EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 30, 2003

GENERAL COUNSEL

Mr. Frank Trinity
General Counsel
Corporation for National and Community Service
1201 New York Avenue, NW
Washington, D.C. 20525

Dear Mr. Trinity:

My letter to you of May 2, 2003 addressed the statutory framework that governs how the Corporation for National and Community Service ("the Corporation" or "CNCS") obligates funds in the Trust for the payment of educational awards. This letter addresses a follow-up question you have raised.

In my letter, I explained that the CNCS statutes require the Corporation to deposit into the Trust, at the time the Corporation approves positions, an amount that is equal to the total number of approved positions multiplied by the "value of a national service educational award." 42 U.S.C. § 12571(c)(2). The "value" is to be determined under Section 12603, but neither that section nor the other provisions in the CNCS statutes provide a single "value" to be used for the educational award. Instead, Section 12603 specifies that different values apply depending on the circumstances. I further explained that the CNCS statutes authorize the Corporation to rely on reasonable estimates in calculating the "value" of an educational award (such as estimates of what percentage of enrollees will earn an award through their service), but that the statutes do not authorize the Corporation to rely on estimates regarding how many enrollees who have earned an award will actually use their awards. In the Corporation's experience, approximately 24% of earned awards are never utilized and therefore the funds that would have paid for those awards remain in the Trust.

You have asked whether, in accordance with the framework outlined in my letter, the Corporation can determine the "value" of an award on a "present value" basis. For example, take the case of a full-time enrollee who completes his or her service and earns the maximum award. The enrollee has seven years in which to use the award, which remains a fixed amount throughout this period. From the perspective of its present value at the time of the Corporation's obligation of the funds (when the enrollee's position is approved), the amount of the award will be greater if the enrollee uses the award earlier rather than later during the seven year period. I also note that the CNCS statutes require that the Trust funds earn interest, and that historical experience indicates that enrollees use their awards at various points during the seven year period. As indicated above, although the value of an award is addressed in 42 U.S.C. §§ 12571, 12603, nothing in those sections or elsewhere precludes the use of a "present value" in determining the appropriate amount to deposit in the Trust. For the reasons explained below, our conclusion is that the CNCS statutes permit the Corporation to calculate the "value" of the awards on a present value basis.

There is ample precedent for utilizing "present value" in these circumstances. Although we can identify several programs that rely on "present value" in this context, the educational grants for Reserves under the Montgomery G.I. Bill ("G.I. Bill") may be the most similar to the CNCS statute.[1] Under the G.I. Bill, members of the armed forces, through their service, earn educational benefits that they can use in the future, just as CNCS volunteers earn educational benefits through their service. The "cost" of the Reserves' future educational benefits is calculated on a present value basis. 10 U.S.C. § 2006(b)(2). To cover the costs, the Defense Department pays into a dedicated Fund, on a monthly basis, the present value "cost" of the future educational benefits. Id. § 2006(c)(1), (g)(1). This Treasury Fund earns interest, which is credited to and deposited into the Fund. Id. § 2006(c)(3), (h). The payment of interest is intended to ensure that the deposited (present value) amount plus the interest will be sufficient to cover the future educational benefits.

In several relevant ways, the CNCS statute is similar to the Reserves portion of the G.I. Bill. By statute, the Corporation must deposit in the Trust the "value" of the educational awards for the approved positions. 42 USC §§ 12571(c)(2), 12603. The amounts deposited in the Trust for educational awards shall be invested by Treasury in interest-bearing obligations of the United States. Id. § 12601(b). The interest earned on Trust balances is also deposited back into the Trust. Id. § 12601(a)(3). Amounts in the Trust are available to pay the educational awards. Id. § 12601(c).[2]

The essential fact is that, as with the G.I. Bill, Congress in the CNCS statutes has required interest to be earned on the deposited amounts, and these interest earnings are available (along with the initial deposited amount) to satisfy the Government's future legal obligation. As noted above, Congress has given enrollees a seven year period in which to use the awards that they have earned. Id. § 12602(d). Thus, under the statutory framework, the amount that the Corporation obligates when it approves an enrollee's position will earn interest throughout the period of the enrollee's service and continue to earn interest during the subsequent period of up to seven years until the enrollee actually uses the award.

As a result, if the Corporation obligates the full amount of the award when it approves a position, then the Corporation will have available, with its subsequent interest earnings, an amount in excess of what it will actually need to pay the award. If, instead, the Corporation obligates the present value of the award (relying on historical experience and conservative estimates of when enrollees use their awards during the seven year period), then the Corporation will have available to it -- with interest earnings -- the amount that the Corporation will actually need to pay the award. The reasonableness of the Corporation calculating the "value" of the award on a present value basis is reinforced by the fact that the Corporation in making obligations may not take into account the "usage rate," i.e., the rate at which enrollees actually use the awards that they have earned. As I explained in my letter of May 2, the CNCS statutes

[1] Federal employee retirement programs, such as FERS and Military Retirement, are other examples of programs that are funded on a present value (accrual) basis.

[2] Although there are indeed differences between the CNCS statutes and the Reserves portion of the G.I. Bill, we do not believe that these differences are particularly significant in terms of the question that you have raised.

do not authorize the Corporation, in obligating funds, to rely on its historical experience that a significant percentage (approximately 24%) of the enrollees who earn awards will not end up using them. The presence of this conservative assumption means that, even if the Corporation calculates the "value" of an award on a present value basis, the Corporation will still be obligating, with future interest earnings, an amount that should be approximately 24% greater than the Corporation should need for satisfying its legal obligation to pay the awards when they are eventually used. That is because the Corporation will be obligating amounts, on a present value basis, for awards that historical experience indicates will not be used. [3]

Although the Corporation's reliance on this conservative assumption (of a 100% usage rate) should ensure that the Trust will have more than sufficient funds to pay awards as they are used, the Corporation nevertheless must closely monitor the Trust's financial situation. The Corporation must perform an actuarial valuation of the Trust, on an annual or more frequent basis, so that the Corporation can address surpluses that occur, and will have an accurate understanding of exactly what it would need before seeking annual appropriations.

Accordingly, our conclusion is that the Corporation may calculate the "value" of an award on a present value basis.

Sincerely,

Philip J. Perry
General Counsel

[3] Whereas reliance on this conservative assumption is prudent (and required by the CNCS statutes), it would be unreasonable for the Corporation to follow the much more conservative approach that the General Accounting Office (GAO) set forth in its opinion of April 9, 2003. As we explained in my letter of May 2, 2003, GAO's approach would require the Corporation to set aside a substantially greater portion of the Trust's funds for theoretical liabilities that will never come due, and thereby prevent the Corporation from fully carrying out its mission to support volunteer activities.