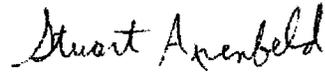


Nothing came to our attention while reviewing the St. HOPE data available to us that indicates further evaluation is necessary.

If you have any questions or need additional information please contact me.

Very Truly Yours,

A handwritten signature in black ink that reads "Stuart Axenfeld". The signature is written in a cursive style with a large initial 'S'.

Stuart Axenfeld  
Assistant Inspector General for Audit

Attachment: Accumulation of the Periodic Expense Reports

St. Hope Academy  
Subgrant No. 03AFHCA0020032  
Grant Cost 2004-2007

**St. Hope Academy**  
**Subgrant no. 03AFHCA0020032**  
**Accumulation of the Periodic Expense Reports**

	<u>09/31/2004 Through 09/30/2007</u>		
	<u>CNCS</u>	<u>Grantee</u>	<u>Total</u>
SECTION 1 Program Operating Cost			
A. Personnel Expenses	\$104,479	\$38,026	\$142,504
B. Personnel Fringe Benefits	13,867	3,974	17,641
C. Travel	0	0	0
Staff Travel	15	1,565	1,580
Member Travel	<u>5,713</u>	<u>6,969</u>	<u>12,681</u>
C. Travel Subtotal:	5,728	8,534	14,261
D. Equipment	234	159	393
E. Supplies	3,363	7,568	10,931
F. Contractural And Consultant Services	0	0	0
G. Training	0	0	0
Staff Training	70	35	105
Member Training	<u>909</u>	<u>2,502</u>	<u>3,411</u>
G. Training Subtotal:	979	2,537	3,516
H. Evaluation	0	553	553
I. Other Program Operating Costs	11,167	22,761	33,928
Travel to CNCS Sponsored Mtgs	2,000	0	2,000
I. Other Subtotal:	<u>13,167</u>	<u>22,761</u>	<u>35,928</u>
SECTION I. Subtotal	141,617	84,111	225,728
 SECTION II. Member Costs			
A. Living Allowance	447,009	255,952	702,961
B. Member Support Costs	0	0	0
FICA for Members	34,032	19,806	53,838
Workers Compensation	9,485	4,743	14,228
Health Care	<u>17,969</u>	<u>9,350</u>	<u>27,319</u>
B. Member Support Subtotal:	<u>61,486</u>	<u>33,899</u>	<u>95,385</u>
SECTION II Subtotal	508,495	289,851	798,346
 SECTION III Administrative Costs			
A. Corporation Fixed Percentage	0	0	0
Corporation Fixed Amount	27,198	49,262	76,460
Commission Fixed Amount	<u>0</u>	<u>0</u>	<u>0</u>
SECTION III Subtotal	27,198	49,262	76,460
 Total	<u>\$677,310</u>	<u>\$423,224</u>	<u>\$1,100,534</u>

Note: The \$677,310 reconciled with the Financial Status Report and the drawdown schedule provided by the California State Commission.

## Gerald Walpin

---

**From:** Trinity, Frank [FTRINITY@cns.gov]  
**Sent:** Thursday, April 02, 2009 7:02 PM  
**To:** Gerald Walpin  
**Subject:** St. Hope Academy

Thank you for the case cites.

I also wanted to let you know that since AUSA Ken Newman has reached out to me today we have agreed that in seeking management's view on possible settlement of civil claims his office will deal with me as the point of contact. This would, of course, be in addition to his seeking OIG's view directly from you.

I am out tomorrow but let's plan to discuss on Monday when I return.

Frank R. Trinity  
General Counsel  
Corporation for National and Community Service  
202-606-6677 (direct)



## OFFICE OF INSPECTOR GENERAL

April 6, 2009

Kendall J. Newman, Esq.  
Chief of the Civil Affirmative Section  
Office of the United States Attorney  
for the Eastern District of California  
501 I Street  
Suite 10-100  
Sacramento, CA 95814

Re: Kevin Johnson and Dana Gonzalez

Via E-mail and USPS

Dear Ken:

When we spoke last week, I summarized for you some, but not all, of the grounds supporting our office's position that St. Hope Academy, Kevin Johnson, and Dana Gonzalez are each liable, jointly and severally, to be required to return to the Corporation for National and Community Service ("Corporation") the full amounts of the grants totaling \$807,334. Those facts also responded to Mr. Jacobs' letter to you dated March 16, 2009 (to the extent I had had time to review it). I stated that I would put in writing various facts supporting our position so that you would be able to have it conveniently available.

We also discussed, and each expressed respective views on, the legal requirements in order to hold Mr. Johnson personally liable and on procedures available to the Government. I am sending you this letter to provide you with our views for consideration by you and your office.

### I. Grand Jury Procedure

I recognize your office's reticence -- to put it mildly -- to use grand jury procedure in this matter to obtain all relevant facts. I must note my lack of understanding of the reason for your office's position, although I respect that decision is properly made by your office. There can be no doubt that we have presented to your office more than sufficient evidence of a false claims criminal violation to warrant a grand jury proceeding in which all relevant facts, including as to each individual's knowledge and guilty conduct, could be elicited. Dana Gonzalez signed and submitted claims and made representations to obtain Federal funds, which were paid to St. Hope on representations, made by her, that the funds had been used in accordance with the grant terms. Indeed, Ms. Gonzalez admitted to OIG investigators that AmeriCorps members were misused and given assignments to benefit St. Hope and Mr. Johnson by work outside of the grant

1201 New York Avenue, NW ★ Suite 830, Washington, DC 20525  
202-606-9390 ★ Hotline: 800-452-8210 ★ [www.enccoig.gov](http://www.enccoig.gov)

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requirements. Her admission was corroborated by interviews of several former AmeriCorps members.

Given this evidence -- as close to conclusive as one can ask before an actual grand jury proceeding -- what is the reason to give a free pass to her?

Moreover, while I recognize that Mr. Johnson appears to have been very careful not to sign the paperwork submitted to claim Federal funds, there is clearly substantial basis to investigate his involvement with the use of a grand jury. Just two examples suffice for this letter: (1) The evidence we presented conclusively showed that Mr. Johnson personally took members from Sacramento to Harlem, New York, from June 26 to July 16, 2006, to help lobby for Mr. Johnson's application for a new charter school in New York and recruit students for it. There can be no dispute that St. Hope obtained Federal funds to finance AmeriCorps members for the purpose of having them perform services in Sacramento, California, not Harlem, NY. Thus, to hold that Mr. Johnson was innocent of thus misusing members contrary to the grant terms, one would have to conclude that Mr. Johnson, the CEO of the grantee -- who, various witnesses affirmed, knew everything occurring at St. Hope -- did not know that the members have been assigned for service in Sacramento, California. (2) Mr. Johnson personally signed the "Offer of Employment Letter" to ██████████ to be Student Recruiter for St. Hope Academy. ██████████ stated that Mr. Johnson personally hired him and told him that ██████████ would be placed in the AmeriCorps program so that AmeriCorps would pay part of his salary.

In any event, given the clear ground for a grand jury proceeding as to St. Hope and Ms. Gonzalez, that proceeding would be the most efficient means to meet the need, which we both agreed existed, to obtain all facts concerning Mr. Johnson's personal knowledge and involvement.

Moreover, I suggest that a grand jury proceeding would provide your office with a likely opportunity to open discussions with Ms. Gonzalez's independent counsel on the possibility of her cooperation in truthfully furnishing facts that she knows.

I therefore ask your office to reconsider our suggestion for a grand jury proceeding.

## II. Response to Mr. Jacobs' Letter

Mr. Jacobs' purpose in writing his letter was to convince you that "all or virtually all of the work performed by Hood Corps members was indeed within the scope of" the grants (Jacobs p. 2). Mr. Jacobs understandably attempts to focus you on the "Scope of the Grants **generally**" (*id.*), and the general purpose of the grants, rather than the specific requirements of the grants, to which St. Hope bound itself, and the controlling statutory and regulatory provisions.

Mr. Jacobs concedes that St. Hope cannot "demonstrate through accounting records the specifics of how St. Hope spent the grant monies." He offers two reasons to excuse this inability: (i) he asserts, citing only a newspaper editorial, that "it is not unusual for non-profit agencies not to be able to re-create exactly how they spend grant funds" (p. 2 n.3); and (ii) "the narratives provide Hood Corps with flexibility to achieve the goals" (p. 3).

There is no legal or practical support for Mr. Jacobs' first assertion.<sup>1</sup> Although Mr. Jacobs states that the "agency charged with administering the AmeriCorps grants would so assert" (p.2 n.3), that is simply false in suggesting that excuses or mitigates liability. My office, which has responsibility for auditing grantees and questioning costs, regularly recommends the disallowance of costs for which the necessary supporting accounting records do not exist, and the Corporation regularly follows that recommendation when supporting documentation does not exist.

This requirement of source documentation to support allowable costs is so important that it is repeated several times in different documents governing each grant. For example, Exhibit B to each grant award to St. Hope provides:

"Contractor agrees that the awarding department . . . or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit . . . ."

Likewise, the AmeriCorps Grant Provisions V B, mandates:

"The grantee must maintain financial management systems that include standard accounting practices, . . . a clear audit trail . . . ."

And in Section V E of the AmeriCorps Grant Provisions, it mandates:

"The grantee must retain and make available all financial records, supporting documentation . . . ."

"The Grantee must maintain adequate supporting documents for its expenditures . . . . Costs must be shown in books or records [e.g., a disbursement ledger or journal], and must be supported by a source document, such as a receipt, travel voucher, invoice, bill, in-kind voucher, or similar document" (bracket in original).<sup>2</sup>

The Code of Federal Regulations, which governs grants and how the Federal agency expends funds, in § 2543.21, mandates:

"(b) Recipients' financial management systems shall provide for the following:  
". . .

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<sup>1</sup> Even the editorial does not support Mr. Jacobs' representation. The editorial in fact reported that, on the San Diego grant involved, "HUD found almost \$13 million spent improperly or without documentation and asked for it back" and that HUD has warned that "continued inadequate documentation" "will 'negatively impact' on the city's share" of future grants -- exactly what OIG is stating here.

<sup>2</sup> The AmeriCorps Grant provisions state that "All applicable provisions of the grant . . . shall apply to any . . . subgrantee."

“(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to . . . outlays . . . .

“ . . .

“(7) Accounting records including cost accounting records that are supported by source documentation.”

Section 2543.53 mandates that:

(b) Financial records, supporting documents . . . and all other records pertinent to an award shall be retained.

Mr. Jacobs erroneously asserts (p. 13 n.13) that my office has possession of the “contemporaneous invoices St. Hope provided to” the California Commission. OIG does not have any such invoices. Significantly, Mr. Jacobs does not state when St. Hope supposedly provided them to the California Commission. On February 23, 2007, [REDACTED], CFO of St. Hope, was able to reference invoices by invoice number, invoice amount, establishing St. Hope’s possession of the invoices at that time (see e-mail attached as Exhibit 1) -- with no explanation of what happened to them and, if St. Hope no longer has them, the reason it failed to comply with its record retention obligations quoted above.

Beyond even the grant and regulatory provisions, practicality requires that each grantee have source documentation for the Federal funds it claims as payment for its expenditures. Without such source documentation, there is no way to confirm allowable costs and proper use of Federal funds. If documentation were not required, audits become meaningless and grantees would be provided Federal funds with no meaningful overseeing of the use of these funds.

Mr. Jacobs, in asserting generally that St. Hope used “a large portion of the monies” to perform the general purpose of the grants, again ignores the specific provisions of the grants which governed what St. Hope agreed to do with the funds and he ignores the 26 interviews OIG obtained of Members and Staff, each of whom negated, close to totally, the use of Members for the grant purposes.<sup>3</sup>

It is to avoid issues as to proper use of grant funds that grants do not provide Federal funds for the general use of bettering the community, but rather fix more specific objectives **and** methods to document the use.

As Mr. Jacobs concedes, “tutoring was an essential ingredient of the Grants’ public education component,” requiring “one-on-one tutoring to elementary and high school students” (pp. 3-4). Mr. Jacobs relies on anecdotal reports of such “tutoring occur[ing] after school” (p.

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<sup>3</sup> Circumstances relating to the telephone interviews provided by Mr. Jacobs are revealing: (i) although almost all of the persons interviewed by OIG were from the local Sacramento area, Mr. Jacobs’ interviewees were almost all from remote areas; (ii) when OIG sought the address or telephone numbers so that OIG could interview them, St. Hope stated it did not have the information; (iii) Mr. Jacobs, with two exceptions, did not provide interviews of the persons OIG had interviewed; and (iv) the method that Mr. Jacobs used -- by telephone and then sending a text by e-mail to the interviewees -- is hardly the procedure most conducive to obtain the facts. In addition, those interviews provided by Mr. Jacobs of the two persons interviewed by OIG contradicted what they said in the OIG interviews.

4). That, by itself, even if it were true to any substantial extent, ignores that the grant application, in the narrative (p. 4) written by St. Hope as the basis for the grant, specified that the tutoring program was to “occur during the school day as well as after school.” The narrative continues to specify that “100 PS and Elementary Students [and] Sacramento High School students . . . will be selected . . . to receive one-on-one tutoring.” In order to document this program, a “Tutoring Log” is required (Narrative pp. 25-26), as well as an “Individualized Learning Plan [f]or each of the 240 students” receiving the tutoring that identifies the academic support in which the student will participate (*i.e.* one-on-one and small group tutoring . . . )” (Calif. AmeriCorps Application p. 93). Although OIG asked to see such Tutoring Logs, none was ever produced.

Similarly with economic development (Jacobs pp. 8 - 9), the Narrative (p. 15) specifies “fellows will manage the redevelopment of the Walton Pediatrics Building, the 1885 Victorian, and the Made Rite Site in Oak Park.” Mr. Jacobs does not even suggest that Members worked on any of these sites. Instead, Mr. Jacobs relies almost entirely on observations by [REDACTED] Project Manager for St. Hope Development Co. Yet, both Ms. Gonzalez, the St. Hope Executive Director, and [REDACTED], the St. Hope Chief Financial Officer, informed OIG that [REDACTED] had no involvement with Hood Corps Members aside from managing the apartments in which the members resided.

Data on other authorized usage of AmeriCorps members similarly was required. *E.g.* volunteer recruitment by Members (narrative pp. 28-29), which required retention by St. Hope of “Volunteer Applicants,” “Training Sign In Sheets,” and “Volunteer Database (tracks volunteers, placements, hours, etc.).” While, for example, St. Hope provided adequate numbers in its quarterly progress report for 2004-05, when OIG reviewed the sign-in sheets, it was clear that, as compared to the 138 volunteers inserted in the progress report, only 14 names appeared on the sign-in sheets. Similar findings were made for each of the grant years.

It is easy to assert conclusorily that members did some of these tasks. But Federal funds are not properly shoveled out on the basis that some -- particularly a non-quantified amount -- of the money was used for grant purposes. Just as a cost-plus Government contract with a for-profit contractor requires the Government to disburse taxpayer funds only on documentation establishing the cost involved, so too a non-profit grantee may not receive grant funds to pay for costs that are not properly documented.

In sum, Mr. Jacobs has presented no competent evidence to counter the conclusion that St. Hope took the grant money and ignored what it was supposed to be doing in return (Jacobs p. 14). Generalities and selected anecdotes (but ignoring most witnesses' reported experience), do not counter St. Hope's admitted failure to be able to document its performance, as it was required to do, and the vast amount of evidence OIG presented of misuse of members and Federal funds. These various specifications of misuse were disclosed to Mr. Jacobs' client in the Notice of Suspension; Mr. Jacobs' failure even to attempt to rebut those specifications must be taken as an inability to do so.

### III. Elements of Mr. Johnson's Liability

We recognize that Mr. Johnson, although CEO of St. Hope, carefully avoided signing any of the representations made and claims filed to obtain disbursement to St. Hope of Federal funds. Evidence already obtained establishes, however, his personal involvement in the misuse of AmeriCorps members contrary to grant requirements, *e.g.* personally taking Members to Harlem, New York for activity benefiting St. Hope and Mr. Johnson; personally using Members as his personal chauffeur. Statements have also been obtained that Mr. Johnson made decisions at St. Hope.

Controlling authority does not require that an individual has personally signed the false representation or claim which caused disbursement of Federal funds. 31 U.S.C. § 3729 imposes liability when a person "causes to be presented" or "conspires" to present a false claim. Thus, the issue is whether the evidence will establish either (i) that Ms. Gonzalez acted without the knowledge, instruction, or approval of Mr. Johnson, or (ii) that Mr. Johnson was aware, at a minimum, that the grant was to be used to have Members perform service in Sacramento -- for community benefit, not Mr. Johnson's own benefit and certainly not in New York. I suggest to you that a jury would conclude that Mr. Johnson knew or should have known that there were limits to his and St. Hope's use of members, rather than concluding that Mr. Johnson would believe that he was free to use Members for whatever personal benefit he chose. This is particularly true because the statute holds that a person has the requisite knowledge for liability with proof establishing actual knowledge if he "acts in deliberate ignorance" or "in reckless disregard."

But a decision on the sufficiency of evidence need not be made now, whether it be relevant to proceeding civilly or criminally. The evidence now provided is more than sufficient to support a good faith decision to proceed on either track into the available procedures for further fact-finding -- whether grand jury proceeding or discovery and depositions in a civil litigation. Either of those avenues would provide the full fact-finding to determine the ultimate decisions by your office.

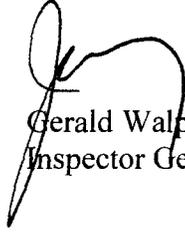
The identical issue now presented to your office of the sufficiency of a complaint against individual non-signing officers of an entity which submitted false claims was decided in *United States v Cherokee Implement Co.*, 216 F. Supp. 374 (N.D. Iowa 1963). After noting that "the statute was intended to reach any person who knowingly assisted in causing the Government to pay claims grounded in fraud," which can be established by proof that the individual was "part of the cause which resulted in the false claim" (*id.* at 376), the court held a motion to dismiss the complaint against the individuals must be denied, with their liability to be determined at a trial. And in *Henry v United States*, 424 F.2d 677 (5th Cir. 1970), the Court affirmed a verdict against the individual who "directed the business," despite no assertion of evidence of his personal involvement or knowledge. Other examples of upholding liability of the person actually in charge, even though others signed the false claims are *United States v Mackby*, 261 F. 3d 821 (9th Cir. 2001), and *United States v Klein*, 230 F. Supp 426 (W.D. Pa. 1964).

This discussion does not purport to be an exhaustive recitation of the precedents on this issue. But, we submit, it warrants a decision to utilize available procedures to press further through grand jury or civil proceedings, either of which would ensure full fact-finding.

Conclusion

We remain available to discuss this matter with you and/or any one else in your office, and to provide you with any further assistance you might request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gerald Walpin', with a large, stylized flourish extending from the end of the signature.

Gerald Walpin  
Inspector General

cc: Frank Trinity  
CNCS, General Counsel

**Wendy S. Wingers**

**From:** [REDACTED]  
**Sent:** Tuesday, March 24, 2009 1:10 PM  
**To:** Wendy S. Wingers; Jeffrey Morales  
**Subject:** FW: St. Hope Academy's Unallowable Costs  
**Attachments:** F102 0607 Net Payment 3.29.07.pdf; St. HOPE 2005-2006 Americorps Internal Audit 2005-2006 1 8.xls; F102 Final Invoice with the required adjustments.pdf; F102 YTD with proposed adjustments.pdf; F102 with the allowed changes.pdf; F102 Y13 3.29.07 draw justification.pdf

[REDACTED]  
 CaliforniaVolunteers  
 1110 K Street, Suite 210  
 Sacramento, CA 95814  
 Phone: (916) 323-4504 Fax (916) 323-3227  
 [REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, March 24, 2009 8:53 AM  
**To:** [REDACTED]  
**Subject:** FW: St. Hope Academy's Unallowable Costs

[REDACTED]  
 CaliforniaVolunteers  
 1110 K Street, Suite 210  
 Sacramento, CA 95814  
 Phone: (916) 323-4504 Fax (916) 323-3227  
 [REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, March 29, 2007 10:34 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** St. Hope Academy's Unallowable Costs

Hi [REDACTED] -

I'm inserting below the full details on this issue of unallowable costs that need to be repaid by our subgrantee, St. Hope Academy, F102, along with the original attachments on my response.

We've got an unusual situation on our hands. This subgrantee owes us \$51,871.92 for unallowable 05-06 (03AFH Grant Award) expenses and is reluctant or unable to pay us back and we owe him \$75,748.04 for 06-07 (06AFH Grant Award) expenses. I'm not willing to process the payments for 06-07 until we are repaid the roughly \$52K for the unallowable 05-06 costs. The 03AFH Grant Award expired on 12/31/06 and our access to these funds is limited to 90 days after the expiration date, or 3/31/07, so we don't have the luxury of time to help resolve this situation.

I'm sending over the last of the 03AFH (05-06) invoices today (totalling \$1,352,090.08) along with St.

Hope Academy's 06-07 Invoices. I'd like to have you reduce today's 03AFH draw by the amount owed to us by St. Hope Academy (\$51,871.92) and have you draw the funds instead from the 06AFH award.

I am attaching two pdfs of the Transmittal Sheet for the 06-07 payments to St. Hope Academy showing in one the full \$75,748.04 to substantiate the draw and in the other the \$243,876.12 due them after subtracting the unallowable costs from 05-06.

All future 06-07 invoices will be paid in full and the 05-06 obligation to us will be considered paid in full.

Please let me know if you see any problems with this plan.

Thank you for your assistance in this regard.



-----Original Message-----

**From:** [REDACTED]  
**Sent:** Friday, March 23, 2007 6:48 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: St. HOPE Internal Americorps Audit 2005-2006

Hi [REDACTED]

First off, I must apologize for taking so long to respond to your information submission. I have been updating our database and was in the middle of a prolonged data validation when your email arrived.

I've now had the opportunity to review all of your documentation and can speak to what needs to occur.

I greatly appreciate all your efforts to document the unallowable expenditures that were already submitted. I'm encouraged by your commitment to clean up the situation and correct the billings to reflect only those costs which can be charged to this federal grant.

I am attaching three pdf files for your consideration (and I'm attaching your originals for the benefit of our staff who weren't included on the original email). The first pdf shows the Year To Date impact of your requested adjustments, the second pdf shows the allowable adjustment (shown as a December expense report), and the third pdf shows the Year to Date Data given the allowable adjustment.

There are two issues with your requested adjustments that we cannot overcome:

- 1) You are limited in your Section I expenses to available funds in Section I. You do not have the authority to move funds from Section II into Section I. Accordingly, you will need to find an alternate source for \$980 worth of Personnel Expenses.
- 2) Your budget of \$11K in Indirect Costs is based on direct costs of a higher level than you achieved. Accordingly, you are limited to just over \$8K in Indirect. The Allowable Adjustment reflects this change.

These two changes bring the amount due up to over \$51, 871.92.

While I appreciate your interest in getting this amount reduced, I have no ability to allow these unallowable expenditures. The full amount must be repaid, as I indicated in our conversation in

January, by March 31, 2007. We are facing the end of this grant term and do not have the ability to grant you an extension or a payment plan.

We will not be able to process any 06-07 contract payments until this obligation is fulfilled.

I have four invoices that were submitted by [REDACTED] in late January for the months of September, October, November and December 2006. These invoices total almost \$70,000 and are identified as 05-06 invoices. Please let me know how these new invoices relate to your explanation of the situation below and/or if these are erroneously identified as being 05-06 expenses.

I regret that we can't offer you greater flexibility, but this grant is a federal award and is subject to both specific grant provisions and OMB rules regarding allowability of costs.

Please feel free to contact me or your Program Associate if you have any questions.

Sincerely,

[REDACTED]  
Chief Financial Officer  
California Volunteers  
1110 K Street, Suite 210  
Sacramento, CA 95814  
(916) 324-4786  
(916) 323-3227 fax  
www.CaliforniaVolunteers.org  
[REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Monday, March 19, 2007 6:27 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: St. HOPE Internal Americorps Audit 2005-2006

Hi [REDACTED] just checking in again to see if you have had a chance to review the information in the last couple of weeks since we last talked. Thanks and I hope that all is well,

Tom

**From:** Tom Bratkovich  
**Sent:** Friday, February 23, 2007 6:21 PM  
**To:** Mimi Morris (mimi.morris@csc.ca.gov)  
**Cc:** Tom Bratkovich; Jules Alcouffe; Dana Gonzalez  
**Subject:** St. HOPE Internal Americorps Audit 2005-2006

Dear Mimi,

Please find attached our internal audit of our Americorps Contract # 03AFHY12-F102 financials for the 2005-2006 timeframe. The attached spreadsheets provide many details, however, to summarize our efforts:

- In Tab 1 you will find the amount budgeted, the amount invoiced/funds received as cash

- by St. HOPE, the difference between budget and actuals invoiced/received, proposed audit adjustments, and final budget balance.
- In Tab 2 you will find details on the Personnel adjustments proposed for Section I.
    - The only adjustment in this section is that [REDACTED] was incorrectly coded as a Member instead of her true role as administrative staff for Hood Corps.
  - In Tab 3 you will find details on the Personnel adjustments for Section II.
    - In the first rows you will find 27 personnel that were Americorps Members that we invoiced correctly.
    - In the next section you will find 8 personnel that were Americorps Members that we paid more stipend than our timesheet records indicate.
    - In the next section you will find 1 person that had a 450 hour contract but was paid for 900 hours.
    - In the next section you will find 1 person [REDACTED] that was incorrectly invoiced as a Hood Corps member but instead was administrative, as detailed above.
    - In the next section you will find 14 personnel that were not Americorps Members that we invoiced incorrectly in WBRS.
    - In the next section you will find 2 personnel that were invoiced as Americorps Members, but are not eligible for Americorps, and therefore are not allowable.
  - In Tab 4 you will find details on additional chargeable expenses to Americorps for August 2006 that surfaced in our A/P system in September 2006 and were not entered into WBRS, but that we are claiming now.

We would ask that you review our results and provide the maximum amount of flexibility that you can in this manner. While we are proposing that our *maximum* penalty from all items should be \$48,554, we highlight the following mitigating factors:

- If those dollars are repaid by us, we would end up *under budget* for the amount invoiced to you by \$60,144 for this year, which is a substantial amount under your expectations under the terms of the contract.
- Even with the acknowledged mis-coding of numerous personnel, we did not utilize all of our Member slots. For example, we used only 5 out of 6 of our Full Time Member slots.

Please call next week if you have any questions after you have reviewed the spreadsheets and these notes. We appreciate your support.

Thanks,

[REDACTED]

---

[REDACTED]  
St. Hope  
916 649 7921

[REDACTED]

[REDACTED]  
Chief Financial Officer  
California Volunteers  
1110 K Street, Suite 210  
Sacramento, CA 95814  
(916) 324-4786  
(916) 323-3227 fax

www.CaliforniaVolunteers.org





# Department of Justice

Acting United States Attorney Lawrence G. Brown  
Eastern District of California

FOR IMMEDIATE RELEASE  
Thursday, April 9, 2009  
[www.usdoj.gov/usao/cae](http://www.usdoj.gov/usao/cae)

CONTACT: Lauren Horwood  
PHONE: 916-554-2706  
[usacae.edcapress@usdoj.gov](mailto:usacae.edcapress@usdoj.gov)

## **UNITED STATES SETTLES CLAIMS ARISING OUT OF ST. HOPE ACADEMY'S SPENDING OF AMERICORPS GRANTS AND EDUCATION AWARDS**

### ***Federal Suspension of St. HOPE Academy, Kevin Johnson & Dana Gonzalez Will Be Terminated***

SACRAMENTO, Calif. – Acting United States Attorney Lawrence G. Brown announced today that St. HOPE Academy has agreed to pay \$423,836.50 to settle allegations that St. HOPE did not appropriately spend AmeriCorps grant awards and education awards in accordance with the terms of grant requirements and did not adequately document its expenditures of grant awards. The amount of the civil settlement represents one-half of the \$847,673 in AmeriCorps grant funds received by St. HOPE Academy. During the relevant time period, Sacramento Mayor Kevin Johnson was Chief Executive Officer of St. HOPE and Dana Gonzalez was the Executive Director of St. HOPE. Under the terms of the agreement, which includes mandatory grant administration training for Mayor Johnson and Ms. Gonzalez, suspension from federal programs will be terminated.

“The agreement reached strikes a proper balance between accountability and finality. St. HOPE Academy must pay a significant amount for its improper handling of AmeriCorps funds. The lifting of the suspension against all parties, including Mayor Johnson, removes any cloud whether the City of Sacramento will be prevented from receiving much-needed federal stimulus funds,” said Acting U.S. Attorney Brown.

According to Assistant United States Attorney Kendall J. Newman, the lead government attorney in the case against St. HOPE, AmeriCorps grant funds were awarded by the State of California to St. HOPE and administered by St. HOPE during 2004 through 2007. Additionally, AmeriCorps members were entitled to Education Awards if they fulfilled their service requirements for St. HOPE according to the terms of the grant requirements. The United States contends that St. HOPE did not appropriately spend the grant awards according to the terms of the grant requirements and did not adequately document its expenditures of the grant funds.

On September 28, 2008, the Debarment and Suspension Official for the Corporation for National and Community Service (the “Corporation”), notified St. HOPE, Johnson, and Gonzalez that they were suspended from participation in federal procurement and non-procurement programs for a temporary period of time pending completion of an investigation by the United States Attorney’s Office, or conclusion of any legal or debarment proceedings resulting from the investigation of the alleged misuse of federal funds provided in support of the AmeriCorps grants.

In settlement, St. HOPE acknowledged that it did not adequately document a portion of its

expenditures of the grant awards. The settlement terms are:

- St. HOPE will make an initial payment of \$73,836.50 by electronic transfer within five business days from today;
- Kevin Johnson will pay \$72,836.50 of the initial payment by St. HOPE, with possible repayment to Johnson by St. HOPE when it is financially able to do so; and
- Dana Gonzalez will pay \$1,000.00 of the initial payment by St. HOPE.
- St. HOPE has entered into a stipulated judgment for \$350,000.00, plus five percent annual interest, payable at \$35,000 annually for 10 years, the final payment of which will include interest.

Within five business days from today:

- Johnson and Gonzalez shall each register to take an online course offered by Management Concepts titled "Cost Principles";
- Johnson and Gonzalez will provide written proof to the Corporation of having registered for the course.

Within 120 days from today:

- Johnson and Gonzalez will complete the course; and
- Johnson and Gonzalez will provide written verification under oath of having completed the course.

As part of the settlement, the Corporation will terminate the suspension of St. HOPE, Johnson, and Gonzalez from participation in federal procurement and non-procurement programs upon all of the following occurring:

- The settlement agreement having been signed by all parties;
- St. HOPE having made the Initial Payment of \$73,836.50;
- St. HOPE having signed the Stipulated Judgment;
- Johnson and Gonzalez having made payments to St. HOPE; and
- Johnson and Gonzalez having provided verification of having registered for the "Cost Principles" course.

Additionally, the Corporation will not institute debarment proceedings against St. HOPE with respect to the AmeriCorps grants so long as it complies with the terms of the settlement agreement. The Corporation also will not institute debarment proceedings against Johnson and Gonzalez with respect to the AmeriCorps grants so long as they comply with their obligations under the settlement agreement, including certification of the course completion.

###

## **SETTLEMENT AGREEMENT**

### **I. PARTIES**

This Settlement Agreement (“Settlement Agreement”) is entered into by and between the United States of America (“United States”), acting through the United States Attorney’s Office for the Eastern District of California, on behalf of the Corporation for National and Community Service, an agency of the United States Government (the “Corporation”) (hereafter collectively referred to as the “United States”); and St. HOPE Academy (“St. HOPE”), through its authorized representatives, Kevin Johnson, individually (“Johnson”), and Dana Gonzalez, individually (“Gonzalez”), through their authorized representatives. Hereinafter, the United States, St. HOPE, Johnson and Gonzalez are jointly referred to as “the Parties.”

### **II. PREAMBLE**

As a preamble to this Settlement Agreement, the Parties agree to the following:

A. AmeriCorps grant funds were awarded by the State of California to and administered by St. HOPE under grant award numbers 03AFHCA002Y11-F102, 03AFHY12-F102, and 06AFHY13-F102 (“AmeriCorps Grants”). Additionally, AmeriCorps members were entitled to Education Awards if they fulfilled their service requirements for St. HOPE pursuant to the terms of the grant requirements. The Education Awards and grants awarded to St. HOPE (collectively the “Grant Awards”) totaled \$847,673.00.

B. During the majority of the relevant time period herein, Johnson was the President and Chief Executive Officer of St. HOPE, and Gonzalez was the Executive Director of St. HOPE.

C. The United States contends that St. HOPE did not appropriately spend the Grant Awards pursuant to the terms of the grant requirements, and did not adequately document its expenditures of the Grant Awards.

D. By letters dated September 24, 2008, the Debarment and Suspension Official for the Corporation, notified St. HOPE, Johnson and Gonzalez that they were suspended from participation in Federal procurement and nonprocurement programs for a temporary period of time pending the completion of an investigation by the United States Attorney's Office, or the conclusion of any legal or debarment proceedings resulting from the investigation, of the alleged misuse of Federal funds provided in support of the AmeriCorps Grants.

E. This Settlement Agreement is not an admission of liability or fault by St. HOPE, Johnson or Gonzalez, nor a concession by the United States that its claims are not well founded. However, as acknowledged below and in the attached Stipulation for Judgment, St. HOPE acknowledges that it did not adequately document a portion of its expenditures of the Grant Awards.

F. To avoid the delay, uncertainty, inconvenience, and expense of further litigation, the Parties mutually desire to reach a full and final settlement of the Parties' claims with respect to the AmeriCorps Grants and Grant Awards and the related claims and investigation, pursuant to the Terms and Conditions set forth below.

G. Although issues of suspension and possible debarment are ordinarily addressed by the Corporation separately from resolution of any civil claims, at the request of St. HOPE, Johnson and Gonzalez for a global resolution of all matters related to the AmeriCorps Grants and

Grant Awards, this Settlement Agreement also addresses the resolution of suspension issues and further proceedings, if any, related to debarment proceedings.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, conditions, terms, and obligations set forth in this Settlement Agreement, the Parties agree to settle this matter as follows:

### **III. TERMS AND CONDITIONS**

1. In consideration of the obligations of the Parties set forth in this Settlement Agreement, St. HOPE agrees to pay the total sum of Four Hundred Twenty-Three Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$423,836.50) (the "Settlement Amount"). St. HOPE shall pay the Settlement Amount to the United States as follows:

a. An initial payment of Seventy-Three Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$73,836.50) (the "Initial Payment") by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of California. St. HOPE agrees to make this electronic funds transfer within 5 business days of this Settlement Agreement being signed by all parties.

b. Johnson believes that St. HOPE has played a significant role in the community and he believes that it will continue to do so. Johnson has decided to assist St. HOPE in paying the settlement amount and agrees to pay Seventy-Two Thousand Eight Hundred Thirty-Six Dollars and Fifty Cents (\$72,836.50) of the Initial Payment by paying such amount to St. HOPE in time for St. HOPE to make the Initial Payment to the United States pursuant to the terms of this Settlement Agreement. Johnson and St. HOPE may enter into an agreement

whereby St. HOPE agrees to repay Johnson when St. HOPE has the financial ability to do so while still meeting all of its other financial obligations.

c. Gonzalez believes that St. HOPE has played a significant role in the community and she believes that it will continue to do so. Gonzalez has decided to assist St. HOPE in paying the settlement amount and agrees to pay One Thousand Dollars (\$1,000.00) of the Initial Payment by paying such amount to St. HOPE in time for St. HOPE to make the Initial Payment to the United States pursuant to the terms of this Settlement Agreement.

d. St. HOPE shall enter into a stipulated judgment for the remainder of the Settlement Amount, Three Hundred and Fifty Thousand Dollars (\$350,000.00), plus 5% annual interest. Such amount shall be paid by certified check payable to the United States Department of Justice in the amount of Thirty-Five Thousand Dollars (\$35,000.00) annually for ten years, each payment being due on or before April 15<sup>th</sup> of each year. The first payment pursuant to the Stipulated Judgment is due on or before April 15, 2010. The final payment shall be in the amount of Thirty-Five Thousand Dollars (\$35,000.00), plus the interest due and owing on the stipulated judgment, and shall be due on or before April 15, 2019.

2. Within 5 business days of this Settlement Agreement being signed by all parties, Johnson and Gonzalez shall register to take an on-line course offered by Management Concepts titled "Cost Principles", and shall provide written proof to the Corporation, through its counsel, of having registered for the course. Johnson and Gonzalez agree to complete the course within 120 days of this Settlement Agreement being signed by all parties, and shall provide written verification under oath of having completed the course.

3. The Corporation shall terminate the suspension of St. HOPE, Johnson and Gonzalez from participation in Federal procurement and nonprocurement programs upon all of the following:

- a. This Settlement Agreement having been signed by all parties;
- b. St. Hope having made the Initial Payment pursuant to the terms of Paragraph 1a-c above;
- c. St. HOPE having signed the Stipulated Judgment in accordance with Paragraph 1d above;
- d. Johnson and Gonzalez having made the payments in accordance with Paragraph 1b-c above; and
- e. Johnson and Gonzalez having provided verification of having registered for the course in accordance with Paragraph 2 above.

4. The Corporation agrees not to institute debarment proceedings against St. HOPE with respect to the AmeriCorps Grants and Grant Awards so long as it complies with the terms of this Settlement Agreement. The Corporation also agrees not to institute debarment proceedings against Johnson and Gonzalez with respect to the AmeriCorps Grants and Grant Awards so long as they comply with their obligations under this Settlement Agreement, including the certification of course completion pursuant to Paragraph 2 above.

5. Once the Corporation has terminated the suspension against St. HOPE, Johnson and Gonzalez, nothing herein is intended as a prohibition against their applying for federal grants. However, St. HOPE agrees that it may be considered a high-risk grantee by the Corporation for a period of two years, until April 15, 2011. After April 15, 2010, and upon the

request of St. HOPE and its submission of any supporting documents, the Corporation agrees to reconsider this high-risk designation to determine if it should be rescinded.

6. Subject to the exceptions in Paragraph 7 below, in consideration of the obligations of St. HOPE, Johnson and Gonzalez in this Settlement Agreement, and conditioned upon the full payment by St. Hope of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby releases St. HOPE and its current and former directors, officers, agents, shareholders, and employees (including Johnson and Gonzalez), from all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, and expenses, which the United States has or may have relating to the application and handling of the AmeriCorps Grants and payment of the Grant Amounts, investigation and litigation of this matter (including public statements), and matters related to the suspension and possible debarment of St. HOPE, Johnson and Gonzalez, including under the False Claims Act, 31 U.S.C. §§ 3729-3733, or the Program Fraud Civil Remedies Act and its implementing regulations, 31 U.S.C. §§ 3801-3812, 45 CFR Part 2554.

7. Notwithstanding any term of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person are the following claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, United States Code (Internal Revenue Code);
- b. Any criminal liability; and
- c. Any liability to the United States (or its agencies) for any conduct other than that explicitly released in this Settlement Agreement.

8. In consideration of the obligations of the United States set forth in this Settlement Agreement, St. HOPE and its current and former directors, officers, agents, shareholders, and employees (including Johnson and Gonzalez), hereby release the United States and its employees, former employees, agents, agencies, and departments from all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, and expenses, which they have or may have as of the Effective Date of this Settlement Agreement relating to the application and handling of the AmeriCorps Grants, payment of the Grant Awards, investigation and litigation of this matter (including public statements), and matters related to the suspension and possible debarment of St. HOPE, Johnson and Gonzalez.

9. The Parties to this Settlement Agreement shall bear their own costs, attorneys' fees, and expenses incurred in any manner in connection with the investigation, litigation, and resolution of this matter.

10. This Settlement Agreement is binding upon St. HOPE's successors, transferees and assigns. Otherwise, this Settlement Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity not expressly released by this Settlement Agreement.

11. The individual signing this Settlement Agreement on behalf of St. HOPE represents and warrants that he or she has the power, consent, and authorization of St. HOPE to execute this Settlement Agreement.

12. The individuals signing on behalf of the United States represent that they are signing this Settlement Agreement in their official capacities and that they are authorized to execute this Settlement Agreement.

13. Each Party represents and warrants that it has not transferred anything being released under this Settlement Agreement, and is not aware of any such transfer, and that the Party is not aware of any prohibition of any type that prevents the Party from performing the terms of this Settlement Agreement.

14. St. HOPE warrants that it has reviewed its financial situation and that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and will remain solvent following payment to the United States of the Settlement Amount.

15. The Parties warrant that, in evaluating whether to execute this Settlement Agreement, they (i) have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to St. HOPE, Johnson and Gonzalez, within the meaning of 11 U.S.C. § 547(c)(1), and (ii) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which St. HOPE, Johnson or Gonzalez was or became indebted on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

16. Nothing in this Settlement Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of Title 26, United States Code (Internal Revenue Code).

17. Each Party warrants that it has been represented by, and has sought and obtained the advice of, independent legal counsel with regard to the nature, purpose, and effect

of this Settlement Agreement. This Settlement Agreement was negotiated by the Parties and their respective counsel, each of whom had the opportunity to participate in the drafting thereof. The Parties hereby declare that the terms of this Settlement Agreement have been completely read, fully understood, and voluntarily accepted following opportunity for review by legal counsel of their choice.

18. Each Defendant warrants and represents that it is freely and voluntarily entering into this Settlement Agreement without any degree of duress or compulsion whatsoever, after having been apprised of all relevant information and data by its legal counsel. Defendants further warrant and represent that no other party or its representative has made any promise, representation or warranty, express or implied, except as expressly set forth in this Settlement Agreement, and that the Defendants have not relied on any inducements, promises, or representations made by any Party to this Settlement Agreement, or its representatives, or any other person, except as expressly set forth herein.

19. The Parties understand and acknowledge that if the facts relating to the application and handling of the subject grants and payment of the grant amounts are found hereafter to be different from facts now believed by any Party described herein to be true, each Party expressly accepts and assumes the risks of such possible difference in facts and agrees that this Settlement Agreement shall remain effective, notwithstanding any such differences.

20. The Parties expressly recognize that the United States may publicly disclose this Settlement Agreement, and information about the case and this Settlement Agreement.

21. This Settlement Agreement constitutes the complete agreement between the Parties, and supercedes and replaces all prior negotiations and agreements, whether written or

oral, relating to the application and handling of the subject grants and payment of the grant amounts

22. This Settlement Agreement may be executed in counterparts, and each of the counterparts taken together shall constitute one valid and binding Settlement Agreement between the Parties.

23. This Settlement Agreement may not be altered, amended, or modified, except by a writing duly executed by authorized representatives of all of the Parties.

24. This Settlement Agreement is governed by the laws of the United States. The Parties agree that, should any judicial action be required to enforce or interpret this Settlement Agreement, or to resolve any dispute hereunder, the exclusive jurisdiction and venue for such action shall be in the United States District Court for the Eastern District of California.

25. This Settlement Agreement is effective, final, and binding as of the date of signature of the last signatory to the Settlement Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

**UNITED STATES OF AMERICA**

Dated: April 9, 2009

LAWRENCE G. BROWN  
Acting United States Attorney

By: 

KENDALL J. NEWMAN  
Assistant United States Attorney  
Chief, Civil Affirmative Section

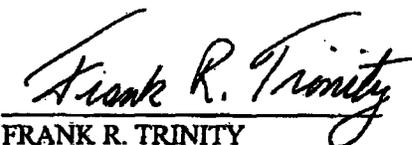
Attorneys for  
United States of America

Dated: April 9, 2009



WILLIAM ANDERSON  
Acting Chief Financial Officer and  
Debarment and Suspension Official  
on behalf of the Corporation for National  
and Community Service

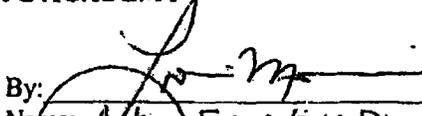
Dated: April 9, 2009



FRANK R. TRINITY  
General Counsel  
on behalf of the Corporation for National  
and Community Service

**ST. HOPE ACADEMY**

Dated: 4/9/09

By:   
Name: Acting Executive Director  
Title: Lori Mills

Approved as to form:

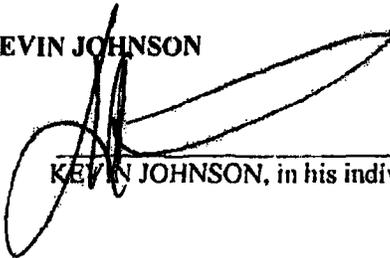
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**SEGAL & KIRBY**

\_\_\_\_\_  
MALCOLM S. SEGAL, Esq.  
Attorneys for St. HOPE Academy

**KEVIN JOHNSON**

Dated: 4/9/09

  
\_\_\_\_\_  
KEVIN JOHNSON, in his individual capacity

Approved as to form:

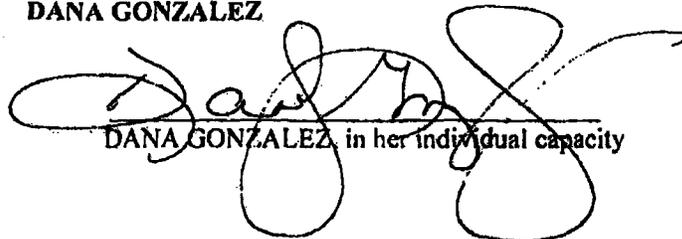
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**STEVENS, O'CONNELL & JACOBS LLP**

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MATTHEW G. JACOBS, Esq.  
Attorneys for Kevin Johnson

**DANA GONZALEZ**

Dated: 4/9/09

  
\_\_\_\_\_  
DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: \_\_\_\_\_

**THE LAW OFFICES OF RICHARD PACTHER**

\_\_\_\_\_  
RICHARD PACTHER, Esq.  
Attorney for Dana Gonzalez

**ST. HOPE ACADEMY**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

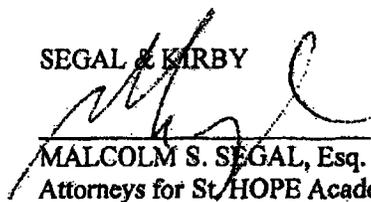
Name:

Title:

Approved as to form:

Dated: 04.09.09

SEGAL & KIRBY



MALCOLM S. SEGAL, Esq.  
Attorneys for St. HOPE Academy

**KEVIN JOHNSON**

Dated: \_\_\_\_\_

\_\_\_\_\_  
KEVIN JOHNSON, in his individual capacity

Approved as to form:

Dated: \_\_\_\_\_

STEVENS, O'CONNELL & JACOBS LLP

\_\_\_\_\_  
MATTHEW G. JACOBS, Esq.  
Attorneys for Kevin Johnson

**DANA GONZALEZ**

Dated: \_\_\_\_\_

\_\_\_\_\_  
DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: \_\_\_\_\_

THE LAW OFFICES OF RICHARD PACTER

\_\_\_\_\_  
RICHARD PACTER, Esq.  
Attorney for Dana Gonzalez

**ST. HOPE ACADEMY**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Approved as to form:

Dated: \_\_\_\_\_

SEGAL & KIRBY

\_\_\_\_\_  
MALCOLM S. SEGAL, Esq.  
Attorneys for St. HOPE Academy

**KEVIN JOHNSON**

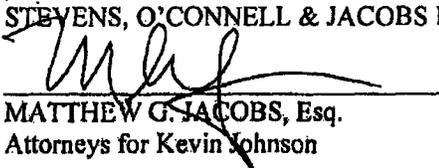
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KEVIN JOHNSON, in his individual capacity

Approved as to form:

Dated: 4/9/09

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STEVENS, O'CONNELL & JACOBS LLP

  
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MATTHEW G. JACOBS, Esq.  
Attorneys for Kevin Johnson

**DANA GONZALEZ**

Dated: \_\_\_\_\_

\_\_\_\_\_  
DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: \_\_\_\_\_

THE LAW OFFICES OF RICHARD PACHTER

\_\_\_\_\_  
RICHARD PACHTER, Esq.  
Attorney for Dana Gonzalez

**ST. HOPE ACADEMY**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Approved as to form:

Dated: \_\_\_\_\_

SEGAL & KIRBY

\_\_\_\_\_  
MALCOLM S. SEGAL, Esq.  
Attorneys for St. HOPE Academy

**KEVIN JOHNSON**

Dated: \_\_\_\_\_

\_\_\_\_\_  
KEVIN JOHNSON, in his individual capacity

Approved as to form:

Dated: \_\_\_\_\_

STEVENS, O'CONNELL & JACOBS LLP

\_\_\_\_\_  
MATTHEW G. JACOBS, Esq.  
Attorneys for Kevin Johnson

**DANA GONZALEZ**

Dated: \_\_\_\_\_

\_\_\_\_\_  
DANA GONZALEZ, in her individual capacity

Approved as to form:

Dated: April 8, 2009

THE LAW OFFICES OF RICHARD PACHTER

  
\_\_\_\_\_  
RICHARD PACHTER, Esq.  
Attorney for Dana Gonzalez

**Cost Principles: 2 CFR  
220 (A-21), 225 (A-87),  
and 230 (A-122), and  
FAR 31.2**

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## **Management Concepts Incorporated**

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*Cost Principles: 2 CFR 220 (A-21), 225 (A-87), and 230 (A-122), and FAR 31.2*  
Course No. 2080  
JD 33806

# COST PRINCIPLES: 2 CFR 220 (A-21), 225 (A-87), AND 230 (A-122), AND FAR 31.2

## Syllabus

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### Course Description

This two-day *Cost Principles: 2 CFR 220 (A-21), 225 (A-87), and 230 (A-122), and FAR 31.2* course (2080) provides a firm grounding in the basic premises underlying all of the sets of cost principles, as well as practical experience applying each set of cost principles to assistance agreement situations.

### Learning Objectives

Through lecture and individual and group exercises, students will:

- discuss factors affecting allowability of costs;
- classify costs as typically direct or indirect;
- determine the allowability of selected items of cost;
- review grant application budgets to determine cost allowability;
- analyze spending decisions to determine whether they are allowable;
- gain insight into grant cost disallowances by exploring agency and court decisions.

### Required Texts

The following required materials will be issued to each student on the first day of class and will be used throughout the course.

Management Concepts®, *Cost Principles: 2 CFR 220 (A-21), 225 (A-87), and 230 (A-122), and FAR 31.2* ©2007. [Includes text, appendices, and handouts.]

### **Suggested Prerequisites**

*Introduction to Grants and Cooperative Agreements for Federal Personnel (2040) or Managing Federal Grants and Cooperative Agreements for Recipients (2062)*

### **Successful Completion**

Full (100%) attendance is expected and required. Successful completion of the course depends on class attendance, active participation in individual and group exercises, and completion of the final exam with a grade of 70% or higher.

### **Course Schedule**

<b>Day One</b>	
<b>morning</b>	Introductions and Course Administration Chapter 1: Applicability and Development of the Cost Principles Chapter 2: Basic Concepts Exercises 2-1 through 2-3
<b>lunch</b>	
<b>afternoon</b>	Chapter 2, Continued Exercises 2-4 through 2-8

<b>Day Two</b>	
<b>morning</b>	Chapter 2, Continued Exercise 2-9 through 2-10 Chapter 3: Using and Applying the Cost Principles on the Job Exercises 3-1 through 3-4
<b>lunch</b>	
<b>afternoon</b>	Chapter 3, Continued Exercises 3-5 through 3-7  -Exam

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## **Appendices**

1	2 CFR 230, Cost Principles for Nonprofit Organizations (OMB Circular A-122)
2	2 CFR 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)
3	2 CFR 220, Cost Principles for Educational Institutions (OMB Circular A-21)
4	Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations
5	A-133 Compliance Supplement, Part 3 — Compliance Requirements, Section B, Allowable Costs/Cost Principles

Cost Principles: 2 CFR 220 (A-21), 225 (A-87), and 230 (A-122), and FAR 31.2

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## **Editorial: Johnson for mayor: time for a change**

**Published Sunday, Oct. 19, 2008**

Voters trying to decide who should be the next mayor of Sacramento face clear choices and a difficult decision.

Both the clarity and the difficulty derive from the records of the candidates for mayor. Heather Fargo, seeking an unprecedented third term, is for better or worse a proven quantity. Her opponent, Kevin Johnson, is for better or worse a mass of question marks and potential.

Both have strengths that appeal to voters. Fargo has deep experience thanks to her two terms as mayor and three terms on the City Council. Many voters are likely to be drawn to her as the candidate more likely to keep things running at City Hall.

Johnson, well known from his career as a basketball player but making his first race for public office, is a hometown success story with a deep commitment to Sacramento and to the Oak Park neighborhood where he grew up. Many voters will be drawn to him because of his energy and dynamic personality.

But while each of the candidates has distinct strengths, both candidates also have serious weaknesses.

In Fargo's case, the weakness is her leadership, or in some cases the absence of it. In two terms as mayor, she has worked hard on a vital public safety issue – flood control. While she can point to progress downtown and in midtown neighborhoods, that progress has been halting, and much of it took place without her involvement. Her efforts to lead on the development of a new arena for the Sacramento Kings were inept. She has seemed oblivious to the rise in crime in recent years and the needs of the city's public schools. This is not the kind of track record voters should expect from such an experienced officeholder.

Kevin Johnson, too, is flawed. His efforts to rebuild Oak Park through both the St. HOPE nonprofit and his development business have been admirable. But they are clouded by a federal investigation of St. HOPE's Hood Corps contract and Johnson's inclination to take on too many projects at once.

His conduct of this campaign has raised questions about his judgment. With the city facing a huge budget deficit next year, he has promised to increase spending on public safety and has signed a pledge to support a vague but expensive proposal by the powerful firefighters union. The most charitable interpretation of these actions is that he has a lot to learn.

So how, given the candidates' strengths and weaknesses, are voters to decide? Start by

naming your top priority for the city – developing the riverfront, combating gangs, diversifying the local economy, whatever – and then ask yourself this: Is that goal more likely to be accomplished through more of the same or through a new direction in the mayor's office?

The answer, it seems to us, is that it's time for new leadership and a new navigator. That makes Kevin Johnson the better choice.

Johnson, more than Fargo, has a vision for what Sacramento's next century could look like. He's spent time traveling to other cities, networking and learning about innovations that would help Sacramento mature.

More than Fargo, Johnson has an interest, and an awareness, in the city's more troubled neighborhoods. He'd be a champion of Del Paso Heights, Meadowview and Oak Park, along with newer neighborhoods, such as the Pocket area and North Natomas.

In voting for Kevin Johnson, Sacramentans will be opting for change, not writing a blank check. They will be saying they are willing to take a chance on him, because they believe he can grow into a mayor who can make Sacramento a better place to live.

The next mayor must guide the city through a period of financial challenges. That will require energy, to be sure, but it also will require toughness, flexibility and vision. In this race between two imperfect candidates, Kevin Johnson has the better chance to deliver what Sacramento needs.

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## **Editorial: AmeriCorps case needs resolution**

**Published Tuesday, Mar. 24, 2009**

Since AmeriCorps began in September 1994, about 2,600 nonprofit and community groups a year have worked with volunteers to improve communities. For their service, volunteers get a \$4,725 education award for college or graduate school and a living allowance.

Unfortunately, but not surprisingly, some nonprofit organizations working with AmeriCorps volunteers have run into problems that range from human error and ignorance of regulations to outright fraud.

In Sacramento, St. HOPE Academy's Neighborhood Corps ("Hood Corps" for short), received federal grants from 2004 to 2007. Under these grants, AmeriCorps volunteers were supposed to tutor students at St. HOPE's charter schools, redevelop one building a year in Oak Park and coordinate marketing and logistics for the Guild Theater and 40 Acres Art Gallery.

The AmeriCorps' office of the inspector general began looking at Hood Corps in April 2008; in preliminary findings last September, it found that two St. HOPE employees received AmeriCorps living allowances and education awards – duplicating their salaries.

The inspector general also found that AmeriCorps volunteers were engaged in activities beyond the scope of the grant – such as recruiting students for Sac High and for a new charter opening in Harlem and doing clerical tasks at Sac High. The IG found that AmeriCorps volunteers were driving St. HOPE founder Kevin Johnson around, washing his car and picking up his dry cleaning. They also handed out fliers recommending a slate of Sac City school board candidates.

Johnson has admitted "administrative errors." The usual remedy in these cases is repayment.

In some cases, there is also a fine. (That's what happened when the YMCA of New York was found to be padding AmeriCorps volunteer hours in a tutoring program).

In Sacramento, the IG's findings have not led to criminal charges. In November, the U.S. attorney said the material submitted by the IG fell short of proving criminal conduct and sent the case back for more information. The matter is dragging on.

Normally, such slowness wouldn't matter. But in this case, the IG took the unusual step of suspending St. HOPE Academy, Johnson (now Sacramento's mayor) and former Hood Corps director Dana Gonzalez (now a mayoral volunteer) from receiving federal funds for up to a year pending completion of the investigation.

Now, the city of Sacramento has received an opinion that Johnson's suspension may preclude the city from getting federal funds if he influences their use. And the IG's office has "declined to say when the review would be finished."

Given the potential consequences of a suspension, the IG's office should either expedite the case – getting repayment and/or fines under way – or lift the suspension if the case is expected to drag on indefinitely. The original reason for suspension was to protect the public from "potential repetition of this conduct" while the investigation was ongoing. Johnson and Gonzalez have stepped down from their positions at St. HOPE and Hood Corps, so that should no longer be a concern.

This situation cries out for resolution. This is a case where everybody would be better off if the nonprofit and the IG reach a repayment settlement for the errors and move on.

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## **My View: The federal aid ball is in Johnson's court**

**Special to The Bee**

**Published Tuesday, Mar. 31, 2009**

Your March 24 editorial, without basis, attacks my Inspector General office for "dragging on" with our investigation of St.-HOPE Academy and its principals so that the city of Sacramento may be precluded "from getting federal funds" due to the fact that on Sept. 24, 2008, Mr. Kevin Johnson was suspended "from receiving federal funds."

The relevant law – which I would have thought that you would have researched before writing your editorial – demonstrates that you are targeting the wrong entity for any delay of the determination of whether Johnson's suspension was appropriate.

Some background: As inspector general, I am duty-bound to take action to uncover and to prevent fraud and waste in the almost \$1 billion of taxpayers' money that is disbursed by the Corporation for National and Community Service.

Under controlling regulations, suspension from receiving or controlling federal funds is one of the tools available, where there "exists ... adequate evidence to suspect ... commission of fraud ... making false claims ... or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects (the person's) present responsibility ... or violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as willful failure to perform in accordance with the terms of one or more public agreements or transactions."

For a suspension to occur, my office must recommend the suspension to the deciding official (who is not in my office) and provide adequate evidence to support the suspension to the deciding official. That was done here. The suspending official there- after notified Johnson of the suspension.

Most important is that the regulations give any person or entity suspended – including Johnson – the right "to contest a suspension" by "provid(ing) the suspending official with information in opposition to the suspension ... within 30 days after (receipt of) the Notice of Suspension." The opposition submission cannot rely on "a general denial"; instead, it must include "specific facts that contradict the statements made in the Notice of Suspension."

Thus, contrary to your editorial, the ball on the suspension has been in Johnson's court since the order of suspension was issued.

Apparently, he made the decision not to appeal the suspension by providing specific facts that would show to the neutral suspension official that the suspension was not warranted. If, as you charge (without basis), that suspension in these circumstances was an "unusual step,"

the procedures allowed Johnson to seek to lift the suspension. He decided not to do so.

Your editorial also refers to a criminal investigation or civil monetary recovery or settlement. I do not comment on such matters unless they are public.

But, in any event, those legal avenues are irrelevant here as they are in no way connected with the ability of the city of Sacramento to obtain federal funds – only the suspension order has that effect.

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*Gerald P. Walpin is the inspector general of the Corporation for National and Community Service.*

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## Sacramento mayor threatens to sue over his suspension from receiving U.S. funds

[rlillis@sacbee.com](mailto:rlillis@sacbee.com)

**Published Wednesday, Apr. 01, 2009**

Sacramento Mayor Kevin Johnson threatened to sue the federal government Tuesday if he is not immediately taken off a list of individuals barred from receiving federal funds.

According to Johnson's attorney, the matter has become "extremely urgent" since a legal expert said earlier this month that Johnson's suspension would likely hinder the city's ability to receive federal aid – including millions of dollars in economic stimulus funding.

In a letter obtained by The Bee on Tuesday, the attorneys representing Johnson, St. HOPE Academy and former St. HOPE official Dana Gonzalez wrote that their clients' constitutional rights were violated because they were suspended by the federal Corporation for National and Community Service without a hearing.

The attorneys also wrote that their clients' names were tarnished when the federal agency "levied extremely stigmatizing accusations" against them through press releases and a Web site news advisory that included large red headlines.

Johnson's legal threat was included in a letter sent to William Anderson, a suspension and debarment official with the Corporation for National and Community Service. A corporation spokesman could not be reached for comment.

The mayor's spokesman, Steve Maviglio, said Johnson believes his suspension is "unnecessary and unfair."

"We have continued to work in good faith with the U.S. attorney's office and AmeriCorps, and will explore every avenue possible, including the courts, to make sure that this improper suspension does not affect the citizens of Sacramento," Maviglio said.

According to a probe by the Office of the Inspector General for the Corporation for National and Community Service, Johnson and officials with the nonprofit Hood Corps organization he founded improperly used some of the \$807,000 in federal grant money the urban Peace Corps-style organization received between 2004 and 2007.

Authorities placed Johnson and Hood Corps on the federal Excluded Parties List last year – before Johnson was elected mayor – following the preliminary investigation.

Placement on the suspension list was warranted due to the serious nature of the allegations, federal authorities said.

A federal audit of Hood Corps is ongoing.

Soon after Johnson was elected mayor in November, City Attorney Eileen Teichert hired Washington, D.C., attorney Frederic M. Levy – an expert on government contracting and compliance – to determine whether Johnson's inclusion on the suspension list would hinder the city's ability to receive federal aid.

According to a confidential memo from Levy obtained exclusively by The Bee, the city was likely barred from receiving federal funds while Johnson was on the list.

Levy wrote that federal agencies would likely determine Johnson was a "principal" in city financial decisions, a determination that would "prevent the City from obtaining ... federal grants, subsidies, or cooperative agreements."

City officials have refused to make Levy's memo public – or release it to media – because they say it contains attorney-client privileged information.

The city has already received nearly \$50 million in federal grants since Johnson took office in December. City officials had not been notifying federal agencies of Johnson's suspension but said last week they would begin doing so.

The U.S. attorney's office in Sacramento said last year that the findings turned over by the inspector general did not warrant criminal charges. The U.S. attorney requested additional information and held out the possibility of filing a civil action, pending the results of the audit.

Johnson's attorneys and federal authorities are working on a civil settlement on the case.

Matt Jacobs, Johnson's attorney, said earlier this month he expected any settlement would include the mayor's removal from the suspension list.

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*Call The Bee's Ryan Lillis, (916) 321-1085.*

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## **Editorial: The case of the suspended mayor**

**Published Friday, Apr. 03, 2009**

If you're wondering how Sacramento Mayor Kevin Johnson got suspended from receiving federal funds, you're not alone. Johnson's situation seems unique.

In rare cases individuals and nonprofits that have received federal funds for AmeriCorps volunteer programs have later been "debarred" from participating in federal programs and grants. Usually these actions occur after a conviction for embezzlement, theft, forgery or deliberate false claims.

The case of St. HOPE Academy's Hood Corps, which led to Johnson's suspension, is different. In Johnson's case, Inspector General Gerald Walpin decided to act before any legal body determined whether irregularities in the administration of grants from 2004-2007 reflected inadvertent errors and ignorance of regulations or actual fraud.

Walpin recommended that during the investigation, St. HOPE Academy, Johnson and former Hood Corps director Dana Gonzalez be suspended from receiving federal funds for up to a year. A "debarment official" at the Corporation for National and Community Service followed Walpin's recommendation, issuing a suspension letter in September 2008.

We asked Walpin's office what other organizations and individuals he had recommended for such serious action of suspension since becoming inspector general in January 2007. His spokesman said, "We don't keep those kinds of records." Further inquiries revealed that since its beginning in 1994, the corporation has suspended only two other organizations and three other individuals.

The inspector general has found irregularities at Hood Corps similar to those found in investigations of other nonprofits (that were not suspended). Johnson has admitted "administrative errors." The U.S. attorney in Sacramento found no criminal conduct in November. The usual remedy in such cases is repayment and, rarely, a fine.

It's not helpful that Johnson's spokesman has attacked Walpin as a "controversial right-wing Republican" and that Johnson is threatening to sue. Everybody needs to calm down and work out a repayment settlement. The current impasse is not protecting the public interest, either in Washington or Sacramento.

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### **Sacramento Mayor Johnson reinstated to receive federal funds**

rlillis@sacbee.com (Ryan Lillis)

Posted:04/09/2009 3:43 PM



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By Denny Walsh and Ryan Lillis | [rlillis@sacbee.com](mailto:rlillis@sacbee.com)

Sacramento Mayor Kevin Johnson holds a news conference at City Hall after acting U.S. Attorney Lawrence G. Brown announced Johnson has been removed from a list of individuals barred from receiving federal aid.

Sacramento Mayor Kevin Johnson has been removed from a list of individuals barred from receiving federal aid and the city will not be hindered in receiving future federal aid, according to a settlement reached with the U.S. Attorney's Office announced today.

Because Johnson and his nonprofit St. HOPE Academy have agreed to give back half of \$847,673 in federal grants it received, they will be removed from a list of those suspended from access to federal funds.

Those are the key elements in a civil settlement announced by U.S. Attorney Lawrence Brown concerning allegations leveled by the Corporation for National and Community Service, which funded the grants.

In a news conference today, Brown said the settlement removes any cloud over whether the city of Sacramento is eligible for federal funding, including millions it is expecting in economic stimulus money.

According to an investigation by the Office of the Inspector General for the Corporation for National and Community Service, Johnson and officials with St. HOPE Academy improperly used some of the federal money they received between 2004 and 2007.

In response, Johnson, St. HOPE Academy and former St. HOPE official Dana Gonzalez were placed on the federal Excluded Parties List, banning them from accepting federal aid. Johnson is a founder of St. HOPE, which operates St. HOPE public schools. St. HOPE also brought businesses and jobs to Oak Park.

An expert attorney hired by the city said last month that Sacramento likely would be banned

from federal funding - including economic stimulus money - as long as Johnson was on the Excluded Parties List.

The civil settlement appears to resolve that situation.

"From the get-go, I said that federal funds to the city were never at risk, and that the suspension was unwarranted and unnecessary," Johnson said in a statement released by his office. "This settlement confirms that, and it closes the chapter on this distraction so I can continue to work with President Obama, our U.S. senators, and Congresswoman Matsui for Sacramento's fair share of federal dollars and stimulus funds."

As part of the settlement, St. HOPE Academy will repay about \$423,000 of the allegedly misused funds, including an initial payment of \$73,836, sources told The Bee.

Of that first payment, about \$72,000 will come from a loan from Johnson. The other \$1,000 will come from Gonzalez, who is now a volunteer at City Hall.

St. HOPE Academy will pay off the remaining \$350,000 over the next 10 years with 5 percent interest.

Johnson and Gonzalez will also take a course on the principles of federal contracting.

Once the suspensions of St. HOPE, Johnson and Gonzalez are lifted they can apply for federal grants. St. HOPE will be considered a "high-risk grantee" for two years.

"The settlement agreement is not an admission of liability or fault by St. HOPE, Johnson or Gonzalez, nor a concession by the United States that its claims are not well founded," the agreement says. St. HOPE did acknowledge poor record keeping.

Johnson, Gonzalez and St. HOPE received an assurance -- in the form of a letter from John Vincent, head of the U.S. attorney's office criminal division -- that there will be no federal prosecution.

Brown said he doubts state authorities would second guess that decision.

Acting U.S. Attorney Lawrence G. Brown announces at a news conference today that Sacramento Mayor Kevin Johnson has been removed from a list of individuals barred from receiving federal aid.

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