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# MEMORANDUM

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Date: June 10, 2015

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **June 3, 2015 Letter from Field Office Director of the US Department of Housing and Urban Development Office in Arizona**

On June 5, 2015 I forwarded to the Board of Supervisors a letter from Arizona Attorney General Chief Special Agent Andrew Rubalcava regarding a complaint related to a possible conflict of interest (Attachment 1). The letter arose over a complaint filed by Supervisor Ally Miller regarding County employees serving on the Board of Directors of the Tucson Preparatory School.

Supervisor Miller also filed a complaint with the US Department of Housing and Urban Development (HUD). Attached is a copy of HUD's June 3, 2015 letter regarding her complaint (Attachment 2). The letter concludes there has been no conflict of interest violation or a violation of HUD's rules and regulations regarding the use of federal funds in HUD Continuum of Care programs.

CHH/anc

#### Attachment

c: Hank Atha, Deputy County Administrator for Community and Economic Development  
Tom Burke, Deputy County Administrator for Administration  
Allyn Bulzomi, Director, Human Resources

# ATTACHMENT 1



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# MEMORANDUM

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Date: June 5, 2015

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **Conflict of Interest Complaint Filed with the Arizona Attorney General Regarding Tucson Preparatory School, Inc.**

Supervisor Ally Miller filed complaints with the US Department of Housing and Urban Development (HUD) and the Office of the Arizona Attorney General regarding alleged conflict of interest violations, as well as other violations associated with County employees serving on a Board of Directors of a nonprofit organization that administers this federal program.

On May 22, 2015, I corresponded with HUD Arizona Field Office Director Stephanie Smelnick and responded to a series of questions and information requests. I also directed the attached May 26, 2015 letter to Arizona Attorney General Chief Special Agent Andrew Rubalcava.

On June 4, 2015, I received a copy of the attached May 29, 2015 letter from Agent Rubalcava to Supervisor Miller indicating no further action will be taken on the matter. It appears the matter is closed.

CHH/anc

Attachments

c: Hank Atha, Deputy County Administrator for Community & Economic Development  
Thomas Weaver, Chief Civil Deputy County Attorney



**MARK BRNOVICH**  
ATTORNEY GENERAL

**OFFICE OF THE ARIZONA ATTORNEY GENERAL**  
**CRIMINAL DIVISION / SPECIAL INVESTIGATIONS SECTION**

**ANDREW RUBALCAVA**  
CHIEF SPECIAL AGENT

May 29, 2015

Honorable Ally Miller  
130 W. Congress St.  
Tucson, Arizona 85701-1317

Re: Possible Conflict with HUD Continuum of Care Contract

Dear Supervisor Miller,

Your information relating to the above concern dated April 20, 2015 sent to the Arizona Attorney General was referred to the Special Investigations Section for review. In your letter you indicate that you submitted your concern and documents to the US Department of Housing and Urban Development due to concerns of possible conflicts of interest with an existing HUD Continuum of Care Contract between Pima County and HUD. Notwithstanding HUD's review and findings, your information was reviewed by this office for possible violations of ARS 38-501-511 relating to Conflict of Interest.

After reviewing your materials and contact with Pima County officials, to include a review of materials submitted by the Pima County Administrator, no further action will be taken on this matter due to the lack of evidence of criminal wrongdoing. Please advise if you wish to have your materials returned to you.

Sincerely,

Andrew Rubalcava  
Chief Special Agent  
Special Investigations Section

Cc: file, EXO, Pima County Administrator

#4486599



## COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER  
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317  
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY  
County Administrator

May 26, 2015

Mr. Andy Rubalcava  
Chief Special Agent  
Special Investigations Section  
Arizona Attorney General  
1275 W. Washington Street  
Phoenix, Arizona 85007-2926

**Re: Conflict of Interest Complaint Filed by Pima County Board of Supervisors Member  
Aly Miller Regarding Tucson Preparatory School, Inc.**

Dear Mr. Rubalcava:

Enclosed please find my May 22, 2015 detailed response to the Arizona Field Office Director of the United States Department of Housing and Urban Development related to this subject. I believe most of the responses contained in that letter should address issues raised in Supervisor Miller's complaint.

As I indicated during our recent telephone conversation, I do not believe there has been any violation of Pima County's Conflict of Interest policies; and as you know, because one of the named individuals is a contract employee of the County Attorney's Office, they have forwarded my request for a legal review to your office.

At this time, I do not plan to take any further action other than to direct staff to add a disclosure requirement to our conflict of interest policies that requires any County employee who is a member of the Board of Directors of a nonprofit organization to file a disclosure statement, which differs from a conflict of interest statement. The disclosure statement is being added to promote transparency and avoid the type of allegations made by Supervisor Miller.

Mr. Andy Rubalcava

Re: **Conflict of Interest Complaint Filed by Pima County Board of Supervisors Member Ally Miller Regarding Tucson Preparatory School, Inc.**

May 26, 2015

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The disclosure document will be carefully crafted, as I do not believe it is in the public's interest to discourage County employees from participating in community nonprofit organizations.

Should you have any questions or require additional information regarding this matter, please feel free to contact me.

Sincerely,



C.H. Huckelberry  
County Administrator

CHH/mjk

Attachment

c: Thomas Weaver, Chief Civil Deputy County Attorney



## COUNTY ADMINISTRATOR'S OFFICE

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**C.H. HUCKELBERRY**  
County Administrator

**May 22, 2015**

**Ms. Stephanie Smelnick**  
Arizona Field Office Director  
US Department of Housing and Urban Development  
1 N. Central Avenue, Suite 600  
Phoenix, Arizona 85004

**Re: Response to May 13, 2015 Letter from Ms. Stephanie Smelnick, Phoenix Field Office Director, U.S. Department of Housing and Urban Development to Hank Atha, Deputy County Administrator**

**Dear Ms. Smelnick:**

This letter is in response to your May 13, 2015 letter to Deputy Pima County Administrator Hank Atha regarding the possible conflict of interest claim (Attachment 1). Supervisor Ally Miller filed a letter of complaint with your office regarding Pima County employees sitting on the Board of Directors of the nonprofit organization Tucson Preparatory School, Inc. (TPS), which provides certain services for homeless teens and is funded either wholly or in part by Continuum of Care grant funding.

There is a history associated with this action, which I believe would be beneficial to you and would provide an appropriate response to Supervisor Miller. We have, in addition, provided responses to Supervisor Miller and the full Board of Supervisors when she raised this issue during discussion of an addendum contract to provide continuity of services. Enclosed for your information is my April 13, 2015 memorandum to the Board of Supervisors regarding this subject (Attachment 2).

Supporting materials to my April 13, 2015 memorandum include a memorandum report regarding the contract with TPS, as well as a letter from Open Inn, Inc. notifying the County they would be ceasing all services on June 30, 2014. Of the homeless youth being serviced by Open Inn at this time, four were enrolled in TPS.

Ms. Stephanie Smelnick

Re: Response to May 13, 2015 Letter from Ms. Stephanie Smelnick, Phoenix Field Office Director, U.S. Department of Housing and Urban Development to Deputy County Administrator Hank Atha, Deputy County

May 22, 2015

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In addition, I am enclosing an April 29, 2015 memorandum I directed to our Chief Civil Deputy County Attorney, Mr. Thomas Weaver, regarding the conflict of interest issue (Attachment 3). I did not believe then, nor do I believe now, that the actions of our employees violated established County policies regarding conflicts of interest.

I am also enclosing a May 20, 2015 memorandum from Mr. Weaver (Attachment 4), who indicates, as you will see in our response, that Dr. Mark von Destinon is a private consultant who performs part-time contract work for the County Attorney. For that reason, the County Attorney has declared a conflict in evaluating my April 28, 2015 request and has referred the matter to the Arizona Attorney General. Supervisor Miller has also independently referred this matter to the Arizona Attorney General.

To specifically address the questions posed in your May 13, 2015 letter, I offer the following:

- 1) **The names, titles and contact information of all Pima County employees that were/are involved with the Tucson Preparatory School.**

The following persons are Pima County employees and serve or have served on the Board of Directors of the Tucson Preparatory School (TPS).

<b>Name</b>	<b>Pima County Position</b>	<b>TPS Position</b>
Steven Nelson	Program Coordinator	Treasurer, Board of Directors
Efrain Romero	Program Manager	Former member of Board of Directors and Occasional Computer and Database Advisor
Mary Margaret Cowan	Attorney, Pima County Public Defender	Member, Board of Directors

Dr. Mark von Destinon is a part-time contracted consultant with the County Attorney's Office and President of the TPS Board of Directors. He is not a Pima County employee.

Contact information for these individuals appears at the end of this memorandum.

- 2) **What are their roles are with Pima County and the Tucson Preparatory School?**

A. Roles with TPS are as defined in Item 1 above.

B. Roles with Pima County are as follows:

Ms. Stephanie Smelnick

Re: **Response to May 13, 2015 Letter from Ms. Stephanie Smelnick, Phoenix Field Office Director, U.S. Department of Housing and Urban Development to Deputy County Administrator Hank Atha, Deputy County**

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- Mr. Steven Nelson is a Program Coordinator with the Pima County OneStop Employment Center and is assigned to the Sullivan Jackson Homeless OneStop Center.
  - Mr. Efrain Romero is a Program Manager with the Pima County OneStop Center and manages programs for Economically Disadvantaged persons, including the Sullivan Jackson Center.
  - Ms. Mary Margaret Cowan is an Attorney in the Office of the Pima County Public Defender.
  - Dr. Mark von Destinon is a private consultant who performs part-time contract work for the Pima County Attorney, as well as for other private clients.
- 3) **Whether or not they had/have any influence in the review, approval/disapproval of the CoC grant application process.**
- Steven Nelson participated in preparation of the Pima County OneStop submission for inclusion in the Continuum of Care (CoC) grant application to HUD. He did not participate in the October 28, 2014 CoC meeting, which was the meeting at which the CoC approved the grant application. The Pima County representative at that meeting abstained from voting on the grant application.
  - Efrain Romero participated in preparation of the Pima County OneStop submission for inclusion in the CoC grant application to HUD. He did not participate in the October 28, 2014 CoC meeting, which was the meeting at which the CoC approved the grant application. The Pima County representative at that meeting abstained from voting on the grant application. (Attachment 5)
  - Mary Margaret Cowan did not have any role in the CoC grant application process. She did not participate in the CoC grant approval process.
  - Mark von Destinon did not have any role in the CoC grant application process. He did not participate in the CoC grant approval process.
- 4) **Whether or not the positions they had/have with Tucson Preparatory School Board was/is paid or unpaid.**

No TPS Board Directors or Officers are compensated for their service on the Board.

- Steven Nelson's position as Treasurer of the TPS Board is not a paid position.
- Efrain Romero's position on the Board of Directors is not a paid position. However, according to the TPS IRS 990 form in 2012, Mr. Romero was paid \$9,900 for occasional work on the school's computer and database system. According to Mr. Romero, his work as a computer and database advisor to TPS predates his appointment to the TPS Board of Directors and his employment at Pima County. According to the TPS Executive Director this payment was not

Ms. Stephanie Smelnick

Re: Response to May 13, 2015 Letter from Ms. Stephanie Smelnick, Phoenix Field Office Director, U.S. Department of Housing and Urban Development to Deputy County Administrator Hank Atha, Deputy County

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made from HUD funds. Attachment 6A is an April 8, 2015 email correspondence from the TPS Director summarizing the history of Mr. Romero's involvement with the organization.

- Mary Margaret Cowan's position on the Board of Directors is not a paid position. Ms. Cowan's statement regarding her relationship with TPS is Attachment 6B.
- Mark von Destinon's position as President of the TPS Board is not a paid position. Dr. von Destinon's May 22, 2015 email correspondence to Deputy County Administrator Hank Atha is Attachment 6C.

5) Whether or not they had/have an exception on file as required by 24 CFR 578.95(d).

To our knowledge there are no exception documents on file.

1-A: Contact Information for the Pima County employees is as follows:

- Steven Nelson: 520-724-7306
- Efrain Romero: 520-724-7309
- Mary Margaret Cowan 520-724-9146
- Mark von Destinon: 520-724-5298 (part-time)

Should you have any questions or require additional information, please feel free to contact me.

Finally, I would ask that you provide me with a copy of the complaint letter from Supervisor Miller so that we may fully respond to your inquiry by knowing the exact complaints Supervisor Miller has made.

Sincerely,



C.H. Huckelberry  
County Administrator

CHH/mjk

Attachments

c: Thomas Weaver, Chief Civil Deputy County Attorney



U.S. Department of Housing and Urban Development  
HUD Phoenix Field Office  
One North Central Avenue, Suite 600  
Phoenix, Arizona 85004-4415  
(P) 602-379-7100 (F) 602-379-3995  
[www.hud.gov/arizona.html](http://www.hud.gov/arizona.html)

May 13, 2015

Mr. Hank Atha  
Deputy County Administrator, Community & Economic Development  
130 West Congress Street, 11<sup>th</sup> Floor  
Tucson, Arizona 85701-1317

Dear Mr. Atha:

**Subject:** Possible Conflict of Interest with HUD CoC Contract,  
Coalition Assisting Self-Sufficiency Attainment (CASA),  
Grant AZ0027L9T011306

On April 24, 2015, the Phoenix Field Office received a letter from Ally Miller, Pima County Supervisor, District 1 informing HUD that a possible conflict of interest may exist concerning the FY2013 Continuum of Care (CoC) grant, Coalition Assisting Self-Sufficiency Attainment (CASA). Ms. Miller's letter stated that it was discovered that the contract between the Pima County Sullivan Jackson Employment Center and Tucson Preparatory School Inc. has a conflict of interest due to County employees working for and/or receiving compensation from Pima County CoC subrecipient grantees.

The Supervisor's Office claims that the Tucson Preparatory School has received HUD funds through Pima County CoC grants since 2012 and during this timeframe two Pima County employees, Efrain Romero and Steven Nelson, who serve on the Board of Tucson Preparatory School were directly involved with awarding the contract. Additionally, her office provided documentation that supports that Mr. Efrain Romero, Community Services Manager for Sullivan Jackson Employment Center, received compensation as a Director from the Tucson Preparatory School.

In addition to Mr. Efrain, the Supervisor's Office claims that the current Pima County employees listed below are also Tucson Preparatory School Board of Director members:

Mary Margaret Cowen, Pima County Attorney, Public Defender's Office  
Mark Vondestinon, Pima County employee, Public Defender's Office  
Steven Nelson, Program Coordinator, Pima County Sullivan Jackson Employment Center

Mr. Hank Atha  
Re: Ally Miller Program General  
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As a result of these claims, our office is requesting the following information to verify if a conflict of interest situation exists:

- 1) The names, titles and contact information of all Pima County employees that were/are involved, with the Tucson Preparatory School
- 2) What their roles are with Pima County and the Tucson Preparatory School
- 3) Whether or not they had/have any influence in the review, approval/disapproval of the CoC grant application process
- 4) Whether or not the position(s) they had/have with Tucson Preparatory School was/is paid or unpaid
- 5) Whether or not they had/have an exception on file as required by 24 CFR 578.95(d)

In order to respond to the County Supervisor's Office in a timely manner, please provide the requested information to my office by **May 27, 2015**. If you have any questions or require assistance, please contact Mr. Michael Flores, Community Planning & Development Representative at (602) 379-7166, or via email at [michael.p.flores@hud.gov](mailto:michael.p.flores@hud.gov).

Sincerely,



 Stephanie Smelnick,  
Field Office Director

cc: Arthur Eckstrom, Director, CSET

# ATTACHMENT 2



U.S. Department of Housing and Urban Development  
HUD Phoenix Field Office  
One North Central Avenue, Suite 600  
Phoenix, Arizona 85004-4415  
(P) 602-379-7100 (F) 602-379-3985  
[www.hud.gov/arizona.html](http://www.hud.gov/arizona.html)

June 3, 2015

Honorable Ally Miller  
Pima County Supervisor  
130 W. Congress Street, 11<sup>th</sup> Floor  
Tucson, AZ 85701-2738

Re: Possible Conflict of Interest with HUD Continuum of Care Contract, AZ0027L9T011407

Ms. Miller:

Thank you for your letter dated April 20, 2015 regarding your concerns with the Continuum of Care (CoC) contract AZ0027L9T011407 between Pima County and the Tucson Preparatory School, Inc. You indicated in your letter that after a review of the CoC contract on April 7, 2015, it was discovered that there may be a conflict of interest between the Pima County Sullivan Jackson Employment Center and the Tucson Preparatory School, Inc. In addition, your office felt that the issue should be addressed prior to further HUD funds being allocated. Your letter specifically was concerned with the duties and compensation of five Tucson Preparatory School Board members:

Efrain Romero, Program Manager, Pima County OneStop Center  
Steven Nelson, Program Coordinator, Pima County OneStop Center  
Mary Margaret Cowen, Attorney, Pima County Public Defender's Office  
Mark Vondestinon, Pima County Contractor, Public Defender's Office  
Joann Davis Sullivan, Non-Pima County employee

On May 13, 2015, my office sent a letter to Mr. Frank Atha, Deputy County Administrator Community & Economic Development requesting additional information concerning:

- 1) The names, titles and contact information of all Pima County employees that were/are involved, with the Tucson Preparatory School
- 2) What their roles are with Pima County and the Tucson Preparatory School
- 3) Whether or not they had/have any influence in the review, approval/disapproval of the CoC grant application process
- 4) Whether or not the position(s) they had/have with Tucson Preparatory School was/is paid or unpaid

- 5) Whether or not they had/have an exception on file as required by 24 CFR 578.95(d)

The Phoenix Field Office received a detailed and thorough response to all inquiries from C.H. Huckelberry, County Administrator on May 27, 2015 (see enclosure). The County Administrator attached all previous inquiries made by the County Supervisors concerning the situation with the terminated contract between Pima County and the contractor Open Inn, and the reasons Pima County contracted with the Tucson Preparatory School.

Based on the documents and information submitted by your office and the Pima County Administrators office, and a thorough review of 24 CFR 578.95, Continuum of Care Program, Conflict of Interest regulation, my office has concluded the following:

- 1) Efrain Romero and Steven Nelson, Pima County Employees, Pima County OneStop:
  - a. Both employees are Tucson Preparatory School Board of Directors and participated in the CoC grant #AZ0027L9T011407 application preparation, however, neither participated in the October 28, 2014 CoC meeting which voted and approved the grant application. Both Pima County employees abstained from the voting which meets HUD CoC regulations.
- 2) Efrain Romero has received compensation as a part-time Information Technology (IT) Consultant/Technician for Tucson Preparatory School and he has disclosed the income on a Form 990 Tax form. The County Administrator's office has made it clear that the income was paid from non-HUD funds and for tasks performed outside of the Board of Director duties. However, 24 CFR 578.95 (d)(1) specifically states that ***"No covered person, meaning a person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one-year period following his or her tenure."*** Even though Mr. Romero's income was/is earned as a consultant, it could be viewed by the public that he is benefiting from a HUD assisted activity and based on this appearance, I would recommend that Pima County submit a written "Exception" request per CFR 578.95 (d)(2) for HUD review.
- 3) Mary Margaret Cowen, Attorney, Pima County Public Defender's Office is a Tucson Preparatory School Board of Director, however, she did not participate in the grant application preparation nor the grant approval process. Therefore, no HUD CoC regulation has been violated.
- 4) Mark Vondestinon, Pima County Contractor, Public Defender's Office is not a Pima County employee. He is a part-time private contractor for the Pima County Public Defender's Office and he did not participate in the grant application preparation, nor the

grant approval process. Therefore, no HUD CoC regulation has been violated.

- 5) Joann Davis Sullivan is not a Pima County employee. Therefore, no HUD CoC regulation has been violated.

In summary, our office has concluded, as stated above, that Pima County has appropriately followed HUD Continuum of Care Program, Conflict of Interest regulations, however, we recommend that a written "Exception" request be submitted for Mr. Efrain Romero, Program Manager, Pima County OneStop for the income he is/has received as an IT Consultant for Tucson Preparatory School.

Again, thank you for bringing this issue to our attention. If you have any additional questions, please contact our office at (602) 379-7100.

Sincerely,



Stephanie Smelnick,  
Field Office Director

Attachment

C.H. Huckelberry, County Administrator, letter dated May 22, 2015

cc: C.H. Huckelberry, County Administrator