneous receipts.

Failure to comply with the Miscellaneous Receipts Act can have serious consequences, including the removal of the responsible federal employee, and can result in the improper augmentation of the credited appropriation.

IG's proposal to hold contingent repayments in the National Service Trust

When an improper certification is discovered before a member has drawn down the education award, the Inspector General proposes to make the National Service Trust whole

... by having the responsible grantee pay to the Trust Fund the full amount of the Education Award on its award, thus neutralizing the reduction of available Trust Funds from the award, subject to remitting back amounts determined after seven years not to have been necessary due to the subsequent non-takedown by the eligible member.

April 15, 2008, memorandum, at 4.

The Inspector General further says there is “no exact standard or binding opinion from a legal authority that addresses what ought to occur when improper payments are made from it.” That is incorrect. When improper payments are made, we have clear authority to retain recovered funds equal to the amount of the improper payments in the National Service Trust. The Inspector General’s proposal does not involve the recovery of “improper payments.” His proposal addresses the situation in which no payment has been made or may ever be made. Where there has been no improper payment, there is both an “exact standard” for disposing of recovered funds -- the Miscellaneous Receipts Act -- and “binding opinion” -- the long line of Comptroller General decisions and Office of Legal Counsel Opinions. (“The requirement [in the Miscellaneous Receipts Act] safeguards the separation-of-powers principle embedded in the Appropriations Clause that is fundamental to our constitutional structure.” *Matter of Maritime Administration*, B-287738, 2002 U.S. Comp. Gen. LEXIS 277, *6 (May 16, 2002); “The Constitution commits to the legislative branch of government control over public expenditures. U.S. Const. Art. I. Sec. 8, cl. 1; *id.*, Art. I, Sec. 9, cl. 7. Congress has passed various statutes designed to ensure that congressional prerogatives under this constitutional scheme are not diminished by executive action.” 4 Op. Off. Legal Counsel (vol. B) 684, *4 (June 13, 1980)).

Under current law, we may establish a contingent claim against the responsible entity for the amount potentially available for the member’s use. If we receive an amount greater than the actual payment in error, we must remit the difference to the general fund of the Treasury.

The Inspector General’s proposal would also run afoul of the specific statutory provisions governing the National Service Trust. By law, the Trust may consist only of (1) appropriated funds; (2) donations; and (3) interest on Trust investments. 42 U.S.C. 12601(a). Amounts in the Trust may only be used to pay for specific educational expenses, to repay qualified student loans, and related student loan interest payments. 42 U.S.C. 12601(c), 42 U.S.C. 12604(a). We have no authority to hold in the National Service Trust a payment from a responsible entity in excess of an actual loss to the Government, or to pay to the responsible entity an unclaimed amount from the National Service Trust at the expiration of the seven-year period of education award availability.

The Inspector General’s proposal offers practical ideas on resolving improper service hour certifications when they are discovered. We would be well-advised to consider his

ideas in pursuing statutory authority for a process that meets our shared goals of equity, practicality, and appropriate stewardship of the Federal fisc. For now, however, we may administer the National Service Trust only as authorized in statute.

IG's concluding recommendation

Finally, I draw your attention to several concluding paragraphs in the Inspector's General's memorandum:

In conclusion, the issue comes down to whether the funds recovered are labeled a "refund" or a "miscellaneous receipt." This labeling decision is outcome-determinative in that refunds go back to the Trust while miscellaneous receipts go to the Treasury.

We believe that "refund" is the appropriate label, for the reasons discussed above. But to the extent the answer is not clear, the Corporation should consider its interests, the equities, and likely downside consequences or risks. The Corporation's interests are served when the funds recovered are called "refunds" and go back into the Trust. The equities favor the Corporation doing precisely that: The Corporation will be making the Trust whole with funds recovered from a certifying program or member, not entitled to keep them. The downside risk is that someone will disagree – but who? And why? Someone would have to pick that fight, and the Corporation's position defending the Trust is eminently defensible, particularly as it would be relying on OIG's advice. The Corporation should do so.

April 15, 2008, memorandum, at 6.

The Inspector General's recommendation is unfortunate in at least two respects. First, the recommendation fails to show due regard for the prerogatives held by Congress in the area of appropriations and public expenditures, as well as our responsibilities to abide by the statutory provisions that embody those prerogatives. Second, the recommendation appears to offer the Inspector General himself as a substitute for the agency General Counsel on a matter of law. In my view, that type of substitution is inappropriate under these circumstances and will ultimately impair the Inspector General's effectiveness. I am communicating directly with the Inspector General on my concerns. But for purposes of this memorandum, I advise you to disregard the concluding recommendation.

CC: Gerald Walpin
Jerry Bridges

**Office of Inspector General
Corporation for National and
Community Service**

**Semiannual Report
to Congress**

October 1, 2007 - March 31, 2008

Fiscal Year 2008 Semiannual Report No. 1



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About The Office Of Inspector General

In 1993, Congress created the Corporation for National and Community Service ("Corporation"), along with this Office of Inspector General ("OIG"), in the National and Community Service Trust Act (42 U.S.C. §§ 12501-681). Independent of the agency we oversee and led by a presidential appointee, the OIG conducts audits and investigations of Corporation programs, including AmeriCorps, Volunteers In Service to America ("VISTA"), the National Civilian Community Corps, Learn and Serve America, and Senior Corps. The OIG also examines Corporation operations, and State community service programs that receive and distribute the majority of Corporation grant funds. Based on the results of our work, and in addition to our audit reports and criminal and civil referrals based on our investigations, the OIG recommends to the Corporation policies to promote economy and efficiency.

This semiannual report, as required by the Inspector General Act of 1978, details our work for the first six months of Fiscal Year 2008. It is being transmitted to the Corporation's Chief Executive Officer, Board of Directors, and Members of Congress.

A Message From Inspector General Gerald Walpin

April 30, 2008

I'm pleased to present the Office of Inspector General's ("OIG") Semiannual Report to Congress and share with you the achievements and challenges my staff and I have experienced during the period October 1, 2007, through March 31, 2008.



There was good news on two major oversight fronts during this reporting period. Our audit of the Corporation for National and Community Service's ("Corporation") 2007 Financial Statements resulted in a clean opinion and, for the first time, found no significant deficiencies or material weaknesses. This result can be attributed to efforts by Corporation management to improve its financial reporting, combined with the diligent work of the OIG Audit Section in ensuring prompt and full disclosure by the Corporation. Also, our Federal Information Security Management Act ("FISMA") Independent Evaluation found significant improvements in the Corporation's information technology security compared to prior OIG evaluations. The enhancements included increased information technology staffing and security awareness training for all system users, as well as improved monitoring and testing of Corporation systems. Our report did recommend, however, that the Corporation improve its oversight of contractors and grantees that store and process information on its behalf.

Overall, our Audit Section issued 13 reports during this period and identified questioned costs totaling \$332,000, as well as \$499,000 in taxpayer funds that could be put to better use. We expect those numbers to increase as a result of our proactive stance in the audit resolution process. Working with Corporation officials, we are seeking to maximize monetary recoveries resulting from audit findings and to identify the parties directly responsible for errors and therefore liable for the reimbursement of misspent funds.

We are also working with the Corporation to expedite the process of audit report resolution and conclusions, which depend on Corporation decisions based on our audit findings. This process has too often dragged on beyond the schedule set forth in Corporation policy. The quicker that the Final Management Decision is made on an OIG audit, the sooner improperly charged funds can be returned to the Corporation for proper use.

Our Investigations Section opened 17 cases and closed 25 actions, resulting in the recovery of more than \$523,000 in Corporation funds, with work continuing towards the potential recovery of an additional \$2.314 million.

In our ongoing effort to put wrongdoers on notice that there is no such thing as a small fraud or offense committed against the public's trust and purse, our investigations led to five successful criminal prosecutions, three indictments in pending cases, and the debarment of four convicted persons from participation in Federal grant programs. Three additional OIG referrals for debarment are awaiting Corporation action.

Our outreach to the prosecutorial community, including the presentation of detailed and compelling referrals, also continued to bear fruit. Overcoming longstanding arguments that our cases tend to involve "low-dollar amounts," we had five cases accepted for prosecution by United States Attorneys and local jurisdictions, and experienced only one declination.

Inspector General's Message

Both our audits and investigations noted troubling problems with member eligibility and the recording and reporting of member service hours. The causes for these problems range from human error and ignorance of regulations to outright fraud. We have expressed our concerns to Corporation management and its grantees, stressing that service hour compilation and reporting is the basis for determining member eligibility for education awards and accrued interest awards. We are working with the Corporation to strengthen oversight, controls, and grantee accountability regarding service hours and member eligibility.

The OIG also has been working with Corporation officials to strengthen the requirement that criminal background checks be conducted prior to deployment for all volunteers who will be serving with children, the disabled, elderly and other vulnerable persons. During this reporting period, the Corporation expanded its background check requirement to cover all Foster Grandparent and Senior Companion volunteers, as well as AmeriCorps members, under a new regulation which effectively supports our audit work. All members or volunteers who were enrolled after November 23, 2007, and who work with vulnerable persons, must undergo pre-service criminal background checks in order to be eligible for service and member benefits. The regulation also covers grant-funded program staff. Grantees which fail to adhere to the rules face sanctions, including refunding to the Corporation the costs of living allowances and education awards given to ineligible members, and stipends and other benefits given to volunteers and grant-supported program staff. In egregious cases of noncompliance, grantees can have their grants suspended or withdrawn.

Our technical staff continues to find ways to help the OIG work smarter and faster. During this reporting period, we began work on a Computer Management System that will assist our investigators in their efforts to bring wrongdoers to justice. Our information technology staff has also assisted its Corporation counterparts in addressing problems with system implementation, shared its expertise on detecting employee travel card fraud, and participated in joint efforts to improve database and system security and user awareness.

All of this fine work has been achieved despite increasing budget restraints which I fear could eventually jeopardize continuation of the OIG's excellent record as a steward of taxpayer funds invested in National Service. After years of expanding our oversight activity, including the careful budgeting of two-year money (which is no longer available) to fulfill and enhance our audit and investigative missions, the OIG in Fiscal Year 2008 has had to absorb a 15 percent funding reduction, from \$6.9 million to \$5.828 million.

This cut has greatly impacted our ability to conduct the contracted random audits of grantees that are so essential to our oversight duties and are mandated by Congress. We were able to award contracts for 14 grant audits in FY 2007. Several of these audits, along with reports issued under contracts initiated during the previous fiscal year, resulted during FY 2007 in the questioning of more than \$5 million in claimed grant costs and in more than 180 recommendations to improve program and Corporation operations.

For FY 2008, our reduced financial circumstances allow for only three grant audit contracts.

Our Audit Section is working hard to offset the impact of the shortfall, conducting more staff-produced audits and focusing on key issues and on grantees shown to have the highest risk of financial irregularities. But there is no way totally to offset the loss of large-scale, contract grant audits which play a crucial role in monitoring and improving grantee performance, both through uncovering improprieties at the entity being audited, and through the deterrent effect on all grantees from the knowledge that the OIG engages in random audits and that any grantee might be next.

The outlook for effective and proactive OIG oversight is no brighter for FY 2009. Our carefully considered request to the Office of Management and Budget ("OMB") for \$7.245 million would have allowed for seven contract audits during the coming fiscal year. OMB's initial passback number for OIG was \$6.935 million. While we thought that our performance and plans warranted our request in full, we decided not to appeal. Unfortunately, in negotiating the Corporation's independent appeal from its passback number, OMB reallocated \$423,000 of the amount OMB had initially agreed to

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Inspector General's Message

provide to OIG, and used it to increase the Corporation's FY 2009 budget allocation, resulting in OIG's number being whittled down to \$6.512 million by OMB. This amount, if allowed to stand, would again allow for only three contracted grant audits.

When I questioned this action, OMB officials suggested that the OIG ask Corporation officials for the disputed \$423,000. I rejected this suggested course of action of going hat-in-hand to the Corporation as totally inconsistent with the OIG's independence. My staff and I will continue, through this report and discussions with Congressional staff, to inform Congress of – as we are statutorily required to do – the adverse impact of the reduced appropriations on the OIG's ability to perform the duties which Congress has assigned it.

Finally, while guarding our independence, I have actively pursued efforts during this period to interact with Corporation officials and employees in an effort to inform them about our role and work, obtain knowledge of the Corporation's operations and problems, and engender a cooperative atmosphere.

It is imperative that the OIG demonstrate that, while it acts independently of the Corporation, it is motivated to assist the Corporation in its service endeavor. For that purpose, I meet every two weeks separately with the Corporation's Chief Executive Officer and Chief Financial Officer, permitting with each a very candid discussion of my views and recommendations on how the Corporation can more effectively operate and ensure against waste, fraud and abuse, while providing the best service to needy persons and communities. The relationship is excellent: The Corporation has welcomed our input, accepted our recommendations with few exceptions and, as to those, we have frankly discussed our differences without being disagreeable. I applaud the Corporation management in its overall attitude towards the OIG and its recognition that a candid relationship with the OIG is in the Corporation's best interests.

My staff and I also continue to give fraud awareness and audit briefing presentations at Corporation gatherings across the country. The OIG was also an active participant in the Corporation's holiday celebration and charity fund drive, as well as its annual employee recognition event at which, to inform Corporation staff of the individual talents and qualities that exist in the OIG staff, I presented our first annual "Inspector General Award" to Senior Budget Analyst Karen Howard.

I am proud of the very able, conscientious, and dedicated OIG staff with whom I am privileged to serve. I find that morale is magnificent, primarily because they all feel that our office is accomplishing its purpose: to root out the small number of bad apples in the Corporation's operations while helping the vast preponderance of Corporation employees, grantee personnel and volunteers in reaching the goal of best utilizing every penny Congress has appropriated for National Service.

SECTION 22—COMMUNICATIONS WITH THE CONGRESS AND THE PUBLIC AND
CLEARANCE REQUIREMENTS

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22.1 Confidentiality of budget deliberations.

The nature and amounts of the President's decisions and the underlying materials are confidential. Do not release the President's decisions outside of your agency until the Budget is transmitted to the Congress. The materials underlying those decisions should not be released at any time, except in accordance with this section. In addition, outyear discretionary data is considered pre-decisional and should not be released without prior OMB approval. (For additional information on the confidentiality of pre-decisional budget information, please consult OMB Memorandum M-01-17 of April 25, 2001.)

Presidential decisions on current and budget year estimates (other than forecasts of items that will be transmitted formally later), both in total and in detail, become the "proposed appropriations" as that term is used in the Budget and Accounting Act of 1921, as amended, and must be justified by your agency. Do not release agency justifications provided to OMB and any agency future year plans or long-range estimates to anyone outside the Executive Branch, except in accordance with this section.

22.2 Congressional testimony and communications.

The Executive Branch communications that led to the President's budgetary decisions will not be disclosed either by the agencies or by those who have prepared the budget. In addition, agency justifications provided to OMB and any agency future year plans or long-range estimates will not be furnished to anyone outside the Executive Branch, except in accordance with this section.

When furnishing information on appropriations and budgetary matters, you (and your agency representatives) should be aware of the following limitation on communications:

"...An officer or employee of an agency may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress" (31 U.S.C. 1108(e)).

You should also be aware of restrictions on communications to influence legislation that are not conducted through proper official channels (18 U.S.C. 1913).

After formal transmittal of the budget, an amendment, or a supplemental appropriations request, the following policies apply when testifying before any congressional committee or communicating with Members of the Congress:

- Witnesses will give frank and complete answers to all questions.

**SECTION 22—COMMUNICATIONS WITH THE CONGRESS AND
THE PUBLIC AND CLEARANCE REQUIREMENTS**

- Witnesses will avoid volunteering personal opinions that reflect positions inconsistent with the President's program or appropriation request.
- If statutory provisions exist for the direct submission of the agency budget request to the Congress, OMB may provide you additional materials supporting the President's Budget request that you will forward to the Congress with the agency testimony. Witnesses will be prepared to explain the agency submission, the request in the President's Budget, and any justification material.
- When responding to specific questions on program and appropriations requests, witnesses will not provide the agency request to OMB or plans for the use of appropriations that exceed the President's request. Typically, witnesses are responsible for one or a few programs, whereas the President is responsible for all the needs of the Federal Government given the revenues available. Where appropriate, witnesses should explain this difference in perspective and that it is therefore not appropriate for them to support appropriations above the President's request.
- When asked to provide a written response that involves a statement of opinion on program and appropriations requests, witnesses will provide a reply through the agency head.
- Do not let your communications be perceived as an "appropriations estimate or request ... or an increase in that estimate or request" (31 U.S.C. 1108). You are expected to support the President's budgetary decisions and seek adjustments to those decisions only through established procedures if your agency head determines such action is necessary.

22.3 Clearance of materials for the Congress and the media.

Policy consistency between the President's Budget and the budget-related materials prepared for the Congress and the media is essential. To ensure this consistency, you are required to submit budget-related materials to OMB for clearance prior to transmittal to congressional committees, individual Members of the Congress or their staff, or the media. Unless a specific exemption is approved by OMB, materials subject to OMB clearance include:

- All budget justifications and budget-related oversight materials;
- Testimony before and letters to congressional committees;
- Written responses to congressional inquiries or other materials for the record;
- Materials responding to committee and subcommittee reporting requirements;
- Capability statements;
- Appeals letters;
- Reprogramming requests;
- Related cost information;

- Financial management documents addressing budget and policy issues (e.g., some accountability reports or transmittal documents for audited financial statements); and
- Proposed press releases relating to the President's Budget.

Provide this information to OMB five working days in advance to allow adequate review time. Performance and Accountability Reports should be provided 10 days in advance unless a shorter period is approved by OMB. OMB review of reprogramming requests may take longer in some circumstances (e.g., if the request has not been coordinated or if supporting materials have not been provided concurrently). In exceptional circumstances, where the response time is very short, agencies may request oral clearance or make other arrangements for expedited review. Immediately after the budget transmittal and after subsequent transmittals, provide OMB with a schedule of anticipated congressional reviews that require agency oral and written participation. Revise this schedule as appropriate.

Address any questions you have about this subsection to the OMB representatives whom you normally consult on budget-related matters.

22.4 Clearance of changes to the President's Budget.

If you want to propose changes to the President's Budget (e.g., appropriations language, limitations, balance sheets required by the Government Corporation Control Act, and dollar amounts), you must follow the confidentiality and clearance guidance provided in this section and submit a written request as described in section 110.3. OMB will notify you whether a formal transmittal of the change will be made.

When it is possible to reduce the amount of an appropriations request before action has been taken by the Appropriations Committee of either House, the head of your agency should inform OMB promptly. Before your agency head decides to request restoration of a reduction, the reasons for the reduction, the circumstances under which it was made, and its significance to the President's program should be carefully considered.

22.5 Information available to the public.

Many agency budget documents that are subject to the Freedom of Information Act (FOIA) are exempt from mandatory release pursuant to 5 U.S.C. 552(b)(5). Depending on the nature of the record requested, other FOIA exemptions may apply. When deciding whether to withhold a budget document that is exempt from mandatory release, follow the FOIA memorandum issued by the Attorney General on October 12, 2001. Any discretionary decision by an agency to disclose protected information should be made only after full and deliberate consideration of the institutional interests that could be implicated by disclosure, as well as after consultation with OMB. Agency heads are responsible for determining the propriety of record releases under FOIA.

Certain agencies headed by a collegial body may be required to hold their meetings open to public observation unless the agency properly determines that the matter to be discussed warrants the closing of those meetings for reasons enumerated in the Government in the Sunshine Act (Public Law 94-409). Some meetings covered by that Act may pertain to budgetary information discussed in this Circular. Although, as with the FOIA, it is not possible to determine merely by the generic category of such information whether such an agency would be authorized to close a particular meeting covered by the Act, the premature disclosure of budgetary information may "be likely to significantly frustrate implementation of a proposed agency action" (5 U.S.C. 552b(c)(9)(B)). Furthermore, other exemptions from the open meeting requirements of the Act may apply. Such agencies are responsible for the propriety of determinations that would lead to the disclosure of this budgetary information.

**SECTION 22—COMMUNICATIONS WITH THE CONGRESS AND
THE PUBLIC AND CLEARANCE REQUIREMENTS**

22.6 Congressional budget justifications.

Congressional budget justification materials include the performance budget submission and additional information described below as well as detailed descriptions of agencies' activities and proposals at the program, project, and activity level.

(a) Materials for performance budget submission to the Congress.

For FY 2010, you will have submitted your budget to OMB as a performance budget, presenting what you propose to accomplish in the upcoming year and what resources your proposal will require. Descriptions of the performance budget are presented in sections 51 and 200. If you are participating in the Performance and Accountability Report (PAR) pilot, you should follow the instructions in Section 230 to transmit the Annual Performance Report (APR) with your congressional budget justification.

You should revise the performance budget submission to reflect decisions made in the Administration's budget process, and use the performance budget format as the basis for your justification of the budget request to the Congress. You should consult with your congressional representatives to agree on the performance budget format, including the use of the results of PART assessments, prior to submitting your congressional justification. Your OMB representative should be included in those consultations as appropriate.

Your congressional justification should be in the form of a "performance budget" to the greatest extent possible. A performance budget should include:

- A description of what you plan to accomplish, organized by strategic goal;
- Background on what you have accomplished;
- Performance targets for current and budget years and how you expect to achieve those targets; and
- What resources you are requesting to achieve the targets.

Where possible, you should include the full cost of a program, and you should align budget accounts with programs.

You should provide your proposed justification to the Congress to your OMB representative with sufficient time for review. Because agencies participating in the PAR pilot will be including additional information in their congressional justification, they should plan to provide OMB with additional time to review the document.

(b) Material to be included in congressional budget justifications.

Consistent with 41 U.S.C. 433(h), you should identify funding levels requested for education and training of the acquisition workforce in your budget justifications to the Congress.

Consistent with 42 U.S.C. 8255, you should identify funds requested for energy conservation measures in your budget justifications to the Congress.

You should provide the Congress with information to assess current and proposed capital projects that is consistent with the Administration's budget proposals, including: appropriate information on planning; budgeting, including the current or proposed use of incremental or full funding; acquisition; and management of the projects.

**SECTION 22—COMMUNICATIONS WITH THE CONGRESS AND
THE PUBLIC AND CLEARANCE REQUIREMENTS**

You should also provide the Congress with information on the expected benefits you will receive from the President's E-Government initiatives and the funding levels for FY 2010 by account code. Include a link to the website containing your updated exhibit 300s (see section 300.7).

You must submit all budget justification materials to OMB for clearance before transmitting them to the Congress.

(c) Availability of congressional budget justifications.

You should make your full congressional budget justification materials available to the public and post the materials on the Internet within two weeks after transmittal of those materials to the Congress. Release of these materials must be done in accordance with the requirements of this section and any relevant provisions of law. Materials will not be released if disclosure is prohibited by statute, the materials are classified or must be kept secret in the interest of national security or foreign policy, or the materials are otherwise exempt from release pursuant to 5 U.S.C. 552(b).

Holland, Austin

From: Goren, Nicola
Sent: Tuesday, June 09, 2009 6:02 PM
To: 'Elana_J._Tyrangiel'; [REDACTED] Schmelzer, Ranit; Trinity, Frank
Cc: 'Norman_L._Eisen'; [REDACTED]
Subject: Re: conf call

Got it thanks

Sent via blackberry - please excuse typos

From: Tyrangiel, Elana J. [REDACTED]
To: Goren, Nicola; Schmelzer, Ranit; Trinity, Frank
Cc: Eisen, Norman L. [REDACTED]
Sent: Tue Jun 09 17:46:35 2009
Subject: FW: conf call

Attached is the information for the call at 8:30 pm tonight. If you could please confirm with me that you received this email and will be available, I would appreciate it. Thanks!

From: Fergenson, Micah F.
Sent: Tuesday, June 09, 2009 4:38 PM
To: Tyrangiel, Elana J.
Subject: conf call

[REDACTED]
Code: [REDACTED]

Micah Fergenson
White House Counsel's Office
EEOB Room 135

[REDACTED] (desk)
[REDACTED] (cell)

8/6/2009

Flowe, Meredith

From: Trinity, Frank

Sent: Tuesday, June 09, 2009 6:32 PM

To: 'jsamuels [REDACTED]

Subject: TPs for Mr. Obey's staff

- We understand that several months ago Mr. Obey's committee staff tasked the Corporation's Inspector General with a review of the Corporation's budget execution in fiscal year 2008.
- That review is nearly complete, and the Corporation's board and staff have been briefed on the findings and recommendations.
- We want to emphasize that the findings and recommendations communicated in advance of the final report have been constructive, and the Corporation believes that the report will be useful in strengthening the agency's operations moving forward.
- The budget review is a separate matter from the President's action today, and the agency has every intention to work cooperatively with the Office of Inspector General on the final report.

Holland, Austin

From: Earnest, Joshua R. [REDACTED]
Sent: Wednesday, June 10, 2009 2:08 PM
To: Tyrangiel, Elana J.; Oleske, James M.; Singiser, Dana E.; Perez, Alejandro; Samuels, Jonathan D.; Maher, Shawn P.; Turton, Daniel A.; Eisen, Norman L.; Trinity, Frank; Schmelzer, Ranit; Goren, Nicola
Subject: RE: CNCS IG Notification Prep

Looks right to me.

From: Tyrangiel, Elana J.
Sent: Wednesday, June 10, 2009 1:38 PM
To: Oleske, James M.; Singiser, Dana E.; Perez, Alejandro; Samuels, Jonathan D.; Maher, Shawn P.; Turton, Daniel A.; Earnest, Joshua R.; Eisen, Norman L.; 'trinity [REDACTED] 'rschmelzer [REDACTED] 'ngoren [REDACTED]
Subject: CNCS IG Notification Prep

Attached please find a summary of the action plan we agreed upon last night. If anything seems amiss, please let us know. Otherwise, Norm will make the call to Walpin at 5 or 5:30 pm, and we will update you as soon as he gets off the phone.

Holland, Austin

From: Perez, Alejandro [REDACTED]
Sent: Wednesday, June 10, 2009 2:28 PM
To: Tyrangiel, Elana J.; Oleske, James M.; Singiser, Dana E.; Samuels, Jonathan D.; Maher, Shawn P.; Turton, Daniel A.; Earnest, Joshua R.; Eisen, Norman L.; Trinity, Frank; Schmelzer, Ranit; Goren, Nicola; Wilson, Denise R.
Subject: RE: CNCS IG Notification Prep

Adding Denise Wilson

From: Tyrangiel, Elana J.
Sent: Wednesday, June 10, 2009 1:38 PM
To: Oleske, James M.; Singiser, Dana E.; Perez, Alejandro; Samuels, Jonathan D.; Maher, Shawn P.; Turton, Daniel A.; Earnest, Joshua R.; Eisen, Norman L.; 'frinity [REDACTED]; 'rschmelzer [REDACTED]; 'ngoren [REDACTED]
Subject: CNCS IG Notification Prep

Attached please find a summary of the action plan we agreed upon last night. If anything seems amiss, please let us know. Otherwise, Norm will make the call to Walpin at 5 or 5:30 pm, and we will update you as soon as he gets off the phone.

Holland, Austin

From: Samuels, Jonathan D. [REDACTED]
Sent: Wednesday, June 10, 2009 5:09 PM
To: Tyrangiel, Elana J.; Oleske, James M.; Singiser, Dana E.; Perez, Alejandro; Maher, Shawn P.; Turton, Daniel A.; Earnest, Joshua R.; Eisen, Norman L.; Trinity, Frank; Schmelzer, Ranit; Goren, Nicola
Subject: RE: CNCS IG Notification Prep

Thanks much. Please advise as to when the call is or will be made so we can be sure to make our calls on time. If you've got a status update now, that would be great.

From: Tyrangiel, Elana J.
Sent: Wednesday, June 10, 2009 1:38 PM
To: Oleske, James M.; Singiser, Dana E.; Perez, Alejandro; Samuels, Jonathan D.; Maher, Shawn P.; Turton, Daniel A.; Earnest, Joshua R.; Eisen, Norman L.; 'frinity [REDACTED] 'rschmelzer [REDACTED] 'ngoren [REDACTED]
Subject: CNCS IG Notification Prep

Attached please find a summary of the action plan we agreed upon last night. If anything seems amiss, please let us know. Otherwise, Norm will make the call to Walpin at 5 or 5:30 pm, and we will update you as soon as he gets off the phone.

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 5:56 PM
To: Holland, Austin
Subject: FW:
Attachments: letter to Congress.doc; Walpin Q&A.doc; walpin quote.doc

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Wednesday, June 10, 2009 9:31 AM
To: Schmelzer, Ranit
Subject: FW:

Hey Ranit:

I should have forwarded this to you last week. It's the basic language that we've agreed upon that should be helpful as you draft a news release today.

I'm in meetings this morning – but you can get me on bberry at this email address or on my cell at [REDACTED]

Let me know if I can be helpful, Josh

From: Tyrangiel, Elana J.
Sent: Friday, June 05, 2009 3:59 PM
To: Earnest, Joshua R.
Subject: FW:

From: Tyrangiel, Elana J.
Sent: Friday, June 05, 2009 2:46 PM
To: Vietor, Thomas F.
Cc: Eisen, Norman L.
Subject:

Tommy, attached are some materials on the removal of the IG, which will likely happen this afternoon (Walpin will be offered a chance to resign first). Could we chat as soon as possible about coordination with the Corporation for National and Community Service? I'm at [REDACTED] Thanks.

THE WHITE HOUSE

June 5, 2009

Speaker Nancy Pelosi
Office of the Speaker
United States Capitol
H-232
Washington, DC 20515

RE: Notification pursuant to the Inspector General Act

Dear Madam Speaker:

This is to advise that I have exercised my power as President to remove from office the current appointee to the position of Inspector General for the Corporation for National and Community Service, effective thirty days from today. The removed appointee may be involved in investigations that would be aided by some continued association with his office. We will want to review these situations to consider asking for his continued participation on an appropriate basis.

It is extremely important that we uncover fraud, waste and mismanagement of federal funds, and that we promote the economy, effectiveness and efficiency of federal programs and operations. The Inspector General has a critical role in the achievement of these goals. As is the case with regard to all positions where I, as President, have the power of appointment by and with the advice and consent of the Senate, it is vital that I have the fullest confidence in the ability, integrity, and commitment of the appointees to the position of Inspector General.

I will be submitting to the Senate my nomination of an individual for this position who has my confidence and who meets the appropriate qualifications.

Sincerely,

Barak Obama

CONFIDENTIAL: FOR BRIEFING PURPOSES ONLY

- Gerald Walpin has served, since January, 2007, as the Inspector General for the Corporation for National and Community Service (CNCS). Prior to joining CNCS, Walpin spent 40 years with the firm Katten Muchin Rosenman and was an Assistant United States Attorney for the Southern District of New York, where he served as Chief of Special Prosecutions.
- Walpin was flagged as a problem at the agency even during the transition process, when the Corporation's Acting CEO and staff complained that Walpin displayed excessively antagonistic behavior to agency grantees and espoused a "gotcha" mentality. More acute problems with Walpin have developed when on May 19, 2009, CNCS held a board meeting at which Walpin delivered a disastrous presentation, during which he seemed disoriented and unable to speak or answer questions for a period of time.
- The Chair of the Board, Alan Solomont, contacted our office immediately after the board meeting and thereafter forwarded several emails he received from other board members conveying concerns about Walpin. In those email messages, board members noted that Walpin's behavior at the board meeting was troubling and raised questions about Walpin's capacity to serve.
- Other issues with Walpin's conduct and performance involve his decision to telecommute from New York since January, contrary to the Board's wishes, and a style that has caused unnecessary conflict within the agency.
- Walpin recently sent a report to Congress regarding the settlement of an investigation involving Sacramento's mayor (who previously was employed by a charter school that received AmeriCorps funds). Walpin believes the settlement was "worthless." In connection with that same investigation (and before any report was sent to the Hill), the United States Attorney for the Eastern District of California referred Walpin to the Council on Inspectors General because Walpin allegedly elected "to provide [the] office with selective information" and spoke with the press, inappropriately, during the pendency of the investigation.

Q&A, for background only

When will the removal take effect?

Consistent with the Inspector General Act, this removal will take effect 30 days from today, July 6.

Why is Mr. Walpin being removed?

The President has lost confidence in Mr. Walpin and wants to replace him with someone in whom he does have full confidence.

What specifically, were the issues?

We don't want to get into any detail, but there were some performance-based issues.

On the record quote:

Today, the President has notified Congress that he intends to remove the Inspector General for the Corporation for National and Community Service. Board Chair, Democrat Alan Solomont, the Board's Vice Chair, Republican Steve Goldsmith, and Eric Tanenblatt, Chair of the Board's Management, Audit, and Governance Committee, fully support this decision and look forward to working with a newly appointed and confirmed Inspector General.

For Background:

- Gerald Walpin has served, since January, 2007, as the Inspector General for the Corporation for National and Community Service (CNCS). Prior to joining CNCS, Walpin spent 40 years with the firm Katten Muchin Rosenman and was an Assistant United States Attorney for the Southern District of New York, where he served as Chief of Special Prosecutions.
- Walpin was flagged as a problem at the agency even during the transition process, when the Corporation's Acting CEO and staff complained that Walpin displayed excessively antagonistic behavior to agency grantees and espoused a "gotcha" mentality. More acute problems with Walpin have developed when on May 19, 2009, CNCS held a board meeting at which Walpin delivered a disastrous presentation, during which he seemed disoriented and unable to speak or answer questions for a period of time.
- The Chair of the Board, Alan Solomont, contacted our office immediately after the board meeting and thereafter forwarded several emails he received from other board members conveying concerns about Walpin. In those email messages, board members noted that Walpin's behavior at the board meeting was troubling and raised questions about Walpin's capacity to serve.
- Other issues with Walpin's conduct and performance involve his decision to telecommute from New York since January, contrary to the Board's wishes, and a style that has caused unnecessary conflict within the agency.
- Walpin recently sent a report to Congress regarding the settlement of an investigation involving Sacramento's mayor (who previously was employed by a charter school that received AmeriCorps funds). Walpin believes the settlement was "worthless." In connection with that same investigation (and before any report was sent to the Hill), the United States Attorney for the Eastern District of California referred Walpin to the Council on Inspector Generals because he allegedly elected "to provide [the] office with selective information" and spoke with the press, inappropriately, during the pendency of the investigation.

Q&A, for background only

When will the removal take effect?

Consistent with the Inspector General Act, this removal will take effect 30 days from today, July 6.

Will Mr. Walpin remain the Inspector General until that time?

Yes, but Kenneth Bach, who currently serves as Assistant Inspector General for Support at the Corporation, will fill in until a new Inspector General can be nominated.

Who is Kenneth Bach?

Bach currently serves as one of the Assistant Inspectors General at the Corporation for National and Community Service and has years of relevant experience that will enable him to handle matters effectively until a new Inspector General can be nominated and confirmed.

Why is Mr. Walpin being removed?

The President has lost confidence in Mr. Walpin and wants to replace him with someone in whom he does have full confidence.

What specifically, were the issues?

We don't want to get into any detail, but there were some performance-based issues.

Holland, Austin

From: Schmelzer, Ranit
Sent: Wednesday, June 10, 2009 7:50 PM
To: Earnest, Joshua R.
Cc: Goren, Nicola; Trinity, Frank
Subject: update

I talked to Chronicle of Philanthropy. She's likely to do something short for the web. She asked why this was happening now – and whether it was a response to the CUNY situation. On background, I told her that the President has lost confidence in him (as we outlined in the Q/A doc.).

That's all for now.

Ranit Schmelzer
Director, Office of Public Affairs
Corporation for National & Community Service
Tel: [REDACTED]
Cell: [REDACTED]

Holland, Austin

From: Schmelzer, Ranit
Sent: Wednesday, June 10, 2009 9:29 PM
To: Earnest, Joshua R.
Cc: Goren, Nicola; Trinity, Frank
Subject: Just talked to AP

Ann is not going to write tonight, but may do something in the morning. She wants to know what the circumstances were. I stuck to our TPs on background (as an Official from CNCS). I assume she'll call the WH tomorrow for comment if she writes. Let me know if you have Qs.

Ranit Schmelzer
Director, Office of Public Affairs
Corporation for National & Community Service

Tel: [REDACTED]
Cell: [REDACTED]

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:21 PM
To: Holland, Austin
Subject: FW: Chronicle of Philanthropy, 9:22 pm

From: Schmelzer, Ranit
Sent: Wednesday, June 10, 2009 9:35 PM
To: Earnest, Joshua R.
Cc: Goren, Nicola; Trinity, Frank
Subject: Chronicle of Philanthropy, 9:22 pm

<http://philanthropy.com/news/government/index.php?id=8528>

<input type="checkbox"/> News Updates

<input type="checkbox"/>

June 10, 2009

Obama Removes National-Service Inspector General

President Obama plans to remove Gerald Walpin, the inspector general of the Corporation for National and Community Service, the corporation announced today in a statement.

Mr. Walpin recently issued a report critical of an AmeriCorps program that provides money to the Teaching Fellows project at City University of New York that was contested by the corporation, according to an [article](#) in the publication *Youth Today*. An official at the corporation, which operates AmeriCorps and other national-service programs, declined to say whether the firing was connected.

"The president has lost confidence in the inspector general and wants to appoint someone in whom he has full confidence," the official said.

The corporation's statement said Alan Solomont, the agency's board chair; Stephen Goldsmith, the vice chair; and Eric Tanenblatt, chair of the board's management, audit, and governance committee, all strongly support the president's decision.

The corporation official said Mr. Walpin, who was nominated by President George W. Bush and has served in the position since January 2007, will be required to leave his post in 30 days.

Mr. Walpin, who lives in New York, could not be immediately reached for comment.

—“Suzanne Perry”:mailto:suzanne.perry@philanthropy.com

Wednesday June 10, 2009 | [Permalink](#)

Sandy Scott
Director of Media Relations
Corporation for National and Community Service
1201 New York Ave. NW
Washington DC 20525
Phone: [REDACTED]
Fax: [REDACTED]
email: [REDACTED]
website: www.nationalservice.gov

Holland, Austin

From: Samuels, Jonathan D. [REDACTED]
Sent: Wednesday, June 10, 2009 10:27 PM
To: Trinity, Frank
Subject: RE: please call me

I am all set—no problem. But would appreciate a brief email about the Obey background. I spoke with his Staff Director and the reaction was mild. But my notes from last night inadvertently got deleted and I want to be sure I am clear on his Committee's background in case they come back to me tomorrow. Thanks much

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Wednesday, June 10, 2009 10:23 PM
To: Samuels, Jonathan D.
Subject: Re: please call me

Sorry John,
We had some email problems, so I'm just seeing this. I'm available if you want to talk.
Frank

From: Samuels, Jonathan D. [REDACTED]
To: Trinity, Frank
Sent: Wed Jun 10 17:28:18 2009
Subject: please call me
[REDACTED]

Jon Samuels
Special Assistant to the President
White House Office of Legislative Affairs
[REDACTED]

8/6/2009

WAL

Holland, Austin

From: Trinity, Frank
Sent: Thursday, June 11, 2009 4:52 PM
To: 'Tyrangiel, Elana J.'
Subject: RE: update on CNCS matter

Thanks Elana,

Are we correct that the President's letter is a public document that may be shared?

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 4:22 PM
To: Meltzer, Daniel; Messina, James A.; Eisen, Norman L.; Earnest, Joshua R.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: update on CNCS matter

Attached please find letters that were delivered to Congress earlier today regarding Gerald Walpin's removal. Below are links to a few media stories. AP is working on a story now. Hill consultations have been done.

<http://philanthropy.com/news/government/index.php?id=8528>

http://www.youthtoday.org/publication/article.cfm?article_id=2949

Holland, Austin

From: Trinity, Frank
Sent: Thursday, June 11, 2009 5:21 PM
To: Schmelzer, Ranit; Scott, Sandy; Goren, Nicola
Subject: we may share President's letter to Congress re IG removal

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 5:14 PM
To: Trinity, Frank
Subject: RE: update on CNCS matter

Yes.

From: Trinity, Frank [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 4:52 PM
To: Tyrangiel, Elana J.
Subject: RE: update on CNCS matter

Thanks Elana,

Are we correct that the President's letter is a public document that may be shared?

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 4:22 PM
To: Meltzer, Daniel; Messina, James A.; Eisen, Norman L.; Earnest, Joshua R.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: update on CNCS matter

Attached please find letters that were delivered to Congress earlier today regarding Gerald Walpin's removal. Below are links to a few media stories. AP is working on a story now. Hill consultations have been done.

<http://philanthropy.com/news/government/index.php?id=8528>

http://www.youthtoday.org/publication/article.cfm?article_id=2949

Flowe, Meredith

From: Eisen, Norman L. [REDACTED]
Sent: Thursday, June 11, 2009 6:52 PM
To: Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter
Importance: High
Attachments: 2009-06-11 Letter to The White House.pdf

Letter from Grassley complaining about Walpin firing attached. We are drafting a response for everyone's consideration. Note his erroneous statement that Congress was not notified.

11

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: Youth Today on IG

From: Schmelzer, Ranit
Sent: Thursday, June 11, 2009 6:53 PM
To: 'Joshua R. Earnes' [REDACTED]
Subject: Fw: Youth Today on IG

From: Scott, Sandy
To: Schmelzer, Ranit; Trinity, Frank; Goren, Nicola; Glickman, Rhoda
Sent: Thu Jun 11 15:31:16 2009
Subject: Youth Today on IG
Youth Today, June 11, 2009
http://www.youthtoday.org/publication/article.cfm?article_id=2949

Obama Fires CNCS Watchdog

Inspector general removed after scathing report on AmeriCorps grantee.

by Nancy Lewis

The inspector general (IG) of the Corporation for National and Community Service is being removed by President Barack Obama, a week after the IG questioned the eligibility of the largest and most expensive AmeriCorps program, and while the IG was contesting the "propriety" of a settlement made with a mayor for alleged misuse of AmeriCorps funds.

Gerald Walpin, an appointee of President George W. Bush who has served as the corporation's IG for more than two years, could not be reached for comment yesterday, and a spokesman for his office said neither the office nor Walpin could say anything about the removal.

Officials insisted that Walpin's removal was not connected to recent controversies but was merely a routine change that came with a change in administrations. But those routine changes are rarely announced or characterized as "removal."

A statement issued by Nicola Goren, acting CEO of the corporation, said that board chairman Alan Solomont and vice chair Stephen Goldsmith fully supported the move. CNCS spokeswoman Ranit Schmelzer would not say if they requested Walpin's removal. The announcement said he has 30 days to vacate the office.

The action leaves the top four positions at CNCS - chief executive officer, chief operating officer, chief financial officer and inspector general - vacant or filled temporarily, at a time when the corporation is charged with increasing its capacity to 250,000 volunteers by 2017. By then the budget is expected to rise to nearly \$6 billion annually, from \$1.19 billion.

Maria Eitel, a Nike vice president chosen by Obama to lead CNCS, abruptly withdrew her name late last month, five weeks after her selection was announced, citing health problems. The president's announcement of the choice of Eitel was made with great public fanfare, but her withdrawal was also announced through a statement from Goren, released late on the Friday before Memorial Day.

WLD

There is no indication when new leadership will be chosen, though Obama has made service a hallmark of his administration.

Some decisions about CNCS are being made by First Lady Michelle Obama, according to service advocates (who asked not to be named). Last week, Mrs. Obama announced that her chief of staff, Jackie Norris, would move to CNCS as a senior adviser. Officials said yesterday that Norris is scheduled to arrive on June 22.

Asked why the announcement of Walpin's removal came late Wednesday from CNCS instead of the White House, Schmelzer of CNCS said it's because Walpin - who serves at the pleasure of the president - is a corporation employee.

IG Controversies

Funding for the largest AmeriCorps program - the Teaching Fellows Program, run by the Research Foundation of the City University of New York - is in abeyance pending resolution of widespread problems identified in a recent audit. Although Walpin recommended that funding be curtailed and that previous funds (perhaps as much as \$75 million) be repaid to the corporation, the corporation has said it will take no action on that matter.

Walpin concluded that nothing was being gained by the grants to CUNY and that the money was simply being used to subsidize an existing and funded program.

At the same time, Walpin was challenging the resolution of charges against Sacramento mayor Kevin Johnson stemming from the Hood Corps, a project of St. Hope Academy, which he started in one of the city's low-income neighborhoods. The IG audit found that the program misused virtually all its funds and did little of what was outlined in its grant proposal.

Specifically, the audit found that Johnson and other officials of Neighborhood Corps used AmeriCorps volunteers to recruit students for a charter school run by its parent program, improperly paid at two school employees with AmeriCorps funds for duties they did not perform, improperly used volunteers to perform personal errands for Johnson (including washing his car and driving him to personal appearances) and used the AmeriCorps volunteers to engage in political activities in connection with a board of education election.

Johnson, who was elected mayor in November, was barred from receiving federal grant money - the most serious action that the agency can take against a person or program.

When questions were raised about whether Johnson's city would therefore be ineligible to receive federal stimulus funds, a settlement was reached with the U.S. attorney's office calling for repayment of about half the grant money. Johnson was to pay a portion of the money, with the agency he had headed paying the remainder over five years. The ban on funds to Johnson was also lifted.

In a letter to Sen. Edward Kennedy (D-Mass.), head of the Senate committee that oversees the corporation, and other congressional leaders, Walpin objected to the settlement, saying St. Hope was insolvent and likely would not be able to repay the money.

Walpin, who as inspector general usually would have been involved in any settlement, was cut out of the deal after the acting U.S. attorney filed a complaint with the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency.

No one from the committee returned calls inquiring about that matter and a copy of the complaint has not been released. The complaint appears to center on claims that the U.S. attorney's office learned about the action against Johnson from a local newspaper. Walpin's office maintains that office was notified of the pending action months before.

Fax: [REDACTED]
email: [REDACTED]
website: www.nationalservice.gov

Holland, Austin

From: Eisen, Norman L. [REDACTED]
Sent: Thursday, June 11, 2009 9:04 PM
To: Oleske, James M.; Goren, Nicola; Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
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8/6/2009

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Obama to fire inspector general of AmeriCorps

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The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

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The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election,

W/P

prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

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W.M.

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Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: Grassley letter re CNCS matter

-----Original Message-----

From: Schmelzer, Ranit
Sent: Thursday, June 11, 2009 9:47 PM
To: Earnest, Joshua R.
Subject: RE: Grassley letter re CNCS matter

Hey Josh,

2 quick things

- I'm playing phone tag w/the Sacramento Bee. Will let you know.
- I heard through the grapevine that the Chronicle of Philanthropy is working on an op-ed criticizing the WH on the choice of Maria Eitel and the process around her nomination. The paper hasn't called me.

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The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

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Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

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Subject: FW: CBS Radio

From: Schmelzer, Ranit
Sent: Friday, June 12, 2009 8:59 AM
To: 'Earnest, Joshua R.'
Subject: CBS Radio

Josh,

Steve Goldsmith got a call at home this morning from CBS Radio. He declined to comment and asked one of us to follow up. Do you want to take it? He didn't get a contact, just a number: [REDACTED]

Also, FYI, here are some more stories.

Associated Press, June 12, 2009, 5:00 AM PDT,
<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD98P0F000>

Obama removes AmeriCorps's IG in spat with friend

By ANN SANNER and PETE YOST – 4 hours ago

WASHINGTON (AP) — President Barack Obama says he has lost confidence in the inspector general who investigates AmeriCorps and other national service programs and has told Congress he is removing him from the position.

Obama's move follows an investigation by IG Gerald Walpin of Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star, into the misuse of federal grants by a nonprofit education group that Johnson headed.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled an investigation of Johnson and St. HOPE Academy, a nonprofit group that received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

"It is vital that I have the fullest confidence in the appointees serving as Inspectors General," Obama said in a letter Thursday to House Speaker Nancy Pelosi and Vice President Joe Biden, who also serves as president of the Senate. "That is no longer the case with regard to this Inspector General."

The president didn't offer any more explanation, but White House Counsel Gregory Craig, in a letter to Sen. Charles Grassley, R-Iowa, cited the U.S. attorney's criticism of Walpin to an integrity committee for inspectors general.

"We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that the president's decision was carefully considered," Craig wrote.

Grassley had written Obama a letter pointing to a law requiring that Congress be given the reasons an IG is fired. He cited a Senate report saying the requirement is designed to ensure that inspectors general are not removed

for political reasons.

Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent and "it appears he has been doing a good job."

Messages left for Walpin seeking comment were not immediately returned.

The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

Kevin Heistand, chairman of the board of St. HOPE Academy, said in a statement it was "about time" Walpin was removed. "Mr. Walpin's allegations were meritless and clearly motivated by matters beyond an honest assessment of our program."

Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by then-President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they strongly endorsed Obama's decision.

Associated Press, 06/11/2009 08:29:01 PM PDT

<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD98OQCE00>

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Sacramento Bee, Friday, Jun. 12, 2009 - 12:00 am | Page 1B
<http://www.sacbee.com/ourregion/story/1940228.html>

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

St. HOPE Public Schools' board of directors announced Thursday that embattled executive director Rick Maya will leave the nonprofit and receive a severance package of \$98,916.

The move ends months of speculation. Maya resigned from the board of directors April 8 and was later put on paid administrative leave as executive director of the nonprofit that operates Sacramento Charter High School

and PS7 Elementary School.

A former Bank of America executive, Maya was highly acclaimed by St. HOPE when he was hired in December 2007 to replace Kevin Johnson, who stepped down as director last year to focus on his winning mayoral bid.

Maya will receive four months of severance pay totaling \$56,916. He also will receive \$42,000 to work as a consultant to the charter over the next six months. St. HOPE officials said the four-month settlement constitutes one-third of Maya's annual salary.

St. HOPE board members called the split mutual and amicable. However, the eight-page letter Maya wrote in April when he resigned from the board of directors suggests otherwise.

Maya outlined a list of legal and ethical concerns about the operation of the charter schools. Among the claims was that a board member had deleted Johnson's e-mails during a federal investigation into the misuse of public funds at St. HOPE Academy.

Maya wrote that board members loyal to Johnson had ignored the "highly inappropriate and potentially unlawful incursion into our e-mail system."

Johnson's mayoral spokesman, Steve Maviglio, said the incident involved an information technology person from St. HOPE working to organize Johnson's e-mail to separate his mayoral campaign and St. HOPE communications. E-mails deleted from one account were fully backed up by another, Maviglio said.

However, Maya's claims – which The Bee reported in May – prompted Gerald Walpin, the inspector general of the Corporation for National and Community Service, to call for the U.S. attorney's office to take action.

Walpin's office had conducted the investigation of St. HOPE Academy's use of AmeriCorps funds and alleged that Johnson and officials with St. HOPE Academy improperly used some of the \$847,673 in federal money received between 2004 and 2007.

The U.S. attorney's office later negotiated a settlement that called for Johnson, St. HOPE and its former executive director, Dana Gonzalez, to repay more than \$400,000 in grants.

Walpin opposed the settlement and recently asked Congress to review the case.

Following the initial investigation, U.S. Attorney Larry Brown asked a branch of the FBI that polices the integrity of federal inspectors general to review Walpin's performance. Brown had questioned Walpin's decision to make his investigation public without consulting the U.S. attorney's office.

On Thursday, President Barack Obama's office announced that Walpin will be removed from office. The removal is effective in 30 days.

William O. Hillburg, a spokesman for the inspector general's office, would not comment on Walpin's removal or whether his handling of the St. HOPE investigation played a part.

While not discussing the details behind the decision, deputy White House press secretary Josh Earnest said "the president lost confidence in Mr. Walpin's performance."

Kenneth Bach, an assistant inspector general, was named acting inspector general.

Brown has not commented on whether federal investigators are revisiting the St. HOPE case and looking into the deleted e-mails.

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"During his stay, Rick provided us with guidance in critical areas, and we appreciate the contributions he made to our organization," said Tracy Stigler, the board's chairman.

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Washington Examiner, June 11, 2009

<http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Whats-behind-Obamas-sudden-firing-of-the-AmeriCorps-inspector-general-47877797.html>

Opinion

What's behind Obama's sudden attempt to fire the AmeriCorps inspector general?

By: Byron York
Chief Political Correspondent

06/11/09 8:14 PM EDT

Some strange and potentially suspicious events tonight concerning the Obama White House and the AmeriCorps program. I've been told that on Wednesday night the AmeriCorps inspector general, Gerald Walpin, received a call from the White House counsel's office telling him that he had one hour to either resign or be fired. The White House did not cite a reason. "The answer that was given was that it's just time to move on," one Senate source told me tonight. "The president would like to have someone else in that position."

Inspectors General are part of every federal department. They are given the responsibility of independently investigating allegations of waste, fraud, and corruption in the government, without fear of interference by political appointees or the White House. Last year Congress passed the Inspectors General Reform Act, which added new protections for IGs, including a measure requiring the president to give Congress 30 days prior notice before dismissing an IG. The president must also give Congress an explanation of why the action is needed. Then-Sen. Barack Obama was one of the co-sponsors of the Act.

Now, there is the hurried attempt to dismiss Walpin, without the required notice or cause. After last night's call, Walpin got in touch with Congress, and it appears the White House has backed off, at least for now. This afternoon, Republican Sen. Charles Grassley, who is something of a guardian angel for inspectors general, fired off a letter to the White House about the affair.

"I was troubled to learn that last night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated," Grassley wrote. "As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny."

Grassley said he was "deeply troubled" by the Walpin matter and closed by asking the president "to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General."

UPDATE 1: I've been trying to discover the real reason for Obama's move, and it's still not clear. I'm told that it could be a combination of the normal tensions that surround any inspector general's office, or the president's desire to get his own people in IG positions, or a dispute over a particular investigation. "Bottom line," one source wrote, "getting rid of a tough, Republican-appointed IG who has been aggressively going after waste and fraud

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I'm also told that a number of inspectors general around the government have been expressing concerns to Congress recently about threats to their independence.

UPDATE 2: More information now, from the Associated Press. The White House is going ahead with firing Walpin. The firing apparently stems from Walpin's investigation of a non-profit group, St. HOPE Academy, run by Kevin Johnson, the former NBA star who is now mayor of Sacramento, California (and a big Obama supporter). "[Walpin] found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car," the AP reports. In April, the U.S. attorney declined to file any criminal charges in the matter and criticized Walpin's investigation. But at the same time Johnson and St. HOPE agreed to repay about half of the \$850,000 it had received from AmeriCorps.

Bottom line: The AmeriCorps IG accuses prominent Obama supporter of misusing AmeriCorps grant money. Prominent Obama supporter has to pay back more than \$400,000 of that grant money. Obama fires AmeriCorps IG.

KCRA, 4:07 pm PDT June 11, 2009
<http://www.kcra.com/politics/19729290/detail.html>

Inspector General In Mayor's Probe To Lose Job

Use Of Federal Funds At Issue In St. HOPE Investigation

WASHINGTON – Inspector general Gerald Walpin, who was involved in a probe of Sacramento Mayor Kevin Johnson's use of federal funds, will soon lose his position.

President Barack Obama indicated Thursday that he intends to remove the inspector general from the Corporation for National and Community Service, corporation spokesperson Ranit Schmelzer said in a statement.

Walpin's removal will take effect in 30 days, acting CEO for the Corporation for National and Community Service said in a letter.

The issue with Johnson first surfaced during last year's campaign for mayor after the inspector general accused Johnson and his nonprofit, St. HOPE, of misusing federal funds by having subsidized volunteers wash Johnson's car, run personal errands and campaign for school board candidates.

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:11 PM
To: Holland, Austin
Subject: FW: CBS Radio

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Friday, June 12, 2009 10:56 AM
To: Schmelzer, Ranit
Subject: RE: CBS Radio

Good morning:

Ironically, this version of the AP story is somewhat better than the version they ran last night.

[REDACTED]

Jake Tapper is blogging on this, too. He's asked for the letters and he and I will talk later this morning.

From: Schmelzer, Ranit [mailto: [REDACTED]]
Sent: Friday, June 12, 2009 8:59 AM
To: Earnest, Joshua R.
Subject: CBS Radio

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Also, FYI, here are some more stories.

Associated Press, June 12, 2009, 5:00 AM PDT,
<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD98P0F>

Obama removes AmeriCorps's IG in spat with friend

By ANN SANNER and PETE YOST – 4 hours ago

WASHINGTON (AP) — President Barack Obama says he has lost confidence in the inspector general who investigates AmeriCorps and other national service programs and has told Congress he is removing him from the position.

Obama's move follows an investigation by IG Gerald Walpin of Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star, into the misuse of federal grants by a nonprofit

education group that Johnson headed.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled an investigation of Johnson and St. HOPE Academy, a nonprofit group that received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

"It is vital that I have the fullest confidence in the appointees serving as Inspectors General," Obama said in a letter Thursday to House Speaker Nancy Pelosi and Vice President Joe Biden, who also serves as president of the Senate. "That is no longer the case with regard to this Inspector General."

The president didn't offer any more explanation, but White House Counsel Gregory Craig, in a letter to Sen. Charles Grassley, R-Iowa, cited the U.S. attorney's criticism of Walpin to an integrity committee for inspectors general.

"We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that the president's decision was carefully considered," Craig wrote.

Grassley had written Obama a letter pointing to a law requiring that Congress be given the reasons an IG is fired. He cited a Senate report saying the requirement is designed to ensure that inspectors general are not removed for political reasons.

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The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

Kevin Heistand, chairman of the board of St. HOPE Academy, said in a statement it was "about time" Walpin was removed. "Mr. Walpin's allegations were meritless and clearly motivated by matters beyond an honest assessment of our program."

Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector

general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by then-President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they strongly endorsed Obama's decision.

Associated Press, 06/11/2009 08:29:01 PM PDT

<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD980Q>

Obama to fire inspector general of AmeriCorps

By ANN SANNER and PETE YOST

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson

and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

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On Wednesday night, Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they backed the president's decision.

In a written statement, Solomont and Goldsmith said: "We strongly endorse the president's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new inspector general."

Sacramento Bee, Friday, Jun. 12, 2009 - 12:00 am | Page 1B
<http://www.sacbee.com/ourregion/story/1940228.html>

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

St. HOPE Public Schools' board of directors announced Thursday that embattled executive director Rick Maya will leave the nonprofit and receive a severance package of \$98,916.

The move ends months of speculation. Maya resigned from the board of directors April 3 and was later put on paid administrative leave as executive director of the nonprofit that operates Sacramento Charter High School and PS7 Elementary School.

A former Bank of America executive, Maya was highly acclaimed by St. HOPE when he was hired in December 2007 to replace Kevin Johnson, who stepped down as director last year to focus on his winning mayoral bid.

Maya will receive four months of severance pay totaling \$56,916. He also will receive \$42,000 to work as a consultant to the charter over the next six months. St. HOPE officials said the four-month settlement constitutes one-third of Maya's annual salary.

St. HOPE board members called the split mutual and amicable. However, the eight-page letter Maya wrote in April when he resigned from the board of directors suggests otherwise.

Maya outlined a list of legal and ethical concerns about the operation of the charter schools. Among the claims was that a board member had deleted Johnson's e-mails during a federal investigation into the misuse of public funds at St. HOPE Academy.

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However, Maya's claims – which The Bee reported in May – prompted Gerald Walpin, the inspector general of the Corporation for National and Community Service, to call for the U.S. attorney's office to take action.

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The U.S. attorney's office later negotiated a settlement that called for Johnson, St. HOPE and its former executive director, Dana Gonzalez, to repay more than \$400,000 in grants.

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On Thursday, President Barack Obama's office announced that Walpin will be removed from office. The removal is effective in 30 days.

William O. Hillburg, a spokesman for the inspector general's office, would not comment on Walpin's removal or whether his handling of the St. HOPE investigation played a part.

While not discussing the details behind the decision, deputy White House press secretary Josh Earnest said "the president lost confidence in Mr. Walpin's performance."

Kenneth Bach, an assistant inspector general, was named acting inspector general.

Brown has not commented on whether federal investigators are revisiting the St. HOPE case and looking into the deleted e-mails.

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Opinion

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By: Byron York
Chief Political Correspondent

06/11/09 8:14 PM EDT

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KCRA, 4:07 pm PDT June 11, 2009

<http://www.kcra.com/politics/19729290/detail.html>

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Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: CBS Radio

From: Schmelzer, Ranit
Sent: Friday, June 12, 2009 11:23 AM
To: 'Joshua R. Earnest' [REDACTED]
Subject: Re: CBS Radio

Got it.

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Fri Jun 12 10:55:46 2009
Subject: RE: CBS Radio
Good morning:

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[REDACTED]

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By ANN SANNER and PETE YOST – 4 hours ago

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Kevin Heistand, chairman of the board of St. HOPE Academy, said in a statement it was "about time" Walpin was removed. "Mr. Walpin's allegations were meritless and clearly motivated by matters beyond an honest assessment of our program."

Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector

general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by then-President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they strongly endorsed Obama's decision.

Associated Press, 06/11/2009 08:29:01 PM PDT

<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD9800t>

Obama to fire inspector general of AmeriCorps

By ANN SANNER and PETE YOST

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson

and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

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In a written statement, Solomont and Goldsmith said: "We strongly endorse the president's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new inspector general."

Sacramento Bee, Friday, Jun. 12, 2009 - 12:00 am | Page 1B
<http://www.sacbee.com/ourregion/story/1940228.html>

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

St. HOPE Public Schools' board of directors announced Thursday that embattled executive director Rick Maya will leave the nonprofit and receive a severance package of \$98,916.

The move ends months of speculation. Maya resigned from the board of directors April 3 and was later put on paid administrative leave as executive director of the nonprofit that operates Sacramento Charter High School and PS7 Elementary School.

A former Bank of America executive, Maya was highly acclaimed by St. HOPE when he was hired in December 2007 to replace Kevin Johnson, who stepped down as director last year to focus on his winning mayoral bid.

Maya will receive four months of severance pay totaling \$56,916. He also will receive \$42,000 to work as a consultant to the charter over the next six months. St. HOPE officials said the four-month settlement constitutes one-third of Maya's annual salary.

St. HOPE board members called the split mutual and amicable. However, the eight-page letter Maya wrote in April when he resigned from the board of directors suggests otherwise.

Maya outlined a list of legal and ethical concerns about the operation of the charter schools. Among the claims was that a board member had deleted Johnson's e-mails during a federal investigation into the misuse of public funds at St. HOPE Academy.

Maya wrote that board members loyal to Johnson had ignored the "highly inappropriate and potentially unlawful incursion into our e-mail system."

Johnson's mayoral spokesman, Steve Maviglio, said the incident involved an information technology person from St. HOPE working to organize Johnson's e-mail to separate his mayoral campaign and St. HOPE communications. E-mails deleted from one account were fully backed up by another, Maviglio said.

However, Maya's claims – which The Bee reported in May – prompted Gerald Walpin, the inspector general of the Corporation for National and Community Service, to call for the U.S. attorney's office to take action.

Walpin's office had conducted the investigation of St. HOPE Academy's use of AmeriCorps funds and alleged that Johnson and officials with St. HOPE Academy improperly used some of the \$847,673 in federal money received between 2004 and 2007.

The U.S. attorney's office later negotiated a settlement that called for Johnson, St. HOPE and its former executive director, Dana Gonzalez, to repay more than \$400,000 in grants.

Walpin opposed the settlement and recently asked Congress to review the case.

Following the initial investigation, U.S. Attorney Larry Brown asked a branch of the FBI that polices the integrity of federal inspectors general to review Walpin's performance. Brown had questioned Walpin's decision to make his investigation public without consulting the U.S. attorney's office.

On Thursday, President Barack Obama's office announced that Walpin will be removed from office. The removal is effective in 30 days.

William O. Hillburg, a spokesman for the inspector general's office, would not comment on Walpin's removal or whether his handling of the St. HOPE investigation played a part.

While not discussing the details behind the decision, deputy White House press secretary Josh Earnest said "the president lost confidence in Mr. Walpin's performance."

Kenneth Bach, an assistant inspector general, was named acting inspector general.

Brown has not commented on whether federal investigators are revisiting the St. HOPE case and looking into the deleted e-mails.

At the time Maya's letter was released, he said, "The deliberate destruction of evidence is a serious allegation and will be treated accordingly."

Maya's departure was announced Thursday during a St. HOPE board meeting.

"During his stay, Rick provided us with guidance in critical areas, and we appreciate the contributions he made to our organization," said Tracy Stigler, the board's chairman.

St. HOPE will transition from having an executive director to using a superintendent – a position that will be filled at least temporarily by Sacramento High School principal Ed Manansala.

Sacramento City Unified School District Deputy Superintendent Tom Barentson said Maya's departure had been expected. The district authorizes the charter that allows St. HOPE to operate the high school and PS7.

"They make their own personnel decisions and thought they needed to make a change," Barentson said. "We've been working with (other staffers) who have really picked up where Rick left. I've been pleased with how we have been able to move forward."

Washington Examiner, June 11, 2009

<http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Whats-behind-Obamas-sudden-firing-of-the-AmeriCorps-inspector-general-47877797.html>

Opinion

What's behind Obama's sudden attempt to fire the AmeriCorps inspector general?

By: Byron York
Chief Political Correspondent

06/11/09 8:14 PM EDT

Some strange and potentially suspicious events tonight concerning the Obama White House and the AmeriCorps program. I've been told that on Wednesday night the AmeriCorps inspector general, Gerald Walpin, received a call from the White House counsel's office telling him that he had one hour to either resign or be fired. The White House did not cite a reason. "The answer that was given was that it's just time to move on," one Senate source told me tonight. "The president would like to have someone else in that position."

Inspectors General are part of every federal department. They are given the responsibility of independently investigating allegations of waste, fraud, and corruption in the government, without fear of interference by political appointees or the White House. Last year Congress passed the Inspectors General Reform Act, which added new protections for IGs, including a measure requiring the president to give Congress 30 days prior notice before dismissing an IG. The president must also give Congress an explanation of why the action is needed. Then-Sen. Barack Obama was one of the co-sponsors of the Act.

Now, there is the hurried attempt to dismiss Walpin, without the required notice or cause. After last night's call, Walpin got in touch with Congress, and it appears the White House has backed off, at least

for now. This afternoon, Republican Sen. Charles Grassley, who is something of a guardian angel for inspectors general, fired off a letter to the White House about the affair.

"I was troubled to learn that last night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated," Grassley wrote. "As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny."

Grassley said he was "deeply troubled" by the Walpin matter and closed by asking the president "to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General."

UPDATE 1: I've been trying to discover the real reason for Obama's move, and it's still not clear. I'm told that it could be a combination of the normal tensions that surround any inspector general's office, or the president's desire to get his own people in IG positions, or a dispute over a particular investigation. "Bottom line," one source wrote, "getting rid of a tough, Republican-appointed IG who has been aggressively going after waste and fraud gives Obama a chance to replace that IG with a more compliant team player."

I'm also told that a number of inspectors general around the government have been expressing concerns to Congress recently about threats to their independence.

UPDATE 2: More information now, from the Associated Press. The White House is going ahead with firing Walpin. The firing apparently stems from Walpin's investigation of a non-profit group, St. HOPE Academy, run by Kevin Johnson, the former NBA star who is now mayor of Sacramento, California (and a big Obama supporter). "[Walpin] found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car," the AP reports. In April, the U.S. attorney declined to file any criminal charges in the matter and criticized Walpin's investigation. But at the same time Johnson and St. HOPE agreed to repay about half of the \$850,000 it had received from AmeriCorps.

Bottom line: The AmeriCorps IG accuses prominent Obama supporter of misusing AmeriCorps grant money. Prominent Obama supporter has to pay back more than \$400,000 of that grant money. Obama fires AmeriCorps IG.

KCRA, 4:07 pm PDT June 11, 2009
<http://www.kcra.com/politics/19729290/detail.html>

Inspector General In Mayor's Probe To Lose Job

Use Of Federal Funds At Issue In St. HOPE Investigation

WASHINGTON -- Inspector general Gerald Walpin, who was involved in a probe of Sacramento Mayor Kevin Johnson's use of federal funds, will soon lose his position.

President Barack Obama indicated Thursday that he intends to remove the inspector general from the Corporation for National and Community Service, corporation spokesperson Ranit Schmelzer said in a statement.

Walpin's removal will take effect in 30 days, acting CEO for the Corporation for National and Community Service said in a letter.

The issue with Johnson first surfaced during last year's campaign for mayor after the inspector general accused Johnson and his nonprofit, St. HOPE, of misusing federal funds by having subsidized volunteers wash Johnson's car, run personal errands and campaign for school board candidates.

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: CBS Radio

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Sent: Friday, June 12, 2009 11:23 AM
To: 'Joshua R. Earnest' [REDACTED]
Subject: Re: CBS Radio

Got it.

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Fri Jun 12 10:55:46 2009
Subject: RE: CBS Radio
Good morning:

Ironically, this version of the AP story is somewhat better than the version they ran last night.

[REDACTED]

Jake Tapper is blogging on this, too. He's asked for the letters and he and I will talk later this morning.

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Sent: Friday, June 12, 2009 8:59 AM
To: Earnest, Joshua R.
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Josh,

Steve Goldsmith got a call at home this morning from CBS Radio. He declined to comment and asked one of us to follow up. Do you want to take it? He didn't get a contact, just a number: [REDACTED]

Also, FYI, here are some more stories.

Associated Press, June 12, 2009, 5:00 AM PDT,
<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD98P0F>

Obama removes AmeriCorps's IG in spat with friend

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

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By ANN SANNER and PETE YOST

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a

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Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

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In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

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Sacramento Bee, Friday, Jun. 12, 2009 - 12:00 am | Page 1B
<http://www.sacbee.com/ourregion/story/1940228.html>

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

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The move ends months of speculation. Maya resigned from the board of directors April 3 and was later put on paid administrative leave as executive director of the nonprofit that operates Sacramento Charter High School and PS7 Elementary School.

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However, Maya's claims – which The Bee reported in May – prompted Gerald Walpin, the inspector general of the Corporation for National and Community Service, to call for the U.S. attorney's office to take action.

Walpin's office had conducted the investigation of St. HOPE Academy's use of AmeriCorps funds and alleged that Johnson and officials with St. HOPE Academy improperly used some of the \$847,673 in federal money received between 2004 and 2007.

The U.S. attorney's office later negotiated a settlement that called for Johnson, St. HOPE and its former executive director, Dana Gonzalez, to repay more than \$400,000 in grants.

Walpin opposed the settlement and recently asked Congress to review the case.

Following the initial investigation, U.S. Attorney Larry Brown asked a branch of the FBI that polices the integrity of federal inspectors general to review Walpin's performance. Brown had questioned Walpin's decision to make his investigation public without consulting the U.S. attorney's office.

On Thursday, President Barack Obama's office announced that Walpin will be removed from office. The removal is effective in 30 days.

William O. Hillburg, a spokesman for the inspector general's office, would not comment on Walpin's removal or whether his handling of the St. HOPE investigation played a part.

While not discussing the details behind the decision, deputy White House press secretary Josh Earnest said "the president lost confidence in Mr. Walpin's performance."

Kenneth Bach, an assistant inspector general, was named acting inspector general.

Brown has not commented on whether federal investigators are revisiting the St. HOPE case and looking into the deleted e-mails.

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Washington Examiner, June 11, 2009

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Opinion

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By: Byron York
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06/11/09 8:14 PM EDT

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Subject: FW: CBS Radio

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Thanks.

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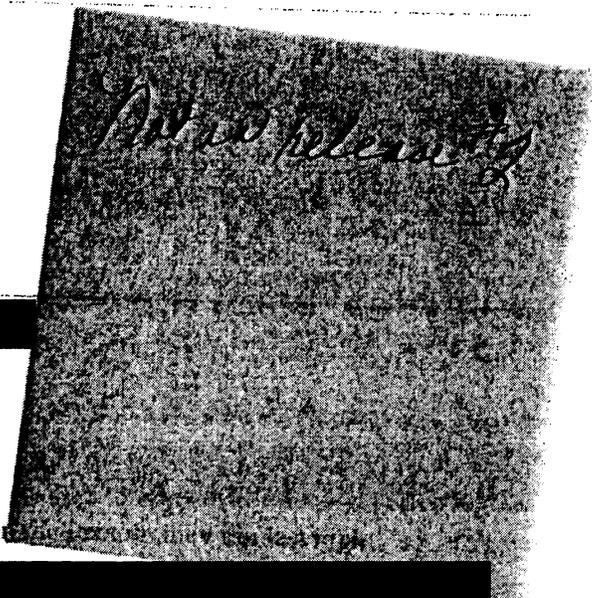
[REDACTED]

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Obama removes AmeriCorps's IG in spat with friend

By ANN SANNER and PETE YOST – 4 hours ago

WASHINGTON (AP) — President Barack Obama says he has lost confidence in the inspector general who investigates AmeriCorps and other national service programs and has told Congress he is removing him from the position.

Obama's move follows an investigation by IG Gerald Walpin of Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star, into the misuse of federal grants by a nonprofit education group that Johnson headed.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled an investigation of Johnson and St. HOPE Academy, a nonprofit group that received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

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The president didn't offer any more explanation, but White House Counsel Gregory Craig, in a letter to Sen. Charles Grassley, R-Iowa, cited the U.S. attorney's criticism of Walpin to an integrity committee for inspectors general.

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Messages left for Walpin seeking comment were not immediately returned.

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"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

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Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector general until Obama appoints someone to the position.

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Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they strongly endorsed Obama's decision.

Associated Press, 06/11/2009 08:29:01 PM PDT

<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfyPzPWfj0wdwD98OQ>

Obama to fire inspector general of AmeriCorps

By ANN SANNER and PETE YOST

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

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In a written statement, Solomont and Goldsmith said: "We strongly endorse the president's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new inspector general."

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

St. HOPE Public Schools' board of directors announced Thursday that embattled executive director Rick Maya will leave the nonprofit and receive a severance package of \$98,916.

The move ends months of speculation. Maya resigned from the board of directors April 3 and was later put on paid administrative leave as executive director of the nonprofit that operates Sacramento Charter High School and PS7 Elementary School.

A former Bank of America executive, Maya was highly acclaimed by St. HOPE when he was hired in December 2007 to replace Kevin Johnson, who stepped down as director last year to focus on his winning mayoral bid.

Maya will receive four months of severance pay totaling \$56,916. He also will receive \$42,000 to work as a consultant to the charter over the next six months. St. HOPE officials said the four-month settlement constitutes one-third of Maya's annual salary.

St. HOPE board members called the split mutual and amicable. However, the eight-page letter Maya wrote in April when he resigned from the board of directors suggests otherwise.

Maya outlined a list of legal and ethical concerns about the operation of the charter schools. Among the claims was that a board member had deleted Johnson's e-mails during a federal investigation into the misuse of public funds at St. HOPE Academy.

Maya wrote that board members loyal to Johnson had ignored the "highly inappropriate and potentially unlawful incursion into our e-mail system."

Johnson's mayoral spokesman, Steve Maviglio, said the incident involved an information technology person from St. HOPE working to organize Johnson's e-mail to separate his mayoral campaign and St. HOPE communications. E-mails deleted from one account were fully backed up by another, Maviglio said.

However, Maya's claims – which The Bee reported in May – prompted Gerald Walpin, the inspector general of the Corporation for National and Community Service, to call for the U.S. attorney's office to take action.

Walpin's office had conducted the investigation of St. HOPE Academy's use of AmeriCorps funds and alleged that Johnson and officials with St. HOPE Academy improperly used some of the \$847,673 in federal money received between 2004 and 2007.

The U.S. attorney's office later negotiated a settlement that called for Johnson, St. HOPE and its former executive director, Dana Gonzalez, to repay more than \$400,000 in grants.

Walpin opposed the settlement and recently asked Congress to review the case.

Following the initial investigation, U.S. Attorney Larry Brown asked a branch of the FBI that polices the

integrity of federal inspectors general to review Walpin's performance. Brown had questioned Walpin's decision to make his investigation public without consulting the U.S. attorney's office.

On Thursday, President Barack Obama's office announced that Walpin will be removed from office. The removal is effective in 30 days.

William O. Hillburg, a spokesman for the inspector general's office, would not comment on Walpin's removal or whether his handling of the St. HOPE investigation played a part.

While not discussing the details behind the decision, deputy White House press secretary Josh Earnest said "the president lost confidence in Mr. Walpin's performance."

Kenneth Bach, an assistant inspector general, was named acting inspector general.

Brown has not commented on whether federal investigators are revisiting the St. HOPE case and looking into the deleted e-mails.

At the time Maya's letter was released, he said, "The deliberate destruction of evidence is a serious allegation and will be treated accordingly."

Maya's departure was announced Thursday during a St. HOPE board meeting.

"During his stay, Rick provided us with guidance in critical areas, and we appreciate the contributions he made to our organization," said Tracy Stigler, the board's chairman.

St. HOPE will transition from having an executive director to using a superintendent – a position that will be filled at least temporarily by Sacramento High School principal Ed Manansala.

Sacramento City Unified School District Deputy Superintendent Tom Barentson said Maya's departure had been expected. The district authorizes the charter that allows St. HOPE to operate the high school and PS7.

"They make their own personnel decisions and thought they needed to make a change," Barentson said. "We've been working with (other staffers) who have really picked up where Rick left. I've been pleased with how we have been able to move forward."

Washington Examiner, June 11, 2009

<http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Whats-behind-Obamas-sudden-firing-of-the-AmeriCorps-inspector-general-47877797.html>

Opinion

What's behind Obama's sudden attempt to fire the AmeriCorps inspector general?

By: Byron York
Chief Political Correspondent

06/11/09 8:14 PM EDT

Some strange and potentially suspicious events tonight concerning the Obama White House and the AmeriCorps program. I've been told that on Wednesday night the AmeriCorps inspector general, Gerald Walpin, received a call from the White House counsel's office telling him that he had one hour to either resign or be fired. The White House did not cite a reason. "The answer that was given was that it's just time to move on," one Senate source told me tonight. "The president would like to have someone else in that position."

Inspectors General are part of every federal department. They are given the responsibility of independently investigating allegations of waste, fraud, and corruption in the government, without fear of interference by political appointees or the White House. Last year Congress passed the Inspectors General Reform Act, which added new protections for IGs, including a measure requiring the president to give Congress 30 days prior notice before dismissing an IG. The president must also give Congress an explanation of why the action is needed. Then-Sen. Barack Obama was one of the co-sponsors of the Act.

Now, there is the hurried attempt to dismiss Walpin, without the required notice or cause. After last night's call, Walpin got in touch with Congress, and it appears the White House has backed off, at least for now. This afternoon, Republican Sen. Charles Grassley, who is something of a guardian angel for inspectors general, fired off a letter to the White House about the affair.

"I was troubled to learn that last night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated," Grassley wrote. "As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny."

Grassley said he was "deeply troubled" by the Walpin matter and closed by asking the president "to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector-General."

UPDATE 1: I've been trying to discover the real reason for Obama's move, and it's still not clear. I'm told that it could be a combination of the normal tensions that surround any inspector general's office, or the president's desire to get his own people in IG positions, or a dispute over a particular investigation. "Bottom line," one source wrote, "getting rid of a tough, Republican-appointed IG who has been aggressively going after waste and fraud gives Obama a chance to replace that IG with a more compliant team player."

I'm also told that a number of inspectors general around the government have been expressing concerns to Congress recently about threats to their independence.

UPDATE 2: More information now, from the Associated Press. The White House is going ahead with firing Walpin. The firing apparently stems from Walpin's investigation of a non-profit group, St. HOPE Academy, run by Kevin Johnson, the former NBA star who is now mayor of Sacramento, California (and a big Obama supporter). "[Walpin] found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car," the AP reports. In April, the U.S. attorney declined to file any criminal charges in the matter and criticized Walpin's investigation. But at the same time Johnson and St. HOPE agreed to repay about half of the \$850,000 it had received from

AmeriCorps.

Bottom line: The AmeriCorps IG accuses prominent Obama supporter of misusing AmeriCorps grant money. Prominent Obama supporter has to pay back more than \$400,000 of that grant money. Obama fires AmeriCorps IG.

KCRA, 4:07 pm PDT June 11, 2009

<http://www.kcra.com/politics/19729290/detail.html>

Inspector General In Mayor's Probe To Lose Job

Use Of Federal Funds At Issue In St. HOPE Investigation

WASHINGTON -- Inspector general Gerald Walpin, who was involved in a probe of Sacramento Mayor Kevin Johnson's use of federal funds, will soon lose his position.

President Barack Obama indicated Thursday that he intends to remove the inspector general from the Corporation for National and Community Service, corporation spokesperson Ranit Schmelzer said in a statement.

Walpin's removal will take effect in 30 days, acting CEO for the Corporation for National and Community Service said in a letter.

The issue with Johnson first surfaced during last year's campaign for mayor after the inspector general accused Johnson and his nonprofit, St. HOPE, of misusing federal funds by having subsidized volunteers wash Johnson's car, run personal errands and campaign for school board candidates.

Sent: Friday, June 12, 2009 8:59 AM
To: Earnest, Joshua R.
Subject: CBS Radio

Josh,

Steve Goldsmith got a call at home this morning from CBS Radio. He declined to comment and asked one of us to follow up. Do you want to take it? He didn't get a contact, just a number: [REDACTED]

Also, FYI, here are some more stories.

Associated Press, June 12, 2009, 5:00 AM PDT,
<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMBy1mNzbML2mfvPzPWfi0wdwD98P0F>

Obama removes AmeriCorps's IG in spat with friend

By ANN SANNER and PETE YOST – 4 hours ago

WASHINGTON (AP) — President Barack Obama says he has lost confidence in the inspector general who investigates AmeriCorps and other national service programs and has told Congress he is removing him from the position.

Obama's move follows an investigation by IG Gerald Walpin of Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star, into the misuse of federal grants by a nonprofit education group that Johnson headed.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled an investigation of Johnson and St. HOPE Academy, a nonprofit group that received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

"It is vital that I have the fullest confidence in the appointees serving as Inspectors General," Obama said in a letter Thursday to House Speaker Nancy Pelosi and Vice President Joe Biden, who also serves as president of the Senate. "That is no longer the case with regard to this Inspector General."

The president didn't offer any more explanation, but White House Counsel Gregory Craig, in a letter to Sen. Charles Grassley, R-Iowa, cited the U.S. attorney's criticism of Walpin to an integrity committee for inspectors general.

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"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general.

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Associated Press, 06/11/2009 08:29:01 PM PDT

<http://www.google.com/hostednews/ap/article/ALeqM5iUZkMByImNzbML2mfyPzPWfj0wdwD980Q>

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Sacramento Bee, Friday, Jun. 12, 2009 - 12:00 am | Page 1B
<http://www.sacbee.com/ourregion/story/1940228.html>

St. HOPE exec departs with \$98,916 severance

By Melody Gutierrez, mgutierrez@sacbee.com

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KCRA, 4:07 pm PDT June 11, 2009

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Holland, Austin

From: Trinity, Frank
Sent: Friday, June 12, 2009 2:25 PM
To: Elana_J_Tyranglek [REDACTED]
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

We are alerting Steve Goldsmith, our vice-Chair, to see if he can reach out to Senator Collins' office to address her concerns. Let us know if you think that is inadvisable.

-----Original Message-----

From: Glickman, Rhoda
Sent: Fri 6/12/2009 2:03 PM
To: Trinity, Frank; Goren, Nicola
Cc:
Subject: IG

I just spoke to Lisa Newman with Senator Collins' office. I told her I had forwarded her concerns about the IG to the WH. She is very interested in hearing CNCS's stand on this. (I told her I was new and hadn't been involved.) She is already working with the WH (Eisen) and has requested more info from him - reasons for firing etc. but she has made it clear that if they don't get this information to their satisfaction, they will be sending a letter to the President TODAY saying he did not follow the law on this. Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [REDACTED]

Holland, Austin

m: Tyrangiel, Elana J. [REDACTED]
t: Friday, June 12, 2009 2:31 PM
Trinity, Frank
Cc: Goren, Nicola; Glickman, Rhoda; Terrell, Louisa
Subject: RE: IG

[REDACTED]

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From: Trinity, Frank [mailto:[REDACTED]]
Sent: Friday, June 12, 2009 2:25 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

We are alerting Steve Goldsmith, our vice-Chair, to see if he can reach out to Senator Collins' office to address her concerns. Let us know if you think that is inadvisable.

-----Original Message-----
From: Glickman, Rhoda
Sent: Fri 6/12/2009 2:03 PM
To: Trinity, Frank; Goren, Nicola
Cc:
Subject: IG

I just spoke to Lisa Newman with Senator Collins' office. I told her I had forwarded her concerns about the IG to the WH. She is very interested in hearing CNCS's and on this. (I told her I was new and hadn't been involved.) She is already working with the WH (Eisen) and has requested more info from him - reasons for firing etc. but she has made it clear that if they don't get this information to their satisfaction, they will be sending a letter to the President TODAY saying he did not follow the law on this.

Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [REDACTED]

Holland, Austin

From: Trinity, Frank
Sent: Friday, June 12, 2009 2:39 PM
To: 'Elana J. Tyrangiel'
Subject: Re: IG

Got it.

----- Original Message -----

From: Tyrangiel, Elana J.
To: Trinity, Frank
Cc: Goren, Nicola; Glickman, Rhoda; Terrell, Louisa
Sent: Fri Jun 12 14:31:25 2009
Subject: RE: IG

-----Original Message-----

From: Trinity, Frank [mailto:]
Sent: Friday, June 12, 2009 2:25 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

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To: Trinity, Frank; Goren, Nicola
Cc:
Subject: IG..

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Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [redacted]

Holland, Austin

From: Trinity, Frank
Date: Friday, June 12, 2009 2:48 PM
To: 'Elana_J_Tyrangiel'; [REDACTED]
Subject: Re: IG

Understand you and Steve are in touch. Thank you.

----- Original Message -----

From: Trinity, Frank
To: 'Elana_J_Tyrangiel'; [REDACTED]
Sent: Fri Jun 12 14:39:12 2009
Subject: Re: IG

Got it.

----- Original Message -----

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Cc: Goren, Nicola; Glickman, Rhoda; Terrell, Louisa [REDACTED]
Sent: Fri Jun 12 14:31:25 2009
Subject: RE: IG

-----Original Message-----

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Friday, June 12, 2009 2:25 PM
To: Tyrangiel, Elana J.
Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

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To: Trinity, Frank; Goren, Nicola
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Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [REDACTED]

Holland, Austin

From: Trinity, Frank
Sent: Saturday, June 13, 2009 10:25 AM
To: Stan Soloway; Alan Solomont; Eric Tanenblatt; Hyepin Im; Jim Palmer; Julie Fisher Cummings; Laysha Ward; Mark Gearan; Steve Goldsmith
Cc: Goren, Nicola; Samose, Emily
Subject: Time-sensitive request from White House Counsel re IG matter

I was just contacted by Elana Tyrangiel, Associate Counsel to the President, seeking your assistance in responding to questions from Members of Congress about President Obama's removal of Gerald Walpin as Inspector General. Specifically, the White House Counsel's office would like to compile statements from Board members and CNCS staff who were present at the Inspector General's presentation to the Board immediately before the public board meeting last month.

Please confirm that you have received this message and let me know the best way for Elana to get in touch with you today. The plan is for Elana to call each of you. She will prepare statements for your review for accuracy.

Thank you for your time on this important matter. You can reach me at [REDACTED]

Frank

Holland, Austin

From: Trinity, Frank
Sent: Saturday, June 13, 2009 11:28 AM
To: 'Tyrangiel, Elana J.'
Subject: FT notes from 5-20-2009 IG presentation to Board

**Notes from IG presentation to Board of Directors
5-20-2009**

Gerald Walpin and Jack Park

**Board Members Alan Solomont, Steve Goldsmith, Eric Tanenblatt, Jim Palmer, Stan Soloway, Laysha Ward, Mark Gearan, Julia Cummings, Hyepin Im
CNCS staff Nicola Goren and Frank Trinity**

**Mr. Walpin expressed "discomfort" at "what is going on."
He said there was an "anything goes" attitude now with management, and no longer the mutual respect and constant communication that had existed under David Eisner.**

He said he had three things he wanted to discuss.

St. HOPE Academy

The U.S. Attorney's office said it was a "good civil case".

Media and political pressure, particularly after passage of the Recovery Act, resulted in U.S. Attorney's office putting pressing on the IG to settle.

Nicky said CNCS couldn't keep stimulus money from Sacramento.

The suspension respondents submitted "not one iota of fact" in opposition.

IG was cut out of the loop.

FT and the AUSA framed a settlement much less than what the Government would have received in court and lifted the suspension, with payment required by an organization that "totally insolvent" with no guarantee of payment or security.

Mr. Walpin said he had warned he would not be silent in the face of a "total waste of Corporation assets."

Mr. Walpin offered to provide copies of his report to the Board.

Mr. Walpin said that the AUSA, in "clear collaboration" with FT, sent a complaint to CIGIE. He said he was responding today to the complaint. He said that Nicky had disclosed the complaint and sent copies of it to Congress, when it is supposed to be confidential. He also said he had learned that the AUSA had sent a copy of the complaint to 2 members of the Board. He said the U.S. Attorney's letter was "absolutely a farce."

Mr. Walpin complained that the Corporation had avoided responding to his Special Report by referring to the Integrity Committee matter, which he said had "nothing to do with" the Special Report.

Mr. Walpin said he was trying to protect the Corporation and now there was a breakdown in trust and

8/6/2009

U/A

communication that had adversely affected OIG staff, especially to have the St. HOPE matter taken away.

Mr. Walpin said there was a "sequel". The Executive Director St. HOPE Academy resigned because two St. HOPE directors at the behest of Kevin Johnson "cleansed" Johnson's emails. Johnson still controls the board. Financial records are under Johnson's control in a private storage place.

Mr. Walpin said he would be asking for the FBI and a Special Prosecutor, not the current U.S. Attorney, to convene a grand jury to investigate these allegations.

CUNY

Mr. Walpin reported that the audit had revealed sloppiness but that the auditors came to him and said that the grant and education awards should never have been paid to CUNY, upwards of \$80 million. The program doesn't meet an unmet need, because the program met needs in the absence of AmeriCorps funding. The New York Times is reporting that NYC will only allow in 1/2 the number of Teaching Fellows this year. A final report will be issued next week.

The Corporation's response was "not at all appropriate for the merits." We're paying out money that shouldn't be paid out.

At this point, Mr. Walpin lifted the sheets on his note pad up and down, up and down, over and over again for an extended period. He did raise a third matter for discussion.

Finally, he said it is not a happy situation.

Discussion

One of the Board members asked about Mr. Walpin's plan to issue another public statement on the St. HOPE matter. Mr. Walpin denied having said that. Lots of back and forth on whether the IG had said he would issue a public statement on St. HOPE -- the Board members said he did, and referred to their notes of his presentation just made. Mr. Walpin said he didn't say that.

Steve Goldsmith asked Mr. Walpin if it was ethical to be making such public statements, indicating that as a prosecutor for 12 years he did not believe it was appropriate. Mr. Walpin denied having said he would issue a public statement. Jack Park said that Pat Fitzgerald made lots of public statements as U.S. Attorney in Chicago and that a public statement was permissible.

For about ten minutes, there were long pauses in the discussion while Mr. Walpin reviewed his notes. It did not appear that he was able to process the information on his notes for lengthy periods of time; he would flip the notes and then stop flipping without ever saying anything more from the notes. I was sitting right next to Mr. Walpin and I thought he might be experiencing some type of medical event, perhaps a mini-stroke or series of mini-strokes. I was concerned for his health. Once he finished his presentation, he was unable to engage substantively with the Board on any questions they raised; he simply argued that what they were saying was not the case.

Alan Solomont responded for the Board.

Alan Solomont said he regrets any morale issues. The Corporation acted in consultation with and in support of the U.S. Attorney's Office. The Board sees no reason to question the settlement. The CIGIE communication was from the U.S. Attorney not the Corporation. No reason to question the CIGIE process, a body of IG peers, equipped to provide a dispassionate review. The Board wants to respect

the CIGIE process.

Regarding CUNY, the audit raises issues appropriate for resolution in the regular audit resolution process. But on the policy question, our view is that Congress has decided the policy question of permitting professional corps programs like CUNY to receive AmeriCorps support.

The Board has no interest in having a contentious relationship with the IG. Some of your statements and accusations are personal, and the Board takes umbrage at your personal attacks on Board members and staff. The Board wonders if your own judgment is clouded. Please keep the discussion on a professional basis. The Board's position is that there is no reason to question the St. HOPE settlement. The Corporation did not initiate the CIGIE process but will cooperate with it. Let's lift the discussion. Your accusations are unwarranted.

Mr. Walpin asked which accusations.

Alan said that remarks today that the Corporation was "hostile" to OIG and that the Board was negligent.

Alan said the Board has complete confidence in the management team.

Mr. Walpin said he was "just amazed" reiterating his belief that there are 2 issues. He said he needed to consider "what went on here."

Alan offered to continue discussion through the MAG Committee next week.

Mr. Walpin said he wanted more time to present to the full Board.

After Mr. Walpin and Mr. Park left, the Board members expressed concern over Mr. Walpin's behavior.

Eric Tanenblatt subsequently called Jack Park to express concern over Mr. Walpin's health, and Mr. Park reassured him that there were no grounds for concern.

Flowe, Meredith

From: Tyrangiel, Elana J. [REDACTED]
Sent: Saturday, June 13, 2009 12:52 PM
To: Trinity, Frank
Cc: Goren, Nicola; Samose, Emily
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you.

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 12:13 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Samose, Emily
Subject: contacting CNCS Board and staff today (status as of 12 noon)

Confirmed availability:

Alan Solomons
Cell [REDACTED]

Steve Goldsmith
Cell [REDACTED]

Eric Tanenblatt
Cell [REDACTED]

Mark Gearan
Cell [REDACTED] (after 2 pm.)

Nicola Goren
Cell [REDACTED] (after 1 p.m.)

Frank Trinity
Cell [REDACTED]

Email and cell phone messages left -- no contact

Stan Soloway
Cell [REDACTED]

Julie Cummins
Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepia Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Trinity, Frank
At: Saturday, June 13, 2009 3:27 PM
To: 'soloway [REDACTED]'
Subject: Re: Time-sensitive request from White House Counsel re IG matter

Thanks Stan. I let Elana know.

----- Original Message -----
From: Stan Soloway [REDACTED]
To: Trinity, Frank
Sent: Sat Jun 13 15:16:51 2009
Subject: RE: Time-sensitive request from White House Counsel re IG matter

Frank
FYI...no word from Elana yet. I am available today until about 430...
SS

Stan Z. Soloway
President & CEO
Professional Services Council
4401 Wilson Blvd. Suite 1110 Arlington, VA 22203
P: [REDACTED] F: [REDACTED]
www.pscouncil.org

The Unified Voice of the Government Services Industry

Mark your calendars now for the PSC Annual Conference; Oct.4-6, 2009 Nemaquin
Woodlands, Farmington, PA

-----Original Message-----
From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 10:25 AM
To: Stan Soloway; Alan Solomont; Eric Tanenblatt; Hyepin Im; Jim Palmer; Julie Fisher
Cummings; Laysha Ward; Mark Gearan; Steve Goldsmith
Cc: Goren, Nicola; Samose, Emily
Subject: Time-sensitive request from White House Counsel re IG matter

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Please confirm that you have received this message and let me know the best way for Elana to get in touch with you today. The plan is for Elana to call each of you. She will prepare statements for your review for accuracy.

Thank you for your time on this important matter. You can reach me at [REDACTED]

Frank

Holland, Austin

From: Trinity, Frank
Sent: Saturday, June 13, 2009 4:35 PM
To: 'Elana_J._Tyrangiel@ [REDACTED]
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Mark Gearan can do a call tomorrow. 2 pm is best for him.

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Sent: Sat Jun 13 15:27:16 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you!

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 3:27 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Jus received a note from Stan Soloway -- He's available till 4:30 today.

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Cc: Goren, Nicola; Samose, Emily
Sent: Sat Jun 13 12:52:08 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)
Thank you.

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 12:13 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Samose, Emily
Subject: contacting CNCS Board and staff today (status as of 12 noon)

Confirmed availability:

Alan Solomont
Cell [REDACTED]

Steve Goldsmith
Cell [REDACTED]

Eric Tanenblatt
Cell [REDACTED]

Mark Gearan

8/6/2009

Cell [REDACTED] (after 2 pm.)

Nicola Goren

Cell [REDACTED] (after 1 p.m.)

Frank Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

Stan Soloway

Cell [REDACTED]

Julie Cummings

Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Trinity, Frank
Sent: Sunday, June 14, 2009 4:22 PM
To: 'Hyepin Im'; 'Jim Palmer'; 'Julie Fisher Cummings'; 'Laysha Ward'; 'Mark Gearan'
Cc: Goren, Nicola; Samose, Emily
Subject: Time-sensitive request from White House Counsel re IG matter

I just spoke with Elana Tyrangiel in the White House Counsel's office, who has been in touch with several other Board members on this matter. At this point, Elana does not need to follow up with you. If the need arises for Elana to circle back with you, we'll let you know.

I understand a call is being set up by Emily to update everyone and address any concerns or questions. In the meantime, please feel free to contact me.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

From: Trinity, Frank
Sent: Saturday, June 13, 2009 10:25 AM
To: Stan Soloway; Alan Solomont; Eric Tanenblatt; Hyepin Im; Jim Palmer; Julie Fisher Cummings; Laysha Ward; Mark Gearan; Steve Goldsmith
Cc: Goren, Nicola; Samose, Emily
Subject: Time-sensitive request from White House Counsel re IG matter

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Thank you for your time on this important matter. You can reach me at [REDACTED]

Frank

Holland, Austin

From: Trinity, Frank
Sent: Monday, June 15, 2009 11:07 AM
To: 'Stan Soloway'
Cc: Glickman, Rhoda
Subject: RE: follow up

Both Nicky and I have spoken with Elana. She told us both that WH Leg Affairs would be coordinating. Rhoda Glickman is following up with WH Leg Affairs and should have more info for the 1:00 mtg.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

From: Stan Soloway (mailto:[REDACTED])
Sent: Monday, June 15, 2009 10:51 AM
To: Trinity, Frank
Subject: follow up

Frank:
I trust you are speaking w/Elana et al at the WH? If so, we left it that they likely wanted me to talk w/Susan Collins's folks today but I am waiting for the greenlight...if you get a chance to check w/Elana on timing, that would be great...

Thx
Talk to you at 1

SS

Stan Z. Soloway
President & CEO
Professional Services Council
4401 Wilson Blvd, Suite 1110, Arlington, VA 22203
P: [REDACTED] F: [REDACTED]
www.pscouncil.org

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SAVE THE DATE!
PSC ANNUAL CONFERENCE - October 4-6
Nemacolin Woodlands Resort, Farmington, PA
Contact the hotel directly to reserve your room today! 1-800-422-2736

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 8:19 PM
To: Holland, Austin
Subject: FW: Weekend stories on Walpin matter

From: Schmelzer, Ranit
Sent: Monday, June 15, 2009 11:17 AM
To: 'Earnest, Joshua R.'
Subject: FW: Weekend stories on Walpin matter

Hey Josh,

Here are some of the main stories -- there's more on the blogs. We really need to push back. Thanks for your help on this.

News Articles or Media Blogs

Ousted AmeriCorps watchdog defends waste probe	Associated Press, Fri Jun 12, 9:39 pm
Walpin-gate (EDITORIAL)	Washington Times, 6/15
More Details Emerge In President Obama's Firing of Inspector General	ABC -- Political Punch, 6/13, 8:37 am
Gerald Walpin speaks: The inside story of the AmeriCorps firing	Washington Examiner, 6/14 7:00 PM
What's behind Obama's sudden attempt to fire the AmeriCorps inspector general?	Washington Examiner, 6/12, 8:14 PM
President fires official 'out of the blue'	Washington Times 6/13
Obama Cans CNCS Inspector General Who Wrote Negative Report	NonProfit Times, June 13
Obama Fires CNCS Watchdog	Youth Today, 6/11
Firing of IG followed his probe of Obama friend	CongressDaily
Fired National-Service Inspector General Says He Acted Properly	Chronicle of Philanthropy
St HOPE mess costs Inspector General his job	Sacramento News & Review, 6/12
Grassley calls on administration to safeguard independence of inspectors General	Senator Grassley
Obama Is Asked to Explain Firing of AmeriCorps Inspector General	Chronicle of Philanthropy, 6/12

Associated Press, Fri Jun 12, 9:39 pm ET
http://news.yahoo.com/s/ap/20090613/ap_on_go_pr_wh/us_national_service_inspector_general_ylt=AiGDPJYN7

Ousted AmeriCorps watchdog defends waste probe

By ANN SANNER and PETE YOST, Associated Press Writers

WASHINGTON -- An inspector general fired by President Barack Obama said Friday he acted "with the highest integrity" in investigating AmeriCorps and other government-funded national service programs. Gerald Walpin said in an interview with The Associated Press that he reported facts and conclusions "in an honest and full way" while serving as inspector general at the Corporation for National and Community Service.

In a letter to Congress on Thursday, Obama said he had lost confidence in Walpin and was removing him from the position.

Walpin defended his work on Friday. "I know that I and my office acted with the highest integrity as an

independent inspector general should act," he said.

Obama's move follows an investigation by Walpin finding misuse of federal grants by a nonprofit education group led by Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star. Johnson and a nonprofit education academy he founded ultimately agree to repay half of \$847,000 in grants it had received from AmeriCorps.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled the investigation of Johnson and St. HOPE Academy.

"It is vital that I have the fullest confidence in the appointees serving as inspectors general," Obama said in the letter to House Speaker Nancy Pelosi, D-Calif., and Vice President Joe Biden, who also serves as president of the Senate. "That is no longer the case with regard to this inspector general."

The president didn't offer any more explanation, but White House Counsel Gregory Craig, in a letter late Thursday to Sen. Charles Grassley, R-Iowa, cited the U.S. attorney's criticism of Walpin to an integrity committee for inspectors general.

"We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that the president's decision was carefully considered," Craig wrote.

Walpin said he gave the integrity committee "a full and complete response" that was also signed by several people who worked on the case. "I have no question but that we acted totally properly," he said in the interview.

Grassley had written Obama a letter pointing to a law requiring that Congress be given the reasons an inspector general is fired. He cited a Senate report saying the requirement is designed to ensure that inspectors general are not removed for political reasons.

Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent and "it appears he has been doing a good job."

The inspector general found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the watchdog's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

In settling the case, the government agreed to lift its suspension of any future grants to the academy and Johnson agreed to immediately repay \$73,000 in past grants. The academy was given 10 years to repay the remaining \$350,000.

Brown said at the time of the settlement that prosecutors determined there was no fraud, but rather a culture of "sloppiness" in St. HOPE's record-keeping.

Kevin Hiestand, chairman of the board of St. HOPE Academy, said in a statement it was "about time" Walpin was removed. "Mr. Walpin's allegations were meritless and clearly motivated by matters beyond an honest assessment of our program," he said.

Ken Bach, who works in the inspector general's office at the national service corporation, will be acting inspector general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by then-President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin

graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they strongly endorsed Obama's decision.

Washington Times, 6/15, 2009, EDITORIAL

http://washingtontimes.com/news/2009/jun/15/walpin-gate/?feat=home_editorials

Walpin-gate

Congress ought to open an investigation, New York Times editorialists should be in a state of apoplexy, and MSNBC hosts ought to be frothing at the mouth. Without appropriate documentation or good reason, President Obama has fired a federal investigator who was on the case against a political ally of the president's. Mr. Obama's move has the stench of scandal.

On June 11, Mr. Obama fired Gerald Walpin, inspector general for the Corporation for National and Community Service. He offered no public reason for doing so other than that he "no longer" had "the fullest confidence" in Mr. Walpin. Sen. Charles E. Grassley, Iowa Republican, is rightly questioning the firing and the explanation for it.

The senator noted that the Inspector General Reform Act requires the president to "communicate in writing ... the reasons for any such removal." Losing one's "fullest confidence" hardly qualifies as a justifiable reason. The Senate report language attached to the act explains: "The requirement to notify the Congress in advance of the reasons for the removal should serve to ensure that Inspectors General are not removed for political reasons."

Yet, as Associated Press noted, "Obama's move follows an investigation by IG Gerald Walpin finding misuse of federal grants by a nonprofit education group led by Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star." Further, "The IG found that Johnson ... had used Americorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car."

Sacramento U.S. Attorney Larry Brown criticized Mr. Walpin for publicly announcing the investigation rather than more quietly cooperating with federal prosecutors. Clearly, though, there was merit to Mr. Walpin's charges: Mr. Brown's office reached a settlement ordering the nonprofit organization to repay half of the \$850,000 in grant money it received - with \$72,836.50 of that repayment coming from Mr. Johnson's own pocket.

Mr. Grassley said, "There have been no negative findings against Mr. Walpin by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency, and [Mr. Walpin] has identified millions of dollars in Americorps funds either wasted outright or spent in violation of established guidelines. In other words, it appears he has been doing his job. We cannot afford to have Inspector General independence threatened." We concur.

It is highly unusual and very suspicious when an IG is summarily fired, especially when political entanglements are involved. There will be much more to report in coming days on this White House action, which was heavy-handed and almost certainly unethical.

ABC News Political Punch, 6/13, 8:37 AM

<http://blogs.abcnews.com/politicalpunch/2009/06/more-details-emerge-in-president-obamas-firing-of-inspector-general.html>

More Details Emerge In President Obama's Firing of Inspector General

Jake Tapper

It was Wednesday evening and Gerald Walpin was pleading for his job.

Just a few hours before, at around 5:20 pm, Walpin -- , Inspector General of the Corporation for National and Community Service (CNCS) -- was driving on a highway when he had received a phone call from Norm Eisen, special counsel to the president for ethics and government reform, informing him that President Obama no longer had confidence in him and wanted him to resign.

Walpin had an hour to make up his mind as to whether he was going to resign or have the president seek his suspension and termination, as indicated in email from Walpin to Eisen obtained by ABC News.

(A White House official tells ABC News that on Wednesday afternoon, "Walpin was informed, as a courtesy, of the president's decision to replace him. Mr. Walpin asked for time to consider resigning. He was told the decision to replace him was final, but for logistical reasons having to do with preparing the Congressional notifications, he could call back within the hour if he chose to resign.")"

In that email, as well as other documents surrounding Walpin's termination obtained by ABC News, a picture emerges of an ambitious and aggressive inspector general whose actions repeatedly offended officials of the US Attorney's office, to the point that the Republican-appointed in the US Attorney's office filed an official complain against the Republican-appointed Inspector General.

Walpin -- appointed to his job under President George W. Bush -- wrote to Eisen that "Congress intended the Inspector General of CNCS to have the utmost independence of judgment in his deliberations respecting the propriety of the agency's conduct and the actions of its officers. That is why the relevant statute provides that the President may remove the IG only if he supplies the Congress with a statement of his reasons--which is quite a different matter than executive branch officials who serve at his pleasure and can therefore be removed for any reason and without notification to Congress."

Walpin told Eisen that he took "this statutorily-mandated independence of my office very seriously, and, under the present circumstances, I simply cannot make a decision to respect or decline what you have said were the President's wishes within an hour or indeed any such short time."

Walpin had just issued two reports that were very critical of the actions taken by the Corporation for National and Community Service.

"It would do a disservice to the independent scheme that Congress has mandated--and could potentially raise questions about my own integrity--if I were to render what would seem to many a very hasty response to your request," Walpin wrote. "I heard your statement that this request that you communicated on behalf of the President and the timing of our reports and disagreement with the CNCS Board and management are 'coincidence,' as you put it on the phone, but I would suggest there is a high likelihood that others may see it otherwise."

Walpin said that he suspected that "when presented with the circumstances I have just discussed, the President will see the propriety of providing me additional time to reflect on his request. If however he believes that my departure is a matter of urgency, then he will have to take the appropriate steps toward ordering my removal, without my agreement."

The latter scenario is the one that played out, with President Obama informing congressional leaders of his decision in a letter stating that "it is vital that I have the fullest confidence in the appointees serving as Inspectors General. That is no longer the case with regard to this Inspector general."

In a follow-up letter, White House counsel Greg Craig -- responding to a letter of concern about Walpin's termination from Sen. Chuck Grassley, R-Iowa -- noted that Lawrence Brown, the "Acting United States Attorney for the Eastern District of California, a career prosecutor who was appointed to his post during the Bush Administration, has referred Mr. Walpin's conduct for review by the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency."

Craig said that the White House was "aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that that the president's decision was carefully considered." He noted that Walpin's termination "is fully supported by the Chair of the Corporation (a Democrat) and the Vice-Chair (a Republican)."

As we detailed yesterday, Walpin was criticized by Acting US Attorney Brown for his handling of an investigation into the use of AmeriCorps funds by a community group called St. HOPE Academy, founded by Kevin Johnson,

former point guard of the Phoenix Suns, who was elected Mayor of Sacramento last November and is an ally of the president's.

In that April 29 letter from Brown to Kenneth Kaiser, chair of the Integrity Committee for the Counsel of the Inspectors General on Integrity and Efficiency, the Acting US Attorney wrote "to express my Office's concerns about the conduct" of Walpin in the handling of the Johnson case.

"In our experience," Brown wrote in the letter obtained by ABC News, "the role of an Inspector General is to conduct an unbiased investigation, and then forward that investigation to my Office for a determination as to whether the facts warrant a criminal prosecution, civil suit or declination. Similarly, I understand that after conducting such an unbiased investigation, the Inspector General is not intended to act as an advocate for suspension or debarment. However, in this case Mr. Walpin viewed his role very differently. He sought to act as the investigator, advocate, judge, jury and town crier."

In April of this year, St. HOPE Academy agreed to pay a \$423,836.50 settlement – \$72,836.50 of which would be paid personally by Mayor Johnson.

Brown expressed chagrin that US Attorney's office learned about the investigation into Johnson and St. HOPE through articles in the Sacramento Bee, and he said they found Walpin's comments surrounding the investigation unprofessional.

"Moreover, we considered the IG referral somewhat unusual in that it was accompanied by a letter from Mr. Walpin explaining that he viewed the conduct in this case as egregious and warranted our pursuing the matter criminally and civilly," he wrote.

On August 25 Brown's office met with Walpin and two investigators and "expressed our concerns that the conclusions in their report seemed overstated and did not accurately reflect all the information gathered in their investigation." For example, Brown wrote, Walpin's office had not actually done an audit to establish how much AmeriCorps money was actually misspent.

The next time Brown heard from Walpin's office, Brown wrote, was through the Bee a from a press release in which Walpin advocated to have St. HOPE, Johnson and Gonzales placed on the list of parties suspended from receiving federal funds – a serious move that Brown suggests his office did not know about until reading it in a press release.

On September 26, Brown said, the then-US Attorney McGregor Scott "emphatically informed Mr. Walpin that under no circumstance was he to communicate with the media about a matter under investigation and that his acts "were hindering our investigation and handling of this matter."

Ultimately the US Attorney's office determined that "a significant portion of the AmeriCorps grant funds were appropriately expended." They concluded that Walpin's investigation was wanting. For instance, Walpin's referral of his investigation to the US Attorney's office concluded that St. HOPE AmeriCorps members performed no tutoring," but the principal of an elementary school told the US Attorney's office that wasn't true, that St. HOPE AmeriCorps members had performed tutoring at his school. Upon further investigation, Brown wrote, the US Attorney's office found that Walpin had received a similar statement from the principal "but did not include it in their report or disclose it" to his office.

Walpin "overstepped his authority by electing to provide my Office with selective information and withholding other potentially significant information at the expense of determining the truth," Brown concluded.

In his official response to Brown's complaint against him, Walpin referred to the Inspector General Act of 1978 which asserts that the IG has the duty to "[a]ssume a leadership role in any and all activities which he deems useful to promote economy and efficiency in the administration of programs and operations or prevent and detect...waste in such programs and operations."

"IG offices are not intended to shy away from communication to the public through the media," Walpin wrote.

He disputed that he hadn't informed the US Attorney's office that he was considering asking the Corporation for National and Community Service to have Kevin Johnson and St. HOPE suspended from receiving federal funds. "The only thing that the United States Attorney's Office did not know was whether and when the Corporation would act."

As for the exculpatory testimony of the principal, Walpin said he found it irrelevant since the principal had told them that he had not "physically observed members on a daily basis...conducting tutoring."

Washington Examiner, 06/14/09 7:00 PM EDT

<http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Gerald-Walpin-speaks-the-inside-story-of-the-AmeriCorps-firing-48030697.html>

Gerald Walpin speaks: The inside story of the AmeriCorps firing

Dispute that resulted in firing involved stimulus money

By: Byron York, Chief Political Correspondent

The White House's decision to fire AmeriCorps inspector general Gerald Walpin came amid politically-charged tensions inside the Corporation for National and Community Service, the organization that runs AmeriCorps. Top executives at the Corporation, Walpin explained in an hour-long interview Saturday, were unhappy with his investigation into the misuse of AmeriCorps funds by Kevin Johnson, the former NBA star who is now mayor of Sacramento, California and a prominent supporter of President Obama. Walpin's investigation also sparked conflict with the acting U.S. attorney in Sacramento amid fears that the probe — which could have resulted in Johnson being barred from ever winning another federal grant — might stand in the way of the city receiving its part of billions of dollars in federal stimulus money. After weeks of standoff, Walpin, whose position as inspector general is supposed to be protected from influence by political appointees and the White House, was fired.

Walpin learned his fate Wednesday night. He was driving to an event in upstate New York when he received a call from Norman Eisen, the Special Counsel to the President for Ethics and Government Reform. "He said, 'Mr. Walpin, the president wants me to tell you that he really appreciates your service, but it's time to move on,'" Walpin recalls. "Eisen said, 'You can either resign, or I'll tell you that we'll have to terminate you.'"

At that moment, Walpin says, he had finished not only a report on the Sacramento probe but also an investigation into extensive misuse of AmeriCorps money by the City University of New York, which is AmeriCorps' biggest program. Walpin says he told Eisen that, given those two investigations, neither of which was well-received by top Corporation management, the timing of his firing seemed "very interesting." According to Walpin, Eisen said it was "pure coincidence." When Walpin asked for some time to consider what to do, Eisen gave him one hour. "Then he called back in 45 minutes and asked for my response," Walpin recalls.

The method of Walpin's firing could be a violation of the 2008 Inspectors General Reform Act, which requires the president to give Congress 30 days' notice, plus an explanation of cause, before firing an inspector general. Then-Sen. Barack Obama was a co-sponsor of that legislation. In the case of Walpin, Eisen's efforts to force Walpin to resign could be seen as an effort to push Walpin out of his job so that the White House would not have to go through the 30-day process or give a reason for its action. When Walpin refused to quit, the White House informed Congress and began the 30-day countdown.

Eisen's phone call came after months of increasing conflict inside the Corporation for National and Community Service. "We issued two reports that the management of the Corporation and the board of directors didn't like, because they criticized what the board was doing," Walpin recalls. There is no question that Walpin discovered misuse of federal money in Kevin Johnson's program, known as St. HOPE, and at City University of New York. But as a result of those investigations, relations between Walpin and top executives became frosty, and he says they cut him out of Corporation business that should normally include the inspector general.

The heart of the matter is a dispute that began last year over Walpin's recommendation that Johnson and St. HOPE be barred from receiving and using federal grant money. The process is known as "suspension and debarment," meaning that Johnson would be suspended from receiving federal funds under any current arrangement and might ultimately be barred from receiving any such funds in the future. "The whole purpose of suspension and debarment," Walpin says, "is to say that somebody who was involved in the misuse of government funds in the past should not be trusted with federal funds in the future."

In the course of his investigation, Walpin found Johnson and St. HOPE had failed to use the federal money they received for the purposes specified in the grant and had also used federally-funded AmeriCorps staff for, among other things, "driving [Johnson] to personal appointments, washing his car, and running personal errands." Walpin came to the conclusion that Johnson and St. HOPE should be subject to suspension and debarment. But it was not Walpin's decision to make; there is another official at the Corporation whose job it is to make that call. In September 2008, after reviewing Walpin's evidence, the official decided to order a suspension, with the distinct possibility that it would lead to a permanent debarment.

That was during the Sacramento mayoral campaign, and the suspension quickly became a matter of controversy. Johnson's critics raised the possibility that, as mayor, the suspension would mean the city could not receive federal funds. Johnson dismissed the matter. "That's absurd," he told the Sacramento Bee. "As mayor, I'm going to go out there and shake down as many resources as I can for Sacramento."

But the issue did not go away after Johnson defeated the incumbent mayor and took office. It became far more pressing in late January, when Congress passed the \$787 billion stimulus bill and Sacramento officials hoped that millions of federal dollars would soon arrive. Johnson's suspension seemed like an insurmountable obstacle to getting all that money. On March 21, the Sacramento Bee reported that, "The city of Sacramento likely is barred from getting federal money -- including tens of millions the city is expecting from the new stimulus package -- because Mayor Kevin Johnson is on a list of individuals forbidden from receiving federal funds, according to a leading attorney the city commissioned to look into the issue." The issue was explosive. What if there were all that federal money raining down and Sacramento couldn't get any because its mayor had been found to have misused federal money in the past?

As this was happening, the matter was also under consideration by the local U.S. attorney's office after Walpin referred the matter to the office for a criminal inquiry. Since January of this year, the office has been headed by an acting U.S. attorney, Lawrence Brown, a career prosecutor who took over after the departure of the previous, Bush-appointed U.S. attorney. The office decided not to pursue criminal charges against Johnson, but also entered into settlement talks with Johnson and St. HOPE. What resulted was, according to Walpin, highly unusual.

Settlement talks would normally cover the issue of whether Johnson would be required to give the misused federal funds back to the government. But amid the frenzy surrounding the possible denial of federal stimulus funds, Brown wanted to negotiate not only some sort of repayment scheme but also an end to Johnson's suspension. Walpin learned about that during a March telephone conversation with Brown. "He said he wanted to settle," Walpin recalls, "and he said that lifting the suspension had to be part of it because that was the 800-pound gorilla in the way of a settlement."

Walpin was adamantly opposed to a lifting of the suspension; after all, he had recommended that Johnson not only be suspended but be barred for receiving future federal funds. Walpin says that after that, he was cut out of the settlement talks; Brown worked directly with top officials of the Corporation, who seemed eager to work out a deal in a case involving a high-profile Obama supporter and lots of stimulus money. (The Corporation is now headed by Alan Solomon, a philanthropist and Democratic fundraiser appointed by President Obama.)

Together, Brown and the top Corporation brass negotiated a deal. Johnson and St. HOPE would pay back about half of the \$850,000 in AmeriCorps grant money it had received, and the suspension against Johnson would be lifted.

Walpin was very unhappy. First of all, he said it was a terrible deal for the U.S. government, because St. HOPE was essentially insolvent and would never pay the money back. Second, he felt lifting Johnson's suspension would dilute the effectiveness of future investigations; why should grant recipients worry about their misconduct if any sanctions can be so easily lifted? In the end, Johnson was not suspended, not debarred, and was probably not going to pay the vast majority of the money back.

Walpin told the Corporation's board of directors of his opinion. He told other officials. And he sent a report to Congress. "I was bringing Congress in to try to get its assistance in putting a spotlight on this," he says.

Walpin's actions undoubtedly angered top officials at the Corporation, and most likely at the White House as well. It would not be long before he was summarily dismissed. But he has no regrets. Whatever happens, he wrote recently, he is proud that he "refused to go along with the U.S. attorney's office and the Corporation in bowing to the media and political pressure that resulted in this hasty settlement, contrary to the interests of the United

States government."

Washington Examiner, 6/12, 8:14 PM EDT

<http://www.washingtonexaminer.com/opinion/blogs/beltway-confidential/Whats-behind-Obamas-sudden-firing-of-the-AmeriCorps-inspector-general-47877797.html>

What's behind Obama's sudden attempt to fire the AmeriCorps inspector general?

By: Byron York
Chief Political Correspondent

New info: See updates below for Walpin's "one-hour deadline" e-mail to the White House.

There are a number of unanswered questions today about President Obama's abrupt decision to fire the inspector general of the AmeriCorps program, Gerald Walpin. Obama sent letters to House and Senate leaders yesterday informing them that he was firing Walpin, effective 30 days from the date of the letters.

"It is vital that I have the fullest confidence in the appointees serving as Inspectors General," the president wrote. "That is no longer the case with regard to this Inspector General."

The 30 day requirement is important because last year Congress passed the Inspectors General Reform Act, which was designed to strengthen protections for IGs, who have the responsibility of investigating allegations of waste, fraud and abuse within federal agencies, against interference by political appointees or the White House. Part of the Act was a requirement that the president give Congress 30 days' notice before dismissing an IG. One of the co-sponsors of the Act was then-Sen. Barack Obama.

The Act also requires the president to outline the cause for his decision to remove an IG. Beyond saying that he did not have the "fullest confidence" in Walpin, Obama gave no reason for his action.

There are two big questions about the president's actions. One, why did he decide to fire Walpin? And two, did he abide by the law that he himself co-sponsored?

According to Republican Sen. Charles Grassley, a strong advocate of inspectors general, Walpin received a call from the White House Counsel's office on Wednesday evening. Walpin was told that he had one hour to either resign or be fired. Senate sources say Walpin asked why he was being fired and, according to one source, "The answer that was given was that it's just time to move on. The president would like to have someone else in that position." Walpin declined to resign.

Grassley fired off a letter to the president on Thursday saying that, "I was troubled to learn that [Wednesday] night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated," Grassley wrote. "As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny."

Grassley's version of events suggests that the White House first tried to muscle Walpin out of his job without having to go through the 30-day process. It was only when Walpin refused to resign that the White House then notified Congress of the president's intention to fire Walpin.

The bigger question is why the president is doing this and why he is attempting to do it so quickly. Senate sources now believe Obama is firing Walpin over Walpin's investigation of Kevin Johnson, a former NBA star and a prominent supporter of the president.

Johnson, now the mayor of Sacramento, California, started a non-profit organization called St. Hope. The group's mission, according to its website, is "to revitalize inner-city communities through public education, civic leadership, economic development and the arts." As part of its work, St. Hope received a grant of about \$850,000 from

AmeriCorps.

Last year, Walpin began an investigation of how Johnson's group spent the money. According to the Associated Press, "[Walpin] found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car." Walpin asked federal prosecutors to investigate. In April, the U.S. attorney in Sacramento, a Bush holdover, declined to file any criminal charges in the matter and also criticized Walpin's investigation.

That might suggest that St. HOPE was OK, and it was Walpin who was in the wrong. But at the same time prosecutors decided not to file any charges against St. HOPE, the U.S. attorney's office also entered into a settlement with St. HOPE in which the group also agreed to pay back about half of the \$850,000 it had received from AmeriCorps.

In his letter to the president, Grassley defended Walpin's performance. "There have been no negative findings against Mr. Walpin by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and he has identified millions of dollars in AmeriCorps funds either wasted outright or spent in violation of established guidelines," Grassley wrote. "In other words, it appears he has been doing his job."

The bottom line is that the AmeriCorps IG accused a prominent Obama supporter of misusing AmeriCorps grant money. After an investigation, the prominent Obama supporter had to pay back more than \$400,000 of that grant money. And Obama fired the AmeriCorps IG.

UPDATE, 1:55 PM Friday:

There are a number of new developments since my post above was published. First, the White House is confirming that it decided to fire IG Walpin because of the Kevin Johnson/St. HOPE affair. In a letter sent Thursday night to Sen. Charles Grassley, White House counsel Gregory Craig cited a complaint lodged by the acting U.S. attorney in Sacramento, Lawrence Brown, accusing Walpin of misconduct in the St. Hope investigation. "The Acting United States Attorney for the Eastern District of California, a career prosecutor who was appointed to his post during the Bush Administration, has referred Mr. Walpin's conduct for review by the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency (CIGIE)," Craig wrote. "We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that that the President's decision was carefully considered." This is the White House's first public statement of its reason for firing Walpin.

In the referral which Craig mentioned, which was sent April 29, Lawrence Brown accused Walpin of conducting a biased investigation and seeking "to act as the investigator, advocate, judge, jury and town crier." Brown was particularly angry that Walpin's office had talked with the press at various times in the St. HOPE investigation. Brown asked AmeriCorps to investigate Walpin's behavior. In a stinging response, Walpin wrote that several of Brown's points were flat-out wrong.

More importantly, Walpin's response sheds light on the process by which St. Hope will allegedly return to the government about half of the \$850,000 grant it received from AmeriCorps. Walpin accused the U.S. attorney's office of undermining Walpin's attempt at "suspension and debarment" -- that is, from taking action that prevents an organization that has engaged in misconduct from receiving any other federal money.

According to Walpin, the U.S. attorney's office resisted efforts to get St. HOPE to repay the money. Even though AmeriCorps inspector general officials had found "six specific instances of diversion and misuse of [AmeriCorps] grant funds," and even though Kevin Johnson never "submitted a single fact to dispute those findings," the U.S. attorney, according to Walpin, insisted that the settlement agreement forbid suspension or debarment.

Further, according to Walpin, even with the settlement agreement as it now exists, there is little hope the government will ever get any of its money back. "As St. HOPE is insolvent, the absence of any obligation imposed on... [Kevin Johnson], and the absence of any guarantee or security to ensure payment, makes the settlement a farce," Walpin wrote.

"Mr. Brown knows," Walpin concluded, "that the settlement agreement was carefully drafted so that no obligation is imposed on Mr. Johnson to pay to [AmeriCorps] a single penny of the amount supposedly to be paid to [AmeriCorps] by St. HOPE."

Walpin's response has led congressional investigators to want to know more about Brown, the acting U.S.

attorney. I referred to him earlier as a "Bush holdover." That's not entirely accurate. Brown is now the acting U.S. attorney, and he was in the office during the Bush years, but he is a career official, not a Bush appointee. In the days to come, congressional investigators will be weighing Brown's claims versus Walpin's. A lot is going on with the story, and it is happening very quickly.

UPDATE, 4:55 PM Friday:

On Wednesday night, after the White House counsel's office called AmeriCorps inspector general Gerald Walpin on his cell phone to tell him he had one hour to resign or be fired, Walpin sent an extensive e-mail account of the call to the man who had phoned him, Norman Eisen, the Special Counsel to the President for Ethics and Government Reform. In the e-mail, Walpin explained that he would not make a decision in such a short period of time. He also noted that Eisen had said any appearance of a connection between Walpin's firing and recent conflicts over Walpin's handling of high-profile investigations was "coincidence." Here is the whole e-mail, sent from Walpin to Eisen at 7:32 p.m. on June 10:

My email responds to your telephone call to me while I was in a car driving on a highway, at about 5:20 p.m. I have now reached a destination and therefore can write you this email.

In your telephone call, you informed me that the President wishes me to resign my post as IG of CNCS [Corporation for National and Community Service, which includes AmeriCorps]. You told me that I could take no more than an hour to make a decision.

As you know, Congress intended the Inspector General of CNCS to have the utmost independence of judgment in his deliberations respecting the propriety of the agency's conduct and the actions of its officers. That is why the relevant statute provides that the President may remove the IG only if he supplies the Congress with a statement of his reasons—which is quite a different matter than executive branch officials who serve at his pleasure and can therefore be removed for any reason and without notification to Congress.

I take this statutorily-mandated independence of my office very seriously; and, under the present circumstances, I simply cannot make a decision to respect or decline what you have said were the President's wishes within an hour or indeed any such short time. As you are aware, I have just issued two reports highly critical of the actions of CNCS, which is presently under the direction of the President's appointee and, I am advised, someone with a meaningful relationship with the President.

Chairman Solomon and I have had significant disagreements about the findings and conclusions contained in these reports. It would do a disservice to the independent scheme that Congress has mandated—and could potentially raise questions about my own integrity—if I were to render what would seem to many a very hasty response to your request.

I heard your statement that this request that you communicated on behalf of the President and the timing of our reports and disagreement with the CNCS Board and management are "coincidence," as you put it on the phone, but I would suggest there is a high likelihood that others may see it otherwise.

I suspect that, when presented with the circumstances I have just discussed, the President will see the propriety of providing me additional time to reflect on his request. If however he believes that my departure is a matter of urgency, then he will have to take the appropriate steps toward ordering my removal, without my agreement.

Gerald Walpin

Washington Times, June 13, 2009

<http://washingtontimes.com/news/2009/jun/13/fired-official-says-call-was-a-surprise/print/>

President fires official 'out of the blue'

Sean Lengele (Contact)

An inspector general fired by President Obama says he was given no warning and only one hour to decide whether to resign or be let go, hinting the action was retaliation for a report highly critical of Sacramento Mayor Kevin Johnson, a former NBA basketball star and an Obama supporter.

Gerald Walpin, a 2006 Bush appointee who reviewed grants awarded by AmeriCorps and other national service programs, said the telephone call he received Thursday evening from White House counsel Norman L. Eisen informing him he was ousted "occurred totally out of the blue."

Mr. Walpin said he and his staff had always acted with the "highest integrity" during his two-and-a-half-year tenure. "We performed very well the responsibility of the independent overseer of the agency, and reported things as we saw it," he said.

The White House hasn't said specifically why it fired Mr. Walpin, other than to say that the president has lost confidence in him.

"It is vital that I have the fullest confidence in the appointees serving as Inspectors General," said Mr. Obama in a letter to Congress Thursday. "That is no longer the case with regard to this Inspector General."

In an e-mail response to Mr. Eisen Thursday, Mr. Walpin said he refused to resign on such short notice because "it would do a disservice to the independent scheme [for inspector generals] that Congress had mandated - and could potentially raise questions about my own integrity - if I were to render what would seem to many a very hasty response to your request."

But Mr. Walpin, in his e-mail to Mr. Eisen, said he wasn't convinced of the White House's assertion that his firing and the release of two reports he recently submitted that are highly critical of AmeriCorps parent group, the Corporation for National and Community Service (CNCS), wasn't "coincidence."

"I would suggest there is a high likelihood that others may see it otherwise," Mr. Walpin wrote.

One of Mr. Walpin's reports dealt with his investigation of a highly publicized case accusing St. Hope Academy - founded by Mr. Johnson - of mishandling some of the \$850,000 it received in CNCS grants, which came out during the Sacramento mayoral race. Mr. Johnson's nonprofit group has promised to repay about half of the money.

But Sacramento's Acting U.S. Attorney Lawrence G. Brown has sharply criticized Mr. Walpin's handling of his investigation of Mr. Johnson and the nonprofit group.

In August 2008, while Mr. Johnson was campaigning for his successful November election, Mr. Walpin referred the matter to the local U.S. attorney's office, which said his conclusions seemed overstated and didn't accurately reflect the information gathered in the investigation.

The report said Mr. Johnson used grants to pay volunteers to engage in school-board political activities and to run personal errands for Mr. Johnson.

Mr. Brown accused Mr. Walpin of overstepping his authority, compromising his impartiality and withholding information from the U.S. Attorney's Office.

"The Inspector General is not intended to act as an advocate for suspension and debarment," complained Mr. Brown in a letter to the Council of the Inspectors General on Integrity and Efficiency. "He sought to act as the investigator, advocate, judge, jury and town crier."

On Wednesday night, Alan Solomon, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they backed the president's decision, which they learned about ahead of time.

Ken Bach, who works in the CNCS inspector general's office, has been named acting inspector general until Mr. Obama appoints a replacement to Mr. Walpin.

Mr. Walpin declined to say what his next move will be.

"I'll let the facts speak for themselves," he said. "We did our job as we saw it with high integrity, issuing two

reports that the corporation objected to and the [CNCS] chairman of the board objected to. That's the job of the inspector general."

Sen. Charles E. Grassley, Iowa Republican, on Friday praised Mr. Walpin for identifying millions of dollars in wasted or misspent grants.

The Obama administration has requested \$1.149 billion for CNCS and its programs for fiscal year 2010, a \$259 million - or 29 percent increase - over its previous budget.

NonProfit Times, June 13, 2009

<http://www.nptimes.com/09Jun/bnews-090612-1.html>

Obama Cans CNCS Inspector General Who Wrote Negative Report

By Michele Donohue

A week after issuing a blistering report about a Corporation for National and Community Service (CNCS) grant, the agency's inspector general will be removed from his position, according to a CNCS statement issued late yesterday.

President Barack Obama will remove Gerald Walpin from his post, a move that would take effect in 30 days, consistent with the Inspector General Act. A CNCS official said the OIG's latest report was unrelated to the decision to remove Walpin.

The report, issued June 4, criticized the use of CNCS grants for the Research Foundation for the City University of New York (RFCUNY) Fellows Program, which provided AmeriCorps member designation to teachers in the program. The OIG report said the RFCUNY-CNCS grant relationship "adds no service to the community which is not already provided by the Fellows Program" and that "taxpayers are not getting their money's worth" with the grants.

The report also recommended CNCS terminate the grants, recover education awards and accrued interest awards paid, and all grant costs - approximately \$45.1 million.

A statement issued by CNCS said Board Chair Alan Solomont, Stephen Goldsmith, board vice chair, and Eric Tanenblatt, chair of the board's management, audit, and governance committee, support the decision to remove Walpin.

"We strongly endorse the President's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new Inspector General," according to the statement.

The CNCS Office of Inspector General (OIG) conducts and supervises audits and investigations into the Corporation's programs. Walpin, a former New York attorney, was nominated for the inspector general post by former President George W. Bush, confirmed by the U.S. Senate and sworn into office in January 2007.

As a general principle, the independence of an inspector general (IG) is crucial, according to Rick Cohen, former executive director of the National Committee For Responsive Philanthropy (NCRP) in Washington, D.C. Cohen said he could not speak to the quality of Walpin's work in CNCS OIG.

"The independence of the IG is a critical bulwark to ensure the federal agencies are kept on the straight and narrow," he said. Rapid expansion that CNCS will face with the Edward M. Kennedy Serve America Act would be a "huge challenge to any agency," Cohen said, and critical scrutiny and transparency will be vital.

The Edward M. Kennedy Serve America Act, to take effect on Oct. 1, includes expanding AmeriCorps volunteers from 75,000 to 250,000 a year by 2014. The legislation authorizes \$5.7 billion over the next six years, but Congress must still approve funding.

"The political independence of the IG is essential. And in this administration with the expansion of AmeriCorps, the expansion of the Corporation and with the overall stimulus expansion, the role of the IG in any department, not just the Corporation, is more important than ever," Cohen said.

Kenneth Bach will serve as the acting Inspector General in the transition, according to a CNCS official. Bach previously served as an investigator with the CNCS OIG and the Department of the Interior OIG before coming

back to CNCS in 2005 as OIG's Chief Technology Officer (CTO). In May 2008, Bach was named the Assistant Inspector General for Support, while continuing his role as CTO, according to CNCS.

Youth Today, June 11, 2009

http://www.youthtoday.org/publication/article.cfm?article_id=2949

Obama Fires CNCS Watchdog

Inspector general removed after scathing report on AmeriCorps grantee.

by Nancy Lewis

The Inspector general (IG) of the Corporation for National and Community Service is being removed by President Barack Obama, a week after the IG questioned the eligibility of the largest and most expensive AmeriCorps program, and while the IG was contesting the "propriety" of a settlement made with a mayor for alleged misuse of AmeriCorps funds.

Gerald Walpin, an appointee of President George W. Bush who has served as the corporation's IG for more than two years, could not be reached for comment yesterday, and a spokesman for his office said neither the office nor Walpin could say anything about the removal.

Officials insisted that Walpin's removal was not connected to recent controversies but was merely a routine change that came with a change in administrations. But those routine changes are rarely announced or characterized as "removal."

A statement issued by Nicola Goren, acting CEO of the corporation, said that board chairman Alan Solomont and vice chair Stephen Goldsmith fully supported the move. CNCS spokeswoman Ranit Schmelzer would not say if they requested Walpin's removal. The announcement said he has 30 days to vacate the office.

The action leaves the top four positions at CNCS - chief executive officer, chief operating officer, chief financial officer and inspector general - vacant or filled temporarily, at a time when the corporation is charged with increasing its capacity to 250,000 volunteers by 2017. By then the budget is expected to rise to nearly \$6 billion annually, from \$1.19 billion.

Maria Eitel, a Nike vice president chosen by Obama to lead CNCS, abruptly withdrew her name late last month, five weeks after her selection was announced, citing health problems. The president's announcement of the choice of Eitel was made with great public fanfare, but her withdrawal was also announced through a statement from Goren, released late on the Friday before Memorial Day.

There is no indication when new leadership will be chosen, though Obama has made service a hallmark of his administration.

Some decisions about CNCS are being made by First Lady Michelle Obama, according to service advocates (who asked not to be named). Last week, Mrs. Obama announced that her chief of staff, Jackie Norris, would move to CNCS as a senior adviser. Officials said yesterday that Norris is scheduled to arrive on June 22.

Asked why the announcement of Walpin's removal came late Wednesday from CNCS instead of the White House, Schmelzer of CNCS said it's because Walpin - who serves at the pleasure of the president - is a corporation employee.

IG Controversies

Funding for the largest AmeriCorps program - the Teaching Fellows Program, run by the Research Foundation of the City University of New York - is in abeyance pending resolution of widespread problems identified in a recent audit. Although Walpin recommended that funding be curtailed and that previous funds (perhaps as much as \$75 million) be repaid to the corporation, the corporation has said it will take no action on that matter.

Walpin concluded that nothing was being gained by the grants to CUNY and that the money was simply being used to subsidize an existing and funded program.

At the same time, Walpin was challenging the resolution of charges against Sacramento mayor Kevin Johnson stemming from the Hood Corps, a project of St. Hope Academy, which he started in one of the city's low-income neighborhoods. The IG audit found that the program misused virtually all its funds and did little of what was outlined in its grant proposal.

Specifically, the audit found that Johnson and other officials of Neighborhood Corps used AmeriCorps volunteers to recruit students for a charter school run by its parent program, improperly paid at two school employees with AmeriCorps funds for duties they did not perform, improperly used volunteers to perform personal errands for Johnson (including washing his car and driving him to personal appearances) and used the AmeriCorps volunteers to engage in political activities in connection with a board of education election.

Johnson, who was elected mayor in November, was barred from receiving federal grant money - the most serious action that the agency can take against a person or program.

When questions were raised about whether Johnson's city would therefore be ineligible to receive federal stimulus funds, a settlement was reached with the U.S. attorney's office calling for repayment of about half the grant money. Johnson was to pay a portion of the money, with the agency he had headed paying the remainder over five years. The ban on funds to Johnson was also lifted.

In a letter to Sen. Edward Kennedy (D-Mass.), head of the Senate committee that oversees the corporation, and other congressional leaders, Walpin objected to the settlement, saying St. Hope was insolvent and likely would not be able to repay the money.

Walpin, who as inspector general usually would have been involved in any settlement, was cut out of the deal after the acting U.S. attorney filed a complaint with the Integrity Committee of the Council of Inspectors General on Integrity and Efficiency.

No one from the committee returned calls inquiring about that matter and a copy of the complaint has not been released. The complaint appears to center on claims that the U.S. attorney's office learned about the action against Johnson from a local newspaper. Walpin's office maintains that office was notified of the pending action months before.

CongressDaily June 12, 2009
<http://www.govexec.com/dailyfed/0609/061209cdpm2.htm>

Firing of IG followed his probe of Obama friend

By Carrie Dann

After criticism from a high-ranking Republican senator over President Obama's dismissal of the inspector general overseeing AmeriCorps Thursday, the White House has provided assurances that the decision was "carefully considered" and conducted in full compliance with the Inspector General Reform Act.

Gerald Walpin, inspector general for the Corporation for National and Community Service, recently spearheaded an investigation into the alleged misuse of AmeriCorps grants by a nonprofit agency run by recently elected Sacramento, Calif., Mayor Kevin Johnson, a former National Basketball Association star and a friend of Obama's.

Walpin's conduct of the investigation has been questioned by the acting U.S. attorney for Sacramento, who referred the case to an ethics panel that oversees IGs.

Obama's announcement Thursday that he intended to fire the AmeriCorps overseer prompted a fiery letter from Sen. Charles Grassley, R-Iowa, a champion of federal watchdogs, who cautioned that Obama's abrupt decision to terminate Walpin could demonstrate a threat to the independence of federal IGs.

In a written response to Grassley sent late Thursday, White House Counsel Gregory Craig attributed Walpin's dismissal to the U.S. attorney's complaint and subsequent request that his conduct of the Sacramento investigation be reviewed by the IG oversight panel.

"We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that the president's decision was carefully considered," Craig said.

Walpin's investigation of Johnson's St. HOPE nonprofit agency alleged that managers improperly diverted over \$800,000 in AmeriCorps funding from 2004-2007. Federal officials subsequently determined that the allegations did not warrant criminal charges, and the mayor attributed any improprieties to "administrative errors."

St. HOPE repaid almost \$425,000 in the federal funds as part of a settlement in April.

Danielle Brian, executive director of the Project on Government Oversight, said Johnson's connection to Obama warrants a hard look by lawmakers to assure the legitimacy of Walpin's dismissal.

"I hope Congress holds hearings soon," she said.

Chronicle of Philanthropy, June 12, 2009

<http://philanthropy.com/news/government/index.php?id=8555>

Fired National-Service Inspector General Says He Acted Properly

Gerald Walpin, who was fired from his post as inspector general of the Corporation for National and Community Service, said he acted properly and questions the timing of the decision.

"I and my office acted throughout with the highest integrity in reports and dealing with the corporation and its management in performing the IG's responsibility to be an independent overseer of the corporation's activities," he said in an interview. He said he told the White House it might not appear coincidental that the president's decision to remove him followed two reports he issued that criticized the national-service agency.

But the White House said the decision was made solely because of Mr. Walpin's conduct, citing a decision by an acting U.S. attorney in Sacramento to file a complaint against him.

"We are aware of the circumstances leading to that referral and of Mr. Walpin's conduct throughout his tenure and can assure you that the President's decision was carefully considered," Gregory B. Craig, White House counsel, said in a letter to Sen. Charles E. Grassley of Iowa, senior Republican on the Senate Finance Committee.

President Obama told Congress on Thursday he planned to remove Mr. Walpin from his post because he no longer had the "fullest confidence" in him. Mr. Craig wrote to Mr. Grassley after the senator raised questions about whether the administration had properly notified Congress of the reasons for the decision.

"Inspectors general need to know they have independence and won't be removed for arbitrary reasons," Sen. Grassley said in a statement.

The U.S. attorney complained about Mr. Walpin's conduct in a case involving St. Hope Academy, a nonprofit group started by Kevin Johnson, a former basketball star who is now mayor of Sacramento. The Corporation for National and Community Service last September barred the group from receiving any federal grants or contracts for up to one year after finding that it had misused members of AmeriCorps, the national-service program.

Mr. Walpin referred the case to the U.S. attorney's office so it could consider prosecuting Mr. Johnson and a colleague for misusing federal funds. The office reached a settlement with the academy that required the group repay some of the money it had received — an agreement that Mr. Walpin criticized in a report that he issued in May.

The acting U.S. attorney, Lawrence Brown, filed a complaint against Mr. Walpin with the integrity committee of the Council of Inspectors General on Integrity and Efficiency, a federal body. The complaint was not immediately available, but Mr. Walpin's defense refers to charges that he overstepped his authority as an auditor and improperly communicated to the press. Mr. Walpin denies both charges.

Mr. Walpin also filed a "report": <http://philanthropy.com/news/government/8495/audit-criticizes-ameri-corps-program-at-city-university-of-new-york-month-criticizing-spending-on-an-AmeriCorps-program-at-City-University-of>

New York.

He said that the White House asked him to resign on Wednesday, giving him one hour to decide. He said he declined to make such a hasty move, telling the White House in an email "it would do a disservice to the independent scheme that Congress has mandated."

The president is required to give Congress 30 days notice before removing an inspector general, so Sen. Grassley questioned the propriety of the ultimatum. The White House told him it contacted Mr. Walpin as a way to start the 30-day notification clock ticking.

Mr. Walpin, who lives in New York, was appointed to his post by President George W. Bush in 2007. A White House spokesman noted that the decision to remove him was supported both by Alan Solomont, the corporation's board chair, a Democrat, and Stephen Goldsmith, the vice chair, a Republican.

— Suzanne Perry

Sacramento News & Review, 6/12

<http://www.newsreview.com/sacramento/snog/blogs/post?oid=1012710>

St HOPE mess costs Inspector General his job

Just a few weeks after releasing a report blasting the US Attorney's settlement with St HOPE over alleged misuse of federal funds, Inspector General Gerald Walpin has been fired by President Obama.

Walpin, the inspector general of the Corporation for National and Community Service, investigated Kevin Johnson's St HOPE Academy and found that Johnson had volunteers in his AmeriCorps-funded program drive him around and wash his car, and that he used volunteers for political activities, among other violations.

The inspector barred Johnson from receiving federal funds then turned the case over to U.S. Attorney McGregor Scott for further investigation and possible criminal charges. Scott's successor, Lawrence Brown settled the case with St Hope, amid fears that Johnson's legal status would jeopardize federal stimulus funding to Sacramento.

Walpin excoriated the settlement, saying it was "akin to deciding that, while one should not put a fox in a small chicken coop, it is fine to do so in a large chicken coop."

Kevin Johnson's supporters, especially his spokesman Steve Maviglio have all along said that Walpin was a "rogue inspector" and a right-wing nut job with an axe to grind.

"This is a Bush appointee who wants to put an exclamation point on his career," Maviglio told us a while back. Instead, it looks like the White House has added a period to Walpin's tenure as IG. While not spelled out by the administration, Walpin's ouster is being widely attributed to his handling of the St HOPE mess. What Obama did say, in a written statement on the firing, was that, "It is vital that I have the fullest confidence in the appointees serving as Inspectors General. That is no longer the case with regard to this Inspector general."

(The Washington Examiner on Friday reported that the firing was indeed over the St HOPE affair, for what it's worth.)

Johnson is probably feeling vindicated right now, but many observers are already questioning Obama's decision. Republican Senator Charles Grassley of Iowa wrote to Obama saying that Walpin had been doing his job, and that "We can not afford to have Inspector General independence threatened."

And the watchdog group Project on Government Oversight complained that, "Even the appearance of political favoritism can cast a shadow on the independence of the IG community."

Senator Grassley, June 11, 2009

http://grassley.senate.gov/news/Article.cfm?customer_dataPageID_1502=21209#

Grassley calls on administration to safeguard independence of Inspectors General

WASHINGTON — Senator Chuck Grassley is urging the administration to follow the letter and spirit of the law, which the President co-sponsored as legislation as a U.S. senator in 2007, regarding the dismissal of the Inspector General for the AmeriCorps program, after reports last night that administration officials gave the watchdog an hour to resign or be terminated.

Grassley said it looks like the White House is today modifying its stance and saying that last night's ultimatum started the 30-day notification clock. "Either way, it looks like the letter and spirit of the law Congress passed last year to try to safeguard the independence of Inspectors General from the heavy hand of the executive branch that it's supposed to oversee might have been circumvented," he said.

Grassley has worked for many years to empower Inspectors General to act as effective watchdogs for taxpayers and federal program beneficiaries. He's also worked to hold Inspectors General accountable when they've failed to fulfill the responsibilities of the role. Grassley has conducted extensive and active oversight of the federal bureaucracy.

"The importance of constant, independent review of the work of federal agencies has been proven again and again, and Inspectors General are a key part of that effort," Grassley said. "Congress recognized the need for independence when it passed the reform legislation last year requiring congressional notification 30 days prior to removal. Inspectors General need to know they have independence and won't be removed for arbitrary reasons. The public needs confidence that the watchdogs can hold the bureaucracy accountable."

The text of Grassley's letter to the President is below.

June 11, 2009

Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I was troubled to learn that last night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated. As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny.

Last year, President Bush signed the Inspector General Reform Act (P.L. 110-409) into law. Both you and I were cosponsors of this important legislation that was introduced to strengthen the independence and integrity of the Inspectors General. One of the most important provisions of the legislation we cosponsored was Section 3 which amended the procedures for the removal of Inspectors General. Specifically, Section 3 requires that, "the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer." No such notice was provided to Congress in this instance.

As you may recall, the Senate Committee Report (S. Rep. 110-262) accompanying the Inspector General Reform

Act stated the intent of Congress. That report stated:

"The Committee intends that Inspectors General who fail to perform their duties properly whether through malfeasance or nonfeasance, or whose personal actions bring discredit upon the office, be removed. The requirement to notify the Congress in advance of the reasons for the removal should serve to ensure that Inspectors General are not removed for political reasons."

Given that you were a cosponsor of this vital legislation I am deeply troubled to learn of the ultimatum given Inspector General Walpin absent Congressional notification.

There have been no negative findings against Mr. Walpin by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and he has identified millions of dollars in Americorps funds either wasted outright or spent in violation of established guidelines.[1] In other words, it appears he has been doing his job.

We cannot afford to have Inspector General independence threatened. In light of the massive increases in federal spending of late, it is more critical than ever that we have an Inspector General community that is vigorous, independent, and active in rooting out waste, fraud, and abuse. I urge you to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General.

**Sincerely,
Charles E. Grassley
United States Senator**

Holland, Austin

From: Trinity, Frank
Sent: Monday, June 15, 2009 11:40 PM
To: Stan Soloway; Goren, Nicola
Subject: RE: Follow-up call

Stan,
I'll plan to call you at 8:30. Left a VM regarding Norm support for your call to Issa staff sooner rather than later.
Frank

-----Original Message-----

From: Stan Soloway [mailto: [REDACTED]]
Sent: Mon 6/15/2009 9:37 PM
To: Goren, Nicola; Trinity, Frank
Cc:
Subject: RE: Follow-up call

Did one of my rudder check calls...interesting discussion...do you want to try and talk briefly before you 930 call w/the WH?

Stan Z. Soloway
President & CEO
Professional Services Council
4401 Wilson Blvd, Suite 1110, Arlington, VA 22203
P: [REDACTED] F: [REDACTED]
www.pscouncil.org

The Unified Voice of the Government Services Industry

SAVE THE DATE!
PSC ANNUAL CONFERENCE - October 4-6
Nemacolin Woodlands Resort, Farmington, PA
Contact the hotel directly to reserve your room today! 1-800-422-2736

From: Goren, Nicola [mailto: [REDACTED]]
Sent: Monday, June 15, 2009 8:01 PM
To: Elana J. Tyrangiel [REDACTED]; Norman L. Eisen [REDACTED]; goldsmith [REDACTED]; etanenblatt [REDACTED]; Stan Soloway; Trinity, Frank; Schmelzer, Ranit
Subject: Follow-up call

Let's plan to talk at 8:10. Call-in [REDACTED]
Sent via blackberry - please excuse typos

From: Goren, Nicola
To: 'Elana J. Tyrangiel';
'Norman L. Eisen';
Sent: Mon Jun 15 19:01:16 2009
Subject: Re: Press

Any update? On another wh call now but happy to talk after.

Sent via blackberry - please excuse typos

From: Tyrangiel, Elana J.
To: Goren, Nicola; Eisen, Norman L.; Messina, James A.
Terrell, Louisa; Earnest, Joshua R.
Trinity, Frank; Schmelzer, Ranit
Sent: Mon Jun 15 14:20:27 2009
Subject: Re: Press

Are folks available at 2:30?

From: Goren, Nicola
To: Tyrangiel, Elana J.; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit
Sent: Mon Jun 15 14:04:01 2009
Subject: Press

The press interest is heating up – we have inquiries from Washington Post and Fox News (Glenn Beck show) in the last hour. My communications folks are saying this is now taking on a life of its own and we need to step up communications to get the Administration's side of the story out and to mitigate the blogs and press that have been out there for the last few days.

We need to be able to say more than we have been (more substantive talking points are needed), and ideally, the White House would take the lead to respond to some of these inquiries. Our Board Vice Chair Steve Goldsmith could also play a role.

Can we discuss?

Nicky

Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service

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www.nationalservice.gov

2/21

Flowe, Meredith

From: Eisen, Norman L. [REDACTED]
Sent: Monday, June 15, 2009 2:07 PM
To: Goren, Nicola; Tyrangiel, Elana J.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit
Subject: RE: Press

Who from the Post?

From: Goren, Nicola [mailto:[REDACTED]]
Sent: Monday, June 15, 2009 2:04 PM
To: Tyrangiel, Elana J.; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit
Subject: Press

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Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service
[REDACTED]

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www.nationalservice.gov

1/1

Holland, Austin

From: Tyrangiel, Elana J. [REDACTED]
Sent: Monday, June 15, 2009 2:20 PM
To: Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank; Schmeizer, Ranit
Subject: Re: Press

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[REDACTED]

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Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:18 PM
To: Holland, Austin
Subject: FW: Press

From: Schmelzer, Ranit
Sent: Monday, June 15, 2009 3:38 PM
To: Tyrangiel, Elana J.; Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank
Cc: Scott, Sandy
Subject: RE: Press

Walpia is going on the Glen Beck show on Fox at 5pm tonight.
The producer says they are going to be following it all week.

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Monday, June 15, 2009 2:20 PM
To: Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit
Subject: Re: Press

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Can we discuss?

Nicky

Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service
[REDACTED]

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: CBS Radio

From: Schmelzer, Ranit
Sent: Friday, June 12, 2009 12:57 PM
To: 'Joshua R. Earnest' [REDACTED]
Subject: Re: CBS Radio

Yup

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Fri Jun 12 12:03:33 2009
Subject: RE: CBS Radio
Can you send Jake [REDACTED] the copy of the joint Solomont/Goldsmith statement?
Thanks.

From: Schmelzer, Ranit [mailto:[REDACTED]]
Sent: Friday, June 12, 2009 11:23 AM
To: Earnest, Joshua R.
Subject: Re: CBS Radio

Got it.

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Fri Jun 12 10:55:46 2009
Subject: RE: CBS Radio
Good morning:

Ironically, this version of the AP story is somewhat better than the version they ran last night.

[REDACTED]

Jake Tapper is blogging on this, too. He's asked for the letters and he and I will talk later this morning.

From: Schmelzer, Ranit [mailto:[REDACTED]]

Holland, Austin

From: Earnest, Joshua R. [REDACTED]
Sent: Monday, June 15, 2009 3:51 PM
To: Schmelzer, Ranit; Tyrangiel, Elana J.; Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Trinity, Frank
Cc: Scott, Sandy
Subject: RE: Press

I'm sure they will. I sent through Major Garrett the Greg Craig letter and told them that they could quote extensively from that letter in response to Mr. Walpin.

From: Schmelzer, Ranit [mailto:[REDACTED]]
Sent: Monday, June 15, 2009 3:38 PM
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Nicky

Nicola Goren
Acting Chief Executive Officer

8/6/2009

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Holland, Austin

From: Schmelzer, Ranit
Sent: Monday, June 15, 2009 4:54 PM
To: 'Earnest, Joshua R.'; Tyrangiel, Elana J.; Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Trinity, Frank
Cc: Scott, Sandy
Subject: RE: Press

Ed O'Keefe, WP, is writing for web and paper. He talked to Walpin earlier today. Josh, give me a buzz if you want more.

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Monday, June 15, 2009 3:51 PM
To: Schmelzer, Ranit; Tyrangiel, Elana J.; Goren, Nicola; Eisen, Norman L.; Messina, James A.; Terrell, Louisa; Trinity, Frank
Cc: Scott, Sandy
Subject: RE: Press

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Subject: Press
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8/6/2009

hour. My communications folks are saying this is now taking on a life of its own and we need to step up communications to get the Administration's side of the story out and to mitigate the blogs and press that have been out there for the last few days.

We need to be able to say more than we have been (more substantive talking points are needed), and ideally, the White House would take the lead to respond to some of these inquiries. Our Board Vice Chair Steve Goldsmith could also play a role.

Can we discuss?

Nicky

Nicola Goren
Acting Chief Executive Officer
Corporation for National and Community Service
[REDACTED]

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www.nationalservice.gov

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 9:00 AM
To: Holland, Austin
Subject: FW: Walpin - admits never pressured

From: Earnest, Joshua R. [mailto:████████████████████]
Sent: Monday, June 15, 2009 5:26 PM
To: Schmelzer, Ranit; Eisen, Norman L.; Tyrangiel, Elana J.
Subject: Walpin - admits never pressured

Mr. Walpin just had his star turn on Glenn Beck.

Nothing particularly newsworthy EXCEPT he acknowledged that he was never pressured to alter or halt his investigation into St. Hope and Mr. Johnson. I'll have our guys pull the transcript, but that's a pretty useful nugget.

Josh Earnest
Deputy White House Press Secretary
██████████(desk)

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:12 PM
To: Holland, Austin
Subject: FW: some light reading before our call...

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 8:33 AM
To: Eisen, Norman L.; Tyrangiel, Elana J.; Schmelzer, Ranit
Subject: [REDACTED] before our call...

Grassley wants more details on fired AmeriCorps IG

By ANN SANNER

The Associated Press

Monday, June 15, 2009 9:10 PM

WASHINGTON -- A Senate Republican is asking for information on any role first lady Michelle Obama's office may have played in her husband's decision to fire the watchdog for the federal AmeriCorps program over his investigation of Sacramento Mayor Kevin Johnson.

Sen. Chuck Grassley of Iowa requested that Alan Solomont, chairman of the government-run Corporation for National and Community Service, which runs the AmeriCorps program, provide "any and all records, e-mail, memoranda, documents, communications or other information" related to contacts with officials in the first lady's office.

White House spokesman Josh Earnest said Monday that Mrs. Obama played no role in the president's decision to remove Gerald Walpin, the national service agency's inspector general. Earnest said administration lawyers were reviewing Grassley's request but have not decided how to respond.

Michelle Obama's former chief of staff, Jackie Norris, is expected to join the national service corporation as a senior adviser on June 22. Norris was a senior adviser in Obama's campaign for Iowa's precinct caucuses, and she was state director for his general election campaign in Iowa.

The president on Thursday told Congress he had lost confidence in Walpin. White House counsel Gregory Craig, in a letter to Grassley, cited criticism of Walpin's investigation of Johnson, a former all-star point guard for the Phoenix Suns and a supporter of Obama's presidential campaign.

Walpin said Friday in an interview with The Associated Press that he reported facts and conclusions "in an honest and full way" while at the corporation. "I know that I and my office acted with the highest integrity as an independent inspector general should act," he said.

In September 2008, Walpin's office found misuse of federal grants by Johnson and the St. HOPE Academy, a nonprofit education program he founded. Johnson and St. HOPE ultimately agreed to repay half of \$847,000 in grants they had received from AmeriCorps between 2004 and 2007.

Walpin was criticized by the acting U.S. attorney in Sacramento for the way he handled the investigation of Johnson and the academy. Acting U.S. Attorney Lawrence Brown said in an April 29 letter to the federal counsel of inspectors general that Walpin's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

In his letter Friday to Solomont, Grassley also asked for information related to Walpin's performance and contacts the corporation had with the U.S. attorney's office and officials in Obama's executive office.

"In light of the removal of the inspector general, it is vital that Congress obtain a full understanding of the role that you and your colleagues at CNCS played in these matters," Grassley told Solomont.

At the White House, Earnest called any suggestion that Mrs. Obama had interfered "false and uninformed." "Mrs. Obama is an energetic advocate for the mission of the Corporation for National and Community Service but is not involved in the day-to-day management of the agency," he said.

Walpin was appointed by President George W. Bush and sworn into office in January 2007.

Both Solomont, a Democrat, and Stephen Goldsmith, a Republican and the board's vice chair, have said they backed the president's decision to fire Walpin.

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The White House Fires a Watchdog

The curious case of the inspector general and a Presidential ally.

President Obama swept to office on the promise of a new kind of politics, but then how do you explain last week's dismissal of federal Inspector General Gerald Walpin for the crime of trying to protect taxpayer dollars?

This is a case that smells of political favoritism and Chicago rules.

A George W. Bush appointee, Mr. Walpin has since 2007 been the inspector general for the Corporation for National and Community Service, the federal agency that oversees such subsidized volunteer programs as AmeriCorps. In April 2008 the Corporation asked Mr. Walpin to investigate reports of irregularities at St. HOPE, a California nonprofit run by former NBA star and Obama supporter Kevin Johnson. St. HOPE had received an \$850,000 AmeriCorps grant, which was supposed to go for three purposes: tutoring for Sacramento-area students; the redevelopment of several buildings; and theater and art programs.

Gerald Walpin, Inspector General of the Corporation For National and Community Service, was fired by President Barack Obama.

Mr. Walpin's investigators discovered that the money had been used instead to pad staff salaries, meddle politically in a school-board election, and have AmeriCorps members perform personal services for Mr. Johnson, including washing his car.

At the end of May, Mr. Walpin's office recommended that Mr. Johnson, an assistant and St. HOPE itself be "suspended" from receiving federal funds. The Corporation's official charged with suspensions agreed, and in September the suspension letters went out. Mr. Walpin's office also sent a civil and/or criminal referral to the U.S. Attorney for the Eastern District of California.

So far, so normal. But that all changed last fall, when Mr. Johnson was elected mayor of Sacramento. News of the suspension had become public, and President Obama began to discuss his federal stimulus spending. A city-hired attorney pronounced in March that Sacramento might be barred from receiving stimulus funds because of Mr. Johnson's suspension.

The news caused a public uproar. The U.S. Attorney's office, which since January has been headed by Lawrence Brown -- a career prosecutor who took over when the Bush-appointed Attorney left -- had already decided not to pursue criminal charges. Media and political pressure then mounted for the office to settle the issue and lift Mr. Johnson's suspension. Mr. Walpin agreed Mr. Johnson should pay back money but objected to lifting the suspension. He noted that Mr. Johnson has never officially responded to the Corporation's findings and that the entire point of suspension is to keep federal funds from individuals shown to have misused them.

Mr. Brown's office responded by cutting off contact with Mr. Walpin's office and began working directly with the Corporation, the board of which is now chaired by one of Mr. Obama's top campaign fundraisers, Alan Solomont. A few days later, Mr. Brown's office produced a settlement draft that significantly watered down any financial repayment and cleared Mr. Johnson. Mr. Walpin told us that in all his time working with U.S. Attorneys on cases he'd referred, he'd never been cut out in such fashion.

Mr. Walpin brought his concerns to the Corporation's board, but some board members were angry over a separate Walpin investigation into the wrongful disbursement of \$80 million to the City University of New York. Concerned about the St. HOPE mess, Mr. Walpin wrote a 29-page report, signed by two other senior members of his office, and submitted it in April to Congress. Last Wednesday, he got a phone call from a White House lawyer telling him to resign within an hour or be fired.

We've long disliked the position of inspectors general, on grounds that they are creatures of Congress designed to torment the executive. Yet this case appears to be one in which an IG was fired because he criticized a favorite Congressional and executive project (AmeriCorps), and refused to bend to political pressure to let the Sacramento mayor have his stimulus dollars.

There's also the question of how Mr. Walpin was terminated. He says the phone call came from Norman Eisen, the Special Counsel to the President for Ethics and Government Reform, who said the President felt it was time for Mr. Walpin to "move on," and that it was "pure coincidence" he was asked to leave during the St. HOPE controversy. Yet the Administration has already had to walk back that claim.

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White House Counsel Gregory Craig cited a complaint that had been lodged against Mr. Walpin by Mr. Brown, the U.S. Attorney, accusing Mr. Walpin of misconduct, and of not really having the goods on Mr. Johnson. But this is curious given that Mr. Brown himself settled with St. HOPE, Mr. Johnson and his assistant, an agreement that required St. HOPE (with a financial assist from Mr. Johnson) to repay approximately half of the grant, and also required Mr. Johnson to take an online course about bookkeeping.

Iowa Republican Chuck Grassley, a co-sponsor of the IG Reform Act, is now demanding that the Corporation hand over its communications on this mess. He also wants to see any contact with the office of First Lady Michelle Obama, who has taken a particular interest in AmeriCorps, and whose former chief of staff, Jackie Norris, recently arrived at the Corporation as a "senior adviser."

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Printed in The Wall Street Journal, page A14

Beltway bloggers abuzz over Johnson, investigator's firing

rlillis@sacbee.com

Published Tuesday, Jun. 16, 2009

Sacramento Mayor Kevin Johnson is a hot topic in the D.C. Beltway blogosphere, with some charging that his perceived ties to the president played a role in the dismissal of a federal investigator.

Gerald Walpin, who as inspector general for the Corporation for National and Community Service investigated misuse of federal aid by Johnson and his nonprofit St. HOPE, was fired last week.

In a letter to Congress, President Barack Obama said he had lost confidence in Walpin. White House press officials would not elaborate, saying it was a personnel issue.

That hasn't stopped Washington, D.C., media outlets and political blogs from jumping in, theorizing that Johnson helped pull the strings in the firing.

Under the headline "Walpin-gate," the conservative Washington Times editorial Monday said "political entanglements" were involved in Walpin's removal. Nearly every blog that tackled the subject pointed out Johnson's celebrity status as a former NBA point guard and many described him as a friend of the president's.

It's a story that has been simmering for weeks.

Walpin, a conservative attorney, blasted Johnson's settlement with federal prosecutors in April that called for the mayor, his St. HOPE organization and its former executive director, Dana Gonzalez, to repay more than \$400,000 in misused grants. Walpin recently asked Congress to review the case.

Federal prosecutors fired back at Walpin, criticizing his handling of the investigation.

Acting U.S. Attorney Lawrence G. Brown wrote a letter in April to a branch of the FBI that polices the integrity of federal inspectors general. It asked for a review of Walpin's performance in the probe.

Brown also criticized Walpin on the day the settlement was reached, saying the inspector general's decision to widely publicize his findings before the U.S. attorney's office had reviewed the case was "a decision not made in consultation with this office, I can assure you." He said Walpin "created a lot of noise that was not helpful" and criticized his decision to publicize the investigation during last year's mayoral campaign.

Reached by telephone Monday, Walpin said the settlement was "not appropriate" and was reached "behind the back" of the inspector general's office.

He would not speculate whether the mayor's perceived connections to the president played a role in his dismissal.

However, Walpin did say he thought it was "no coincidence that our report and investigation of Kevin Johnson, together with the special report to Congress which details what we thought were improprieties of the settlement, excited a great deal of opposition from the (Corporation for National and Community Service)."

Just how much clout Johnson has in D.C. is up for debate.

The mayor has referred to himself as "Baby Barack," but actually has spent little time with the president. He was one of 80 mayors to attend a luncheon at the White House. According to federal campaign documents, Johnson – whose supporters include some of the Sacramento region's staunchest Republicans – donated \$2,300 to the Obama campaign.

Deputy White House press secretary Josh Earnest said any connection Johnson might have to the president did not play a role in Walpin's dismissal.

Chris Young, the mayor's former special assistant, left City Hall last month for a job as an associate under Jeff Bleich, a special counsel to the president. Young said the mayor never asked him to help get Walpin removed and that he was not part of the decision-making process that led to Walpin's dismissal.

The mayor was on his way back to Sacramento from the U.S. Conference of Mayors in Rhode Island on Monday and could not be reached for comment. Joaquin McPeck, a mayoral spokesman, said the office would "at this point have no comment on this issue."

Adding to the speculation was a fax sent Friday from Iowa Republican Sen. Chuck Grassley to Alan D. Solomont, chairman of the Corporation for National and Community Service.

In that letter, Grassley asked for information and correspondence between first lady Michelle Obama's office, Johnson and St. HOPE Academy.

Grassley also wrote that, based on documents he reviewed, "it seems that the facts of this investigation were substantially disregarded and the blatant waste of federal taxpayer dollars were handled with a little more than a slap on the wrist."

Grassley cited the resignation letter of former St. HOPE executive director Rick Maya, which was obtained and published by The Bee through the Public Records Act. Maya outlined a list of legal and ethical concerns about the operation of St. HOPE Public Schools and St. HOPE Academy, including a claim that a St. HOPE Public Schools board member deleted Johnson's e-mails during the federal investigation into the misuse of public funds at St. HOPE Academy.

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Before Johnson's settlement with the federal government, a Washington, D.C., attorney told city officials the city likely would be ineligible to receive federal aid while the mayor was on a list of individuals banned from those funds. The mayor was taken off the list as part of his settlement.

Seeking Answers on IG Firing, Sen. Grassley Asks About Possible Role of First Lady's Office

June 15, 2009 10:18 AM

In an email and fax sent late Friday, Sen. Chuck Grassley, R-Iowa, demanded that Alan D. Solomont, the chairman of the Corporation for National and Community Service, provide "any and all records, email, memoranda, documents, communications, or other information, whether in draft or final form" related to President Obama's firing of CNCS Inspector General Gerald Walpin.

Walpin had investigated Sacramento Mayor Kevin Johnson's community service organization, St. HOPE Academy, which confessed to misusing AmeriCORPS grants. In April of this year, St. HOPE Academy agreed to pay a \$423,836.50 settlement -- \$72,836.50 of which would be paid personally by Mayor Johnson.

"For reasons that I do not yet understand, the OIG was excluded from this proceeding and the settlement

lifting the suspension, was done in complete disregard of the OIG's findings, as well as the previous determination of wrong doing identified in the Notice of Suspension," Grassley wrote. "Perhaps the settlement agreement was reached without any input from the OIG, because less than half of what was misused by the Corporation grantees is being returned to the taxpayer and the OIG would not have agreed to this arrangement. In fact, an argument can be made that not even half of the misused funds is being returned, because the settlement does not require that payment in full be made. Rather the settlement places the grantees on a type of payment plan that will occur over a decade; to date less than 10% of the misused money has been recovered."

During the course of his investigation, Walpin clashed with the US Attorney's office; eventually Acting US Attorney Lawrence Brown, complaining that Walpin acted "as the investigator, advocate, judge, jury and town crier" in his investigation, wrote to the chair of the Integrity Committee for the Counsel of the Inspectors General on Integrity and Efficiency "to express my Office's concerns about the conduct" of Walpin.

Over the weekend we covered this firing [HERE](#) and [HERE](#).

In his Friday email and fax, Grassley told Solomont, who backed Walpin's termination, that he wanted to see all materials related to Walpin's performance as Inspector General, his removal, any contacts CNCS had with the United States Attorney's Office, St. HOPE Academy, Mayor Johnson, the White House, or the First Lady's office.

This appears to be related to a report in Youth Today, an independent, nationally distributed newspaper for professionals in the youth service field, which reported that "Some decisions about CNCS are being made by First Lady Michelle Obama, according to service advocates (who asked not to be named). Last week, Mrs. Obama announced that her chief of staff, Jackie Norris, would move to CNCS as a senior adviser. Officials said yesterday that Norris is scheduled to arrive on June 22."

The White House has not yet reacted to this letter; we will add their response when they do so.

- jpt

UPDATE: Josh Earnest, Deputy White House Press Secretary, says: "The anonymous source quoted by Youth Today suggesting that the First Lady was somehow involved in the decision to replace Mr. Walpin is false and uninformed. Mrs. Obama is an energetic advocate for the mission of the Corporation for National and Community Service, but is not involved in the day-to-day management of the agency."

Josh Earnest
Deputy White House Press Secretary



Holland, Austin

From: Schmelzer, Ranit
Sent: Tuesday, June 16, 2009 9:21 AM
To: Goren, Nicola; Trinity, Frank
Subject: Fw: some light reading before our call...

From: Earnest, Joshua R. [REDACTED]
To: Eisen, Norman L. [REDACTED]; Tyrangiel, Elana J.
[REDACTED]; Schmelzer, Ranit
Sent: Tue Jun 16 08:33:29 2009
Subject: some light reading before our call...

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By ANN SANNER
The Associated Press
Monday, June 15, 2009 9:10 PM

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White House spokesman Josh Earnest said Monday that Mrs. Obama played no role in the president's decision to remove Gerald Walpin, the national service agency's inspector general. Earnest said administration lawyers were reviewing Grassley's request but have not decided how to respond. Michelle Obama's former chief of staff, Jackie Norris, is expected to join the national service corporation as a senior adviser on June 22. Norris was a senior adviser in Obama's campaign for Iowa's precinct caucuses, and she was state director for his general election campaign in Iowa.

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Seeking Answers on IG Firing, Sen. Grassley Asks About Possible Role of First Lady's Office

June 15, 2009 10:18 AM

In an email and fax sent late Friday, Sen. Chuck Grassley, R-Iowa, demanded that Alan D. Solomont, the chairman of the Corporation for National and Community Service, provide "any and all records, email, memoranda, documents, communications, or other information, whether in draft or final form" related to President Obama's firing of CNCS Inspector General Gerald Walpin.

Walpin had investigated Sacramento Mayor Kevin Johnson's community service organization, St. HOPE Academy, which confessed to misusing AmeriCORPS grants. In April of this year, St. HOPE Academy agreed to pay a \$423,836.50 settlement -- \$72,836.50 of which would be paid personally by Mayor Johnson.

"For reasons that I do not yet understand, the OIG was excluded from this proceeding and the settlement lifting the suspension, was done in complete disregard of the OIG's findings, as well as the previous determination of wrong doing identified in the Notice of Suspension," Grassley wrote. "Perhaps the settlement agreement was reached without any input from the OIG, because less than half of what was misused by the Corporation grantees is being returned to the taxpayer and the OIG would not have agreed to this arrangement. In fact, an argument can be made that not even half of the misused funds is being returned, because the settlement does not require that payment in full be made. Rather the settlement places the grantees on a type of payment plan that will occur over a decade; to date less than 10% of the misused money has been recovered."

During the course of his investigation, Walpin clashed with the US Attorney's office; eventually Acting US Attorney Lawrence Brown, complaining that Walpin acted "as the investigator, advocate, judge, jury and town crier" in his investigation, wrote to the chair of the Integrity Committee for the Counsel of the Inspectors General on Integrity and Efficiency "to express my Office's concerns about the conduct" of Walpin.

Over the weekend we covered this firing [HERE](#) and [HERE](#).

In his Friday email and fax, Grassley told Solomont, who backed Walpin's termination, that he wanted to see all materials related to Walpin's performance as Inspector General, his removal, any contacts CNCS had with the United States Attorney's Office, St. HOPE Academy, Mayor Johnson, the White House, or the First Lady's office.

This appears to be related to a report in Youth Today, an independent, nationally distributed newspaper for professionals in the youth service field, which reported that "Some decisions about CNCS are being made by First Lady Michelle Obama, according to service advocates (who asked not to be named). Last week Mrs. Obama announced that her chief of staff, Jackie Norris, would move to CNCS as a senior adviser. Officials said yesterday that Norris is scheduled to arrive on June 22."

The White House has not yet reacted to this letter; we will add their response when they do so.

- jpt

UPDATE: Josh Earnest, Deputy White House Press Secretary, says: "The anonymous source quoted by Youth Today suggesting that the First Lady was somehow involved in the decision to replace Mr. Walpin is false and uninformed. Mrs. Obama is an energetic advocate for the mission of the Corporation for National and Community Service, but is not involved in the day-to-day management of the agency."

Josh Earnest
Deputy White House Press Secretary

8/6/2009

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:13 PM
To: Holland, Austin
Subject: FW: WPost web story on Walpin

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 12:13 PM
To: Schmelzer, Ranit; Eisen, Norman L.; Tyrangiel, Elana J.
Subject: WPost web story on Walpin

It's actually pretty well balanced. Since he noted that Walpin was appointed by Bush, I asked him to include that the US Attorney was also appointed by Bush.

All in all, it's not a helpful story – but it's a lot better than others that have been written. I still think we should try and get this letter to the Hill out today, though.

http://voices.washingtonpost.com/federal-eye/2009/06/the_former_inspector_general_f.html

Grassley Questions White House Dismissal of AmeriCorps IG

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Walpin, a registered Republican, was appointed to the post in 2007 by President **George W. Bush** after spending more than 30 years as a federal prosecutor and private attorney in New York City. The Corporation's board chairman **Alan Solomon**, a Democrat, and vice chairman **Stephen Goldsmith**, a Republican, strongly endorsed Obama's decision.

"In light of the removal of the Inspector General, it is vital that Congress obtain a full understanding of the role that you and your colleagues at CNCS played in these matters," Grassley wrote in his letter to Solomon, requesting he provide the information by Friday.

The Iowa Republican wants to determine if Corporation officials said anything to White House staffers about Walpin's tenure in an attempt to get him fired, according to a spokeswoman for the senator. Grassley's interest in Mrs. Obama's potential involvement comes as recent reports suggest she is involved in key decisions at the Corporation. The first lady's former chief of staff Jackie Norris was given a position as a senior adviser to the Corporation, which she is scheduled to begin next week.

1-2-09

The White House would not comment yesterday on the specifics of Walpin's departure, but did refute the reports regarding the first lady.

"Mrs. Obama is an energetic advocate for the mission of the Corporation for National and Community Service, but is not involved in the day-to-day management of the agency," White House spokesman **Josh Earnest** said.

"The President will appoint a replacement in whom he has full confidence as the Corporation carries out its important mission," he later said.

In an interview Monday, Walpin defended his office's work and said he fears his dismissal will impact other inspectors general.

"This is an attack upon the independence of inspectors general generally," he said. "The . . . effect of this, if this is allowed to stand, is going to be immense in chilling the responsibility and actions of inspectors general to do their independent investigations," he said.

The controversy surrounding Walpin's dismissal stems from a 2008 investigation into the potential misuse of federal grants provided by AmeriCorps to the St. HOPE Academy of Sacramento, Calif. The group was founded in 1989 by former NBA star **Kevin Johnson**, who is now mayor of Sacramento and also is an Obama supporter.

Walpin's investigation concluded Johnson and a colleague had misused grant funding totaling approximately \$850,000 on six occasions. He referred the findings to the U.S. Attorney's Office in Sacramento and government lawyers later decided not to press criminal charges. In a settlement reached earlier this year, Johnson and St. HOPE officials agreed to repay half of the grants it received from AmeriCorps.

The settlement angered Walpin, who complained that his office was not consulted after referring the case to the U.S. attorney's office. Following the settlement, acting U.S. attorney **Lawrence G. Brown** raised concerns about Walpin's conduct during the Johnson investigation with the Council of the Inspectors General on Integrity and Efficiency, an independent entity charged with investigating complaints against government watchdogs.

Brown alleged in a letter to the council that Walpin selectively withheld key information from the U.S. Attorney's Office and claimed that the IG's comments to the news media hampered his office's investigation.

In a lengthy response, Walpin refuted Brown's charges and urged the council to dismiss them, arguing they had no merit. The panel is expected to decide later this week if he committed any wrongdoing.

"I was basically fired because I was doing my job," Walpin said Monday, claiming President Obama dismissed him without specific cause.

Walpin learned of the president's decision last Wednesday evening in a telephone call from the White House counsel's office. He assumed the call was related to recent conversations with White House staffers about publicly supporting Judge Sonia Sotomayor's nomination to the Supreme Court, he said.

In 1998, Walpin issued a brief to the Senate Judiciary Committee in support of her nomination to the Court of Appeals for the Second Circuit and White House staffers had asked him in recent weeks about

issuing a similar statement again, he said. Walpin said he still supports Sotomayor's nomination and said he still plans to issue a statement of support. The White House was checking Walpin's claims and could not immediately provide a comment.

In his letter to Obama, Grassley suggested the president violated provisions of the Inspector General Act of 2008 that require the president to inform Congressional leaders in writing of any plans to dismiss an IG at least 30 days before doing so.

"I was troubled to learn that...your staff reportedly issued an ultimatum to the Americorps Inspector General Gerald Walpin that he had one hour to resign or be terminated," Grassley wrote in regards to the Wednesday evening phone call. White House officials insist the phone was meant as a courtesy to inform Walpin of the president's final decision. Walpin is on suspension with pay until his termination takes effect in mid-July.

Josh Earnest
Deputy White House Press Secretary
[REDACTED] (desk)

Holland, Austin

From: Schmelzer, Ranit
Sent: Tuesday, June 16, 2009 12:14 PM
To: Goren, Nicola; Trinity, Frank
Subject: Fw: WPost web story on Walpin

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit; Eisen, Norman L. [REDACTED]; Tyrangiel, Elana J.
Sent: Tue Jun 16 12:12:56 2009
Subject: WPost web story on Walpin

It's actually pretty well balanced. Since he noted that Walpin was appointed by Bush, I asked him to include that the US Attorney was also appointed by Bush.

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"In light of the removal of the Inspector General, it is vital that Congress obtain a full understanding of the role that you and your colleagues at CNCS played in these matters," Grassley wrote in his letter to Solomont, requesting he provide the information by Friday.

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"Mrs. Obama is an energetic advocate for the mission of the Corporation for National and Community Service, but is not involved in the day-to-day management of the agency," White House spokesman Josh Earnest said.

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8/6/2009

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Walpin's investigation concluded Johnson and a colleague had misused grant funding totaling approximately \$850,000 on six occasions. He referred the findings to the U.S. Attorney's Office in Sacramento and government lawyers later decided not to press criminal charges. In a settlement reached earlier this year, Johnson and St. HOPE officials agreed to repay half of the grants it received from AmeriCorps.

The settlement angered Walpin, who complained that his office was not consulted after referring the case to the U.S. attorney's office. Following the settlement, acting U.S. attorney **Lawrence G. Brown** raised concerns about Walpin's conduct during the Johnson investigation with the Council of the Inspectors General on Integrity and Efficiency, an independent entity charged with investigating complaints against government watchdogs.

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Deputy White House Press Secretary

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Sent: Tuesday, June 16, 2009 12:39 PM
To: Schmelzer, Ranit; Eisen, Norman L.; Tyrangiel, Elana J.
Subject: RE: WPost web story on Walpin

O'Keefe has updated his story with my suggestion – as well as with an excerpt from the Issa letter.

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Josh Earnest
Deputy White House Press Secretary



Holland, Austin

From: Tyrangiel, Elana J. [REDACTED]
Sent: Tuesday, June 16, 2009 4:53 PM
To: Earnest, Joshua R.; Eisen, Norman L.; Terrell, Louisa; Wilson, Denise R.; Trinity, Frank; Schmelzer, Ranit; Goren, Nicola
Subject: Re:

Are folks going to hop on the 4:45 call? Norm and I are the only ones on . . .

From: Tyrangiel, Elana J.
To: Earnest, Joshua R.; Eisen, Norman L.; Terrell, Louisa; Wilson, Denise R.; 'Trinity, Frank' ; Schmelzer, Ranit ; Goren, Nicola
Sent: Tue Jun 16 14:47:48 2009
Subject:

Attached is a copy of the Issa letter, and below is a copy of a letter from Towns, who asserts that Issa got the law wrong (" . . . I do not agree with the Ranking Member that the President's actions in this case are inconsistent with the law that was enacted last year"). Towns also requests a briefing.

As discussed, we will circle up again at 4:45, same number.

The Honorable Gregory Craig
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Craig:

I am writing regarding the President's removal of Gerald Walpin from the office of Inspector General of the Corporation for National and Community Service. I have reviewed the letter from the President to the Speaker of the House notifying Congress of the removal on June 11, 2009, along with the letter from the Ranking Member of the Committee to you dated June 15, 2009 expressing concerns about the removal.

Ensuring the independence and accountability of Inspectors General is a priority for this Committee and the Congress. Last year, I worked extensively on the Inspector General Reform Act of 2008, which clarified the procedures through which the President may remove an Inspector General. Section 3 of that measure was the result of extensive negotiation. It required that the President provide 30 days notice to Congress before removing an Inspector General from office. However, the bill also expressly permitted the President to suspend an Inspector General from duty during that 30 day period. Therefore, I do not agree with the Ranking Member that the President's actions in this case are inconsistent with the law that was enacted last year.

Nonetheless, I believe a more thorough explanation for this Inspector General's removal is necessary for Congress to exercise its oversight responsibilities over Inspectors General, who by statute report to both the President and the Congress. Regrettably, the lack of information has prompted uninformed speculation in the media and by Members of Congress. Your office has offered to brief the Committee, and I believe such a briefing would be productive. Although I understand your office's desire to avoid an unnecessary invasion of the

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Inspector General's privacy regarding a personnel matter, an important stated goal of last year's reform legislation is that Inspectors General must be held accountable for their actions in office. Therefore, I believe disclosure of the investigations of Mr. Walpin's conduct that prompted his removal is necessary in the interests of transparency and accountability. Accordingly, I request that your office arrange a briefing for the Committee on these investigations.

Sincerely,

Edolphus Towns
Chairman

Cc: Rep. Darrell Issa
Ranking Minority Member

Holland, Austin

From: Trinity, Frank
To: Tuesday, June 16, 2009 9:33 PM
Subject: 'Soloway [REDACTED]
Status

WH is preparing its own communication with more specific information, including May 20 IG presentation that prompted Board request for WH review.

Holland, Austin

From: Trinity, Frank
Sent: Tuesday, June 16, 2009 9:53 PM
To: Soloway [REDACTED]
Subject: Re: Status

You are doing a great job on rudder check/validation; Norm was very appreciative as I conveyed your feedback.
Talk to you tomorrow.

----- Original Message -----

From: Stan Soloway [REDACTED]
To: Trinity, Frank
Sent: Tue Jun 16 21:50:35 2009
Subject: RE: Status

Thanks...If you/they want, I can circle back w/my folks tomorrow or thurs and make sure all are satisfied...other than that, I will sit tight...

Stan Z. Soloway
President & CEO
Professional Services Council
4401 Wilson Blvd. Suite 1110 Arlington, VA 22203
P: [REDACTED] F: [REDACTED]
www.pscouncil.org

The Unified Voice of the Government Services Industry

Mark your calendars now for the PSC Annual Conference; Oct.4-6, 2009 Nemaquin
odlands, Farmington, PA

-----Original Message-----

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Tuesday, June 16, 2009 9:33 PM
To: Stan Soloway
Subject: Status

WH is preparing its own communication with more specific information, including May 20 IG presentation that prompted Board request for WH review.

Flowe, Meredith

From: Glickman, Rhoda
sent: Wednesday, June 17, 2009 7:07 AM
to: 'terrell [REDACTED]

Emma Vadehra with Kennedy called yesterday to discuss IG issue -- I set up a meeting for 10am today with her (frank and me) and just realized I should have looped you in. Do you want to attend? Any concerns doing it?
R

Holland, Austin

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 8:47 PM
To: 'terrell [REDACTED]
Cc: Glickman, Rhoda
Subject: Seven-day letter supplemental response
Attachments: Vice President Letter with Attachments.pdf

Louisa,

As discussed, attached is our supplemental response to the IG's "seven-day" letter to St. HOPE Academy. This PDF is addressed to Vice-President Biden -- we are correcting to read to Majority Leader Reid, but I didn't want to delay your seeing the list of recipients so you can give us email and contact information.

A question: When does the window close on this for the evening? (We have folks coming back to the office to compress the PDF files and transmit by email.) If we can't make that window, we would have to delay transmittal of the seven-day supplemental until tomorrow.

8/6/2009

6/17/09

Holland, Austin

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 9:03 PM
To: Trinity, Frank; 'Denise_R._Wilson' [REDACTED]
Cc: Glickman, Rhoda
Subject: RE: Contact information for CNCS transmittal of response to 7 day letter from IG
Attachments: Speaker Letter with Attachments.pdf

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 8:53 PM
To: 'Denise_R._Wilson' [REDACTED]
Cc: Glickman, Rhoda
Subject: Contact information for CNCS transmittal of response to 7 day letter from IG

Denise,

Louisa suggested I contact you. We are preparing to deliver a response to an IG report on St. HOPE Academy that has received a fair amount of attention. I am attaching a PDF of the response.

We would greatly appreciate your providing us with email addresses and names for the best point of contact for us to send an email with the report (Louisa though chief of staff) with a note apologizing for sending cold and promising hand-delivery tomorrow. The list of committees follows the response.

Would that be possible this evening?

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

Holland, Austin

From: Terrell, Louisa [REDACTED]
Sent: Wednesday, June 17, 2009 9:15 PM
To: Trinity, Frank
Subject: Re: CNCS Board Letter to Senator Grassley re IG

Ok, good to go to send out. Are you set?

From: Trinity, Frank
To: Terrell, Louisa
Cc: Glickman, Rhoda
Sent: Wed Jun 17 20:42:08 2009
Subject: CNCS Board Letter to Senator Grassley re IG

Louisa,

Attached is a PDF of our Board's letter to Senator Grassley. As discussed, can you send us email and contact information for us to send electronically this evening with hard copies hand-delivered by us tomorrow morning?

I am sending a separate email regarding "seven day letter".

Thanks for your help on this.

Frank

Holland, Austin

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 9:32 PM
To: 'Terrell, Louisa'
Subject: RE: CNCS Board Letter to Senator Grassley re IG

I just want to verify that if our letter says we are sending copies to Chair and ranking members of HELP and Homeland Security/Governmental Affairs that the list below covers it (I can send to Kennedy and Enzi with whom I have staff contacts). Sorry I'm a bit out of my element here this evening.

From: Terrell, Louisa [mailto:████████████████████]
Sent: Wednesday, June 17, 2009 9:02 PM
To: Trinity, Frank; Tyrangiel, Elana J.
Subject: Re: CNCS Board Letter to Senator Grassley re IG

Hi frank.
I just spoke to Elana and we are square to get the Grassley ltr tonight and then do the seven-day tomorrow. Elana will give the final green light. But in the meantime here are the addresses:

Jason_Foster@finance-rep.senate.gov
Stephen_hedger@mccaskill.senate.gov
Brandon_millhorn@hsgac.senate.gov
Michael_alexander@hsgac.senate.gov

From: Trinity, Frank
To: Terrell, Louisa
Cc: Glickman, Rhoda
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I am sending a separate email regarding "seven day letter".

Thanks for your help on this.

Frank

Holland, Austin

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 9:40 PM
To: 'Tyra ngiel, Elana J.'; 'terrell [REDACTED] Eisen, Norman L.
Subject: FW: CNCS Board letter to Senator Grassley dated June 17, 2009 regarding Inspector General
Attachments: CNCS Board letter to Sen. Grassley June 17 2009.pdf

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 9:39 PM
To: 'Jason_Foster@finance-rep.senate.gov'
Subject: CNCS Board letter to Senator Grassley dated June 17, 2009 regarding Inspector General

Mr. Foster,

Our Board's Chair and Vice-Chair have asked me to convey to Senator Grassley the attached letter on behalf of seven Members of the Board of Directors regarding the Corporation's Inspector General.

We will hand-deliver the letter to your office tomorrow.

Please acknowledge receipt of this communication.

Thank you for your attention to this matter.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

Holland, Austin

From: Trinity, Frank

Sent: Wednesday, June 17, 2009 10:09 PM

To: 'Tyrangiel, Elana J.'; 'Iterrell [REDACTED]'; 'Denise_R._Wilson [REDACTED]'

Cc: Goren, Nicola; Schmelzer, Ranit; Glickman, Rhoda

Subject: update on CNCS transmittals to Congress

1. Board letter to Grassley. We sent by email to Grassley, with copies to McCaskill, Collins, Lieberman, Enzi, and Kennedy. We will hand-deliver tomorrow. Jason Foster acknowledged receipt of the electronic copy.
2. Supplemental response to IG's 7-day letter on St. HOPE Academy. We will transmit our supplemental response to the IG's 7-Day letter tomorrow, both electronically and by hand-delivery.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

Holland, Austin

m: Weideman, Christian [REDACTED]
t: Monday, June 22, 2009 6:33 PM
: Trinity, Frank
Subject: RE: Sen. Enzi staff call to CNCS re IG

Thanks, Frank. We'll be in touch tomorrow.

Best,
Chris

-----Original Message-----

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Monday, June 22, 2009 4:07 PM
To: Weideman, Christian
Subject: Sen. Enzi staff call to CNCS re IG

Chris,

Following up our telephone call just now, Amy Shank and 3 other Enzi staff colleagues (Buehlman, Vermeesch, Geale) called to follow up on the letter sent to WH Counsel and our Acting CEO on June 18 regarding the removal of our IG.

Amy asked about our timeline for responding to their letter and said that they had been directed to CNCS, in a meeting with Norm on Friday, for background on conduct issues other than those specifically referenced in Norm's June 16 letter to Senator Grassley.

Amy also asked for contact information for our Board of Directors. I explained that most of them were in California for our annual conference but that I would follow up.

I did not give them a timeline, and left it that I would get back in touch.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

Flowe, Meredith

From: Trinity, Frank
Sent: Tuesday, July 07, 2009 1:23 PM
To: 'Wilson, Denise R.'
Subject: FW: Connecting

Denise,

Mike McCarthy returned my message to Ron Stroman. He wasn't sure about setting up a call with Board members today. I told him that Issa/Grassley had already interviewed 3 Board members (Goldsmith, Tanenblatt, Soloway) and that we thought it was important for Mr. Towns to hear from the Board's leadership. He said he would check and get back to me.

Alan Solomont (D) (Board Chair) and Eric Tanenblatt (R) (Head of Management Committee) can do 5:30 conference call today. We may be able to get Steve Goldsmith via international call at that time.

We're concerned that Chairman Towns isn't getting the benefit of hearing from the bi-partisan Board's leadership.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
██████████(direct)

From: Wilson, Denise R. [mailto:██████████]
Sent: Tuesday, July 07, 2009 11:38 AM
To: Stroman, Ron
Cc: Trinity, Frank
Subject: Connecting

Ron, Frank is looking to loop in with you regarding connecting with the Board. He will be calling you very shortly.

Denise Wilson
Special Assistant to the President
Office of Legislative Affairs
The White House

Holland, Austin

n: Trinity, Frank
: Sunday, June 14, 2009 8:08 PM
'Elana_J._Tyrangiel'
Subject: Can you send me my statement to review?

I know we went over on the phone but if possible I'd like to see it in writing. Thanks.

----- Original Message -----

From: Tyrangiel, Elana J.
To: Trinity, Frank; Eisen, Norman L.; Meltzer, Daniel
Sent: Sun Jun 14 13:27:12 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Call-in information for 3:30:

Code:

-----Original Message-----

From: Trinity, Frank [mailto:]
Sent: Sunday, June 14, 2009 11:30 AM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Elana,
Frank Gearan's elderly mother has taken ill so he will be unable to do a call this
noon. He will keep us posted on availability.
I would like to speak with you about our agency response to Grassley's June 12 letter to our
Board.
What time today would work?

----- Original Message -----

From: Trinity, Frank
To: Tyrangiel, Elana J.
Sent: Sat Jun 13 17:19:29 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

I spoke with Laysha Ward. She is available tomorrow to speak.
Best contact is via email, and then she can call you back. Email:

Cell is
Laysha works for Target and has some preliminary questions about how a statement would be
used (she has spoken with Target's GC about this).
She did not take notes but does recollect the May 20 meeting.

Laysha described a Grassley letter to Alan Solomont. It makes a detailed
information/document request -- I will forward a copy when I get it, as some of the
information/documents relate to communications with WH.

-----Original Message-----

From: Tyrangiel, Elana J. [mailto:]
Sent: Sat 6/13/2009 4:35 PM
To: Trinity, Frank

Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

OK, we'll aim for 2!

From: Trinity, Frank (mailto: [REDACTED])
Sent: Saturday, June 13, 2009 4:35 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Mark Gearan can do a call tomorrow. 2 pm is best for him.

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Sent: Sat Jun 13 15:27:16 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you!

From: Trinity, Frank [REDACTED]
Sent: Saturday, June 13, 2009 3:27 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Jus received a note from Stan Soloway -- He's available till 4:30 today.

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Cc: Goren, Nicola; Samose, Emily
Sent: Sat Jun 13 12:52:08 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you.

From: Trinity, Frank [REDACTED]
Sent: Saturday, June 13, 2009 12:13 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Samose, Emily
Subject: contacting CNCS Board and staff today (status as of 12 noon)

Confirmed availability:

Alan Solomont

Cell [REDACTED]

Steve Goldsmith
[REDACTED]

Eric Tanenblatt

Cell [REDACTED]

mark Gearan

Cell [REDACTED] (after 2 pm.)

Nicola Goren

Cell [REDACTED] (after 1 p.m.)

Frank Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

Stan Soloway

Cell [REDACTED]

Julie Cummings

Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Trinity, Frank
Sent: Wednesday, June 17, 2009 9:20 PM
To: Glickman, Rhoda
Subject: FW: CNCS Board Letter to Senator Grassley re IG

Can you call me?

Frank R. Trinity
General Counsel
Corporation for National and Community Service
202-606-6677 (direct)

From: Terrell, Louisa [mailto: [REDACTED]]
Sent: Wednesday, June 17, 2009 9:02 PM
To: Trinity, Frank; Tyrangiel, Elana J.
Subject: Re: CNCS Board Letter to Senator Grassley re IG

Hi frank.

I just spoke to Elana and we are square to get the Grassley ltr tonight and then do the seven-day tomorrow. Elana will give the final green light. But in the meantime here are the addresses:

Jason_Foster@finance-rep.senate.gov
Stephen_hedger@mccaskill.senate.gov
Brandon_millhorn@hsgac.senate.gov
Michael_alexander@hsgac.senate.gov

From: Trinity, Frank
To: Terrell, Louisa
Cc: Glickman, Rhoda
Sent: Wed Jun 17 20:42:08 2009
Subject: CNCS Board Letter to Senator Grassley re IG
Louisa,

Attached is a PDF of our Board's letter to Senator Grassley. As discussed, can you send us email and contact information for us to send electronically this evening with hard copies hand-delivered by us tomorrow morning?

I am sending a separate email regarding "seven day letter".

Thanks for your help on this.

Frank

the CNCS bylaws.

5. Records relating to any vote of the board directing or authorizing contact with the White House regarding the Inspector General's Office or its activities relative to St. HOPE, Kevin Johnson, or RFCUNY.
6. Materials provided to the Board Members in preparation for the May 20th board meeting.

When you produce documents, please identify the specific areas in Sen. Grassley's original request and our prioritization requests to which the documents are responsive in addition to providing a privilege log of any responsive documents identified but withheld.

Cordially,
Jason A. Foster
Senior Investigative Counsel

Committee on Finance
United States Senate
219 Dirksen Building
Washington, DC 20510

ph (202) 228-5968
fx. (202) 228-2131

From: Trinity, Frank
Sent: Saturday, June 13, 2009 9:31 PM
To: Anderson, William
Subject: FW:
Attachments: 2009-06-12 Letter to Mr. Solomont CNCS Chairman.pdf

Note statement in letter that St. HOPE settlement agreement "ignored the Suspension and Debarment procedures".

Also, we will likely need to compile docs quickly this week re St. HOPE Academy and CUNY, so be thinking about who in CFO would have such docs.

-----Original Message-----

From: Tyrangiel, Elana J. [REDACTED]
Sent: Sat 6/13/2009 5:14 PM
To: Eisen, Norman L.; Messina, James A.; Meltzer, Daniel; Terrell, Louisa; Earnest, Joshua R.; Wilson, Denise R.; Oleske, James M.; Perez, Alejandro; Maher, Shawn P.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit
Cc:
Subject:

Attached please find a letter Senator Grassley sent to the board members of the Corporation for National and Community Service yesterday.

Holland, Austin

From: Terrell, Louisa [REDACTED]
Sent: Friday, June 26, 2009 4:21 PM
To: Trinity, Frank; Glickman, Rhoda
Subject: Logistics

Hi there,
I write to confirm logistics for next week and to also inquire about schedules.

First, as Rhoda and I discussed, Chairman Lieberman will not invite members outside of the Homeland Security Committee to Monday's briefing. Accordingly, it will be just staff from Lieberman and Collins office (probably 4). Can you confirm that the requisite letters have been and received from the Committee about the briefing? Also, could you confirm who from the Board (Eric Teneblatt and Alan Godlsmieth?) will be present with Frank? Time is 12-2 and I will confirm location with the Committee.

Second, could the Board and Frank be available for another meeting with the HELP Committee from say 2:45 – 3:45? [REDACTED]

[REDACTED] Can you let me know about availability and any concerns you have about doing another meeting? If you confirm this afternoon, I can ask staff if they can make the time on Monday.

[REDACTED]

Many thanks for everything. I am at my desk now, and available anytime at mobile 503-5290. Many thanks,
Louisa

From: Trinity, Frank [REDACTED]
Sent: Thursday, June 25, 2009 1:03 PM
To: Weideman, Christian; Terrell, Louisa
Subject: email from Jason Foster

Frank R. Trinity
General Counsel
Corporation for National and Community Service
202-606-6677 (direct)

From: Foster, Jason (Finance-Rep) [mailto:Jason_Foster@finance-rep.senate.gov]
Sent: Thursday, June 25, 2009 12:48 PM
To: Trinity, Frank; Bryant, Tom
Cc: Downey, Brian (Finance-Rep); DiSanto, Emilia (Finance-Rep); Kelly, Misha (Finance-Rep); Armstrong, Chris (Finance-Rep)
Subject: Document production

Please provide an update on when we should expect the next document production. Also, please prioritize in your document search and production efforts the following:

1. Records relating to the May 20th board meeting.
2. Records relating to communications with White House personnel.
3. Records relating to communications with Justice Department or U.S. Attorney's Office personnel.
4. The record of the vote to hold a closed meeting on May 20th, pursuant to Article II, 2.02(b)(2) of

Holland, Austin

m: Trinity, Frank
t: Saturday, June 13, 2009 5:19 PM
: Tyrangiel, Elana J.
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

I spoke with Laysha Ward. She is available tomorrow to speak.
Best contact is via email, and then she can call you back. Email:

Cell is [REDACTED]

Laysha works for Target and has some preliminary questions about how a statement would be used (she has spoken with Target's GC about this).
She did not take notes but does recollect the May 20 meeting.

Laysha described a Grassley letter to Alan Solomont. It makes a detailed information/document request -- I will forward a copy when I get it, as some of the information/documents relate to communications with WH.

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Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Mark Gearan can do a call tomorrow. 2 pm is best for him.

From: Tyrangiel, Elana J. [mailto:[REDACTED]]
To: Trinity, Frank
Sent: Sat Jun 13 15:27:16 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you!

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 3:27 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

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From: Tyrangiel, Elana J. [mailto:[REDACTED]]
To: Trinity, Frank

Cc: Goren, Nicola; Samose, Emily
Sent: Sat Jun 13 12:52:08 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

nk you.

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Sent: Saturday, June 13, 2009 12:13 PM
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Cc: Goren, Nicola; Samose, Emily
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Confirmed availability:

Alan Solomont

Cell [REDACTED]

Steve Goldsmith

Cell [REDACTED]

Fric Tanenblatt

l [REDACTED]

Mark Gearan

Cell [REDACTED] (after 2 pm.)

Nicola Goren

Cell [REDACTED] (after 1 p.m.)

Frank Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

n Soloway

l [REDACTED]

Julie Cummings

Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Trinity, Frank
Date: Sunday, June 14, 2009 11:30 AM
To: 'Elana_J_Tyrangiel' [REDACTED]
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Elana,
Mark Gearan's elderly mother has taken ill so he will be unable to do a call this afternoon. He will keep us posted on availability.
I would to speak with you about our agency response to Grassley's June 12 letter to our Board.
What time today would work?

----- Original Message -----

From: Trinity, Frank
To: Tyrangiel, Elana J. [REDACTED]
Sent: Sat Jun 13 17:19:29 2009
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I spoke with Laysha Ward. She is available tomorrow to speak.
Best contact is via email, and then she can call you back. Email:

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Laysha works for Target and has some preliminary questions about how a statement would be used (she has spoken with Target's GC about this).
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Confirmed availability:

in Solomont

il [REDACTED]

Steve Goldsmith

Cell [REDACTED]

Eric Tanenblatt

Cell [REDACTED]

Mark Gearan

Cell [REDACTED] (after 2 pm.)

Nicola Goren

Cell [REDACTED] (after 1 p.m.)

nk Trinity

Cell [REDACTED]

il and cell phone messages left -- no contact

Stan Soloway

Cell [REDACTED]

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Email messages sent but not acknowledged (trying to get cell numbers now)

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Confirmed availability:

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Cell [REDACTED]

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Cell [REDACTED]

Eric Tanenblatt

Cell [REDACTED]

Mark Gearan

l [REDACTED] (after 2 pm.)

Nicola Goren

Holland, Austin

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Sunday, June 14, 2009 11:34 AM
To: Trinity, Frank
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

I'm at the office, we can speak anytime from now until 5:30, though it probably makes sense to do this earlier than later. If you give me a time, I may try to loop Norm too.

----- Original Message -----

From: Trinity, Frank [mailto: [REDACTED]]
Sent: Sunday, June 14, 2009 11:30 AM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Elana,
Mark Gearan's elderly mother has taken ill so he will be unable to do a call this afternoon. He will keep us posted on availability.
I would to speak with you about our agency response to Grassley's June 12 letter to our Board.
What time today would work?

----- Original Message -----

From: Trinity, Frank
To: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Sat Jun 13 17:19:29 2009
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I spoke with Laysha Ward. She is available tomorrow to speak.
Her contact is via email, and then she can call you back. Email:
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She did not take notes but does recollect the May 20 meeting.

Laysha described a Grassley letter to Alan Solomont. It makes a detailed information/document request -- I will forward a copy when I get it, as some of the information/documents relate to communications with WH.

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Mark Gearan can do a call tomorrow. 2 pm is best for him.

Cell [REDACTED] (after 1 p.m.)

nk Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

Stan Soloway

Cell [REDACTED]

Julie Cummings

Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

:pin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Trinity, Frank
Date: Sunday, June 14, 2009 12:51 PM
To: 'Elana J. Tyrangiel'
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Would 3:30 work?

----- Original Message -----
From: Tyrangiel, Elana J.
To: Trinity, Frank
Sent: Sun Jun 14 11:34:22 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

I'm at the office, we can speak anytime from now until 5:30, though it probably makes sense to do this earlier than later. If you give me a time, I may try to loop Norm too.

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Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

m: Tyrangiel, Elana J. [redacted]
t: Sunday, June 14, 2009 12:51 PM
cc: Trinity, Frank
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Sure, that's great. Talk then; if Norm wants to join, I'll send around a conference number or hook us all in.

-----Original Message-----

From: Trinity, Frank [mailto:[redacted]]
Sent: Sunday, June 14, 2009 12:51 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

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Cell is [redacted]

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To: Trinity, Frank
Cc: Goren, Nicola; Samose, Emily
Sent: Sat Jun 13 12:52:08 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you.

From: Trinity, Frank [mailto: [REDACTED]]
Sent: Saturday, June 13, 2009 12:13 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Samose, Emily
Subject: contacting CNCS Board and staff today (status as of 12 noon)

Confirmed availability:

Alan Solomont

Call [REDACTED]

Steve Goldsmith

Cell [REDACTED]

c Tanenblatt

cell [REDACTED]

Mark Gearan

Cell [REDACTED] (after 2 pm.)

Nicola Goren

Cell [REDACTED] (after 1 p.m.)

Frank Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

n Soloway

Cell [REDACTED]

Julie Cummings

Cell [REDACTED]

Email messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Sunday, June 14, 2009 1:27 PM
To: Trinity, Frank; Eisen, Norman L.; Meltzer, Daniel
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Call-in information for 3:30:

[REDACTED]
Code: [REDACTED]

-----Original Message-----

From: Trinity, Frank [mailto: [REDACTED]]
Sent: Sunday, June 14, 2009 11:30 AM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Elana,
Mark Gearan's elderly mother has taken ill so he will be unable to do a call this afternoon. He will keep us posted on availability.
I would to speak with you about our agency response to Grassley's June 12 letter to our Board.
What time today would work?

----- Original Message -----

From: Trinity, Frank [mailto: [REDACTED]]
To: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Sat Jun 13 17:19:29 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

I spoke with Laysha Ward. She is available tomorrow to speak.
Best contact is via email, and then she can call you back. Email:

Cell is [REDACTED]

Laysha works for Target and has some preliminary questions about how a statement would be used (she has spoken with Target's GC about this).
She did not take notes but does recollect the May 20 meeting.

Laysha described a Grassley letter to Alan Solomont. It makes a detailed information/document request -- I will forward a copy when I get it, as some of the information/documents relate to communications with WH.

-----Original Message-----

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Sat 6/13/2009 4:35 PM
To: Trinity, Frank
Cc:
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

OK, we'll aim for 2!

From: Trinity, Frank [mailto: [REDACTED]]
Sent: Saturday, June 13, 2009 4:35 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Mark Gearan can do a call tomorrow. 2 pm is best for him.

m: Tyrangiel, Elana J. [REDACTED]
Trinity, Frank
Sent: Sat Jun 13 15:27:16 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you!

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Saturday, June 13, 2009 3:27 PM
To: Tyrangiel, Elana J.
Subject: Re: contacting CNCS Board and staff today (status as of 12 noon)

Jus received a note from Stan Soloway -- He's available till 4:30 today. '

From: Tyrangiel, Elana J. [REDACTED]
To: Trinity, Frank
Cc: Goren, Nicola; Samose, Emily
Sent: Sat Jun 13 12:52:08 2009
Subject: RE: contacting CNCS Board and staff today (status as of 12 noon)

Thank you.

m: Trinity, Frank [mailto:[REDACTED]]
at: Saturday, June 13, 2009 12:13 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Samose, Emily
Subject: contacting CNCS Board and staff today (status as of 12 noon)

Confirmed availability:

Alan Solomont

Cell [REDACTED]

Steve Goldsmith

Cell [REDACTED]

Eric Tanenblatt

Cell [REDACTED]

rk Gearan

Cell [REDACTED] (after 2 pm.)

Nicola Goren

l [REDACTED] (after 1 p.m.)

Frank Trinity

Cell [REDACTED]

Email and cell phone messages left -- no contact

Stan Soloway

Cell [REDACTED]

Julie Cummings

Cell [REDACTED]

all messages sent but not acknowledged (trying to get cell numbers now)

Hyepin Im

Laysha Ward

Jim Palmer (we know he's on vacation till June 17)

Holland, Austin

From: Earnest, Joshua R. [REDACTED]
Sent: Thursday, June 11, 2009 9:11 PM
To: Eisen, Norman L.; Oleske, James M.; Goren, Nicola; Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

Here's the first version of the AP story:

Obama to fire inspector general of AmeriCorps

By ANN SANNER and PETE YOST – 15 minutes ago

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

Sen. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

"For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election,

prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

On Wednesday night, Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they backed the president's decision.

In a written statement, Solomont and Goldsmith said: "We strongly endorse the president's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new inspector general."

From: Eisen, Norman L.

Sent: Thursday, June 11, 2009 9:04 PM

To: Oleske, James M.; 'Goren, Nicola'; Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa

Subject: RE: Grassley letter re CNCS matter

Edits still coming in, circulate final in a bit.

From: Oleske, James M.

Sent: Thursday, June 11, 2009 9:04 PM

To: 'Goren, Nicola'; Tyrangiel, Elana J.; Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa

Subject: RE: Grassley letter re CNCS matter

Same here.

From: Goren, Nicola [mailto:████████████████████]

Sent: Thursday, June 11, 2009 8:57 PM

To: Tyrangiel, Elana J.; Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa

Subject: RE: Grassley letter re CNCS matter

We are fine with the letter.

Nicola Goren

Acting Chief Executive Officer

Corporation for National and Community Service

Your World. Your Chance to Make it Better.

www.nationalservice.gov

From: Tyrangiel, Elana J. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 8:40 PM
To: Tyrangiel, Elana J.; Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

The latest version of the letter is attached.

From: Tyrangiel, Elana J.
Sent: Thursday, June 11, 2009 8:07 PM
To: Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'ngoren [REDACTED]'; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

Attached please find a draft response to the Grassley letter. Please let us know as soon as possible, and no later than an hour from now, if you see any problems. Thanks much.

From: Eisen, Norman L.
Sent: Thursday, June 11, 2009 6:52 PM
To: Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'ngoren [REDACTED]'; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter
Importance: High

Letter from Grassley complaining about Walpin firing attached. We are drafting a response for everyone's consideration. Note his erroneous statement that Congress was not notified.

Holland, Austin

From: Earnest, Joshua R. [REDACTED]
Sent: Wednesday, June 10, 2009 9:58 PM
To: Schmelzer, Ranit
Cc: Goren, Nicola; Trinity, Frank
Subject: Re: Just talked to AP

I'll let u know if I hear from her.

From: Schmelzer, Ranit
To: Earnest, Joshua R.
Cc: Goren, Nicola ; Trinity, Frank
Sent: Wed Jun 10 21:29:27 2009
Subject: Just talked to AP

Ann is not going to write tonight, but may do something in the morning. She wants to know what the circumstances were. I stuck to our TPs on background (as an Official from CNCS). I assume she'll call the WH tomorrow for comment if she writes. Let me know if you have Qs.

Ranit Schmelzer
Director, Office of Public Affairs
Corporation for National & Community Service
Tel: [REDACTED]
Cell: [REDACTED]

Flowe, Meredith

From: Tyrangiel, Elana J. [REDACTED]
Sent: Friday, June 12, 2009 2:31 PM
To: Trinity, Frank
Cc: Goren, Nicola; Glickman, Rhoda; Terrell, Louisa
Subject: RE: IG

[REDACTED]

-----Original Message-----

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Friday, June 12, 2009 2:25 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

We are alerting Steve Goldsmith, our vice-Chair, to see if he can reach out to Senator Collins' office to address her concerns. Let us know if you think that is inadvisable.

-----Original Message-----

From: Glickman, Rhoda
Sent: Fri 6/12/2009 2:03 PM
To: Trinity, Frank; Goren, Nicola
Cc:
Subject: IG

I just spoke to Lisa Newman with Senator Collins' office. I told her I had forwarded her concerns about the IG to the WH. She is very interested in hearing CNCS's stand on this. (I told her I was new and hadn't been involved.) She is already working with the WH (Eisen) and has requested more info from him - reasons for firing etc. but she has made it clear that if they don't get this information to their satisfaction, they will be sending a letter to the President TODAY saying he did not follow the law on this.

Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [REDACTED]

Flowe, Meredith

From: Trinity, Frank
Sent: Friday, June 12, 2009 2:25 PM
To: Elana_J._Tyrangiel [REDACTED]
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

We are alerting Steve Goldsmith, our vice-Chair, to see if he can reach out to Senator Collins' office to address her concerns. Let us know if you think that is inadvisable.

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Flowe, Meredith

From: Trinity, Frank

Sent: Wednesday, June 17, 2009 10:09 PM

To: 'Tyranziel, Elana J.'; 'Iterrell [REDACTED]'; 'Denise_R. Wilson [REDACTED]'

Cc: Goren, Nicola; Schmelzer, Ranit; Glickman, Rhoda

Subject: update on CNCS transmittals to Congress

1. Board letter to Grassley. We sent by email to Grassley, with copies to McCaskill, Collins, Lieberman, Enzi, and Kennedy. We will hand-deliver tomorrow. Jason Foster acknowledged receipt of the electronic copy.
2. Supplemental response to IG's 7-day letter on St. HOPE Academy. We will transmit our supplemental response to the IG's 7-Day letter tomorrow, both electronically and by hand-delivery.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED] (direct)

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:19 PM
To: Holland, Austin
Subject: FW: Grassley letter re CNCS matter

-----Original Message-----

From: Schmelzer, Ranit
Sent: Thursday, June 11, 2009 9:47 PM
To: Earnest, Joshua R.
Subject: RE: Grassley letter re CNCS matter

Hey Josh,

2 quick things

- I'm playing phone tag w/the Sacramento Bee. Will let you know.
- I heard through the grapevine that the Chronicle of Philanthropy is working on an op-ed criticizing the WH on the choice of Maria Eitel and the process around her nomination. The paper hasn't called me.

-----Original Message-----

From: Earnest, Joshua R. [mailto: 
Sent: Thu 6/11/2009 9:11 PM
To: Eisen, Norman L.; Oleske, James M.; Goren, Nicola; Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

Here's the first version of the AP story:

Obama to fire inspector general of AmeriCorps

By ANN SANNER and PETE YOST - 15 minutes ago

WASHINGTON (AP) — President Barack Obama plans to fire the inspector general who investigates AmeriCorps and other national service programs amid a controversy between the IG and Sacramento Mayor Kevin Johnson, who is an Obama supporter and former NBA basketball star.

The IG, Gerald Walpin, was criticized by the U.S. attorney in Sacramento for the way he handled an investigation of Johnson and his nonprofit group, which received hundreds of thousands of dollars in federal grants from the Corporation for National Community Service. The corporation runs the AmeriCorps program.

On Thursday, Obama said in a letter to Congress that he had lost confidence in Walpin. Neither the president nor deputy White House press secretary Josh Earnest would give details.

The president must give Congress 30 days' notice before removing Walpin, who is being suspended with pay for the 30 days.

n. Chuck Grassley, R-Iowa, criticized the White House's reluctance to specify why Walpin is being fired. Grassley pointed to a Senate committee report that says the requirement to notify Congress when an IG is removed is designed to ensure that inspectors general are not removed for political reasons.

The report accompanied an IG reform law passed by Congress last year. Grassley said Walpin had identified millions of dollars in AmeriCorps funds that were wasted or misspent.

For obvious reasons, we won't get into details of a personnel decision like this, but I can tell you that the president lost confidence in Mr. Walpin's performance," Earnest said. "The president will appoint a replacement in whom he has full confidence as the corporation carries out its important mission."

Walpin serves at the pleasure of the president, the corporation said.

Messages left for Walpin seeking comment were not immediately returned.

The IG found that Johnson, a former all-star point guard for the Phoenix Suns, had used AmeriCorps grants to pay volunteers to engage in school-board political activities, run personal errands for Johnson and even wash his car.

In August 2008, Walpin referred the matter to the local U.S. attorney's office, which said the IG's conclusions seemed overstated and did not accurately reflect all the information gathered in the investigation.

"We also highlighted numerous questions and further investigation they needed to conduct, including the fact that they had not done an audit to establish how much AmeriCorps money was actually misspent," the U.S. attorney's office said in an April 29 letter to the federal counsel of inspectors general.

Walpin's office made repeated public comments just before the Sacramento mayoral election, prompting the U.S. attorney's office to inform the media that it did not intend to file any criminal charges.

The U.S. attorney's office reached a settlement in the matter. Brown cited press accounts that said Johnson and the nonprofit would repay half of nearly \$850,000 in grants it received.

Ken Bach, who works in the inspector general's office at the corporation, will be acting inspector general until Obama appoints someone to the position.

Walpin, a New York attorney, was appointed by President George W. Bush and sworn into office in January 2007 after being confirmed by the Senate, according to a news release on AmeriCorps' Web site. Walpin graduated from College of the City of New York in 1952 and received a law degree in 1955 from Yale Law School. He was a partner with the New York City law firm Katten Muchin and Rosenman LLP for more than 40 years.

On Wednesday night, Alan Solomont, a Democrat and the board chairman of the government-run corporation, and Stephen Goldsmith, a Republican and the board's vice chair, said they backed the president's decision.

In a written statement, Solomont and Goldsmith said: "We strongly endorse the president's decision with respect to Inspector General Gerald Walpin. We look forward to working with a new inspector general."

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Sent: Thursday, June 11, 2009 9:04 PM
To: Oleske, James M.; 'Goren, Nicola'; Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

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Subject: RE: Grassley letter re CNCS matter

Same here.

From: Goren, Nicola [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 8:57 PM
To: Tyrangiel, Elana J.; Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

We are fine with the letter.

Nicola Goren

Acting Chief Executive Officer

Corporation for National and Community Service
[REDACTED]

Your World. Your Chance to Make it Better.

www.nationalservice.gov <<http://www.nationalservice.gov/>>

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Sent: Thursday, June 11, 2009 8:40 PM
To: Tyrangiel, Elana J.; Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; Goren, Nicola; Trinity, Frank; Schmelzer, Ranit; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter

The latest version of the letter is attached.

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To: Eisen, Norman L.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'ngoren@cns.gov'; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa

Subject: RE: Grassley letter re CNCS matter

Attached please find a draft response to the Grassley letter. Please let us know as soon as possible, and no later than an hour from now, if you see any problems. Thanks much.

From: Eisen, Norman L.
Sent: Thursday, June 11, 2009 6:52 PM
To: Tyrangiel, Elana J.; Meltzer, Daniel; Messina, James A.; Earnest, Joshua R.; 'ngoren [REDACTED]'; 'Trinity, Frank'; 'Schmelzer, Ranit'; Singiser, Dana E.; Wilson, Denise R.; Oleske, James M.; Maher, Shawn P.; Perez, Alejandro; Terrell, Louisa
Subject: RE: Grassley letter re CNCS matter
Importance: High

Letter from Grassley complaining about Walpin firing attached. We are drafting a response for everyone's consideration. Note his erroneous statement that Congress was not notified.

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:09 PM
To: Holland, Austin
Subject: FW: Grassley upset about Walpin

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 6:12 PM
To: Eisen, Norman L.; Tyrangiel, Elana J.; Schmelzer, Ranit
Subject: Grassley upset about Walpin

FYI...

I'll call the reporter and asked her if she showed our letters to Grassley. Will keep you posted.

From: Sanner, Ann [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 6:07 PM
To: Earnest, Joshua R.
Subject: RE: the letters

This is headed your way. Let me know if you have a response.

The text of Grassley's letter to the President is below.

June 11, 2009

Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I was troubled to learn that last night your staff reportedly issued an ultimatum to the Americorps Inspector General Gerald Walpin that he had one hour to resign or be terminated. As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny.

Last year, President Bush signed the Inspector General Reform Act (P.L. 110-409) into law. Both you and

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:13 PM
To: Holland, Austin
Subject: FW: Press Call on IG - Fox News.com

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 3:50 PM
To: Schmelzer, Ranit
Subject: RE: Press Call on IG - Fox News.com

I'll call him.

From: Schmelzer, Ranit [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 3:35 PM
To: Earnest, Joshua R.
Subject: Fw: Press Call on IG - Fox News.com

Do you want me to point him to your statement or have him call you?

From: Scott, Sandy
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:29:55 2009
Subject: Press Call on IG - Fox News.com
Judd Berger at Fox News.com – he is requesting additional information about Grassley letter request additional information from the Corporation about removal of Gerald Walpin. He wants to know if there was any contact with the First Lady's office or if the letter was "off base" [REDACTED]

From: Unity Messaging System - UNITY1
Sent: Tuesday, June 16, 2009 3:10 PM
To: Scott, Sandy
Subject: Message from an unidentified caller

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:13 PM
To: Holland, Austin
Subject: FW: Press Call on Walpin from Kari Dann of CongressDaily

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 4:02 PM
To: Schmelzer, Ranit
Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily

Two things:

First, can you get in touch with Carrie and send her the joint statement from Goldsmith and Solomont?

[REDACTED]

-Josh

From: Schmelzer, Ranit [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 3:59 PM
To: Earnest, Joshua R.
Subject: Re: Press Call on Walpin from Kari Dann of CongressDaily

Great. I'm not going to call either unless they call again. Sound ok?

From: Earnest, Joshua R. [mailto: [REDACTED]]
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:54:58 2009
Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily
Done with Judd. I'll call Carrie too - just to check in.

From: Schmelzer, Ranit [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 3:35 PM
To: Earnest, Joshua R.
Subject: Fw: Press Call on Walpin from Kari Dann of CongressDaily

Fyi

From: Scott, Sandy
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:26:01 2009
Subject: Press Call on Walpin from Kari Dann of CongressDaily
Kari Dann - CongressDaily -- following saga of Jerry Walpin - [REDACTED] - no specific questions

From: Unity Messaging System - UNITY1
Sent: Tuesday, June 16, 2009 3:17 PM
To: Scott, Sandy
Subject: Message from an unidentified caller

Flowe, Meredith

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Subject: FW: Press Call on Walpin from Kari Dann of CongressDaily

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Sent: Tuesday, June 16, 2009 3:55 PM
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Done with Judd. I'll call Carrie too – just to check in.

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Sent: Tuesday, June 16, 2009 3:35 PM
To: Earnest, Joshua R.
Subject: Fw: Press Call on Walpin from Kari Dann of CongressDaily

Fyi

From: Scott, Sandy
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:26:01 2009
Subject: Press Call on Walpin from Kari Dann of CongressDaily
Kari Dann – CongressDaily – following saga of Jerry Walpin – [REDACTED] - no specific questions

From: Unity Messaging System - UNITY1
Sent: Tuesday, June 16, 2009 3:17 PM
To: Scott, Sandy
Subject: Message from an unidentified caller

Flowe, Meredith

From: Schmelzer, Ranit
Sent: Thursday, July 09, 2009 6:17 PM
To: Holland, Austin
Subject: FW: Press Call on Walpin from Kari Dann of CongressDaily

From: Schmelzer, Ranit
Sent: Tuesday, June 16, 2009 3:59 PM
To: 'Joshua_R_Earnest' [REDACTED]
Subject: Re: Press Call on Walpin from Kari Dann of CongressDaily

Great. I'm not going to call either unless they call again. Sound ok?

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:54:58 2009
Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily
Done with Judd. I'll call Carrie too – just to check in.

From: Schmelzer, Ranit [mailto:[REDACTED]]
Sent: Tuesday, June 16, 2009 3:35 PM
To: Earnest, Joshua R.
Subject: Fw: Press Call on Walpin from Kari Dann of CongressDaily

Fyi

From: Scott, Sandy
To: Schmelzer, Ranit
Sent: Tue Jun 16 15:26:01 2009
Subject: Press Call on Walpin from Kari Dann of CongressDaily
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Subject: FW: Press Call on Walpin from Kari Dann of CongressDaily

From: Schmelzer, Ranit
Sent: Tuesday, June 16, 2009 4:04 PM
To: 'Earnest, Joshua R.'
Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily

Thanks, will do.

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 4:02 PM
To: Schmelzer, Ranit
Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily

Two things:

First, can you get in touch with Carrie and send her the joint statement from Goldsmith and Solomont?

[REDACTED]

-Josh

From: Schmelzer, Ranit [mailto: [REDACTED]]
Sent: Tuesday, June 16, 2009 3:59 PM
To: Earnest, Joshua R.
Subject: Re: Press Call on Walpin from Kari Dann of CongressDaily

Great. I'm not going to call either unless they call again. Sound ok?

From: Earnest, Joshua R. [mailto: [REDACTED]]
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Subject: RE: Press Call on Walpin from Kari Dann of CongressDaily
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Sent: Tuesday, June 16, 2009 3:35 PM

To: Earnest, Joshua R.

Subject: Fw: Press Call on Walpin from Kari Dann of CongressDaily

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From: Scott, Sandy

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Sent: Tue Jun 16 15:26:01 2009

Subject: Press Call on Walpin from Kari Dann of CongressDaily

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From: Unity Messaging System - UNITY1

Sent: Tuesday, June 16, 2009 3:17 PM

To: Scott, Sandy

Subject: Message from an unidentified caller

Flowe, Meredith

From: Earnest, Joshua R. [REDACTED]
Sent: Wednesday, June 10, 2009 9:58 PM
To: Schmelzer, Ranit
Cc: Goren, Nicola; Trinity, Frank
Subject: Re: Just talked to AP

I'll let u know if I hear from her.

From: Schmelzer, Ranit
To: Earnest, Joshua R.
Cc: Goren, Nicola ; Trinity, Frank
Sent: Wed Jun 10 21:29:27 2009
Subject: Just talked to AP

Ann is not going to write tonight, but may do something in the morning. She wants to know what the circumstances were. I stuck to our TPs on background (as an Official from CNCS). I assume she'll call the WH tomorrow for comment if she writes. Let me know if you have Qs.

Ranit Schmelzer
Director, Office of Public Affairs
Corporation for National & Community Service
Tel: [REDACTED]
Cell: [REDACTED]
[REDACTED]

Flowe, Meredith

From: Tyrangiel, Elana J. [REDACTED]
ent: Friday, June 12, 2009 2:31 PM
o: Trinity, Frank
Cc: Goren, Nicola; Glickman, Rhoda; Terrell, Louisa
Subject: RE: IG

[REDACTED]

-----Original Message-----

From: Trinity, Frank [mailto:[REDACTED]]
Sent: Friday, June 12, 2009 2:25 PM
To: Tyrangiel, Elana J.
Cc: Goren, Nicola; Glickman, Rhoda
Subject: FW: IG

We are alerting Steve Goldsmith, our vice-Chair, to see if he can reach out to Senator Collins' office to address her concerns. Let us know if you think that is inadvisable.

-----Original Message-----

From: Glickman, Rhoda
Sent: Fri 6/12/2009 2:03 PM
To: Trinity, Frank; Goren, Nicola
Cc:
Subject: IG

I just spoke to Lisa Newman with Senator Collins' office. I told her I had forwarded her concerns about the IG to the WH. She is very interested in hearing CNCS's stand on this. (I told her I was new and hadn't been involved.) She is already working with the WH (Eisen) and has requested more info from him - reasons for firing etc. but she has made it clear that if they don't get this information to their satisfaction, they will be sending a letter to the President TODAY saying he did not follow the law on this.

Not sure it makes any difference if you call her (I said you were out of the office) but if you think it helps to talk to her, she can be reached at [REDACTED]

Flowe, Meredith

From: Trinity, Frank

Sent: Wednesday, June 17, 2009 10:09 PM

To: 'Tyrangiel, Elana J.'; 'Terrell [REDACTED]'; 'Denise_R._Wilson [REDACTED]'

Cc: Goren, Nicola; Schmelzer, Ranit; Glickman, Rhoda

Subject: update on CNCS transmittals to Congress

1. Board letter to Grassley. We sent by email to Grassley, with copies to McCaskill, Collins, Lieberman, Enzi, and Kennedy. We will hand-deliver tomorrow. Jason Foster acknowledged receipt of the electronic copy.
2. Supplemental response to IG's 7-day letter on ST HOPE Academy. We will transmit our supplemental response to the IG's 7-Day letter tomorrow, both electronically and by hand-delivery.

Frank R. Trinity
General Counsel
Corporation for National and Community Service
[REDACTED]

From: Trinity, Frank
Sent: Thursday, June 11, 2009 10:56 PM
To: Goren, Nicola; Schmelzer, Ranit; Glickman, Rhoda
Subject: RE: Grassley upset about Walpin

Yes Grassley was on the list -- they worked off our 7-day letter distribution list.

-----Original Message-----

From: Goren, Nicola
Sent: Thu 6/11/2009 6:32 PM
To: Schmelzer, Ranit; Trinity, Frank; Glickman, Rhoda
Cc:
Subject: Re: Grassley upset about Walpin

Was he on outreach list? We need to get Steve in to see him.

Sent via blackberry - please excuse typos

From: Schmelzer, Ranit
To: Trinity, Frank; Goren, Nicola; Glickman, Rhoda
Sent: Thu Jun 11 18:30:51 2009
Subject: Fw: Grassley upset about Walpin

From: Earnest, Joshua R. [REDACTED]
To: Eisen, Norman L. [REDACTED]; Tyrangiel, Elana J.
[REDACTED]; Schmelzer, Ranit
Sent: Thu Jun 11 18:11:41 2009
Subject: Grassley upset about Walpin

FYI...

I'll call the reporter and asked her if she showed our letters to Grassley. Will keep you posted.

From: Sanner, Ann [mailto:[REDACTED]]
Sent: Thursday, June 11, 2009 6:07 PM
To: Earnest, Joshua R.
Subject: RE: the letters

This is headed your way. Let me know if you have a response.

The text of Grassley's letter to the President is below.

June 11, 2009

Barack Obama
President of the United States of America

7/17/2009

The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

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Last year, President Bush signed the Inspector General Reform Act (P.L. 110-409) into law. Both you and I were cosponsors of this important legislation that was introduced to strengthen the independence and integrity of the Inspectors General. One of the most important provisions of the legislation we cosponsored was Section 3 which amended the procedures for the removal of Inspectors General. Specifically, Section 3 requires that, "the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer." No such notice was provided to Congress in this instance.

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Given that you were a cosponsor of this vital legislation I am deeply troubled to learn of the ultimatum given Inspector General Walpin absent Congressional notification.

There have been no negative findings against Mr. Walpin by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and he has identified millions of dollars in Americorps funds either wasted outright or spent in violation of established guidelines.

We cannot afford to have Inspector General independence threatened. In light of the massive increases in federal spending of late, it is more critical than ever that we have an Inspector

General community that is vigorous, independent, and active in rooting out waste, fraud, and abuse. I urge you to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General.

Sincerely,

Charles E. Grassley

United States Senator

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 3:28 PM
To: Sanner, Ann
Subject: RE: the letters

Yes.

From: Sanner, Ann [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 3:23 PM
To: Earnest, Joshua R.
Subject: RE: the letters

Thanks. So I can say he 'is being suspended with pay for 30 days'?

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 3:20 PM
To: Sanner, Ann
Subject: the letters

As we discussed...

Josh Earnest
Deputy White House Press Secretary
[REDACTED] (desk)

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[IP US DISC]
msk dccc60c6d2c3a6438f0cf467d9a4938

From: Goren, Nicola
Sent: Thursday, June 11, 2009 6:37 PM
To: Glickman, Rhoda; Trinity, Frank; Schmelzer, Ranit
Subject: Re: Grassley upset about Walpin

Not sure - you may want to coordinate with him on this.

Sent via blackberry - please excuse typos

From: Glickman, Rhoda
To: Goren, Nicola
Sent: Thu Jun 11 18:34:55 2009
Subject: Re: Grassley upset about Walpin

Who is handling this? Assume you will speak to Steve?

From: Goren, Nicola
To: Schmelzer, Ranit; Trinity, Frank; Glickman, Rhoda
Sent: Thu Jun 11 18:32:44 2009
Subject: Re: Grassley upset about Walpin

Was he on outreach list? We need to get Steve in to see him.

Sent via blackberry - please excuse typos

From: Schmelzer, Ranit
To: Trinity, Frank; Goren, Nicola; Glickman, Rhoda
Sent: Thu Jun 11 18:30:51 2009
Subject: Fw: Grassley upset about Walpin

From: Earnest, Joshua R. [REDACTED]
To: Eisen, Norman L. [REDACTED]; Tyrangiel, Elana J.
[REDACTED]; Schmelzer, Ranit
Sent: Thu Jun 11 18:11:41 2009
Subject: Grassley upset about Walpin

FYI...

I'll call the reporter and asked her if she showed our letters to Grassley. Will keep you posted.

From: Sanner, Ann [mailto:[REDACTED]]
Sent: Thursday, June 11, 2009 6:07 PM
To: Earnest, Joshua R.
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7/17/2009

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We cannot afford to have Inspector General independence threatened. In light of the massive increases in federal spending of late, it is more critical than ever that we have an Inspector General community that is vigorous, independent, and active in rooting out waste, fraud, and abuse. I urge you to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General.

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Deputy White House Press Secretary
[REDACTED] (desk)

7/17/2009

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[FP_US_DISC]

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[IP_US_DISC]
msk dccc60c6d2c3a6438f0cf467d9a4938

From: Glickman, Rhoda
Sent: Thursday, June 11, 2009 6:38 PM
To: Goren, Nicola
Subject: Re: Grassley upset about Walpin

Can u send me his number or email?

From: Goren, Nicola
To: Glickman, Rhoda; Trinity, Frank; Schmelzer, Ranit
Sent: Thu Jun 11 18:36:46 2009
Subject: Re: Grassley upset about Walpin

Not sure - you may want to coordinate with him on this.

Sent via blackberry - please excuse typos

From: Glickman, Rhoda
To: Goren, Nicola
Sent: Thu Jun 11 18:34:55 2009
Subject: Re: Grassley upset about Walpin

Who is handling this? Assume you will speak to steve?

From: Goren, Nicola
To: Schmelzer, Ranit; Trinity, Frank; Glickman, Rhoda
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Subject: Re: Grassley upset about Walpin

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Subject: RE: the letters

Yes.

From: Sanner, Ann [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 3:23 PM
To: Earnest, Joshua R.
Subject: RE: the letters

Thanks. So I can say he 'is being suspended with pay for 30 days'?

From: Earnest, Joshua R. [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 3:20 PM
To: Sanner, Ann
Subject: the letters

As we discussed...

Josh Earnest
Deputy White House Press Secretary
[REDACTED] (desk)

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7/17/2009

From: Glickman, Rhoda
Sent: Thursday, June 11, 2009 6:46 PM
To: Goren, Nicola; Trinity, Frank; Schmelzer, Ranit
Subject: Re: Grassley upset about Walpin

I suggest the grassley letter is emailed to Steve asap so he has a heads up. I'm not sure who is the lead on this right now --wh or else. I don't have steve's email. Thoughts?

From: Goren, Nicola
To: Glickman, Rhoda; Trinity, Frank; Schmelzer, Ranit
Sent: Thu Jun 11 18:36:46 2009
Subject: Re: Grassley upset about Walpin

Not sure - you may want to coordinate with him on this.

Sent via blackberry - please excuse typos

From: Glickman, Rhoda
To: Goren, Nicola
Sent: Thu Jun 11 18:34:55 2009
Subject: Re: Grassley upset about Walpin

Who is handling this? Assume you will speak to steve?

From: Goren, Nicola
To: Schmelzer, Ranit; Trinity, Frank; Glickman, Rhoda
Sent: Thu Jun 11 18:32:44 2009
Subject: Re: Grassley upset about Walpin

Was he on outreach list? We need to get steve in to see him.

Sent via blackberry - please excuse typos

From: Schmelzer, Ranit
To: Trinity, Frank; Goren, Nicola; Glickman, Rhoda
Sent: Thu Jun 11 18:30:51 2009
Subject: Fw: Grassley upset about Walpin

From: Earnest, Joshua R. [REDACTED]
To: Eisen, Norman L. [REDACTED]; Tyrangiel, Elana J.
[REDACTED]; Schmelzer, Ranit
Sent: Thu Jun 11 18:11:41 2009
Subject: Grassley upset about Walpin

FYI...

7/17/2009

I'll call the reporter and asked her if she showed our letters to Grassley. Will keep you posted.

From: Sanner, Ann [mailto: [REDACTED]]
Sent: Thursday, June 11, 2009 6:07 PM
To: Earnest, Joshua R.
Subject: RE: the letters

This is headed your way. Let me know if you have a response.

The text of Grassley's letter to the President is below.

June 11, 2009

Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I was troubled to learn that last night your staff reportedly issued an ultimatum to the AmeriCorps Inspector General Gerald Walpin that he had one hour to resign or be terminated. As you know, Inspectors General were created by Congress as a means to combat waste, fraud, and abuse and to be independent watchdogs ensuring that federal agencies were held accountable for their actions. Inspectors General were designed to have a dual role reporting to both the President and Congress so that they would be free from undue political pressure. This independence is the hallmark of all Inspectors General and is essential so they may operate independently, without political pressure or interference from agencies attempting to keep their failings from public scrutiny.

Last year, President Bush signed the Inspector General Reform Act (P.L. 110-409) into law. Both you and I were cosponsors of this important legislation that was introduced to strengthen the independence and integrity of the Inspectors General. One of the most important provisions of the legislation we cosponsored was Section 3 which amended the procedures for the removal of Inspectors General. Specifically, Section 3 requires that, "the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer." No such notice was provided to Congress in this instance.

As you may recall, the Senate Committee Report (S. Rep. 110-262) accompanying the Inspector General Reform Act stated the intent of Congress. That report stated:

"The Committee intends that Inspectors General who fail to perform their duties properly whether through malfeasance or nonfeasance, or whose personal actions bring discredit upon the office, be removed. The

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requirement to notify the Congress in advance of the reasons for the removal should serve to ensure that Inspectors General are not removed for political reasons.”

Given that you were a cosponsor of this vital legislation I am deeply troubled to learn of the ultimatum given Inspector General Walpin absent Congressional notification.

There have been no negative findings against Mr. Walpin by the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and he has identified millions of dollars in Americorps funds either wasted outright or spent in violation of established guidelines.^[1] In other words, it appears he has been doing his job.

We cannot afford to have Inspector General independence threatened. In light of the massive increases in federal spending of late, it is more critical than ever that we have an Inspector General community that is vigorous, independent, and active in rooting out waste, fraud, and abuse. I urge you to review the Inspector General Reform Act you cosponsored and to follow the letter of the law should you have cause to remove any Inspector General.

Sincerely,

Charles E. Grassley

United States Senator

From: Earnest, Joshua R. [mailto:]
Sent: Thursday, June 11, 2009 3:28 PM
To: Sanner, Ann
Subject: RE: the letters

Yes.

From: Sanner, Ann [mailto:]
Sent: Thursday, June 11, 2009 3:23 PM
To: Earnest, Joshua R.
Subject: RE: the letters

Thanks. So I can say he 'is being suspended with pay for 30 days'?

From: Earnest, Joshua R. [mailto:]
Sent: Thursday, June 11, 2009 3:20 PM
To: Sanner, Ann
Subject: the letters

7/17/2009

As we discussed...

Josh Earnest
Deputy White House Press Secretary
[REDACTED] (desk)

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Holland, Austin

From: Schmelzer, Ranit
Sent: Thursday, June 11, 2009 8:33 AM
To: Bach, Kenneth
Cc: Trinity, Frank; Goren, Nicola
Subject: Fw:
Attachments: letter to Congress.doc; Walpin Q&A.doc; walpin quote.doc

Ken – here are the WH materials in case they're helpful.

From: Earnest, Joshua R. [REDACTED]
To: Schmelzer, Ranit
Sent: Wed Jun 10 09:30:31 2009
Subject: FW:

Hey Ranit:

I should have forwarded this to you last week. It's the basic language that we've agreed upon that should be helpful as you draft a news release today.

I'm in meetings this morning – but you can get me on bberry at this email address or on my cell at [REDACTED]

Let me know if I can be helpful, Josh

From: Tyrangiel, Elana J.
Sent: Friday, June 05, 2009 3:59 PM
To: Earnest, Joshua R.
Subject: FW:

From: Tyrangiel, Elana J.
Sent: Friday, June 05, 2009 2:46 PM
To: Vietor, Thomas F.
Cc: Eisen, Norman L.
Subject:

Tommy, attached are some materials on the removal of the IG, which will likely happen this afternoon (Walpin will be offered a chance to resign first). Could we chat as soon as possible about coordination with the Corporation for National and Community Service? I'm at [REDACTED] Thanks.