



GAO

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United States Government Accountability Office
Washington, DC 20548

June 14, 2010

Congressional Requesters

Subject: *Preliminary Observations on Funding, Oversight, and Investigations and Prosecutions of ACORN or Potentially Related Organizations*

Nonprofit organizations, such as the Association of Community Organizations for Reform Now (ACORN), play an important role in providing a wide range of public services. To provide these services, these organizations rely on funding through federal grants and contracts, among other sources. Just as it is important for federal agencies to be held accountable for the efficient and effective use of taxpayer dollars, it is also important for these nonprofit organizations to be held accountable for their use of federal funds.

ACORN was established in 1970 as a grassroots organization to advocate for low-income families. By 2009, ACORN reportedly had 500,000 members and had expanded into a national network of organizations involved in the development of affordable housing, foreclosure counseling, voter registration, and political mobilization, among other things. ACORN organizations relied on membership dues and on federal and private foundation funding to support various activities. Voter registration fraud allegations in a number of states and widely distributed videotapes depicting what appeared to be inappropriate behavior by employees of several local ACORN chapters spurred calls to identify federal funding provided to ACORN and ACORN-related organizations and for legislation to restrict or eliminate funding.

Congress passed provisions restricting the funding of ACORN or any of its affiliates, subsidiaries, or allied organizations in the fiscal year 2010 continuing resolutions,¹ which were followed by several fiscal year 2010 appropriations acts that prohibited any appropriated funds from being awarded to various ACORN or ACORN-related organizations.² ACORN officials reported similar cuts in private foundation funding.

¹Continuing Appropriations Resolution, 2010, Pub. L. No. 111-68, Div. B, § 163, 123 Stat. 2043, 2053 (2009); Further Continuing Appropriations Resolution, 2010, Pub. L. No. 111-88, Div. B, § 101, 123 Stat. 2904, 2972 (2009).

²Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, Pub. L. No. 111-88, Div. A, § 427, 123 Stat. 2904, 2962 (2009) (prohibiting funds made available under the act from being distributed to ACORN or its subsidiaries); Consolidated Appropriations Act, 2010, Div. A, § 418, 123 Stat. 3034, 3112 (2009) (prohibiting funds made available under Division A—the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010—as well as prior acts, from being provided to ACORN, or any of its affiliates, subsidiaries, or allied organizations); Div. B, § 534, 123 Stat. at 3157 (prohibiting funds made available under Division B—the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010—from being distributed to ACORN or its subsidiaries); Div. E, § 511, 123

In March 2010 ACORN officials stated that the national ACORN organization would be terminating its field operations and closing all of its field offices because of the loss of federal and other funding, although some of its related organizations were to remain open.

The Consolidated Appropriations Act, 2010, directed us to issue a report on ACORN within 180 days (by June 14, 2010).³ We also received three request letters from a total of 23 members of Congress asking that we provide information on federal funding provided to ACORN and oversight of the use of this funding. A list of the congressional requesters is provided in enclosure I. We have combined our work for the mandate and requests to report on the following objectives for fiscal years 2005 through 2009:

- (1) How much funding did federal agencies award to ACORN or potentially related organizations, and what was the source and purpose of the funding?
- (2) To what extent did federal agencies apply oversight mechanisms when monitoring awards to ACORN or potentially related organizations to ensure funding was spent appropriately, and how were problems, if any, addressed?
- (3) To what extent were federal investigations or prosecutions conducted of ACORN or potentially related organizations, and what were the nature and results of these investigations and prosecutions?

Given that our analysis related to these objectives is ongoing, the information in this report is preliminary and subject to change. We plan to issue a report later this year with our final results related to ACORN and potentially related organizations.

For purposes of this report, we use the term “ACORN or potentially related organizations,” unless stated otherwise, to encompass the national ACORN office and other organizations identified by the Congressional Research Service (CRS) as having a potential relationship with ACORN.⁴ While these organizations may potentially be subsidiaries or affiliates of ACORN, we have not yet made such a determination but will do so and include the results in our final report on ACORN to be issued later this year.⁵ Further, continuing resolutions and various appropriations acts for fiscal year 2010 restricted certain federal agencies from providing funding to ACORN and certain related entities, but we are not making a determination that any organization on the

Stat. at 3311 (prohibiting funds made available under Division E—the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010—as well as any other division of the Consolidated Appropriations Act, from being distributed to ACORN or any of its subsidiaries); Department of Defense Appropriations Act, 2010, Pub. L. No. 111-118, § 8123, 123 Stat. 3409, 3458 (2009) (prohibiting funds made available under the act from being distributed to ACORN or its subsidiaries).

³Pub. L. No. 111-117, Div. B, § 535, 123 Stat. 3034, 3157.

⁴CRS developed a list of ACORN organizations as part of its process to respond to multiple requests for information on funding to ACORN and affiliated organizations. The list generated by CRS is largely based on information from ACORN’s General Counsel regarding organizations that ACORN reported as associated or related to ACORN and allied organizations CRS identified that were formerly listed on ACORN’s website. The list is in the appendix of the November 4, 2009, CRS memorandum entitled *Federal Funding to the Association of Community Organizations for Reform Now (ACORN) and Related Organizations*.

⁵GAO was directed to review funds received by ACORN or any subsidiary or affiliate of ACORN; the terms “subsidiary” and “affiliate” are undefined in the legislation. See § 535, 123 Stat. at 3157.

CRS list or named in this or our final report is subject to those restrictions.⁶ Agencies are responsible for ensuring that they are implementing their applicable appropriations statutes properly.⁷

Scope and Methodology

To identify funding awarded to ACORN or potentially related organizations and its purpose, we asked 31 federal agencies to identify funding (grants, contracts, or cooperative agreements) awarded to ACORN or potentially related organizations from fiscal years 2005 through 2009 and, to the extent possible, any funding that may have gone to ACORN or a potentially related organization as a subaward (subgrant or subcontract) during this period.⁸ We requested information on federal funding that was awarded to ACORN or potentially related organizations, regardless of whether the funding had been dispersed to or expended by the organizations.

The federal agencies we included in our review are ones that we determined might have awarded funding to ACORN or potentially related organizations based on one or more of the following indicators:

- the agency participates in grants.gov, a Website through which organizations can apply for federal grants;
- the agency is an executive department that was prohibited by provisions in its fiscal year 2010 appropriations statute from providing funding to ACORN or ACORN-related entities; or
- the agency or its inspector general (IG) conducted a review of funding to ACORN or potentially related organizations as a result of a congressional request or self-initiated effort.

Agencies included in our scope are listed in enclosure II. For those agencies that relied on databases to identify any ACORN funding, we requested information that would enable us to determine whether the databases were reliable for our purposes. For this preliminary report, we have not received all the information needed to assess the reliability for each of the data systems the 31 agencies searched to respond to our request, but we will have completed this review for our final report, making any

⁶See *supra* notes 1 and 2. The ACORN appropriations restriction contained in Section 163 of the Continuing Resolution was preliminarily enjoined by a federal district court and expired. *ACORN v. United States*, 662 F. Supp. 285 (E.D.N.Y. 2009). Similarly, other appropriations provisions for fiscal year 2010 that restricted certain federal agencies from providing funding to ACORN and certain related entities were also ruled unconstitutional and permanently enjoined by the federal district court on March 10, 2010, along with section 163 from the Continuing Resolution. *ACORN v. United States*, No. 09-4888, 2010 Westlaw 809960 (E.D.N.Y. Mar 10, 2010). The Department of Justice filed an appeal to the Court of Appeals for the Second Circuit and was granted a stay of the lower court's decision pending that appeal. *ACORN v. United States*, Nos. 09-5172, 10-992, slip op. (2nd Cir. Apr. 21, 2010). Accordingly, pending appeal, the appropriations restrictions are still in effect.

⁷See GAO, *Principles of Federal Appropriations Law*, vol. 1, 3rd ed., GAO-04-261SP (Washington, D.C.: January 2004) 1-35 ("Every federal department or agency has the initial and fundamental responsibility to ensure that its application of public funds adheres to the terms of the pertinent authorization and appropriation acts, as well as any other relevant statutory provisions.").

⁸For the purposes of this report, we use the term federal "agency" to encompass federal entities that include selected federal executive departments, independent agencies, and nonprofit entities created by law such as the Corporation for Public Broadcasting and NeighborWorks.

adjustments as necessary. We also reviewed various agency funding documents and government and nonprofit reports about ACORN or potentially related organizations for additional background information.

To enable the 31 agencies, for the purposes of this report, to determine whether they had provided funding to ACORN or any potentially related organizations, we suggested that they search their grant and procurement databases using the organizations identified by CRS as potentially having a relationship with ACORN. We selected the CRS list in part because counsel for ACORN identified the majority of organizations on the list as having some sort of relationship to ACORN. Specifically, when providing the list to CRS, ACORN grouped organizations into categories, such as “associated” organizations (sharing a common mission) or organizations associated with ACORN Housing Corporation or NY ACORN Housing Corporation, both of which ACORN identified as separate, tax-exempt nonprofits that are not controlled by ACORN.⁹ In addition to being identified by ACORN counsel, many of the organizations on the CRS list were also included on at least one of the other lists, indicating that there was some consistency regarding a potential association with ACORN. Most of the 31 agencies searched for funding using the CRS list or a method that encompassed the organizations included on the CRS list. Several agencies did not use the CRS list. For example, in response to an IG review, one agency had recently searched for any funding it had provided to ACORN or potentially related organizations using a list that encompassed most, but not all, of the organizations identified by CRS. As part of our ongoing review, we will continue our efforts to develop our own list of ACORN subsidiaries and affiliates and include a discussion of our methodology, as well as any updates on funding, in our final report to be issued later this year.

To identify the monitoring processes for funds awarded to ACORN or potentially related organizations, we obtained and compared the agencies’ monitoring protocols with documentation of the steps agencies took to monitor these awards.¹⁰ We interviewed and obtained documentation from grant program managers and staff from six of the nine agencies that reported providing funding to organizations on the CRS list: NeighborWorks, the Election Assistance Commission (EAC), the Corporation for Public Broadcasting (CPB), the Environmental Protection Agency (EPA), the Department of the Treasury (Treasury), and the National Endowment for the Arts (NEA).¹¹ We discussed their monitoring processes and how they decided which mechanisms to apply for particular awards. We also asked grant program managers and staff to identify any problems that agencies found through the oversight process and explain how these were resolved. In addition, we asked all nine agencies that reported awarding funding to ACORN or potentially related organizations to identify any work, in addition to grant oversight, that agencies had or were conducting related to ACORN or potentially related organizations. We limited our work on oversight at three agencies—the Department of Homeland Security

⁹In providing this list to CRS, counsel for ACORN noted that the organizations were grouped solely in the interest of facilitating the CRS study, and not as a legal statement about their relationship.

¹⁰For the purpose of this report, awards include direct grants (grants made by the agency directly to a grant-requesting recipient) and subawards which include subgrants or subcontracts (grants or contracts made under an agency grant by the original award recipient to a subrecipient).

¹¹NeighborWorks is a national nonprofit organization created by law to provide financial support, technical assistance, and training for community-based efforts. 42 U.S.C. §§ 8101-07.

(DHS), the Department of Justice (DOJ), and the Department of Housing and Urban Development (HUD)—because their IGs had conducted or were conducting similar reviews and we did not want to engage in potential duplication of effort. We will describe the results of any reviews underway at the nine agencies, as well as any additional work we conduct, in our report to be issued later this year. Although governmentwide guidance exists regarding federal grant oversight, because the guidance is general in nature and does not establish a benchmark for what level of oversight would be considered sufficient to safeguard against the misuse of funds, we did not independently assess the sufficiency of agencies' oversight activities. Instead, we reviewed the extent to which agencies applied their oversight protocols to funds awarded to ACORN or potentially related organizations.

For our third objective, we reviewed information from DOJ—including the Federal Bureau of Investigation (FBI) and DOJ litigating divisions¹²—as well as the 31 agencies within the scope of our review and the investigative components of the IGs of those 31 agencies to identify any investigations or prosecutions they have conducted of ACORN or potentially related organizations since fiscal year 2005. To capture such information from DOJ's 94 U.S. Attorneys Offices (USAO), we obtained information on cases and matters from the Legal Information Office Network System (LIONS), which is the case management system all USAOs use.¹³ We asked the Executive Office for U.S. Attorneys (EOUSA) to search LIONS to determine if ACORN or any of its potentially related organizations identified on the CRS list had been the subject of an investigation or case handled by any of the USAOs. To identify potential cases that were related to ACORN or potentially related organizations but that LIONS did not identify because the defendant was an individual (for example, an employee or executive) rather than an organization, an EOUSA official asked all USAOs to identify any cases they recalled that involved individuals associated with ACORN or potentially related organizations. The EOUSA official also asked DOJ's Public Integrity Section (a section that DOJ prosecutors must consult with prior to prosecuting matters that involve the election process) whether there were any election fraud cases that involved individuals associated with ACORN or any potentially related organizations.¹⁴

We conducted this performance audit from December 2009 through June 2010 in accordance with generally accepted government auditing standards. Those standards

¹²The DOJ litigating divisions we queried included Civil, Environment and Natural Resources, Antitrust, Civil Rights, Criminal, Tax, National Security, and the Executive Office for U.S. Attorneys. The default rule is that DOJ is responsible for all litigation on behalf of the United States and its administrative agencies; accordingly, in general, agencies must refer investigations to DOJ for prosecution. 28 U.S.C. §§ 516, 519; 5 U.S.C. § 3106. However, there are certain exceptions where agencies have civil litigation authority; for example, the Federal Election Commission has the authority to bring enforcement actions for violations of the Federal Election Campaign Act of 1971, as amended. 2 U.S.C. §§ 437c, 437d.

¹³A case is defined as an activity that has been assigned an identification number that has resulted in the filing of a complaint, an indictment, or information in court. A matter is defined as an activity that has been assigned an identification number, but has not resulted in the filing of a complaint, an indictment, or information in court—for example, the investigation of a complaint or an allegation of discrimination referred by another federal agency.

¹⁴Department of Justice, *United States Attorneys' Manual* § 9-85.210, Violations of Campaign Financing Laws, Federal Patronage Laws, and Corruption of the Electoral Process—Consultation Requirement.

require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives

Results in Brief

Nine agencies—HUD, DHS, DOJ, EAC, NeighborWorks, CPB, EPA, Treasury, and NEA—identified approximately \$37.5 million in direct federal grants and at least \$2.9 million in subawards (i.e., grants and contracts awarded by federal grantees) to ACORN or potentially related organizations, primarily for housing-related purposes during fiscal years 2005 through 2009. These agencies and others included in our review were limited in their ability to identify how much funding they provided to ACORN or potentially related organizations through subawards, generally because agencies are not required to and thus do not collect data on all subawards.

Agencies employed several mechanisms—ranging from reviews of progress reports submitted by grant recipients to on-site monitoring—to oversee the eight direct grants for which we received documentation on their oversight process; agencies generally did not identify any problems with seven of the eight grants.¹⁵ Agency officials said that they considered the grant amount and availability of personnel and resources as factors in deciding what type of monitoring to conduct. Agency monitoring efforts identified and resolved a problem with one of eight direct grants to ACORN or potentially related organizations for which we obtained information on oversight. Specifically, NeighborWorks determined that ACORN Housing Corporation had not provided a description of what it planned to accomplish under the grant, as required. After NeighborWorks brought this to the attention of ACORN Housing Corporation officials, these officials subsequently provided the documentation. Oversight of subawards is generally delegated to grantees. EPA, Treasury, NEA, and NeighborWorks grantees provided a total of 15 subawards to ACORN or potentially related organizations. EPA reviewed the grantees' work plans which included subaward information, finding no problem with the subawards. Treasury officials reported that they reviewed grantees' work plans, which identified subgrantees and grantees' related expenditures. They also stated that they found no problem with a subgrant based on an assessment of a grantee that was randomly selected to receive additional oversight. In addition, NEA also reviewed the grantee's final report, which included information on the subgrant, and the subgrantee's program and budget reports, and found no problems with the subgrant. Furthermore, NeighborWorks reported that it reviewed progress reports submitted by its grantees, which included information on their subgrantees, and found no problems with the subgrants awarded to ACORN or potentially related organizations. All six of the agencies that provided direct funding to ACORN or potentially related organizations, in addition to their routine grant oversight, have IG reviews or internal audits of funding to ACORN or potentially related organizations that are completed or were still ongoing as of May 24, 2010. DOJ, which completed its review in November 2009, examined whether

¹⁵ To avoid duplication of efforts, we did not assess the oversight activities at DHS, DOJ, and HUD for this preliminary report. The IGs for these agencies have reviewed or are in the process of reviewing funding provided to ACORN or potentially related organizations. We plan to include the results of their work and to conduct additional work as needed on oversight in our report to be issued later this year.

internal controls were in place related to the use of DOJ grant funds awarded to ACORN or potentially related organizations and reported that the agency had not conducted an audit or other review of the awards. EPA, Treasury, and NEA have not conducted additional reviews of their subawards beyond the routine oversight.

DOJ and the Federal Election Commission (FEC) reported matters, investigations, and cases related to voter registration and election fraud for ACORN or four potentially related organizations, some of which resulted in actions being taken. Specifically, DOJ and the FBI identified six investigations, generally involving allegations of voter registration fraud on the part of ACORN employees, all of which were closed without action due to insufficient evidence and lack of evidence. The FEC's four closed matters also resulted in no further action. Six cases were identified by DOJ involving voter registration fraud, with all but one case resulting in guilty pleas. Of the 31 federal IGs that we contacted, 29 stated that they had no ongoing or closed investigations of ACORN or a potentially related organization. Officials from the Treasury Inspector General for Tax Administration (TIGTA) and HUD IG office declined to comment on whether their offices had conducted any such investigations.

Agencies Reported Awarding More Than \$40 Million to ACORN or Potentially Related Organizations for Fiscal Years 2005 through 2009, Primarily for Housing-Related Programs, but Had Limited Data on Funding Awarded through Subgrants and Subcontracts

Nine agencies identified approximately \$40.4 million— \$37.5 million in direct federal grants and \$2.9 million in subgrants and subcontracts—awarded to ACORN or potentially related organizations during fiscal years 2005 through 2009, with much of the funding designated for housing-related purposes. Table 1 identifies direct grants awarded to ACORN or potentially related organizations based on agency reviews of their grant and procurement databases. For DOJ, we included funding identified by the agency's IG in a 2009 ACORN audit report rather than have the agency search its databases using the CRS list.¹⁶ None of the agencies identified that it had awarded contracts or cooperative agreements directly to ACORN or potentially related organizations.

¹⁶Department of Justice Office of the Inspector General, *Review of Department of Justice Grants to the Association of Community Organizations for Reform Now, Inc. (ACORN) and its Affiliated Organizations* (Washington, D.C., November 2009). DOJ IG notified us in May 2010 that as part of its review, it searched for 192 of 217 organizations on the CRS list. We will ask DOJ to search its records for funding using a list of ACORN or potentially related organizations we independently developed and include the results in our report to be issued later this year.

Table 1: Preliminary Information on Direct Grants Awarded to ACORN or Potentially Related Organizations, Fiscal Years 2005-2009

| Agency Office/Division | ACORN or Potentially Related Organizations | Fiscal Year and Amount | Grant Program Description |
|---|--|--|---|
| HUD | | | |
| Office of Housing | ACORN Housing Corporation | FY05 - \$1,873,816 FY06 - \$1,821,596 FY07 - \$1,628,829 FY08 - \$1,623,570 | Housing Counseling Program - To provide housing counseling services, including assisting eligible homebuyers to find and purchase homes, helping renters locate and qualify for assisted rental units, helping eligible homebuyers obtain affordable housing, assisting homeowners to avoid foreclosures, assisting renters to avoid evictions, helping the homeless find temporary or permanent shelter, reporting fair housing and discrimination complaints. |
| Public and Indian Housing | ACORN National | FY06 - \$362,378 FY07 - \$429,524 FY08 - \$313,495 | Resident Opportunities and Self-Sufficiency Service Coordinator Program -To support coordinators who assess the needs of residents and coordinate community resources to meet those needs. Program goals, among other things, are to enable families to increase economic independence, reduce or eliminate the need for welfare assistance, and in the case of elderly or disabled residents, to improve living conditions and enable residents to age in place. |
| | ACORN Tenants Union/National office | FY08 - \$124,965 | |
| Fair Housing and Equal Opportunity | ACORN Housing Corporation | FY05 - \$100,000 FY07 - \$100,000 | Fair Housing Initiative Program - To support non-profit organizations that assist people who feel they have been victims of housing discrimination by helping to identify appropriate government agencies regarding discrimination claims and by conducting preliminary investigations of such claims. In addition the program has four initiatives that promote fair housing. |
| Office of Healthy Homes and Lead Hazard Control | ACORN Associates | FY05 - \$1,999,920 | Lead Elimination Action Program - To support non-profit organizations that identify and control lead-based paint hazards in eligible privately owned housing by leveraging private sector funding. |
| Office of Community Planning and Development | ACORN Housing Corporation | FY 05 - \$527,000 | Self-help Ownership Program - To provide funds for nonprofit organizations to purchase home sites to develop or improve site infrastructure needed for home ownership programs for low income persons and families. |
| DHS' | | | |
| Federal Emergency Management Agency | ACORN Institute | FY07 - \$450,484 | Fire Prevention and Safety Program - To reduce the loss of life and property from fires using fire prevention strategies including smoke alarm installation, education and awareness, code adoption and enforcement, and arson prevention. The grant to the ACORN Institute was specifically to carry out fire prevention programs, such as: <ul style="list-style-type: none"> • a community outreach program • responding to general requests for in-home inspections |

| | | | |
|---|---|--|--|
| DOJ | | | |
| Office of Juvenile Justice and Delinquency Prevention | New York Agency for Community Affairs | FY05 - \$138,130 | Office of Juvenile Justice and Delinquency Prevention grant—(Based on congressional direction to the New York Agency for Community Affairs) - To provide youth leadership training to students at select New York City schools; form "ACORN Youth Union" chapters; and coordinate student campaigns to address issues such as school funding, neighborhood safety, and school governance. |
| EAC | | | |
| | Project Vote - Delaware | FY06 - \$16,875 | Help America Vote College Program—College Poll Worker Grants - To develop programs that recruit and train college students to serve as nonpartisan poll workers and poll assistants and to encourage college students to assist state and local governments in the administration of elections. |
| | Project Vote - Michigan | FY06 - \$16,875 | |
| NeighborWorks | | | |
| | ACORN Housing Corporation | FY08 - \$25,050,939 | National Foreclosure Mitigation Counseling Program - To provide counseling services to people facing foreclosure using a national network of nonprofit organizations. |
| CPB | | | |
| | Arkansas Broadcasting Foundation Inc. (KABF-FM) | FY05 - \$37,694 FY06 - \$84,801 FY07 - \$87,388 FY08 - \$77,475 FY09 - \$81,250 | Community Service Grants - To support radio stations in their general operations and programming in order to enhance the quality of programming and expand the scope of public broadcasting services. Originally, the radio grant program admitted all stations that met basic eligibility criteria but was later limited in an effort to minimize redundancy and reward greater community use of the services provided by stations. |
| | Agape Broadcasting Foundation Inc. (KNON FM) | FY05 - \$19,508 FY06 - \$115,484 FY07 - \$110,162 FY08 - \$103,839 FY09 - \$97,249 | |
| | Arkansas Broadcasting Foundation Inc. (KABF-FM) | FY 05 - \$15,000 | Internet Acquisition Grant - To help rural and minority radio stations use web technology to increase service to their listeners through improving their web presence, enhancing station outreach, deepening community relations, improving public transparency and accountability; and offering listeners an easy and secure way to support stations financially. |
| | Agape Broadcasting Foundation Inc. (KNON FM) | FY 05 - \$15,000 | |
| | Agape Broadcasting Foundation Inc. (KNON FM) | FY 06 - \$80,000 | Digital Radio Conversion Fund - To provide funds to radio stations planning to convert to digital stations for an improved audio quality such as supplemental audio channel on FM stations. |
| Direct Grants Total | | \$37,503,246 | |

Source: GAO analysis of agency data and summary of November 2009 DOJ Inspector General report.

¹DHS awarded a second Fire Prevention and Safety Program grant to the ACORN Institute in 2008 for \$997,482; however, that grant was rescinded in November 2009 in response to section 163 of the Continuing Appropriations Resolution, which prohibited funding to ACORN or any of ACORN's affiliates, subsidiaries or allied organizations.

Agencies were limited in the extent to which they were able to identify how much funding grantees in turn provided to ACORN or potentially related organizations through subawards, generally because agencies have not collected data on subawards (which would include grants and contracts) that their grantees made, in part because agencies generally have not been required to maintain this information. Therefore, in order to obtain information on the number and amount of any subawards that grantees made, agency officials, for example, would have to be informed by the

grantees of the subawards or review hard copy files of their primary grant recipients. Given that agencies can have tens of thousands of primary grant recipients, agency officials said that they do not have the resources to conduct such reviews. Although EPA, Treasury, NEA, and NeighborWorks do not maintain information on subawards, the first three agencies said that they were informed by their grantees of subawards made to ACORN or potentially related organizations because of the funding restriction in the agencies' respective fiscal year 2010 appropriations statutes. In the case of NeighborWorks, the agency said that it required grantees to provide the names of the subgrantees in the grant application. In another instance, we identified an EPA subaward based on an Internet search.

Recognizing the importance of transparency in federal spending, Congress passed the Federal Funding Accountability and Transparency Act of 2006 (FFATA)¹⁷ which, among other things, required the Office of Management and Budget (OMB) to establish, no later than January 1, 2008, a publicly accessible Website containing data on direct federal awards. OMB was also to conduct a pilot program on collecting subaward data beginning no later than July 2007, and to include data on subawards in the accessible Website by January 2009. However, as we reported in March 2010, OMB had only partially satisfied the subaward requirements—it had begun two pilot programs in 2008, after the statutory deadline, but had not yet developed a plan or process for including subaward information on the public Web site.¹⁸ Therefore, subaward data for ACORN or potentially related organizations for 2009 were not readily available. We recommended that OMB implement a specific plan for collecting and reporting on subaward data, including a time frame for including subaward data on its Web site. OMB generally agreed and on April 6, 2010, issued a memorandum to agencies, requiring the posting of subaward information. The OMB memorandum directs agencies to initiate subaward reporting on October 1, 2010 through USASpending.gov, pursuant to FFATA.

Table 2 includes information agencies were able to provide on funding that their grantees awarded to ACORN or potentially related organizations through subgrants or subcontracts. Given the limitations described above, this table may not include all of the subawards made to ACORN or potentially related organizations.

¹⁷Pub. L. No. 109-282, 120 Stat. 1186.

¹⁸GAO, *Electronic Government: Implementation of the Federal Funding and Accountability and Transparency Act of 2006*, GAO-10-365, (Washington, D.C.: Mar 12, 2010).

Table 2: Selected Subawards Awarded to ACORN or Potentially Related Organizations, Fiscal Years 2005-2009^{1,2}

| Funding Agency | Subawardee | Grantee | Fiscal Year and Amount | Grant Program Description |
|----------------|---------------------------|--------------------------------------|---|--|
| HUD | | | | |
| | ACORN Housing Corporation | Tampa | FY06 - \$38,000 | Community Development Block Grant - To support efforts, among other things, to promote affordable housing, provide services to the most vulnerable community members, and create jobs through the expansion and retention of businesses. The annual CDBG appropriation is allocated to states and local jurisdictions using a formula comprised of several measures of community need. A majority of the funds are for activities that benefit low- and moderate-income persons, and each activity must meet one of the national program objectives, such as prevention or elimination of slums or blight. |
| | ACORN Housing Corporation | Chicago | FY 06 - \$21,675 FY 07 - \$21,470 | |
| | ACORN Housing Corporation | Oakland | FY 06 - \$38,000 FY 07 - \$4,554 | |
| | ACORN Housing Corporation | Philadelphia | FY 05 - \$110,000 FY 05 - \$63,059 FY 06 - \$119,000 FY 06 - \$47,250 FY 06 - \$20,000 FY 07 - \$163,096 FY 08 - \$144,000 FY 09 - \$140,000 | |
| | ACORN Housing Corporation | Houston | FY 05 - \$21,925 FY 06 - \$5,000 FY 09 - \$155,000 FY 09 - \$31,546 | |
| | ACORN Housing Corporation | Baltimore | FY 05 - \$41,743 FY 06 - \$41,899 | |
| | ACORN Housing Corporation | New Orleans | FY 08 - \$75,000 | |
| DOJ | | | | |
| | ACORN | Citizens Community for New York City | FY 08 - \$20,000 | Byrne Discretionary Grant - To assist state, local, and tribal governments in developing programs appropriate to the needs of their jurisdictions. Issued through a competitive process, these grants assist state and local governments in addressing community concerns, such as developing anti-crime/community improvement activities. Non-governmental entities will also be eligible for funding under this program. |

| DOJ | | | | |
|-----------------|-------------------|---|------------------|---|
| | ACORN Institute | St. Louis Weed and Seed | FY 07 - \$13,000 | Weed and Seed Grant - To prevent, control, and reduce violent crime, drug abuse, and gang activity in designated high-crime neighborhoods across the country. The strategy involves law enforcement "weeding out" criminals and also to "seed" the neighborhoods with human services. |
| | ACORN Institute | Phoenix 's Neighborhood Services Department | FY 08 - \$8,539 | |
| EPA | | | | |
| | ACORN | Ysleta Tribe | FY 07 - \$23,770 | Lead Poisoning Baseline Assessment of Children and Education Outreach - To provide grants for tribal education on lead exposure prevention poisoning detection and treatment routes. It is a grant for federally-recognized tribal nations within the United States. Also under this grant, a recipient is allowed to make a subaward to non-profit organizations. |
| | Arkansas ACORN | University of Arkansas | FY 08 - \$32,651 | National Community-Based Lead Outreach and Training Grant - To promote efforts to prevent or reduce childhood lead poisoning. These grants fund local efforts to reduce the incidence of childhood lead poisoning in communities with older housing, including community outreach efforts, training, and local ordinance development projects. Grant recipients range from city health departments to universities and colleges, community organizations, religious groups, and other non-profit organizations. |
| Treasury | | | | |
| | ACORN New Mexico | Central New Mexico Community College | FY 09 - \$1,584 | Volunteer Income Tax Assistance Program - To provide free tax help to low-moderate income people. Certified volunteers sponsored by various organizations receive training to assist in preparing basic tax returns in communities across the country. |
| | ACORN Maryland | Maryland Volunteer Lawyers Services | FY 09 - \$17,260 | |
| | ACORN California | United Way-Bay Area | FY 09 - \$44,000 | |
| | ACORN Connecticut | Co-Opportunity Inc. | FY 09 - \$4,825 | |
| | | Connecticut Association of Human Services | FY 09 - \$4,500 | |

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|------------------------|---|---|--------------------|---|
| NeighborWorks | | | | |
| | ACORN Housing Corporation | Connecticut Housing Finance Authority | FY 08 - \$93,060 | National Foreclosure Mitigation Counseling Program - To provide counseling services to people facing foreclosure using a national network of nonprofit organizations. |
| | NY ACORN Housing Corporation | State of New York Mortgage Agency/New York State Housing Finance Agency | FY 08 - \$110,716 | |
| | ACORN Housing Corporation | Florida Housing Finance Corporation | FY 08 - \$162,464 | |
| | ACORN Housing Corporation | Missouri Housing Development Commission | FY 08 - \$201,800 | |
| | ACORN Housing Corporation | Minnesota Housing | FY 08 - \$126,225 | |
| | ACORN Housing Corporation | California Housing Finance Agency | FY 08 - \$611,340 | |
| | ACORN Housing Corporation | Pennsylvania Housing Finance Agency | FY 08 - \$120,400 | |
| NEA | | | | |
| | Arkansas Broadcasting Foundation Inc. (KABF-FM) | Arkansas Arts Council | FY 08 - \$5,853 | Partnership Agreements-State Partnership Grant Program - To support the state arts agencies and regional arts organizations to make arts available to more communities. |
| Subawards Total | | | \$2,904,204 | |

Source: GAO analysis of agency data and summary of November 2009 DOJ Inspector General report.

Notes: The subawards included here do not include all subawards as agencies in general do not systematically capture subaward information.

¹Except for EPA, the subawards were in the form of subgrants. The two EPA subawards were subcontracts.

²Funding awarded may not have been disbursed to or spent by the subawardees. DOJ OIG stated in its comments on a draft of this report that as of November 2009, no funds had been provided to ACORN or ACORN Institute through the subawards granted by the Citizens Community for New York City or Phoenix Weed and Seed. Similarly, Affordable Housing Centers of America (formerly ACORN Housing Corporation) indicated that funding awarded was not spent in several instances, with some or all of NeighborWorks subgrants returned in three states and the subaward for some CDBG program grants were not received.

Extent of Agencies' Oversight of ACORN or Potentially Related Organizations Was Based Primarily on Award Amount or Available Resources; Agencies Generally Did Not Identify Problems with Grants, but Additional Agency Reviews Are Ongoing

Agencies' selection of oversight mechanisms—ranging from the review of progress reports to on-site observations—used to monitor ACORN or potentially related organizations' use of funds depended primarily on factors such as the award amount or available personnel and resources to carry out the monitoring. Of the nine agencies that provided funding to ACORN or potentially related organizations from fiscal years 2005 through 2009, we identified the mechanisms that CPB, NeighborWorks, and EAC utilized in overseeing a total of eight direct grants to ACORN or potentially related organizations. We also identified the mechanisms that EPA, Treasury, NEA, and NeighborWorks used to oversee a total of 15 subawards that their grantees provided to ACORN or potentially related organizations.¹⁹

Agencies conduct oversight to ensure that grantees are using funds and implementing activities in accordance with the intended purposes of their grants, as described in the grant agreements. For example, the 2006 grant agreement between EAC and Project Vote – Michigan states that the grantee will recruit and train college students to assist state and local governments in the administration of elections by serving as poll workers, whose duties would include setting up voting equipment and greeting voters. Therefore, as part of its oversight, EAC requested that Project Vote –Michigan submit documentation showing that it had met these terms. In addition to the routine oversight conducted by agencies, agencies or their IGs—on their own initiative or by request—may also conduct evaluations of grant programs or specific grantees through audits or program evaluations. Since fiscal year 2005, six of the nine agencies that provided funding to ACORN or potentially related organizations reported that they have conducted or are in the process of conducting additional reviews of federal funds provided to these organizations; the reviews were initiated by congressional requests or third-party complaints.

Administrative requirements for federal grants are set by OMB Circular No. A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*. For monitoring program performance, the circular provides that the federal agency awarding the grant prescribes the frequency at which grantees should submit performance reports. These reports should generally contain information including (1) a comparison of actual accomplishments with goals and objectives established for the period; (2) reasons why goals were not met, if applicable; and (3) other pertinent information. For financial reporting, Circular No. A-110 requires the federal agency awarding the funds to require recipients to use an OMB-approved form to report financial information, such as income, expenditures, and unobligated balances for the reporting period. While agencies must adhere to OMB guidelines, they generally have the flexibility to develop grant monitoring protocols that are tailored to specific grant

¹⁹To avoid duplication of efforts, we did not assess the oversight activities at DHS, DOJ, and HUD for this preliminary report. The IGs for these agencies have reviewed or are in the process of reviewing funding provided to ACORN or potentially related organizations. We plan to include the results of their work and to conduct additional work on oversight as needed in our report to be issued later this year.

programs. The grant monitoring protocols we reviewed generally consisted of a range of oversight mechanisms from which grant program officials could choose, such as reviews of performance reports, reviews of financial reports, desk reviews, or on-site reviews.²⁰ Also, the protocols typically suggest factors to help guide the officials' selection. For example, the protocols may suggest that officials consider the amount of the grant when determining how many resources to put toward oversight. The oversight mechanisms that based on our review, agencies used to monitor the grants to ACORN or potentially related organizations are shown in table 3.

Table 3: Monitoring Activities of Direct Grant Programs Conducted by Agencies, Fiscal Years 2005-2009

| Agency | Grant Program | Grantee | Fiscal Year | Grant Amount | Monitoring Activities | | | | | | | | |
|-------------------------------------|--|---|-------------|--------------|-----------------------|------------------------------|------------------------|------------------------|-------------------|-----------------|------------------|---|---|
| | | | | | On-site review | Review financial information | Review progress report | Interview of officials | Review work plans | Subgrant review | Insurance review | Review documentation of services provided | |
| Neighbor Works | National Foreclosure Mitigation Counseling Program | ACORN Housing Corporation | 2008 | \$25,050,939 | • | • | • | • | • | • | • | • | • |
| Election Assistance Commission | Help America Vote College program - College Poll Worker Grants | Project Vote - Delaware | 2006 | \$16,875 | | | • | | | | | | |
| Election Assistance Commission | Help America Vote College program - College Poll Worker Grants | Project Vote - Michigan | 2006 | \$16,875 | | | • | | | | | | |
| Corporation for Public Broadcasting | Community Service Grant | Arkansas Broadcasting Foundation Inc. (KABF FM) | 2005 | \$37,694 | | | | | | | | | |
| | | | 2006 | \$84,801 | | | | | | | | | |
| | | | 2007 | \$87,388 | | | | | | | | | |
| | | | 2008 | \$77,475 | | | • | | | | | | |
| | | | 2009 | \$81,250 | | | | | | | | | |
| Corporation for Public Broadcasting | Community Service Grant | Agape Broadcasting Foundation Inc. (KNON FM) | 2005 | \$19,508 | | | | | | | | | |
| | | | 2006 | \$115,484 | | | | | | | | | |
| | | | 2007 | \$110,162 | | | | | | | | | |
| | | | 2008 | \$103,839 | | | | | | | | | |
| | | | 2009 | \$97,249 | | | | | | | | | |
| Corporation for Public Broadcasting | Internet Services Acquisition Grant | Arkansas Broadcasting Foundation Inc. (KABF FM) | 2005 | \$15,000 | | | | | | | | | |
| | | | | | | | | | | | | | |
| Corporation for Public Broadcasting | Internet Services Acquisition Grant | Agape Broadcasting Foundation Inc. (KNON FM) | 2005 | \$15,000 | | | | | | | | | |
| | | | | | | | | | | | | | |
| Corporation for Public Broadcasting | Digital Radio Conversion Fund | Agape Broadcasting Foundation Inc. (KNON FM) | 2006 | \$80,000 | | | | | | | | | |

Source: GAO analysis of agency data.

Note: To avoid duplication of efforts, we did not assess the oversight activities at DHS, DOJ, and HUD for this preliminary report. The IGs for these agencies have reviewed or are in the process of reviewing funding provided to ACORN or potentially related organizations. We plan to include the results of their work and to conduct additional work on oversight as needed in our report to be issued later this year.

²⁰ Performance report reviews consist of agency officials reviewing a grantee's reports or working plans on its progress with the grant activities. Financial report reviews consist of reviewing a grantee's financial information, such as expenditure information related to the grant. Desk reviews consist of off-site reviews of documentation related to a grant agreement, such as an insurance policy, budget, and client file reports. On-site reviews consist of agency grant managers and staff visiting a grantee's location to conduct in-person interviews, observe activities that are intended to serve the purposes of the grant, as well as review relevant grant documentation.

When asked what factors they considered when determining which oversight mechanisms to use for these direct grants, agency officials stated that they considered the grant amount and the availability of personnel and resources to conduct oversight. For example:

- NeighborWorks officials stated that they conducted onsite reviews and reviewed extensive documentation regarding ACORN Housing Corporation's use of funds for the National Foreclosure Mitigation Counseling Program (NFMC), where the grant amount exceeded \$25 million.²¹ NeighborWorks officials noted that it is their oversight protocol to conduct on-site reviews when the grant amount exceeds \$10 million or if the grantee's risk rating is higher.²²
- EAC officials stated that given the relatively small amount of the grants (\$16,800 in grants provided to Project Vote in Michigan and Delaware), they decided to review progress reports submitted by the grantees as their primary oversight mechanism.
- CPB officials said that they chose to base their monitoring of the Arkansas Broadcasting Foundation (KABF-FM) and Agape Broadcasting Foundation on self-reported information from the grantees because a provision of the Communications Act of 1934, as amended, limits them to using no more than 5 percent of available funds (which equates to approximately five employees) for administrative expenses, including conducting grant oversight.²³ According to CPB officials, since CPB issues approximately 800 grants annually, it is not feasible for these employees to conduct extensive oversight for many of CPB's grants.

Agency monitoring efforts identified problems with one of the eight direct grants to ACORN or potentially related organizations for which we obtained information on oversight, but these problems have been resolved. Specifically, NeighborWorks, as a result of its on-site monitoring, determined that ACORN Housing Corporation had not submitted the required counseling action plan, which is intended to show the level of counseling services to be provided. However, after NeighborWorks brought this to the attention of ACORN Housing Corporation officials, they subsequently provided the documentation.²⁴ Additionally, after observing multiple housing counseling sessions that were provided under the NFMC program, NeighborWorks recommended that all housing counselors who participate in this program—including those employed by ACORN Housing Corporation—receive additional training.

²¹The Single Audit Act, as amended and implemented through OMB Circular No. A-133, requires states, local governments, and nonprofit organizations expending more than \$500,000 in federal awards in a year to obtain an audit in accordance with the requirements set forth in the act. A Single Audit consists of (1) an audit and opinions on the fair presentation of the financial statements and the Schedule of Expenditures of Federal Awards; (2) gaining an understanding of and testing internal control over financial reporting and the entity's compliance with laws, regulations, and contract or grant provisions that have a direct and material effect on certain federal programs (i.e., the program requirements); and (3) an audit and an opinion on compliance with applicable program requirements for certain federal programs.

²²According to NeighborWorks officials, risk rating factors include size of the award and years of experience, among others.

²³47 U.S.C. § 396(k)(3)(A)(i)(I).

²⁴NeighborWorks officials indicated that documentation was one of the more common issues with this grant program.

NeighborWorks made funding available for this purpose. NeighborWorks officials said that ACORN Housing Corporation and other NFMC grantees have taken advantage of such training, even though they were not required to do so.

In the case of subawards, agencies typically rely on grantees to monitor subgrantees' or subcontractors' use of federal funding, consistent with OMB Circular No. A-110. While not all of the agencies included in our review were able to provide information on any funding awarded to, and oversight conducted of, ACORN or potentially related organizations that were subrecipients of federal funds, EPA, Treasury, NEA, and NeighborWorks were able to provide us with such information. EPA was able to provide information on two subawards associated with its lead poisoning outreach program; Treasury on five subgrants related to its Volunteer Income Tax Assistance (VITA) grant program; NEA on one subgrant associated with its state partnership agreement grant program; and NeighborWorks on seven subgrants associated with the NFMC program.

EPA issued grants in fiscal years 2007 and 2008 to the Ysleta Tribe and the University of Arkansas to promote tribal and community awareness on lead poisoning prevention. These two entities contracted with ACORN and ACORN Arkansas, respectively, to assist in carrying out their responsibilities under this grant program. EPA said that it reviewed the contract work plan and related estimated costs for the ACORN Arkansas subcontractor as one means to help ensure that federal funds were used appropriately. The grantee submitted its work plan, which included a description of the subcontractor's work and costs. For the other subcontract to ACORN, EPA conducted a desk review of the Ysleta Tribe grant, which entailed an assessment of the grantee's administrative and financial systems, including a review of the Ysleta Tribe's contractual services directly related to the project. EPA officials said that they selected these particular oversight mechanisms for ACORN or potentially related organizations because the amount of the subcontracts to these organizations was small (under \$100,000) and EPA generally focuses more of its monitoring attention on larger amounts. EPA concluded that the expenses charged by the subawardees were authorized and allowable and were not questionable costs.

Treasury issued VITA grants in fiscal year 2009 to five grantees—Central New Mexico Community College, Maryland Volunteer Lawyers Service, United Way of the Bay Area, Co-opportunity, Inc., and the Connecticut Association for Human Services to assist, at no cost, low- and moderate-income families in preparing their tax returns. These five grantees awarded subgrants to organizations potentially related to ACORN located in New Mexico, Maryland, California, and Connecticut. Similar to EPA, Treasury officials reported that they reviewed grantees' work plans which identified the subgrantees, and grantees' related expenditures. Treasury officials also stated that the five VITA grantees that provided subgrants to organizations potentially related to ACORN were subject to site reviews as part of a randomly selected sample, as were other program grantees. In addition, according to Treasury officials, one of the five grantees that provided subgrants to organizations potentially related to ACORN was randomly selected for review by the agency's financial reviewer to ensure that funds were used in support of the program; there were no negative findings.

NEA issued a state partnership agreement grant in fiscal year 2009 to the Arkansas Arts Council to support the agency's efforts to make the arts more accessible to Arkansas communities. According to NEA, the Arkansas Arts Council reported that it awarded a subgrant to KABF radio station in partial support of the administrative salaries associated with the station's operations and programming.²⁵ NEA reported that its grantees were required to obtain progress reports and final reports from its subgrantees, which described how the subgrantees used funding to achieve the purposes of the grant program. According to NEA, the Arkansas Arts Council official stated that it reviewed the subgrantee's final report and conducted site-visits of the radio station and did not have negative findings related to the subgrant. In addition, an NEA official stated that NEA reviewed the Arkansas Arts Council's final report as well as the subgrantee's final program and budget report which included a description of the subgrantee's work and budget information, and did not identify any problems with the subgrant.

NeighborWorks issued NFMC grants in fiscal year 2008 to seven state finance agencies—located in California, Connecticut, Florida, Minnesota, Missouri, New York, and Pennsylvania—to provide counseling services to individuals facing foreclosure. According to NeighborWorks, these agencies awarded subgrants to ACORN Housing Corporation and NY ACORN Housing Corporation, which then provided the counseling services. NeighborWorks officials stated that all seven state finance agencies were subject to on-site and desk reviews. In addition, some of their subgrantees were randomly selected for on-site or desk reviews. Although ACORN Housing Corporation and NY Housing Corporation were not the subgrantees that were randomly selected, NeighborWorks officials reported that they reviewed progress reports submitted by each of the state finance agencies, which included information on all of their subgrantees. NeighborWorks officials reported that, based on these progress reports, there were no negative findings related to ACORN Housing Corporation and NY ACORN Housing Corporation's use of the NFMC grant funds.

In addition to their routine grant oversight, all six of the agencies included in our review that have provided funding directly to ACORN or potentially related organizations since fiscal year 2005 have initiated either IG or internal reviews of these organizations' use of federal funds in response to congressional requests or at the agency's own initiative. The DOJ IG completed its review in November 2009 and the CPB, DHS, EAC, and HUD IG reviews, as well as the NeighborWorks review, were ongoing as of May 24, 2010. Table 4 includes the information we obtained from these agencies regarding their reviews.

²⁵ The Arkansas Arts Council made a payment to KABF in February 2009 as part of the operating support grant to KABF that included the \$5,853 in NEA funds. Officials stated that all subsequent payments to KABF were made with state funds.

Table 4: Completed and Ongoing Agency Reviews of Funding to ACORN or Potentially Related Organizations, Fiscal Years 2005 through 2009

| Agency | Scope of Review | Status of Review |
|---------------|---|--|
| DOJ | DOJ IG responded to a congressional request to review whether the agency provided grants to ACORN or ACORN affiliates. It examined whether ACORN or ACORN affiliates applied or received federal funds through DOJ-administered grant programs, the controls in place on the use of grant funds awarded to ACORN or ACORN affiliates, and whether DOJ had conducted any reviews or audits of these funds. DOJ IG did not evaluate the sufficiency of the oversight mechanisms DOJ used to monitor grant funds awarded to ACORN or ACORN affiliates. | Completed DOJ IG found that ACORN and its affiliates received one direct grant and four subawards from DOJ for fiscal years 2002 through 2009. The IG reported that the DOJ component that issued the direct grant—the Office of Justice Programs—had received progress reports and financial status reports from ACORN or potentially related organizations but had not conducted audits, financial reviews, or on-site reviews of funds provided to ACORN or potentially related organizations. |
| CPB | CPB IG initiated an audit of two grants awarded to one ACORN or potentially related organization based on a complaint to the IG hotline. Subsequently it initiated a second audit of another ACORN or potentially related organization that received three grants. | Ongoing |
| DHS | DHS IG responded to a congressional request by initiating a review of the appropriateness of federal assistance the agency provided to ACORN and the agency's oversight mechanisms, including mechanisms under the American Recovery and Reinvestment Act of 2009, to determine whether funds provided to ACORN were misappropriated. ^a | Ongoing |
| EAC | EAC IG responded to a congressional request by initiating an audit involving two grants awarded to two ACORN or potentially related organizations. | Ongoing |
| HUD | HUD IG responded to congressional and agency requests in 2009 by initiating a review of the following: (1) funding ACORN has received from the agency, including American Reinvestment and Recovery Act of 2009 ^a funds, and (2) grants awarded to ACORN by the Healthy Homes and Lead Hazards Office within HUD. | Ongoing |
| NeighborWorks | NeighborWorks responded to a congressional request and a New York Times article on ACORN funding by initiating reviews of an ACORN or potentially related organization. | Ongoing |

Source: GAO analysis of information on agencies' completed and ongoing audits of funding to ACORN or potentially related organizations.

^a American Reinvestment and Recovery Act of 2009, Pub. L. No. 111-5, 123 Stat. 115.

DOJ and the FEC Reported Results of Matters, Investigations, and Cases Involving Allegations of Voter Registration and Election Fraud Related to ACORN, Several Potentially Related Organizations, or Their Employees

Distinct from routine grant oversight and monitoring efforts, which are intended to assess whether grantees are meeting the purposes of the grant program and spending funds appropriately, federal agencies may also conduct investigations of an organization or an employee of an organization to determine whether the organization or employee violated federal law. In the closed matters, closed investigations, and prosecutions since fiscal year 2005 provided by the FEC, the FBI, and EOUSA, ACORN and four potentially related organizations (Project Vote, Citizens Consulting, Inc., Citizen Services Inc., and SEIU Local 100) or their employees were involved to varying degrees in the investigated allegations, as detailed in the tables below. The allegations involved generally related to voter registration fraud and election fraud. IGs can also conduct investigations to determine whether an organization or individual violated federal law. However, of the

31 IGs that we contacted, 29 stated that they had no ongoing or closed investigations of ACORN or potentially related organizations since fiscal year 2005.²⁶ Officials from TIGTA stated that they could not comment on whether their office had conducted any investigations of any ACORN or potentially related organizations since 2005 because section 6103 of the Internal Revenue Code prohibits the disclosure of taxpayer information by the Internal Revenue Service, except in specifically enumerated circumstances.²⁷ The HUD IG's Office of Investigations declined to comment on whether it had any open or closed investigations involving ACORN or potentially related organizations.

The FEC identified four closed matters that involved allegations that ACORN or potentially related organizations violated the Federal Election Campaign Act.²⁸ For each of these matters, the FEC determined that there was no evidence that such violations occurred. These matters are summarized in table 5.

²⁶The IG for the National Endowment for the Humanities responded for its agency and for the Institute for Museum and Library Services, as it is responsible for both agencies.

²⁷This section specifies which agencies (or other entities) may have access to certain types of tax return information, for what purposes such access may be granted, and under what conditions the information will be received. While GAO has access to taxpayer information in certain circumstances, those circumstances did not apply to this engagement.

²⁸Federal Election Campaign Act of 1971, Pub. L. No. 92-225, 86 Stat. 3 (1972), as amended.

Table 5: FEC Matters Opened since Fiscal Year 2005 That Involve ACORN or Potentially Related Organizations

| ACORN or Potentially Related Organization | Matter No. | Matter summary | Outcome |
|---|--------------|--|---|
| ACORN | MUR no. 5820 | A complaint was filed with the Federal Election Commission alleging that ACORN and Project Vote violated the registration requirements for political committees under the Federal Election Campaign Act and Federal Election Commission regulations. The complaint stated that based upon publicly available information found on ACORN's web site, depositions and exhibits filed in the federal case <i>Mac Stuart v. ACORN</i> , and press coverage of ACORN and affiliated organizations, there was reason to believe that Acorn and Project Vote failed to file the independent expenditure reports required by 2 U.S.C. § 434(c). The complaint further alleged that ACORN and Project Vote received contributions or made expenditures for which the aggregate value was in excess of \$1,000 during a calendar year without registering as political committees under the Act. | The Commission found no reason to believe that ACORN or Project Vote failed to register as a political committee and failed to file disclosure reports, in violation of 2 U.S.C. §§ 433 and 434(a). |
| Project Vote | | | |
| ACORN | MUR no. 5843 | A complaint was filed with the Federal Election Commission alleging that ACORN violated the registration requirements for political committees under the Federal Election Campaign Act and Federal Election Commission regulations. The complaint stated that based upon publicly available information (including documentary video footage of ACORN employees) and press reports, there was reason to believe that ACORN, and its affiliated entity "Give Missourians a Raise, Inc.," failed to file the independent expenditure reports required by 2 U.S.C. § 434(c). The complaint further alleged that ACORN and Give Missourians a Raise, Inc. received contributions or made expenditures aggregating in excess of \$1,000 during a calendar year without registering as political committees under the Act. | The Commission voted to dismiss the allegations that ACORN failed to register as a political committee and failed to file disclosure reports, in violation of 2 U.S.C. §§ 433 and 434(a). |
| ACORN | MUR no. 5859 | A complaint was filed with the Federal Election Commission alleging that ACORN illegally coordinated with the campaign committee of Lois Murphy. The complaint alleged this activity was in violation of FEC regulations regarding endorsements of organizations. | The Commission found no reason to believe that ACORN violated 2 U.S.C § 441(b). |
| ACORN | MUR no. 5970 | A complaint was filed with the Federal Election Commission alleging that the Donna Edwards for Congress Committee received substantial monetary assistance by way of unreported, in-kind contributions from organizations who professed to have operated independently of the Edwards campaign. | The Commission found no reason to believe that the respondents violated the Federal Election Campaign Act. |
| Citizens Consulting Inc. | | | |
| Citizens Services Inc. | | | |
| SEIU Local 100 | | | |

Source: GAO analysis of matter information provided by the FEC.

EOUSA and the FBI identified six closed investigations, most concerning allegations of voter registration fraud on the part of ACORN employees. Of the six investigations, all were closed without federal prosecutorial action for reasons such as lack of, or insufficiency of, evidence. These investigations are summarized in table 6.

Table 6: EOUSA and FBI Investigations Opened since Fiscal Year 2005 That Involve ACORN or Potentially Related Organizations or Their Employees

| Date when the investigation was closed | Allegations | Outcome |
|--|---|--|
| 2006 | The FBI investigated allegations that a person identified as being affiliated with ACORN procured or submitted false voter registration applications. | The FBI referred the case to the USAO, which declined to proceed with federal criminal prosecution due to insufficient evidence. |
| 2007 | The FBI investigated allegations that employees of ACORN were registering non-U.S. citizens to vote. The voter registration manual that ACORN employees used was developed by Project Vote. | The FBI referred the case to the USAO, which declined to proceed with a federal criminal prosecution due to insufficient evidence. |
| 2008 | The FBI investigated allegations that subjects affiliated with ACORN provided false information regarding a voter registration drive. | The FBI referred the case to the USAO which declined to proceed with federal criminal prosecution due to pending criminal charges in a state jurisdiction. |
| 2008 | FBI Investigation involving ACORN and false voter registration documents. | The matter was referred to the USAO which declined to proceed, with federal criminal prosecution due to insufficient evidence. |
| 2009 | The FBI investigated allegations of voter registration fraud by employees of ACORN. | The FBI closed the investigation without action due to lack of evidence of a violation of state or federal election laws. |
| 2009 | FBI Investigation involving ACORN and allegations of possible violation of section 2 of the Voting Rights Act, 42 U.S.C. § 1973. | The matter was referred to the USAO which declined to proceed with federal criminal prosecution and referred the matter to local district attorney. |

Source: GAO analysis of investigations provided by the FBI and EOUSA of ACORN or potentially related organizations.

Note: The information presented in this table represents the information DOJ provided us as of May 26, 2010.

EOUSA identified six closed cases that involved employees of ACORN. The charges filed did not allege wrongdoing by ACORN or any potentially related organizations. The six cases generally involved alleged voter registration fraud; all but one of these cases resulted in a guilty plea by the defendant. These cases are summarized in table 7.

Table 7: Federal Cases Filed since Fiscal Year 2005 That Involve ACORN or Potentially Related Organizations

| Case name | Case summary | Outcome |
|--|---|---|
| United States v. Franklin No. 06-0377 (W.D. Mo.) | The defendant was charged in an indictment filed November 1, 2006 with two counts of voter registration fraud in violation of 42 U.S.C. §§ 1973i(c), 1973gg-10 and 18 U.S.C. § 2. The indictment alleged that ACORN and Project Vote recruited and assigned workers to visit low-income and minority neighborhoods in Kansas City, Mo to obtain voter registrations and train workers on properly obtaining and preparing voter registration applications. The indictment further alleged that the defendant worked for ACORN as a voter registration recruiter and that the defendant knowingly submitted voter registration applications with false information. | The defendant pleaded guilty to one count of voter registration fraud and was sentenced to a term of probation for 1 year and ordered to pay an assessment of \$100. |
| United States v. Gardner No. 06-0378 (W.D. Mo.) | The defendant was charged in an indictment filed November 1, 2006 with two counts of voter registration fraud in violation of 42 U.S.C. §§ 1973i(c), 1973gg-10 and 18 U.S.C. § 2. The indictment alleged that ACORN and Project Vote recruit and assign workers to visit low-income and minority neighborhoods in Kansas City, Mo to obtain voter registrations and train workers on properly obtaining and preparing voter registration applications. The indictment further alleged that the defendant worked for ACORN as a voter registration recruiter and that the defendant knowingly submitted voter registration applications with false information. | The defendant pleaded guilty to one count of voter registration fraud and was sentenced to a term of probation for one year and ordered to pay an assessment of \$100. |
| United States v. Stenson No. 06-385 (W.D. Mo.) | The defendant was charged in an indictment filed November 1, 2006 with two counts of voter registration fraud in violation of 42 U.S.C. §§ 1973i(c), 1973gg-10 and 18 U.S.C. § 2. The indictment alleged that ACORN and Project Vote recruit and assign workers to visit low-income and minority neighborhoods in Kansas City, Mo to obtain voter registrations and train workers on properly obtaining and preparing voter registration applications. The indictment further alleged that the defendant worked for ACORN as a voter registration recruiter and that the defendant knowingly submitted voter registration applications with false information. | The defendant pleaded guilty to one count of voter registration fraud and was sentenced to a term of imprisonment of four months and two days, a term of supervised release of two years, and ordered to pay an assessment of \$100. |
| United States v. Davis No. 06-0374 (W.D. Mo.) | The defendant was charged in an indictment filed November 1, 2006 with two counts of voter registration fraud in violation of 42 U.S.C. §§ 1973i(c), 1973gg-10 and 18 U.S.C. § 2. The indictment alleged that ACORN and Project Vote recruit and assign workers to visit low-income and minority neighborhoods in Kansas City, Mo to obtain voter registrations and the organizations train workers on properly obtaining and preparing voter registration applications. The indictment further alleged that the defendant worked for ACORN as a voter registration recruiter and that the defendant knowingly submitted voter registration applications with false information. | The government's motion to dismiss was granted because the defendant asserted that she was not the one who committed the acts charged but that someone had used her identity without authorization, which the government found to be true. |
| United States v. Bland No. 07-0763 (E.D. Mo.) | Eight defendants were charged in an indictment filed on December 20, 2007 with two counts each of voter registration fraud in violation of 42 U.S.C. §§ 1973i(c), 1973gg-10 and 18 U.S.C. § 2. The indictment alleged that ACORN and Project Vote recruited workers to obtain voter registrations in the City of St. Louis and St. Louis County and trained them in how to properly obtain registration applications. It further alleged that the defendants were employed by ACORN to obtain voter registration and that defendants knowingly submitted voter registration applications with false information. | All eight defendants entered guilty pleas. Defendants received a variety of sentences ranging from, for example, a term of probation for one year and an assessment of \$100.00; time served and a term of supervised release of two years; and imprisonment for a term of six months with a term of probation for two years and a term of supervised release of twelve months. |
| United States v. Davis No. 07-0010 (W.D. Mo.) | The defendant was charged in an indictment filed January 5, 2007 with four counts, including voter registration fraud, identification fraud, and Social Security fraud, in violation of 42 U.S.C. §§ 408(a)(7)(B), 1973i(c), 1973gg-10 and 18 U.S.C. §§ 2, 1028(a)(7). The indictment alleged that the defendant falsely represented her Social Security identification for the purposes of obtaining employment with ACORN and Project Vote. Further, the indictment alleged that ACORN and Project Vote recruit and assign workers to visit low-income and minority neighborhoods in Kansas City, Mo to obtain voter registrations and the organizations train workers on properly obtaining and preparing voter registration applications. The indictment further alleged that the defendant worked for ACORN as a voter registration recruiter and that the defendant knowingly submitted voter registration applications with false information. | The defendant pleaded guilty to one count of voter registration fraud and was sentenced to a term of imprisonment of time served, a term of supervised release of 2 years, and ordered to pay an assessment of \$100. |

Source: GAO analysis of matter and case information provided by the EOUSA and court documents.

Note: We identified an additional case where the original indictment indicated that the defendant was employed by ACORN, however, the superseding information stated that the defendant was employed by another not-for-profit organization. Therefore, we did not include this case in our report.

Agency Comments, Third Party Views and Our Evaluation

We provided a draft of this report to the nine agencies that awarded funding to ACORN and potentially related organizations (CPB, DHS, DOJ, EAC, EPA, HUD, NEA, Treasury, and NeighborWorks) for review and comment. In addition, we requested comments from ACORN and Affordable Housing Centers of America (AHCA), formerly ACORN Housing Corporation, because federal agencies reported that AHCA received the most federal funding of potentially related ACORN organizations included in our report. Lastly, we sent OMB an excerpt of the draft report related to its efforts to track subaward information.

Five of the federal agencies—DOJ, HUD, NEA, Treasury and NeighborWorks—did not provide formal written comments to be included in this report, but instead provided technical comments, which we incorporated as appropriate. In an email received June 8, 2010, the EPA liaison stated that EPA had no comments on the report and on June 9, 2010, CPB and DHS’s liaisons said that their agencies had no comments on the report. In an email received June 9, 2010, EAC’s Director indicated that the draft report accurately reflected the agency’s grants to Project Vote and their management, and had no further comments. We received comment letters from ACORN and AHCA, as well as Project Vote, which are reproduced as enclosures III, IV, and V. ACORN and AHCA’s letters also include technical comments, which we incorporated as appropriate. On June 14, 2010, OMB provided a memorandum that describes its recent efforts to ensure that federal agencies are tracking funding that is disbursed through subawards.

Project Vote raised concerns about our characterization of certain organizations as “ACORN Organizations;” ACORN and Project Vote raised concerns about our discussion of whether an organization versus its employees were the subject of a federal investigation or prosecution; and ACORN and AHCA raised concerns about our reference to the videotapes that depicted what appeared to be inappropriate behavior by employees of several local ACORN chapters, and AHCA clarified information on its use of federal funding. These comments and our responses are discussed in greater detail below.

Project Vote was concerned that our use of the term “ACORN organizations” implied that it was affiliated with ACORN and that this would have a negative impact on the organization, given concerns recently raised about ACORN. As discussed in the report (1) our use of the term “ACORN organizations” was to encompass the national ACORN office and other organizations identified by the Congressional Research Service as having a potential relationship with ACORN; (2) we have not yet made a determination as to whether these organizations are affiliates or subsidiaries of ACORN, but plan to do so in our final report; and (3) any such determination in our final report would not be controlling on other federal agencies, which have primary responsibility for interpreting their own applicable appropriations statutes. In addition, because this report constitutes our preliminary observations, we also replaced the term “ACORN organizations” with “ACORN or potentially related organizations” throughout our report.

In terms of ACORN’s and Project Vote’s concerns about discussions regarding their organizations and employees as the subjects of federal voter registration fraud investigations and prosecutions, ACORN maintains that its employees, and not the organization, were subjects. Based on information we received from DOJ, we clarified the report as necessary to reflect that ACORN employees were the subjects of four of the six investigations and all six prosecutions; we cannot determine the subjects of the remaining two investigations, based on the information DOJ provided us. Based on DOJ information, we also clarified our report to reflect that neither Project Vote nor its employees were alleged to have committed wrongdoing but the

organization was referenced in these investigations or prosecutions. In terms of the prosecutions, both ACORN and Project Vote were mentioned in the indictments as having recruited and assigned workers to low-income and minority neighborhoods to obtain voter registrations and as having trained workers on properly obtaining and preparing voter registration applications. In one investigation, Project Vote was also referenced as producing the voter registration manual that the ACORN employees used. However, only ACORN employees were the subjects of the prosecutions. According to ACORN and Project vote officials, the organizations provided information to local election officials that helped initiate prosecutions against their employees who may have been involved in voter registration fraud. We are working to verify this information and will include the results of our efforts in our final report on ACORN to be issued later this year. ACORN and Project Vote officials also stated that they have a comprehensive quality control system in place designed to identify voter registration fraud.

In terms of our reference to the videotapes, ACORN and AHCA raised concerns that we excluded the results of some of the state and local investigations that have been completed to date regarding the legality of the employees' conduct. For example, these organizations stated that both the California Attorney General and the Brooklyn District Attorney determined that there was no illegal action by any employees shown on the videotapes. While we briefly acknowledge the videotape incident because it generated public and congressional interest in ACORN and potentially related organizations' use and oversight of federal funds, the incident was not the subject of our review. AHCA also noted in its comments that ACORN Housing Corporation returned and did not spend funding it received from several of the states that provided grants through the CDBG program, namely California, Florida, and Missouri. In our report, we were to account for all those ACORN and potentially related organizations that federal agencies identified as having been awarded direct grants and subgrants. Thus, we included these three AHCA grants but have revised our report to note that not all funds awarded may have been spent.

In addition, both DOJ and ACORN stated, and we subsequently confirmed, that Metro Technical Institute, Inc. located in Michigan, whose employee was the subject of a prosecution, is not related to ACORN. Another organization with the name of Metro Technical Institute, Inc. located in Louisiana that may have been affiliated with ACORN—given that it shared common board members with ACORN—went out of business in 1995. Therefore, we removed the reference to the case that involved an employee of Metro Technical Institute, Inc. from our report.

We are sending copies of this report to the appropriate congressional committees. We are also sending copies to the nine agencies within the scope of our preliminary work that identified funding to ACORN organizations—the Corporation for Public Broadcasting the Department of Homeland Security, the Department of Justice, the Election Assistance Commission, the Environmental Protection Agency, the Department of Housing and Urban Development, the National Endowment for the

Arts, the Department of the Treasury, and NeighborWorks. This report also is available at no charge on our Web site at <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-8777 or larencee@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Kristy Brown, Assistant Director; Denton Herring; Brandon Jones, Monica Kelly; Julian King; Amanda Miller; Robert Robinson; Janet Temko; Adam Vogt; and Su Jin Yon.

A handwritten signature in cursive script that reads "Eileen R. Larence". The signature is written in black ink and is positioned above the printed name and title.

Eileen R. Larence
Director, Homeland Security and Justice Issues

Enclosures

Enclosure I

List of Requesters

The Honorable Daniel K. Inouye
Chairman

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate

The Honorable Barbara A. Mikulski
Chairman

The Honorable Richard C. Shelby
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable David R. Obey
Chairman

The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable Lamar S. Smith
Ranking Member
Committee on the Judiciary
House of Representatives

The Honorable Alan B. Mollohan
Chairman

The Honorable Frank R. Wolf
Ranking Member

Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
House of Representatives

The Honorable Darrell E. Issa
Ranking Member

Committee on Oversight and Government Reform
House of Representatives

The Honorable Lamar Alexander

The Honorable John A. Barrasso

The Honorable Sam Brownback

The Honorable Saxby Chambliss

The Honorable Thomas A. Coburn

The Honorable Susan M. Collins

The Honorable Michael D. Crapo

The Honorable Richard J. Durbin

The Honorable Lindsey O. Graham

The Honorable Orrin G. Hatch

The Honorable Kay Bailey Hutchinson

The Honorable James M. Inhofe

The Honorable John H. Isakson

The Honorable Mike O. Johanns

The Honorable Richard G. Lugar

The Honorable Charles P. Roberts

The Honorable John R. Thune

The Honorable George V. Voinovich

The Honorable Roger F. Wicker

United States Senate

The Honorable Rush D. Holt
House of Representatives

Enclosure II

Federal Agencies That Provided Information on Funding to ACORN or Potentially Related Organizations

We included the agencies in figure 1 below in the scope of our work because we believed they might have provided funding to an Association of Community Organizations for Reform Now (ACORN) or potentially related organization from fiscal years 2005 through 2009.²⁹ All but one agency met at least one of the following criteria: the agency/entity (1) is an executive department that was prohibited by provisions in its fiscal year 2010 appropriations statute from providing funding to ACORN or ACORN-related entities, (2) received a request from members of Congress for information related to ACORN, or (3) is included by grants.gov as a federal granting agency. One entity (the Corporation for Public Broadcasting) was included that had initiated ACORN work because of a third-party complaint.

²⁹For the purposes of this report, we use the term federal “agency” to encompass federal entities that include selected federal executive departments, independent agencies, and nonprofit entities created by law, such as the Corporation for Public Broadcasting and NeighborWorks.

Figure 1: Federal Agencies That Provided Information on Funding to ACORN or Potentially Related Organizations

| Federal Agency | Included in ACORN funding restriction provisions | Congressional Review requested | Included in Grants.gov |
|--|--|--------------------------------|------------------------|
| Agriculture | | | ● |
| Commerce | ● | | ● |
| Corporation for National and Community Service | | ● | ● |
| Corporation for Public Broadcasting | | | |
| Defense | ● | | ● |
| Education | ● | | ● |
| Election Assistance Commission | | ● | ● |
| Energy | | | ● |
| Environmental Protection Agency | | | ● |
| Federal Election Commission | | ● | |
| Homeland Security | | ● | ● |
| Health and Human Services | ● | | ● |
| Housing and Urban Development | ● | ● | ● |
| Institute of Museum and Library Service | | | ● |
| Interior | ● | | ● |
| Justice | ● | ● | ● |
| Labor | ● | ● | ● |
| National Aeronautics and Space Administration | | | ● |
| National Archives and Records Administration | | | ● |
| National Endowment for the Arts | | | ● |
| National Endowment for the Humanities | | | ● |
| National Science Foundation | | | ● |
| NeighborWorks | | ● | |
| Nuclear Regulatory Commission | | | ● |
| Small Business Administration | | ● | ● |
| Social Security Administration | | | ● |
| State | ● | | ● |
| Department of Transportation | ● | | ● |
| Department of Treasury | ● | ● | ● |
| United States Agency for International Development | | | ● |
| Department of Veterans Affairs | ● | | ● |

Source: GAO analysis based agency information.

Enclosure III: Comments from Association of Community Organizations for Reform Now (ACORN)



SCHWARTZ, LICHTEN & BRIGHT PC
Attorneys at Law

275 Seventh Avenue Suite 1700
New York, New York 10001
Phone 212 228 6320 Facsimile 212 358 1353

Arthur Z. Schwartz*
Stuart Lichten
Daniel R. Bright

*Also admitted in Pennsylvania
and the District of Columbia

June 09, 2010

To: Monica Kelly (KellyM@gao.com)
cc: BrownKN@gao.gov
LavenceE@gao.gov
TemkoJ@gao.com

From: Arthur Z. Schwartz, General Counsel, ACORN

Re: Report on ACORN
GAO-10-648R

COMMENTS TO DRAFT
REPORT FROM ACORN

1. In your second paragraph, as a useful point of reference, you might state that in 2008 ACORN employed over 13,000 people and had an income and expenses of over \$40 million (we can supply back-up if necessary)
 2. In the second paragraph you refer to the tapes. We believe that you should add a footnote that the "two prosecutorial authorities who have investigated the events depicted on the tapes, the Brooklyn District Attorney and the California Attorney General (which we attach and can be found on online at ag.ca.gov/cms_attachments/press/pdfs/n1888_acorn_report.pdf), found no criminal activity on the part of ACORN's employees."
 3. Metro Technical Institute: On page 27, on Table 7 (a matter referenced on several previous pages) you discuss the prosecution of the Director of the Metro Technical Institute. While there was, many, many years ago, an entity called Metro Technical Institute, which had some association with ACORN, that entity was defunct well before 2005. I called the Metro Technical Institute on Oak Park, Michigan, which was the entity involved in *United States v. Zimmerman*, and they didn't know who or what ACORN was.
- ROSS Grants
4. In Table 1: our records show that no HUD ROSS grants went directly to ACORN National. They went to the ACORN Institute or the NY Agency for Community Affairs.
 5. Election-Related Matters

- On page 10 you discuss “cases related to voter registration fraud ‘for six ACORN organizations’.” We believe that these investigations are more accurately described as “cases related to voter registration fraud allegedly engaged in by former employees of six ACORN organizations.” In every case investigated by the DOJ and FBI, ACORN and its associated groups were not targets. ACORN, in fact, usually was the party which identified possible cases of fraud and turned the registrations in question over to local election officials. Employees who committed such fraud also defrauded ACORN as an employer because they did not carry out the work that that had been hired to do.
- Similarly, after table 5, you refer to EOUSA and FBI identifying seven closed investigations “involving an ACORN organization.” We think that it is more accurate to call these investigations “involving former ACORN employees.” It would also be appreciated if you would add a sentence here similar to the following Table 6 to the effect that “no case alleged wrong doing by the organization”
- In Table 6, there is an “outcome” of a 2008 FBI investigation which states “All subjects were sentenced.” That could be read as including ACORN, the entry would be better phrased as “All individuals involved were sentenced.”

It is our hope that GAO’s final draft will reflect these comments.

Enclosure IV: Comments from Affordable Housing Centers for America (formerly ACORN Housing Corporation)



June 9, 2010

Response of Affordable Housing Centers of America to GAO's Report entitled "Preliminary Observations on Funding, Oversight, and Investigations and Prosecutions of Organizations Related to ACORN"

Affordable Housing Centers of America, formally known as ACORN Housing Corporation, has comments on two aspects of the GAO's "Preliminary Observations ... Related to ACORN."

At the outset, on page 1, the GAO report refers to "widely distributed videotapes depicting what appeared to be inappropriate behavior by employees of several local ACORN chapters." This passing reference to the videotapes does not mention facts that should be included. The videotapes and surrounding conduct were reviewed by the Brooklyn District Attorney's Office and the California Attorney General's office. Both the Brooklyn District Attorney and the California Attorney General found that there was no illegal action by any employees shown on the videotapes. For instance, referring to the California employees, the California Attorney General reported on page 16 of his April 1, 2010 report, "Based on all the evidence now known, none of these employees said or did anything that was, in light of all the circumstances, illegal." The GAO's report should reflect the finding of the California Attorney General that the videotapes released to the public were heavily edited, so much so that the truth remained on the cutting room floor, rather than in the highly publicized tapes. The GAO should record that one of ACORN Housing's employees in Philadelphia called the police rather than cooperate with the woman and man pretending to be a prostitute and her boyfriend. Finally, the GAO report should reflect that James O'Keefe, who was responsible for creation of the videotapes and was a principal actor in them, was recently arrested for an apparent attempt to wiretap the office phones of United States Senator Mary Landrieu. Mr. O'Keefe pled guilty and was convicted on a charge of unlawfully entering federal property.

Pages 14 and 16 of the GAO report describes funding from NeighborWorks and HUD that resulted in sub awards to ACORN Housing Corporation. In fact, the money from several of the sub awards was not spent. ACORN Housing Corporation returned all or parts of the NeighborWorks sub awards received from California, Florida, and Missouri and did not receive payment from some of the sub awards of CDBG funds. The fact that an award was made does not mean that ACORN Housing Corporation received and spent the money.

209 W. Jackson Blvd., Suite 301 • Chicago, Illinois 60606 • 312.939.1611

Enclosure V: Comments from Project Vote



Monica Kelly
United States Government Accountability Office

June 9, 2010

Re: Draft ACORN Oversight and Investigation Report

Dear Ms. Kelly:

I am Senior Counsel with Project Vote. Project Vote is one of the organizations the above captioned report (ACORN report) has designated as related to ACORN. Project Vote would like you to make two changes to the draft report. Project Vote objects to the use of the overly broad term "ACORN organizations" throughout the report. Project Vote also disputes the allegation that Project Vote employees were investigated and/or prosecuted for voter registration fraud.

The use of "ACORN organizations" throughout the report leaves the impression that all the organizations mentioned in the report are part of one organization and subservient to or controlled by ACORN, which is not true. Project Vote is and always has been a completely separate organization from ACORN. Project Vote is a 501(c)(3) organization incorporated in Louisiana in 1994. Its Board is separate from and independent of ACORN and ACORN has no right to appoint or hold any of the Board positions. Prior to July 2008, Project Vote shared one employee with ACORN, which is one of the reasons why they were designated as "affiliated" with ACORN in some reports. Subsequent to July 2008, Project Vote could not be considered "affiliated" with ACORN under any definition of the term. Project Vote currently has no relationship with ACORN except as legal counsel where ACORN is the plaintiff and in conjunction with ongoing inquiries about our joint voter registration drives in 2007-2008.

While the report does state that you intend the term "ACORN organizations" to also include organizations that are related to ACORN or only share a common mission, the use of "ACORN organizations" implies much more. Currently the unfounded and malicious attacks on ACORN have made being linked with ACORN a liability and claiming that Project Vote is an "ACORN organization" is actually defamatory. The term will be used by organizations that want to attack Project Vote by claiming the GAO report has concluded that Project Vote is an "ACORN organization." Therefore, Project Vote requests that the report use the term "ACORN and other CRS identified organizations", which does not overtly confuse the relationship between Project Vote and ACORN. We particularly believe that this is warranted based on the statement on page 3 of the report that the determination of affiliates and subsidiaries has not been made yet (Project Vote would like to provide any documentation you need to make this decision correctly).

Page 24 of the report states: "FBI, FEC and EOUSA reported that employees for 6 of the organizations (ACORN, Project Vote, CCCI, CSI, SEIU and Metro Tech Inst) or their employees have been the subject matter of investigations or prosecutions since fiscal year 2005." To the extent this implies that any Project Vote employees were subject to federal investigations or

737 1/2 8th Street SE • Washington, DC 20003
1-800-546-8683 • www.projectvote.org

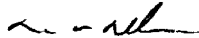
prosecutions, Project Vote disputes that. Project Vote did not employ any of the canvassers, or state and local managers or supervisors in any of the drives, these positions were all filled by ACORN employees. Table 7 also erroneously implies that the canvassers charged in the cases on lines 2-6 were Project Vote employees. They were not. Project Vote requests that the report not state that Project Vote employees were under investigation and that you remove references to Project Vote from lines 2-6 in Table 7.

In addition, Project Vote believes that the report should reflect the fact the ACORN and Project Vote voter registration programs included a comprehensive quality control system designed to catch and flag voter registration fraud. The procedure was effective, turning over hundreds of suspicious applications and identifying numerous canvassers that collected suspicious applications. This information was given to election officials and was instrumental in a number of the prosecutions of canvassers cited in the report.

Finally, Project Vote was not aware of all the investigations of ACORN listed in Table 6 and would greatly appreciate it if, outside the context of these comments, you can provide me with more detail about them, even if it is only the jurisdictions where the investigations occurred.

Thank you for your consideration of these comments, please feel free to email me or call me if you have any questions or would like additional information

Sincerely,



Brian Mellor
Senior Counsel
202 -553- 4317
bmellor@projectvote.org

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