

Docket: I.18-07-009  
Exhibit Number : \_\_\_\_\_  
Commissioner : Rechtschaffen  
Admin. Law Judge : Zhang  
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**CONSUMER PROTECTION  
AND ENFORCEMENT DIVISION  
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**DIRECT TESTIMONY  
OF  
DEVLA SINGH**

San Francisco, California  
July 7, 2020

1 **I. QUALIFICATIONS AND SUMMARY**

2  
3 **1. State your name.**

4 My name is Devla Singh

5  
6 **2. What is your position?**

7 I am currently the Program and Project Supervisor in Safety Enforcement Division. I was the  
8 Public Utilities Regulatory Analyst (PURA) 4 and the project manager in the California  
9 Advanced Services Fund Program from September 2014 to September 2015.

10  
11 **3. How long were you in the CASF section?**

12 I was in the CASF Section from September 2014 to September 2015

13  
14 **4. What was your role in the CASF section?**

15 I was the project manager over the Consortia program. I have direct knowledge from  
16 September 2015 to September 2017 regarding the Communications Division's program  
17 management of the One Million New Internet User's Coalition (NIU)

18  
19 **5. Is it your understanding that Resolution T-17355 authorized NIU's grant?**

20 Yes.

21  
22 **6. What was the annual funding cap per year?**

23 \$150,000.

24  
25 **7. Were there seven activities in NIU's workplan that performance was measured for?**

26 Yes.

27  
28 **8. How was CD kept apprised of NIU's performance for each of the seven activities?**

29 NIU notified CD on a quarterly basis. D.11-06-038 required Consortias such as NIU to  
30 submit work plans for each funding year. The work plan included a timeline identifying  
31 milestone dates for completion of key work plan activities proposed to be funded and the  
32 quarterly milestones to be accomplished. At the end of every quarter, D.11-06-038 required  
33 each Consortia was required to submit a Quarterly Progress Report which are based on the  
34 approved Action Plan, Work Plan, Consent Form, timelines, milestones, and costs identified  
35 in the Consortia's application. The Quarterly Progress Report should indicate the actual date  
36 of completion for each task/milestone as well as problems/issues encountered and the actions  
37 taken to resolve these problems/issues. Quarterly Progress Reports were required to ensure  
38 activities and goals are on target with the approved Work Plans.

39  
40 Community Union, on behalf of NIU, was required to submit their Quarterly Progress Report  
41 to CD detailing their progress with respect to each of the seven activities.

1 **9. Did NIU meet their performance metric of 40 hours of technology training for Activity**  
2 **5 consistent with the work plan, action plan, and budget they proposed in their grant**  
3 **application?**

4 No.

5  
6 **10. Why not?**

7 Based on documentation that NIU submitted after January 2014, NIU unilaterally changed  
8 Activity 5 to shorten the in-class sessions from 40-hours of in-class training to 20 hours  
9 supplemented by homework.<sup>1</sup> NIU did not communicate this change in class design and  
10 instead gave the impression that it had been offering the 40-hour in-class training in all of its  
11 quarterly reports and its requests for Year 2 and Year 3 budgets.<sup>2</sup> When CD became aware  
12 of this change, CD emailed Mr. Ortega informing him that “We are concerned that the  
13 number of hours for most sessions is less than 40 hours. Neither Zeny, Ana Maria, or Angel  
14 recall having approved such a change to NIU’s work plan.”<sup>3</sup>

15  
16 Subsequently, in CD’s payment letters dated April 16, 2014 and July 21, 2014 and CD’s  
17 letter dated July 22, 2014 restoring NIU’s Year 3 budget to \$95,440, CD made clear that  
18 although CD was reimbursing NIU for the costs associated with the classes for Activity 5,  
19 CD did not consider those classes as having met the standards set forth by NIU because the  
20 training sessions were for less than the 40 hours stated in NIU’s work plan.

21  
22 On August 8, 2014, NIU admitted that they reduced the performance metric for Activity 5  
23 within the first two quarters without notifying and/or obtaining approval from CD.<sup>4</sup>

24  
25 **11. Did respondent meet their performance metric for the first two years of the grant**  
26 **period graduating 65% or 514 graduates to enter Post-New Internet Users workshops**  
27 **(Activity 7)?**

28 No.

29  
30 **12. Why not?**

31 Based on my review of the file, NIU committed to training 514 parents in Year 1 in post-NIU  
32 Workshops, and only trained 96<sup>5</sup>, 19%<sup>6</sup> of its target. On October 1, 2012, in its cover letter  
33 for Work Plan for Year 2<sup>7</sup>, NIU stated that it “brought the goal for modules completed by

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<sup>1</sup> See OII, Attachment A, CPED’s Staff Report, Exhibit 15 (Letter from CD dated 12/17/14).

<sup>2</sup> See OII, Attachment A, CPED’s Staff Report, Exhibit 15 (Letter from CD dated 12/17/14).

<sup>3</sup> Attachment 1, Email from Penney Legakis to Larry Ortega dated April 1, 2014.

<sup>4</sup> See OII, Attachment A, CPED’s Staff Report, Exhibit 13 (Letter from Hyepin Im to Ryan Dulin dated August 8, 2014); Attachment 2, Larry Ortega’s April 3, 2014 email regarding “One Million NIU In Action: Details to Curriculum Changes” (Mr. Ortega explained that Activity 5 was changed “moving it from 40 hour in class instruction to 20 hour in class instruction.”).

<sup>5</sup> 25 students were trained in Y1Q1, zero in Y1Q2. 64 students in Y1Q3 and seven in Y1Q4. See Attachment 3, NIU’s Quarterly Reports.

<sup>6</sup> Attachment 3, Y1Q4 Quarterly Report dated March 5, 2013.

<sup>7</sup> Attachment 4, Year 2 Work Plan dated October 2, 2012.

1 NIU Alumni down from 514 to 250 for Year 2.” At the end of Year 2, NIU reportedly  
2 trained 475<sup>8</sup>, 190<sup>2</sup> of its target, a curious jump from only 36%<sup>10</sup> completion rate from Year 2  
3 Quarter 3<sup>11</sup>. In its December 3, 2013 Request for Revision for Budget and Work Plan for  
4 Year Three, NIU again requests to bring the goal of Activity 7 down to 144 modules. In  
5 CD’s response dated January 14, 2014, CD states that they are ”concerned by NIU’s proposal  
6 to fundamentally alter its performance metrics. We will not approve this proposed change  
7 because it is not consistent with the scope of NIU’s initial submission and also because we  
8 are not in support of paying NIU to have parents perform tasks which are dedicated to what  
9 NIU terms as ”pure recruitment and promotion.”” The letter further states, “NIU has not met  
10 this performance metric despite extensively changing this particular metric in the past.”  
11

12 **13. Was one of your responsibilities as a project manager of the Consortia program to**  
13 **review the Quarterly Progress Reports submitted with NIU’s reimbursement request?**

14 Yes.

15  
16 **14. For which quarters did you review NIU’s reimbursement requests?**

17 Year 3, Quarter 2 and Quarter 3.

18  
19 **15. What was NIU’s Year 3 budget request?**

20 \$150,000.00

21  
22 **16. Did CD authorize the entire \$150,000 budget for Year 3?**

23 No.

24  
25 **17. Why not?**

26 Based on my review of the record, CD had reduced NIU’s budget to \$49,088 for Year 3 due  
27 to concerns regarding NIU’s performance during Years 1 and 2 of the CASF grant despite  
28 being given opportunities to address these issues.<sup>12</sup> NIU subsequently submitted a corrective  
29 action plan and CD restored NIU’s budget to \$95,440 as described further in Ryan Dulin’s  
30 letter dated July 22, 2014.  
31  
32

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<sup>8</sup> 12 modules in Y2Q1, 54 in Y2Q2, 23 in Y2Q3, and 386 Y2Q4. See Attachment 3, NIU’s Quarterly Reports.

<sup>2</sup> Attachment 3, Quarterly Report for Year 2 Quarter 4, dated March 5, 2014.

<sup>10</sup> Attachment 3, Quarterly Report for Year 2 Quarter 3.

<sup>11</sup> OII Attachment A, CPED Staff Report, Exhibit 10, January 14, 2014 Letter from Ryan Dulin, CD states, ”Despite these opportunities, as of the end of Year 2, Quarter 3, rather than catch up, NIU instead has fallen even further behind...”

<sup>12</sup> See OII Attachment A, CPED Staff Report, Exhibit 10, January 14, 2014 Letter from Ryan Dulin.

1 **18. What was your determination upon review of NIU’s Y3Q2 requests?**

2 After my review of NIU’s Y3Q3. I determined that \$31,247 was appropriate to reimburse  
3 NIU for its expenses.<sup>13</sup>  
4

5 **19. What was your determination upon review of NIU’s Y3Q3 requests?**

6 I reviewed NIU’s Y3Q3 request, however, it was CD’s determination to put on hold that  
7 payment request pending the audit. CD determined that no further payment starting in Y3Q3  
8 was warranted until a third-party audit was conducted.<sup>14</sup> Pending a positive outcome from  
9 the audit, CD would consider adjusting NIU’s budget for Year 3 accordingly.  
10

11 **20. Did CD process NIU’s payment requests for Year 3 Q3 and Q4?**

12 No.  
13

14 **21. Why not?**

15 As I explained, above, CD put a hold on further payments starting in Y3Q3. Also, based on  
16 my review of the record, CD issued a letter to NIU dated 4/18/2016 clarifying that “CD will  
17 make no further payment to NIU” despite having provided a total of \$101,880 in payment  
18 requests for Q3 and Q4.<sup>15</sup> “Given the seriousness of the audit findings, lack of compliance  
19 with program requirements, and absence or serious weakness of internal controls, CD’s  
20 decision to withhold further grant payment is justified.”<sup>16</sup>  
21

22 **22. What was the purpose of your October 2014 site visit?**

23 I was informed by CD staff at the time that NIU had cut its parent training curriculum from  
24 40 hours to 20 hours in class time. The purpose of meeting with Mr. Ortega was for him to  
25 justify the costs and provide the appropriate documentation to support their budget request  
26 for Year 3.<sup>17</sup> Since NIU cut the parent training curriculum to less than 40 hours in class time  
27 and reduced the trainers needed, my goal was to have Mr. Ortega identify where those  
28 “saved” CASF funds had been allocated.<sup>18</sup> I also intended to observe how NIU conducted its  
29 parent training classes.<sup>19</sup>  
30

31 **23. How many classes and/or graduations did you attend in total?**

32 Three. I visited two sites in Anaheim in October 2014 and one class visit to Downtown LA  
33 in and around March 3-5, 2015. I recall attempting to attend a graduation in March 2015, but

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<sup>13</sup> Attachment 5, CD Payment Letters.

<sup>14</sup> Attachment 6, See Email from Ryan Dulin to Mr. Ortega dated April 20, 2015.

<sup>15</sup> OII Attachment A, CPED Staff Report, Exhibit 18 (Letter from Ryan Dulin dated April 18, 2016), p. 3.

<sup>16</sup> OII Attachment A, CPED Staff Report, Exhibit 18 (Letter from Ryan Dulin dated April 18, 2016), p. 3.

<sup>17</sup> Attachment 7, Memorandum from Devla Singh to Robert Wullenjohn and Zenaida Tapawan dated October 22, 2014.

<sup>18</sup> Attachment 7, Memorandum from Devla Singh to Robert Wullenjohn and Zenaida Tapawan dated October 22, 2014.

<sup>19</sup> Attachment 7, Memorandum from Devla Singh to Robert Wullenjohn and Zenaida Tapawan dated October 22, 2014.

1 the graduation scheduled to take place did not actually take place contrary to NIU's  
2 graduation schedule that I received from Teresa Cortes.

3  
4 **24. In scheduling your site visits, did you have any trouble?**

5 Yes.

6  
7 **25. Please explain.**

8 There were classes listed on the schedule that were not actually in session. When I went  
9 Edison Elementary school during the time listed on the schedule the class was actually not  
10 being conducted.

11  
12 **26. When and where did you attend those classes?**

- 13 1) Edison Elementary School in Anaheim on 10/15/2014 (Class: Mon, Wed 8:15 to 11:15  
14 am), and  
15 2) Thomas Jefferson Elementary in Anaheim 10/15/2014 at 2 pm.

16  
17 **27. Did you observe a class during your October 15, 2014 site visit?**

18 Not initially.

19  
20 **28. Why not?**

21 Based on NIU's schedule of training classes provided to CD on before October 6, 2014, I  
22 saw that NIU was providing a training session at Edison Elementary School in Anaheim from  
23 8:15-11:15am on October 15, 2014.

24  
25 On October 15, 2014, the day of the scheduled training, I arrived at the Edison Elementary  
26 School, however, the specific class was not in session.

27  
28 **29. What did you observe during your October 2014 site visit?**

29 Later that day on October 15, 2014, I met with Larry Ortega at Thomas Jefferson Elementary  
30 School in Anaheim. When I arrived, I noticed there was a class in session. My main purpose  
31 was to ask him to justify the costs incurred to date and provide the appropriate  
32 documentation to support NIU's budget request, specifically for Year 3.

33  
34 Larry admitted that the "documentation provided to date, does not suffice to support cost."<sup>20</sup>  
35 I then gave Mr. Ortega an example of how other CASF grantees record and document  
36 program costs including invoices, receipts and a cost breakdown of staff time and activities.

37  
38 Mr. Ortega resisted my request that he provide accounting records to justify program costs.

39  
40 In contrast to other CASF grantee programs that I observed which were open and transparent  
41 about their programs, Mr. Ortega was dismissive of my request for NIU to reconcile its

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<sup>20</sup> Attachment 7, Memorandum from Devla Singh to Robert Wullenjohn and Zenaida Tapawan dated October 22, 2014.

1 expenses with supporting documentation and instead became defensive and uncooperative to  
2 provide an account of how the CASF grant funds were spent  
3

4 For additional details regarding my site visit, please see Attachment 1, Memorandum from  
5 Devla Singh to Robert Wullenjohn and Zenaida Tapawan dated October 22, 2014.  
6

7 **30. What were your recommendations to CD management after your October 2014 site**  
8 **visit?**

- 9 1) An in-depth performance and financial audit of NIU's CASF grant be conducted to  
10 ensure that records kept by NIU support/justify payments, performance metrics, and  
11 appropriate record keeping;  
12 2) Remain firm on CD's decision to reduce NIU's Y3 budget based on insufficient  
13 documentation, and failure to provide an updated work plan and budget; and  
14 3) Recommend additional visits to NIU training sites and graduation ceremonies to audit  
15 actual instruction being given and parent attendance.  
16

17 **31. Were there already performance problems with complying with the terms of the grant?**

18 Yes.  
19

20 **32. What were those performance problems?**

21 I started with CD during Year 3 of NIU's grant. At that time, it came to CD's attention that  
22 NIU had changed one of their key activities, Activity V (e.g. 40 hour Parent Engagement  
23 through Technology training sessions), without notifying CD in accordance with D.11-06-  
24 038. In addition, as noted in CD's December 17, 2014 Letter to NIU, "NIU failed to achieve  
25 its goals of training 790 parents in Year 1, 909 parents (to makeup the difference for Year 1)  
26 in Year 2. Now in Year 3 and Quarter 2 [NIU] reached only 42% of its goal promising to  
27 makeup the difference in the remainder of Year 3."<sup>21</sup>  
28

29 **33. You mentioned "NIU had changed one of their key activities." What do you mean by**  
30 **"key activity"?**

31 While CD acknowledged that NIU undertakes other activities aside from Activity 5 which is  
32 to provide 40-hours of Parent Engagement through Technology, "CD deemed the goal of this  
33 consortium based on NIU's representation in its original proposal is to provide parent  
34 trainings that would lead to "true adoption." This goal of NIU's program is accomplished  
35 through Activities V and VII.<sup>22</sup> Therefore, Activities 5 and 7 were deemed critical, key  
36 activities.  
37

38 **34. Did Community Union agree with designating Activities V and VII as "key activities"?**

39 No.

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<sup>21</sup> OII Attachment A, CPED Staff Report, Exhibit 15 (Letter from Mr. Dulin to Hyepin Im and Larry Ortega, dated December 17, 2014).

<sup>22</sup> OII Attachment A, CPED Staff Report, Exhibit 15 (Letter from Mr. Dulin to Hyepin Im and Larry Ortega, dated December 17, 2014).

1 **35. Why not?**

2 Community Union believed that all seven activities should be equally weighted. It attempted  
3 to argue that Activity 5 represents an “ ‘average of only 16.7% of everything [NIU is]  
4 obligated to perform’ and ‘could not warrant a \$50,000 (or 1/3) reduction in budget.’”<sup>23</sup>

5  
6 **36. After your October 2014 site visit what actions did CD take with regard to NIU’s**  
7 **grant?**

8 As described in CD’s letter to Hyepin Im and Larry Ortega, dated December 17, 2014, based  
9 on CD’s concerns regarding NIU’s performance during Years 1, 2, and 3, an audit was  
10 deemed necessary to review and evaluate NIU’s CASF grant performance. CD then denied  
11 NIU’s request to restore its Year 3 budget to \$150,000. Pending a positive outcome of the  
12 audit, CD would adjust NIU’s budget for Year 3 accordingly.

13  
14 **37. What was the purpose of the audit?**

15 “The purpose of the audit was to determine whether reimbursement claims against the CASF  
16 grant funds were for allowable Consortia Program activities pursuant to the Consortia Grant  
17 Agreement (CPUC Resolution T-17355); specifically, to determine whether (1) the NIU  
18 Coalition’s accounts and records substantiated the level of agreed-upon effort; (2) the costs  
19 reimbursed with grant funds were for costs incurred in accordance with the CPUC’s  
20 Consortia Program provisions; and (3) program expenses were substantiated with accounting  
21 records and source documents.” (This is per the SCO’s NIU Audit Report, page 1).

22  
23 Also, based on my review of the record, due to the disparity in the assessment of  
24 performance of NIU, CD informed NIU (Dec 17, 2014 letter) that CD will be pursuing a  
25 third-party audit review.

26  
27 **38. What was your role during the audit?**

28 As the PURA 4 in CD, I initiated the audit after visiting NIU training location in LA that did  
29 not have an active class. Second, Mr. Ortega failed to substantiate costs related to the  
30 Consortia program which were supposed to be reimbursed by CD. (per SCO contract  
31 amendment, the term of the SCO contract was from January 15, 2015 through December 31,  
32 2015).

33  
34 **39. Can you briefly summarize the findings of the audit?**

35 Based on my reading of the SCO’s Audit Report, the SCO’s Audit Findings included:

- 36 ○ NIU lacked proper internal control safeguards to ensure that the NIU  
37 program functioned as intended;
- 38 ○ Accounting records and documents did not properly substantiate program-  
39 related activities and costs in accordance with CASF rules and guidelines;
- 40 ○ NIU provided approximately 50% of the broadband instructional training  
41 agreed upon; and

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<sup>23</sup> OII Attachment A, CPED Staff Report, Exhibit 15 (Letter from Mr. Dulin to Hyepin Im and Larry Ortega, dated December 17, 2014).



- Some costs were inconsistent with the level of services provided; and NIU did not provide complete records to substantiate that the NIU program costs were also not charged against NIU’s many other available grants.

**40. Did Respondent violate rule 1.1 when it reported 40 hours of technology training in its work plan, but actually reduced its training to less than 40 hours**

Yes.

**41. Please explain.**

During all 3 years of the grant, NIU submitted Work Plans that established they would: “Conduct the 40-hour Parent Engagement through Technology sessions on school site, community-based organizations, community centers where computer labs are turned into Empowerment Hubs. Performance Measure(s): Annual Target number of Parents to complete the 40 hours of training: 790.”

The NIU Coalition represented that it had “far surpassed our goals”<sup>24</sup> when in reality, the 40 hours of class training were reduced to below 40 hours, in some cases, cutting training hours in half to 20 hours.<sup>25</sup> NIU had committed to provide 40 hours of class training to each of its students.

NIU repeatedly submitted their annual work plan for all three years of the grant based on a 40 hour work plan despite having unilaterally reduced actual training hours.

Specifically, upon my review of documents, all twelve (12) quarterly reports<sup>26</sup> that NIU submitted for the duration of the grant period, from March 2012 through February 2015, reflect 40-hour trainings. Activity 4 as stated in all of the submitted quarterly reports reads, “College students and One Million NIU alumni (parents graduating from the NIU program) in cooperation with Workforce Development/Worksource Centers, are trained as trainers in an intense 40 hour Train the Trainer program.”

Additionally, Activity V as stated in all of the quarterly reports submitted by NIU reads, “Conduct the 40 hour Parent Engagement through Technology sessions on school site, community-based organizations, community centers where computer labs are turned into Empowerment Hubs.” This portion further states, “Annual Target Number of Parents to complete the 40 hours of training: \_\_\_” wherein NIU would complete the portion by writing down their goal.

Pursuant to Public Utilities Commission Rule 1.1:

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the

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<sup>24</sup> Attachment 4, Year 2 Work Plan dated October 1, 2012, p.1.

<sup>25</sup> Attachment 2, Larry Ortega’s April 3, 2014 email regarding “One Million NIU In Action: Details to Curriculum Changes.”

<sup>26</sup> OII Attachment A, CPED Staff Report, Exhibit 8 (NIU Consent Form).

1 laws of the State; to maintain the respect due to the Commission, members of  
2 the Commission and its Administrative Law Judges; and never to mislead the  
3 Commission or its staff by an artifice or false statement of fact or law.

4  
5 NIU repeatedly made false claims to the Commission by reporting that it provided 40 hours of  
6 instruction when it had reduced instructions to less than 40 hours.

7  
8 **42. To your knowledge, did CD ask NIU for sign-in sheets (i.e. signed by all class**  
9 **attendees)?**

10 Yes.

11  
12 **43. Did CD receive sign-sheets?**

13 Yes.

14  
15 **44. How many sign-in sheets do you recall were in CD's files?**

16 A few pages probably amounting to a handful of classes.