

DEPARTMENT OF ENTERPRISE SERVICES
Finance Division

Date: October 8, 2012

To: Bob Van Schoorl

From: Jim Morgan

Re: Concerns Raised by the Commission on African American Affairs

Background

In September 2012, Bailey Stober became the new Executive Assistant for the Commission on African American Affairs. One of his first tasks was to look through files to familiarize himself with agency business. During that process he discovered several things that raised concerns.

Mr. Stober has extensive experience in fraud investigation and looked further into the areas that were of concern. He presented his findings to Executive Director, Ed Prince in a September 25, 2012 memo. Among his concerns were purchases on a corporate account at TOP Foods, using agency resources to support the non-profit Black Policy Foundation, and a business relationship with the Northwest Institute for Leadership and Change (NILC), a local non-profit.

Issues

The account at TOP Foods was apparently set up to facilitate purchases of food for Commission meetings and events. Itemized receipts for his account showed a number of inappropriate purchases such as items presumably for personal use and several bottles of wine. It is not known if the wine was for personal use, or for Commission sponsored events.

Research into our accounts payable records and feedback from the TOP Foods accountant indicate that most of the purchases on the account were paid for with private funds rather than agency funds. Purchases paid with agency funds were for legitimate business purposes and were properly documented.

It does not appear that the State has suffered a financial loss through purchases charged to this account, but concerns remain. Charges to the account for items for personal use, even if paid for with private funds, would be inappropriate use of the account. Other inappropriate purchases such as the wine are also troublesome, even if they were for Commission sponsored events and paid for with private funds. Regardless of the source of funds, charging these expenses to the Commission's account would be

prohibited. If the expenses were for Commission events supported by outside sources, then a separate account should have been set up to segregate agency purchases from other purchases.

A second area of concern involves work for the Black Policy Foundation using Commission resources. The former Executive Assistant is the President of the Black Policy Foundation and the former Executive Director is on the board. Several documents including correspondence and bank account statements for the Black Policy Foundation were found on Commission computers. Using state resources to further the efforts of this non-profit could be a violation of ethics laws.

The other concern that was raised was the relationship between the Commission and the NILC. NILC is a local non-profit led by former Commission chair, Dr. Thelma Jackson. In January 2007 a Memorandum of Understanding was executed between the Commission and the NILC which established the NILC as the fiscal agent for the Commission. The purpose of the arrangement was to give the Commission a mechanism for paying for things that they would be prohibited from paying for directly. From the MOU:

..... Also, it is often necessary for the Commission to host members of the general public in Thurston or other counties, for purposes of securing their input. This often requires investments in transportation and refreshments for the members of the public that fall outside the spending allowances of the state general fund.

..... Under RCW 43.113.030, the Commission is authorized to receive gifts, grants, and endowments from public or private sources for the use and benefit of the Commission, according to their terms. However, in some instances, there are real or perceived legal restrictions to the use of donated funds by the Commission directly for certain purposes associated with the events.

The institute has indicated a willingness, under the terms of this memorandum of understanding, to receive and disburse for payment donations, gifts, grants, and other funds that individuals, corporations, agencies and other organizations are willing to provide for such events but which the donor or the Commission have determined should not be given to the Commission directly.

Conceptually, this is not a problem. Having an independent foundation raising money to further the purposes of the commission would not be inappropriate. The problem is that the NILC was neither independent nor was it raising the money. It was merely managing the money that the Director chose to deposit in NILC accounts rather than agency accounts. At least the appearance of a conflict of interest is raised due to the fact that NILC is operated by a past chair of the Commission, Dr. Jackson. NILC's only apparent role was to deposit and disburse funds on behalf of the Commission. NILC was paid a fee of 5% of the deposits for providing this service.

The second issue with this arrangement is that it was the Commission raising the money and not the NILC. At the Director's discretion, contributions to the Commission would be deposited in the NILC

managed account. Records for this account are not complete, but indicate that upwards of \$300,000 was deposited there. Deposits include:

- \$20,000 from Eli Lilly and Company. The Commission sent invoices to Eli Lilly on Commission Letterhead for advertising on the Commission's web site. The invoices identified the payee as NILC.
- \$146,025 from the Gates foundation granted to the Commission and deposited with NILC. This grant was for "supporting high-value, high-impact education reforms in Washington state"
- Over \$100,000 from various other funding sources.

A few records of expenses could be found and indicate some questionable expenditures. Twelve thousand dollars was paid to a consulting firm for the apparent purpose of lobbying, which is prohibited in the grant agreement. Another expenditure was for a grant to The Black Policy Foundation. With the former Executive Director and Executive Assistant in leadership positions with this organization, a grant to the Black Policy Foundation from the Commission would be inappropriate.

It is not clear where most of the money was spent from the NILC accounts, or for what purpose. Mr. Stober requested a financial report for this account, but was informed by the CPA firm representing NILC that only Dr. Jackson had the authority to authorize release of that information. The MOU with NILC was terminated by Dr. Jackson shortly after Mr. Prince became Executive Director of the Commission.