

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

October 22, 2010

Via Electronic Transmission

The Honorable Francis S. Collins
Director
U.S. National Institutes of Health
One Center Drive
Bethesda, MD 20892

The Honorable Harold E. Varmus, M.D.
Director
National Cancer Institute
U.S. National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20892

Dear Director Collins and Director Varmus:

As the Ranking Member of the Senate Committee on Finance (Committee) I have a duty to conduct oversight of the executive branch, including the activities of the Department of Health & Human Services (HHS) and the National Cancer Institute (NCI). This duty includes monitoring NCI activities and conducting oversight to ensure taxpayer dollars are used appropriately.

It has been reported to me that NCI is permitting numerous employees to participate in significant amounts of sponsored travel. By "sponsored travel" I refer to the practice of allowing Federal employees to accept from non-Federal sources, such as corporations and other private entities, travel and related expenses for meetings and conferences.

NCI SPONSORED TRAVEL GENERALLY

Each year, as a result of NCI's policies, NCI employees appear to be spending many weeks and hundreds of thousands of dollars traveling to meetings and conferences. For example, it has been reported to me that in 2008 and 2009, numerous NCI employees took between 10 and 20 sponsored travel trips. Many of the trips cost in excess of \$10,000, and some trips cost over \$17,000. In addition, the destinations were almost exclusively international, to countries like Germany, France, Italy, Switzerland, Japan, China and Brazil, just to name a few. In fact, the only domestic locations seem to have been California and West Palm Beach, Florida. Moreover, this extensive sponsored travel does not include NCI's appropriation for government paid travel.

Sponsored travel poses the ever-present danger of calling into question the integrity of agency programs and operations. Therefore, sponsored travel is regulated by the Administrator of the General Services Administration (GSA), in consultation with the Office of Government Ethics (OGE). 31 U.S.C. § 1353. In every case of sponsored travel, it is incumbent upon NCI management and NCI ethics officials to scrutinize, among other things, the identity of the non-Federal source, the purpose of the meeting or conference, the identities of the expected participants, the nature and sensitivity of any matter pending at NCI that may affect the interest of the non-Federal source, and the monetary value and character of the travel benefits offered. Essentially, NCI is required to ensure that each instance of sponsored travel is in the interest of the Government and that the travel relates to the NCI employee's official duties. 41 C.F.R. § 304-5.1. Even where sponsored travel is permissible, NCI should limit approval by authorizing attendance only at the portion of the event relevant to the NCI employee's duties and by limiting the type and character of the travel benefits that may be accepted.

NCI OFFICE OF ETHICS

Furthermore, it has come to my attention that the Director of the NCI Office of Ethics questioned NCI's sponsored travel policies and whether NCI's travel activities are being properly reported to OGE. The Director has since been disciplined by NCI's Acting Executive Officer and transferred out of NCI. This is deeply troubling. It is my understanding that the Ethics Director's performance was Fully Successful in 2009. In 2010, however, she was criticized by her supervisor in writing for, among other things expressing concern that NCI's sponsored travel policy might be an illegal augmentation of NCI's government travel appropriation, that the location of some of the conferences might be inappropriate and that the frequency and cost of the trips might be questionable. In short, it sounds as though the Director of the NCI Office of Ethics may have been disciplined for doing her job. The following excerpt from a letter written to the NCI Ethics Director by NCI's Acting Executive Officer is also disturbing:

For example, you made statements that accepting sponsored travel is an illegal augmentation of our appropriation to NCI and colleagues in the NIH community.

* * *

In addition, you continued to raise concerns over the location of travel and whether the topic of the meeting or conference had relevance to the NCI mission despite specific instructions from your previous supervisor and me to **abstain from this type of conduct**. We have met on several occasions to clarify that your review of sponsored travel is **limited to a conflicts analysis**. Moreover, the location of the travel (in that it may require the employee to be away from the office too many days) and

relevance of the event's topic to the NCI mission is the supervisor's responsibility.

Letter of Expectations from Acting Executive Officer, NCI, to Director, Office of Ethics, NCI (March 17, 2010)(**emphasis added**).

It is startling to observe that while NCI's Acting Executive Officer was ordering the Director of NCI's Office of Ethics to confine herself to "a conflicts analysis," the Office of Ethics for the National Institutes of Health (NIH), NCI's parent agency, was instructing ethics officials throughout NIH, including those at NCI, to thoroughly assess all issues that arise in the area of conferences. Specifically, with regard to conferences, ethics officials were instructed to analyze questions relating to appropriations, travel, personnel, contracts, and ethics issues. In May 2010, NIH published a Guide for Ethics Officials on the subject of conferences that stated, in part:

At some point, almost every ethics official has been or will be confronted with a question on conferences...The ability of ethics counselors to spot and deal effectively with the **myriad issues** that are embedded in these questions depends on the counselor's breadth of experience – not just in ethics, but in other disciplines as well. **Even the most straightforward conference-related scenario can raise appropriations, travel, personnel, contracts, and ethics issues.**

CONFERENCES, A Guide for Ethics Officials, Version 1.0 (May 2010) (**emphasis added**). See <http://ethics.od.nih.gov/default.htm>.

NCI AND EMPLOYEE SPONSORED TRAVEL FOR 2008 AND 2009

The information I have received to date indicates that in May and July 2010, the Director of the NCI Office of Ethics was disciplined and transferred out of NCI. It also appears that the ethics official may have been disciplined for pretextual reasons, but in reality was disciplined for attempting to perform just the sort of thorough analysis required by law, regulation and NIH policy. If so, this is an extremely troubling development and may call into question the integrity of NCI's programs and operations. Based on the information in my possession the following NCI employees took the greatest number of sponsored travel trips in 2008 and 2009.

NCI Sponsored Travel

Name	Number of Trips in 2008	Number of Trips in 2009
Giuseppe Giaccone	20	7
Frank Gonzalez	12	9
Susan Gottesman	----	17
Shivinder Grewal	11	13
Curtis Harris	----	19
Lee Helman	14	9
Elaine Jaffe	10	7
Chand Khanna	13	18
John Milner	11	----
Thomas Misteli	----	13
Richard Simon	----	12
Louis Staudt	20	13
Patricia Steeg	16	13
Snori Thorgeirsson	14	----
Giorgio Trinchieri	11	14
Wyndham Wilson	----	10

Please provide my office with the following information related to the above-named NCI employees:

- 1) Data on every sponsored travel trip approved for travel in 2008, 2009 and 2010. Include the identities of the approving official(s), the dates, duration, destinations and total cost of the trips, as well as the names of all hotels and levels of travel (e.g., first class, coach, etc.), and the name(s) of all sponsoring entities. Also include the topic(s) of the conference or meeting, explain how the topic(s) related to the duties of the NCI employee, and the role of the NCI employee at the conference.
- 2) The same information as in 1 above, for all official government travel in 2008, 2009 and 2010.
- 3) The total value of all sponsored travel by NCI employees in 2008, 2009 and 2010.

- 4) The total expenditure for all government paid travel by NCI employees in 2008, 2009 and 2010.
- 5) The amount of NCI's appropriation for government paid travel in 2008, 2009 and 2010.

ALLEGATION OF UNDER-REPORTING TO OGE

In addition to the information provided in 1 through 5 above, I also request that NCI conduct an internal review of whether NCI has properly reported its sponsored travel activities to OGE. I am copying OGE on this letter so that OGE may follow up on whether NCI has properly reported sponsored travel, as well as other issues raised in this letter, such as the direction from the NCI Acting Executive Officer to the Ethics Director that she limit her review of sponsored travel.

RETALIATION

Finally, in light of the actions NCI may have been taken in retaliation against NCI's former Director of Ethics, I caution you that interfering with a congressional inquiry is against the law. 18 U.S.C. § 1505. Denying or interfering with employees' rights to furnish information to Congress also is against the law. 5 U.S.C. § 7211. NCI officials are not permitted to impede congressional inquiries, conceal information from Congress, or threaten employees who might speak out. Interfering with congressional oversight hurts not only the agency, but also the American public. Senior officials must assure their employees that it is acceptable and within their rights to speak to Congress. With that in mind, I remind you that all NCI employees have a right to talk to Congress without direct or indirect interference or threats from the Agency and its officials. Furthermore, NCI's employees have a right to talk to Congress confidentially. And federal officials who deny or interfere with employees' rights to furnish information to Congress are not entitled to have their salaries paid by taxpayers' dollars. Consolidated Appropriations Act of 2010, Pub. L. No. 111-117, § 714, 123 Stat. 3034, 3208.

Please provide the requested information by November 5, 2010. Should you have any questions regarding the contents of this letter please do not hesitate to contact Jason Foster at (202) 224-4515. All formal correspondence should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Sincerely,



Charles E. Grassley
Ranking Member

cc: The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health & Human Services

The Honorable Martha N. Johnson
Administrator, United States General Services Administration

The Honorable Daniel R. Levinson
Inspector General, U.S. Department of Health & Human Services

The Honorable Robert I. Cusick
Director, United States Office of Government Ethics