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DRAFT

To: Len Weiss
From: David & Betty Ann
Date: Draft -- June 4, 1993

Re: Questions about S. 919, the "National Service Trust Act of 1993" (H.R. 2010)

Independent of the legislation's programmatic goals, it is unclear how the program is meant to work or how it is structured, particularly with regard to insuring accountability.

I. How is this program meant to work?

1. Through whom does the Federal money flow and who is accountable for it?

- Can anyone describe how the national service programs will actually work?
- Is there an organizational chart (including the flow of decisions and responsibility) that includes the CNS, State Commissions, and other relevant bodies?

get copy for BA

2. What is the process by which decisions are made to disburse Federal funds?

- How and why is the Board making grant decisions -- a part-time board meeting as little as 3 times a year? NSF has program managers who review peer reviews and make all but the biggest grant decisions.

outside review requirement; shift to director

- What do the State Commissions do -- technical assistance, grant disbursal, administration?

yes

State = apportionment of subgrants to particular programs

- Applications for grants seem to flow through one process. There seems to be another process for the award of grants to disburse grants and provide technical assistance -- how does that work?

No

at State & fed level

3. There seems to be overlapping authority between the Chair and the Board re: awarding grants and contracts.

- What is the division of authority between the Board and the Director? What can and cannot be delegated?

Board =

- When would the Chair/Director act as Chair and when as Director? re Bd + the [illegible]
- Why not have the Director serve only on the Board as an ex-officio member, as in the case of the NSF?

?

Eli

Check w/ OMB

4. CNS is permitted to enter into grants, contracts and cooperative agreements with other Federal agencies. This would seem to be at odds with the Federal Grants and Cooperative Agreements Act (95-244), which uses those terms only for money flowing out of the Federal government, not among Federal agencies.

5. Why are appropriated funds deposited into a trust fund?

protect for ben.

6. What authority is retained for the president to affect funding decisions?

7. Cash management:

- o What is the timing and amounts of cash disbursement?
- o How does the cash management process comport with the Cash Management Improvement Act? There seems to be a periodicity of reimbursement that is at odds with the CMIA's principle of paments when expenses are due.

cash mgmt periodic pymt only issue

8. The Act amends a half dozen or more other statutes.

?

- o Why?
- o Does Federal money flow through those programs to NCS ~~recipients,~~ or vice versa?

9. Accountability -> In most Federal grant programs, accountability is clearly placed in either a Federal agency, a State agency, or some other designated entity (e.g., the JTPA's Private Industry Councils who cover Service Delivery Areas).

- o Who is accountable for CNS grants? State governments and the State Commissions don't seem (necessarily) to be in the chain of control.
- o Given the wide range of possible grantees, who in the CNS will follow the money and oversee the various grantees (e.g., Indian tribes, community-based organizations, State governments)? Each category would seem to require a different auditing/evaluating expertise. How many FTE's will be needed?
- o The scope and substance of reports to Congress is unclear.

10. Performance Measurement:

Shelly

- o How is the strategic planning process integrated into the flow of decisions and money so as to be meaningful? It is also not clear how any resulting strategic plan is tied to or relates to the basic purpose and mission of the CNS.

- How are the performance measurement goals operationalized -- where and to what extent are they used in making decisions?

- The grant procedures are exceedingly prescriptive for a performance-oriented statute -- instead of rewarding what works, money is directed to a very rigidly defined set of programs.

  JTPA is a performance-oriented program, with money going to job programs that actually place people. Why isn't the CNS program planned in the same way?

11. Why are administrative costs limited to 5% (and 15%?)? Aren't state overhead rates generally in the 25 to 50% range?

II. What is the structure of the CNS and what is the plan for its organization and administrative operation?

Corporation

1. Why is the CNS called a government corporation? It would be a corporation in name only. The CNS is described as a government corporation, yet it has none of the characteristics of such an entity. Quite the contrary, it functions as a normal Federal agency -- awarding grants and contracts as opposed to operating commercial activities.

2. Why such a cumbersome and confusing top management structure?

- Large, part-time board (may meet only 3 times a year) with administrative power. Plural executive structures have not worked well -- it is one thing to have a board setting policy (e.g., NSF board), it is quite another for the board to be required to make programmatic decisions (in the case of NSF, the board sets policy and the Director, who is also an ex-officio member, makes programmatic and administrative decisions);

- 10 of 11 Bd. members are private citizens (called Special Government Employees for purposes of conflict of interest laws?) -- to the extent they are private citizens, how are they administering (as opposed to just advising) the core governmental functions performed by the CNS? This has been criticized in the past by the courts, according to CRS.

- 8 board members brought on from Commission on National & Community Service);

Gunderson

- Molinari
- approach Goodling directly
  - Molinari
  - Hoekstra
  - Miller
  - Petri?

Eli → Bond → Goodling.
- saint 50 people.
  study → genuine authority
  'don't let the word be in there'

Hoekstra may circulate letter or CS.

- o Combined Chair & Director with uncertain division of responsibilities (and power of delegation) --
  - -- Bd. makes grants and contracts, recommends regulations and recommends programs,
  - -- Director issues regulations, allocates and expends funds, establishes and administers programs, and can reorganize the corporation;

- o Too many ex-officio members on Board -- muddies programmatic and administrative policies and decisions;

- o Too many PAS positions -- PAS's reporting to PAS's leads to no accountability;

- o To whom do the two Managing Directors report, and what are their responsibilities?

- o What is the rationale for and structure of the trust fund?

3. There are four Inspector General issues. First, the CNS IG is a PAS. Under the IG Act, there are either establishments with PAS IG's, or designated Federal entities (DFE) with non-PAS IG's. The CNS IG would be a hybrid DFE PAS IG. There are differences between the two types of IGs which are not addressed, e.g.:

Budget: PAS IGs have a line item; DFE IGs are part of their entity budget.

Reporting authority: PAS IGs are (obviously) answerable only to the President; DFE IGs are appointed by and report to the head of their entity-- this creates differences in hiring/firing requirements.

No existing government corporations have PAS IGs. ACTION currently has a DFE IG. It is unclear what happens to the ACTION IG, given the agency's (assumed) reorganization/dissolution under the bill. In order to create this new IG, the IG Act should be amended to delete reference to ACTION and create the new office.

The second IG issue involves IG reporting. The requirement that the IG report to the Board Oversight Committee instead of the Chairman, is similar to the NSF IG model, and may work well with two modifications:

- o First, the Board should have no programmatic function; and

- o Second, the IG should not be a presidential appointment.

The reasons for these two changes are as follows. In order for the IG to have appropriate independence, and to

① svee - earned benefit
GI Bill model
② diversity of program

3) political promise

Martinez

amendment for corps.
"as a priority"
for Bessem
have other language?

- Sweeting
- corps i/a
- DOT + HUD

Molinari (multicameral)
Goodling (different)

striker replacement

Martinez

all cs in MMN sib absorbed

fed state stays CS for no
protect more employees

Bess are more amendments + English supports
Freshmen Dems support almost automatically
Mink + Miller have pull w/ freshmen
Woolsey
- okay or meaningful;
- Bessen amendments are troubling
- CS - not against chairman

Unlimited
sunset
Fewer Bessen provision
how an applicant ... on file
integer
→ 50 people would be okay
→ talked to wellstone

Sils

5-
4527

From Hawkins

- Peter G.
- Sanders
- welfare
- Education

15 min.
20 min

Codel
diversity
language

maintain the integrity of the IG office from program functions, the Board (to whom the IG reports) should have no program function, as in the case of NSF. In the NSF the IG reports to the Board (and unofficially to a Committee of the Board) which is strictly a policy making body. The reporting requirement, however, should be to the entire Board, not the Committee, in order to depoliticize the function. Likewise, if the IG is to report to the Board, the IG should not be PAS appointment.

The third IG issue relates to personnel. The IG Act authorizes any IG to hire his/her own personnel. S. 919 provides that the Chairman would set compensation and limits terms to 5 years (like the Peace Corps). There have been major problems in the Peace Corps IG office due to the "5 year rule" and it is not a good idea to create it in a new entity. Further, a Presidential appointee would only be <u>working with</u> the Board and not <u>reporting to</u> it. Thus the presidentially appointed IG could not be hired, fired, demoted, transferred or disciplined by the Board.

Finally, although any IG has the ability to "follow" Federal funds in investigating fraud or waste, is it unclear how far an IG can go into non-Federal management. Where, as here, non-Federal entities disburse and administer grants and can contribute other funds, as well, the IG authority may be limited, and thus accountability cannot be insured.

4. CFO provisions generally track CFO Act, but there is no reference to the Act or financial reporting to OMB, or required financial statements. Does the reference to the Corp. Control Act solve this?.

5. Why the uncertain reorganization of ACTION into the NCS? It would take place after the law is enacted, with unclear reasons and process.

- o What is the plan for ACTION?
- o What happens to ACTION programs and personnel not subsumed into the CNS?
- o What happens after one year to the ACTION personnel who stay with the CNS -- no Federal job security?
- o While ACTION employees have rights for one year, certain Commission employees who transfer to the CNS retain those rights indefinitely -- what is the rationale?
- o What is the relation between NCS structure and ACTION reorganization and the expected findings of the National Performance Review?

6. Why a different personnel system?

- o The Chair/Director establishes a personnel system for CNS employees;
- o The Chair/Director can hire/fire the (up to) 50 state representatives (who are exempted from the CNS's personnel system);
- o The Chair/Director can establish (with Bd. recommendation) and appoint Advisory Boards and Advisory Board staff (also exempt from the CNS personnel system);
- o Are CNS employees protected re: EEOC and whistleblower protections?
- o Why the 5 year service limit -- hasn't the Peace Corps' limit turned out to be problemmatic?

7. Complicated structure of State Commissions and State Representatives -- who is accountable to who? What do the State Commissions do?