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OFFICE OF POLITICAL AFFAIRS

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From:

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Amanda Crumley	Donald Dunn	Eric Eve
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Ray Martinez	Linda Moore	Marsha Scott
Craig Smith	Wendy Smith	Joe Trahern

OTHER: Jan O'Connor

TO: Rick Allen

DATE: 6/1/16 **# OF PAGES** _____ **(including cover)**

FAX NUMBER: _____

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MESSAGE: Deliver immediately - urgent

4/2/95 11:20AM 12/4

ACORN
523 W 15th Street
Little Rock, Arkansas 72202
(501) 376-7151 phone (501) 376-3952 fax

M E M O R A N D U M

8/5/95

To: Jennifer O'Connor
From: Zach Polett

RE: Acorn Housing Corporation (AHC) and AmeriCorps

We believe that a grave injustice is being done to Acorn Housing Corporation (AHC), its AmeriCorps project through which AmeriCorps volunteers help low-income families become homeowners, and the low-to-moderate income urban communities of color that it primarily serves.

Here is the background and timeline information you requested:

1) AHC's AmeriCorps project has been extremely successful in producing benefits for the low-to-moderate income community that it serves. Some numbers:

* * AHC's AmeriCorps project has conducted **4932 intakes** of low-to-moderate income families seeking private sector financing for home purchases.

* * **757 of these families have already submitted applications** to financial institutions for home mortgages.

* * Based on AHC's experience from the first 6 months of the project that **90% of these mortgage applications will be approved, 681 of these 757 applications will get loans**.

* * **\$34 million** of private capital has been re-invested into low-income communities, financing these home purchases, as a direct result of the AHC AmeriCorps project.

2) On July 19 Corporation for National Service (CNS) director Eli Segal faxed a letter to AHC suspending its AmeriCorps project effective July 21, based upon a preliminary report from CNS's inspector-general. (NOTE: That report stated that the I-G did not find any evidence of AmeriCorps Members participating in the March 6 demonstration sponsored by ACORN.)

3) Neither AHC nor its attorneys were able to get a copy of this preliminary report from the I-G until 6 days after the suspension, so there was no way that AHC could respond.

4) AHC has until Friday, August 11 to respond to the suspension. Its attorneys are in the process of preparing that response.

5) Timeline: It is my understanding that following the receipt of this response CNS will schedule a hearing. Because a suspension is for 30 days, CNS needs to hold this hearing by 8/20. For AHC to prevail in this hearing, which is conducted by a hearing officer selected by CNS, it would have to meet the standard of proof that CNS's action was "arbitrary and capricious" which is legally an extremely difficult standard to meet.

6) Following this hearing CNS can, if it chooses, terminate the grant for cause. AHC would undoubtedly challenge such termination legally, but the negative ramifications would still be great.

7) If CNS terminates the grant, the losses to AHC, the clients, and the affected communities will be severe. For example:

- * * The clients who have already come to AHC to get loan counseling and home mortgages will have no counselor to help them through the rest of the process until their loan is ready to close. This is a critical time in the home mortgage process, especially for lower-income borrowers.

- * * The communities will lose the ability for more families to get loan counseling and home loans and for what would likely be another \$34 million of private financing invested into these low-to-moderate income urban communities.

- * * AHC will lose the approximately \$450,000 - \$500,000 of the \$950,000 AmeriCorps grant that has not yet been expended.

- * * AHC will face the danger of being barred from seeking any additional federal grants or contracts from any other federal agencies for the affordable housing, loan counseling and non-profit housing development work that it does around the country.

- * * If the grant is terminated for cause, AHC will then have to explain this on every federal -- and any local and state -- grant applications it ever makes in the future. AHC's counsel believes that this is likely to hurt AHC in securing any future grants. It would act as an albatross around AHC's neck, knocking off a few points from scores on grant applications that would likely be enough of a negative factor to sink the applications.

8) From the beginnings of the right-wing attacks on AHC's AmeriCorps project, CNS officials have shown a marked

disinterest to communicate with AHC. For example, both John Walters, president of The New Citizenship Project and the Washington Times have consistently gotten more, earlier and better information from CNS than AHC has. In a letter to the Washington Times published on April 10 John Walters wrote that the CNS board had ordered an investigation of AHC. AHC had heard nothing about an investigation, so on April 11 AHC's executive director called CNS to ask if it was being investigated. He left 3 messages for AHC's program officer at CNS, but received no return call. He also called her supervisor, but did not get a return call. He finally reached their grants officer at CNS who told him that he didn't know anything about an investigation. One week later, this grants officer called back to say that the IG was conducting an investigation.

Similarly, the same day (July 19) that CNS notified AHC of the suspension of its AmeriCorps project, Eli Segal sent a letter about the suspension to Congress. AHC was not informed about this immediate communication to Congress and only found out about it the next day when a copy of the letter was gleefully faxed to AHC by New Citizenship Project president John Walters.

9) AHC has had to hire outside counsel to represent it in this investigation, at the cost of tens of thousands of dollars. The officials at CNS with whom AHC's counsel is now communicating are general counsel Terry Russell and senior program officer Simon Woodard.

10) Many months ago, AHC submitted its application to CNS for FY95 second year funding for its AmeriCorps project. It has not yet received an answer as to CNS's approval or rejection of that application.

CONCLUSION

Frankly, we think that the way that AHC and its AmeriCorps project have been treated by CNS has been unfriendly and unprofessional. AHC would like to be able to complete the work of its first year AmeriCorps grant. In addition, AHC continues to be willing to meet with CNS officials to constructively discuss any problems and to resolve those problems in a satisfactory manner.

If such a meeting is to occur, it needs to happen within the next week or two and certainly not later than August 10, given the timeline described above.

Thank you for your attention to this matter.

Draft

10 August 1995

MEMORANDUM FOR HAROLD ICKES

From: Jennifer O'Connor

Subject: Termination of National Service grant to ACORN Housing Corporation (AHC)

Attached are two memos, one from the Office of the Inspector General of the National Service Corporation, the other from AHC, commenting on two sides of one issue -- the audit of AHC by the Inspector General to determine whether or not AHC violated agreements and regulations pursuant to its National Service grant.

The Office of the Inspector General was asked to conduct its audit by the Corporation for National Service. The auditor, Luise Jordan is still conducting her investigation, though she thinks sufficient evidence has already come to light showing violations by the AHC.

Specifically, she has acquired documents and sworn testimony that AmeriCorps members were coerced or asked to further the mission of ACORN, a separate corporation which, under federal regulation, is not permitted to utilize AmeriCorps workers because they support political candidates in elections. These documents and testimony detail incidents where: (1) an AHC supervisor threatened to terminate two AmeriCorps members if they did not bring in loan counseling clients or solicit members for ACORN; (2) AHC officials in Dallas told AmeriCorps members to give ACORN members priority scheduling and access to assistance; (3) an AHC loan counseling client was escorted to a meeting with an ACORN official by an AmeriCorps member; (4) AmeriCorps members were given training manuals on how to conduct intake interviews for ACORN loan counseling clients.

Although the auditor's investigation is ongoing, the CNS suspended AHC's AmeriCorps project on July 21, 1995. AHC has until August 11, 1995 to respond to the suspension. Under CNS guidelines, a hearing must be held within 30 days of the suspension (by August 20).

In response to these allegations, the AHC complains of unfair treatment and denies any wrongdoing. AHC asserts that its AmeriCorps members are engaged in important work in securing loan access for low-income borrowers, that terminating its grant will cause it future harm because any subsequent local, state or federal grant request will also require an explanation for why the AmeriCorps grant was revoked, and that throughout its

*Old they
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the people who do*

*This is a
grant to
AHC
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partnership with CNS it has been treated poorly, with little interest shown by CNS officials in responding to calls, or turning over preliminary audit reports.

For the AHC to get its suspension lifted, it would have to meet the standard of proof that CNS's action was "arbitrary and capricious" which is legally an extremely difficult standard to meet. The hearing officer, if she finds against AHC may terminate their grant for cause.

Do you see any reason to get involved in this?



FACSIMILE TRANSMITTAL SHEET
FROM THE OFFICE OF
EXTERNAL AFFAIRS

AmeriCorps National Service

CORPORATION
FOR NATIONAL
SERVICE

TO: Harold Foley TIME: 2:23
LOCATION: 104 Attn: Jennifer O'Connor DATE: 8/9
FAX NO: () 456-7979 PHONE NO: () 6350

FROM: **RICK ALLEN**

PHONE NO: (202) 606-5000, ext. 157 or 453 FAX NO: (202) 565-2784

COMMENTS For Your Eyes Only

NUMBER OF PAGES INCLUDING COVER SHEET 9

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Getting Things Done.
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R. Allen

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July 17, 1995

Eli Segal, Chief Executive Officer
Corporation for National Service



Re: ACORN Housing Corporation

Dear Mr. Segal:

My letter to you, dated April 20, 1995, established an understanding between the Corporation for National Service (CNS) and the Office Inspector General (OIG) on the scope of audit work OIG would undertake at your request regarding ACORN Housing Corporation (AHC). As stated in that letter, we were to conduct audit work in the following four areas:

- Determining whether any of AHC's AmeriCorps Members participated in the demonstration in Washington, D.C. sponsored by the Association of Community Organizations for Reform Now (ACORN) on March 6, 1995.
- Ascertaining whether AHC and ACORN are separate entities.
- Determining whether AHC used AmeriCorps grant funds to benefit ACORN either directly or indirectly.
- Examining costs charged to the AmeriCorps grant to determine if AHC has an accounting system that supports Federal reporting requirements and properly accumulates grant charges in the AHC general ledger, and, to the extent possible, testing the propriety of data maintained in the system.

As you know, during our audit we received a Hotline complaint from a former AHC AmeriCorps Member. This complaint alleged that AHC AmeriCorps Members were being improperly used to recruit members for ACORN.

The purpose of this letter is to advise you of the status of our audit, and of the preliminary results of our investigation into the Hotline complaint. While it is not the normal practice of this office to reveal the preliminary results of an ongoing investigation, you and your staff asked for regular briefings on these matters, and for the recommendations of OIG. The evidence we have collected

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to date causes me to have serious concerns about the advisability of CNS continuing its relationship with AHC.

Summary

In regard to the areas included in our audit, we have not found any evidence of AmeriCorps Members participating in the March 6 demonstration sponsored by ACORN, although we have determined that (contrary to what CNS had been informed by AHC) the AmeriCorps grant-funded AHC supervisor in AHC's Washington, D.C. office took an unpaid "personal day" to participate in the demonstration. The scope of our work in this area has been impeded, however, because AHC has placed conditions on our interviews that limit our ability to develop reliable information. We have determined that AHC and ACORN are separate corporate entities, but that they do not always operate at arm's length. Finally, the documentation and information provided to support approximately \$94 thousand of costs charged to the grant as of April 28, 1995, is inadequate to establish that the costs are allowable under the grant and applicable regulations.

In regard to the investigation, the evidence we have collected to date indicates that AHC has directed, condoned, and allowed the use of some of its AmeriCorps Members as conduits for recruiting new ACORN members. We have issued subpoenas to AHC and ACORN for documents that will allow us to assess the impact of this practice. Although AHC has agreed to provide the documents listed in our subpoena, ACORN has stated that, with regard to any nonpublic information, it will refuse to respond to our subpoena. Nonetheless, we believe that we have sufficient evidence to conclude that AHC has violated the provisions of the National and Community Service Act, as amended, CNS regulations, and the AmeriCorps grant agreement prohibiting AHC from using AmeriCorps positions to benefit advocacy organizations.

Status of OIG Audit Regarding AHC

Regarding AmeriCorps Member participation in the March 6 demonstration, our review of AHC's financial records found no evidence that AHC used AmeriCorps grant funds to pay for travel expenses that would have placed AHC staff or AmeriCorps Members in Washington, D.C. on March 6, 1995. In addition, we have interviewed 15 of the 17 grant-funded AHC staff and AmeriCorps Members who were working in AHC offices in Washington, D.C.; Philadelphia, Pennsylvania; and Brooklyn, New York (those most likely to have been present at the demonstration without incurring travel expenses).¹ During these interviews, the grant-funded AHC supervisor in AHC's Washington, D.C. office stated that she took an unpaid "personal day" to participate in the March 6 demonstration. This employee's time sheet for the month of March reflects that the employee did not record any time worked on March 6, 1995.

¹ The two remaining people, one AmeriCorps Member and one AHC supervisor, are no longer working for AHC. We are continuing our efforts to contact these individuals.

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¹ The two remaining people, one AmeriCorps Member and one AHC supervisor, are no longer working for AHC. We are continuing our efforts to contact these three individuals.

Our audit notification letter issued on April 26, 1995, advised AHC that our procedures would include interviewing AmeriCorps Members and AmeriCorps grant-funded AHC staff at each AHC location participating in the AmeriCorps program. During our audit, we conducted 12 interviews in private. However, on May 10, 1995, we were contacted by AHC's outside counsel, who stated that we must make all further requests for information regarding AHC through him. After discussions with AHC's counsel, we conducted an additional six interviews in the presence of AHC's counsel. We also advised you as well as AHC's counsel that, under our governing auditing standards, interviews conducted in the presence of third parties are not considered as reliable as private interviews. Given this lower level of reliability, I subsequently decided that the expense of conducting further interviews in AHC's offices in Dallas, Houston, Phoenix, Denver and Chicago was not warranted and agreed to accept affidavits from the AHC AmeriCorps Members and staff in those cities. We have received declarations signed under penalty of perjury from 17 current AmeriCorps Members and AHC staff in those cities, all of whom state that they did not participate in the March 6 demonstration. There are three AmeriCorps Members and one AHC supervisor from these cities that are no longer working for AHC. We are continuing our efforts to contact these individuals.

Nonetheless, because of the restrictions on our audit scope, we will not be able to produce a sufficient amount of independent and creditable evidence to form an independent conclusion on whether AmeriCorps Members participated in the March 6 demonstration. Our conclusion on this issue will be limited to a statement of the extent to which the evidence we collected confirms or contradicts AHC's assertions that AmeriCorps Members and AHC staff did not participate in the March 6 demonstration, and our final audit report will describe the constraints that AHC has placed on our interviews.

Regarding whether AHC and ACORN are separate entities, we have established that they are separately incorporated. AHC is a Louisiana nonprofit corporation incorporated on March 13, 1985. ACORN is an Arkansas nonprofit corporation chartered on January 5, 1977. However, it appears that AHC and ACORN do not always operate at-arms-length from one another. Not only have we found references to ACORN having "created" AHC to serve purposes common to both organizations, we noted numerous transactions and activities involving AHC and other "fraternal" ACORN-related corporations. These transactions include some of the questioned costs discussed below. The coordination of AHC and ACORN activities is also the subject of our investigation discussed below.

Regarding the final two issues (related to application of AHC's AmeriCorps grant funds), our audit is incomplete. Of the approximately \$460 thousand in AmeriCorps program costs that AHC recorded from October 1, 1994 to April 28, 1995, we have identified costs of about \$94 thousand which we are questioning because the information provided to us by AHC from its accounting records and other sources has not established that these costs are allowable under the grant agreement and applicable regulations. Certain of these costs appear to have been paid to AHC or ACORN related parties. On June 30, 1995, we advised AHC of our concerns related to these costs,

and advised AHC that without additional documentation or information to support these costs, CNS may disallow them as charges to the AmeriCorps grant.

Preliminary Results of Investigation of Hotline Complaint

As a direct result of OIG investigators conducting interviews during our initial AHC audit, we received a Hotline complaint that AmeriCorps Members were being improperly used to benefit ACORN. Specifically, a former AmeriCorps Member in New Orleans alleged that AHC has required its AmeriCorps Members to help ACORN recruit of members. We then began an investigation to find out whether these allegations were true.

The focus of this ongoing investigation is to determine whether AHC has violated the terms of the National and Community Service Act of 1990, as amended (NCSA), 42 U.S.C. § 12584(a)(5), CNS regulations, 45 C.F.R. § 2520.30, and the grant agreement between the CNS and AHC. Under these authorities, AHC may not direct its AmeriCorps Members to provide a direct benefit to any nonprofit organization that does not comply with the restrictions contained in section 501(c) of the Internal Revenue Code. Thus, AHC may not direct its AmeriCorps Members to provide a direct benefit to any organization "[a] substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," or any organization that "participate[s] in, or intervene[s] in . . . any political campaign on behalf of (or in opposition to) any candidate for public office."²

Our review of material describing ACORN's activities during the term of AHC's grant shows that ACORN has devoted a substantial portion of its activity to attempts to influence legislation. Since June of 1994, ACORN representatives have engaged in extensive lobbying efforts (including a March 1995 Legislative and Political Conference) aimed at members of Congress. A recent edition of ACORN's newsletter, United States of ACORN, urged ACORN members to call a toll-free legislative hotline. When called, this phone number gives a brief recorded description of "this month's legislative issue," and then forwards the call to the U.S. Capitol switchboard so that the operator can connect callers to the appropriate congressional office. ACORN has also been active in state legislative matters, including obtaining signatures to put a campaign finance proposition on a statewide ballot in Missouri. Finally, ACORN has been active in campaigns for political office, including endorsements of specific candidates in the 1993 and 1994 elections.

In our view, these ACORN activities are sufficient to bring direct support of ACORN by AmeriCorps Members under the prohibition contained in the NCSA, CNS regulation, and grant agreement on directly benefiting advocacy organizations. Accordingly, our investigative effort has focused on the extent to which AHC has directed AmeriCorps Members to perform activities that directly benefited ACORN. From the information obtained from the Hotline complainant, and other

² See 26 U.S.C. § 501(c)(3). Although NCSA only refers to "the restrictions contained in section 501(c) of Title 26," 42 U.S.C. § 12584(a)(5), the legislative history of the act specifically refers to the restrictions governing 501(c)(3) nonprofit organizations, H.R. Conf. Rep. No. 219, 103d Cong, 1st Sess. 149 (1993).

leads and information independently developed by OIG, we have obtained sworn statements or documentary evidence of the following:

- An "ACORN Housing Corporation - Loan Counselors Training Manual" made available to AmeriCorps Members from various cities provides a detailed description of ACORN's goals and activities, and encourages loan counselors to advocate membership in ACORN to loan counseling clients. The manual contains detailed descriptions of how to conduct intake sessions and informational seminars, including providing specific opportunities for people interested in obtaining loan counseling to be recruited by ACORN representatives. A sample handout included in the manual to be given to prospective loan counseling clients describes the information and documentation needed at "an intake session," and states that clients "must" bring a \$60 check or money order for ACORN membership dues (see attached copy).
- An AHC supervisor in New Orleans threatened two AmeriCorps Members with "immediate termination" if they failed to follow the "national loan counseling policy" of bringing loan counseling clients to ACORN organizers to be solicited for membership in ACORN. Bruce Dorpalen, AHC's AmeriCorps Program Director, was noted as receiving a copy of memoranda concerning this matter.
- A local ACORN official in Dallas stated that the only reason for having the AmeriCorps program was to gain new ACORN members, and that if AmeriCorps loan counseling clients did not start becoming ACORN members, she could and would halt the AmeriCorps project. This ACORN official specifically directed AmeriCorps Members to solicit membership in ACORN.
- AHC officials in Dallas told AmeriCorps Members to give loan counseling clients who became ACORN members priority scheduling and access to assistance (including some financial assistance) over the clients that did not join ACORN.
- An AHC loan counseling client in New Orleans (who is a retired high school business teacher) was escorted by an AmeriCorps Member to an ACORN Organizer who solicited membership in ACORN. The client felt like she was not going to be allowed to leave until she gave the ACORN Organizer a \$60 check, or authorized a \$5 per month automatic bank draft for ACORN membership dues. The client gave the Organizer a postdated check for \$60 and received an ACORN membership card. The client later asked for her check to be returned. After telling her it could not be returned, and again soliciting membership in ACORN, the Organizer returned the check.
- AHC officials in Phoenix required an AmeriCorps Member, in addition to her loan counseling duties, to conduct housing committee meetings of all area ACORN members. She was also told to contact the area ACORN members about an anniversary picnic for ACORN, which she refused to do.

- Although they were told only ACORN representatives should actually collect ACORN membership dues, several AmeriCorps Members stated that, as part of their training, they were told to describe to prospective loan counseling clients the accomplishments of ACORN and the reasons why the prospective clients should join ACORN.

The evidence we have collected indicates that AHC has directed, condoned, and allowed the use of some of its AmeriCorps Members as conduits for recruiting new ACORN members. Moreover, the evidence indicates that this practice is not isolated. In New Orleans and Dallas, where AHC has AmeriCorps loan counselors co-located with ACORN recruiters, the evidence shows that there was specific pressure placed on AmeriCorps Members to assist in recruiting new ACORN members. Further, AmeriCorps Members in Phoenix (where there are no ACORN recruiters) specifically recalled being told in AHC training sessions that they should tell prospective clients about ACORN's goals and activities.

To determine the impact of this practice has had on actual ACORN membership and fund raising, we issued subpoenas to both AHC and ACORN on June 20, 1995. The subpoenas require AHC and ACORN to produce documents which will allow us to identify the prospective AHC loan counseling clients who were recruited and then joined ACORN, and other people who joined ACORN in part because of the loan counseling available from AmeriCorps Members. The return date on the subpoenas was July 7, 1995. AHC has told us that they will comply with the subpoena, but asked for an extension of the return date. We received AHC's response to the subpoena on July 14, 1995, and are reviewing those documents. ACORN, however, has asserted that the subpoena is beyond our authority, and stated that it will only provide information already available to the public.

Conclusion

You requested that we complete our audit in time for CNS to consider the results while reviewing AHC's request for renewal of its AmeriCorps grant. Regrettably, our work remains incomplete, largely because of the impediments imposed by AHC and ACORN. Nonetheless, I believe that we have sufficient evidence from our investigation to conclude that AHC has violated the NCSA, CNS regulations, and grant agreement by using AmeriCorps positions to benefit ACORN. Because of your specific request for timely information in this matter, I have decided to provide you with this interim report of the results of our ongoing audit and investigation. Please advise me of whatever additional assistance we can offer as we continue our work in these matters.

Yours truly,



Luise S. Jordan
Inspector General

ACORN Housing Corporation

Your next step in the Loan Counseling Program is an intake session which is scheduled for:

Date:	Wednesday, April 13, 1994
Time:	7:00 P.M.
Place:	ACORN Housing Corporation 846 North Main Street City

To get there by mass transit, take the Blue Line to Main Street, walk south two blocks, or take the #30 bus and get off at Main and Park. If you drive, there is a parking lot across the street.

BE SURE TO BRING PHOTOCOPIES of all of the following documents which apply to you:

- three current paystubs for all employment
- past two years tax returns and W-2's
- award letter or proof of other sources of income (including public assistance, SSI, worker's compensation)
- court order for child support/alimony you receive
- last three months bank statements for all accounts (checking and saving)

You must also bring:

- \$10 for your credit report
- \$60 ACORN membership dues (check or money order)

If you cannot keep your appointment, or you have any questions, please call 234-5678

Draft

10 August 1995

*H1-
They ain't
cut a deal*

MEMORANDUM FOR JENNIFER O'CONNOR

From: Joe Fanaroff

Subject: Possible violations of AmeriCorps grant money

The Office of the Inspector General is conducting an audit of the ACORN Housing Corporation (AHC) to ascertain whether or not it has violated regulations of the National and Community Service Act of 1990 as amended for the Corporation for National Service (CNS).

The audit has focused on five issues and although the audit is ongoing, the Inspector General thinks that sufficient evidence exists to sever CNS ties to AHC.

The first line of inquiry regards allegations that AHC AmeriCorps members attended a demonstration sponsored by the Association of Community Organizations for Reform Now (ACORN), in March 1995. On this issue, the auditor found no evidence that AHC grant money was used for travel expenses, and that no AHC AmeriCorps member participated in the event. An AHC staffer did participate, but came from the Washington, D.C. office and took an unpaid sick day to attend. The findings on this issue are incomplete to the extent that the auditor was prohibited by AHC's outside counsel from conducting private interviews with AHC AmeriCorps members in several cities. Although these interviews did take place, a third party was present, diminishing, in the auditor's eyes, the reliability of the interview.

The second issue regards whether or not AHC and ACORN are separate corporate entities. On this point, the auditor did find that the two corporations were separate, but that they did not always work "at an arms length." The auditor discovered transactions involving AHC and other ACORN-related corporations and references to ACORN having "created" AHC; however, no conclusive evidence was found that the two corporations are one entity.

The third and fourth issues, regarding inconsistencies in accounting records, is incomplete. Of the \$460 thousand in AmeriCorps program costs recorded by AHC between October 1, 1994 and April 28, 1995, the auditor has identified \$94 thousand in costs which have not been confirmed to be proper expenditures under applicable agreements and regulations. On June 30, 1995, the auditor informed AHC that funds had been brought into question, but at the time of this letter, (July 17), AHC had not responded.

The fifth issue -- and the one upon which the auditor thinks sufficient evidence exists to sever CNS's relationship to AHC -- regards the use of AHC AmeriCorps members to further ACORN actions, a violation of the NCSA prohibition against allowing AmeriCorps members to confer a direct or indirect benefit to any organization which *inter alia* attempts to influence legislation or intervenes in any political campaign on behalf of or in opposition to any candidate for public office.

The auditor has secured sworn statements or documents pertaining to incidents where: (1) an AHC supervisor threatened to terminate two AmeriCorps members if they did not bring in loan counseling clients and solicit members for ACORN; (2) AHC officials in Dallas told AmeriCorps members to give ACORN members priority scheduling and access to assistance; (3) An AHC loan counseling client was escorted to a meeting with an ACORN official by an AmeriCorps member; (4) AmeriCorps members were given training manuals on how to conduct intake interviews for ACORN loan counseling clients.

Based on this investigation, the auditor issued subpoenas to both ACORN and AHC on June 20, 1995. AHC responded that they would comply, but ACORN has asserted that the auditor does not have jurisdiction over them and will not respond.

In conclusion, the auditor states that "[w]e have sufficient evidence from our investigation to conclude that AHC has violated the NCSA, CNS regulations, and grant agreement by using AmeriCorps positions to benefit ACORN."

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in any form

July 17, 1995

Eli Segal, Chief Executive Officer
Corporation for National Service

CORPORATION
FOR NATIONAL
★ SERVICE

Re: ACORN Housing Corporation

Dear Mr. Segal:

My letter to you, dated April 20, 1995, established an understanding between the Corporation for National Service (CNS) and the Office Inspector General (OIG) on the scope of audit work OIG would undertake at your request regarding ACORN Housing Corporation (AHC). As stated in that letter, we were to conduct audit work in the following four areas:

- Audit
OF
ACORN-

- Determining whether any of AHC's AmeriCorps Members participated in the demonstration in Washington, D.C. sponsored by the Association of Community Organizations for Reform Now (ACORN) on March 6, 1995.
- Ascertaining whether AHC and ACORN are separate entities.
- Determining whether AHC used AmeriCorps grant funds to benefit ACORN either directly or indirectly.
- Examining costs charged to the AmeriCorps grant to determine if AHC has an accounting system that supports Federal reporting requirements and properly accumulates grant charges in the AHC general ledger, and, to the extent possible, testing the propriety of data maintained in the system.

As you know, during our audit we received a Hotline complaint from a former AHC AmeriCorps Member. This complaint alleged that AHC AmeriCorps Members were being improperly used to recruit members for ACORN.

The purpose of this letter is to advise you of the status of our audit, and of the preliminary results of our investigation into the Hotline complaint. While it is not the normal practice of this office to reveal the preliminary results of an ongoing investigation, you and your staff asked for regular briefings on these matters, and for the recommendations of OIG. The evidence we have collected

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to date causes me to have serious concerns about the advisability of CNS continuing its relationship with AHC.

Summary

In regard to the areas included in our audit, we have not found any evidence of AmeriCorps Members participating in the March 6 demonstration sponsored by ACORN, although we have determined that (contrary to what CNS had been informed by AHC) the AmeriCorps grant-funded AHC supervisor in AHC's Washington, D.C. office took an unpaid "personal day" to participate in the demonstration. The scope of our work in this area has been impeded, however, because AHC has placed conditions on our interviews that limit our ability to develop reliable information. We have determined that AHC and ACORN are separate corporate entities, but that they do not always operate at arm's length. Finally, the documentation and information provided to support approximately \$94 thousand of costs charged to the grant as of April 28, 1995, is inadequate to establish that the costs are allowable under the grant and applicable regulations.

In regard to the investigation, the evidence we have collected to date indicates that AHC has directed, condoned, and allowed the use of some of its AmeriCorps Members as conduits for recruiting new ACORN members. We have issued subpoenas to AHC and ACORN for documents that will allow us to assess the impact of this practice. Although AHC has agreed to provide the documents listed in our subpoena, ACORN has stated that, with regard to any nonpublic information, it will refuse to respond to our subpoena. Nonetheless, we believe that we have sufficient evidence to conclude that AHC has violated the provisions of the National and Community Service Act, as amended, CNS regulations, and the AmeriCorps grant agreement prohibiting AHC from using AmeriCorps positions to benefit advocacy organizations.

Status of OIG Audit Regarding AHC

Regarding AmeriCorps Member participation in the March 6 demonstration, our review of AHC's financial records found no evidence that AHC used AmeriCorps grant funds to pay for travel expenses that would have placed AHC staff or AmeriCorps Members in Washington, D.C. on March 6, 1995. In addition, we have interviewed 15 of the 17 grant-funded AHC staff and AmeriCorps Members who were working in AHC offices in Washington, D.C.; Philadelphia, Pennsylvania; and Brooklyn, New York (those most likely to have been present at the demonstration without incurring travel expenses).¹ During these interviews, the grant-funded AHC supervisor in AHC's Washington, D.C. office stated that she took an unpaid "personal day" to participate in the March 6 demonstration. This employee's time sheet for the month of March reflects that the employee did not record any time worked on March 6, 1995.

¹ The two remaining people, one AmeriCorps Members and one AHC supervisor, are no longer working for AHC. We are continuing our efforts to contact these individuals.

Our audit notification letter issued on April 26, 1995, advised AHC that our procedures would include interviewing AmeriCorps Members and AmeriCorps grant-funded AHC staff at each AHC location participating in the AmeriCorps program. During our audit, we conducted 12 interviews in private. However, on May 10, 1995, we were contacted by AHC's outside counsel, who stated that we must make all further requests for information regarding AHC through him. After discussions with AHC's counsel, we conducted an additional six interviews in the presence of AHC's counsel. We also advised you as well as AHC's counsel that, under our governing auditing standards, interviews conducted in the presence of third parties are not considered as reliable as private interviews. Given this lower level of reliability, I subsequently decided that the expense of conducting further interviews in AHC's offices in Dallas, Houston, Phoenix, Denver and Chicago was not warranted and agreed to accept affidavits from the AHC AmeriCorps Members and staff in those cities. We have received declarations signed under penalty of perjury from 17 current AmeriCorps Members and AHC staff in those cities, all of whom state that they did not participate in the March 6 demonstration. There are three AmeriCorps Members and one AHC supervisor from these cities that are no longer working for AHC. We are continuing our efforts to contact these individuals.

Nonetheless, because of the restrictions on our audit scope, we will not be able to produce a sufficient amount of independent and creditable evidence to form an independent conclusion on whether AmeriCorps Members participated in the March 6 demonstration. Our conclusion on this issue will be limited to a statement of the extent to which the evidence we collected confirms or contradicts AHC's assertions that AmeriCorps Members and AHC staff did not participate in the March 6 demonstration, and our final audit report will describe the constraints that AHC has placed on our interviews.

Regarding whether AHC and ACORN are separate entities, we have established that they are separately incorporated. AHC is a Louisiana nonprofit corporation incorporated on March 13, 1985. ACORN is an Arkansas nonprofit corporation chartered on January 5, 1977. However, it appears that AHC and ACORN do not always operate at-arms-length from one another. Not only have we found references to ACORN having "created" AHC to serve purposes common to both organizations, we noted numerous transactions and activities involving AHC and other "fraternal" ACORN-related corporations. These transactions include some of the questioned costs discussed below. The coordination of AHC and ACORN activities is also the subject of our investigation discussed below.

Regarding the final two issues (related to application of AHC's AmeriCorps grant funds), our audit is incomplete. Of the approximately \$460 thousand in AmeriCorps program costs that AHC recorded from October 1, 1994 to April 28, 1995, we have identified costs of about \$94 thousand which we are questioning because the information provided to us by AHC from its accounting records and other sources has not established that these costs are allowable under the grant agreement and applicable regulations. Certain of these costs appear to have been paid to AHC or ACORN related parties. On June 30, 1995, we advised AHC of our concerns related to these costs,

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and advised AHC that without additional documentation or information to support these costs, CNS may disallow them as charges to the AmeriCorps grant.

Preliminary Results of Investigation of Hotline Complaint

As a direct result of OIG investigators conducting interviews during our initial AHC audit, we received a Hotline complaint that AmeriCorps Members were being improperly used to benefit ACORN. Specifically, a former AmeriCorps Member in New Orleans alleged that AHC has required its AmeriCorps Members to help ACORN recruit of members. We then began an investigation to find out whether these allegations were true.

The focus of this ongoing investigation is to determine whether AHC has violated the terms of the National and Community Service Act of 1990, as amended (NCSA), 42 U.S.C. § 12584(a)(5), CNS regulations, 45 C.F.R. § 2520.30, and the grant agreement between the CNS and AHC. Under these authorities, AHC may not direct its AmeriCorps Members to provide a direct benefit to any nonprofit organization that does not comply with the restrictions contained in section 501(c) of the Internal Revenue Code. Thus, AHC may not direct its AmeriCorps Members to provide a direct benefit to any organization "[a] substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," or any organization that "participate[s] in, or intervene[s] in . . . any political campaign on behalf of (or in opposition to) any candidate for public office."²

Our review of material describing ACORN's activities during the term of AHC's grant shows that ACORN has devoted a substantial portion of its activity to attempts to influence legislation. Since June of 1994, ACORN representatives have engaged in extensive lobbying efforts (including a March 1995 Legislative and Political Conference) aimed at members of Congress. A recent edition of ACORN's newsletter, United States of ACORN, urged ACORN members to call a toll-free legislative hotline. When called, this phone number gives a brief recorded description of "this month's legislative issue," and then forwards the call to the U.S. Capitol switchboard so that the operator can connect callers to the appropriate congressional office. ACORN has also been active in state legislative matters, including obtaining signatures to put a campaign finance proposition on a statewide ballot in Missouri. Finally, ACORN has been active in campaigns for political office, including endorsements of specific candidates in the 1993 and 1994 elections.

In our view, these ACORN activities are sufficient to bring direct support of ACORN by AmeriCorps Members under the prohibition contained in the NCSA, CNS regulation, and grant agreement on directly benefiting advocacy organizations. Accordingly, our investigative effort has focused on the extent to which AHC has directed AmeriCorps Members to perform activities that directly benefited ACORN. From the information obtained from the Hotline complainant, and other

² See, 26 U.S.C. § 501(c)(3). Although NCSA only refers to "the restrictions contained in section 501(c) of Title 26," 42 U.S.C. § 12584(a)(5), the legislative history of the act specifically refers to the restrictions governing 501(c)(3) nonprofit organizations, H.R. Conf. Rep. No. 219, 103d Cong., 1st Sess. 149 (1993).

leads and information independently developed by OIG, we have obtained sworn statements or documentary evidence of the following:

- An "ACORN Housing Corporation - Loan Counselors Training Manual" made available to AmeriCorps Members from various cities provides a detailed description of ACORN's goals and activities, and encourages loan counselors to advocate membership in ACORN to loan counseling clients. The manual contains detailed descriptions of how to conduct intake sessions and informational seminars, including providing specific opportunities for people interested in obtaining loan counseling to be recruited by ACORN representatives. A sample handout included in the manual to be given to prospective loan counseling clients describes the information and documentation needed at "an intake session," and states that clients "must" bring a \$60 check or money order for ACORN membership dues (see attached copy).
- An AHC supervisor in New Orleans threatened two AmeriCorps Members with "immediate termination" if they failed to follow the "national loan counseling policy" of bringing loan counseling clients to ACORN organizers to be solicited for membership in ACORN. Bruce Dorpalen, AHC's AmeriCorps Program Director, was noted as receiving a copy of memoranda concerning this matter.
- A local ACORN official in Dallas stated that the only reason for having the AmeriCorps program was to gain new ACORN members, and that if AmeriCorps loan counseling clients did not start becoming ACORN members, she could and would halt the AmeriCorps project. This ACORN official specifically directed AmeriCorps Members to solicit membership in ACORN.
- AHC officials in Dallas told AmeriCorps Members to give loan counseling clients who became ACORN members priority scheduling and access to assistance (including some financial assistance) over the clients that did not join ACORN.
- An AHC loan counseling client in New Orleans (who is a retired high school business teacher) was escorted by an AmeriCorps Member to an ACORN Organizer who solicited membership in ACORN. The client felt like she was not going to be allowed to leave until she gave the ACORN Organizer a \$60 check, or authorized a \$5 per month automatic bank draft for ACORN membership dues. The client gave the Organizer a postdated check for \$60 and received an ACORN membership card. The client later asked for her check to be returned. After telling her it could not be returned, and again soliciting membership in ACORN, the Organizer returned the check.
- AHC officials in Phoenix required an AmeriCorps Member, in addition to her loan counseling duties, to conduct housing committee meetings of all area ACORN members. She was also told to contact the area ACORN members about an anniversary picnic for ACORN, which she refused to do.

- Although they were told only ACORN representatives should actually collect ACORN membership dues, several AmeriCorps Members stated that, as part of their training, they were told to describe to prospective loan counseling clients the accomplishments of ACORN and the reasons why the prospective clients should join ACORN.

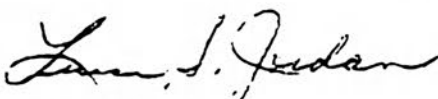
The evidence we have collected indicates that AHC has directed, condoned, and allowed the use of some of its AmeriCorps Members as conduits for recruiting new ACORN members. Moreover, the evidence indicates that this practice is not isolated. In New Orleans and Dallas, where AHC has AmeriCorps loan counselors co-located with ACORN recruiters, the evidence shows that there was specific pressure placed on AmeriCorps Members to assist in recruiting new ACORN members. Further, AmeriCorps Members in Phoenix (where there are no ACORN recruiters) specifically recalled being told in AHC training sessions that they should tell prospective clients about ACORN's goals and activities.

To determine the impact of this practice has had on actual ACORN membership and fund raising, we issued subpoenas to both AHC and ACORN on June 20, 1995. The subpoenas require AHC and ACORN to produce documents which will allow us to identify the prospective AHC loan counseling clients who were recruited and then joined ACORN, and other people who joined ACORN in part because of the loan counseling available from AmeriCorps Members. The return date on the subpoenas was July 7, 1995. AHC has told us that they will comply with the subpoena, but asked for an extension of the return date. We received AHC's response to the subpoena on July 14, 1995, and are reviewing those documents. ACORN, however, has asserted that the subpoena is beyond our authority, and stated that it will only provide information already available to the public.

Conclusion

You requested that we complete our audit in time for CNS to consider the results while reviewing AHC's request for renewal of its AmeriCorps grant. Regrettably, our work remains incomplete, largely because of the impediments imposed by AHC and ACORN. Nonetheless, I believe that we have sufficient evidence from our investigation to conclude that AHC has violated the NCSA, CNS regulations, and grant agreement by using AmeriCorps positions to benefit ACORN. Because of your specific request for timely information in this matter, I have decided to provide you with this interim report of the results of our ongoing audit and investigation. Please advise me of whatever additional assistance we can offer as we continue our work in these matters.

Yours truly,



Luise S. Jordan
Inspector General

ACORN Housing Corporation

Your next step in the Loan Counseling Program is an intake session which is scheduled for:

Date:	Wednesday, April 13, 1994
Time:	7:00 P.M.
Place:	ACORN Housing Corporation 846 North Main Street City

To get there by mass transit, take the Blue Line to Main Street, walk south two blocks, or take the #30 bus and get off at Main and Park. If you drive, there is a parking lot across the street.

BE SURE TO BRING PHOTOCOPIES of all of the following documents which apply to you:

- three current paystubs for all employment
- past two years tax returns and W-2's
- award letter or proof of other sources of income
(including public assistance, SSI, worker's compensation)
- court order for child support/alimony you receive
- last three months bank statements for all accounts
(checking and saving)

You must also bring:

- \$10 for your credit report
- \$60 ACORN membership dues
(check or money order)

If you cannot keep your appointment, or you have any questions, please call 234-5678

FAX

DATE: Monday, August 7, 1995

TO: Jennifer O'Connor, The White House

FAX: (202) 456-7929,99031

FROM: Zach Polett

PAGES: 4

MEMO

ACORN
523 W 15th Street
Little Rock, Arkansas 72202
(501) 376-7151 phone (501) 376-3952 fax

M E M O R A N D U M

8/5/95

To: Jennifer O'Connor
From: Zach Polett

RE: Acorn Housing Corporation (AHC) and AmeriCorps

We believe that a grave injustice is being done to Acorn Housing Corporation (AHC), its AmeriCorps project through which AmeriCorps volunteers help low-income families become homeowners, and the low-to-moderate income urban communities of color that it primarily serves.

Here is the background and timeline information you requested:

1) AHC's AmeriCorps project has been extremely successful in producing benefits for the low-to-moderate income community that it serves. Some numbers:

* * AHC's AmeriCorps project has conducted **4932 intakes** of low-to-moderate income families seeking private sector financing for home purchases.

* * **757 of these families have already submitted applications** to financial institutions for home mortgages.

* * Based on AHC's experience from the first 6 months of the project that 90% of these mortgage applications will be approved, **681 of these 757 applications will get loans** .

* * **\$34 million** of private capital has been re-invested into low-income communities, financing these home purchases, as a direct result of the AHC AmeriCorps project.

2) On July 19 Corporation for National Service (CNS) director Eli Segal faxed a letter to AHC suspending its AmeriCorps project effective July 21, based upon a preliminary report from CNS's inspector-general. (NOTE: That report stated that the I-G did not find any evidence of AmeriCorps Members participating in the March 6 demonstration sponsored by ACORN.)

3) Neither AHC nor its attorneys were able to get a copy of this preliminary report from the I-G until 6 days after the suspension, so there was no way that AHC could respond.

4) AHC has until Friday, August 11 to respond to the suspension. Its attorneys are in the process of preparing that response.

5) Timeline: It is my understanding that following the receipt of this response CNS will schedule a hearing. Because a suspension is for 30 days, CNS needs to hold this hearing by 8/20. For AHC to prevail in this hearing, which is conducted by a hearing officer selected by CNS, it would have to meet the standard of proof that CNS's action was "arbitrary and capricious" which is legally an extremely difficult standard to meet.

6) Following this hearing CNS can, if it chooses, terminate the grant for cause. AHC would undoubtedly challenge such termination legally, but the negative ramifications would still be great.

7) If CNS terminates the grant, the losses to AHC, the clients, and the affected communities will be severe. For example:

* * The clients who have already come to AHC to get loan counseling and home mortgages will have no counselor to help them through the rest of the process until their loan is ready to close. This is a critical time in the home mortgage process, especially for lower-income borrowers.

* * The communities will lose the ability for more families to get loan counseling and home loans and for what would likely be another \$34 million of private financing invested into these low-to-moderate income urban communities.

* * AHC will lose the approximately \$450,000 - \$500,000 of the \$950,000 AmeriCorps grant that has not yet been expended.

* * AHC will face the danger of being barred from seeking any additional federal grants or contracts from any other federal agencies for the affordable housing, loan counseling and non-profit housing development work that it does around the country.

* * If the grant is terminated for cause, AHC will then have to explain this on every federal -- and any local and state -- grant applications it ever makes in the future. AHC's counsel believes that this is likely to hurt AHC in securing any future grants. It would act as an albatross around AHC's neck, knocking off a few points from scores on grant applications that would likely be enough of a negative factor to sink the applications.

8) From the beginnings of the right-wing attacks on AHC's AmeriCorps project, CNS officials have shown a marked

disinterest to communicate with AHC. For example, both John Walters, president of The New Citizenship Project and the Washington Times have consistently gotten more, earlier and better information from CNS than AHC has. In a letter to the Washington Times published on April 10 John Walters wrote that the CNS board had ordered an investigation of AHC. AHC had heard nothing about an investigation, so on April 11 AHC's executive director called CNS to ask if it was being investigated. He left 3 messages for AHC's program officer at CNS, but received no return call. He also called her supervisor, but did not get a return call. He finally reached their grants officer at CNS who told him that he didn't know anything about an investigation. One week later, this grants officer called back to say that the IG was conducting an investigation.

Similarly, the same day (July 19) that CNS notified AHC of the suspension of its AmeriCorps project, Eli Segal sent a letter about the suspension to Congress. AHC was not informed about this immediate communication to Congress and only found out about it the next day when a copy of the letter was gloatingly faxed to AHC by New Citizenship Project president John Walters.

9) AHC has had to hire outside counsel to represent it in this investigation, at the cost of tens of thousands of dollars. The officials at CNS with whom AHC's counsel is now communicating are general counsel Terry Russell and senior program officer Simon Woodard.

10) Many months ago, AHC submitted its application to CNS for FY95 second year funding for its AmeriCorps project. It has not yet received an answer as to CNS's approval or rejection of that application.

CONCLUSION

Frankly, we think that the way that AHC and its AmeriCorps project have been treated by CNS has been unfriendly and unprofessional. AHC would like to be able to complete the work of its first year AmeriCorps grant. In addition, AHC continues to be willing to meet with CNS officials to constructively discuss any problems and to resolve those problems in a satisfactory manner.

If such a meeting is to occur, it needs to happen within the next week or two and certainly not later than August 10, given the timeline described above.

Thank you for your attention to this matter.

Law Offices

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STEVEN D. GORDON

DIRECT DIAL
(202) 457-7038

August 18, 1995

VIA MESSENGER

Simon G. Woodard
Grants Officer
Corporation for National Service
1201 New York Avenue, N.W.
Washington, D.C. 20525

Re: **ACORN Housing Corporation**
Proposed Termination of Grant #94ADNIL001

Dear Mr. Woodard:

On behalf of this firm's client, ACORN Housing Corporation ("AHC"), we submit these materials to the Corporation for National Service ("CNS" or the "Corporation") in opposition to the proposed termination of the above-referenced grant.

I. Procedural Background

The basis for the proposed termination, as set forth in your letter of July 18, 1995 to AHC's President, George Butts (the "Termination Notice"), is that:

Based on information provided by the Corporation's Office of the Inspector General, the Corporation has determined that ACORN Housing Corporation directed AmeriCorps members to engage in activities, and that pursuant to those directions AmeriCorps members did engage in activities that directly benefit the Association of Community Organizations for Reform Now, (ACORN), a non-profit organization whose activities substantially involve the attempt to influence legislation and political activity. Such activities are specifically prohibited by the National and Community Service Act of 1990, as amended, the Corporation's regulations and the Grant Provisions, and is a basis for this suspension and intent to terminate action.

The Termination Notice does not provide any specification of the prohibited activities in which AHC allegedly engaged. Subsequently, the Corporation has advised us that the information provided by the Inspector General ("IG"), upon which it relies in proposing the termination, is set forth in a letter of July 17, 1995 from Luise S. Jordan to Eli Segal (the "IG Report"). More specifically, the Corporation has informed us that the proposed termination is based on those portions of the IG Report regarding the investigation of a so-called "Hotline" complaint, and not on those portions of the Report relating to the Inspector General's audit of AHC.

We note that the IG Report was not provided to us until the evening of July 24, 1995, nearly a full week after the issuance of the Termination Notice. The IG report lists seven items that it contends "indicate[] that AHC has directed, condoned, and allowed the use of some of its AmeriCorps Members as conduits for recruiting new ACORN members." (IG Report at 5-6). The IG Report asserts that these seven incidents are established by sworn statements or documentary evidence. However, despite our repeated requests, this supporting evidence was not furnished to us until the evening of August 7, 1995, two full weeks after the provision of the IG Report and less than one week before our response then was due. This forced us to request an extension of time for the submission of our response. Initially, you proposed to give us only two additional business days, but ultimately you agreed to extend the due date until August 18, 1995 (which was a mere eleven days after the supporting evidence was furnished to us). AHC's ability to respond to the Termination Notice has been hampered significantly by the Corporation's repeated delays in providing AHC adequate notice of the allegations and evidence against it.

II. Termination of AHC's Grant is Unwarranted

The termination of AHC's grant is unwarranted, both factually and legally. As set forth below, the allegations made by the IG Report are erroneous and misleading in key respects because they are based upon an incomplete investigation and/or allegations that are simply untrue. Upon a careful review of the facts, there is no evidence that AHC directed its AmeriCorps Members to provide direct benefits to ACORN or that the AmeriCorps Members did so. Moreover, as a matter of law, it does not constitute a material violation of the grant even if AmeriCorps Members, at AHC's direction, did provide a direct benefit to ACORN.

A. The IG's Allegations are Inaccurate and Misleading in Key Respects

It is very disturbing that the suspension and proposed termination of AHC's grant are based upon the "preliminary results" of an IG investigation that is admittedly incomplete. (IG Report at 1). In many instances, the IG has relied upon statements obtained from disgruntled former AHC employees whose motivations and credibility are highly suspect. More fundamentally, the IG has not sought or obtained input from AHC with respect to any of the allegations that it makes. The IG did advise AHC that it had launched an investigation of a Hotline complaint, and the IG served a broad subpoena for documents upon AHC in connection with that investigation. However, despite repeated requests by AHC counsel that the IG put its specific concerns on the table so that AHC could address them, the IG refused to do so. The result has been a one-sided and half-cocked assault upon AHC.

The allegations made in the IG Report portray the AHC AmeriCorps loan counseling program as nothing more than a recruiting vehicle for ACORN, with (i) AmeriCorps Members being required to help recruit ACORN members upon pain of termination; (ii) loan counseling clients being virtually compelled to join ACORN; and (iii) ACORN members being given priority for loan counseling assistance over non-members. In fact, none of these implications is true.

Unquestionably, there are certain links between AHC and ACORN. AHC was established in 1985 by ACORN as a vehicle for assisting poor people's groups throughout the United States to develop home ownership and community reinvestment programs. AHC and ACORN have worked together to support AHC's various home ownership programs for many years. Likewise, AHC and ACORN historically have cooperated on certain outreach or recruitment efforts. For example, AHC and ACORN have jointly sponsored community "bank fairs." Similarly, AHC and ACORN have cooperated in setting up, advertising, and conducting "intake sessions" at which members of both organizations speak.

Certain of these cooperative practices, which have been very beneficial to AHC, have continued in some (but not all) AmeriCorps program cities since the inception of the grant. However, AHC has repeatedly instructed AmeriCorps Members that (i) AHC and ACORN are distinct organizations; (ii) participation in the AHC loan counseling program is not in any way tied to or conditional upon membership in ACORN; and (iii) AmeriCorps Members are not to engage in any actual recruitment of members for ACORN -- soliciting or accepting dues, etc. See Declaration of Marilyn Ashley,

Attachment 1; Declaration of Bruce Dorpalen, Attachment 2; Statement of Robert X. Mendez (acknowledging that Ms. Ashley told AmeriCorps members during training that they should not ask clients to join ACORN); Statement of Myrtle L. Cleveland (Ms. Ashley told her that "it was not [her] place to ask for ACORN membership because [she] had nothing to do with ACORN").

The allegations in the IG Report, however, severely distort the actual relationship between AHC and ACORN. We shall address each of those allegations below.

Allegation #1:

- An "ACORN Housing Corporation - Loan Counselors Training Manual" made available to AmeriCorps Members from various cities provides a detailed description of ACORN's goals and activities, and encourages loan counselors to advocate membership in ACORN to loan counseling clients. The manual contains detailed descriptions of how to conduct intake sessions and informational seminars, including providing specific opportunities for people interested in obtaining loan counseling to be recruited by ACORN representatives. A sample handout included in the manual to be given to prospective loan counseling clients describes the information and documentation needed at "an intake session," and states that clients "must" bring a \$60 check or money order for ACORN membership dues.

The training manual identified in the IG Report was produced before the advent of the AmeriCorps program and was not revised specifically for use in connection with the AmeriCorps program. However, AmeriCorps Members are trained by AHC that membership in ACORN is not a prerequisite to loan counseling services and that they should not recruit or accept dues for ACORN. AHC instructs the AmeriCorps Members that the reference to ACORN dues on the form cited by the IG Report does not apply to them. Furthermore, each AmeriCorps trainee prepares a folder of forms that he/she will use in his/her local office. The group intake form cited by the IG Report is not part of this folder. See Declaration of Marilyn Ashley, Attachment 1. Indeed, the statements obtained by OIG demonstrate that AmeriCorps members refused to use the form in issue or else changed it to delete the reference to ACORN membership dues. See Statement of Monica Y. Craig (she never used this form because she knew she was not supposed to solicit ACORN membership; her supervisor in the Phoenix office, Sabrina Garcia, changed the form to delete the portion about the \$60 membership in ACORN); Statement of Annie R. Carter (AmeriCorps members in Phoenix

did not use the form because they questioned it); Statement of Unnamed Individual in New Orleans office (form was changed to delete \$60 requirement).

Allegation #2:

- An AHC supervisor in New Orleans threatened two AmeriCorps Members with "immediate termination" if they failed to follow the "national loan counseling policy" of bringing loan counseling clients to ACORN organizers to be solicited for membership in ACORN. Bruce Dorpalen, AHC's AmeriCorps Program Director, was noted as receiving a copy of memoranda concerning this matter.

This incident began on March 30, 1995, when an ACORN staffer in New Orleans wrote a memo to Pat Simon, the AmeriCorps supervisor in the AHC office there, complaining that two AmeriCorps Members were not referring their loan counseling clients to ACORN Fair Housing outreach coordinators. The memo contended that this was "a violation of national loan counseling policy." In response, Ms. Simon wrote a memo to the two AmeriCorps Members the following day which stated, in part:

In the future, I expect you to fully cooperate and work closely with our outreach coordinators at all our events. These events include all in-house intakes, all outreach intakes, and all one-on-one interviews.

Future violation of this ACORN national loan counseling policy or any other violation will call for your immediate termination from ACORN Loan Counseling/New Orleans.

Ms. Simon sent a copy of this memo to Mr. Dorpalen. Significantly, however, she did not contact Mr. Dorpalen, who was her supervisor, before writing this memo.

The two AmeriCorps Members were upset by Ms. Simon's memo and prepared a written response to it, which they sent to Ms. Simon and to Mr. Dorpalen. Upon receiving these memos, Mr. Dorpalen contacted Ms. Simon to inquire about the matter. He informed her that no such "national loan counseling policy" existed. Mr. Dorpalen emphasized that AHC's activities were separate from ACORN, and that AHC would not terminate an AmeriCorps Member for failure to refer clients to ACORN. Ms. Simon promptly held a conference with the two AmeriCorps members to straighten the matter out. It was agreed that her March 31 memo would be withdrawn. See the declarations of Patricia Simon, Bruce Dorpalen, Antoinette Davis

and Dorethea C. Allmon, Attachments 2, 3, 4, and 5. Thus, the March 31 memo was a mistake that was promptly corrected by AHC.

It is worth noting that the ACORN staffer's initial complaint, which triggered this incident, effectively demonstrates the absence of any "national loan counseling policy" of bringing loan counseling clients to ACORN organizers so that they could be solicited for ACORN membership. Had there been any such policy, all AmeriCorps members presumably would have been indoctrinated about it during their initial training period in Philadelphia. Accordingly, the very fact that the incident arose in the first place is telling evidence that there never was any such policy as part of the AmeriCorps loan counseling program.

Allegation #3:

- A local ACORN official in Dallas stated that the only reason for having the AmeriCorps program was to gain new ACORN members, and that if AmeriCorps loan counseling clients did not start becoming ACORN members, she could and would halt the AmeriCorps project. This ACORN official specifically directed AmeriCorps Members to solicit membership in ACORN.

This allegation evidently derives from a statement made by Myrtle Cleveland, an AmeriCorps member in Dallas who was terminated because she was caught engaging in partisan political activities during work hours. See Declaration of Bruce Dorpalen, Attachment 2. Ms. Cleveland's actual allegation was as follows:

Q: How do you know that ACORN dues were being collected by AmeriCorps members?

A: I never actually saw it happen. But one day we had a meeting held by Liz WOLFE [the ACORN official]. The meeting was for AmeriCorps members, ACORN Housing people and ACORN people. Liz WOLFE said she didn't care if they closed up AmeriCorps, if they closed it down. She said she was interested in membership only and that she had been there long enough to do something about it. We also had a meeting every now and then, the morning following an intake session, where Pamela WICK and Gwen JONES would be angry because their intake sessions were taken over by ACORN organizers. This was why Liz WOLFE called her meeting I just told you about; she wanted to tell us why her ACORN folks were there.

They were there at the client intake sessions, Liz WOLFE said, to get the clients to join ACORN.

(Statement of Myrtle L. Cleveland at 3). Even taken at face value, Ms. Wolfe's alleged statement is hardly a threat to halt the AmeriCorps project if loan counseling clients did not start joining ACORN. Rather, it appears to be a candid acknowledgment that ACORN's goal when it participated in joint intake sessions with AHC was to secure new members. This is not startling.

Furthermore, Ms. Cleveland recounts a telephone conversation that she had while Marilyn Ashley, the AHC official in charge of training for the AmeriCorps program.

I called Marilyn ASHLEY, the person who was my instructor in Philadelphia, and told her about what we were required to charge clients for credit checks. I told her I guess we should ask clients for \$110.00; \$50.00 for the credit check and \$60.00 for the ACORN membership. She told me that it was not my place to have to ask for ACORN membership because I had nothing to do with ACORN. She said she wanted to speak to Liz WOLFE, the head ACORN organizer.

(Statement of Myrtle L. Cleveland at 1). In fact, Ms. Ashley spoke to Ms. Wolfe to ensure that she understood that AmeriCorps Members cannot solicit for ACORN. Ms. Ashley asked Ms. Wolfe to ensure that the other ACORN organizers in Dallas understood this. See Declaration of Marilyn Ashley, Attachment 1.

In sum, the alleged statements in issue here were made by an ACORN "official," not an AHC official. Those statements were not condoned or adopted by AHC. To the contrary, AHC made clear to the AmeriCorps Members and to the ACORN official that AmeriCorps Members were not to participate in the recruitment of members for ACORN. See also Declaration of Gwendolyn S. Jones, Attachment 6.

Allegation #4:

- **AHC officials in Dallas told AmeriCorps Members to give loan counseling clients who became ACORN members priority scheduling and access to assistance (including some financial assistance) over the clients that did not join ACORN.**

The particulars underlying this allegation were supplied by Tavius Jones, the former director of the AHC Dallas office, who was

removed from that post by Mr. Dorpalen. She made the following claim:

Q: Were you ever told to tell loan counseling clients that membership in ACORN was required in order for them to receive loan counseling?

A: Yes. Liz WOLFE told us that if we had any clients that did not want to join, we were to put them on the "back burner" and to show a difference in the way we scheduled them versus the way we scheduled the clients who joined ACORN. The clients who did not join ACORN were to be scheduled later. Also, Nations Bank gave us a grant that could be used to pay client closing costs. I was supposed to be making the decision as to which clients were to receive this grant, but WOLFE and DORPALEN made the decision. They would wait until all the clients who paid to join ACORN received their grants before giving anything that was left to the clients that refused to join ACORN.

(Statement of Tavius T. Jones at 4).

It appears that Ms. Wolfe may have made a remark to the AHC staff suggesting that preference be given to ACORN members. However, the AHC loan counselors who evidently heard this remark were upset by it, both because they knew it is impermissible to give any preference to ACORN members and because Ms. Wolfe, as an ACORN staffer, had no business telling AHC staff what to do. Significantly, no AHC loan counselor in Dallas ever gave any preference to ACORN members. See Declaration of Gwendolyn S. Jones, Attachment 6.

The further allegation that Bruce Dorpalen and Ms. Wolfe allocated benefits under a NationsBank grant so as to favor ACORN members is absolutely false. The grant funds were allocated in 1994, prior to the inception of the AmeriCorps program in Dallas. Thus, Tavius Jones never was to have had a role in allocating those funds. Moreover, the funds were allocated by AHC staff in Dallas (not by Mr. Dorpalen) on essentially a first come-first served basis, with no preference given to ACORN members. See Declaration of Bruce Dorpalen, Attachment 2.

It is not and has never been the policy of the AHC AmeriCorps program to provide preferential treatment to ACORN members or those becoming ACORN members.

Allegation #5:

- An AHC loan counseling client in New Orleans (who is a retired high school business teacher) was escorted by an AmeriCorps Member to an ACORN Organizer who solicited membership in ACORN. The client felt like she was not going to be allowed to leave until she gave the ACORN Organizer a \$60 check, or authorized a \$5 per month automatic bank draft for ACORN membership dues. The client gave the Organizer a postdated check for \$60 and received an ACORN membership card. The client later asked for her check to be returned. After telling her it could not be returned, and again soliciting membership in ACORN, the Organizer returned the check.

The redacted statement of this unidentified client states that the AmeriCorps loan counselor was "very proficient and professional." Upon the conclusion of the counselling session,

She [the AmeriCorps member] told me [the client] that after we finished our session she would take me up front to speak with someone about ACORN. But she said nothing to me about joining. She didn't state it, but I felt that this was the next step. She did not imply that I had to join ACORN.

The client relates that the ACORN organizer aggressively solicited her membership in ACORN and that she ultimately gave him a check "against [her] better judgment." However, she acknowledges that the ACORN organizer did not tell her that she was required to join ACORN if she wished to participate in the loan counseling program. Moreover, she does not allege that the AmeriCorps member was present during the solicitation or in any way privy to it.

Another New Orleans loan counseling client had no complaints about her solicitation by an ACORN representative. She told OIG that, at the end of her counselling session, the AmeriCorps member

explained to me that I didn't have to join [ACORN]. She took me to the man from ACORN. The interview was on May 2, 1995. The man from ACORN told me about the organization, that it was non-profit, and that I could have \$5.00 each month automatically deducted from my checking account to pay the dues. I signed the form allowing them to do this.

(Statement of Linda York at 1). She further stated that no one ever told her that she had to join ACORN in order to receive loan counseling.

There is no dispute that AHC loan counseling clients in New Orleans were referred to ACORN representatives for possible solicitation to join ACORN. As discussed above, historically there have been cooperative recruiting efforts by AHC and ACORN that have been mutually beneficial. Mable Pierre, who evidently was the AmeriCorps Member involved in both of the above-described incidents, told OIG that

I was instructed by Pat Simon to bring all my AHC clients who were not referred by the ACORN organizers through the ACORN office so that the organizers could talk with them about ACORN--the purpose was to get the individual to join ACORN.

Significantly, what Ms. Pierre describes is a cross-referral practice whereby each organization referred its clients/members to the other. As a result of this reciprocal practice, AHC's ability to recruit additional clients was enhanced.

Allegation #6:

- **AHC officials in Phoenix required an AmeriCorps Member, in addition to her loan counseling duties, to conduct housing committee meetings of all area ACORN members. She was also told to contact the area ACORN members about an anniversary picnic for ACORN, which she refused to do.**

This allegation was made by Monica Craig, a former AmeriCorps Member in Phoenix. The fundamental error in this allegation appears to stem from Ms. Craig's mistaken conception that an AHC housing development program in Phoenix, which is distinct from its loan counseling program, somehow equates to ACORN.

The housing development program involves AHC purchasing and rehabilitating houses that are then made available to tenant-homebuyers through a "lease to own" homeownership program. This program is specifically designed to assist low-income persons who would be unable to obtain a loan from a mortgage lender due to minor credit problems or lack of a downpayment. AHC monitors the tenants' payment performance during the lease period.

The goal of the "development" program is the same as the loan counseling program -- to assist low-income persons to become homeowners. Many of the services AHC provides to clients in the

development program are similar or identical to those provided in the loan counseling program. Development program services include providing financial evaluations and counseling to persons on the waiting list for housing; review of applicants' files for completeness of financial information; conducting intake meetings to explain the program to persons in the community; and conducting training classes in budgeting and home maintenance. As with the AHC loan counseling program, the development program is open to all low income persons; there is no requirement that clients be members of ACORN. (Formerly, there was such a requirement, but it was dropped several years ago when the development program began to receive federal funding through a HUD grant).

Under AHC's AmeriCorps grant, the conduct of work for the development program is equally permissible as the loan counseling work. Thus, Monica Craig was asked to perform work in support of both the development program and the loan counseling program. She raised a concern with her supervisor, Sabrina Garcia, that this dual role was a violation of AmeriCorps requirements. Ms. Garcia, in turn, raised this issue with Bruce Dorpalen, who confirmed that it was permissible for an AmeriCorps member to perform work in support of the AHC development program. See Declaration of Sabrina Garcia, Attachment 7; Declaration of Bruce Dorpalen, Attachment 2.

Contrary to Ms. Craig's allegation, the housing meetings that she helped to conduct were meetings for persons on the waiting list or in developed AHC houses; they were not meetings of ACORN members. The purpose of the monthly housing meeting is to announce the upcoming calendar of events, any new houses that would be becoming available, and to provide a participation status report. See Declaration of Martin Shalloo, Attachment 8.

It is the practice of the AHC Phoenix Office to hold a "potluck" dinner on a monthly basis that is open to all participants in the development program and the loan counseling program. This practice began long before the advent of the AmeriCorps project. The dinners are sponsored by AHC, not ACORN. AmeriCorps Members are not required to attend these dinners. Sometimes, the potluck dinners are designated with a "theme." The potluck dinner held on June 25, 1995, was denoted a "25th Anniversary Potluck" in honor of the twenty-fifth anniversary of ACORN, but was an event held and attended by AHC staff and program participants. See Declaration of Sabrina Garcia, Attachment 7; Declaration of Martin Shalloo, Attachment 8.

Allegation #7:

- Although they were told only ACORN representatives should actually collect ACORN membership dues, several AmeriCorps Members stated that, as part of their training, they were told to describe to prospective loan counseling clients the accomplishments of ACORN and the reasons why the prospective clients should join ACORN.

In assessing this allegation, it is useful to understand exactly what the former AmeriCorps members related to OIG. For example, Annie Carter, a former AmeriCorps members in the Phoenix office, stated:

Q: Did anyone ever direct you to ask loan counseling clients to join ACORN?

A: During training we were told we should tell them about ACORN and tell them why it was important to be an ACORN member, and how, without ACORN, there wouldn't have been ACORN Housing.

Q: What were you told to tell members regarding why it was important to be an ACORN member?

A: Because being an ACORN member they could go out and enforce the prohibition against red lining and how ACORN helped the lending process and made sure people were not being discriminated against when it came to insurance and mortgages, and how ACORN went out and overturned different issues.

(Statement of Annie R. Carter at 2).

Similarly, Monica Craig, another former AmeriCorps member in the Phoenix office, stated:

Q: Have you ever been directed to solicit membership in ACORN?

A: In training we were told to tell our clients about the ACORN organization, but we were told that we cannot force them to become members; just make them aware of ACORN. This was told to us by Sylvanna,

the head ACORN organizer in Philadelphia. I have never solicited membership.

(Statement of Monica Y. Craig at 2-3).

AHC acknowledges that, during training, AmeriCorps members are taught about ACORN's role in founding AHC, and how ACORN and AHC work together to support AHC's various home ownership programs. They also are taught about some of ACORN's other activities, particularly its efforts to combat illegal discrimination in mortgage lending and insurance. In some cases, AmeriCorps members may have been encouraged to make clients aware of ACORN. However, AHC consistently emphasizes that AmeriCorps Members are not to solicit members for ACORN or to encourage them to join ACORN.

After carefully reviewing the allegations made in the IG Report, it becomes clear that the picture of AHC's activities painted by the IG Report is inaccurate and misleading. AHC and ACORN have historical links and ongoing shared goals in terms of promoting home ownership by low income individuals and families. They cooperate, in some cities, in certain community outreach and recruitment activities because it is mutually beneficial. However, AHC is well aware that it is a separate organization from ACORN. AHC has trained its AmeriCorps Members that they are separate from ACORN; that they must not recruit for ACORN; and that the provision of loan counseling services is not in any way tied to membership in ACORN.

Moreover, the IG Report fails (indeed, it does not even attempt) to analyze the activities that it criticizes in the context of AHC's performance under the grant. Since the inception of its AmeriCorps loan counseling program, AHC AmeriCorps counselors in nine cities have spoken with approximately 4,942 prospective clients participating in "intake" sessions. Of that number, it is estimated that approximately 757 persons have been "prequalified" and referred to mortgage lenders for loans. An estimated 681 out of the 757 qualified individuals have actually received mortgage loans, totalling approximately \$34 million. The cities in which AmeriCorps Members "prequalified" the most counseling clients are Philadelphia (219), Chicago (111), Houston (190) and Denver (74). The Washington, D.C. Office has prequalified 42 persons; Dallas, 40; New Orleans, 15; Phoenix, 10; and New York City, 56. To a certain extent, the variation in numbers reflects the various dates on which the AmeriCorps program operations commenced in the various Offices. Also reflected, however, is the varying volume of intake done in each office. Philadelphia, for example, has screened an estimated 1,605 persons, of which 219 were ultimately referred to lenders.

These numbers demonstrate that the AHC AmeriCorps program has succeeded in providing the services called for under the Grant. In addition, it is noteworthy that the activities criticized in the IG Report essentially are predicated upon the allegations of disaffected, former AmeriCorps Members from only three cities (Dallas, Phoenix and New Orleans), and that those are the three cities in which the AmeriCorps operations have been the least productive so far. This suggests that the allegations reflect local factors rather than nationwide, programmatic issues.

It also is significant that the AHC AmeriCorps program is still in its infancy. Most of the AmeriCorps Members been trained and started work within the last six months, and most of the AmeriCorps programs have commenced operations during that time span. (The New Orleans program started in late January 1995. The programs in Dallas, Washington, Phoenix and Brooklyn started in February or March). As with any new program, it is only reasonable to expect that there will be an initial "shakedown" period for the AHC AmeriCorps program, during which mistakes will be made and corrected.

A proper sense of perspective is essential so that "shakedown" period activities are not mistaken for something far more serious. AHC does not contend that no mistakes have been made, or that no glitches have occurred, as its AmeriCorps loan counseling program has gotten underway. (For example, there were problems in the Dallas office for the initial two months of the AmeriCorps program operation there, until Tavius Jones was replaced as the director. See Declaration of Gwendolyn S. Jones, Attachment 6). AHC, like any organization, is composed of fallible humans. AHC adamantly denies, however, that it has attempted to flout or circumvent Grant requirements.

B. AHC's Activities Are Not a Material Violation of Its Grant

The Corporation can suspend or terminate payments under a grant only if there is a material failure to comply with any applicable statutory or grant condition. 42 U.S.C. § 12636(a)(1). A grant recipient is entitled to a full and fair hearing, on the record, before a decision is made to terminate a grant. 42 U.S.C. § 12636(a)(2)(B) and (d). This hearing is governed by the requirements of the Administrative Procedure Act, 5 U.S.C. §§ 554-557. The burden of proof will be on the Corporation to establish the existence of a material violation by the preponderance of the evidence. Steadman v. SEC, 450 U.S. 91 (1981); Director, OWCP v. Greenwich Collieries, ___ U.S. ___, 114 S.Ct. 2251 (1994).

1. AHC did not provide a direct benefit to ACORN

As discussed above, AHC neither requires nor permits its AmeriCorps members to recruit for ACORN. Nor does AHC give any preference to ACORN members in the provision of loan counseling services under the AmeriCorps grant. AHC has cooperated with ACORN in certain outreach or recruitment activities that are mutually beneficial. And, in some cases, AmeriCorps Members have made loan counseling clients aware of ACORN. AHC submits that none of these actions constitute the provision of a "direct benefit" to ACORN. They may benefit ACORN, but only indirectly.

What constitutes a "direct benefit" is nowhere defined in the National and Community Service Act of 1990, as amended ("NCSA"), in the Corporation's regulations, or in the grant itself. The term potentially is quite elastic in meaning, depending on how "direct" and "benefit" are construed. However, the most reasonable construction of "direct" in this context would appear to be "with nothing intervening : immediate." Likewise, the most reasonable construction of "benefit" would seem to be "an advantage." WEBSTER'S II NEW RIVERSIDE DICTIONARY (1984). AHC's actions do not directly produce new members for ACORN. ACORN garners new members only because of the intervening activities of its own recruiters. Moreover, AHC does not bestow any advantage (direct or indirect) unilaterally upon ACORN. To the contrary, AHC's actions are undertaken pursuant to cooperative, reciprocal arrangements with ACORN that are mutually beneficial.

Similarly, AHC's loan counseling activities clearly "benefit" the private mortgage lenders who gain customers from AHC's clientele. AHC educates its clients about those lenders and their requirements, and steers its clients to certain cooperating lenders. But these actions, assuredly, are not deemed a forbidden direct benefit. The reason why is either because further action between the client and the lender is necessary to consummate the loan, or else because the relationship between AHC and the lender is deemed a two-way, commercial relationship whereby both parties benefit, rather than a unilateral bestowing of benefits. Both of these rationales are equally applicable to AHC's relationship with ACORN.

Moreover, the ties between AHC and ACORN are no secret to the Corporation. The Corporation was aware from the outset that AHC and ACORN have worked together to support AHC's various home ownership programs for many years prior to AHC's application for an award under the AmeriCorps program. The Corporation also was advised that ACORN was expected to play a role in connection with the AHC AmeriCorps program.

The AmeriCorps grant proposal submitted by AHC dated April 25, 1994 makes numerous references to ACORN. In the Application Summary section, page 3, AHC states that it was "established in 1985 by the Association of Community Organizations for Reform Now as a vehicle for assisting poor people's groups throughout the United States to develop home ownership and community reinvestment programs." On page 20 of the Program Narrative section of the proposal, AHC indicates that it intends to rely upon the ACORN national newsmagazine as one means of "high quality outreach" in its recruitment of AmeriCorps participants. The section of the grant proposal entitled "Institutional and Personnel Information" describes the programs of service and technical assistance already being offered by AHC. One of the programs described involves the acquisition, rehabilitation and resale of single-family homes to very low-income persons. The grant proposal recites, on page 27, that AHC has carried out this program, involving the resale of over 400 properties, "[w]orking closely with the Association of Community Organizations for Reform Now network of neighborhood associations. . . ."

In addition, a meeting was held in June, 1994 between representatives of the Corporation (including the Corporation's general counsel) and officials of AHC. The purpose of this meeting, held at the Corporation's offices in Washington, D.C., was to "interview" AHC as a "finalist" in the application process. At this meeting, AHC representatives described the ways in which AHC has worked with ACORN since it was spun off as a separate corporation in 1985. They talked about how AHC encourages its clients to become involved in civic affairs by becoming active in community groups such as ACORN. They also said that AHC works with ACORN and other groups on community outreach, and that ACORN is a very valuable source of client referrals to AHC. The AHC representatives specifically asked whether AHC's relationship to ACORN presented a problem. In response, the Corporation reviewed the AmeriCorps program prohibitions against demonstrating, protesting, and lobbying. The Corporation asked whether or not AHC worked with ACORN on those sorts of activities. The AHC representatives assured the Corporation that AHC would ensure that AmeriCorps members did not participate in those activities. However, at no time during this exchange did any of the Corporation's representatives indicate that AHC would be required to sever its relationship with ACORN. See Declaration of Michael Shea, Attachment 9.

The position taken by the Corporation during this June 1994 meeting was consistent with the position it announced in a set of written "Questions and Answers" published on April 18, 1994, which was provided to AHC. In that publication, the Corporation stated

that a nonprofit lobbying organization could be an AmeriCorps service and/or program sponsor so long as AmeriCorps participants did not engage in any effort to influence legislation. (Attachment 10).

Traditional concepts of due process incorporated into administrative law preclude an agency from penalizing a private party for violating a rule without first providing adequate notice of the substance of the rule. Satellite Broadcasting Co. v. FCC, 824 F.2d 1, 3 (D.C. Cir. 1987). In this case, it assuredly was not made clear to AHC that the "direct benefit" prohibition would preclude it from engaging in any mutual outreach or recruitment efforts with ACORN, and even from making its clients aware of ACORN. If the Corporation chooses to adopt and promulgate this definition of "direct benefit" prospectively, then it is free to do so and AHC will be on notice of that definition. However, a prohibition "cannot be construed to mean what an agency intended but did not adequately express." Gates & Fox Co. v. OSHRC, 790 F.2d 154, 156 (D.C. Cir. 1986), quoting Diamond Roofing Co. v. OSHRC, 528 F.2d 645, 649 (5th Cir. 1976).

2. It is not a violation of AHC's grant even if it did provide direct benefits to ACORN

Even if AHC did provide a direct benefit to ACORN, it did not thereby violate its grant conditions. The Corporation alleges that AHC was prohibited from providing a direct benefit to ACORN because ACORN's activities "substantially involve the attempt to influence legislation and political activity." However, this contention is at odds with the relevant statutory, regulatory and grant provisions.

NCSA prohibits the use of grant funds or AmeriCorps positions to perform service that provides a direct benefit to any

nonprofit organization that fails to comply with the restrictions contained in section 501(c) of Title 26, except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

42 U.S.C. § 12584(a)(5). The Corporations's regulations reiterate this prohibition, 45 CFR § 2520.30(g)(4), and so do the Grant Provisions, § 5.g.

26 U.S.C. § 501(c), in turn, lists 25 separate categories of tax-exempt organizations. The prohibition against attempting to influence legislation or participating in political campaigns

applies only to one of those categories -- religious, charitable, scientific, educational and similar organizations covered by § 501(c)(3). No such limitation applies to the remaining 24 categories, including § 501(c)(4), which covers civic leagues and social welfare organizations. Such well-known organizations as the National Organization of Women (NOW), American Association of Retired Persons (AARP), National Rifle Association (NRA), Sierra Club, Planned Parenthood, and National Association for the Advancement of Colored People (NAACP) all are (c)(4) organizations.

The IG Report attempts to rewrite the statutory prohibition so that it would preclude the provision of direct benefits to any nonprofit organization that fails to comply with the restrictions of § 501(c)(3). (IG Report at 4 & n.2). In so doing, the IG cites the legislative history of NCSA, in particular, a portion of the House Conference report which states:

The Senate bill, but not the House bill, prohibits programs to be operated by entities that spend more than 20 percent of their budgets, or aim primarily, to influence public policy or lobby the government. The Senate bill also states that these provisions are not designed to discourage individuals from engaging in advocacy undertaken at their own initiative. The House recedes, with an amendment conforming prohibitions to the tax code governing 501(c)(3) nonprofit organizations.

H.R. Conf. Rep. No. 219, 103d Cong., 1st Sess. 149 (1993).

However, notwithstanding this report, the actual text of the statute is not limited to 501(c)(3) and the IG's attempt to rewrite the statutory text must be rejected. One "do[es] not resort to legislative history to cloud a statutory text that is clear." Ratzlaff v. United States, ___ U.S. ___, 114 S.Ct. 655, 662 (1994). If a conflict exists between a statute and its legislative history, the statute prevails. Matter of Sinclair, 870 F.2d 1340 (7th Cir. 1989). "The mere fact that statutory provisions conflict with language in the legislative history is not an exceptional circumstance permitting a court to apply the legislative history rather than the statute." United States v. South Half of Lot 7 and Lot 8, 910 F.2d 488, 489 (8th Cir. 1990) (en banc). Thus, the statute must be construed as it was written -- encompassing all 25 categories listed in § 501(c) -- and not confined solely to category (c)(3) as the IG contends.

Moreover, in implementing NCSA, the Corporation itself has promulgated a regulation that follows the statutory text and prohibits direct benefits to "[a] nonprofit organization that fails

to comply with the restrictions contained in section 501(c) of the Internal Revenue Code...." 45 CFR § 2520.30(g)(4). Likewise, the Grant Provision (§ 5.g) prohibiting direct benefits refers only to nonprofit organizations that fail to comply with § 501(c). In contrast, the Grant Provision (§ 5.a) prohibiting any effort by the grantee to influence legislation does expressly refer to § 501(c)(3), thus demonstrating that the Corporation knows how to specify that one category when it chooses to do so.

That is not all. As noted above, the Corporation published a set of "Questions and Answers" on April 18, 1994, to "clarify and discuss frequently asked questions and address issues raised during the course of technical assistance workshops and conference calls held over the past few months." One of the questions addressed therein was: "May a nonprofit lobbying organization be an AmeriCorps service and program sponsor?" The Corporation provided the following answer:

A nonprofit lobbying organization is eligible to be an AmeriCorps service and/or program sponsor. ... Under no circumstances, however, may a participant in the course of his/her duties, at the request of program staff, or in any manner that would associate the activities with the Corporation or the national service program engage in any effort to influence legislation, as prohibited under § 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), or provide a direct benefit to any nonprofit that fails to comply with the restrictions contained in § 501(c) of the IRS Code.

(Attachment 10). Thus, the Corporation consistently has advised grantees that direct benefits may be provided to nonprofit organizations that qualify under any of the § 501(c) categories.

Therefore, unless the Corporation can establish that ACORN fails to comply with the restrictions applicable to any and all of the 25 categories of nonprofit organizations covered by § 501(c) -- a task that it has not even attempted to undertake, and at which it cannot succeed -- then it cannot establish that AHC has violated its grant conditions even assuming arguendo that AHC provided a direct benefit to ACORN.

Accordingly, for all of the reasons set forth above and for such additional reasons as may be adduced at the hearing that AHC has requested on this matter, we respectfully submit that there is no basis to terminate AHC's grant. AHC requests that the grant be reinstated promptly.

Simon G. Woodard
August 18, 1995
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Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Gordon". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steven D. Gordon

SDG:jmw
Attachments

44935-1
WAS-118114

DECLARATION OF BRUCE DORPALEN

I, Bruce Dorpalen, do hereby declare as follows:

I am the Assistant Director of ACORN Housing Corporation. I am responsible for the loan counseling programs of ACORN Housing Corporation. I live at 4327 Kingsessing Avenue, Philadelphia, Pennsylvania 19143.

I have reviewed the July 17, 1995 letter from Luise Jordan to Eli Segal discussing the Office of Inspector General ("OIG") audit and investigation of AHC. I also have reviewed the sworn statements that the OIG obtained from Robert X. Mendez, Mable Pierre, Tavius Jones, Myrtle Cleveland, Monica Craig and Annie Carter. Those statements are inaccurate or incomplete in a number of respects. I will not attempt to make a point-by-point rebuttal of all those statements in this declaration but, instead, will address what I understand to be the more important issues raised by OIG about AHC's conduct. For expository purposes, I will organize my remarks according to the three AHC offices involved--New Orleans, Dallas and Phoenix.

I. NEW ORLEANS

In very early April 1995 I received a copy of Pat Simon's March 31, 1995 memorandum to Antoinette Davis and Dorothea Allman about their alleged noncompliance with "national loan counseling policy." Soon after, I received a copy of a response prepared by Ms. Davis and Ms. Allman. This was the first that I heard about the issue. I immediately called Ms. Davis to investigate what had happened. I then explained to Ms. Davis that (i) no such national loan counseling policy existed, and (ii) AHC would not in any event terminate AmeriCorps Members because they failed or refused to refer loan counseling clients to ACORN. I added that this issue should be cleared up promptly with Ms. Davis and Ms. Allman. Ms. Simon assured me that she would talk to the two women the very next morning to straighten things out. Shortly thereafter, I received another memorandum from Ms. Simon asking that the original memoranda be pulled from files and discarded so that there would be no possibility of any taint to the records of Ms. Davis and Ms. Allman. At that point, I believed that the matter had been cleared up and resolved to everyone's satisfaction.

AmeriCorps Members are clearly instructed during training that AHC is separate from ACORN and that they are not to solicit membership in ACORN, nor to collect membership dues for ACORN. However, AHC has not believed that it is impermissible to make its clients aware of ACORN, or to cooperate with ACORN in outreach or recruitment efforts that are mutually beneficial. For example, AHC and ACORN jointly sponsor annual "bank fairs" in most AHC cities, in concert with several local banks. These fairs are city-wide affairs and generally are conducted on a Saturday. Both AHC and ACORN utilize these fairs as for educational and outreach purposes, but each organization does its own presentations at these fairs.

Similarly, AHC and ACORN each make presentations at events sponsored by the other organization. For example, AHC conducts neighborhood "homebuyers shows" explaining how to buy a home. Lenders participate in these events and solicit business for their institutions. ACORN personnel may also participate and explain what ACORN does. Conversely, ACORN conducts neighborhood meetings that address issues such as police protection, schools, recreation, vacant lots and houses. AHC personnel attend some of these meetings and explain AHC's loan counseling program.

In some cities, including New Orleans, AHC and ACORN routinely conduct "intake" meetings at which both AHC and ACORN personnel speak about their respective organizations. In New Orleans, this is supplemented by a practice of cross-referral so that prospective clients/members who have not attended an intake meeting are afforded the opportunity to hear about both organizations from representatives of each.

II. DALLAS

Tavius Jones was the original AmeriCorps supervisor in the Dallas AHC office. She did not complete her training and start work in Dallas until a couple of weeks after two AmeriCorps Members, Gwen Jones and Pamela Wick, had already started there. Byron Posadas was another AHC (non-AmeriCorps) loan counselor in the Dallas office; he never was a supervisor or an official in that office.

Tavius Jones was the director for a brief period, only about two months. She was not a very effective leader, and the office did not function in an acceptable way under her supervision. Staff discipline was very low and the office's productivity was also low. Ultimately, the decision was made to replace Tavius Jones as director. I spoke to her by telephone about this decision. I explained that she would be shifted laterally into another position with no change in salary, but she complained that it was a demotion. Thereafter, she never resumed full-time work in the Dallas office although she did make brief appearances on several days. Ms. Jones did receive pay for medical leave and vacation days. I insisted that she provide documentation to support the medical leave. I never offered to pay Ms. Jones for doing nothing, nor did I ever ask her to fill out time sheets reflecting that she was at work when she wasn't there. In fact, I stressed that I needed timesheets which reflected actual hours worked. Ms. Jones used up all of her leave and failed to return to work.

It is a very clear AHC policy that no preferential treatment is to be given to ACORN members (or anyone else) with respect to the provision of loan counseling services. I am not aware of any

preferential treatment being given by AHC loan counselors (either AmeriCorps Members or non-Members) to ACORN members in the Dallas office.

Tavius Jones' allegation that I and Liz Wolfe manipulated the award of a NationsBank grant to pay client closing costs so that it benefited ACORN members is absolutely false. The grant funds were allocated in 1994, prior to the inception of the AmeriCorps program in Dallas. Thus, Ms. Jones never was to have had a role in allocating these funds. Furthermore, Liz Wolfe of ACORN played no role in the fund allocation. The funds were allocated by AHC staff in Dallas on essentially a first come-first served basis, with no preference given to ACORN members. I had no involvement in the allocation.

I never told Tavius Jones (or anyone else) that AmeriCorps Members were to ask clients to join ACORN. During loan counseling training in Philadelphia, AHC tries to have the trainees do some community activity so that they get a taste of going out into the community. Usually, this activity has been community education on issues like lead paint poisoning or voter registration, an activity that AHC had been advised was permissible by the Corporation for National Service ("CNS"). On one occasion, ACORN was doing a project on lead paint poisoning. AmeriCorps Members went out into the community and passed out fliers for a meeting on that issue. ACORN members went along with them and may have done some recruiting at the same time. However, the AHC trainees certainly were not supposed to be going door to door, recruiting for ACORN. To the best of my knowledge, they did not do so.

Myrtle Cleveland was an AmeriCorps Member in Dallas. She started leaving the office for several hours in the afternoon. (This was time for which she was being paid). Tavius Jones informed me that someone asked Ms. Cleveland what she was doing, and she said she was doing campaign work for the re-election of a Dallas City Council member, Charlotte Mayes. In response, I asked Tavius Jones to speak with Ms. Cleveland and ascertain what was happening. Ms. Jones spoke to Ms. Cleveland, who admitted that she was doing political work. At this point, I spoke to Ms. Cleveland by telephone about the issue. I told her that it was a gross violation of AmeriCorps requirements. She attempted to defend her actions by claiming ignorance of the AmeriCorps prohibition on political activity. I rejected this defense, and told her that the AmeriCorps requirements had been emphasized to all Members during training. She had been informed of this restriction both in writing and orally, first during the training in Philadelphia and again at the March 1995 orientation in Washington, D.C. I terminated her and paid her through that day.

Two days later, Verna Kuo of CNS visited Philadelphia to conduct a site visit at AHC. During this visit, I advised her of the termination of Ms. Cleveland and the reason therefor.

Ms. Cleveland's allegation that she asked loan counseling clients for \$60 for ACORN membership is astonishing to me. As I noted above, it is emphasized during training that AmeriCorps Members are not to solicit membership in ACORN nor to collect dues for ACORN.

III. PHOENIX

The AHC Phoenix office hired simultaneously for one non-AmeriCorps fair housing position with AHC and for several AmeriCorps loan counseling positions. Annie Carter was hired for an AmeriCorps position. I later learned that she was interested in the Fair Housing position and AHC then switched her with Monique RUELES, who had been hired for Fair Housing position, but hadn't started work. Ms. Carter was an AmeriCorps Member for only 2-3 weeks after training, before she was switched.

Contrary to Ms. Carter's allegation, there never was an issue about her not being Hispanic in terms of filling the Fair Housing position.

I never told Ms. Carter (or anyone else) that I knew of some AHC offices where AmeriCorps members were collecting dues for ACORN.

In addition to the loan counseling program, the AHC Phoenix office also conducts a housing development program. This "development program" involves the rehabilitation of housing stock, followed by a "lease to own" program for low income persons. The AHC staff support necessary for this program is essentially the same as for loan counseling -- i.e. outreach, intake, financial-qualifying of clients. The conduct of this work is equally permissible under AmeriCorps grant.

Monica Craig did work in support of both the development program and the loan counseling program. She raised a concern with her supervisor, Sabrina Garcia, that this dual role was a violation of AmeriCorps requirements. Sabrina, in turn, raised this issue with me at an AHC supervisors meeting in North Carolina. I confirmed that it was not violation for an AmeriCorps Member to work on the development program.

Ms. Craig's allegation that Sabrina Garcia was placed in a circle at the North Carolina meeting and questioned about "not having any productivity in ACORN membership" is completely

mistaken. At that meeting, there was a discussion with Ms. Garcia and other office supervisors about income generating activities for the local AHC offices. There was no discussion, then or at any other time, about Ms. Garica recruiting new members for ACORN.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: August 17, 1995

Bruce Dorpalen
Bruce Dorpalen

DECLARATION OF PATRICIA SIMON

I, Patricia Simon, do hereby declare as follows:

1. I reside at 7900 Sandpiper Drive, New Orleans, Louisiana 70128.
2. I am employed by ACORN Housing Corporation ("AHC") in its New Orleans, Louisiana office in the position of Director of Loan Counseling. I have held the position since January 23, 1995.
3. The operation of the AmeriCorps loan counseling program began on January 23, 1995. On that date I and three AmeriCorps loan counselors, Antoinette Davis, Dorethea Allmon and Mable Pierre, began work in New Orleans office after completing three weeks of training by AHC in Philadelphia, PA.
4. After the commencement of the AmeriCorps loan counseling program in New Orleans, an issue arose about the extent to which AHC and ACORN would cooperate in conducting "intake" efforts of various sorts. ACORN staff were upset when AHC counselors would not include them in some of loan counseling intake and outreach.
5. AHC AmeriCorps members are clearly instructed during training that they are NOT to solicit nor collect dues for ACORN. I and the other three AmeriCorps members stood very strong and committed to our training.
6. To clarify the relationship between AHC and ACORN regarding intake efforts, a senior loan counselor, Doris Latorre, AHC national staff was sent to AHC New Orleans. Doris conducted meetings with AHC counselors and with ACORN staff. Ms. Latorre stated that joint or cooperative intake efforts were permissible. It was agreed that ACORN staff would attend and speak at AHC intake meetings, and that AHC AmeriCorp loan counselors would refer clients who had not attended such joint intakes to ACORN staff. Likewise, ACORN would permit AHC staff to speak at its meetings and would make individual referrals to AHC.
7. Thereafter, on March 30, 1995, I received a memorandum from Jeff Karlson of the ACORN Fair Housing Organization, whose offices are adjacent to ours. (Attachment A). The memorandum complained that two AmeriCorps members, Ms. Davis and Mrs. Allmon were violating "national loan counseling policy" because they were NOT dropping off their loan counseling clients with ACORN Fair Housing outreach coordinators. A copy of this memorandum was addressed to Bruce Dorpalen.
8. In response to Mr. Karlson's memorandum the following day I wrote a memorandum to Ms. Davis and Mrs. Allmon addressing Jeff Karlson's claim of violating a "national policy" (Attachment B).

9. Ms. Davis and Mrs. Allmon prepared a written response to which they sent to me and to Bruce Dorpalen a few days later.

10. The following day Bruce Dorpalen called me after he received these memoranda, and asked, who is Jeff Karlson and what national policies is he referring to in his memorandum? He told me that there was no national loan counseling policy. Mr. Dorpalen added that AHC would NOT terminate AmeriCorps members for failure to refer clients to ACORN.

11. After I spoke with Mr. Dorpalen I called Ms. Davis and Mrs. Allmon into my office to discuss the matter. We clearly identified we had experienced a breakdown in communication and that we had violated NO policies locally or nationally. We identified we had followed instructions and honored our commitment to AHC AmeriCorps. We verbally committed ourselves to becoming a stronger unit. We also agreed to throw out the memos and not allow them to become part of anyone's personnel record.

Dated: _____

Patricia Simon

MEMO ACORN Fair Housing Organization

TO: Pat Simon

FROM: Jeff Karlson 

DATE: 3-30-95

SUBJ: Loan counseling referrals

Pat, I just wanted to let you know that we are running into problems with two of your loan counselors, Antoinette Davis and Dorothea Allmon.

As you know, ACORN Fair Housing outreach coordinators and ACORN loan counselors are working closely together all across the country.

From what I can tell so far, Antoinette and Dorothea are not working with us as a team. Both you and Mable have been dropping your clients off with the outreach coordinators. At no time recently can I remember Antoinette or Dorothea bringing people to our office.

This is a violation of national loan counseling policy. Please remedy this at once. We will continue to pursue this issue until it is adequately resolved.

cc: Beth Butler
Bruce Dorpalen

MEMO

ACORN Loan Counseling

To: Antoinette Davis and Dorothea Allmon

From: Patricia Simon *TS*

Date: 3-31-95

Subj: Loan Counseling Referrals

In response to memo received from Jeff Karlson on 3/30/95 addressing problems with your not referring clients to outreach coordinators, I have given you a copy of this memo and I have verbally informed you that this violation will not be tolerated.

In the future, I expect you to fully cooperate and work closely with our outreach coordinators at all our events. These events include all in-house intakes, all outreach intakes, and all one-on-one interviews.

Future violation of this ACORN national loan counseling policy or any other violation will call for your immediate termination from ACORN .
Loan Counseling/New Orleans.

cc: Bruce Dorpalen
Beth Butler
Jeff Karlson

DECLARATION OF ANTOINETTE DAVIS

I, Antoinette Davis, do hereby declare as follows:

1. I reside at 2019 Bayou Road, New Orleans, LA 70116.
2. I am an AmeriCorps Member working in the New Orleans office of ACORN Housing Corporation ("AHC") under the supervision of Mrs. Patricia Simon. My term of service in the AHC New Orleans office began on January 23, 1995, after three weeks of training in Philadelphia, Pennsylvania.
3. On or about March 30, 1995, Jeff Karlson, an ACORN Fair Housing Outreach Coordinator, issued a memorandum to Mrs. Simon stating that I and Dorethea Allmon were not in compliance with referring AHC loan counseling clients to ACORN Fair Housing Outreach Coordinators.
4. Mrs. Allmon and I were understandably upset and confused about this memorandum and wrote a reply to it stating our cooperation with AHC Fair Housing Coordinators and referred to said memorandum as a breakdown in communication which was sent to Mrs. Simon and Mr. Dorpalen. Thereafter, the matter was discussed with Mrs. Simon and recognized that in fact I and Mrs. Allmon were in compliance based on our training and conditions of our contract as AmeriCorps members.
5. I was trained in Philadelphia that, as an AmeriCorps Member, I was NOT to get involved in recruiting persons to become members of ACORN. Since my return to New Orleans that has been my stand and as a result I received a memorandum stating I was not cooperating with the organizers. A meeting was held in New Orleans that was coordinated by Doris Latorre and attended by all the AmeriCorps Members, Mrs. Simon, several ACORN organizers including Jeff Karlson. The purpose of this meeting was to clarify the relationship and responsibilities between AHC loan counselors and ACORN organizers. Ms. Latorre stated that ACORN organizers could attend intake meetings and attempt to recruit members, and that AmeriCorps members could make loan counseling clients aware of ACORN and offer to introduce them to ACORN organizers.
6. It is my understanding that as a AmeriCorp Member, I cannot push membership in ACORN.
7. I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge information and belief.

Dated: August 18, 1995

Antoinette Davis
Antoinette Davis

DECLARATION OF DORETHEA ALLMON

I, Dorethea Allmon, do hereby declare as follows:

1. I reside at 7007 Olive Street, New Orleans, LA 70125.
2. I am an AmeriCorps Member working in the New Orleans office of ACORN Housing Corporation ("AHC") under the supervision of Mrs. Patricia Simon. My term of service in the AHC New Orleans office began on January 23, 1995, after three weeks of training in Philadelphia, Pennsylvania.
3. On or about March 30, 1995, Jeff Karlson, an ACORN Fair Housing Outreach Coordinator, issued a memorandum to Mrs. Simon stating that I and Antoinette Davis were not in compliance with referring AHC loan counseling clients to ACORN Fair Housing Outreach Coordinators.
4. Ms. Davis and I were understandably upset and confused about this memorandum and wrote a reply to it stating our cooperation with AHC Fair Housing Coordinators and referred to said memorandum as a breakdown in communication which was sent to Mrs. Simon and Mr. Dorpalen. Thereafter, the matter was discussed with Mrs. Simon and recognized that in fact I and Ms. Davis were in compliance based on our training and conditions of our contract as AmeriCorps members.
5. I was trained in Philadelphia that, as an AmeriCorps Member, I was NOT to get involved in recruiting persons to become members of ACORN. Since my return to New Orleans that has been my stand and as a result I received a memorandum stating I was not cooperating with the organizers. A meeting was held in New Orleans that was coordinated by Doris Latorre and attended by all the AmeriCorps Members, Mrs. Simon, several ACORN organizers including Jeff Karlson. The purpose of this meeting was to clarify the relationship and responsibilities between AHC loan counselors and ACORN organizers. Ms. Latorre stated that ACORN organizers could attend intake meetings and attempt to recruit members, and that AmeriCorps members could make loan counseling clients aware of ACORN and offer to introduce them to ACORN organizers.
6. It is my understanding that as a AmeriCorp Member, I cannot push membership in ACORN.
7. I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge information and belief.

Dated: August 18, 1995


Dorethea Allmon

DECLARATION OF GWENDOLYN S. JONES

I, Gwendolyn S. Jones, do hereby declare as follows:

1. I am employed by ACORN Housing Corporation ("AHC") in its Dallas, Texas office in the position of Housing Director.
2. I commenced training with AHC as an AmeriCorps Member on January 23, 1995 in Philadelphia, Pennsylvania. I started work in the Dallas office on February 13, 1995. Initially, I was a loan counselor. I was promoted to the position of Housing Director at approximately the end of April.
3. When I started work in the Dallas office, there was no AHC supervisor there. Pamela Wick and I were the only AmeriCorps Members there. Byron Possadas and Maria Romero, AHC loan counselors who were not part of the AmeriCorps program, were also present. Approximately two weeks later, Tavius Jones, Xavier Mendez, and Myrtle Cleveland started work in Dallas, upon completing their AmeriCorps training in Philadelphia.
4. Tavius Jones was the initial Program Director in the Dallas office. Unfortunately, Ms. Jones never provided active supervision to the office and, as a result, things were very chaotic. I expressed my concerns about this situation to my colleagues and to Bruce Dorpalen in Philadelphia.
5. In April 1995 Matthew Mapram, the Program Director at AHC's Houston office, came to the Dallas office for several days to help us get organized and to get things running smoothly. He interviewed the staff and made suggestions to improve our operations.
6. Mr. Mapram returned to Dallas the following week and ultimately offered me the position of Program Director. At that time, Tavius Jones was out of the office, supposedly because of a death in her family. She never returned to work in the Dallas office.
7. During the training of AHC AmeriCorps Members in Philadelphia, it was emphasized that we should not solicit members for ACORN or collect dues for ACORN. It was also stressed that participation in the AHC loan counseling program was not tied to, or dependent on, a client joining ACORN.
8. I am not aware of any AmeriCorps Member in the AHC Dallas Office ever soliciting membership in ACORN or collecting dues for ACORN. Likewise, I am not aware of Mr. Possadas ever soliciting membership in ACORN or collecting dues for ACORN. I know that Ms. Romero did not do so because her job was administrative and she did not interact with clients.

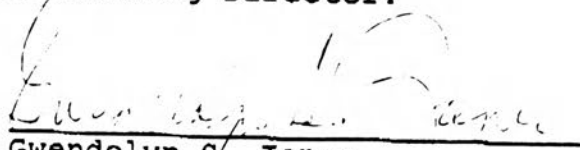
- 2 -

9. Whenever I have conducted intake meetings in Dallas, I do not provide any information regarding ACORN or ask any prospective clients to join ACORN. If a loan counseling client asks me about joining ACORN, I reply that it is up to him/her but that joining ACORN is not required in order to receive loan counseling.

10. ACORN organizers did attend some of the intake meetings I conducted. After I had explained the loan counseling program, the ACORN organizer would provide information about ACORN.

11. AHC and ACORN do engage in some other joint or cooperative outreach efforts. For example, AHC and ACORN both sponsored a bank fair in July that led to the recruitment of approximately 100 families as prospective AHC loan counseling clients. In addition, AHC receives direct referrals of loan counseling clients from ACORN.

12. Liz Wolfe, an ACORN organizer in Dallas, once supposedly made a comment at a staff meeting that AHC loan counselors should give preference to ACORN members. I was not present when this remark was made, but I heard about it from other loan counselors, all of whom were upset by this remark. The loan counselors were upset both because it is impermissible to give any preference to ACORN members and because Ms. Wolfe, as an ACORN staffer, had no business telling AHC staffers what to do. To the best of my knowledge, no AHC loan counselor in Dallas ever gave any preference to ACORN members. This incident happened while Tavius Jones was the Program Director. Some loan counselors talked about reporting this incident to higher AHC officials but I do not believe they ever did so. By the time I became the Housing Director, this matter had blown over. I am certain that no preference has been given to ACORN members since I became Housing Director.

Dated: 8-16-95
Gwendolyn S. Jones

DECLARATION OF SABRINA GARCIA

I, Sabrina Garcia, do hereby declare as follows:

1. I reside at 1934 East Jackson Street, Phoenix, Arizona 85034.

2. I am employed by ACORN Housing Corporation ("AHC") in its Phoenix, Arizona office in the position of Program Director.

3. I have held the position of Program Director since March 28, 1995.

4. As Program Director of the AHC Phoenix office, my responsibilities include the supervision of all AmeriCorps Members working as loan counselors in AHC's "Home For All" loan counseling program.

5. In addition to the loan counseling program, the AHC Phoenix office also conducts a housing development program pursuant to which AHC rehabilitates housing stock and then leases it to low income persons pursuant to a "Lease to Own" program. In connection with its various home ownership-related programs, AHC conducts classes, on issues such as budget training, that are open to participants in all of the various AHC programs. AmeriCorps Members in the AHC Phoenix office have been requested to notify participants in the various programs, together with those persons on program waiting lists, of the date and times of classes being offered by AHC.

6. I have never required or asked any AmeriCorps Member to conduct any kind of meeting or social event of area ACORN members and, to the best of my knowledge, information and belief, no other AHC official has ever required or asked any AmeriCorps Member to conduct any kind of meeting or social event of area ACORN members.

7. For the past several years the AHC Phoenix office has been holding a potluck dinner, on an approximately monthly basis, that is open to all AHC clients. The purpose of the potluck dinners is to let people get to know each other better in a relaxed setting as a way of building trust. AmeriCorps Members are invited but are not required to attend. AmeriCorps Members are sometimes asked to call AHC clients to invite them to the potluck dinners.

8. The potluck dinners sometimes have a theme. On June 25, 1995, a potluck dinner was held by AHC. The theme of this dinner was the 25th anniversary of ACORN.

9. In the AHC training program, it is emphasized that AmeriCorps Members are not to solicit for ACORN. I am not aware of any AmeriCorps Members in the Phoenix office ever soliciting persons to become members of ACORN. I have never been told that AmeriCorps Members should even make their loan counseling clients

aware of ACORN, much less solicit them to join ACORN. I do not even mention ACORN to my loan counseling clients.

10. I understand that Monica Craig has alleged that I told her that, during an AHC meeting in North Carolina, I was questioned about not being productive in soliciting ACORN memberships. This is absolutely false. During the meeting in North Carolina, there was discussion about fundraising for AHC. There was no discussion, then or at any other time or place, about soliciting ACORN memberships.

11. Likewise, I am not aware of any AmeriCorps Members in the Phoenix office collecting ACORN membership dues. I understand that Annie Carter has alleged that AmeriCorps Members collected money from ACORN clients that included both their rent and their dues. This allegation is mistaken and appears to reflect confusion on Ms. Carter's part. First, as noted above, the persons participating in the "Lease to Own" program are clients of AHC, not ACORN. Second, the collection of rent from those clients is supposed to be handled by AHC staff assigned to the development program, rather than by AmeriCorps Members in the loan counseling program. Nonetheless, AmeriCorps loan counselors sometimes are in the office later in the evening than development personnel, and do accept rent payments when clients come in, rather than requiring them to return the next day. However, I am not aware of AmeriCorps members ever collecting ACORN dues together with rent payments. In fact, I do not know how they could distinguish which tenants are or are not ACORN members.

12. Both Monica Craig and Annie Carter were on the staff of the AHC Phoenix office at the time that I arrived. Ms. Craig was an AmeriCorps loan counselor. Ms. Carter was not an AmeriCorps member. She divided her time between loan counseling and fair housing responsibilities. Ms. Carter and Ms. Craig went out to lunch together at noontime on Thursday, June 26, 1995. Neither of them ever came back to the AHC Phoenix office. Their abrupt departure came with no advance notice whatsoever. Prior to their departure, I believed that they had not been performing all of their assigned responsibilities and I had been pressing them to perform as they should.

13. The only concern that either Ms. Craig or Ms. Carter ever expressed to me about being asked to perform improper activities was Ms. Craig's concern that work for the AHC housing development program was impermissible for AmeriCorps Members to perform. I raised this concern with Bruce Dorpalen at an AHC staff supervisors meeting in North Carolina. Mr. Dorpalen confirmed my understanding that it was completely appropriate for AmeriCorps Members to provide support to the AHC housing development program. I so advised Ms. Craig upon my return to Phoenix.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: _____

Sabrina Garcia

DECLARATION OF MARTIN R. SHALLOO

I, Martin R. Shalloo, do hereby declare as follows:

I hold the position of Director of Development Projects for the ACORN Housing Corporation ("AHC"). As such, I am responsible for overseeing various projects of AHC around the country including the Phoenix project. During the Spring of this year (1995), I spent several weeks in the Phoenix office including at least seven weeks during the months of March, April and May. During these visits, I had occasion to oversee various events in the office, provide supervision and/or assistance and training to various staff.

I have reviewed the sworn statements that the Corporation for National Service Office of Inspector General obtained from Monica Craig and Annie Carter on June 26, 1995. Those statements are inaccurate in a number of respects.

When Monica Craig was hired as an Americorp member she was hired to assist low-income persons to become homeowners through conducting outreach to the community, providing or assisting in the provision of financial counseling and other homeownership training to these applicants in order to assist them to become homeowners. These homeownership assistance programs were run by the AHC. None of the homeownership assistance programs conducted by AHC in Phoenix require applicants to be members of the Association of Community Organizations for Reform Now ("ACORN"). In years past, AHC had run homeownership programs that required participants to become members of ACORN, however this had not been true since at least 1992.

The office director at the time that Monica was interviewed was in fact the director of the homeownership development program. Monica Craig was aware of this.

There were two primary homeownership programs that Monica was asked to work on, a lease-to-own homeownership program that enables homebuyers to own single family houses and a housing counseling program. These programs were very similar in the manner in which they prepared applicants to become homebuyers. In addition, through the lease-to-own program AHC purchased and rehabilitated houses that were made available to tenant-homebuyers on a lease basis prior to the tenant-homebuyer exercising their option to purchase the house. This purpose is specifically designed to assist persons who currently would be unable to obtain a loan from a mortgage lender due to minor credit problems or lack of downpayment. AHC monitors their payment performance during the lease period.

The primary purpose of Monica's position was to conduct outreach into the community to make low-income people aware of how the project could assist them and to provide homeownership counseling and training to persons being assisted by the program. These persons were either on a waiting list for houses or currently in houses developed by AHC. Monica was asked to conduct several tasks related to these duties including providing financial

evaluations and counseling to persons on the waiting list; to review files of existing applicants for completeness of financial information; to conduct intake meetings to explain the program to persons from the community; to call or otherwise notify persons on the waiting list and in AHC developed houses for a variety of events that included maintenance training classes, budget training classes or social events such as potluck dinners; on occasion to collect rent payments from persons in AHC developed houses; to track the completion of homeownership classes and other training designed to prepare persons on the waiting list to be homeowners; to provide financial information to the project director about families on the waiting list for use in qualifying them for a house and preparation of loan applications and any other activity that would assist persons on the waiting list to prepare for homeownership or tenant-homebuyers in AHC houses to prepare financially and otherwise to assume ownership on their houses.

AHC uses a variety of means to determine the financial capability of the low-income households we assist to meet the financial obligations of homeownership including review of their financial position, monitoring of monthly rent payments and ongoing contact with tenant-homebuyers to assist in forecasting of future financial problems.

Community outreach which included production and distribution of promotional materials such as posters, flyers, submitting public service announcements and letters to realtors.

Notification of upcoming events or program information was provided to persons on the waiting list or in AHC developed houses in several ways, through phone calls, through distribution of a calendar, through speaking with them when they came to the office to make rent payments, through announcements at homeownership training classes, at the monthly housing meeting and through letters or newsletters sent to these persons. The monthly housing meeting announced the upcoming calendar of events, any new houses that would be available to persons on the waiting list and provided a participation status report to persons on the waiting list.

I conducted the March housing group meeting, Jeff King (with Monica in attendance) conducted the April meeting and Jeff King (without Monica in attendance) conducted the May meeting.

Monica was never asked by me to write an article for an ACORN publication and certainly this would have been clearly against policy and would not have been condoned. It was known to me that she was asked to write an article for a newsletter that was to be published and paid for by AHC and distributed to persons on the waiting list and in AHC developed houses.

I personally instructed Monica not to solicit memberships in ACORN. Any representation by her that solicitation of memberships by Americorp members would have been condoned by myself or Jeff King is wrong.

In order to conduct intake meetings for the lease-to-own program, Monica was given a set of "Questions and Answers". Monica was informed that the first version of these was erroneous, as the program had changed over the years, and needed to be revised. Monica attended an intake meeting that I conducted in early March. At that meeting we read through the Questions and Answers sheet and then took questions from the attendees. (Unless Monica was simply not paying attention at that meeting she would have read these then rather than in April as she says in her affidavit). I deleted all references to joining ACORN from that meeting and specifically discussed the errors in that form and specifically discussed that it was outside of her scope of duties to discuss membership in ACORN with persons attending that meeting.

When I was in Phoenix in March, I had a discussion with Monica about providing outreach and housing counseling for lease-to-own program run by AHC in Phoenix. At that point in time she indicated she would like to do that.

There was never a discussion that the work that Monica was asked to do for the lease-to-own program was in violation of Americorp policy. The discussion was a resource discussion about whether, given the current staff losses, there was sufficient staff to carry out the loan counseling program to AHC standards with Monica devoting part of her time to work with her lease-to-own portfolio of clients.

Monica was a less than model employee who needed to be monitored on a daily basis by her supervisor to insure completion of tasks assigned to her. This was stressful for her supervisor and in all likelihood for her.

Regarding the matter of Annie Carter's position as an Americorp member or a fair housing counselor. Both I and Doris LaTorre were in the Phoenix office at the time of this discussion. I had initially interviewed Monique Rueles as a loan counselor and recommended to Bruce Dorpalen that she could be the fair housing counselor. In part this recommendation was because she was bilingual in English and Spanish.

When Doris LaTorre made me aware that Annie Carter thought that she had been promised the fair housing position, I spoke to Wanda Neil (CO). Wanda indicated that she had indeed promised the fair housing position to Annie Carter. Doris and I called Bruce Dorpalen and discussed this matter with him. It was decided that since Ms. Neil had offered this position to Annie Carter and the position had not been offered to Monique Rueles, Annie could be given the position.

Doris and I met with Annie to inform her of this and that this meant she would no longer be an Americorp member. As such she would no longer be eligible for the Americorp benefits (such as the education and health care benefits). She indicated that this was fine and that she would prefer the fair housing position. Annie was then given that position. There was never a discussion about the position needing to be filled by a Hispanic. There was

a discussion about us preferring the position be filled by a person who was bilingual in English and Spanish. After this discussion we called Bruce and told him about it and then spoke with Sheri Blick to get her to send the appropriate Americorp forms to terminate Annie's participation in Americorp.

Annie never asked for anything in writing at this meeting.

I don't know the exact number of days Annie was an Americorp member after she returned from training but it had to be under one week and I believe it was 3 days.

Annie, like the rest of staff, was asked to wear many hats. It was important to AHC to service its tenant-homebuyers quickly and in a professional manner. This was sometimes difficult since they may drop in to deliver a rental payment, ask for program information or tell us about a maintenance problem at a time when the staff that would normally handle this was out of the office, on other business or at lunch. Other staff, including Annie would be asked to handle these situations. Since none of the house payments include dues to ACORN, AHC staff did not see the handling of these payments as a problem.

Annie Carter states in her affidavit that she did not recruit ACORN members "because I didn't know anything about the recruitment part for ACORN". This is because, as she was instructed by numerous AHC staff, this was not her job.

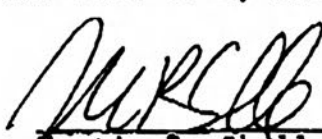
During the time I was in Phoenix through most of March and April, Annie spent a lot of time revising forms and other handouts that did not quite fit the program and were meant to be adapted to the new programs. Given her clear understanding of the policy not to recruit ACORN members, it is bizarre to me that she would not have revised out anything that was clearly against stated AHC policies.

During her time working for AHC in Phoenix, Annie never handled payment of bills or expenses. She had no direct knowledge of the financial systems or program income. She did collect an occasional rent payment. Also during her time working for AHC, she knew that the Phoenix office had difficulty getting office equipment including computers and office heating and air conditioning equipment repaired due to lack of funds. Her statement that she "thought [AHC] was very profitable" is directly contrary to her actual experience.

There are additional inaccuracies in the statement of Ms. Craig and Ms. Carter which I have not addressed herein.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: 8/17/95


Martin R. Shalloo

DECLARATION OF MICHAEL D. SHEA

I, Michael D. Shea, do hereby declare as follows:

I am the Executive Director of ACORN Housing Corporation.

In early June of 1994 the Corporation for National Service informed me via fax that ACORN Housing Corporation was a finalist in the AmeriCorps grant selection process. The fax instructed me to call Corporation for National Service in order to schedule an interview. I made the call and was instructed to come to Washington, D.C., two days later.

ACORN Housing Corporation was represented at the interview by Bruce Dorpalan, Marilyn Ashley, Bertha Lewis and Mike Shea. Attending the interview session for the Corporation for National Service were Verna Quo, Michael Arthur, a consultant whose name I can't recall, and Terry Russell.

At the meeting I explained that in 1985 ACORN Housing Corporation was spun off as a separate, tax-exempt corporation from ACORN in order to implement homeownership programs. I stated that AHC has continued to work with ACORN, and that in particular AHC's work with ACORN around redlining and discriminatory lending practices had produced many of the landmark lending agreements with private lenders which form the backbone of AHC's loan counseling program. I also explained that our experience had taught us that a "paper partnership" with lenders did not produce homeownership for low income families; an aggressive outreach and counseling program is necessary in order to turn the promise into reality.

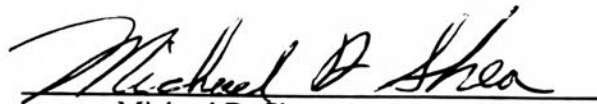
Bruce Dorpalan and Bertha Lewis added more information about the history of ACORN Housing and our loan counseling program. I remember that one of us said--I believe that it was Bertha--that AHC encourages its clients to become involved in civic affairs by becoming active in community groups, such as ACORN. Bruce said that AHC works with ACORN and other groups on community outreach, and that ACORN is a very valuable source of client referrals to AHC.

I recall asking the CNS representatives whether or not AHC's historical relationship to ACORN presented a problem. Terry Russell responded by saying: "We are going into this with our eyes open....I'm familiar with ACORN and their reputation...." I believe that Mr. Russell then told a story about a personal experience years before with an ACORN demonstration. Mr. Russell proceeded to review the AmeriCorps program prohibitions against demonstrating, protesting, or lobbying. He then asked whether or not ACORN Housing worked with ACORN on these activities. I responded that AHC was very much aware of the AmeriCorp prohibitions against demonstrations and that AHC was not in the demonstration business. I said that we would be extremely diligent to make sure that AmeriCorps members did not participate in these activities.

At no time during this entire exchange did Mr. Russell or any of the other representatives from the Corporation for National Service indicate that ACORN Housing would be required to sever its relationship with ACORN.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: August 17, 1995


Michael D. Shea



QUESTIONS AND ANSWERS

CORPORATION GRANT PROGRAMS

April 18, 1994

This document is not intended to be all-inclusive or to be a substitute for information detailed in the Corporation's regulations; rather, these answers clarify and discuss frequently asked questions and address issues raised during the course of technical assistance workshops and conference calls held over the past few months.

APPLICANT ELIGIBILITY

Will consortia of institutions of higher education be able to apply for AmeriCorps funding? If so, will they apply through the State Commission?

Yes. Institutions of higher education, or consortia of such institutions, proposing AmeriCorps programs that will operate in their local communities or within one state must apply through their respective State Commissions. However, professional corps programs, programs involving a partnership among institutions in more than one state, and programs run by a consortia or nonprofit with an explicit, well-conceived national or multi-state strategy may apply directly to the Corporation for AmeriCorps funds.

Are former Commission-funded Youth Corps eligible for funding?

Yes, the Youth Corps may be eligible for AmeriCorps funds directly from the Corporation or from the States. For fiscal year 1994, the Corporation will give priority to American Conservation and Youth Service Corps Programs and National Service Demonstration Programs that received funding from the Commission on National and Community Service. This priority, however, does not constitute a guarantee for renewal funding; the Corporation expects that those programs that meet the minimum requirements and quality standards will receive support. The Corporation also will encourage the States to give priority to these programs.

Can religious volunteer organizations apply for AmeriCorps and Learn and Serve America funds?

Yes. Religious organizations may apply for these funds, provided they meet the eligibility criteria for the programs. However, under no circumstances may a religious organization (or any other organization) use Corporation funding to provide religious education or instruction, conduct worship services, engage in any form of religious proselytization, construct or operate facilities devoted to religious instruction or worship, or maintain facilities primarily or inherently devoted to religious instruction or worship. Although existing staff of religious organizations may continue to work regardless of whether the staff is diverse, religious organizations, like any other organization, must seek actively to achieve diversity among its program participants and staff.

Can a national nonprofit apply to a State on behalf of its regional affiliate located in the State and also apply for other programs in other states?

Yes. However, a project may not receive funding from more than one Corporation source. If a project is already described in an application pending

before the Corporation, and another application is submitted with a proposal for that same project, the second application will be rejected.

If a national nonprofit does not participate, may its regional organization apply directly to the Corporation?

The regional affiliate may apply directly only if it proposes a multi-state program or a professional corps. A regional organization may apply directly to the Corporation at the same time as its national if it is proposing different projects.

May a nonprofit lobbying organization be an AmeriCorps service and program sponsor? May the lobbying organization engage participants in research and data collection activities?

A nonprofit lobbying organization is eligible to be an AmeriCorps service and/or program sponsor. Lobbying organizations (like other eligible service or program sponsors) must engage participants in service activities that provide a specific identifiable service or improvement that otherwise would not be provided with existing funds or volunteers and does not duplicate the work of existing employees. Although some activities, such as research and data collection, may not provide a direct benefit to the community, and cannot be the primary activity of a national service program, such activities may be performed by participants if the performance of such activities provides support for direct service activities. For example, a participant engaged in an immunization project may collect data to determine how many children have not been immunized in the community. Under no circumstances, however, may a participant in the course of his/her duties, at the request of program staff, or in any manner that would associate the activities with the Corporation or the national service program engage in any effort to influence legislation, as prohibited under § 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), or provide a direct benefit to any nonprofit that fails to comply with the restrictions contained in § 501(c) of the IRS Code.

Are programs sponsored by local governments that have the potential for replication eligible to apply directly to the Corporation?

In general, no. Replicability is one criterion by which all programs will be evaluated, and replicable programs cannot necessarily apply directly to the Corporation. Therefore, local programs sponsored or operated by local government generally should apply to the State; however, a local government may submit directly to the Corporation a proposal to replicate a local program in more than one State.