



FILED

03/25/20
04:59 PM

ATTACHMENTS

A-L

ATTACHMENT A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the California's One Million New Internet Users Coalition's Misuse of California Advanced Services Fund Grant Funds; and Order to Show Cause Why the Commission Should Not Impose Penalties and/or Other Remedies for Violating Terms of Their Grant and for Refusing to Return Funds Previously Demanded by the Commission's Division.

Investigation 18-07-009

DECLARATION OF VANESSA BALDWIN

My name is Vanessa Baldwin and I am an attorney in the Legal Division of the California Public Utilities Commission (Commission). I have personal knowledge of the facts stated herein.

1. In representing the Consumer Protection and Enforcement Division (CPED) of the Commission in the Commission's proceeding investigating California's One Million New Internet Users Coalition (NIU Coalition), I attended an alternative dispute resolution (ADR) session led by Administrative Law Judge (ALJ) MacDonald on January 22, 2020.
2. After the conclusion of the January 22, 2020 ADR session, I informed Mr. Larry Ortega that CPED would be issuing data requests for documents that he provided during ADR.
3. Although ADR had concluded, ALJ MacDonald was present at the time I spoke with Mr. Ortega.
4. Mr. Larry Ortega neither objected nor mentioned any other challenges or concerns posed in responding to CPED's forthcoming data request.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on March 25, 2020, at San Francisco, California.

/s/ *VANESSA BALDWIN*

VANESSA BALDWIN

ATTACHMENT B

From: lortega.onemillionniu.org
To: [Zhang, Zhen](#)
Cc: [Baldwin, Vanessa](#); lazoinvestments@hotmail.com; [Alicia Clark](#); [Hom, Brian](#); [Sastra, Rudy](#); [Mangundayao, Violeta](#)
Subject: Point of Order: Data Request NIU Litigation by CPED
Date: Friday, February 28, 2020 11:54:03 PM
Attachments: [Data Request NIU Litigation .pdf](#)
[CASF_attchA_K_KCCD_LEGAL_AUTHORITY.pdf](#)

Judge Zhang,

I am in receipt of this data request from CPED having a stated deadline of February 28th, see attached. I found this request to be premature, out of order per your most recent email to the group. This is my understanding, but I ask for a point of clarification from the court.

Also, it is our request that in naming the group of organizations cited in the OII, that it be referred to as NIU (One Million NIU) and that any reference to our organization, solely, should be Community Union, Inc. To date, CPED has referred to Community Union as NIU (the title purposed to indicate the group of organizations).

Point of Order Request: For the purposes of this litigation, Community Union is a stand-alone organization like Black Business Association, Asian Pacific Community Fund, etc. Referring to Community Union activity using the group of organizations' title - NIU - unfairly serves to confuse the articulation of our proposed defense. Community Union did not represent the group (NIU), and was merely an entity among 5 others that participated in the delivery of services under the CASF contract. Korean Churches for Community Development (KCCD) is the "legal authority representing NIU" under this CASF contract (this OII). As stated in the signed document by Ms. Im, KCCD's CEO, they are the legal representative for the contractual relationship by and between the CPUC-CASF and the group of organizations(NIU). See Attached.

Larry Ortega
Community Union, Inc.

On February 21, 2020 at 2:39 PM "Mangundayao, Violeta"
<Violeta.Mangundayao@cpuc.ca.gov> wrote:

Please find attached Data Request NIU Litigation. Thank you.

ATTACHMENT C

From: lortega.onemillionniu.org
To: [Baldwin, Vanessa](#)
Cc: [hyepin@gmail.com](#); [Mail@BBALA.org](#); [JTseng@HillFarrer.com](#); [Shek, Selina](#); [dfong@apcf.org](#); [rms2979@aol.com](#); [Hom, Brian](#); [Lo, Jeanette](#); [Sastra, Rudy](#); [Yip-Kikugawa, Amy C.](#); [MacDonald, Katherine](#); [Zhang, Zhen](#)
Subject: RE: Ex Parte Communications I.18-07-009, OII California's One Million New Internet Users Coalition's Misuse of CA
Date: Saturday, March 7, 2020 8:28:15 AM
Attachments: [CASF attchA K KCCD LEGAL AUTHORITY.pdf](#)

Ms. Baldwin,

My apologies, but we do not have the February 21, 2020 data request. Are you able to send me a copy of this request? Our primary focus had been in attempting to reach a settlement in the ADR - so all things were ADR for us. This February 21st request did not register with our team as being separate and apart from the adjudicatory proceeding as you state in your most recent communication. We are more than happy to comply with this request, but ask the following: point of order from the court and that this request is not duplicative to evidentiary proceedings to which we are about to enter.

Also Ms. Baldwin, is it possible for you to provide the rule(s) governing your request and ability to *pierce the fiscal agent veil*, if you will. To our understanding, CPUC's, relationship is with the fiscal agent in this matter, Korean Churches for Community Development, see attached. Do you have any cites on precedence you can offer on how CPED is able to obligate a person/corporation not contracting with the CPUC to provide information? We know this has been a point of contention for you, but we have yet to see clear authority for the 2017(and again in 2020) request issued from your office. All previous cites of rules of law you have provided have implicated the fiscal agent, the entity assuming all responsibility under this contract. Where is the case cite that gives legal precedence to support your ask?

This in no way should be interpreted as an unwillingness to clear this matter-up, or to cooperate in getting to the facts as to what actually transpired in this matter. We have great interest in clearing our name which has been unfairly tainted by this issue. That said, we are experiencing extreme financial hardship right now and simply are unable to provide manpower and resources in the timeline you have declared.

Larry Ortega
Community Union, Inc.

ATTACHMENT D

From: [Baldwin, Vanessa](#)
To: [Zhang, Zhen](#)
Cc: [Yip-Kikugawa, Amy C.](#); [MacDonald, Katherine](#); [Tsen, S. Pat](#); [LOrtega@OneMillionniu.org](#); [Shek, Selina](#); [hyepin@gmail.com](#); [Mail@BBALA.org](#); [dfong@apcf.org](#); [rms2979@aol.com](#); [Hom, Brian](#); [Lo, Jeanette](#); [Sastra, Rudy](#); [JTseng@HillFarrer.com](#)
Subject: RE: I.18-07-009, OII California's One Million New Internet Users Coalition's Misuse of CA Advanced Services Fund Grant Funds
Date: Wednesday, March 4, 2020 3:07:00 PM

Your Honor:

Pursuant to your February 26, 2020 email request, the Consumer Protection and Enforcement Division (CPED) submits the following responses.

- Which parties will submit a proposed settlement agreement for the Commission's approval:

CPED has entered into a settlement in principle with the Korean Churches for Community Development (KCCD).

- When do the parties anticipate a proposed settlement agreement:

CPED and KCCD anticipate filing a motion for adoption of the settlement by the week of 3/30.

- Which parties will proceed with the evidentiary hearing:

CPED and the following parties intend to file motions requesting their dismissal for good cause by the week of 3/30: Asian Pacific Community Fund, Black Business Association, and Soledad Enrichment Action – Charter Schools. Additionally, as noted above, CPED and KCCD intend to file their settlement motion by the end of this month. Assuming the motions are granted, CPED intends to proceed with litigation against Mr. Ortega and Community Union, Inc.

- Are the parties available via telephone to discuss the schedule on Friday, March 6, 2020, at 11 a.m.: and

Per Your Honor's email on or about 12:28 pm today, we will await a ruling requiring a filing of a formal case management statement.

- And any other issues the parties need to discuss.

CPED requires additional information from Mr. Ortega and his affiliated organizations to examine pertinent issues in this proceeding including NIU's actual expenses incurred and income received related to the CASF grant and the respondents' current financial condition. In furtherance of this, and shortly after the commencement of mediation, CPED issued a data request to Mr. Ortega and his affiliated organization on February 21, 2020. Although Mr. Ortega claims the data request is premature given Your Honor's email requesting a joint status statement from the parties, given that mediation has ended per ALJ MacDonald's email on February 19, 2020, it is appropriate for CPED to resume its discovery efforts. Mr. Ortega has not requested from CPED an extension of time to

respond, so we expect full and complete responses to the data request by the deadline of March 6, 2020.

Sincerely,

Vanessa Baldwin
Counsel for CPED

From: Zhang, Zhen <Zhen.Zhang@cpuc.ca.gov>
Sent: Wednesday, February 26, 2020 3:07 PM
To: LOrtega@OneMillionniu.org; Shek, Selina <selina.shek@cpuc.ca.gov>; hyepin@gmail.com; Mail@BBALA.org; dfong@apcf.org; rms2979@aol.com; Hom, Brian <Brian.Hom@cpuc.ca.gov>; Lo, Jeanette <jeanette.lo@cpuc.ca.gov>; Sastra, Rudy <rudy.sastra@cpuc.ca.gov>; JTseng@HillFarrer.com; Baldwin, Vanessa <vanessa.baldwin@cpuc.ca.gov>
Cc: Yip-Kikugawa, Amy C. <amy.yip-kikugawa@cpuc.ca.gov>; MacDonald, Katherine <katherine.macdonald@cpuc.ca.gov>; Tsen, S. Pat <S.Pat.Tsen@cpuc.ca.gov>
Subject: I.18-07-009, OII California's One Million New Internet Users Coalition's Misuse of CA Advanced Services Fund Grant Funds

Dear Parties,

Alternative dispute resolution ended in I.18-07-009. Please submit a joint status statement via email by Wednesday, March 4, 2020, close of business at 5 p.m.. The statement must include:

- Which parties will submit a proposed settlement agreement for the Commission's approval;
- When do the parties anticipate a proposed settlement agreement;
- Which parties will proceed with the evidentiary hearing;
- Are the parties available via telephone to discuss the schedule on Friday, March 6, 2020, at 11 a.m.; and
- And any other issues the parties need to discuss.

Thank you,

Zhen Zhang
Administrative Law Judge
California Public Utilities Commission
zz1@cpuc.ca.gov

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ATTACHMENT E

From: lortega.onemillionniu.org
To: [Zhang, Zhen](mailto:Zhang.Zhen)
Cc: hyepin@gmail.com; Mail@BBALA.org; JTseeng@HillFarrer.com; [Shek, Selina](mailto:Shek.Selina); dfong@apcf.org; rms2979@aol.com; [Hom, Brian](mailto:Hom,Brian); [Lo, Jeanette](mailto:Lo,Jeanette); [Sastra, Rudy](mailto:Sastra,Rudy); [Baldwin, Vanessa](mailto:Baldwin,Vanessa); [Yip-Kikugawa, Amy C.](mailto:Yip-Kikugawa,Amy.C); [MacDonald, Katherine](mailto:MacDonald,Katherine)
Subject: Re: Ex Parte Communications I.18-07-009, OII California's One Million New Internet Users Coalition's Misuse of CA
Date: Thursday, March 5, 2020 9:43:46 AM

Judge Zhang,

Thank you for the clarification and apologies to all parties not previously copied on our communications to the Judge.

It is my understanding at this point, per your last email, that we are to wait for the formal case management statement. It is also my understanding that in this formal case management statement, orders relative to timeline of evidence gathering, future hearings, etc. will be expressed. That said, Ms. Baldwin has indicated in her last communication, a deadline to provide all evidence by March 6th. There are 2 issues we have with this timeline:

1. As expressed in my previous communication, I do not have that timeline to which Ms. Baldwin refers and we are awaiting orders from this court as to how to proceed. There are pending settlement agreements, which would be key to our defense if approved, which have not yet been reviewed. It is our position that until the settlement agreements have been approved it greatly hinders our ability to defend this matter before you.
2. We need time to cover the immense financial burden of providing the evidence requested by Ms. Baldwin, and ask the court to please provide extra time if the March 6th deadline is in concurrence with the court's orders.

It is also our intent, if granted by this court, to ask the OII be amended to include the item of whether or not the contract at issue was completed. We will ask the court to weigh whether or not services were completed in full per the terms of the contract? We have communications from the Communications Division (CD) personnel that would suggest it was. Back to the timeline on evidence gathering for a moment: we want the opportunity to ask for emails from CD's office on all communications relative to the One Million NIU contract from March 1, 2015 - November 30, 2015, where we believe we will find evidence affirming our contention the contract was completed. If we are able to show the contract was in fact completed, it speaks to the liability portion of the OII. It is our position that this fact weighs heavy on the outcome, regardless of which side prevails. This is key evidence to our defense and has thus far been omitted.

Thank you.

Larry Ortega
Community Union, Inc.

ATTACHMENT F

From: [Baldwin, Vanessa](#)
To: [lortega.onemillionniu.org](#)
Cc: [hyepin@gmail.com](#); [Mail@BBALA.org](#); [JTseng@HillFarrer.com](#); [Shek, Selina](#); [dfong@apcf.org](#); [rms2979@aol.com](#); [Hom, Brian](#); [Lo, Jeanette](#); [Sastra, Rudy](#); [Yip-Kikugawa, Amy C.](#); [MacDonald, Katherine](#); [Zhang, Zhen](#)
Subject: RE: Ex Parte Communications I.18-07-009, OII California's One Million New Internet Users Coalition's Misuse of CA
Date: Friday, March 6, 2020 4:12:00 PM

Good afternoon Mr. Ortega:

Please note, CPED's ability to commence discovery is not dictated by this proceeding's timeline or the need for a formal case management statement. As indicated in the data request issued by CPED on February 21, 2020, full and complete responses to all data requests are due today, March 6, 2020. Even though you have had full knowledge of some of the data requests since CPED first issued a data request in July 2017, in light of your request for additional time to respond, CPED grants you an additional week or until March 13, 2020 to provide full and complete responses.

If CPED is not in receipt of full and complete responses by March 13, 2020, CPED intends to file a motion to compel requesting ALJ Zhang to require you to provide the requested information.

Sincerely,

Vanessa Baldwin
Counsel for CPED

Vanessa M. Baldwin
Attorney
Legal Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-3942
Vanessa.Baldwin@cpuc.ca.gov

ATTACHMENT G

On March 3, 2020 at 2:59 PM "Iortega [onemillionniu.org](mailto:ortega@onemillionniu.org)" <ortega@onemillionniu.org> wrote:

Judge Zhang,

During the ADR, CPED presented to Community Union, Inc. several settlement agreement offers concerning the other parties under investigation in this OII. CPED promised to make formal presentations of these offers at the conclusion of the ADR, as they would be incorporated into one offer. CPED asked that I sign these agreements. I signed the proposed agreements for Black Business Association and Soledad Enrichment Action. Since these matters are not related to Community Union business, I believe I signed these agreements in error, and would ask if any such document should be presented as evidence of a settlement agreement for the other parties, that it be stricken, and not incorporated in to a settlement offer. Community Union has no authority in this matter to act on behalf of the fiscal agent in this matter and believes such a signature presents itself as having that authority. Community Union has not authority in an agreement with settlements pertaining to other parties.

We are not sure how CPED will present these settlement agreements, but we(Community Union) wanted to offer this information as a point of clarification.

Evidentiary Hearing

Community Union will proceed with the evidentiary part of the hearing and asks that a timeline, if not already provided, be provided at the courts discretion. Community Union is acting and will act in pro per in this matter and asks the court for some leniency as we get up to speed on the processes particular to the CPUC's court proceedings.

March 6th, 11 a.m.

Community Union has calendared a conference call on this matter for March 6, 2020 at 11:00

a.m. and is confirming here with this note.

Other Issues

I had sent a note to the court requesting clarification on the demand sent by CPED with a February 28th deadline.

We also would like a timeline to request an amendment to the OII by adding 2 additional items as follows:

1. Does the Communications Division (CD) support (concur) that all the contract's requirements as set forth in Resolution T-17355 were satisfied in that the 7 Activities called for in the contract were completed, e.g. was the house built for which NIU was contracted to build? Were the rate payers made whole, albeit 3-months delayed?

To date, the OII has either by design or in error looked at a specific window of evidence with total disregard of whether or not *the house actually got built*. Specifically, were all the specifications (Activities 1 – 7) as called for in the contract, and as should have been measured by now – completed?

It is our position that without knowing if the rate payers were eventually made whole, how can damages be justified with integrity and accuracy. This is a crucial point of fact necessary to ascertain damage to the ratepayer the OII seeks to assess.

2. Should CD be obliged to pay the remainder of monies due to NIU for their work in completing the contract per the terms set forth therein? If the court finds the contract was completed satisfactorily an amount totaling approximately \$80,000 is due.

Finally, the court should note that Community Union is a very small organization, grossing less than \$50,000 annually over the last 3 years. We have no additional resources available to produce the thousands of copies that will be asked of by CPED. The copies for which CPED will ask for will fill-up about 8 large boxes measuring 4' x 2'. We estimate the costs to reproduce this evidence to amount to \$3,000 in labor and materials. This is a cost to which we have no access to cover. This puts an unfair burden on Community Union in their defense. We are asking the court to consider that even after we have produced copies for which we have no funds available of producing, and CPED is to prevail in this matter at the amounts they are requesting (hundreds of thousands of dollars)— is it worth the court's time? It is our contention that the financial burden of litigating this matter will take us further into financial hardship and possibly collapse.

Thank you,

Larry Ortega
Community Union, Inc.

On February 26, 2020 at 3:07 PM "Zhang, Zhen" <Zhen.Zhang@cpuc.ca.gov> wrote:



ATTACHMENT H

BETTY T. YEE California State Controller

February 6, 2015

Hyepin C. Im, MBA, MDIV, CPA, President
Korean Churches for Community Development
California One Million New Internet Users Coalition
3550 Wilshire Blvd, Suite 736
Los Angeles, CA 90010

Re: Audit Engagement Letter for California One Million New Internet Users Coalition

Dear Ms. Im:

This letter is to inform you that the State Controller's Office (SCO) will conduct an audit of California One Million New Internet Users (NIU) Coalition – California Advanced Services Fund (CASF). The audit period is from July 1, 2011, through March 1, 2015.

Per our telephone conversation with Larry Ortega, the NIU's Founder, we were informed that your organization, the Korean Churches for Community Development (KCCD), is the Fiscal Agent of the NIU Coalition. Mr. Ortega advised that NIU's accounts and records are maintained by the KCCD. Therefore, we have scheduled an entrance conference for Monday, February 9, 2015, at 1:00 p.m. at your headquarters, located at 3550 Wilshire Blvd. Suite 736.

The authority to conduct this audit is given by Government Code section 12410, which states, "The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." In addition, California Public Utilities Commission (Commission) entered into a contract with the State Controller's Office to perform an audit of the NIU Coalition.

We will conduct this performance audit in accordance with *Generally Accepted Government Auditing Standards* (GAGAS), issued by the Comptroller General of the United States. The purpose of the audit is to determine whether NIU claims for reimbursement are legal, proper, and in compliance with the with CASF grant provisions.

Sharmin Wellington and Johnny Tran of our office, under the supervision of Chris Prasad, Audit Manager, will perform the audit.

Enclosed is an Information and Document Request that lists the documents we will need during the initial phase of the audit. Additional specific information and documentation will be requested for examination throughout the course of the audit.

Hyepin C. Im, MBA, MDIV, CPA, President
February 6, 2015
Page 2

If you have any questions or require additional information, please call Mr. Prasad at (916) 445-8519 or email him at cprasad@sco.ca.gov.

Sincerely,



ANDREW FINLAYSON, Chief
State Agency Audits Bureau
Division of Audits

AF/sk

15058

cc: Chris Prasad, Audit Manager
State Agency Audits Bureau
Division of Audits, State Controller's Office
Sharmin Wellington, Auditor
Division of Audits, State Controller's Office

INFORMATION AND DOCUMENT REQUEST

California One Million New Internet Users Coalition
California Advanced Services Fund (CASF)
July 1, 2011, through March 1, 2015

1. Organizational chart
2. CASF reimbursement claims submitted to the Public Utilities Commission
3. Accounting policies and procedures
4. Copy of cost allocation methodology
5. Audit reports of KCCD and NIU
6. General ledgers
7. Time records
8. Vendor invoices
9. Cancelled checks

ATTACHMENT I

W/P No. : 2H Page: 2
Auditor : JT Date: 2/18/2015
Reviewer: SW Date: 5/11/15

Tran, Johnny (Dee)

From: McCarty, Nick
Sent: Thursday, February 12, 2015 1:38 PM
To: Ortega, Larry
Cc: Prasad, Chris; Tran, Johnny (Dee)
Subject: NIU Audit

Importance: High

Mr. Ortega,

I have spoken with our Manager, Chris Prasad, and he has stated to Johnny and I that our next meeting with you will be on February 23, 2015. At that time, it is our understanding that you will have all of the records necessary to substantiate the costs claimed by NIU thus far.

During our last meeting, you and I went over a list of documents that we had hoped to collect this week. Please have those documents available for review at our February 23 meeting.

List of Documents that we had discussed on Tuesday evening (February 10) included the following listed below and a few extra items have been added:

- 1) Invoice Details Year 1 Q1-Q3. Received. Thank you
- 2) Invoices for costs claimed according to the Invoice Detail Provided Year 1 Q1-Q4. Received. Thank you
- 3) List of all NIU Graduates and Trainers to date. Received. Thank you
- 4) All of the applications for trainers that the NIU has used to date. Lead trainers and trainers please.
- 5) Copy of the curriculum used by NIU to date. Train the Trainer curriculum as well as curriculum used by trainers for students.
- 6) A copy of the 3 Budgets that were submitted to PUC. One for each year that the grant was awarded to NIU.
- 7) All documentation that supports costs claimed on the invoices that you have provided. (Ex. Time Sheets, Cancelled checks, Expenditure Reports, General Ledger, Bank Statements, etc.)
- 8) We discussed that invoices from category 1,2, and 4 were not in what you had provided to us originally. We have received a few emails that have some of those invoices attached. Thank you. We are sorting through those now. I believe the last message said that more invoices are coming. We will wait for those and prepare a list of any that may be missing and submit that to you as the invoices become available to us.
- 9) A copy of each of the quarterly reports that have been submitted to PUC thus far

Per our conversations, you had mentioned that the documents requested would be thousands of copies that you or your staff would need to make. We understand that is a lot of copies and for that reason ask that you bring the original documents to the meeting with us on February 23. We are willing to look through them and will be able to make copies of anything that we need to take with us.

Please let me know if you have any additional questions or concerns with the list that is provided here. We look forward to meeting with you again on February 23.

Thank you,

Nick McCarty
State Controller's Office
Division of Audits
916-327-9475 Office

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ATTACHMENT J

243 p114
NM 5/20/15
SW 5/18/15
CP. v. 1.5

McCarty, Nick

From: Prasad, Chris
Sent: Monday, May 11, 2015 12:47 PM
To: McCarty, Nick; Wellington, Sharmin
Subject: FW: We are a subcontractor recently audited - Auditor is fabricating statements

Please include in the audit file. Thank you.

From: Prasad, Chris
Sent: Monday, May 11, 2015 11:56 AM
To: Finlayson, Andrew
Subject: FW: We are a subcontractor recently audited - Auditor is fabricating statements

Larry Ortega's complaints are untrue that the audit staff (1) intentionally misstates the facts on the soon to be issued draft audit report and (2) without facts, asserts that source documents are fabricated. Larry Ortega is the co-founder, California's One Million New Internet User's (NIU) Coalition. As discussed below, because of inconsistent results of our inquiries, lack of contemporaneous accounting records and source documents, and similar observations and results of the California Public Utilities Commissions (CPUC)'s onsite evaluation, we questioned the purpose and presence of accounting records and source documents, if any.

We recently (April 21, 2015) concluded fieldwork of the coalition, an audit performed on behalf of the CPUC to determine the extent of services and costs incurred for the coalition provided broadband awareness services to parent of school children in underserved communities. The Coalition, through the California Advanced Services Fund (CASF) grant from the CPUC provides this broadband service.

On quarterly bases, the consortia submitted claims for reimbursement to the CPUC for program costs. The claimed costs, approximately \$354,000, were primarily for labor related charges that consists of coalition executives, lead trainers, and trainers. The purpose of the audit was to determine if the activities and costs reported to CPUC were substantiated by accounting records and source documents. The CPUC's audit request stems from their concerns that the consortia failed to request prior approval of CPUC to change their broadband awareness program scope for reducing in-class room training to approximately 20 hours. In addition, CPUC received complaints from the consortia's consultants, specifically, trainers, for the coalition's lack of or untimely compensation.

The audit determined that except for the copies of coalition prepared claim invoices (invoices) submitted to the CPUC and cancelled checks, NIU did not provide accounting records, such as general ledgers; and source documents, such as time records to substantiate \$341,413 of the \$353,784 of the CASF-claimed costs. Due to the lack of these related accounting records and source documents, we are unable to determine the extent of CASF grant-related services and costs.

Mr. Ortega insists that accounting records and vendor prepared invoices and source documents, such as time records are maintained but not readily available. These records, he asserts, are located in several storages away from the office. Whereas, the NIU's Office Manager/Lead Trainer, during the CPUC's consortia onsite visits, had informed that due to their recent move to their now new and

PSSC 224-171

current location, records, if any, are missing; the office manager did not state that the records were stored offsite.

24-3 p2
nm 5/11/15
SW 5/11/15
C.M.

During our exit conference we mentioned that we may provide NIU a list of individuals for examination of contemporaneously prepared accounting records and source documents. As mentioned below, because of our inquiry during the course of the audit with Mr. Ortega, the service providers, specifically the trainers, and inquiry with the PUC for their Consortia onsite visit, we conclude that there is lack of timely prepared source documents and accounting records to substantiate time and effort for the broadband activities.

- Shortly after the PUC onsite visit, when we commenced the audit on March 9, 2015, for the same documents that we requested, Mr. Ortega told us, *(March 6th 2015 data request e-mail):*

And just to be clear, when I said we did not have the items, what I meant to say is that they are not in an organized fashion for easy access. We have everything on file of course relative to the expenditures for which we asked CASF reimbursement on, but it is not in the optimal organizational manner I would like to have them. As we are busy launching a new set of classes to meet our goal by end of February this year.

- During fieldwork, Mr. Ortega repeatedly asked us for description of the audit document request. We explained that the records and source documents such as general ledger, financial statements, time records, vendor invoices, are those documents that NIU agreed to maintain pursuant to the PUC rules and guidelines related to the Consortia Grant Program. Mr. Ortega did not acknowledge that these records were available; in fact, his response was that there were thousands of pages of documents and that they were maintained in storages. We requested, but were provided no access to view and determine the existence of the PUC required records. In fact, NIU's only comments to our request have been that we provide names of the individuals so that NIU can provide documents. Furthermore, when we asked for contact information for those that provided the grant related services for confirmation of their services and record keeping, for the individuals we would be contacting, Mr. Ortega asked for these contacts and specifics of our inquiry. Doing so, he mentioned, will allow NIU to give them a heads up of our inquiry.
- During the fieldwork, we also asked for accounting records and request to contact the accountant. In response, he said that the accountant was unavailable due to a medical condition, but then wrote to us on March 18, 2015. Mr. Ortega said, *"Quick update on g/l: our Accountant is finally catching up to begin work on our stuff as asked. I was informed that he had several delays involving the 6 other audits he is currently providing service to other clients and was not able to get to ours. We are close will have more info for you by Friday."*
- During our exit conference, we provided NIU a list of names of eight of the attempted seventy individuals we contacted to confirm their services and record keeping. Primarily, the response, as mentioned above was that there was no record keeping as the time spent for various activities such as; teaching, administrative services, phone calls to parents to inform of available broadband awareness program, were electronically sent to the Consortia.

Upon receipt of the names of these individuals, NIU contacted a few of these individuals. While our documented inquiry and their responses that specifically asked for program related task and record keeping, three of the eight individuals have now contacted

24-3 p 3
nm 5/20/15
sw 5/21/15
CPV 1.5

us. In their similar response to us, they have drawn back their earlier confirmation; now saying that they prepared their own invoices for work performed at NIU. Not only are these statements inconsistent with their earlier conformations, but these are contrary to Mr. Ortega's earlier comments to us, saying that he prepared the invoices.

Because of inconsistent results of our inquiries, lack of contemporaneous accounting records and source documents, and similar observations and results of the PUC's onsite evaluation, we questioned the purpose and presence of accounting records and source documents, if any.

Had we been made available these contemporaneous documents to validate its existence, we could have provided a list of individuals to validate the NIU's claims. We informed Mr. Ortega that while we are proceeding with the draft report, in the interim, if the Coalition wishes to make "records" available to us for review, we can take a look at them to see if they fit the documentation requirements we were originally looking for. However, we would only do so by pulling any sample ourselves.

Chris Prasad, CPA, CFE
State Controller's Office
Audit Manager
State Agency Audits Bureau
Division of Audits
(916) 445-8519

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ATTACHMENT K

W/P No. _____	PAGE _____
PREPARED BY _____	DATE _____
REVIEWED BY _____	DATE _____

**California Public Utilities Commission
California One Million New Internet User's Coalition -
California Advance Services Funds
Engagement Planning Memorandum
S15-SAA-0003**

Update February 18, 2015

Jeff, fyi

This morning, approximately at 10:30, Larry Ortega, Co-Founder, NIU, left a voice message asking that we move the planned visit to sometime in March rather than next week. He said that the NIU is trying to roll out the last round of classes before the program terminates as this month-end. He mentioned that our presence to the NIU business site and his time to coordinate our audit efforts last week and possibly next week is not allowing him to attend to his business needs.

Based on our inquiry with the NIU staff, unless staff was unaware, NIU has not scheduled any classes for the next few weeks. As for time devoted to the audit, he was only partially available from 1:30-5:30 pm on the first day, from 2:15-6:30 pm on the second day. Auditors were at the NIU site on the third day which he was not available at all and were informed that he would be unavailable on the 4th day as well. Because of his unavailability, we had agreed to postpone our next visit to obtain accounting records and source documents until February 23rd, a day in which he requested to meet with us in our early discussions.

Thus far, we have only requested historical accounting records and source documents, both of which NIU claims are available but not maintained at his office. Rather than having NIU devote time and effort to copy these records for us, we are only asking that they make the original records available to us for review.

During our initial visit to NIU site, during our follow-up phone conference on Wednesday, February 11, 2015, and through an e-mail that was sent to him, we reaffirmed with Larry the data request; for which, his response has been, "what records are you requesting". We explained to him that routine records for audits include: accounting records and source documents, such as financial statements, general ledger, time records, vendor invoices, canceled checks, etc.

At this time, we are unsure if any records exists, as we have not been provided accounting records, time sheets, cancelled checks, bank statements, general ledgers, etc. to understand NIU's record keeping and internal safeguard processes. We have obtained invoices to some of the instructors, but no additional source documentation to substantiate costs claimed as of yet. In lieu of waiting for accounting records and source documents, we would like to continue with the audit by conducting alternative procedures in an attempt to validate some of the costs in the claims. We have a list of instructors (Per Claims filed to PUC) and time periods of their instructional charges. As an alternative, we would like to try contacting these instructors to determine the extent and charges for the instructional services as related to the NIU claim. These alternative procedures will allow us to examine approximately \$170,000, 44%, of the NIU claimed costs reimbursed to date.

The remainder of the reimbursed costs, approximately \$55,000, 14%, to Coalition Members, \$83,000, 21%, NIU Liaisons, and \$80,000, 21%, to Lead Trainers are likely administrative expenses. Minimal to no invoices have been provided in these 3 areas that make up about 56% of costs claimed. Indications thus far are that there may be lack of time records and source documents to substantiate grant related activities.

Thus, rather than waiting for NIU to provide recommends, we recommend to continue with the audit by applying the alternative audit procedures.

W/P No. _____	PAGE _____
PREPARED BY _____	DATE _____
REVIEWED BY _____	DATE _____

**California Public Utilities Commission
California One Million New Internet User's Coalition -
California Advance Services Funds
Engagement Planning Memorandum
S15-SAA-0003**

Please let me know if you have any questions or concerns.

Chris Prasad, CPA, CFE
State Controller's Office
Audit Manager
State Agency Audits Bureau
Division of Audits
(916) 445-8519

ATTACHMENT L

STATE OF CALIFORNIA
PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

Edmund G. Brown, Jr., *Governor*



DATA REQUEST

Date: February 21, 2020

To: Larry Ortega (dba Community Union Inc.)
1649 Flanagan St.
Pomona, CA 91766
lortega@communityunion.org
lortega@onemillionniu.org

Larry Ortega
PO Box 364
Pomona, CA 91769

From: Brian Hom, Senior Investigator
Consumer Protection & Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue, 2nd Floor
San Francisco, CA 94102
Brian.Hom@cpuc.ca.gov

Vanessa Baldwin, Attorney
Legal Division
California Public Utilities Commission
Vanessa.Baldwin@cpuc.ca.gov

Re: California's One Million NIU California Advanced Services Fund (CASF) Grant

Prior to the Commission's issuance of the Order Instituting Investigation (OII) I.18-07-009, on July 21, 2017 CPED issued California's One Million NIU Coalition (herein referred to as "NIU" or "Coalition") a data request. At the time, NIU refused to

produce responsive documents instead “challeng[ing CPED’s] authority on the grounds that KCCD...nor [NIU] are utility companies as defined by the Rules you cite on page 1. Nor is there a formal Proceeding.”¹ To date, NIU has not provided responsive information or documents to that data request.

CPED now issues this data request as another attempt to obtain documents and information relevant to the Commission’s investigation in I.18-07-009. The questions in this data request supplant the questions in the data request issued by CPED on July 21, 2017.²

INSTRUCTIONS

Mr. Larry Ortega as the leader of California’s One Million NIU Coalition and Community Union, Inc. as a member of the Coalition (herein referred altogether as “respondent”) are instructed to answer the following Data Requests with written, verified responses per Public Utilities Code §§ 314, 314.5, 581, 582 and Rules 1.1 and 10.1 of the California Public Utilities Commission’s Rules of Practice and Procedure (“Rules”).

Restate the text of each request prior to providing the response and provide the name of the person(s) answering the request, the title of such person(s), and the name and title of the person they work for. With respect to each document produced, identify the number of the data request and question number that the document is responding to. Responses should be provided both in the original electronic format, if available, and in hard copy. (If available in Word format, send the Word document and do not send the information as a PDF file.) All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, provide a copy of the supporting electronic files that were used to derive such calculations, such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data requests should be Bates-numbered and indexed if voluminous.

Responses to data requests that refer to or incorporate documents should identify the particular documents referenced by Bates-numbers or Bates-range. Provide your response, no later than the due date noted below. If you are unable to provide a response by this date, notify Mr. Hom as soon as possible before the due date, with a written explanation as to why the response date cannot be met and a date certain of when the information can be provided. Each data request is continuing in nature, so if any information provided changes or new information becomes available that is responsive to a request, respondent is required to supplement its response to CPED.

¹ Email from lortega@onemillionniu.org dated August 4, 2017.

² Issuance of this data request does not relieve Respondents of their obligation to have complied with the July 21, 2017 data request.

In answering these data requests, the respondent should adhere to the Commission's Rules, with particular attention to Rule 1.1 of those Rules, which requires the respondent to "never mislead the Commission or its staff by an artifice or false statement of law or fact." The respondent should keep in mind that "Violations of Rule 1.1 can occur by a failure to correctly cite a proposition of law, a lack of candor, withholding information, providing incorrect information, or a failure to correct mistaken information."³ **Violations of Rule 1.1 are punishable as misdemeanors subject to a fine and/or jail time, and if applicable, penalties of up to \$50,000 for each offense.**⁴ CPED expects the respondent to respond to these data requests with the highest level of candor.

As a reminder and as set forth in CPED's data request issued on July 21, 2017 NIU and any of its employees, agents or other representatives are on notice of the obligation to preserve all evidence which might be relevant to this investigation. Any person who destroys or conceals any such evidence, or agrees with or facilitates any other person to do so, will be subject to the full extent of all legal remedies for such conduct. As a California Advanced Services Fund ("CASF") Consortia Grant recipient, in accordance with the Commission's Decision 11-06-038, NIU is required to maintain books, records, documents and other evidence sufficient to substantiate expenditures covered by the grant.⁵ Relevant evidence includes, but is not limited to, all written communications and documents relating to the Consortia Program and CASF funds, including financial records. In addition, electronic evidence must also be preserved.

DATA REQUESTS

Please provide full and complete responses to the requested information **by March 6, 2020** to Brian Hom. If you are unable to provide a full and complete response by this deadline, please provide a request for an extension in writing no later than February 28, 2020. The request must explain why respondent cannot meet the due date and indicate a new proposed deadline to provide full and complete responses to all data requests.

1. Please identify all addresses, including street number, street name, city, and zip code, of all facilities (e.g. offices, rooms, classrooms, warehouses, storage space) owned and/or used, on either a temporary or permanent basis by respondents relating to CASF activities.

³ Administrative Law Judge's Ruling Denying Southern California Edison Company's Motion For Summary Adjudication Of Alleged Rule 1.1 Violations Related To Data Request Responses Dated December 10, 2010, I.09-01-018, January 10, 2012, p. 6.

⁴ Pub. Util. Code §§ 2111 and 2112.

⁵ Decision 11-06-038, Decision Implementing Broadband Consortia Grant in Rulemaking 10-12-008, Order Instituting Rulemaking to Consider Modifications to the California Advanced Services Fund Including Those Necessary to Implement Loan Program and Other Provisions of Recent Legislation.

2. Provide contact name and last known phone number and address of all NIU staff (including full time, part time and contractors) from March 1, 2012 through March 1, 2015.
3. Provide all general ledger(s) itemizing all CASF related expenses from March 1, 2012 through March 1, 2015, including but not limited to, meals, meetings, travel, mileage, supplies, graduation, promotion, interest expenses, telephone, internet, insurance, equipment and conference related expenses.
4. For each respondent, provide the audited financial statements (including but not limited to, balance sheet, activities statement and cash flow statement) for the end of each quarter from March 1, 2012 through March 1, 2015.
 - a. If audited financial statements are not available, please explain why audited financial statements are not available and provide a copy of the unaudited financial statements for the requested timeframe.
5. Provide a copy of each respondents' Federal and California filed tax returns and all filed attachments and forms for 2012 through 2015.
6. Provide all supporting documentation relating to each respondents' CASF related expenses from March 1, 2012 through March 1, 2015.
 - a. If no supporting documentation exists, provide a description of the expense including an estimated date of when the expense was incurred and the reason why supporting documentation is not available.
7. Provide all supporting documentation relating to each respondents' revenues (e.g. grants) from March 1, 2012 through March 1, 2015.
8. Provide a copy of the monthly bank statements for each respondents' bank account(s) in existence from March 1, 2012 through March 1, 2015. Please redact all personal identifiable information (e.g. social security number, date of birth).
9. Please identify all facilities including address and the last known point of contact used by each respondent for courses associated with carrying out CASF grant related activities from March 1, 2012 through March 1, 2015.
10. Please identify a list of all courses offered in carrying out CASF grant related activities during the period of March 1, 2012 through March 1, 2015. For each course, include a description of the course, date(s), time(s) and location(s).

11. Identify any and all audits or investigations (formal and informal) by any person, corporation, government agency, local authority, or of the kind, conducted on either respondent covering or relating to the period of March 1, 2012 through March 1, 2015.
 - a. Provide the audit and/or investigative report and all documentation relating to the such audits or investigations.
12. Provide all written and electronic correspondence involving either respondent and/or Korean Churches for Community Development (KCCD) including but not limited to the following:
 - a. Provide all electronic mail and information about electronic mail (including message contents, header information and logs of electronic mail system usage) containing information related to the funds received from the CASF program and NIU's related efforts toward encouraging the deployment of broadband.
 - b. Provide all word processing and file fragments containing information about any of the subjects identified in request 12(a), above.
 - c. Provide copies of all electronic data files and file fragments created or used by electronic spreadsheet programs, where such data files contain information about any of the subjects identified in request 12(a), above.
13. Identify all grants ever granted to either respondent or that respondent received grant money from. For each grant, provide all of the following:
 - a. name of the grantor,
 - b. name of the grantee(s),
 - c. grant amount awarded to respondent,
 - d. grant amount received by respondent,
 - e. time period of the grant, and
 - f. the terms of the grant.
14. Provide a copy of the document authorizing each grant (e.g. grant letter) listed in question 13.
15. Identify all payments each respondent received from KCCD. For each payment, identify the grant source, amount received from the grant corresponding to the payment, and any withholdings from the total payment.

16. Provide a copy of the W-2 for calendars years 2012, 2013, 2014, and 2015 for all employees of respondent to work on CASF related activities from March 1, 2012 through March 1, 2015.
17. Provide a copy of the W-2 for calendars years 2012, 2013, 2014, and 2015 for all officers of Community Union Inc. (e.g. Secretary, Chief Financial Officer) from March 1, 2012 through March 1, 2015.
18. Provide a copy of all Form 1099s for calendars years 2012, 2013, 2014, and 2015 for all agents or contractors of respondent retained to work on CASF related activities during the period of March 1, 2012 through March 1, 2015.