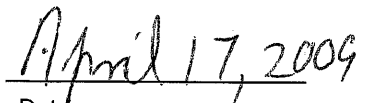


**U.S. PROGRAMS
STRATEGIC OPPORTUNITIES FUND (SOF)
Summary of Recommended Grants
Docket I - April 17, 2009**

<u>Staff</u>	<u>Organization</u>	<u>Requested</u>	<u>Recommended</u>	<u>Term</u>
U.S. PROGRAMS, STRATEGIC OPPORTUNITIES FUND (SOF Program Code 21081)				
<u>Legacy/Unanticipated</u>				
Erlin/Aida	Sound Portraits Productions, Inc. (StoryCorps)	\$ 50,000	\$ 50,000	1 year
Ricardo/Erlin/Aida	William J. Brennan Jr. Center for Justice (NYU School of Law)	\$ 151,715	<u>\$ 151,715</u>	1 year
		Recommended:	\$ 201,715	

(SOF) TOTAL RECOMMENDED: \$ 201,715


Approval Signature


Date

MEMORANDUM

To: Aryeh Neier
From: Ann Beeson & Erlin Ibreck
Re: Strategic Opportunities Fund Grant Recommendations
Date: April 10, 2009

We have two grant recommendations in this docket. At the request of Ricardo Castro we propose renewed support for the Brennan Center's Nonprofit Rights Project which continues litigation and public advocacy to challenges the anti-prostitution pledge requirement contained in the Global AIDS Act. Acting on behalf of OSI and the Alliance for Open Society International, Brennan is providing the best legal representation available in the country at a third the price it would cost if a big law firm were engaged to provide these services.

Our other recommendation is for renewed support of Sound Portraits Productions' StoryCorps project. StoryCorps is renowned for its dedication to telling stories that bring neglected American voices to a national audience through audio recordings of interviews between everyday people. These recordings reach millions through the broadcasts on public radio and the Internet. This project has educational, cultural and artistic value and is therefore relevant to SOF's exploratory work that is examining the role of arts and culture in bridging differences, broadening debates and informing advocacy on issues that mirror OSI's priorities.

<u>Name of Organization:</u>	William J. Brennan Jr. Center for Justice <i>at New York University School of Law</i>
<u>Tax Status:</u>	501(c)(3) public charity
<u>Purpose of Grant:</u>	To support the Nonprofit Rights Project's challenge of the anti-prostitution pledge requirement contained in the Global AIDS Act.
<u>Previous OSI Support:</u>	\$11,950,218
<u>Organization Budget:</u>	\$7,357,278 (FY 2008)
<u>Project Budget:</u>	\$188,121 (over 15 months)
<u>Source of Support:</u>	N/A
<u>Amount Requested:</u>	\$151,715
<u>Amount Recommended:</u>	\$151,715
<u>Term:</u>	April 1, 2009 – March 31, 2010

Description of Organization:

The Brennan Center for Justice at NYU School of Law is a hybrid public interest law firm/policy institute dedicated to developing and implementing an innovative, nonpartisan agenda of scholarship, public education and legal action that ensures fairness to the poor and promotes equality and democracy.

Description of Program for Which Funding Is Sought:

In May 2005, OSI gave its first grant to the Brennan Center's Nonprofit Rights Project to file a challenge to the Global AIDS Act's "anti-prostitution pledge requirement" on behalf of OSI and the Alliance for Open Society International (AOSI). That grant was renewed in November 2006 and in November 2007. The Project now seeks another renewal grant of \$151,715 to continue the work of this initiative.

At issue is a requirement that public health groups receiving U.S. funds under the Global AIDS Act pledge their "opposition to prostitution" in order to continue their life-saving HIV prevention work. Under this policy, recipients of U.S. aid are restricted in how they use even their private funds, impeding their ability to deliver effective prevention services to those most vulnerable to HIV/AIDS. In 2005, several organizations already in receipt of federal funds under the Global AIDS Act contacted the Nonprofits Rights Project for counsel on how they could legally comply with the pledge requirement while still protecting their First Amendment freedoms. In May 2005, OSI and AOSI reached an agreement that the Nonprofit Rights Project would file a challenge to the requirement on their behalf. Given the significant costs and the demand on their staff members, the Project received funds to conduct this litigation.

In May 2006, the Brennan Center secured two initial successes – in a case brought in federal court in New York by AOSI and Pathfinder International, and in a separate case brought in federal court in Washington D.C. by DKT International. In each case the federal district court ruled in the plaintiff's favor by declaring the pledge requirement unconstitutional and issuing a preliminary injunction barring the government from enforcing the pledge requirement against the plaintiffs.

On appeal, events have taken a more complicated course. In the case brought by AOSI and Pathfinder International, the government announced during oral argument before the U.S. Court of Appeals for the Second Circuit that it would not continue to entirely prohibit the plaintiff AOSI from engaging in privately funded private speech. The government declared that it would adopt new guidelines that would free USAID funding recipients to create affiliate entities through which to engage in privately financed work free and clear of the pledge requirement. In light of this, the Court of Appeals remanded the case to

the District Court to determine whether the guidelines issued by the government cured the constitutional flaws found originally by the District Court. On remand, the Brennan Center continued to urge the court to decide AOSI's challenge to the pledge requirement, explaining the ways in which the new guidelines fail to cure the requirement's underlying constitutional problems. The District Court ultimately decided that the guidelines were unconstitutional and allowed the preliminary injunction in favor of AOSI and Pathfinder to remain in place and extended the protections of the injunction to Global Health Council and Inter-Action, two new membership organizations permitted to join the suit as plaintiffs. Thus, the District Court's order protects virtually all of the U.S.-based NGOs participating in the PEPFAR program. In the waning days of the Bush administration, the government appealed the new District Court decision, which will be heard in the coming months by the Court of Appeals. While the Court of Appeals examines these issues, the preliminary injunction remains in place.

The Brennan Center has also worked closely with a coalition of organizations and the Open Society Policy Center to organize a parallel advocacy strategy to change the policy and the hope is that the new administration will adopt new agency guidance that is not unconstitutional but leaving the door open to continuing to litigate the case before the Second Circuit. The Brennan Center is continuing to provide ongoing leadership and assistance in a variety of counseling and public education settings alongside the continuing litigation.

Rationale for Recommendation:

While the Global AIDS Act was designed to enlist private nonprofit partners, the explicit policy to pledge opposition to prostitution creates a practical barrier between organizations and the populations of sex workers with whom they must work in fighting AIDS. Furthermore, the new government guidelines continued to create a burden on NGOs by recommending that USAID and HHS funding recipients could create affiliate entities through which to engage in privately financed work free and clear of the pledge requirements. Defining permissible activities puts consenting nonprofits at risk of criminal penalties should their work be considered "pro-prostitution" by the government. OSI and AOSI's challenge to the pledge requirement represents a challenge on behalf of all nonprofit organizations engaged in the fight against government attempts to control their privately financed activities. Continued support is needed to ensure success in the Center's efforts to overturn the requirement.

The Strategic Opportunities Fund will once again be making this grant on behalf of OSI General Counsel and Ricardo Castro has reviewed and approved the proposal request.

<u>Name of Organization:</u>	Sound Portraits Productions, Inc.
<u>Tax Status:</u>	501(c)(3) public charity
<u>Purpose of Grant:</u>	To provide general support.
<u>Previous OSI Support:</u>	\$2,150,000 (Youth Media Program; U.S. Justice Fund; SOF)
<u>Organization Budget:</u>	\$6,565,700
<u>Project Budget:</u>	N/A
<u>Source of Support:</u>	Corporation for Public Broadcasting; Kaplen Foundation; Atlantic Philanthropies; Fee for Service
<u>Amount Requested:</u>	\$50,000
<u>Amount Recommended:</u>	\$50,000
<u>Term:</u>	May 1, 2009 – April 30, 2010

Description of Organization:

Established as a not-for-profit 501(c)3 corporation in 1994 by MacArthur Fellow David Isay, Sound Portraits Productions is an independent production company dedicated to telling stories that bring neglected American voices to a national audience. Whether on the radio, in print, or on the Internet, Sound Portraits is committed to producing innovative works of lasting educational, cultural, and artistic value.

Sound Portraits' radio documentaries, which are broadcast on National Public Radio's "All Things Considered" and "Weekend Edition," are audio profiles of men and women surviving on the margins of society. Sound Portraits has created some of public radio's most lauded programs, including: "All the Way Broken," the audio diaries of a recovering heroin addict dying of AIDS; "Witness to an Execution," an exploration of the experience of executing inmates in Huntsville, Texas, the world's busiest death chamber; and "Ghetto Life 101," oral histories recorded by two fourteen-year-old boys from the Ida B. Wells housing projects in Chicago.

Sound Portraits is also known for its innovative approaches to disseminating ideas, sparking discussion, and broadening the national debate on such issues as poverty, juvenile justice, prison, and race. After broadcast, Sound Portraits conducts extensive educational outreach in classrooms across the country.

StoryCorps, the natural evolution of Sound Portraits Productions, represents a revolutionary frontier in the documentary form, as it fully democratizes the process and puts the interview into the hands of everyday people. Documentary work has also traditionally been primarily focused on creating an end product—a piece that educates, entertains, or enlightens an audience. StoryCorps, however, places equal emphasis on the process itself. StoryCorps believes the act of recording interviews—of listening and being listened to—has the potential to transform lives.

StoryCorps gives participants the opportunity to record interviews about subjects important to them, and to leave their unique legacy in sound. The intensely personal experience of StoryCorps interview sessions and the content of our broadcasts demonstrate that even in this fast-paced, high-tech world, there is still great value in meaningful face-to-face conversations. StoryCorps amplifies and preserves the simple wisdom of all Americans, reminding participants that their lives matter. A disproportionate amount of time in the media is devoted to a select few celebrities and pundits. StoryCorps combats the notion that just a few voices and opinions are representative of the entire American experience.

StoryCorps' dual commitment to excellence in broadcasting and public service resulted in StoryCorps being awarded a rare Institutional Peabody Award (2006)—an honor given only once or twice every decade, usually to long-standing institutions like the BBC or 60 Minutes.

Description of Program for Which Funding Is Sought:

To provide general support.

Rationale for Recommendation:

The Strategic Opportunities Fund is investing in exploratory grants to innovative programs that use arts and culture to empower individuals and communities to advance social change. We hope to raise awareness of the power and potential for art as an activism tool to advance a broad spectrum of social justice concerns and issues of specific interest and relevance to U.S. Programs' priorities. Through audio profiles of men and women surviving in the margins, StoryCorps produces innovative works of lasting educational, cultural, and artistic value. Using an oral history approach, they are creating the definitive oral history of America which will soon represent the largest oral history archive ever collected, offering a bottom-up view of life as it was lived in the 20th and 21st centuries through the voices and stories of everyday people. StoryCorps is also working to create a culture of listening across the United States during this time of economic hardship, when American stories can remind us of our resilience and give us hope for the future. This approach is of direct interest to OSI's explorations of the role of arts and culture in advancing understanding of challenges faced by ordinary Americans.

Since the opening of its flagship StoryBooth in Grand Central Terminal on October 23, 2003, StoryCorps has:

- collected more than 8,000 interviews in over a dozen languages with approximately 16,000 participants;
- cataloged and transferred 50% of these interviews to the American Folklife Center at the Library of Congress;
- initiated weekly broadcasts of StoryCorps segments to a national audience on NPR's flagship news program, *Morning Edition*, which is heard by an audience of more than 12 million;
- quadrupled its recording facilities with the launch of two MobileBooths and a second permanent New York City StoryBooth at the World Trade Center; and
- visited more than 51 cities in 37 states in their tour across the nation, including an OSI-supported trip to New Orleans and other locations in the Gulf Coast states to collect the stories of those affected by Hurricanes Katrina and Rita.

StoryCorps is helping to preserve the history of America in a unique and personal way. This grant will help StoryCorps continue to influence the way people communicate with one another and the role of public media in American culture. It will allow StoryCorps to strengthen core programs, maintain the necessary infrastructure to support this recent period of expansion, and carry this project forward securely into its next phase. Moreover, OSI was one of the original funders and would like to continue with modest funding to build on our investments while we consider whether StoryCorps fits within our emerging arts and culture guidelines.