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ONE HUNDRED NINTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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December 5, 2005

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INDEPENDENT

The Honorable Randall L. Tobias  
U.S. Global AIDS Coordinator  
U.S. Department of State  
Washington, DC 20520

Dear Ambassador Tobias:

On February 15, 2005, I wrote to you to express concerns about a grant for international HIV prevention. A proposal by the Children's AIDS Fund that had been rejected by a technical review panel as "not suitable for funding" was nevertheless endorsed by USAID Administrator Andrew Natsios and approved by you.<sup>1</sup> I requested documents about this irregular award decision. Over the past nine months, my request for information was repeatedly denied. I was told that "[s]trict and exacting agency guidelines (designed to ensure the integrity of the competitive grants process) prohibit the release of information concerning an ongoing competition."<sup>2</sup>

My understanding is that the grant in question has now been finalized.<sup>3</sup> This should remove any impediment to a complete response to my request. I therefore ask that you provide the requested documents without further delay.

In addition, some new questions have arisen about the decision to make this award and the negotiations that have occurred since my original request. For this reason, I ask that you also provide the following information:

- The scores, notes and comments from the technical review of all applicants for this grant;

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<sup>1</sup> Letter from Henry A. Waxman, Ranking Minority Member, Committee on Government Reform to Randal L. Tobias, U.S. Global AIDS Coordinator (Feb. 15, 2005).

<sup>2</sup> Letter from J. Edward Fox, Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development to Henry A. Waxman, Ranking Minority Member, House Committee on Government Reform (Sep. 29, 2005).

<sup>3</sup> Telephone conversation between the Bureau for Legislative and Public Affairs, Agency for International Development, and Minority Staff, House Committee on Government Reform (Nov. 29, 2005).

The Honorable Randall L. Tobias  
December 5, 2005  
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- All related communications between USAID or State Department employees and employees or representatives of the Uganda Youth Forum, including e-mail and records of phone conversations;
- An explanation of whether the Children's AIDS Fund award constituted a formal "deviation" from standard USAID grantmaking procedure; and, if so, copies of all documentation required for a procedural deviation, including the "deviation request" and written comments from the Office of Procurement;<sup>4</sup>
- Any modifications of the original proposal submitted by the Children's AIDS Fund;
- The Memorandum of Negotiation between the Agreement Officer and the Children's AIDS Fund<sup>5</sup>;
- Any correspondence among USAID, the Office of the Global AIDS Coordinator, and the Children's AIDS Fund regarding changes to the original grant proposal;
- Any record of technical review conducted on modified grant proposals submitted by the Children's AIDS Fund or negotiated changes to the original submission.

I made my initial request over nine months ago. I ask that the above documents, as well as the information I requested in February, be provided by December 16, 2005. I appreciate your cooperation with this request.

Sincerely,



Henry A. Waxman  
Ranking Minority Member

cc: The Honorable Andrew Natsios  
Administrator  
U.S. Agency for International Development

Attachment

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<sup>4</sup> U.S. Agency for International Development, *ADS 303.5.3: Deviations*, (July 23, 2002) (online at: <http://www.usaid.gov/policy/ads/>).

<sup>5</sup> U.S. Agency for International Development, *ADS 303.5.12: Negotiation and Award*, (July 23, 2002) (online at: <http://www.usaid.gov/policy/ads/>).

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February 15, 2005

The Honorable Randall L. Tobias  
U.S. Global AIDS Coordinator  
U.S. Department of State  
Washington, DC 20520

Dear Ambassador Tobias:

For over seven months, I have been attempting without success to obtain basic information about HIV prevention grants awarded under the President's Emergency Plan for AIDS Relief (PEPFAR). Now I have learned why the Administration may have been resisting my inquiries: a major PEPFAR grant for abstinence education was awarded to an organization with close political ties to the Bush Administration even though a technical panel had rated the grant proposal as "not suitable for funding."

I am writing to request more information about this unusual grant and to urge you to respond to my previous requests for information about how the Administration has administered hundreds of millions of dollars in PEPFAR grants.

### Background

The President's Emergency Plan for AIDS Relief is a major Administration initiative announced by President Bush during his 2003 State of the Union address. At a cost of \$15 billion over five years, PEPFAR aims to prevent seven million new infections, treat two million individuals with antiviral therapy, and provide care to ten million individuals in 15 target nations.<sup>1</sup>

According to your office, the overriding principle governing the awarding of PEPFAR grants is that "funding decisions will be evidence-based."<sup>2</sup> Under PEPFAR, the grant review

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<sup>1</sup> White House, *Fact Sheet: The President's Emergency Plan for AIDS Relief* (Jan. 29, 2003) (online at <http://www.whitehouse.gov/news/releases/2003/01/20030129-1.html>).

<sup>2</sup> U.S. Global AIDS Coordinator, *The President's Emergency Plan for AIDS Relief: U.S. Five-Year Global HIV/AIDS Strategy*, 66 (Feb. 23, 2004).

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process is typically managed by federal agencies, including the U.S. Agency for International Development (USAID). According to the *U.S. Five-Year Global AIDS Strategy* developed by your office, the agency's job is to "solicit proposals, conduct reviews, and award grants, contracts, or cooperative agreements through a transparent, competitive process."<sup>3</sup> You have assured the public that PEPFAR is "specifically designed" to support "evidence-based prevention programs."<sup>4</sup>

I have been attempting to conduct oversight of the PEPFAR program since July 2004, when I first requested copies of successful PEPFAR prevention grant proposals from the State Department.<sup>5</sup> Notwithstanding a second request in September 2004,<sup>6</sup> and a promise that USAID would cooperate,<sup>7</sup> the Administration has not provided me with a single document.

### **An Unusual Grant**

Despite the Administration's failure to cooperate, I have learned that your office funded a major abstinence education grant in Uganda after rejecting the conclusion of an expert panel that the proposal was "not suitable for funding." The organization receiving the grant is the Children's AIDS Fund.

The Children's AIDS Fund originally submitted its grant to USAID as part of an international competition for the funding of abstinence activities. The key element of this competition was review of each grant by a technical panel. On October 5, 2004, USAID announced that through a "competitive process," the agency was awarding major HIV prevention grants to 11 organizations.<sup>8</sup>

The Children's AIDS Fund was not one of the 11 winners. However, according to an internal Administration document I have obtained, you funded the organization's proposal

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 23.

<sup>5</sup> Letter from Henry A. Waxman to Secretary of State Colin L. Powell (July 26, 2004).

<sup>6</sup> Letter from Henry A. Waxman to Secretary of State Colin L. Powell (Sept. 8, 2004).

<sup>7</sup> Telephone conversation between the Office of the Global AIDS Coordinator and Minority Staff, House Committee on Government Reform (Oct. 13, 2004); Telephone conversation between the Bureau for Legislative and Public Affairs, Agency for International Development, and Minority Staff, House Committee on Government Reform (Oct. 13, 2004).

<sup>8</sup> *\$100 Million in Abstinence-Focused Grants for HIV/AIDS Prevention Awarded under President Bush's Emergency Plan for AIDS Relief* (Oct. 5, 2004) (online at <http://www.usaid.gov/press/releases/2004/pr041005.html>).

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anyway. This action raises serious concerns about the integrity of the PEPFAR grant review process.

According to an October 21 memo from USAID Director Andrew Natsios to you, the technical review panel had serious concerns about funding the Children's AIDS Fund.<sup>9</sup> The panel found that the proposal was "not suitable for funding."<sup>10</sup> The panel apparently also found that the grantee had "outstanding technical issues" that had not yet been resolved.<sup>11</sup>

Despite the findings of the review panel, Mr. Natsios recommended funding the Children's AIDS Fund. Mr. Natsios justified funding a "non-suitable" grant on the grounds that Uganda has been a leader in the Abstinence, Be Faithful, Use Condoms (ABC) approach to HIV prevention. He also argued that the grant would be channeled to a group associated with the First Lady of Uganda.<sup>12</sup>

On November 1, you approved this request.<sup>13</sup> However, unlike the 11 grants that passed expert review and were announced in a press release, there has been no formal announcement of the Children's AIDS Fund grant. In addition, as mentioned above, congressional requests for information that would have revealed the existence of the grant have been denied or ignored.

While the size of the grant was not discussed in the memo, the other eleven groups received a total of \$100 million over five years, suggesting the amount is likely considerable.

### Questions

I recognize that appropriate implementation of the ABC model of HIV prevention offers promise in curbing the spread of AIDS in Uganda and elsewhere. But I do not understand why the Administration is funding proposals for HIV prevention that have failed expert review. The purpose of review is to ensure that U.S. taxpayer funds are used on programs that work. Funding programs that are considered "not suitable for funding" can waste taxpayer dollars and undermine the credibility of our efforts to combat an international epidemic. These concerns are compounded when the grant is awarded without disclosure to the public or members of Congress.

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<sup>9</sup> Andrew S. Natsios, *Action Memorandum: Recommendation to Fund Children's AIDS Fund* (Oct. 21, 2004).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

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Moreover, this particular grant raises questions of political cronyism. Formerly known as Americans for a Sound HIV/AIDS Policy, the Children's AIDS Fund is ideologically and politically well connected. The organization's co-founder, Anita Smith, is a prominent supporter of abstinence education with close ties to the Bush Administration. On December 16, 2004 — two months after the Natsios memorandum — she was appointed by the President to be co-chair of the Presidential Advisory Council on HIV and AIDS.<sup>14</sup> Her husband, Shepherd Smith, is an appointee on the Advisory Committee to the Director of the Centers for Disease Control and Prevention.

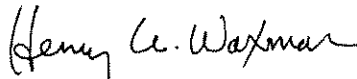
To further investigate this matter, I request copies of:

- the complete grant application of the Children's AIDS Fund;
- all documentation of the expert panel's review on the grant, including discussion of why the grant is "not suitable for funding";
- a description of the process used to fund this grant, with an explanation of where this process may have deviated, if at all, from usual funding procedures;
- all communications between State Department employees and Anita Smith or Shepherd Smith related to the grant, including e-mail and records of phone conversations;
- all communications with White House officials related to the grant, including e-mail or records of phone conversations;
- all legal opinions by USAID's general counsel on whether funding this grant after rejection by the expert panel is permissible under the law; and
- all other HIV prevention and treatment grants funded despite being rejected by expert review, along with copies of their review.

I also renew my requests of July 26 and September 8, 2004, for basic information about PEPFAR prevention grants.

I request a response, with the relevant documents, by March 1, 2005.

Sincerely,



Henry A. Waxman  
Ranking Minority Member

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<sup>14</sup> U.S. Department of Health and Human Services, *Secretary Thompson Announces PACHA Co-Chair* (Dec. 16, 2004).