
C O R P O R A T I O N

F O R N A T I O N A L



S E R V I C E

OFFICE OF THE INSPECTOR GENERAL

**Audit of the
Corporation for National Service's
Gift Fund**

This report is issued to CNS Management. According to OMB Circular A-50, *Audit Follow Up*, the Corporation must make final management decisions on the report's findings and recommendations no later than March 3, 1998. Consequently, the reported findings do not necessarily represent the final resolution of the issues presented or the amount of disallowed costs.

The Inspector General must approve any request for public release of the report.

Office of the Inspector General
Audit of the Corporation for National Service's Gift Fund

We audited the Corporation for National Service's Gift Fund for fiscal years 1994, 1995, and 1996. Our examination included an assessment of the Fund's activity to determine the Corporation's compliance with applicable laws, regulations, and policies related to the fund, and the reliability of the information reported.

The Corporation's records indicate that it received approximately \$2.7 million in gifts and donations during the three year period, and spent \$2.2 million. However, we found that the Corporation did not maintain adequate control over the Fund's transactions, did not reconcile its cash accounts, and could not find support for over \$160,000 of reported Gift Fund expenditures. Further, during fiscal years 1994, 1995, and 1996, Gift Fund transactions were not recorded in the general ledger, and the records that were established did not segregate unrestricted and restricted funds. Consequently, the Corporation lacks reasonable assurance that its Gift Fund information is accurate.¹ Because of these conditions, the scope of our work was not sufficient to enable us to conclude that the Gift Fund's financial records, as summarized in the Summary Schedule of Gift Fund Receipts and Expenditures, are complete and reliable.

We also found that the Corporation failed to manage its Gift Fund in accordance with spending restrictions and other requirements established by Congress, Comptroller General decisions, and the Corporation's policies and procedures for soliciting gifts. Because the funds were not adequately controlled and managed, the Corporation lacks assurance that its gift funds were not used for improper or inappropriate activities.

BACKGROUND

Under its authorizing legislation, the Corporation can accept and use funds donated to it in furtherance of the purposes of national service laws (42 U.S.C. 12651g(a)(2)(A)). The legislation also requires the Corporation to report to the Congress on the nature and amount of donations and contributions received, and how they were used and disposed (42 U.S.C. 12651d(b)(9)). The Corporation uses its Gift Fund to record gifts and related expenditures and to report on the Fund's activity.

¹ Over the past two years, work conducted by outside auditors under contract to the Office of Inspector General (OIG) also disclosed numerous material weaknesses and reportable conditions in the Corporation's financial management controls (see OIG Reports 96-38, *Report on the Results of the Auditability Survey*, issued in March 1996, and 97-04, *Report on the Follow-up Study to the Auditability Survey*, issued in December 1996). As a result, the Corporation began implementing corrective actions, such as reconciling its fund balance with the U.S. Treasury. However, these corrective actions were not in place during the period of our audit.

Summary Schedule of Gift Fund Receipts and Expenditures
(Fiscal Years 1994, 1995, and 1996)
Unaudited

	<u>Gift/Donation</u>	<u>Expenditure</u>	<u>Balance</u>
Ewing Marion Kauffman Foundation	\$1,500,000	\$1,431,281	\$ 68,719
W.K. Kellogg Foundation	990,000	625,152	364,848
Time Warner Inc.	10,000	10,000	0
Northrop Grumman Corporation	6,000	2,356	3,644
Other restricted ^a	67,874	48,750	19,124
Unrestricted	<u>146,018</u>	<u>108,667</u>	<u>37,351</u>
Total	<u>\$2,719,892</u>	<u>\$2,226,206</u>	<u>\$493,686</u>

^a Other restricted consists of \$67,874 in gifts/donations and \$48,750 of expenditures recorded as unrestricted by the Corporation. In OIG's view, these receipts and expenditures should be reported as restricted.

SCOPE AND METHODOLOGY

We performed our audit at the Corporation's headquarters in Washington, D.C., during the period February 10, 1997 through June 13, 1997, in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

At our request, the Corporation provided schedules listing Gift Fund receipts and disbursements for the period October 1, 1993 through September 30, 1996. We reviewed all transactions recorded in these schedules to assess compliance with applicable laws, Corporation regulations and policies, and the intent of the donor. We established a hierarchy of compliance criteria, beginning with statutory requirements and followed by U.S. Comptroller General decisions, Corporation regulations and policies, and the donor's intent, and measured each transaction against the criteria. (Additional information on our procedures and the compliance criteria is included in Appendix I.)

However, the scope of our examination was limited because the Corporation was unable to provide adequate documentation to support \$162,246 in Gift Fund expenditures. Further, we were unable to determine if all receipts and expenditures were included on the Gift Fund schedules provided to us by the Corporation because the Corporation did not (1) routinely enter Gift Fund transactions into its general ledger; (2) maintain other controls over the recording of receipts and disbursements from its Gift Fund; or (3) reconcile its cash accounts.

We provided a draft of this report to the Corporation's management for comment. In its response, the Corporation stated that it generally agreed with our findings and recommendations and that it is implementing corrective actions to strengthen the financial management of the Gift Fund. The Corporation disagreed with our assessment that certain expenditures from unrestricted gift funds

were inappropriate because they did not further the purposes of its mission. The Corporation also disagreed with our analysis that unrestricted gift expenditures exceeded unrestricted funds available. The Corporation's comments are included in their entirety as Appendix III and summarized after Finding I.

FINDINGS

- I. The Corporation failed to manage its Gift Fund in accordance with spending restrictions and other requirements established by Congress, Comptroller General decisions, and the Corporation's policies and procedures for soliciting gifts.

When we assessed the expenditures charged to the Gift Fund against the hierarchy of criteria for determining whether the expenditures were allowable, we found numerous exceptions. Specifically, we found that the Corporation had significant amounts of expenditures that: violated specific administrative cost restrictions imposed by Congress; were not sufficiently related to the Corporation's programs to be allowable; or violated limits on using Federal agency gift funds for entertainment or personal expenditures. We also found that the Corporation had improperly allowed its unrestricted gift expenditures to exceed the unrestricted funds available, and that the Corporation had improperly retained funds as gifts that should have been deposited into the U.S. Treasury as miscellaneous receipts. The following are detailed discussions of each of these conditions.

Violation of administrative cost restriction

We found that during fiscal years 1995 and 1996, the Corporation expended about \$196,000, primarily from its restricted gift funds, in violation of a statutory restriction on using gift funds for the Corporation's administrative expenses. This restriction was included in the Department of Veterans Affairs, HUD and Independent Agencies appropriations acts for fiscal years 1995 and 1996 (Public Laws 103-327 and 104-134). These Acts prohibited the Corporation from using any funds (other than the funds appropriated under the Acts) to pay for the salary, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, or other Corporation staff working on National and Community Service or National Civilian Community Corps programs.

Our analysis of the Gift Fund revealed that the Corporation expended \$181,000 for the salaries and benefits of the Director and Deputy Director of the AmeriCorps Leaders Program; \$9,000 for staff travel to conferences, site visits, and lodging; and \$6,000 in office, communications, and other administrative costs from the Gift Fund in violation of the Acts. Further, because the Corporation had incomplete or no supporting documentation for over \$160,000 of its Gift Fund expenditures, we were unable to assess whether these expenditures were appropriate and in compliance with the applicable laws and regulations. Thus, the amount of inappropriate expenditures may be higher.

Inappropriate expenditures from unrestricted gift funds

We also found that during fiscal years 1994 through 1996, the Corporation inappropriately expended about \$49,000 from unrestricted gift funds (approximately 50 percent of reported unrestricted expenditures). These expenditures were primarily for receptions, lunches, and other entertainment that did not further the purposes of the Corporation's mission. Under applicable Comptroller General decisions, such expenditures are not permissible uses of Federal agency gift funds.

Unrestricted gift expenditures exceeding unrestricted gift funds available

Our analysis of the Corporation's unrestricted gift funds also revealed that unrestricted gift expenditures exceeded unrestricted funds available by as much as \$13,000 during fiscal year 1994. Federal law prohibits Federal agencies from making or authorizing expenditures or obligations exceeding an amount available in an appropriation or fund (31 U.S.C. 1341(a)(1)(A)).

We analyzed the unrestricted gift funds available in the Corporation's Gift Fund from its inception in September 1993 through September 1996 to determine whether sufficient funds were available at the time the Corporation entered into an obligation or made an expenditure from the account. At the beginning of fiscal year 1994, the Corporation had approximately \$12,500 in gift funds available.² However, by the end of November 1993, the Corporation incurred obligations or expenditures in excess of this amount while it had not received any unrestricted gifts or donations. This created a negative balance for its unrestricted gift funds, which continued until September 1994 when the Corporation received an unrestricted gift in the amount of \$50,000.

Inappropriate retention of funds due to the U.S. Treasury

Our examination also showed that the Corporation recorded approximately \$30,000 in funds generated by the sale of promotional goods (i.e., AmeriCorps identity items such as T-shirts, hats, buttons, etc.) as unrestricted gifts. Unless an agency has statutory authority allowing it to retain the funds, or unless the funds are an authorized repayment,³ Federal law requires that all funds received by an agency be deposited into the U.S. Treasury's general fund as miscellaneous receipts (31 U.S.C. §3302(b)). Because these receipts resulted from funds paid to the Corporation in exchange for the promotional goods (i.e., consideration was involved in the transaction), the receipts can not be classified as gifts. Further, we do not believe that funds generated by the sale of promotional items can be classified as authorized repayments, and we know of no other statutory authority allowing the Corporation to retain these funds. Therefore, we believe that the Corporation exceeded the scope of its statutory authority by retaining the funds as gifts.

² This amount represents the September 30, 1993 balance in the former ACTION agency's Gift Fund. ACTION was merged with the Corporation under the National and Community Service Act of 1993.

³ Authorized repayments are defined by 30 Comptroller General 595 (1950) as reimbursements which by law may be credited directly to appropriations or refunds for payments made in error, overpayments or adjustment for previous amounts disbursed.

Noncompliance with the Corporation's regulations and policies

We also found that, for over half of the 37 donations reported during the three year period we audited, the Corporation did not have written documentation supporting the donor's offer, or any indication that the Acting Chief Financial Officer had reviewed the donation and determined that the gift complied with applicable regulations and guidelines. Further, based on documentation provided to us, the Corporation only notified the donor in writing that it would accept the gift for 10 (27 percent) of the 37 gifts. The Corporation's regulations⁴ and internal policies on soliciting gifts require that offers to donate and the Corporation's acceptance of the gift be in writing, and that the Chief Financial Officer review all Gift Fund transactions.

Failure to submit required reports to Congress

Finally, the Corporation's authorizing legislation requires that the Corporation prepare and submit to the appropriate committees of Congress, an annual report describing the nature and amount of donations received and how they were used (42 U.S.C. 12651d(b)(9)). However, we found that the Corporation had not prepared or submitted reports for fiscal years 1995 and 1996 as required.

The following tables summarize our analysis of restricted and unrestricted Gift Fund expenditures and the bases for our compliance findings.

⁴ On January 13, 1994, the Corporation's Chief Executive Officer established internal policies and procedures for the solicitation, acceptance and receipt of gifts. These policies were in effect until May 31, 1995 when the Corporation promulgated regulations (45 C.F.R. Part 2544) which superseded the Chief Executive Officer's memo. The regulations contained additional requirements related to the notification of the donor; specifically, that the response should describe the offer and state that the Corporation's acceptance can not be used in any manner to endorse the donor's products or services.

Restricted Expenditures¹

(Fiscal Years 1994, 1995, and 1996)

AmeriCorps Leaders Program

	<u>Leaders Living Allowances²</u>	<u>Training, Travel, & Evaluation</u>	<u>Office/ Admin.</u>	<u>CNS Salaries & Benefits</u>	<u>Other³</u>	<u>Total</u>
Expenditures not in compliance with applicable laws & regulations						
FY95 & 96 administrative restriction ⁴	\$ 0	\$ 9,358	\$ 4,754	\$180,525	\$ 0	\$ 194,637
Did not further national service	0	237	1,537	0	483	2,257
Not within donor's intent	<u>0</u>	<u>129</u>	<u>118</u>	<u>340</u>	<u>0</u>	<u>587</u>
Subtotal	0	9,724	6,409	180,865	483	197,481
Insufficient documentation to determine compliance with applicable laws and regulations						
	0	77,738	9,295	33,957	25,595	146,585
Expenditures made in compliance with applicable laws and regulations						
	<u>1,408,281</u>	<u>317,582</u>	<u>12,580</u>	<u>0</u>	<u>35,028</u>	<u>1,773,471</u>
Total expenditures	<u>\$1,408,281</u>	<u>\$405,044</u>	<u>\$28,284</u>	<u>\$214,822</u>	<u>\$61,106</u>	<u>\$2,117,537</u>

Notes:

¹ This table includes \$48,750 of expenditures recorded as unrestricted gift funds. In OIG's view, these expenditures should be reported as restricted expenditures.

² AmeriCorps Leaders living allowances include benefits (FICA payroll expenses, relocation allowance, and health insurance).

³ Other includes costs of technical assistance workshops ("road shows") and intern salaries and benefits for which the Corporation received donations.

⁴ Represents amounts expended in violation of statutory restriction on using gift funds for certain administrative expenditures in fiscal years 1995 and 1996 (see page 3).

Unrestricted Expenditures¹

(Fiscal Years 1994, 1995, and 1996)

	<u>Receptions</u>	<u>Board, CEO, Staff Lunches, Dinners, Events</u>	<u>Other²</u>	<u>Total</u>
Expenditures not in compliance with applicable laws and regulations				
Did not further national service	\$15,921	\$ 4,024	\$16,748	\$ 36,693
FY95 & 96 administrative restriction ³	0	1,751	0	1,751
Unacceptable entertainment	8,224	3,257	387	11,868
Personal expenditure	<u>0</u>	<u>0</u>	<u>798</u>	<u>798</u>
Subtotal	24,145	9,032	17,933	51,110
Insufficient documentation to determine compliance with applicable laws and regulations				
	3,994	0	11,667	15,661
Expenditures made in compliance with applicable laws and regulations				
	<u>22,589</u>	<u>3,782</u>	<u>15,525</u>	<u>41,896</u>
Total expenditures	<u>\$50,728</u>	<u>\$12,814</u>	<u>\$45,125</u>	<u>\$108,667</u>

Notes:

¹ This table excludes \$48,750 of expenditures recorded as unrestricted gift funds by the Corporation. In OIG's view, these expenditures should be reported as restricted expenditures.

² Other primarily consists of a purchase of 10,000 key chains (\$15,750 of \$16,748) and 1,100 T-shirts (\$7,808 of \$11,667).

³ Represents amounts expended in violation of statutory restriction on using gift funds for certain administrative expenditures in fiscal years 1995 and 1996 (see page 3).

The Corporation's response

In its response to a draft of this report (see Appendix III), the Corporation disagreed with our assessment that certain expenditures from unrestricted gift funds were inappropriate, arguing that it has the discretion to decide when entertainment expenditures are allowable. The Corporation also stated that when the expenditures were incurred, the individual responsible for approving them determined that the expenditures were appropriate because they were incidental to official agency activities, necessary for the effectiveness of the event and furthered the Corporation's mission.

While agencies are allowed some discretion in deciding whether entertainment expenditures are allowable under Comptroller General decisions, the expenditures we considered inappropriate fit with expenditures which the Comptroller General has deemed improper — regardless of the agency's justification. For example, the Corporation used gift funds to pay the costs of hosting a reception held for the premiere of a movie. Since the film was unrelated to national service, the reception did

not further the Corporation's mission and instead was used to cultivate cordial relations and manifest good will, purposes which the Comptroller General considers unallowable for the use of gift funds.

Further, there is no evidence that the Corporation made a determination of appropriateness for the \$49,000 of expenditures which we considered unallowable. We also noted that during this period the Corporation had no formal policies and procedures that specified what constituted an appropriate unrestricted gift expenditure or who was responsible for the determination.

The Corporation also responded that its Gift Fund expenditures did not exceed funds available because restricted and unrestricted gifts were commingled in one fund and its total gift expenditures did not exceed the total amount available in the Gift Fund. The Corporation's argument assumes that each dollar in the Gift Fund is equally available for any such expenditure. However, restricted gifts in the fund were designated by the donor for a specific purpose, and therefore were not available for unrestricted expenditures.

The Corporation also argued about the timing of an item included in our analysis, stating that it had not incurred the obligation until fiscal year 1995, when it received an invoice, even though the obligation was for a White House reception held in fiscal year 1993. Receiving an invoice at a later date does not justify the Corporation's recording the obligation in a later year. Therefore, we believe that our analysis correctly considers the obligation to be one incurred in fiscal year 1993. Nonetheless, even if this item was not recorded until fiscal year 1995, the Corporation would still have exceeded the amount of unrestricted funds available as discussed above.

- II. During fiscal years 1994, 1995, and 1996, Gift Fund transactions were not recorded in the Corporation's general ledger. Furthermore, the records that were established did not segregate unrestricted and restricted funds.

When we reviewed the accounting records supporting Gift Fund transactions, we found that the transactions were informally maintained on spreadsheets and were not subject to general ledger controls. It was not until April 1996 that the Corporation implemented procedures to record all gift transactions in the general ledger. Subsequently, the Corporation recorded summary adjustments for fiscal years 1994 and 1995 activity (i.e. the total for all expenditures for supplies was entered as a single transaction) and began entering fiscal year 1996 transactions individually. However, these actions were not sufficient to provide reasonable assurance that all transactions were correctly reported.

For example, we found that a \$50,000 donation from the J.P. Morgan Foundation was deposited into the Gift Fund. The Corporation determined that the deposit was made in error and transferred the funds to another entity (the Partnership for National Service). Neither the deposit nor the transfer of the funds out of the account appeared in the Corporation's schedules of Gift Fund activity provided to the OIG.

Further, the records that the Corporation established did not segregate all unrestricted and restricted funds (as required by generally accepted accounting principles) or have other controls to provide reasonable assurance that the information was reliable. As a result, we found that the Corporation incorrectly recorded about \$68,000 in restricted receipts as unrestricted. For example, the Ewing Marion Kauffman Foundation awarded the Corporation a \$10,000 grant in January 1994 specifically designated for an AmeriCorps technical assistance workshop to be held in Kansas City. An internal Corporation memo from the Director of Independent Sector Liaison to the Acting Chief Financial Officer acknowledged that the funds were donated to support this workshop. However, the Corporation classified the \$10,000 donation as an unrestricted gift which was available for other purposes.

We also found that the Acting Chief Financial Officer did not approve by signing almost 30 percent of the unrestricted gift expenditures and that the transaction dates were incorrect for almost 30 percent of the fiscal year 1996 unrestricted expenditures and two percent of the restricted expenditures. On one report to the W. K. Kellogg Foundation, the use of inaccurate transaction dates resulted in a \$30,000 understatement in expenditures charged to the Fund. Additionally, on some schedules, two or more unrelated expenditures were reported as one transaction — resulting in an incorrect description of the nature and purpose of the expenditure.

RECOMMENDATIONS

The Corporation issued limited guidance on processing contributions in February 1997 and is currently in the process of drafting a policy on Gift Fund transactions. We recommend that, as the Corporation develops and implements comprehensive policies and procedures governing the use of the Gift Fund, it establish policies that clearly articulate

- who may solicit gifts, under what authority, and what constitutes an acceptable gift;
- what constitutes an appropriate Gift Fund expenditure;
- how receipts and expenditures will be recorded to ensure compliance with statutory, donor, and other restrictions (at a minimum, separate accounts should be used to record transactions related to restricted gifts or donations);
- that all Gift Fund transactions are to be recorded in the general ledger in a timely manner; and
- what supporting documentation for Gift Fund receipts and expenditures will be maintained (the documentation must be in sufficient detail to determine whether the expenditures were made in compliance with applicable laws and regulations).

Furthermore, the Corporation should ensure that staff processing the transactions are familiar with the policies and procedures, and are required to verify that appropriate approvals have been obtained before processing a deposit or payment to the Gift Fund.

We also recommend that the Corporation correct fiscal years 1995 and 1996 expenditures by removing the inappropriate administrative expenses from the Gift Fund and recording them in the appropriate appropriation accounts, and by depositing all funds generated by the sale of promotional goods into the U.S. Treasury's general fund as miscellaneous receipts. Further, as required by law (31 U.S.C. 1341 (a)(1)(A)), the Corporation should report to the President and the Congress that its unrestricted gift expenditures exceeded unrestricted funds available.



Luise S. Jordan
Inspector General
Corporation for National Service

Washington, DC
June 13, 1997

SCOPE AND METHODOLOGY

The Corporation provided OIG with schedules listing Gift Fund receipts and disbursements and access to the underlying supporting data (check copies, invoices, etc.). We reviewed each Gift Fund transaction identified by the Corporation to assess compliance with applicable laws, Comptroller General decisions, the Corporation's regulations and policies, and the intent of the donor for fiscal years 1994, 1995, and 1996. However, as previously discussed, because the funds were not adequately controlled, the Corporation lacks assurance that the accounts are complete, and the scope of our work was not sufficient to enable us to conclude that the Gift Fund's financial records, as summarized in the schedules provided to us by the Corporation, are complete and reliable.

Gift Fund receipts

To assess the compliance of Gift Fund receipts, we first identified the date of the receipt in order to determine the applicable criteria. From January 13, 1994 until May 31, 1995, internal Corporation policies and procedures established by a memo from the Chief Executive Officer provided guidance for the solicitation, acceptance and receipt of gifts. From June 1, 1995 until September 30, 1996, the Corporation regulations (45 C.F.R. Part 2544), which superseded the Chief Executive Officer's memo, were the appropriate criteria to assess compliance for Gift Fund receipts.

We assessed whether gifts were solicited by the Chief Executive Officer or his designee; the donor's offer was documented in writing; the donor was informed in writing of the Corporation's decision to accept the offer; and that the Corporation staff member receiving the gift informed the Chief Financial Officer of the donation since the Chief Financial Officer was responsible for ensuring that gifts and donations complied with the Corporation's policies.

Gift Fund disbursements

We reviewed accounting data pertaining to each Gift Fund disbursement and assessed whether the expenditures were adequately supported by source documentation and costs were properly recorded in the accounting system.

To assess compliance, we established a hierarchy of legal authority to determine whether expenditures were appropriate (including the Corporation's authorizing legislation and appropriations acts, Corporation regulations, and applicable Comptroller General decisions). The Corporation's Office of General Counsel agreed that this is the appropriate criteria to use when assessing whether a Gift Fund expenditure was in compliance with applicable laws and regulations (see Appendix II). An expenditure was not in compliance if it failed to meet one or more of the following requirements

- The expenditure must further national service laws; specifically, the National and Community Service Act and the Domestic Volunteer Service Act.
- For fiscal years 1995 and 1996, the expenditure must adhere to restrictive language in the Department of Veterans Affairs, HUD and Independent Agencies appropriations acts. The Acts specifically stated

“ . . . Provided further, that no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation’s field offices or staff working on National and Community Service or National Civilian Community Corps programs.” (Emphasis added)

- If the expenditure was for entertainment, it must have met both of the following requirements:
 - further the purposes of the Corporation’s functions, and
 - be incurred for an activity that would not have been as effective without the entertainment.
- The expenditure could not have been incurred for personal use.

We separately examined each transaction when applying these criteria and assessing compliance. For example, in our view, a lunch provided to the Corporation’s Board of Directors during a Board meeting was in compliance with the requirements outlined above and was appropriately charged to the Gift Fund. However, a Board of Directors’ dinner after a meeting had ended should not have been paid from the Gift Fund. We believe that since the meetings had ended for the day, these dinners were more of a social occasion than an event furthering the official business of the Corporation.

As another example, we considered a lunch reception for the National Civilian Community Corps (NCCC) Advisory Board to be an appropriate Gift Fund expenditure because an official meeting occurred during the meal. However, a reception catered by the U.S. Senate Restaurant for the VISTA National Training Conference should not have been paid with gift funds. Our assessment was that the reception constituted more of a social event than a training event.

In addition to the above criteria, for restricted gift expenditures, we reviewed donation or grant award letters and grant proposals to identify specified uses of funds, limitations on use of funds, and any other requirements. We then assessed whether the restricted gift expenditures complied with the donor's restrictions and whether any required reports were submitted to the donor.


Gift Fund reporting

Through inquiry of Corporation staff, we determined if the Corporation prepared and submitted to the appropriate committees of Congress an annual report describing the donated services, money and property that it accepted and the manner in which it used or disposed of them as required (42 U.S.C. 12651d(b)(9)).

CORPORATION COUNSEL'S OPINION ON CRITERIA

MEMORANDUM:

TO: Bill Anderson
Assistant Inspector General for Audit

FROM: Barry Stevens 
Acting General Counsel

SUBJECT: Criteria for Use of Funds Donated to the Corporation

DATE: May 14, 1997

At your request, we have reviewed Doug Hilton's analysis of the appropriate use of donated funds by the Corporation for National Service.

Authority to receive donations. As you know, Congress has authorized the Corporation to "solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise." 42 U.S.C. § 12651g(a)(2)(A). The Corporation's implementing regulations are codified in 45 C.F.R. Part 2544.

Appropriations constraints. Notwithstanding the above authority, Congress has also placed specific constraints on the Corporation's expenditures in its FY 95 and FY 96 appropriations. Specifically, Congress has provided that:

no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs (emphasis added). Department of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriation Acts for Fiscal Years 1995 & 1996, Pub. L. No. 103-327, 108 Stat. 2318 (1994); Pub. L. No. 104-134, 110 Stat. 1321-295 (1996).

Consequently, we agree that, for the period FY 95 and FY 96, the Corporation is precluded from using funds from any source other than the VA/HUD appropriation for the activities listed above.

Entertainment expenses. Much of the analysis addresses the use of unconditional donations for entertainment expenses by an agency. We agree that, in the view of the Comptroller General, unconditional donations are available for certain entertainment expenses that may not be supported with appropriated funds. As a general matter, unconditionally donated funds may be used for entertainment expenses that are incidental to authorized Corporation activities, which are manifestly in furtherance of the purposes of the national service laws.

Respecting the methodology to be used in determining the proper use of donated funds for entertainment expenses, the Comptroller General has consistently opined that donated funds that are used for agency entertainment expenses "must be in furtherance of an authorized agency activity . . . and not merely to cultivate cordial relations, manifest good will, or to reciprocate in kind hospitality extended by others." B-142538, February 8, 1961. However, in determining whether a specific expense satisfies this standard, the Comptroller General has also stated that an agency's administrative determination that the expense was appropriate will be given great weight. For this reason, it is important that each expenditure be separately examined, giving appropriate deference to the agency decision-makers who possessed the authority and the administrative discretion to authorize expenditures of donated funds.

We are available to discuss this matter with you or other OIG personnel as the audit proceeds to assist in resolving any issues that may arise.

cc: Frank Beal
Donna Cunninghame
Gary Kowalczyk
Fred Peters
Gene Sofer

MEMORANDUM

DATE: August 18, 1997

TO: Luise Jordan, Inspector General

FROM: Donna H. Cunningham, Chief Financial Officer

SUBJECT: Audit of CNS Gift Fund, OIG Report 97-30

CORPORATION
FOR NATIONAL
SERVICE

We appreciate the opportunity to respond to the report on the audit of the Corporation for National Service's Gift Fund.

The audit has identified several significant problems with the Corporation's use of its Gift Funds. The Corporation has been aware of many of these issues with the Gift Fund, which is why the Chief Executive Officer and I agreed to curtail Gift Fund activity until we designed and implemented better controls and procedures. When this decision was reached, gift fund activity had been reduced to a minimal level. While total receipts in the Gift Fund beginning in FY 1994 are \$2.7 million, FY 1996 receipts were less than \$21,000. To date, FY 1997 receipts are less than \$1,000.

This response provides background information on the Gift Fund, discusses several issues presented in the audit, and details the significant steps the Corporation has taken to strengthen the management of the Gift Fund as well as those activities planned as a result of this audit and current management initiatives.

Background

In the spirit of reinventing government, the Corporation believes that the Gift Fund is a useful vehicle for promoting a strong partnership between the public sector and private enterprise to further national service. The AmeriCorps Leaders Program, which was launched and initially funded through private donations, is a good illustration of this public/private collaboration.

As noted in the audit, the Gift Fund was a long-standing account in ACTION, the Corporation's predecessor agency. The Gift Fund consisted of relatively minor amounts of non-appropriated gift funds with few receipts or expenditures each year. ACTION maintained records of this account on a spreadsheet and did not enter information into the general ledger as there was no

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external reporting requirement on the ACTION agency. This situation existed when the Corporation was created and merged with ACTION.

The Corporation did not anticipate the initial increase in gift activity during the first two years. The Corporation acknowledges that it should have strengthened its procedures for handling and reporting of Gift Fund activities. The failure to do so, as well as a misunderstanding of language inserted into the FY 1995 and 1996 appropriations acts, accounts for the inaccuracies and misclassifications documented in the audit. The Corporation has rectified errors identified in the audit report and is implementing the controls necessary to prevent similar errors in the future.

Discussion of Audit Findings

The audit found that the Corporation failed to manage the Gift Fund in accordance with spending restrictions established by Congress in language of the FY 1995 and FY 1996 appropriations acts. While this language limited the use of funds from other appropriations, the Corporation did not initially interpret the language to include similar limitations on the Gift Fund. Most of the expenditures categorized by the auditors as being “not in compliance with applicable laws and regulations” relate to restricted gifts given to operate the AmeriCorps Leaders program. These contributions began in FY 1994, when there was no such legislative prohibition on their use. The contributions were given for the specific purpose of operating the AmeriCorps Leaders program, and the donor intended that the Corporation use funds from the gift to provide program management. However, in 1997 the Corporation’s Acting General Counsel issued an opinion that the FY 1995 and FY 1996 appropriations acts prohibited the use of the Gift Funds for this program management purpose. After learning of the mistaken classification, the Corporation took corrective action to charge the activity to the proper appropriation account.

The audit report asserts that expenses for Board events and other meetings were not proper expenditures because they did not further the mission of the Corporation. It is the Corporation’s position that it is not the nature of the event that determines whether it is an appropriate use of the Gift Fund, but whether the event meets the standards set forth by the Comptroller General. Specifically, the Comptroller General has consistently held that, “there is no absolute prohibition against the use of donated funds for entertainment purposes . . . Rather, we have held that donated funds may be spent on entertainment where such expenses are in furtherance of official agency purposes.” Matter of: Department of the Interior - Funding of Receptions at Arlington House, 61 Comp. Gen. 260 (B-206173), February 23, 1982. (See also B-142538, February 8, 1961). These Comptroller General decisions also state that, “in deciding whether a particular expense is in furtherance of official agency purposes, great weight will be given to an administrative determination to that effect,” 61 Comp. Gen. at 264. The events in question were incident to officially scheduled Corporation activities. At the time of these events, the individual responsible for approving the expenditures concluded that the expenditures were appropriate inasmuch as the events were incident to official agency activities, in furtherance of the Corporation’s mission, and that the Corporation’s mission could not be accomplished as

effectively without the expenditures. Therefore, the Corporation respectfully disagrees with the auditors' judgment and findings.

The audit report asserts that the Corporation should report a violation of the Antideficiency Act in connection with up to \$13,000 in unrestricted Gift Fund expenditures during FY 1994. The Corporation respectfully disagrees with the premise upon which this conclusion is based: that unrestricted gifts and restricted gifts were in separate funds. As indicated earlier, in FY 1994, all gifts -- regardless of whether their uses were restricted -- were maintained in one fund, and at no time did the Corporation's expenditure exceed the amount available in that fund. Therefore, in the Corporation's judgment, expenditures were appropriate and the Corporation's actions were not at variance with the requirements of the Antideficiency Act¹.

The audit states the Corporation mistakenly deposited a donation from the J.P. Morgan Foundation in the Gift Fund. When the Corporation realized that it was not the intended beneficiary, it immediately issued a Treasury check to the J.P. Morgan Foundation.

While the Corporation believes it is important to clarify the issues above, it is equally important to note that the Corporation generally agrees with the basic findings of the audit -- that the financial procedures and record-keeping governing the Gift Fund during the first years of the Corporation were inadequate. However, the actions that the Inspector General has correctly identified stemmed from a lack of information and understanding. As mentioned previously, the Corporation has taken steps to clarify Gift Fund activities and procedures, and is continuing the process to implement appropriate controls as described below.

Actions Taken to Strengthen the Financial Management of the Gift Fund

Below are the recommendations listed in the audit report and the Corporation's actions to address those findings.

“We recommend that, as the Corporation develops and implements comprehensive policies and procedures governing the use of the gift account, it establish policies that clearly articulate

- who may solicit gifts, under what authority, and what constitutes an acceptable gift;
- what constitutes an appropriate gift account expenditure;

¹In addition, one of the items for \$8,831.76 in the auditor's list of obligations for FY 1994 actually represents an obligation of the Corporation in FY 1995. Specifically, in February 1995 the White House billed the Corporation for some of the costs associated with a national service ceremony that was held in September 1993. Until receiving this bill, the Corporation had not incurred an obligation. Accordingly, this expenditure by the Corporation was properly chargeable to the Gift Fund in FY 1995 not in FY 1994.

- how receipts and expenditures will be recorded to ensure compliance with statutory, donor, and other restrictions (at a minimum, separate accounts should be used to record transactions related to restricted gifts or donations);
- that all Gift Fund transactions are to be recorded in the general ledger in a timely manner; and
- what supporting documentation for gift account receipts and expenditures will be maintained (the documentation must be in sufficient detail to determine whether the expenditures were made in compliance with applicable laws and regulations).”

The Corporation has prepared policies and procedures that address each of the points mentioned in the Inspector General’s recommendations. Specifically, the new policies and procedures expressly define what constitutes an appropriate gift and how gifts are to be received and expended. In addition, all gift transactions are required to be recorded in the general ledger in a timely manner. Documentation requirements have been identified. The draft policies and procedures are being reviewed within the divisions of the Chief Financial Officer and the General Counsel and will be available for review by the Inspector General’s staff by September 1. They will be issued in final form no later than September 30, 1997.

“Furthermore, the Corporation should ensure that staff processing the transactions are familiar with the policies and procedures, and are required to verify that appropriate approvals have been obtained before processing a deposit or payment to the Gift Fund.”

The Corporation’s Director of Accounting will provide training during FY 1998 to all staff involved in processing gift activity to ensure that they understand their duties and responsibilities as specified in the policies and procedures.

“We also recommend that the Corporation correct fiscal year 1995 and 1996 expenditures by removing the inappropriate administrative expenses from the Gift Fund and recording them in the appropriate appropriation accounts, and by depositing all funds generated by the sale of promotional goods into the U.S. Treasury’s general fund as miscellaneous receipts.”

The Corporation has removed these expenditures from the Gift Fund and charged those activities to the General Fund appropriation as recommended by the audit report.

The \$30,000 received for sale of promotional items has been transferred to the General Fund at Treasury as miscellaneous receipts.

“Further, as required by law (31 U.S.C. 1341 (a)(1)(A)), the Corporation should report to the President and the Congress that its unrestricted gift account expenditures exceeded unrestricted funds available.”

As noted above, after reviewing the relevant facts and circumstances, it is the Corporation's judgment that the Corporation's actions were not at variance with the Antideficiency Act. Thus, no report is required.

In addition to the actions taken to address the specific recommendations in the Inspector General's audit report, the Corporation has:

- Modified the accounting system so that individual transactions in the Gift Fund are recorded in the general ledger on a contemporaneous basis. This change was completed in Fiscal Year 1996, and the policy has been adhered to since that time.
- Established in the general ledger distinct accounts for restricted and unrestricted funds. Further, in cases in which donations are made for specific purposes, the Corporation will continue to maintain subsidiary records to properly track activity related to those donations.
- Begun preparing the annual reports for Congress on receipt and use of Gift Funds for 1995 and 1996. These will be incorporated into the annual reports of the Corporation for those years and will be transmitted to Congress soon.

The actions outlined above will strengthen the financial management of the Gift Fund. This is especially important if that Fund again plays an active role in the operation of the Corporation. As is evident from a number of activities in which we are currently engaged, including those outlined above, the Corporation is committed to resolving the financial accounting and control problems that have been identified by the audit report.

DHC:hs

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