Appendix D

NAPCA Response to Draft Report

NATIONAL ASIAN PACIFIC CENTER ON AGING

Leading the Way to Serve API Elders

NAPCA RESPONSE TO THE ASSISTANT INSPECTOR GENERAL'S REPORT

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September 24, 2008

Mr. Ray B. Armada
Assistant Regional Inspector General for Audit
U.S. Department of Labor, Office of Inspector General
90 7th Street, Suite #02-750
San Francisco, CA 94103

Dear Mr. Armada:

This is in response to the performance audit conducted by your staff as a result of a hotline complaint alleging that officials of the National Asian Pacific Center on Aging (NAPCA) allowed one of its host agencies, the Royal Cultural Foundation (RCF) to commit wrongdoing regarding participants in the Senior Community Service Employment Program (SCSEP). As you are aware, NAPCA is one of several national non-profit organizations that is competitively awarded a grant by the Employment and Training Administration (ETA) to administer SCSEP. SCSEP grant recipients provide community service training for low-income persons aged 55 and older who have poor employment prospects.

NAPCA feels that the scope of this audit, from 1994 through 2007, a period of 14 years, is an extraordinarily long period to review for an audit. It is doubtful that all pertinent records would remain intact over a 14 year span due to human error as well as a U.S. Department of Labor record retention policy that requires that records be retained only 3 years after a program year is closed.

Secondly, through changes in the Older Americans Act (OAA) law and SCSEP regulations, the SCSEP program has evolved from one of basic community service assignments to a program focused much more on training and unsubsidized employment. NAPCA will demonstrate the OIG inaccurately applied May, 2004 DOL regulations, to preceding program years, holding NAPCA to an incorrect standard.

NAPCA disputes several of the OIG findings based on OAA laws and regulations that had not even been written when the alleged findings are said to have occurred. NAPCA should not be held accountable for charges resulting from future laws and regulations, and in some cases, misunderstandings of SCSEP program stipulations.

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In the Executive Summary, the OIG's audit objectives are to determine:

1. Did the RCF Executive Director abuse SCSEP by enrolling ineligible participants and not providing actual job training?

2. Did NAPCA officials allow the alleged abuse to occur in exchange for monetary payments?

3. Did NAPCA's oversight of SCSEP provide reasonable assurance that enrollment and training requirements were met?

The OIG states Results of the above objectives. In Result 1, the OIG states that, "The RCF (Royal Cultural Foundation), Executive Director enrolled four ineligible participants in SCSEP during program years (PYs) 1994-2005. The four participants included the RCF Executive Director's mother and father and two individuals that worked for RCF in non-SCSEP positions."

NAPCA disputes this entire allegation based on the following: 1) the four participants' files contained eligibility documentation demonstrating they were eligible to be enrolled in the SCSEP program and at that time, did not have to be unemployed as the OIG alleges; 2) host agencies do not enroll or assign participants as the allegation states; 3) the Executive Director of RCF at the time of each of the 4 participant's assignment to the host agency was [redacted] who was no relationship to any of the 4 participants assigned to RCF. Therefore, it is inaccurate and misleading of the OIG to refer to RCF's Executive Director as the "son" of 2 of the assigned participants; 4) as soon as NAPCA was informed by DOL that the son of 2 of the assigned participants was the Executive Director (years after their initial assignment), NAPCA immediately transferred the parents to a different host agency and DOL accepted this action as adequate and reasonable.

NAPCA refutes the allegation that the actual training was questionable because payroll and training records contained irregularities or were incomplete. Many of the alleged training records the OIG claimed were missing were found in participant files, not host agency files. The OIG alleged that documents that were not required at the time were missing, such as IEPs being completed twice a year, when in reality they were known at that time as IDPs and required to be completed only once a year. The OIG alleged that a participant had left the program, when in reality, due to the 14 year span of the audit, some of the participant records were merely missing during that time period.

Further, as explained to the OIG, NAPCA verified with all parties involved that there was no familial relationship between the third participant and his fellow participants or any Executive Director of RCF. All of the host agency community service assignments for the above 4 participants were valid SCSEP positions according to the 1995 regulations.

The OIG alleges that timesheets were submitted for a participant between 1999 – 2001 despite his allegedly having left the program. It is difficult for NAPCA to respond to the incompleteness of files of 7-9 years past. However, because this participant re-enrolled and

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was active again in the NAPCA SCSEP program, NAPCA feels it is more likely that the participant's file is incomplete or that there was a discrepancy in dates on the re-enrollment paperwork. NAPCA does not feel it is a reasonable conclusion that payments made to this participant were "improper". Particularly, after reviewing the participant's file, it is apparent that NAPCA staff was conducting Individual Development Plans (IDPs), Individual Employment Plans (IEPs), Enrollee Performance Evaluations (EPEs) in addition to approving bi-weekly timesheets for this participant. Therefore, it is NAPCA's opinion that a more likely conclusion is that there this participant's file is incomplete and NOT that he was off the program.

The OIG characterizes the entire costs of all 4 RCF assigned participants as, "improper". NAPCA disputes this characterization because all 4 participants were eligible and properly enrolled according to DOL regulations. None was assigned to RCF initially, at a time when the Executive Director posed a conflict of interest or violation of nepotism. All four were in valid community service assignments by DOL and NAPCA policy. When NAPCA was informed by DOL staff that a conflict of interest existed at RCF, NAPCA immediately transferred the 2 participants who posed the conflict and DOL program staff accepted this course of action as adequate and reasonable.

In Result 2, the OIG claims that "While we did not substantiate that NAPCA officials allowed the alleged abuse to occur in exchange for monetary payments, we did identify a financial conflict of interest between NAPCA and the RCF Executive Director that may have impacted NAPCA's ability to provide appropriate oversight of RCF. NAPCA leased office space from the RCF Executive Director at below market rental rates from 1997 to 2005. During this period, NAPCA performed only 45 percent of the monitoring visits of RCF required by the grant agreement and only 28 percent of the monitoring visits required by NAPCA policy. Moreover, NAPCA did not identify and correct the enrollment, training and payroll deficiencies noted in this report. We attribute this to NAPCA's lack of policies and procedures related to conflicts of interest, real or apparent. We were also told by one RCF participant that he signed and returned his SCSEP paychecks to the RCF Executive Director's mother and received only a portion of each paycheck back in cash."

In response to the OIG allegation, "NAPCA leased office space from the RCF Executive Director at below market rental rates from 1997 to 2005." NAPCA has no information as to the basis of this allegation and disputes this on its face. As discussed with the OIG, Los Angeles' Koreatown was an economically depressed community with relatively low rental rates and high commercial space availability at the time of the initial lease signing. As a non-profit organization, NAPCA certainly searched for the lowest possible rent and remained a tenant until the local economy was revitalized at which time, NAPCA moved to a smaller office. NAPCA had no financial conflict of interest with the host agency Royal Cultural Foundation as the OIG alleges. When NAPCA negotiated and signed the lease with Royal Investment Group, the Executive Director of the Royal Cultural Foundation was [redacted]

To the allegation by the OIG in Result 2 stating that NAPCA did not provide sufficient oversight of RCF, NAPCA asserts that the methodology used by the OIG was flawed. The

OIG worked from host agency files, not participant files. They based many of their findings on the 2004 SCSEP regulations, which had not even been written for most of the years of this audit. The 2004 SCSEP regulations had requirements for grantees that did not exist in the 1995 regulations. NAPCA will demonstrate later in this document that it provided sufficient oversight of RCF.

While the uncorroborated allegation of the participant being forced to hand over his check to the Executive Director's mother in exchange for a small amount of cash concerns NAPCA greatly, we requested that the OIG substantiate this statement or remove it from this report as NAPCA staff denies ever hearing of this allegation and therefore, was in no position to act on it. NAPCA does not receive endorsed checks of participants and has no oversight as to where a participant cashes his/her paycheck. NAPCA can assure the OIG that this participant did receive all of his paychecks according to payroll procedures. NAPCA finds that the allegations made in Result 2 are without merit and should be removed from this report.

In Result 3, the OIG states: "NAPCA's program oversight did not provide reasonable assurance that enrollment and training requirements were met. We estimate that NAPCA sub-offices did not obtain required documentation to support appropriate training for 382 (27 percent) of the 1,418 participants enrolled nation-wide during January 1, 2005 through March 31, 2007. We also estimate that the sub-offices did not ensure enrollment eligibility for 64 (5 percent) of the 1, 418 participants. These conditions occurred because the sub-offices did not always conduct required host agency monitoring visits or perform effective reviews of participant files to ensure appropriate training and enrollment eligibility. Additionally, NAPCA headquarters did not consistently conduct required on-site sub-office reviews or ensure corrective action plans and follow-up efforts were effective."

NAPCA seriously questions the methodology used to sample, analyze and calculate the results throughout this document. In the Statement of Facts issued by the OIG on April 8, 2008, NAPCA was able to identify a number of documents that the OIG claimed were missing, negating their allegation that, "sub-offices did not consistently contain required documentation." NAPCA found a number of these documents in participant files rather than host agency files. It appears the OIG also did not look at entire program years. NAPCA will later demonstrate the inaccuracies of the OIG allegations in Result 3.

In summary, NAPCA believes that the flawed methodology used by the OIG to assert that NAPCA should repay the Employment and Training Administration (ETA) $182,178 is invalid. We will demonstrate that the participants were all eligible for the SCSEP program; were in bona fide SCSEP positions at RCF; and when NAPCA learned of the nepotism allegation, corrected the situation immediately by transferring the 2 affected participants at once, and informing ETA, who accepted NAPCA's action as reasonable and valid. Further, NAPCA will demonstrate that many of the records deemed missing by the OIG are present in the files negating the allegation of inadequate controls and oversight by NAPCA and that required training documents were not completed. As a result of these discrepancies we refute the entire questioned costs.

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The OIG states in the letter to the Deputy Assistant Secretary for ETA, Mr. Brent R. Orrell, that, "SCSEP grant recipients provide subsidized on-the-job training for **unemployed** low-income participants age 55 or older who have poor employment prospects." The 1995 SCSEP regulations define SCSEP as: "As authorized by title V of the Older Americans Act (OAA), as amended (42 USC 3056, et seq.), the Senior Community Service Employment Program (SCSEP) fosters and promotes useful part-time opportunities in community service activities for persons with low-incomes who are fifty-five years or older." The requirement that applicants to the SCSEP program be **unemployed** did not occur until the Solicitation for Grant Applications in **2005** and therefore this requirement cannot be imposed on [redacted] because he was terminated from the SCSEP program before the enactment of this rule.

The second erroneous statement made in the first paragraph of page 3 states that "…alleging officials of the National Asian Pacific Center on Aging (NAPCA) **allowed** the Royal Cultural Foundation's (RCF) Executive Director to **enroll ineligible** participants in the Senior Community Service employment Program (SCSEP) in exchange for **monetary payments**."

First, NAPCA strongly disputes that it ever received or had any knowledge of receiving any monetary payments from RCF.

Secondly, **host agencies do not enroll persons into the SCSEP program, only the grantee or its subgrantee can do so.** The 1995 regulations at 641.302 (c) state, "The grantee or subgrantee shall obtain and record the personal information necessary for a proper determination of eligibility for each individual and maintain documentation supporting the eligibility of enrollees" and 641.310 Community Service Assignments states, "(a) After the completion of an enrollee's orientation and initial training, if any, the grantee or subgrantee shall refer the enrollee, as soon as possible, to a useful part-time community service assignment, if appropriate, according to the IDP."

We reviewed the IDPs of the four participants at Royal Cultural Foundation and determined that the community service assignments were appropriate. [redacted]'s IDP goal was listed as Clerk Aide; [redacted]'s IDP goal was Clerk Aide; [redacted]'s IDP goal was listed as Office Assistant; and [redacted]'s IDP goal was listed as Maintenance Trainee.

The third inaccurate assertion in this sentence is that the participants were **ineligible. To be eligible for the program, as stated above, applicants must meet income guidelines as being low-income, live in the State where the program is located and be at or over the age of 55**. These are the only eligibility criteria for SCSEP. (see attached)

If there was a problem with the host agency, such as the applicants' son working in a decision-making capacity at RCF, it would not make the potential participants ineligible for the SCSEP program, but rather they would be reassigned to a different host agency. **Nowhere in this report is it alleged that the four RCF participants were over–income or underage**.

The third misleading statement on page 3 is the definition for **host agency,** which states that "Host agencies are public or private nonprofit organizations (e.g., schools, hospitals, senior citizen centers, day-care centers), which provide work sites and supervision for one or more

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participants." **A host agency is defined in the 1995 regulations as "a public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship, exempt from taxation under the provisions of section 501(c)(3) of Internal Revenue Code of 1986 which provides a work site and supervision for an enrollee".** (see attached) The operative word is 501(c)(3). It is a special type of non-profit organization, and not all meet this definition. For example, several non-profit hospitals do not have this designation and as such, are not qualified to be host agencies. As RCF had this designation, it was a proper host agency.

Again, it is vital to keep in mind that RCF is a different organization than Royal Plaza, a.k.a. Royal Group, Inc., a for-profit business, which definitely does not qualify as a 501(c)(3) host agency, but also that there was no stipulation that a potential participant had to be unemployed to be in the SCSEP program. **As long as the participant continued to meet income guidelines, it was permissible to work for a business on the weekends, if the participant so wished.**

In the second paragraph of page 3, the OIG makes several broad statements that NAPCA disputes. The first sentence states: "We found that RCF Executive Director was engaged in program abuse, resulting in $182,000 in questioned costs for improper payments to RCF participants during program years (PYs) 1994-2005." These participants included the RCF Executive Director's parents and two participants working for the Executive Director in **non-SCSEP positions.**

In the 1995 regulations, **community service** is defined as "…social, health, welfare, and educational services (**particularly literacy tutoring**); legal assistance, and other counseling services, including tax counseling and assistance and financial counseling; library, recreational, day care and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; pollution control and environmental quality efforts; weatherization activities; and includes inter-generational projects; but is not limited to the above." (see attached)

The four participants' SCSEP assignments meet this definition. [redacted]s SCSEP position was Clerk Aide, as was [redacted]s. [redacted]s (not related to [redacted] or [redacted] SCSEP position was Teaching Assistant and sometimes ESL teacher and [redacted]s position was Maintenance Trainee. These positions certainly met the definition of community service. Literacy tutoring, which would include English as a Second Language, is one of the definitions of community service that is particularly emphasized. **In 1995, community service assignments did not mention training as a part of the assignment (see above description for community service).** [redacted] the one participant who did work on weekends, directly for Royal Plaza, a.k.a Royal Group, Inc. or Royal Investment Group, Inc., was allowed, under 1995 SCSEP regulations, to perform additional jobs paid by an outside entity (not NAPCA), as long as he did not become over-income. SCSEP law and regulations at that time had no stipulation that participants be unemployed, only that they remain eligible under SCSEP income guidelines. **The prohibition of being unemployed did not go into effect until 2004.**

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In the first paragraph on page 4 it is again stated incorrectly that, "SCSEP grant recipients provide subsidized on-the-job training for **unemployed** low-income persons age 55 or older who have poor employment prospects." **The "unemployed" requirement, as was explained earlier, was not part of the law until 2005. The paragraph also leaves out the stipulation that host agencies must have a 501(c)(3) tax designation, which does not include all non-profit agencies or any private businesses.**

OBJECTIVE 1 – DID THE RCF EXECUTIVE DIRECTOR ABUSE SCSEP BY ENROLLING INELIGIBLE PARTICIPANTS AND NOT PROVIDING ACTUAL JOB TRAINING?

Results and Findings – RCF Director was engaged in program abuse.

RCF Participants Were Not Eligible for SCSEP Enrollment at the Host Agency

The hotline complaint alleged "RCF abused SCSEP because the host agency was actually a building maintenance office managed by a family that owned the building; three SCSEP participants assigned to RCF were members of the family managing the building maintenance office, and the fourth participant was the building manager." The OIG asserted that they believed this allegation to be **substantially valid**. NAPCA disputes this finding.

One distinction that NAPCA feels that the OIG failed to understand is the difference between the building maintenance company known as Royal Group, Inc., sometimes known as Royal Plaza; and the Royal Cultural Foundation. The distinction is particularly important for purposes of this audit. The Royal Group, also known as Royal Plaza, is a private company that essentially is a building maintenance company. Royal Cultural Foundation or RCF, a totally separate entity, is a non-profit organization exempt from taxation under the provisions of section 501(c)(3) of the IRS. The mission of the Royal Cultural Foundation was to "introduce cultural activities of various ethnic groups of the community to the general public. The goal of this corporation is to sponsor and assist through scholarships those who are engaged in cultural affairs, such as literature, fine arts, drama, and performing arts." RCF provided a work site and supervision for participants and was indeed a valid host agency. The Royal Group however, was a distinctly different entity that did, in fact, own the building in which both the Royal Cultural Foundation was housed, as was NAPCA. **The allegation that the host agency was actually a building maintenance office is invalid.** The host agency was Royal Cultural Foundation, a non-profit 501(c)(3) organization. The entity that owned the building was Royal Group, Inc., also known as Royal Plaza, a private organization.

The OIG states in Objective 1 – Results and Findings, that, "All four of the participants enrolled at the host agency (RCF) were either related to the RCF Executive Director or worked for the Executive Director in non-SCSEP positions." NAPCA finds this statement more than misleading when only 2 of the 4 participants were related to an Executive Director of a later time and the remaining 2 participants were not related to any Executive Director at all. Further, none of the 4 participants was related to the Executive Director of RCF at the time of enrollment or assignment. At the time of [redacted] and [redacted] s enrollment, the Executive Director of RCF was [redacted]

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Lastly, NAPCA takes issue with the allegation that any of the 4 participants were assigned to **"non-SCSEP positions".** All 4 participant assignments were valid by DOL rules governing the program at the time of each of the enrollments as explained above.

- **Mr.** [redacted]s training title was Clerk Aide with duties including document filing, assisting with translation and answering phones. He was assigned to RCF on 6/30/97 under the Executive Director [redacted]
- **Mrs.** [redacted]s training title was Clerk Aide with duties including assist with computer work, typing, answering the phone and filing. She was assigned to RCF on 5/19/97 under the Executive Director [redacted]
- The training title of **Mr.** [redacted](who is not related to [redacted] or [redacted] was Teaching Assistant with duties including assisting with ESL classes and U.S. Citizenship classes. The files this far back, are incomplete; however, it appears he was assigned to RCF on 7/11/94 under the Executive Director [redacted]
- The training title of **Mr.** [redacted](who is not related to [redacted] or [redacted] was Maintenance Trainee with duties including assisting with building maintenance. He was assigned to RCF on 11/16/00. It is unclear from the files who was the Executive Director of RCF at this time.

NAPCA disputes the second part of this allegation which asserts, **"three of the participants assigned to Royal Cultural Foundation (RCF) were members of the family…."** NAPCA verified with all parties involved that there was no familial relationship between the third participant and his fellow participants or any Executive Director of RCF. It was determined that there was a family relationship involving two participants and their son. As soon as NAPCA was informed of the nepotistic relationship by the Department of Labor program staff, the two parents were immediately transferred from the host agency. Shortly thereafter, NAPCA severed its relationship with the host agency. NAPCA informed the Department of Labor program staff of actions taken, which they felt was sufficient in correcting the situation.

The OIG makes an overall assertion that the RCF participants **were not eligible for SCSEP enrollment at the host agency**. NAPCA disputes this somewhat misleading allegation. First, as stated earlier, host agencies do not enroll participants. Secondly, the relationship of the parents (as participants) to the son at RCF had no bearing on the parents' **eligibility**. As long as the parents were over 55, resided in the area and were income-eligible, they were eligible for the SCSEP program. Further, NAPCA transferred the parents to a different host agency as soon as the conflict of interest and nepotistic relationship became known.

On page 5, paragraph 2, the OIG states, "We were not able to validate that a third SCSEP participant with the same family name was related to the Executive Director." NAPCA verified with all parties involved that there was no family relationship between [redacted] and his fellow participants [redacted] and [redacted] or [redacted] of RCF. NAPCA also believes that the OIG is wrong in its assumption that [redacted]s community service assignment as an office assistant, teacher assistant and ESL teacher violated Federal

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regulations and NAPCA policy. During most of Mr. [redacted]'s time at RCF, the SCSEP program was operating under the 1995 regulations.

As stated on page 6 of this reply, the 1995 regulations defined community service as "…social, health, welfare, and educational services **(particularly literacy tutoring);** legal assistance, and other counseling services, including tax counseling and assistance and financial counseling; library, recreational, day care and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; pollution control and environmental quality efforts; weatherization activities; and includes inter-generational projects; but is not limited to the above." Note that this definition does not mention training as part of the definition. NAPCA believes that all of Mr. [redacted]'s community service assignments were valid under the 1995 definition. We believe that English as a Second Language (ESL) would fit under literacy tutoring, which was particularly emphasized in the above definition. As such, Mr. [redacted] was eligible for SCSEP enrollment at this host agency. It is important to remember when training seniors for employment NAPCA seeks out host agencies willing to broadly train participants, so that they may gain more skills and self-esteem. Training assignments may encompass a broad range of skill development. Assistant teaching, ESL teaching and administrative training as [redacted]'s file reflects, are not mutually exclusive or an inappropriate combination as claimed by the OIG.

It is alleged by the OIG that Mr. [redacted] was ineligible for enrollment at this host agency, because he was the building janitor and worked as the building security guard on the weekends. NAPCA asserts that Mr. [redacted] was in a community service assignment at Royal Cultural Foundation as a Maintenance Trainee as the records indicate. The fact that he worked for Royal Group, the private building maintenance company, as a security guard on the weekends would not affect his SCSEP enrollment eligibility unless he became over-income. At that time under SCSEP regulations there was no prohibition against receiving wages for work done outside the SCSEP program. The rule to be **unemployed** did not go into effect until **Program Year 2005** in response to the Solicitation for Grant Applications issued in 2005, which is after Mr. [redacted] terminated from the program.

Actual Participant Training Was Questionable

In the last paragraph on page 5, the OIG states that, "**The actual training received by the four RCF participants was questionable because their payroll records contained irregularities, and their training records were not completed as required.**"

NAPCA disputes this allegation. The OIG's methodology was flawed in this audit review. Several records alleged to be missing were either not required because the OIG was using 2004 SCSEP regulations for required documentation, when in reality the program was operating under 1995 SCSEP regulations; or the OIG was reviewing host agency files when many of the alleged missing records were found by NAPCA in the participant files, as is the appropriate filing procedure. One example in point is that 1995 SCSEP regulations required that an Individual Development Plan (IDP) be developed and updated **once** each program year. But the OIG conducted this review using 2004 SCSEP regulations, which renamed the IDP to the IEP or Individual Employment Plan and required that it be updated **twice** each

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program year, thereby reflecting the changed emphasis from community service to increased training and employment. We believe this allegation is without merit and should be dropped.

NAPCA has taken steps to improve the accuracy of payroll record processing. For example, approximately, one year ago, the National Director issued a directive to all regional and project directors concerning procedures for timesheet submissions to the national office. She provided a re-orientation of the procedures for timesheet submissions and the importance of checking all timesheets for inaccuracies including chronology of signing dates, allocation of hours, their proper designation, inclusion of in-kind hours and the requirement of original signatures. Timesheets (as all files) are also reviewed in a higher concentration on monitoring visits now, and verified that all above protocols are followed.

Participant Payroll Records Contained Irregularities

On page 6, the OIG also alleges "**that thirty-six timesheets were submitted for a participant that had already left the program.**" The referenced time period was from December 1999 to June 2001. NAPCA feels that from a program perspective and applying a reasonable standard, it is more likely that files from 7-9 years' past, are incomplete and that this participant was in fact, enrolled in the program during the time that he was being paid by NAPCA.

The OIG alleges that many training documents are "missing", particularly for this participant however NAPCA has been able to produce copies of many of these documents. It is highly improbable that NAPCA would have tracked this or any other individual using IDPs, IEPs, CSAs, EPEs and timesheets if he/she was not a participant on the program. It seems more likely that there are enrollment documents missing from [redacted]'s participant file especially considering a look back to 1994 and a DOL records retention policy requiring that records be kept for only 3 years after a program year close.

While there is no original in-take paperwork on this individual, there is a re-certification form dated 3/26/1997, indicating he was on the program for 1 year prior to this date. According to his participant file, [redacted] was enrolled until he terminated for employment on 11/13/99. There is a break in his participation until 2/14/00 according to his timesheet records and although the first re-enrollment form in his file is dated 6/20/01, no resumption of pay would have occurred, unless the participant was enrolled in the program. Based on the re-certifications, IDP and IEPs contained in [redacted]'s file, it can be ascertained that he was a participant on the NAPCA SCSEP program at least during Program Years 96, 97, 98, 99, 01, 03 and 05. Again, NAPCA staff would not have signed timesheets if the participant was not actively enrolled.

Training Records Were Not Completed as Required

On page 6, the OIG again alleged that, "The actual training received by the participants was also questionable because training records were not completed as required by Federal regulations and NAPCA policy." NAPCA was required under Federal regulations to complete Individual Employment Plans (IEPs) for all participants upon enrollment. NAPCA

policy requires IEPs to be updated no less than twice a year thereafter. We found that the training records maintained by NAPCA for the four RCF participants did not provide adequate assurance that the required **work-based** training actually occurred. For example, the teacher's records for the 10 years he was enrolled in SCSEP did not contain any of the required documents."

NAPCA refutes the validity of this allegation. This audit spans an extraordinary length of time (1994 – 2007) and it is **the 1995 regulations** that apply to the majority of the timeframe of this audit. The allegation above is NOT in accordance with the 1995 regulations and should only be applied to activity after July 1, 2005.

For example, Section 641.309 (e) of the **1995 regulations**, Individual development plans (IDP) states: "The grantee and subgrantee shall review the IDP at least **once in a 12 month period** for the following purposes…". NAPCA policy was consistent with DOL policy of updating the IDP **once** a program year as stated in ETA/NAPCA grant agreements through the end of Program Year 2003 or June 30, 2004.

In the **2004 Federal regulations**, as DOL moved increasingly from a community service oriented program to an employment-oriented program, the IDP became the IEP, the Individual Employment Plan.

Section 641.535 of the **2004 regulations** states that the assessment and IEP on a SCSEP participant must be reviewed and updated **no less frequently than twice during a twelve month period**. NAPCA then revised wording and policy to reflect the **twice annual** IEP update requirement as evidenced in ETA/NAPCA grant agreements **beginning Program Year 2004 or July 1, 2004.**

In the last full paragraph of page 6, the OIG states that, "We found that the training records maintained by NAPCA for the four RCF participants did not provide adequate assurance that the required **work-based** training actually occurred.." As stated earlier, the SCSEP program was heavily focused on community service. Training was not a requirement under the 1995 SCSEP regulations. The term, "work based training" was introduced by DOL in the Solicitation for Grants for Program Year 2005. This standard is therefore, inappropriately applied to [redacted] and [redacted] prior to Program Year 2005.

The OIG asserted that training records were not completed as required and that, "the teacher's records for the 10 years he was enrolled in SCSEP did not contain **any** of the required documents." NAPCA has conveyed to the OIG that several of the alleged "missing documents" were contained in the participant's file, not the host agency's file. After review of [redacted]'s file NAPCA found 9 IDPs and IEPs (from PY97, 98, 99, 01, 02, 03, 04 and 05), missing only PY94, 95 and 00 which differs substantially from the OIG's allegation of "missing training records". Also, the OIG misstates that CSAs are required to be completed on an annual basis and therefore lists a total of 20 "missing" CSAs. However, after a review of participant files, NAPCA found only 1 missing CSA.

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Questioned Costs Totaled $182,178

NAPCA vehemently opposes the OIG allegation that the wages paid to all 4 RCF participants were "improper".

All 4 participants were eligible and properly enrolled according to DOL regulations. None was assigned to RCF at a time when the Executive Director posed a conflict of interest or violation of nepotism. All were in valid community service assignments by DOL and NAPCA policy. When NAPCA was informed by DOL staff that a conflict of interest existed at RCF, NAPCA immediately transferred the 2 participants who posed the conflict and DOL program staff accepted this course of action as adequate and reasonable.

OBJECTIVE 2: DID NAPCA OFFICIALS ALLOW THE ALLEGED ABUSE TO OCCUR IN EXCHANGE FOR MONETARY PAYMENTS?

Results and Findings – Conflict of interest between the RCF Executive Director and NAPCA may have impaired NAPCA's oversight of RCF.

The OIG states on page 7, that they were unable to validate that NAPCA staff received any monetary payments. NAPCA is greatly concerned with this allegation and wishes to strongly emphasize that it has no awareness, record or evidence of staff taking monetary payments from any sub-grantee, host agency or private vendor. NAPCA management has never heard of such an allegation and therefore, has taken no action in pursuit of such a claim.

The OIG also alleges on page 7, that there was a landlord-tenant relationship between the Executive Director (landlord) and NAPCA (tenant) that created a conflict of interest that may have impaired NAPCA's ability to perform its oversight functions without bias. NAPCA disputes this allegation because **the landlord was not the Royal Cultural Foundation, NAPCA's host agency.** The landlord was the Royal Group, a.k.a, the Royal Plaza, a private building maintenance company. These are two distinctly different entities and should not be confused.

The OIG alleged that the leased space was underreported in the lease with Royal Group, Inc. and that NAPCA was paying below market rental rates from 1997 to 2005. NAPCA understands the implication being asserted by the OIG but has no information or substantiation as to the basis of this claim and disputes the implied connection. NAPCA has not ever has been aware of this allegation or of such an arrangement. As a non-profit organization, NAPCA searched for the lowest possible rent and remained a tenant until the local economy improved and NAPCA moved to a more appropriate sized office.

The NAPCA staff person alleged to have been informed by the participant that his checks were being signed by the host agency and not being returned to him in full, denies ever being approached with this information.

NAPCA verified that [redacted]s paychecks for his community service assignment paid during 2000-2005 were indeed given to Mr. [redacted] NAPCA does not receive the

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endorsed checks of participants and has no authority over where a participant cashes his or her paycheck.

Unless Mr. [redacted]s allegation is substantiated, NAPCA feels this charge should be dropped from the report.

OBJECTIVE 3 – DID NAPCA'S OVERSIGHT OF SCSEP PROVIDE REASONABLE ASSURANCE THAT ENROLLMENT AND TRAINING REQUIREMENTS WERE MET?

Results and Findings – NAPCA's program oversight did not ensure compliance with SCSEP training and enrollment requirements.

NAPCA Controls did not Ensure Appropriate SCSEP Training

The allegations regarding Royal Cultural Foundation and the 4 assigned participants span the time period of PY93-05. It is important to remember that the rules and regulations covering the vast majority of this timeframe are the 1995 SCSEP regulations, not the 2004 SCSEP regulations.

On the first full paragraph of page 10, the OIG states that, "Federal regulations required NAPCA to provide SCSEP participants **work-based training** at non-profit or government, community service-focused host agencies." As stated earlier, the SCSEP program was heavily focused on community service. The term, "work based training" was introduced by DOL in the Solicitation for Grants for Program Year 2005. This standard is therefore, inappropriately applied to [redacted] and [redacted] prior to Program Year 2005.

The OIG alleges missing "training documentation" while referencing IEPs, CSAs and EPEs. NAPCA found many of the documents alleged to be missing and has identified same to the OIG and cannot reconcile the claims of missing documentation.

NAPCA Controls Did Not Ensure SCSEP Enrollment Eligibility

The OIG claims in paragraph 2, page 10 that, "NAPCA also did not consistently ensure participant enrollment eligibility. Federal regulations and NAPCA policy required NAPCA to obtain documentation supporting that each participant (1) had income below 125 percent of the United States poverty level, (2) was eligible to work in the United States, and (3) did not hold an administrative or directorship position within the assigned host agency."

The 1995 SCSEP regulations Section 641.305(b) state, "Eligibility criteria. To be eligible for initial enrollment, each individual shall meet the following criteria for age, income, and place of residence. (1) Age. Each individual shall be no less than 55 years of age… (2) The income of the family of which the individual is a member shall not exceed the low-income standards defined in 641.102…. and (3) Residence. Each individual upon initial enrollment shall reside in the State to which the project is authorized.

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The 2004 SCSEP regulations state in Section 641.500: Who is eligible to participate in the SCSEP? (a) Anyone who is at least 55 years old and who is a member of a family with an income that is not more than 125 percent of the family income levels prepared by the Department of Health and Human Services and approved by …OMB…Federal guidelines also require that participants be eligible to work in the United States.

There is no wording in either the 1995 or 2004 DOL regulations regarding participant ineligibility due to holding an administrative or directorship position within the assigned host agency.

The OIG further states that they tested the files for their statistical sample of 131 participants to determine whether NAPCA obtained the required eligibility documentation. They allege that NAPCA did not obtain the required documentation for 8 participants (6 percent). NAPCA asserts that the methodology used in this finding was flawed as was the count.

All potentially eligible NAPCA participants must sign an agreement that states they do not hold a position in either an administrative or directorship capacity within the host agency where they have been assigned as a Participant of the SCSEP program. When such an instance was discovered with RCF, the participants were transferred to a different host agency as was accepted by DOL.

Out of the 9 participant records reviewed, not 8 as the OIG alleges, 5 had the signed agreement. Mr. [redacted] was alleged to have no recertification for PY06. But Mr. [redacted] was in the program in PY05 from 5/4/05 to 8/25/05 and left the program on 8/25/05. Therefore, there should have been no recertification in PY06. [redacted] was alleged by the OIG to have no documentation to support US work eligibility, but NAPCA found a US passport copy in his file, therefore, he was eligible. There was only one participant out of the 9 that was missing supporting documentation. NAPCA submits that the OIG assessment of NAPCA files was inaccurate and that controls were in place and effective in supporting participant eligibility. NAPCA feels that this finding should be eliminated.

Controls Over Enrollment and Training Need Improvement

It is important to note that in an audit spanning 14 years and a search of 292 host agencies, the OIG has not discovered any other findings similar to those identified in Royal Cultural Foundation.

That stated, staff training, controls and program management have greatly improved since the 1994 timeframe. NAPCA will continue to strengthen and improve program management strategies and methods to ensure that no such irregularities recur.

Host Agency Monitoring Visits Were Not Effective

After initially sampling host agency files spanning Program Years 2004, 2005 and 2006 the OIG raised only PY05 as having performance issues. NAPCA SCSEP experienced staff turnover in NAPCA headquarters' positions beginning in mid Program Year 2004. The Los Angeles Project Director resigned in December, 2004; the National Director and National

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Coordinator resigned in February, 2005; and the Program Assistant resigned in May, 2005. SCSEP management positions remained vacant for 2-3 months before new staff arrived. DOL did not provide staff training to any of NAPCA's new staff. Clearly, PY05 was a year of significant transition for NAPCA.

Sub-office Monitoring Visits Were Not Effective

As indicated in Table 4, the OIG alleges that 4 monitoring visits were "Missed" in 4 sub-offices during Program Years 2004, 2005 and 2006. NAPCA provided the OIG with the monitoring report of the New York sub-office for PY06 and earlier discussed the decision made in PY05 to conduct a technical assistance visit of the NAPCA sub-office in Los Angeles instead of a monitoring visit due to the newness of staff and their need for additional training. Therefore, only 2 of the 12 required monitoring reports were missing and Table 4 should be revised as follows:

Missing Monitoring Visits

Sub-Office	Required Visits	Missed Visits	PY with Missed Visits
Chicago	3	0	
Los Angeles	3	1 (33%)	2004
New York	3	0	
San Francisco	3	1 (33%)	2004
Total	12	2 (17%)	2004 (2)

NAPCA would like to note that both missing reports were from PY04, one of the Los Angeles sub-office and the other of the San Francisco sub-office. As stated earlier in this document, the Project Director for the Los Angeles sub-office resigned in mid-PY04. His successor was hired 3 months later. Of broader impact on sub-office monitoring, was the high turnover of SCSEP headquarter staff in mid-late PY04, which impacted the timely completion of these 2 monitoring reports.

NAPCA continues to improve the methods and strategies for operating the SCSEP program effectively and in full compliance of DOL rules and regulations.

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NAPCA Response and OIG Conclusion

Recommendations

1. Reimburse ETA $182,178 in questioned costs for the improper payments to the 4 RCF participants who did not meet SCSEP enrollment and training requirements.

NAPCA contends that the wages paid to the 4 RCF participants were not, "improper" as alleged. Each of the 4 individuals was eligible for enrollment on the SCSEP program. Each of the participant's files indicated legitimate community service assignments and training. None was assigned to the host agency when the Executive Director posed a conflict of interest or violation of the nepotism policy. As soon as NAPCA was informed of this relationship, staff acted immediately to correct the situation by transferring the 2 participants involved and informing ETA of the outcome which was accepted by program staff.

2. Develop policies and procedures to prohibit conflicts of interest between NAPCA and SCSEP host agencies. This includes assuring that no conflicts of interest between these parties currently exist.

Since the finding of nepotism was discovered, NAPCA has issued a wide range of controls to ensure that improper assignments are not made in the future. NAPCA now requires that host agencies provide a Board of Directors' list annually to verify that no familial relationships exist between participants and host agencies. Program forms have been updated to include attestations by participants and host agencies that they understand the nepotism prohibition found in the 1995 regulations at 641.323 and the 2004 regulations at 641.841. They understand that in order to remain a host agency or to remain a participant at that host agency, there must be no familial relationships with the Board of Directors and no member of the family can be in a decision-making capacity over the participant at that host agency. These are also renewed on an annual basis. Project staff is reminded regularly of the importance of appropriate community service assignments that do not pose any violation of the conflict of interest or nepotism policy.

3. Develop controls to identify and correct non-compliance with SCSEP training, enrollment, and program management requirements specified in Federal regulation, the ETA/NAPCA grant agreement, and NAPCA policy. This includes NAPCA conducting the required host agency and sub-office monitoring visits and developing procedures for appropriate corrective action and follow-up when program deficiencies are brought to management's attention.

NAPCA currently has several controls in place to identify and correct non-compliance with SCSEP training, enrollment, and program management requirements specified in Federal regulations, the ETA/NAPCA grant agreement and NAPCA policy. We regularly conduct monthly conference calls, quarterly desk monitoring, annual In-Service training and ongoing communication with project staff by national staff in an effort to monitor performance and expenditures; update project sites on any regulatory or policy changes in a timely manner and

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stay apprised of any potential issues developing on the project level. We also hold intensive two to three-day training for all new project directors.

In light of the 2005 regulatory changes, prioritizing training and as a means of adding more intensive oversight, NAPCA reviewed all host agencies with an emphasis on supervisory capacity and quality of training opportunities. NAPCA will continue to emphasize the importance of recruiting those eligible host agencies that can provide quality training in those areas of employment currently needed by employers and/or those host agencies with the ability to hire participants on to their payrolls.

NAPCA proposes that a substantial amount of training be provided to national, subproject and host agency staff, as well as SCSEP participants. All of the NAPCA national staff, subproject staff, host agency staff, including host agency directors and supervisors and SCSEP participants will be provided with refresher courses on an overall summary of the purpose, goals, the laws, the Federal regulations and NAPCA policy regarding the SCSEP program. We will spend as much time as necessary on each segment. Each group will then need specialized training on the regulations and policy that is particularly important for them to understand and adhere to. We will emphasize the importance of developing and updating IEPs; documentation of required SCSEP information, such as yearly recertifications, etc.; the monitoring of subprojects and host agencies; the development of corrective action plans and the importance of following through on corrective action. Training materials will be developed within the next three months.

NAPCA is currently recruiting a National Coordinator to assist the National Director in program oversight and enhancing program performance. This is particularly needed to address recent changes in the SCSEP program and performance measures. The National Coordinator will analyze program performance, spending and progress towards meeting performance goals. If any areas of deficiency are identified, a plan will be developed with each project site to address and resolve any issues in a timely manner. Additionally, the Coordinator will work together with the National Director to ensure that all required national monitoring visits are conducted and will ensure full compliance with SCSEP training, enrollment, program management requirements specified in the Federal regulations, ETA/NAPCA grant agreement and NAPCA policy.

The National Director and the National Coordinator will also be responsible for ensuring that subprojects are conducting the required host agency visits and following the same procedures as the national office does with the subproject.

As soon as final SCSEP regulations are made into law, NAPCA plans to update the SCSEP policy and procedures Handbook and disseminate it to all NAPCA involved parties.

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