

**OSI U.S. PROGRAMS  
TRANSPARENCY AND INTEGRITY FUND  
THREE YEAR STRATEGIC PLAN**

**August 2009**

**Transparency and Integrity Fund Staff**

Laleh Ispahani, Program Director  
Lori McGlinchey, Senior Program Officer  
Thomas Hilbink, Program Officer  
Michael McCutcheon, Program Associate

**Transparency and Integrity Fund Board Advisors**

Jonathan Soros  
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## I. OVERVIEW

The Transparency and Integrity Fund (TIF or the Fund) promotes unfettered access to information – the lifeblood of democracy – as well as the integrity of American institutions through which we hold our government accountable and seek justice. We envision an engaged public with equal access to information and institutions, and active participation in democracy and public life.

Broad and equitable access to high-quality information and effective accountability mechanisms are foundational to an open society, one in which government and corporate decisions and decision-making processes are transparent, and the public is well-informed and has the tools necessary to hold government, and government supported corporations, accountable. Recognizing that power is not broadly shared in American society, the Fund will focus on supporting efforts that address the needs of historically excluded or marginalized groups so that they are equally able to hold government and private actors accountable to their needs, and address the power imbalances in society.

We see transparency and integrity not as ends, but as means to further broader institutional goals. When government decision-making is transparent, the public is more likely to trust the process and engage in it meaningfully, whether on policy issues or at the ballot box. When government data is widely available, advocates can use it to examine disparities, in the distribution of public resources for example, and bolster their arguments in favor of greater equity. When journalists and the media serve the public interest, every member of society can effectively monitor our governors. The need for transparency and accountability underlies every U.S. Programs (USP) core issue and transparency mechanisms serve the full set of USP goals. TIF issues are also closely aligned with transparency and technology concerns prioritized in OSI's international programs.

The strategic plan that follows was developed with the valuable input of TIF's Board Advisors Ethan Zuckerman, Jonathan Soros, and Bryan Stevenson; USP Executive Director Ann Beeson; and numerous core TIF grantees, foundation partners, and USP colleagues.

As described more fully below, the Transparency and Integrity Fund will advance the following overarching goals:

- Ensuring a transparent democracy and an engaged public through support for media and government 'watchdog' groups and support for the development and use of emerging technology tools and practices that increase public access to information;

- Addressing the crisis in journalism by supporting emerging efforts to ensure access to high quality journalism, with a special focus on original reporting on federal agencies and public affairs at the state and local levels;
- Promoting government accountability principally, though not solely, through supporting broad and equal access to the ballot and advocacy on the independence and diversity of the judiciary; and
- Exploring the impact of the increasing privatization of government functions, especially in relation to other USP priorities; e.g., privatization of prisons and immigration detention facilities.

In addition to the detailed strategies discussed below to advance our goals, we expect to shift some TIF resources from the national to the state and local level. While there is hope for significant progress on open government issues at the national level, the business of many state and local governments is still conducted in cultures of concealment, corruption and mismanagement. In addition, in order to shift some funding from national to state groups and to adequately advance all of our goals, we have wrestled with some hard questions about allocation of resources across our program areas. In particular, we have had to reduce overall funding levels for judicial independence to provide adequate funding for our work to address the crisis in journalism and to ensure increased access to information. The plan offered below will allow us to continue to provide core support to grantees in signature areas like judicial independence while expanding our funding to advance new goals and strategies.

By focusing the Fund's efforts in these areas outlined below, we hope to leverage our resources to advance USP's larger mission of ensuring a truly open society and a high-functioning democracy. In executing the plan, TIF will be guided by the following principles, many of which reflect USP's overarching vision and operating principles:

- *Participation & Empowerment:* We will support and facilitate work that ensures multiple voices and viewpoints are heard and represented across fields and institutions, with a particular focus on historically excluded groups.
- *Applied transparency:* We support transparency efforts that disclose data and information not for its own sake, but targeted efforts where the data provide the facts that people want in times, places and ways that foster equity and enable action;
- *Quality Information:* We support efforts aimed not simply at disclosing any previously undisclosed information but at disclosing information of a high quality, and in the form that best lends itself to use by those who need it, including through high-quality journalism;
- *Affirmative Role of Government:* We are mindful of the need to balance transparency with the benefits of proper regulation, and therefore, while we support watchdog groups who ensure that government operates in the sunshine,

- *Collaboration:* We plan to dedicate time to engaging our colleagues on the application of TIF concerns to their issues through a variety of grant making and operational collaborations more fully described in the section on collaboration below. We also plan to continue encouraging collaboration between and within fields of grantees and between national, state, and local grantees. TIF issues also have a nexus to broader OSI priorities such as access to information and fiscal transparency, and TIF is already pursuing joint work or consultations with OSI's network programs, OSI's D.C. and Baltimore offices, and Revenue Watch.

## **II. CHALLENGES AND OPPORTUNITIES**

Given the context set forth above, we now examine specific challenges and opportunities that we face in executing this plan. This Fund is moving into high gear at a time of great opportunity and simultaneously a time of great crisis: we have a fervently pro-transparency executive but also a serious economic crisis, one that makes some question whether transparency is a luxury at a time of such crisis.

### *A. Challenges*

We are faced with a severe economic crisis that the government seeks to stem through an enormous economic stimulus package. The recession has resulted in a dramatically increased demand from existing grantees, and new applicants, as well as the need for technical assistance by existing grantees to weather the recession. Increasing privatization of government functions exacerbates transparency and accountability issues by removing the ability to hold accountable those responsible for mismanagement, waste, fraud and abuse.

While President Obama has declared broad support for transparency in some areas, we may need to temper our excitement. His record is still weak regarding transparency and accountability for governmental wrongdoing on national security matters. Among other things, his administration has justified preventive detention, continued the use of military commissions, continued using the state secrets privilege to avoid judicial scrutiny and government responsibility, has fought the release of photos of torture, and has opposed the formation of an independent commission to hold officials accountable for the abuses of the prior Administration.

Threats to judicial independence and the integrity of the courts continue, including through private financing of judicial elections. Since 2000, fifteen states have broken records for spending in judicial elections. These big money judicial campaigns and the donors that fund them have created the perception that justice can be bought. Additionally, there are 80 federal judicial vacancies (20 labeled "urgent") that need to be filled, and may be up to 3 vacancies on the Supreme Court during this President's term, the first of which, recently announced, is already under attack.

Journalism is in a state of crisis, and though the crisis was not caused by the economic crisis, it was certainly exacerbated by it, with nearly 6,000 – or 11% – of journalism jobs lost in 2008. By the end of 2009, the total job loss since the beginning of 2001 will likely pass 14,000 – roughly 25% of the industry’s news workforce will have been lost in these nine years. Many important papers have closed down entirely, and some have had to severely scale back their output. Worse, this bloodletting is taking place before viable alternatives have been identified and tested.

Last, but not least, the voter registration system is in dire need of modernization, with voter registration the single largest cause of problems every Election Day in recent history.

### *B. Opportunities*

When the Fund was conceived in late 2007, political circumstances were very different. The previous administration cloaked the workings of the federal government in unprecedented secrecy. In sharp contrast, President Obama committed to providing “a window for all Americans into the business of government.” On his first day in office, he acknowledged the importance of transparency by signing an executive order concerning the Presidential Records Act and issuing memoranda on open government standards. He directed the Attorney General to draft new Freedom of Information Act guidelines for agency heads that contain a presumption of openness in making decisions concerning disclosure of information. He further pledged that he would “hold [himself], as president, to a new standard of openness.” Now, we are just past the 100 day marker, and while we continue to see momentum on these issues, much will depend on their implementation.

President Obama is also faced with the opportunity to fill 80 judicial vacancies (and up to 3 Supreme Court justice positions) that are plaguing the court system and the public that needs its attention. We have important work to do to ensure that the first confirmation process – that of Judge Sotomayor - is not fractious, as it is very likely to set the tone for many if not all the other vacancies the President needs to fill.

The economic crisis is also as much an opportunity as a problem. Since transparency is a bridge builder, a bipartisan issue, the executive-led transparency or “open government” systems now being established are likely to survive long past this President’s tenure. There is also the need to create transparency around the massive levels of government spending at the national, state and city levels so the public can see how its dollars are being spent, and whether they are being spent equitably, and hold those who engage in waste, fraud and abuse accountable. TIF grantees OMB Watch and others are in the vanguard of such efforts, and have established national and state level coalitions on recovery-focused transparency. The infrastructures created at these state and local levels to monitor stimulus monies could also serve longer-term purposes, such as for budget transparency.

With respect to the crisis in journalism, we have an opportunity to experiment with innovative high quality, sustainable alternatives to news bureaus, and to shine a light on

ethnic media, a sector that is weathering the crisis relatively better, perhaps because it is increasingly the face of this nation of 51 million immigrants.

On modernization of the voter registration system, we have a unique chance to modernize the antiquated voter registration system in the next 2-3 years by shifting the burden from private groups to the government to take the steps that make it possible for people to be on – and stay on - the voter rolls. Federal policy makers and advocates are discussing the potential for transformational reform; new secretaries of state have emerged, with a robust appetite for change; and some state election officials have taken the reins from their local counterparts to try to make election technology, practices and standards consistent and reliable across their states.

### **TIF PROGRAM AREAS**

#### **III. TRANSPARENCY: ACCESS TO INFORMATION**

Transparency is impossible if the public does not have access to information in all its different forms, from raw data to everyday news to long-form investigative journalism.

We are at a great moment of opportunity with respect to access to information. The new administration has committed to creating an unprecedented level of openness in government. President Obama has declared that information maintained by the federal government to be a national asset. His administration has pledged to take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies have been directed to harness new technologies to post online information about their operations and decisions, and to make it otherwise readily available to the public, too.

There are also significant challenges. The recently launched Recovery.gov website features information on how the American Recovery and Reinvestment Act is working; tools to help the public hold the government accountable; and up-to-date data on the expenditure of funds. However, these resources are only accessible to those with access to the Internet. Approximately 40 percent of all U.S. homes are not connected to the Internet or have slow “dial-up” technology. Broadband subscribers are largely middle- or upper-class and living in urban or suburban areas. Poorer communities and communities of color as well as communities in rural settings have been largely left off the grid.

The crisis in journalism poses another set of serious challenges. Even as the Internet offers unprecedented access to information, it does not yet provide the level of professional public service journalism required by a functioning democracy.

The Transparency and Integrity Fund will address these and other challenges, and take advantage of existing and new opportunities to increase public access to high quality information. TIF interest in this area encompasses work on journalism, access to data and information, and support for regulatory policies that ensure access to news and information, whether it is delivered through newspapers, the Internet, radio, cell phones,



or television. This area is divided into two portfolios: 1) Journalism; and 2) Information Access, Design, and Regulation.

## **A. JOURNALISM**

Journalism is an essential component of an open and democratic society and a critical tool for transparency and accountability. For the past century, newspapers have served as the public's primary watchdog on government at every level, and as a check on private interests. However, print journalism has been in economic decline for several years, and has now reached a state of profound crisis.

News organizations are dismantling foreign, Washington, D.C., and statehouse bureaus that enable the public to monitor government, as well as business. Diverse voices are disappearing from the airwaves and print in unprecedented numbers. The American Society of News Editors' 2009 survey showed that journalism job cuts are hitting people of color particularly hard. Major dailies already have disappeared or been severely scaled down. It is likely that a major city will soon be without a daily newspaper. An alarming consequence of the collapse of newspapers is the likely loss of tens of thousands of highly trained and experienced reporters from the profession. And without a model of news production that makes it possible to earn a living writing the news, talented young people will not enter the profession.

The causes of this crisis in journalism are complex. The current economic downturn and newspapers' loss of advertising revenue to the Internet have greatly accelerated a process that can be traced back to the 1970s, when lax regulation enabled corporate ownership and consolidation of newspapers to increase dramatically, and demands from investors for higher returns increasingly led to staff cuts and shuttered news bureaus. Newspapers have also been in the midst of an accelerating slide in circulation and readership over the past several decades.

This change in newspaper economics has triggered the crisis of journalism, which threatens to damage a critical component of the U.S. system of checks and balances. If current trends continue, the U.S. could soon embark on an unprecedented social experiment by becoming the first advanced democracy to leave wide sectors of society and entire geographic regions without a fully functional, professional press.

This crisis is of deep interest to OSI as a whole, and is being addressed through several different programs including the Network Media Program, the Information Program, and the OSI Fellows Program. TIF staff is working closely and collaboratively across OSI to ensure sufficient internal communication and coordination on this important matter.

There is no single solution to the crisis in journalism, and a wide range of public, private, and nonprofit models will need to be tested. Beginning in Fall 2008, TIF staff started meeting with a range of people in the field who are struggling with the question of how to ensure the continued existence of high quality journalism. TIF will continue to develop a funding strategy in 2009 and increase support in this area starting in 2010.

To date, the turmoil in the news industry has had the greatest impact on local and regional news organizations. Although TIF is still in the process of determining the most appropriate long-term interventions for the Fund to make, in the near term, TIF will provide seed funding for several promising pilot projects to replace or supplement reporting on key local and statewide beat and governance issues, including watchdog reporting on stimulus spending, and also explore replicating innovative and established local journalism models in additional markets. In 2009, TIF will also pay particularly close attention to the ethnic media sector, a trusted source of news, information, and advocacy for some 51 million immigrants and ethnic minority adults.

#### GOALS: JOURNALISM

### **Goal One: Ensure access to high quality journalism, with a special focus on original reporting on public affairs at the local and state levels.**

#### Strategies:

- Identify and support promising models to preserve reporting on federal agencies, state capitols, city government, and beat reporting on day-to-day issues like prison conditions or conflicts of interest in state government contracting and budgets.
- Support pilot projects aimed at networking and providing shared resources (i.e., access to major data sets and analysis) and infrastructure support (i.e., shared legal, insurance, and accounting services) for these nascent reporting efforts with the goal of supporting the development of a national network of watchdog journalism centers;
- Support the development of policy interventions that could strengthen newsgathering as a public good—possibly within the existing structure of newspapers, possibly through entirely new structures, in ways that would be economically sustainable;
- Support efforts to train journalists to use data and visualization tools to help tell stories about what the data reveals about the conditions of people’s lives;
- Encourage collaborations among local public broadcasting outlets, ‘citizen’ or lay journalists, ethnic media, and journalism schools;
- Work with other USP and OSI programs to develop a comprehensive response to the crisis in journalism.

#### Impact:

- Increased coverage of state capitols and issues of interest across USP;
- Development of a multi-state network of watchdog journalism centers;
- Increased and effective use of data and information visualization in journalism;

### **Goal Two: Increase capacity in the ethnic media sector.**

#### Strategies:

- Through both grant making and operational activities, build capacity in the field of ethnic media to expand its reach and influence;
- Explore ways to address the challenges and opportunities of language translation to increase the reach and impact of ethnic media;
- Increase the capacity of ethnic media to report on the impact of the economic crisis and stimulus spending on diverse communities;
- Build collaborative relationships between ethnic media outlets and transparency and watchdog organizations such as OMB-Watch, the Sunlight Foundation, MapLight, and the Project on Government Oversight.
- Hold convenings to build collaborative bridges between ethnic media and the larger journalistic community that could help ensure more inclusive journalism over the long term.

Impact:

- Increased collaborations between ethnic media and watchdog organizations;
- Increased coverage of the economic crisis and recovery in the ethnic press;
- Increased access to information for historically excluded communities.

## **B. INFORMATION ACCESS, DESIGN, AND REGULATION**

There are many methods by which to gain access to information. Established methods such as freedom of information laws, open meeting rules, and the right to public trial are critical tools that allow oversight of government decision making and data access. Whistleblower laws and discovery through litigation provide other important mechanisms for keeping an eye on the workings of the state. Originally, the Transparency and Integrity Fund envisioned as one of its goals supporting the broad field of government “watchdogs,” and planned to fund a wide range of strategies and tactics in use in the field. In addition, the portfolio inherited several issue-specific watchdog grantees from older portfolios. The watchdog portfolio quickly swelled to twenty groups receiving more than \$2.1 million per year, leaving little room for new grantmaking or cross-program work.

After further refinement of goals and consideration of our limited resources, TIF has concluded that the Fund can have greatest impact by reorienting its work to focus on the goal of increasing access to information rather than providing generalized support for watchdogs. Consequently, TIF will not renew funding to watchdog organizations inherited from the “politicization of science” portfolio, as well as some broad field convener grantees. This will free up some funding for new work. TIF will still provide general support, in some cases at reduced levels, to several of its core watchdog grantees such as the Government Accountability Project, the Project on Government Oversight and OMB-Watch. These organizations serve a critical function in advocating for government transparency and access to information. However, moving forward, TIF will shift the emphasis of the watchdog portfolio toward supporting organizations that are primarily concerned with gaining access to and making use of data and information. Organizations that fit this profile include the Sunlight Foundation, MapLight, and the National Institute on Money in State Politics.

Now, while large amounts of information are or continue to be made available by TIF and other USP grantees, as well as other groups, much of it is hard to access in practice. The content of the data varies widely, and much of it comes from taxpayer-funded data collection or data reported for legal reasons. Recently, groups have started building primarily visual tools that make it easy (and even enjoyable) to work with these data. Consider US Census data: much of it is freely available, but few people are able or willing to dig through an unwieldy, outdated file format and hundreds of pages of documentation. Two innovative information design projects now conveniently map that data onto Google Earth. Still, the primary focus of these websites is not the visualization, but the data itself. Visual tools simply provide easy and direct access to the data, and once armed with these tools, people are stimulated to dig deeper, to ask new questions, and to demand more data. In sum, the tools will provide broader access to data sets and make people aware of larger quantities of information than they would be absent the tools. These tools will allow people to make the best or highest use of available information.

This realignment serves to advance not simply a set of interests internal to TIF but rather to undergird the more issue-specific goals of the various efforts of other funds in U.S. Programs. Without relevant, accurate, and timely information, and strategically designed information, efforts to attack structural racism will be hampered; advocacy to reform the criminal justice system will lack the backing of data demonstrating the ineffectiveness and damage of current policies; and work to bring our national security policy in line with legal and Constitutional standards will be without important evidence. Thus, the Fund in general and this portfolio in particular will work collaboratively with the other Funds and Campaigns to advance shared goals.

In addition to funding organizations that are focused on ensuring access to data and information, TIF will work collaboratively with other U.S. Programs' funds to develop operational activities to improve the way grantees in all program areas use and produce data and information. TIF may work with the new Grantmaking Operations department to develop technical assistance tools to help U.S. Programs grantee organizations develop new ways of approaching information and data analysis projects, as well as introduce them to the tools available to put these new skills to use. Projects supported may include trainings and materials creation, implementation of tools within a given network or organization, or individual consultations on online strategies or information projects to key organizations. This portfolio also shares some common goals with the OSI Information Program's Civil Society Communication Initiative, and TIF will collaborate with the Information Program whenever possible.

In terms of the regulation of information, OSI and our grantees across every field depend on the existence of an open, democratic communications infrastructure for speech, information, and knowledge exchange. President Obama campaigned on a platform that recognized the transformative role of the Internet and technology, and his administration has made a public commitment to ensuring the full and free exchange of ideas through universal and affordable access to an open Internet and diverse media outlets. Obama's

technology agenda promises to encourage diversity in media ownership, promote the development of new media outlets for expression of diverse viewpoints, and clarify the public interest obligations of broadcasters who occupy the nation's spectrum.

Despite the administration's embrace of an open, diverse media, independent media policy watchdog organizations still play a critical role in countering the extraordinary lobbying resources marshaled by corporate interests, monitoring the impact of regulatory policies on public access to quality information, and holding government and corporations accountable to the public.

U.S. Programs has a long history of funding information/media policy. The overarching goal of OSI's grant making has been to ensure that the public interest is vigorously represented in policy arenas that determine the structure of the U.S. media system and the public's access to high quality information. Despite the modest size of the portfolio, OSI is by far one of the largest funders in the media policy field, second only to the Ford Foundation. After many years of playing defense, media policy advocates are finally in a position to work with an administration that shares core values.

In terms of changes to our current portfolio, OSI media policy grant-making is largely concentrated on the small handful of national watchdog groups, each of which plays a unique role in protecting and/or representing the public's interest in federal media and communications policy. OSI has focused on strengthening key organizations and their connections to each other in this small, historically fractured, and under-resourced field. TIF will continue to support, although at significantly reduced levels, its core media policy reform organizations, and facilitate increased coordination and cooperation among them, at least in the near term. TIF has been closely collaborating with the Ford Foundation, the leading funder in this area. TIF will continue to take advantage of opportunities to increase the impact of a fairly modest investment in this area.

A key impediment to the progress of this field stems from a lack of engagement with broad and diverse constituencies that care about the role of media in our democracy. TIF will focus funding on efforts to draw more social justice groups into the policy discussion in order to strengthen the argument that winning racial and economic justice requires an open and fair communications system, and that media policy reform is a critical secondary issue that will help achieve primary social justice goals.

#### GOALS: INFORMATION ACCESS, DESIGN, AND REGULATION

##### **Goal One: Guarantee access to targeted data of high quality, in usable form and in real time**

###### Strategies:

- Identify and support efforts that will promote the affirmative provision of government data necessary for timely oversight and monitoring of key programs;

- Collaborate with other funds to support greater communication and collaboration between transparency and issue organizations to assure that data sought and collected is most useful to broader advocacy agendas;
- Convene national, state, and local organizations to share strategies and develop alliances to assure greater interweaving of data.

Impact:

- Increased access to government data in flexible formats;
- More effective use of data in advocacy and oversight campaigns.

**Goal Two: Collect, aggregate, and disseminate open source data to the widest possible audience**

Strategies:

- Identify and support efforts that will collect existing data, provide necessary improvements to that data to make it usable, and make that data available in an interoperable, open source format;
- Guarantee that those organizations we fund that use such open source data provide fair compensation to those who collect and disseminate it.

Impact:

- Solid financial footing for data aggregators;
- A growing body of usable and interoperable data that is actively used by advocacy organizations.

**Goal Three: Create effective mechanisms for use of data that maximize impact in organizing and advocacy efforts**

Strategies:

- Determine effective and appropriate ways to provide relevant data to audiences of interest, including journalists, watchdog organizations, advocacy organizations and the public;
- Build the capacity of grantees across U.S. Programs to understand the ways they can effectively take advantage of the explosion of new data collection tools to further a range of programmatic goals;
- Support the use of information design to transform raw data into powerful visual advocacy tools;
- Collaborate with other funds in U.S. Programs to enable greater grantee use of data and data visualization tools;
- Support efforts that bring together journalists and advocates with data dissemination efforts to increase the use of innovative tools.

Impact:

- Proliferation of useful, usable and engaging transparency tools that are adaptable and flexible;
- Extensive and effective use of data and data visualizations by journalists.

**Goal Four: Support information policy that ensures an open, democratic communications infrastructure for speech, information, and knowledge exchange**

Strategies:

- Support efforts to ensure that every home, business, and civic institution in America has access to an affordable high-speed, world-class communications infrastructure;
- Support groups that play a unique role in protecting and/or representing the public's interest in federal media and telecommunications policy.
- Partner with the Equality & Opportunity Fund and the Democracy & Power Fund to help build the leadership of people of color, women and youth, three constituencies largely absent from the pool of national information policy leadership;

Impact:

- Most homes, businesses and civic institutions have access to a fast, affordable, and open Internet;
- Media and communications policies reflect the needs of diverse communities and balance private interests with public interests.

#### **IV. INTEGRITY: GOVERNMENT ACCOUNTABILITY THROUGH SUPPORT FOR KEY INSTITUTIONS**

The Fund will also focus on certain mechanisms of governmental accountability on which the U.S. system of checks and balances is premised. Some TIF grantees are already working on restoring Congress' oversight functions, and on ensuring that we transform the deeply entrenched culture of opacity in certain executive branch departments and agencies,<sup>1</sup> and we will continue to support discrete aspects of that work. But TIF will devote substantially more of its resources to supporting the fields of (a) the fair administration of elections, and (b) the integrity of the judiciary. Fair and well-run elections are the key mechanism for ensuring that politicians remain accountable to their constituents, and an independent judiciary ensures that the government and its citizens are accountable to the law. Focusing on these areas allows the Fund to build upon OSI's historic investments in these areas, staff expertise and current reform opportunities.

##### **A. SUPPORT BROAD & EQUAL ACCESS TO THE BALLOT**

In a democracy, elections remain the most fundamental mechanism by which citizens may hold their government accountable. While we observed with relief that on November 4, 2008, our election system generally "worked," it is undeniable that the structures of our democracy remain fundamentally challenged, and the full enfranchisement of eligible citizens remains deeply threatened. The problems facing our nation's election administration infrastructure are both structural and systematic. Ongoing voter disenfranchisement is the result of a politicized and overburdened election administration system, various forms of voter suppression (such as punitive voter ID laws and obstacles to voter registration) and flawed technology, all disproportionately

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<sup>1</sup> This work will build on our established funding history in support of the integrity of "science agencies:" efforts related to professionalization, transparent and accessible administrative decision-making practices, and civil service reform that incentivizes sharing of information across agencies and with the public.

impacting minority communities, the poor, and people with criminal records. If these and other problems in our elections are allowed to persist-if voters cannot register easily, find their polling place, understand the ballot, or trust that their choices will be respected-the ability of citizens to hold elected officials accountable will continue to erode.

Fortunately, we have a remarkable window of opportunity to transform the system over the next several years. Current conditions are on our side: federal policy makers and advocates are discussing the potential for transformational reform; new secretaries of state have emerged, with a robust appetite for change; and some state election officials have taken the reins from their local counterparts to try to make election technology, practices, and standards consistent and reliable across their states. TIF's strategy is designed to build on these opportunities to achieve the comprehensive reforms necessary to repair the defects in election administration that disenfranchise millions of eligible Americans in every election cycle and hinder the development of a truly open society.

More concretely, TIF will build on OSI's important work in this arena (as exemplified by the recent Election Administration Fund partnership with the Democracy Alliance) by pursuing several critical opportunities. By far the most significant problems in the 2008 election had to do with voter registration. Thus, in partnership with other funders, we have just recommended a significant investment in potentially transformational efforts to advance automatic and permanent voter registration policy (also known as universal voter registration or registration modernization). This would mean that government would take the steps to make it possible for people to be on the voter rolls, rather than this burden resting on individuals and private organizations, make it unnecessary to update registration when one moves from place to place within a state, and include fail-safe procedures to ensure that people can correct the rolls before and on Election Day.

Because work at the state level is important in laying the groundwork for more sweeping reforms (in this and other areas within the Fund), we will also recommend funding The Pew Charitable Trusts "Make Voting Work" program (formerly a joint Pew-JEHT initiative), which supports innovative models at the state level and plans to expand into the arena of automatic registration in the coming year. This program works with state elections officials to standardize – and where necessary professionalize – election administration. Pew plans to focus its efforts on 4 states. Other state-level election systems funding will include continued support for advocacy around enforcement of various provisions of the Voting Rights Act, particularly related to voter registration. We are also likely to partner with other Election Administration Fund allies in promoting Election Day Registration and other efforts that build towards comprehensive structural reforms. The loss of the JEHT Foundation as a partner in this area cannot be overemphasized. JEHT had a robust elections administration portfolio, and many grantees are now in dire need of new funds. OSI, through its JEHT Emergency Fund, has made up some of the 2008-09 losses to several such JEHT grantees on a one-time basis, but some may require continued support to fully complete valuable projects.

The Transparency and Integrity Fund will also support innovative opportunities to utilize new technologies to promote transparency and accountability in the civic engagement



arena as well as efforts to promote oversight and accountability in policymaking more generally. This could include previously funded initiatives as well as specific, evolving new efforts. We will be advised in these explorations by OSI fellows such as Zack Exley and by Election Administration Fund partners such as Credo and other funders.

In addition to these proactive strategies to advance transformational reform and foster innovative election practices, TIF intends to provide critical support to strategies to defend election integrity as well. Areas of likely investment include defending campaign finance reform policies (particularly regarding disclosure requirements) and fighting back challenges to full and fair participation at the state level (such as restrictions on third party voter registration and onerous voter ID requirements). Beyond these priorities, over the next 2-3 years we will also be paying close attention to opportunities in the arenas of nonpartisan planning for redistricting, election administration, and protection work in the 2010 and 2012 cycles, other reform agendas such as National Popular Vote and research in support of policy innovation in areas such as redistricting.

We do recommend shifts in a significant area of previous strategy. Historically, OSI played a leading role in promoting campaign finance reform models at the national and state levels. In recent years, changed conditions caused us to re-examine our approach, and our analysis led us to begin discontinuing our support to campaign finance reform groups. Despite a President who is historically friendly to campaign finance reform, the Supreme Court as it stands is unfriendly, and there is an aggressive legal strategy that seeks to turn back the clock on reform and Watergate era disclosure policies. Because of this aggressive posture, it is likely that TIF strategy will concentrate primarily on supporting defense of existing statutes. However, we would be remiss to ignore the apparent transformation of campaign finance practices by the Internet and the small donor "revolution." Consequently, TIF is likely to recommend modest support for research into opportunities to support potentially transformative new approaches to campaign finance. It is also possible that in the next two or three years we will support further innovation where it occurs - for example, to advance the New York City matching model, which to date has stood up to challenges. This reflects the ongoing reality that the current system promotes corrupt policy-making processes, disables reform efforts and limits opportunities to promote open society values and practices.

In all our election reform work, we will coordinate with the Democracy and Power Fund, the Equality and Opportunity Fund, and the Criminal Justice Fund (with whom TIF is jointly recommending co-funding an effort to address census-related prison gerrymandering in New York State. This coordination aims to ensure that our strategies are aligned with civic engagement activities and voting rights advocacy, and to help the common goal of guaranteeing that every eligible voter is able to vote without challenges, and every vote is counted as cast.

GOALS: SUPPORT BROAD & EQUAL ACCESS TO THE BALLOT

**Goal One: Support equal access to the ballot for underrepresented and marginalized constituencies, including people of color, low income communities, and**

**youth, through support for voter registration reform and advocacy at the national and state levels**

Strategies:

- Support transformational policy reforms at the national level, in particular with respect to voter registration modernization;
- Support advocacy at the state level for Election Day/same day voter registration to support this transition;
- Encourage enforcement of existing National Voter Registration Act requirements regarding registration at public assistance offices to enfranchise millions of voters;
- Support legal advocacy to protect independent voter registration efforts where necessary/appropriate.

Impact:

- Expand the franchise;
- Secure national voter registration reform that moves the impetus for registration from nonpartisan, 501c3 groups to the government;
- Ensure that government agencies provide voter registration services already required by law;
- Enable nonpartisan 501c3 organizations to continue registering voters where still necessary/appropriate.

**Goal Two: Provide support for advocacy and reform of election administration practices at the state and local levels to facilitate equal access to the ballot**

Strategies:

- Support for engagement with election officials at the local and state levels to ensure that they are responsive to advocates and community representatives;
- Ensure that voting systems and technology are secure through advocacy for paper trails and other forms of accountability, and watch dogging of new trends such as internet and phone voting;
- Support practices that facilitate voting by diverse constituencies, such as early voting and vote-by-mail;
- Watchdog trends for restrictive election administrative policies in state legislatures – particularly regarding punitive Voter ID requirements and limits on 3rd party voter registration;
- Support innovative uses of technology to provide critical information to voters about voting processes, responsibilities, venues and requirements.

Impact:

- Election officials are supported by and responsive to advocates and communities;
- Voting technologies are secure and inspire confidence among voters;
- Voting processes are flexible and broadly inclusive;
- Voters have access to the information they need, either through government or nonpartisan Internet and community venues.

**Goal Three: Defend existing campaign finance requirements and investigate innovative and promising practices for further development**

Strategies:

- Support legal advocacy to defend existing campaign finance disclosure requirements;
- Research impact and promise of small donor giving via the Internet and prospects for expansion;
- Provide limited support to public financing schemes that are likely to survive the test of a presently hostile Supreme Court.

Impact:

- Basic campaign finance disclosure requirements are successfully defended;
- Small donor "revolution" is demonstrated to have impact and future campaign finance proposals reflect these positive findings;
- Alternative schemes such as the New York system are advanced in other locales.

**Goal Four: Investigate and, as appropriate, advance, other transformational election reforms such as National Popular Vote and redistricting reform, recognizing the long-term horizon of these efforts**

Strategies:

- Provide support for new nonpartisan, 501c3 efforts to advance an interstate compact that will promote reliance on the popular vote versus the Electoral College system;
- Support efforts that examine and advance reforms of our systems for redistricting that take advantage of new technologies, engage communities, remove partisan biases and advance fairness, inclusion, and balance.

Impact:

- The groundwork is laid for comprehensive reform of long-standing, inequitable and partisan systems (transformation unlikely in 3 years).

**B. SUPPORT AN INDEPENDENT AND DIVERSE JUDICIARY**

Recognizing the central role the judicial branch plays in checking government power and providing access to justice for the most marginalized members of society, OSI has long provided support for a fair and independent judiciary. A robust judiciary – with a diversity of viewpoints and experiences and accountable to law rather than any rigid ideology or partisan agenda – is necessary to advance the many issues embraced by U.S. Programs. These issues include national security and human rights, racial, gender and LGBT equality, immigration reform, civic participation, and criminal justice. What is often forgotten is that while the judiciary has the power to vindicate rights and establish justice, it can also *block* desperately needed reforms, standing in the way of democratic power. This occurred most notably during the Great Depression when conservative ideologues on the Supreme Court voided New Deal economic programs as beyond the authority of the federal government's power. As the current economic crisis deepens, the historical parallels suggest that it is dangerous to ignore the courts.

But over the past two decades, attacks on the balance and impartiality of the judiciary have increased along with the growth of corrupting, big money judicial elections. Thirty-nine states elect at least some of their judges, so although judges do not have constituents, they have contributors. The impartiality of judicial candidates suffers when they are forced to seek donations from special interests to fund their campaigns, yet from 1999-2007, candidates raised over \$165 million for state Supreme Court races. Since 2000, fifteen states have broken records for spending in judicial elections. Big money judicial campaigns and the donors that fund them have created the perception that justice can be bought, undermining the judiciary's crucial role in our constitutional system. And since the 1987 nomination fight over Robert Bork, battles over the federal judiciary have only grown more intense, leading many Americans to see the Supreme Court and appellate courts in simple partisan terms. Discussions of nominees, the Courts, and the Constitution became increasingly devoid of substantive vision and clear statements of principles. OSI's grant making has sought to right both these serious imbalances.

Ten years ago, when OSI began funding efforts to defend courts and their central role in protecting constitutional rights and providing equal justice, the field of judicial independence did not exist. It was only through a long, methodical effort to engage a diverse field of organizations, coordinate local, state, and national efforts, and attract other funders that the field came to be what it is today. Beginning in 2000, OSI funded the creation of the Justice at Stake Campaign, supporting many of the key state and national organizations that serve as the foundation of the Campaign. That campaign does not simply seek to raise the profile of judicial independence as an issue. It seeks fundamental changes in judicial selection: pushing for merit selection or public financing of judicial elections. The years since have brought key victories and defeats: the passage and defense of judicial public financing in North Carolina, the first passage of merit selection systems (in two local jurisdictions) for the first time since the 1960s, and the withering attacks on the courts stemming from the Terry Schiavo controversy. The field is now at a key moment: having gelled as a field, it is poised to set new, concrete goals for the next five years and make further advances in judicial selection reform, recusal reform, and diversification of the judiciary, while expanding to involve more groups concerned with criminal court reform.

OSI remains the dominant funder in this field, and often the sole funder of organizations working on projects that are essential to the field. Because of the need to free up funds to address the crisis in journalism and other TIF priorities, TIF will reduce its expenditures on judicial independence. We will continue to provide funding to the core national groups that have provided the organizing, coordination, research, and technical assistance to state advocates, judges, and others. This will assure that those organizations who have made major commitments to the field over the past decade maintain their core capacity and commitment to the field. We will also work with remaining groups in the field to develop realistic, shared goals for the coming five years through convenings and follow-up meetings and, where possible, fund state level groups through the TIF state-strategies portfolio. This decrease in funding is likely to have a major impact on the field, and therefore we are also committed to continuing to seek other donors to fill this gap. The

Ford Foundation is interested in providing funding, but budget constraints and moves to limit lines of work make the possibility somewhat remote. Other foundations that may be sources of future funds for this area include Public Welfare, Wellspring, and Wyss. We will also reach out to the Law School Admissions Council's Diversity Initiatives Program and to private donors. Expanding the pool of interested donors requires, in part, correction of the he misperception that (a) judiciary-oriented organizations easily attract funding from the legal community, and (b) that the judiciary need not be a priority for those engaged on social justice and democracy issues.

We will pursue judicial diversity efforts as well as efforts to bring criminal justice groups into the field, seeking to engage the Equality & Opportunity and Criminal Justice Funds in pursuing these goals as these efforts are intertwined with those funds' own goals. We will try to make judicial independence central to our state-level efforts, and we will work with state and national grantees to find new ways to use technology to advance efforts to reform judicial selection. In order to develop shared strategic goals, OSI will convene a retreat for national and state groups before the end of 2009 with the hope of bringing new organizations into the effort and fostering greater coordination at the state and national level. This state-based work will be as important as ever in the coming years as key conservative activists have signaled their intent to undermine judicial independence in the states.

At the federal level, our strategy will focus on bringing greater diversity to the federal judiciary: diversity of experience, thought, and background. As a result of three decades of vigorous efforts by business and religious activists, the federal judicial bench has skewed further and further to one side, becoming more conservative, whiter, and more male. In a long line of decisions, federal judges have used procedural tactics to deny citizens access to the courts; ignored long-standing laws protecting civil rights and economic entitlements; and reinterpreted the Constitution to eviscerate key limitations on government power and individual rights. It has become clear that restoring the health of the judicial system involves righting the balance within the judiciary.

Since 2003, OSI has been the primary supporter of the Coalition for a Fair & Independent Judiciary (now called the Coalition for Constitutional Values), a collaboration of organizations concerned with federal judicial nominations and the health of the federal courts. We have provided funding for well over a dozen groups in the Coalition, which has allowed us to understand both the assets and complications of the Coalition and help move it towards greater collaboration, clearer divisions of labor, and more effective messaging. Going forward, however, we will concentrate our funding on those groups doing the most innovative and effective work in reframing debates over the Constitution and the courts. Central to these efforts will be organizations such as the American Constitution Society and the Constitutional Accountability Center who develop and disseminate persuasive Constitutional theories and ideas to counter the theories that have been prevalent in judicial decision-making in recent decades. We will also support efforts to foster greater civic engagement in the federal judicial nominations process by supporting regional (circuit), state, and local organizations concerned with the courts.

There are distinct challenges and opportunities faced by the two fields represented in this portfolio. The judicial independence field faces a particular challenge in widening the coalition of groups that engage on the issue. The field first attracted “good government” organizations but then (with OSI support) set out to diversify and succeeded in attracting a more diverse set of organizations, but must invest additional effort to keep doing so. At the same time, the field was originally focused only on “civil” justice issues but needs to include criminal justice concerns, and this poses a challenge both because of some resistance to expanding the scope of activity from the field itself, and because capacity-constrained criminal justice groups may be interested but lack the ability to invest time and resources. These challenges are set in the context of a broader, overarching obstacle: the growth of organized, conservative anti-fair courts efforts in the states. Nominations efforts are challenged by the perception that with a new administration in Washington, nominations battles will be a thing of the past. As vicious attacks on Judge Sotomayor show, even moderate candidates will be challenged, limiting the will and ability of decision-makers to make the kinds of bold choices needed to right the balance in the federal courts. The next year and a half are particularly important given the possibility of power shifts after the 2010 elections.

Opportunities exist both within OSI and in the field and nation more broadly. At OSI, one opportunity lies in greater cross-fund collaboration where shared goals will provide the ability to bring together new alliances and new funding. On the ‘Constitution and Courts’ concerns, a new administration provides new chances to shape the debate over the federal judiciary and Constitution. Present and future Supreme Court vacancies will allow for public education and greater grassroots engagement in discussions over the future of our Constitution. The Sotomayor nomination is providing just such an opportunity. The field of nominations groups is working more effectively and cooperatively than ever before thanks in large part to OSI’s efforts over the past few years to bring the Coalition and other legal groups together around a new set of messages and a positive vision of the Constitution. And on judicial independence, the recent Supreme Court *Caperton* decision as well as state reforms in North Carolina, Missouri, and Kansas show that the field is having an impact on policies and shaping the terms of debate over the proper role of courts in our constitutional democracy.

GOALS: SUPPORT AN INDEPENDENT AND DIVERSE JUDICIARY

**Goal One: Sustain funding to core judicial independence organizations**

Strategies:

- Provide grant support to core national judicial independence organizations;
- Work closely with core grantees and others to develop a strategic five-year plan for the field;
- Operationally, play an active role in identifying and attracting new donors to the field, allowing for expansion of work into new arenas.

Impact:

- Expansion and diversification of funding base;
- Greater coordination of efforts by groups to achieve shared goals;
- Significant judicial selection or recusal reform in 3 states in 5 years.

**Goal Two: Continue to develop programmatic work on judicial diversity and the need to reform the criminal court system**

Strategies:

- Collaborate with other USP Funds as well as other funders to co-fund projects to increase diversity on the courts, and engage criminal justice reformers in discussions of court reform;
- Work with current grantees (such as the Brennan Center, the Kirwan Institute, and perhaps Soros Justice Fellows) to engage with the Justice at Stake coalition on these matters;
- Continue to engage with the OSI-led Judicial Diversity Working Group to share ideas and coordinate efforts related to diversity.

Impact:

- Greater coordination and collaboration between racial and gender justice, criminal justice reform, and judicial independence organizations;
- Measurable success in diversifying state and federal judiciary in 3 states;
- Setting and achievement of goals relating to reform of criminal courts in targeted states.

**Goal Three: Support state-based judicial independence efforts that are integrated into TIF-wide state-based strategies**

Strategies:

- Provide funding for judicial independence projects in Fund-targeted states;
- Collaborate with other Funds and funders operating in those states to engage their grantees in judicial independence efforts (particularly judicial diversity and criminal court reforms);
- Work with state-based coalitions to connect judicial independence to other Fund issue priorities.

Impact:

- Help make judicial independence and reform efforts a core goal of state-based transparency & integrity coalitions;
- Bring new organizations from racial/gender justice and criminal justice reform fields to table.

**Goal Four: Support innovative and effective efforts to shape discussions concerning the future of the Constitution and the courts**

Strategies:

- Identify and fund to the limited extent possible the most innovative and effective organizations working on Constitution and courts issues;

- Support journalistic work that calls attention to the current state of the judiciary and the judiciary's impact on issues of key concern to U.S. Programs;
- Engage in better and more mindful evaluation of grantees, collaborating with grantees to evaluate work;
- Continue to attract new funders to the field, working closely with ally foundations to develop common strategies;
- Organize convenings to highlight innovative thinking about courts and the Constitution, building greater non-lawyer engagement in discussions;
- Continue collaborations with OSI-DC (as on DOJ reform and Supreme Court vacancy);
- Continue engagement to assist groups in better division of labor and collaboration in developing shared law and Constitution-based messaging.

Impact:

- Strengthened organizations with fresh approaches to discussion of Constitution and courts;
- Continued improvement and impact of messaging by groups in context of nominations;
- Measurable impact on the diversity (demographic, ideological, etc.) of the federal judiciary.

**Goal Five: Support the development of effective models for grassroots education and organizing related to federal judicial nominations**

Strategies:

- Working with the Democracy & Power Fund, provide support to state and regional efforts to engage on federal judicial nominations;
- Operationally, work with national coalition members to better serve the needs of grassroots activists and engage grassroots in federal-level strategy and action;
- Operationally, organize convenings outside the Northeast corridor to build greater engagement of non-traditional players in discussions of the meaning of the Constitution and the role of the courts.

Impact:

- Greater grassroots engagement on questions of the Constitution and the federal courts, particularly in relationship to federal District Courts and Courts of Appeal;
- Better two-way coordination between grassroots and DC-based groups, with particular emphasis on increased independent local capacity;
- Building of three or four strong, sustainable state or regional/circuit coalitions with diverse constituencies.



## V. ROADMAP FOR STATE AND LOCAL TIF GRANT-MAKING

TIF plans to deepen and expand its state and local grant-making by examining four states that are at tipping points on issues central to the Fund: Louisiana, Maryland, Texas, and Wisconsin. We have not made final determinations yet as to where and how we will proceed with state and local engagement, but we have invested significant time on research and analysis of potential funding strategies. In particular, we have spent substantial amounts of staff time and resources on working with a set of transparency and accountability-focused groups in New Orleans, in partnership with - and with seed funding from - the Strategic Opportunities Fund, and now also in coordination with the Greater New Orleans Foundation. Together, we are trying to identify the most promising projects and determine how to encourage collaboration between the groups doing that work, as well as between our national grantees and potential New Orleans grantees.

Should we proceed in Louisiana (as is highly likely) and Maryland, our primary focus will be on increasing applied transparency in two major cities - New Orleans and Baltimore - although efforts will also include connecting to statewide transparency and integrity efforts. If we decide to work in Texas and Wisconsin, our primary focus would be at the state level, though again efforts active around the state Capitol will be connected back to major cities to ensure grassroots participation and impact.

Due to staff resources and budget constraints, and in order to proceed responsibly, TIF plans to begin its concerted state and city work with a set of groups in New Orleans, and then Texas, after which it may add an additional state in 2010. This will allow for the extensive staff time needed to effectively make and monitor grants at the local and state level and to enhance communication between grantees and OSI staff within other USP units working in these areas.<sup>2</sup> In all these states, we will be engaged in outreach on issues of stimulus transparency and equity.

### GOALS: STATE AND LOCAL TIF GRANTMAKING

- **Goal One: Increase state and local groups' capacity to advocate on transparency, integrity, and equity issues**

#### Strategies:

- Invest in select state and local capacity by supporting an ecosystem of groups within that geographic area (existing grantees as well as new groups);
- Connect national grantees with state and local groups to share strategies and technological tools to advance goals;
- Build capacity to engage in federal policy debates.

#### Impact:

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<sup>2</sup> The plan is to gradually increase funding from an initial TIF investment of \$750,000 by the spring of 2010 in Texas and Louisiana to a goal of more than \$1 million in clusters of connected local projects in four or possibly five states by end of 2011.

- Best practices in states and cities that can serve as a model for other states and localities;
- Progress in specific states and cities that occurs after funded work is implemented may be seen through scandals or improprieties exposed as a result of greater transparency and/or accountability reform;
- Outside metrics such as the Democracy Index and states' ratings on their websites, will show that the state or city has institutionalized transparent processes;
- Where independent journalism is the focus of our work, expanded coverage of state and local bread and butter or quotidian issues.

**Goal Two: Enhance communication and coordination within target states or cities**

Strategies:

- Assist in coordinating information flow between TIF grantees and other USP grantees working in a target area through meetings, phone calls, e-mail communication;
- Build bridges with other USP Funds to increase coordination in specific place.

Impact:

- Increased communication and coordination will be apparent in specific states and cities, and increased collaboration and operational progress between USP units;
- TIF can demonstrate increased transparency in a place that is also advancing other USP priorities.

**VI. RESEARCH & DEVELOPMENT ON PRIVATIZATION**

TIF also intends to explore one initiative that merits attention due to its timeliness, necessity, and strategic overlap with other TIF and USP priorities: privatization, the transfer of the ownership of assets and production of goods or services from government to the private sector. TIF is not planning immediate funding in this area, but rather plans to dedicate limited resources to research and development, and to use convenings to evaluate whether and what to fund at a later point. Cognizant of budget constraints, we nonetheless believe it is an important area to look into because the continued trend toward privatization is a USP-wide theme, as privatization of government assets or functions is at odds with core notions of transparency and the public good. Because these contracts are private and contracting companies are seldom subject to public accountability controls, the public knows little about what happens when these assets or functions are outsourced to the private sector.

As the economy declines, investment banks and consortiums of private investors are presenting themselves to governors as the solution to state deficit problems. The privatization industry argues that it can lease, buy and/or manage public structures more efficiently than the public sector. Yet numerous experiences in the U.S. (and across the globe) suggest these claims are overblown and that the public pays both at the beginning of privatization deals (through higher capital costs), and again through compensation when goods or services must be brought back under the public domain due to poor

services or when rising use costs create a public outcry. Moreover, the privatization of basic services like transportation, water, energy, prisons, or eligibility for public services has the potential to undermine the quest for equal opportunity and a level playing field for all citizens.

In the near-term, the level of public-private contracting will only increase given the enormous stimulus package and the financial crisis. In light of this, and to address the transparency and accountability issues inherent in privatization, TIF will consider investing in strategies to develop and promote contractor disclosure and oversight standards, specifically with respect to entities receiving bailout and recovery package funds from the government, and will pay special attention to private companies contracting with the federal and state governments to establish private prisons.

On the disclosure side, TIF and the OSI Justice Initiative are examining the application of Freedom of Information laws and policies to public corporations and private bodies that perform public functions or receive public funds including entities involved in the bailout and recovery programs. On the accountability side, TIF remains supportive of the still nascent Ford Foundation-led coalition that promotes the development of responsible contracting standards to protect the public interest and ensure appropriate government oversight and control of public structures. The group's very active, nationwide, listserv acts effectively as a "Contractor Watch" not so much in systematic collection of data on contractors (TIF grantee POGO, a part of this effort, maintains a centralized Federal Contractor Misconduct Database that details for example how contracts with state agencies terminate due to poor contractor performance), but it does identify bad actors and hopes to galvanize community groups to oppose it. More than that, it is a resource of developments in the field, tracking, influencing and scrutinizing federal and state government changes to contracting processes, as well as providing action alerts and current literature.

Finally, if we were to make any grants in this area, we would likely concentrate our resources on federal and state government outsourcing of prison functions to private companies, a trend that began in the mid-1980s and is now steadily growing. The growth appears to be more in the area of federal rather than state prisons, with a significant chunk of it attributable to private immigrant detention centers. It is a lucrative business, and prison firms and local governments are rushing to supply DHS and the Justice Department with prisons needed to house the immigrants captured by ICE and Border Patrol agents. (Prison executives even suggest that the economic crisis will fatten their business.) We would support organizations working to apply transparency tools and use accountability mechanisms in this area, which is of special concern as prisons are in general (let alone in the private context) opaque institutions, not to mention the disconcerting and obvious fact that they deal in human lives. Additionally, this is an area in which privatization blurs public-private boundaries by involving private firms in the performance of essentially governmental functions – delegation of coercive power.

## VII. CROSS-PROGRAM STRATEGIES, COLLABORATIONS & COORDINATION

### A. *Cross-Cutting Strategies*

We have identified the following cross-cutting themes across USP:

- State and local engagement;
- Field building and/or sustaining, where necessary, and fostering field connectivity or field cohesion, including technical assistance to grantees to survive the economic crisis;
- Effective use of technology;
- Engaging a wide range of groups with multiple viewpoints and using multiple strategies to create a transparency agenda that is reflective of USP's other concerns.

### B. *Cross-Program Collaboration*

Transparency, accountability, and the free flow of information are essential to the robust social justice ecosystem that all USP funds and campaigns support. Greater government and corporate transparency allows advocates to be more involved in the decision making process and encourages citizen engagement; greater accountability ensures that citizen concerns are reflected in government; and the free flow of information, particularly to and from historically excluded communities, increases the capacity of the public to be watchdogs and better advocate for their interests. For instance, we believe our colleagues' use of TIF-supported mechanisms such as information structures like the Coalition for an Accountable Recovery and States for an Accountable Recovery will help them realize their funds' goals of power and equity. Specific strategies where there are opportunities for intersection/collaboration/coordination with our colleagues in USP (as well as across OSI and other funders) follow. We hope that at the conclusion of three years, other funds will have a deeper understanding of the relevance of transparency to their goals. We are also dedicating a portion of our budget to allow for the space that such collaboration requires.

#### *1. Democracy & Power Fund (D&P)*

- Civic engagement: Ongoing efforts to promote integrated voter engagement by D&P will be enhanced by TIF election administration and reform strategies, since rigorous oversight of election administration practices and support for broad and equal access to the ballot are essential to ensuring that our election structures and systems facilitate broad and sustained participation. Voter registration modernization would be a particular area for collaboration as it could significantly increase the civic participation of constituents in OSI priority communities.
- Idea generation and policy development: D&P efforts to support the generation of new ideas and policies will be enhanced by a connection to TIF's media and

- Building state-based social justice capacity: Coordination in focus states will ensure D&P and TIF support a healthy social justice ecosystem that has access to the tools and information it needs; for instance, grantees working on social justice issues will be connected to good government groups and the transparency and accountability resources TIF builds at the state level, in an effort to connect the agendas of local reform-minded organizations in ways that are complementary.
- Transparency, accountability and equity in the recovery: The massive outflow of public money in response to the current economic crisis has few parallels in history. As governments seek to spend stimulus monies quickly, advocates are working simultaneously to ensure that expenditures are made transparently and equitably, and are responsive to local concerns. TIF supports a number of budget transparency-focused groups that it has encouraged to work closely with D&P grantees at the local level around equity concerns.

## 2. *Equality & Opportunity Fund (EOF)*

- The role of the courts: Efforts to seek reforms on issues of structural racism, immigrants' rights, gender justice, and equality for the LGBT community all depend upon a fair and diverse judiciary. To the extent that EOF emphasizes defending and expanding rights as a mechanism for advancing equity, then the role of the courts would seem to be key in advancing this work. TIF foresees a possibility of collaboration and/or co-funding work related to federal judicial nominations or judicial independence. For instance, on nominations one goal has been to increase engagement of groups significantly impacted by federal court decisions whose voice is underrepresented in debates - people of color (especially Native Americans), immigrant groups, and LGBTQ communities. With judicial independence, one goal has been to increase judicial diversity as a means of making courts more responsive to and reflective of those communities. TIF is already collaborating with EOF through grants to Lambda and the Equal Justice Society, but we are eager to expand this collaboration.
- Elections systems reform: TIF's work in this area is linked closely to the voting rights work supported by EOF. The aim of TIF's registration reform is the same as that of EOF's work on voting rights: to ensure that communities traditionally without a voice at the polls have one so that they can build their own political power. Collaborative work will ensure that the two funds' grantees work in coordinated fashion.
- Oversight & accountability of the detention system: The privatization of prisons and detention centers has, in part, left many undocumented immigrants at the mercy of private contractors operating with little to no oversight and few to no safeguards. TIF is considering examining the contracts under which the

- Transparency, accountability and equity in the recovery: Principally through the Seize the Day Fund, TIF, EOF and other funds are working to ensure transparency, accountability, and equity in the development and implementation of the economic recovery, including at the state and local levels.
    - *Neighborhood Stabilization Initiative*: TIF and NSI will explore creative connections between their work, particularly around transparency in the economic stimulus and support for ethnic media. There is also the need for transparency of the mortgage industry which is contributing to the lethargic pace of loan modifications and stubborn persistence of the foreclosure crisis.
  - Ethnic media: Ethnic media is one of the few relatively healthy sectors in journalism today. It is highly responsive to the communities it serves and can be both an information and organizing tool. TIF's support for journalism initiatives will give primacy to those that focus on the needs of underserved communities, an area in which we foresee rich TIF and EOF collaboration, the goal being to nurture a better informed and more engaged populace in historically excluded or marginalized communities.
3. *Criminal Justice Fund (CJF)*
- Prison gerrymandering: TIF and CJF are jointly recommending a 3-group, multi-year effort to address census-related prison gerrymandering in New York.
  - Prison privatization: Privatization of the prison industry conceals from public scrutiny some abhorrent practices and impedes much needed criminal justice reforms. Should TIF engage in any grantmaking on privatization in the next 3 years, it could be in partnership with CJF and would concern stemming the privatization of federal immigration detention centers in Texas, since that is a state in which the problem is particularly acute (as compellingly articulated by TIF grantee the *Texas Observer*), but also a state in which both funds currently work.
  - Voting rights: TIF's work in this area is closely connected to the re-enfranchisement work supported by the Criminal Justice Fund. We are collaborating on a book event in Fall 2009 on comparative disfranchisement practice, and will explore additional ways to work together on this issue.
  - Transparency in prosecution and policing: We see opportunities for cross-fund work in these areas, too, around racial profiling data collection for example, which we plan to explore with the CJF.

#### 4. *National Security & Human Rights Campaign (NSHR)*

- Transparency & national security policies: Despite being pro-transparency, President Obama has not lifted much of the secrecy that surrounds national security policy. TIF-supported watchdogs in part work to expose government decision making processes, including those related to national security, and support disclosure policies that complement the work of NSHR. There is significant room for collaboration in the area, and the Fund and Campaign already have a number of shared grantees (e.g., OMB-Watch and the Project on Government Oversight).
- Oversight & accountability of the detention system: TIF's support for increased government oversight and a fair and impartial judiciary complements NSHR's goals of strong oversight of Executive action, ending arbitrary detention and restoring due process. This nexus provides an opportunity for collaboration between the two funds both in their grant-making and operational roles.

#### 5. *Strategic Opportunities Fund (SOF)*

- State-Based Funding in Louisiana: Over the last year, TIF has collaborated with SOF to develop programming around a cluster of TIF issues in the Gulf Coast region. SOF has seed funded the research and development component of this effort, and this partnership has led to what is likely to be TIF's long-term funding of a strategic coalition of media, good government and watchdog groups in Louisiana.

#### 6. *OSI-DC*

We continue to work closely with the Washington, D.C. office, where Mort Halperin is TIF's liaison. We keep Mort – and Steve Rickard – abreast of our grantees' non-lobbying involvement on federal policy reform. We are working closely with both Mort and Steve on federal judicial nominations matters.

#### 7. *OSI-Baltimore*

We are in the early stages of exploring a partnership with OSI-Baltimore that might involve funding state and local groups working on the recovery, but may also involve partnering with the Mayor's Office.

#### 8. *USP Communications*

TIF recognizes the strong connection between communications, public opinion and policy change. In its operational role, the Fund plans to work closely with OSI's Communications Department to: publicize its views, assess the communications capacity of grantee organizations, provide direct communications assistance to

grantee organizations when requested and raise the profile of organizations doing important work, e.g., grantees' collective efforts to ensure transparency and equity in the economic recovery. The Fund will also seek the Communications Department's assistance in developing its own expertise on data visualization – a useful tool in advocacy that can visually portray cause-and-effect relationships.

#### 9. *OSI Network Foundations & Programs*

We have described above our collaboration with the Justice Initiative. We are also working on transparency issues with the international foundations' Governance Program; and on technology for transparency with the Network Information Program. Finally, we work closely with the Network Media Program on issues of journalism, including co-funding conferences on the issue, the crisis in print journalism, and convening OSI foundations for the Network Media Conference.

#### 10. *Collaborations with other Funders*

We are working closely with the Ford Foundation, among others, to establish robust, new, cross-cutting collaborations on our issues – the Coalition for an Accountable Recovery, and States for an Accountable Recovery. We are also expanding the field of funders in several portfolio areas, so that we share goals and resources. On developing solutions to the crisis in journalism, we are working with Knight, Ford, Rockefeller Brothers Fund, and Surdna, among others. On pursuing voter registration modernization, we are working with Rockefeller Family Fund, the Carnegie Corporation, Wellspring Advisors, and others; and on issues related to the judiciary, we are actively engaged in broadening the funder base by reaching out to Ford, Joyce, Public Welfare, Wyss, and Wellspring. Unfortunately, however, OSI, which largely created this field, is currently the principal, and in some cases, sole funder in this area.

TIF staff are maintaining a database of foundations and commitment levels to track the resources available to each field it is involved in and identify potential additional partnerships to those outlined above. Other significant funders, by area, currently include but are not limited to:

Journalism: Carnegie Corporation of New York, Ford Foundation, Hewlett Foundation, Knight Foundation, MacArthur Foundation, McCormick Foundation, Rockefeller Brothers Fund and, the Surdna Foundation.

Information and Data Visualization: Carnegie Corporation of New York, Ford Foundation, Pew Charitable Trusts, Rockefeller Family Fund, the Surdna Foundation, and the Sunlight Foundation.

Watchdogs: Arca Foundation, Carnegie Corporation of New York, C.S. Fund, Ford Foundation, Hewlett Foundation, and the MacArthur Foundation.



Election Systems: Carnegie Corporation of New York, Ford Foundation, Pew Charitable Trusts, Rockefeller Brothers Fund, and the Tides Foundation.

Judiciary: Arca Foundation, Carnegie Corporation of New York, and the Moriah Fund.

### **VIII. STATEMENT OF IMPACT**

Transparency does not simply offer citizens access to information; it changes the relationship between government and the governed. What we hope to see as the results of the funding strategies we outline above is that this relationship in fact changes, and that government and citizens increasingly begin to see that their interests are aligned towards the common goal of a more engaged, equitable, and open society. In addition to the specific impact we seek through our work on each TIF portfolio, at the broadest level, we seek the following results:

1. An engaged public with equal access to information and institutions, and active participation in democracy and public life, through, among other things, a broadening of constituencies typically associated with the transparency field and an increased number of states and cities using technological innovations to foster citizen engagement in government;
2. An open, democratic communications infrastructure for speech, information, and knowledge exchange, including a healthy journalism sector;
3. A fully inclusive franchise that embraces all historically marginalized constituencies; and
4. A robust judiciary, selected on merit or elected through public finance, with a diversity of viewpoints and experiences that is accountable to the law and not to ideologies or partisan agendas.