

THE AMERICAN NATIONAL RED CROSS GOVERNANCE
MODERNIZATION ACT OF 2007

APRIL 16, 2007.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. LANTOS, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

[To accompany H.R. 1681]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 1681) to amend the Congressional Charter of The American National Red Cross to modernize its governance structure, to enhance the ability of the board of governors of The American National Red Cross to support the critical mission of The American National Red Cross in the 21st century, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “The American National Red Cross Governance Modernization Act of 2007”.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) Substantive changes to the Congressional Charter of The American National Red Cross have not been made since 1947.

(2) In February 2006, the board of governors of The American National Red Cross (the “Board of Governors”) commissioned an independent review and analysis of the Board of Governors’ role, composition, size, relationship with management, governance relationship with chartered units of The American National Red Cross, and whistleblower and audit functions.

(3) In an October 2006 report of the Board of Governors, entitled “American Red Cross Governance for the 21st Century” (the “Governance Report”), the Board of Governors recommended changes to the Congressional Charter, bylaws, and other governing documents of The American National Red Cross to modernize and enhance the effectiveness of the Board of Governors and governance structure of The American National Red Cross.

(4) It is in the national interest to create a more efficient governance structure of The American National Red Cross and to enhance the Board of Governors’ ability to support the critical mission of The American National Red Cross in the 21st century.

(5) It is in the national interest to clarify the role of the Board of Governors as a governance and strategic oversight board and for The American National Red Cross to amend its bylaws, consistent with the recommendations described in the Governance Report, to clarify the role of the Board of Governors and to outline the areas of its responsibility, including—

(A) reviewing and approving the mission statement for The American National Red Cross;

(B) approving and overseeing the corporation’s strategic plan and maintaining strategic oversight of operational matters;

(C) selecting, evaluating, and determining the level of compensation of the corporation’s chief executive officer;

(D) evaluating the performance and establishing the compensation of the senior leadership team and providing for management succession;

(E) overseeing the financial reporting and audit process, internal controls, and legal compliance;

(F) holding management accountable for performance;

(G) providing oversight of the financial stability of the corporation;

(H) ensuring the inclusiveness and diversity of the corporation;

(I) ensuring the chapters of the corporation are geographically and regionally diverse;

(J) providing oversight of the protection of the brand of the corporation; and

(K) assisting with fundraising on behalf of the corporation.

(6)(A) The selection of members of the Board of Governors is a critical component of effective governance for The American National Red Cross, and, as such, it is in the national interest that The American National Red Cross amend its bylaws to provide a method of selection consistent with that described in the Governance Report.

(B) The new method of selection should replace the current process by which—

(i) 30 chartered unit-elected members of the Board of Governors are selected by a non-Board committee which includes 2 members of the Board of Governors and other individuals elected by the chartered units themselves;

(ii) 12 at-large members of the Board of Governors are nominated by a Board committee and elected by the Board of Governors; and

(iii) 8 members of the Board of Governors are appointed by the President of the United States.

(C) The new method of selection described in the Governance Report reflects the single category of members of the Board of Governors that will result from the implementation of this Act:

(i) All Board members (except for the chairman of the Board of Governors) would be nominated by a single committee of the Board of Governors taking into account the criteria outlined in the Governance Report to assure the expertise, skills, and experience of a governing board.

(ii) The nominated members would be considered for approval by the full Board of Governors and then submitted to The American National Red Cross annual meeting of delegates for election, in keeping with the standard corporate practice whereby shareholders of a corporation elect members of a board of directors at its annual meeting.

(7) The United States Supreme Court held The American National Red Cross to be an instrumentality of the United States, and it is in the national interest that the Congressional Charter confirm that status and that any changes to the Congressional Charter do not affect the rights and obligations of The American National Red Cross to carry out its purposes.

(8) Given the role of The American National Red Cross in carrying out its services, programs, and activities, and meeting its various obligations, the effectiveness of The American National Red Cross will be promoted by the creation of an organizational ombudsman who—

(A) will be a neutral or impartial dispute resolution practitioner whose major function will be to provide confidential and informal assistance to the many internal and external stakeholders of The American National Red Cross;

(B) will report to the chief executive officer and the audit committee of the Board of Governors; and

(C) will have access to anyone and any documents in The American National Red Cross.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) charitable organizations are an indispensable part of American society, but these organizations can only fulfill their important roles by maintaining the trust of the American public;

(2) trust is fostered by effective governance and transparency, which are the principal goals of the recommendations of the Board of Governors in the Governance Report and this Act;

(3) Federal and State action play an important role in ensuring effective governance and transparency by setting standards, rooting out violations, and informing the public;

(4) while The American National Red Cross is and will remain a Federally chartered instrumentality of the United States, and it has the rights and obligations consistent with that status, The American National Red Cross nevertheless should maintain appropriate communications with State regulators of charitable organizations and should cooperate with them as appropriate in specific matters as they arise from time to time; and

(5) while The American National Red Cross is and will remain a Federally chartered instrumentality of the United States, and it has the rights and obligations consistent with that status, The American National Red Cross nevertheless should maintain appropriate communications and collaborations with local, community, and faith-based non-profit organizations, including those organizations that work within minority communities.

SEC. 3. ORGANIZATION.

Section 300101 of title 36, United States Code, is amended—

(1) in subsection (a), by inserting “a Federally chartered instrumentality of the United States and” before “a body corporate and politic”; and

(2) in subsection (b), by inserting at the end the following new sentence: “The corporation may conduct its business and affairs, and otherwise hold itself out, as the ‘American Red Cross’ in any jurisdiction.”.

SEC. 4. PURPOSES.

Section 300102 of title 36, United States Code, is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by adding at the end the following paragraph:

“(5) to conduct other activities consistent with the foregoing purposes.”.

SEC. 5. MEMBERSHIP AND CHAPTERS.

Section 300103 of title 36, United States Code, is amended—

(1) in subsection (a), by inserting “; or as otherwise provided,” before “in the bylaws”;

(2) in subsection (b)(1)—

- (A) by striking “board of governors” and inserting “corporation”; and
- (B) by inserting “policies and” before “regulations related”; and
- (3) in subsection (b)(2)—
 - (A) by inserting “policies and” before “regulations shall require”; and
 - (B) by striking “national convention” and inserting “annual meeting”.

SEC. 6. BOARD OF GOVERNORS.

Section 300104 of title 36, United States Code, is amended to read as follows:

“§ 300104. Board of governors

“(a) BOARD OF GOVERNORS.—

“(1) IN GENERAL.—The board of governors is the governing body of the corporation with all powers of governing and directing, and of overseeing the management of the business and affairs of, the corporation.

“(2) NUMBER.—The board of governors shall fix by resolution, from time to time, the number of members constituting the entire board of governors, provided that—

“(A) as of March 31, 2009, and thereafter, there shall be no fewer than 12 and no more than 25 members; and

“(B) as of March 31, 2012, and thereafter, there shall be no fewer than 12 and no more than 20 members constituting the entire board.

Procedures to implement the preceding sentence shall be provided in the bylaws.

“(3) APPOINTMENT.—The governors shall be appointed or elected in the following manner:

“(A) CHAIRMAN.—

“(i) IN GENERAL.—The board of governors, in accordance with procedures provided in the bylaws, shall recommend to the President an individual to serve as chairman of the board of governors. If such recommendation is approved by the President, the President shall appoint such individual to serve as chairman of the board of governors.

“(ii) VACANCIES.—Vacancies in the office of the chairman, including vacancies resulting from the resignation, death, or removal by the President of the chairman, shall be filled in the same manner described in clause (i).

“(iii) DUTIES.—The chairman shall be a member of the board of governors and, when present, shall preside at meetings of the board of governors and shall have such other duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

“(B) OTHER MEMBERS.—

“(i) IN GENERAL.—Members of the board of governors other than the chairman shall be elected at the annual meeting of the corporation in accordance with such procedures as may be provided in the bylaws.

“(ii) VACANCIES.—Vacancies in any such elected board position and in any newly created board position may be filled by a vote of the remaining members of the board of governors in accordance with such procedures as may be provided in the bylaws.

“(b) TERMS OF OFFICE.—

“(1) IN GENERAL.—The term of office of each member of the board of governors shall be 3 years, except that—

“(A) the board of governors may provide under the bylaws that the terms of office of members of the board of governors elected to the board of governors before March 31, 2012, may be less than 3 years in order to implement the provisions of subparagraphs (A) and (B) of subsection (a)(2); and

“(B) any member of the board of governors elected by the board to fill a vacancy in a board position arising before the expiration of its term may, as determined by the board, serve for the remainder of that term or until the next annual meeting of the corporation.

“(2) STAGGERED TERMS.—The terms of office of members of the board of governors (other than the chairman) shall be staggered such that, by March 31, 2012, and thereafter, $\frac{1}{3}$ of the entire board (or as near to $\frac{1}{3}$ as practicable) shall be elected at each successive annual meeting of the corporation with the term of office of each member of the board of governors elected at an annual meeting expiring at the third annual meeting following the annual meeting at which such member was elected.

“(3) TERM LIMITS.—No person may serve as a member of the board of governors for more than such number of terms of office or years as may be provided in the bylaws.

“(c) COMMITTEES AND OFFICERS.—The board—

“(1) may appoint, from its own members, an executive committee to exercise such powers of the board when the board is not in session as may be provided in the bylaws;

“(2) may appoint such other committees or advisory councils with such powers as may be provided in the bylaws or a resolution of the board of governors;

“(3) shall appoint such officers of the corporation, including a chief executive officer, with such duties, responsibilities, and terms of office as may be provided in the bylaws or a resolution of the board of governors; and

“(4) may remove members of the board of governors (other than the chairman), officers, and employees under such procedures as may be provided in the bylaws or a resolution of the board of governors.

“(d) ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—There shall be an advisory council to the board of governors.

“(2) MEMBERSHIP; APPOINTMENT BY PRESIDENT.—

“(A) IN GENERAL.—The advisory council shall be composed of no fewer than 8 and no more than 10 members, each of whom shall be appointed by the President from principal officers of the executive departments and senior officers of the Armed Forces whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation.

“(B) MEMBERS FROM THE ARMED FORCES.—At least 1, but not more than 3, of the members of the advisory council shall be selected from the Armed Forces.

“(3) DUTIES.—The advisory council shall advise, report directly to, and meet, at least 1 time per year with the board of governors, and shall have such name, functions and be subject to such procedures as may be provided in the bylaws.

“(e) ACTION WITHOUT MEETING.—Any action required or permitted to be taken at any meeting of the board of governors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

“(f) VOTING BY PROXY.—

“(1) IN GENERAL.—Voting by proxy is not allowed at any meeting of the board, at the annual meeting, or at any meeting of a chapter.

“(2) EXCEPTION.—The board may allow the election of governors by proxy during any emergency.

“(g) BYLAWS.—

“(1) IN GENERAL.—The board of governors may—

“(A) at any time adopt bylaws; and

“(B) at any time adopt bylaws to be effective only in an emergency.

“(2) EMERGENCY BYLAWS.—Any bylaws adopted pursuant to paragraph (1)(B) may provide special procedures necessary for managing the corporation during the emergency. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency.

“(h) DEFINITIONS.—For purposes of this section—

“(1) the term ‘entire board’ means the total number of members of the board of governors that the corporation would have if there were no vacancies; and

“(2) the term ‘emergency’ shall have such meaning as may be provided in the bylaws.”.

SEC. 7. POWERS.

Subsection (a)(1) of section 300105 of title 36, United States Code, is amended by striking “bylaws” and inserting “policies”.

SEC. 8. ANNUAL MEETING.

Section 300107 of title 36, United States Code, is amended to read as follows:

“§ 300107. Annual meeting

“(a) IN GENERAL.—The annual meeting of the corporation is the annual meeting of delegates of the chapters.

“(b) TIME OF MEETING.—The annual meeting shall be held as determined by the board of governors.

“(c) PLACE OF MEETING.—The board of governors is authorized to determine that the annual meeting shall not be held at any place, but may instead be held solely by means of remote communication subject to such procedures as are provided in the bylaws.

“(d) VOTING.—

“(1) IN GENERAL.—In matters requiring a vote at the annual meeting, each chapter is entitled to at least 1 vote, and voting on all matters may be conducted by mail, telephone, telegram, cablegram, electronic mail, or any other means of electronic or telephone transmission, provided that the person voting shall state, or submit information from which it can be determined, that the method of voting chosen was authorized by such person.

“(2) ESTABLISHMENT OF NUMBER OF VOTES.—

“(A) IN GENERAL.—The board of governors shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters, the populations served by the chapters, and such other factors as may be determined by the board.

“(B) PERIODIC REVIEW.—The board of governors shall review the allocation of votes at least every 5 years.”.

SEC. 9. ENDOWMENT FUND.

Section 300109 of title 36, United States Code is amended—

(1) by striking “nine” from the first sentence thereof; and

(2) by striking the second sentence and inserting the following: “The corporation shall prescribe policies and regulations on terms and tenure of office, accountability, and expenses of the board of trustees.”.

SEC. 10. ANNUAL REPORT AND AUDIT.

Subsection (a) of section 300110 of title 36, United States Code, is amended to read as follows:

“(a) SUBMISSION OF REPORT.—As soon as practicable after the end of the corporation’s fiscal year, which may be changed from time to time by the board of governors, the corporation shall submit a report to the Secretary of Defense on the activities of the corporation during such fiscal year, including a complete, itemized report of all receipts and expenditures.”.

SEC. 11. COMPTROLLER GENERAL OF THE UNITED STATES AND OFFICE OF THE OMBUDSMAN.

(a) IN GENERAL.—Chapter 3001 of title 36, United States Code, is amended by redesignating section 300111 as section 300113 and by inserting after section 300110 the following new sections:

“§ 300111. Authority of the Comptroller General of the United States

“The Comptroller General of the United States is authorized to review the corporation’s involvement in any Federal program or activity the Government carries out under law.

“§ 300112. Office of the Ombudsman

“(a) ESTABLISHMENT.—The corporation shall establish an Office of the Ombudsman with such duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

“(b) REPORT.—

“(1) IN GENERAL.—The Office of the Ombudsman shall submit annually to the appropriate Congressional committees a report concerning any trends and systemic matters that the Office of the Ombudsman has identified as confronting the corporation.

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of paragraph (1), the appropriate Congressional committees are the following committees of Congress:

“(A) SENATE COMMITTEES.—The appropriate Congressional committees of the Senate are—

“(i) the Committee on Finance;

“(ii) the Committee on Foreign Relations;

“(iii) the Committee on Health, Education, Labor, and Pensions;

“(iv) the Committee on Homeland Security and Governmental Affairs;

and

“(v) the Committee on the Judiciary.

“(B) HOUSE COMMITTEES.—The appropriate Congressional committees of the House of Representatives are—

“(i) the Committee on Energy and Commerce;

“(ii) the Committee on Foreign Affairs;

“(iii) the Committee on Homeland Security;

“(iv) the Committee on the Judiciary; and

“(v) the Committee on Ways and Means.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3001 of title 36, United States Code, is amended by striking the item relating to section 300111 and inserting the following:

“300111. Authority of the Comptroller General of the United States.

“300112. Office of the Ombudsman.

“300113. Reservation of right to amend or repeal.”.

SUMMARY

The “American National Red Cross Governance Modernization Act of 2007” (H.R. 1681) amends the Congressional Charter of the American National Red Cross (hereinafter “the Red Cross”) for the purposes of modernizing its governance structure and enhancing the ability of the Red Cross Board of Governors to support the critical mission of the Red Cross in the 21st century. The bill explicitly delegates to Red Cross management the responsibilities for day-to-day operations; reduces the Board of Governors’ size by more than half; creates a single category of governors, changes the process of how members are selected; and transitions seven of the Presidentially-appointed governors into a newly created Cabinet Advisory Council. Finally, the bill requires the Red Cross to establish an Office of the Ombudsman to improve the whistleblower process within the organization.

BACKGROUND AND PURPOSE

Wherever disaster strikes, the American Red Cross responds. In times of crisis, its staff of 35,000 and more than a million volunteers take on the daunting task of translating the compassion of the American people into shelter, clothing, and food. When a fire puts a family out of its home or a tornado tears through a community, the Red Cross is always on the scene. The Red Cross addressed the needs of people in crises in over 75,000 incidents last year alone. But disaster relief organizations such as the American Red Cross have come under heightened scrutiny after 9/11 and the Gulf Coast hurricanes. Such organizations must now demonstrate as never before that they are acting responsibly and in the best interests of the American people.

The Committee notes that Hurricanes Katrina and Rita, in particular, crystallized the need for reform of the Red Cross. The Committee understands that while the Red Cross performed admirably in its relief response, there were also reports of shortcomings in its performance. Criticisms and questions were raised about the practicability of the Federal Government’s reliance on a volunteer organization to respond to mass disasters. The Committee notes that the Red Cross received numerous complaints about racial insensitivity by Red Cross volunteers toward disaster victims. The Red Cross was also criticized for miscounting the number of Hurricane Katrina evacuees who were residing in hotels. In addition, news reports stated that Red Cross relief funds were given to persons who did not qualify for aid.

The Committee applauds the leadership of the American Red Cross for wisely undertaking a comprehensive review of its governance structure in the aftermath of such criticism. On February 17, 2006, the Red Cross established the “Independent Governance Advisory Panel” which conducted a six-month, top-to-bottom governance audit to carefully examine Red Cross governance and to provide current examples of “best practices” in for-profit and nonprofit

corporations. The Red Cross asked the Governance Panel to focus on the following topics: the size and composition of the Board of Governors, participation by and independence of governors and the process for selecting candidates for the board; the organization and functioning of the Board of Governors, including the composition, structure and roles of the board's committees; the roles and relationships of the Board of Governors and management; the Board of Governors' oversight of the governance practices of the local chapters; and the relationships and lines of reporting between the Audit Committee of the Board of Governors, the outside auditor, and the internal audit functions, including the whistleblower process as it applies to Red Cross employees and volunteers, as well as constituencies served by the Red Cross.

The Committee notes that after more than 100 interviews of past and present Red Cross officers, volunteer chapter leaders, donors and others, the panel delivered to the Board of Governors a series of recommendations in a more than 150-page report, *American Red Cross Governance for the 21st Century: A Report of the Board of Governors*, calling for major reform in the Red Cross' governance structure. On October 30, 2006, the Board of Governors unanimously approved the panel's recommendations to reform its governance structure. The Committee finds that the last time the Red Cross reorganized itself was in 1947. At that time, local chapters gained influence by getting seats on the board; however, over the years, the board swelled to 50 members. Its unwieldy size and parochial nature made the CEO's job one of the least secure at any American charity. In the past seven years, the Red Cross has had three chief executives and three interim executives. The Committee observes that the Red Cross managers find themselves at odds with a board dominated by local chapter representatives who lack the experience required to oversee a large corporation and who are protective of local chapter interests.

The recommendations unanimously approved by the Board of Governors include reducing the size of the board, simplifying the board's structure, eliminating appointed positions on the board and replacing them with a Cabinet Advisory Council, clarifying the board's role to focus solely on governance, strategic oversight and direction of the Red Cross, and improving the whistleblower functions in the Red Cross.

The Committee notes that such recommendations require congressional action. On March 15, 2007, the Senate passed the companion bill, S. 655, which was spearheaded by Senator Grassley and Senator Kennedy. The Committee held a hearing on March 14, 2007 on American Red Cross Governance Reform with Chairwoman Bonnie McElveen-Hunter and Karen Hastie Williams who headed the governance panel. On March 26, 2007, Chairman Tom Lantos and Ranking Member Ileana Ros-Lehtinen introduced H.R. 1681, the "The American National Red Cross Governance Modernization Act of 2007".

The "The American National Red Cross Governance Modernization Act of 2007":

- (1) Permits the Red Cross to conduct business as the "American Red Cross";

(2) Reduces the Board of Governors from 50 members to between 12 and 25 members by March 31, 2009, and to between 12 and 20 members by March 31, 2012;

(3) Reduces Presidential appointees to the Board of Governors from eight to one, with the President appointing the chairman of the board;

(4) Abolishes local chapter selection of 30 board members and board selection of 12 members;

(5) Requires each board member, except the presidential appointee, to be elected by delegates at the Red Cross annual convention;

(6) Establishes a Presidentially-appointed advisory council of eight to ten members, who would be officers of executive departments that work with the Red Cross;

(7) Eliminates the requirement that the number of trustees overseeing the Red Cross endowment be fixed at nine;

(8) Authorizes the Comptroller General to review the Red Cross' involvement in any Federal program or activity that the Government carries out by law; and

(9) Requires the Red Cross to establish an Office of the Ombudsman, which would report annually to Congress.

The Committee passed H.R. 1681 with a voice vote with two amendments to the findings section offered by Congresswoman Sheila Jackson Lee to ensure that the local chapters of the Red Cross are geographically and regionally diverse and that the Red Cross should maintain appropriate communications and collaborations with local, community, and faith-based nonprofit organizations, including those organizations that work within minority communities.

In addition, the Committee has expressed concern about Red Cross' transparency and accountability through accessibility and reporting, as reflected by Ranking Republican Member Ileana Ros-Lehtinen's inquiries at the March 14, 2007, hearing on this subject. After engaging in a dialogue with the Red Cross on ways to improve the transparency and accountability of the Red Cross, the Red Cross presented a paper on Red Cross practices to ensure corporate compliance and transparency through accessibility and reporting. The Committee is satisfied that the Red Cross has addressed the Committee's concerns on transparency and accountability.

While the changes in H.R. 1681 would not directly affect the organization's disaster response, the Committee believes they will undoubtedly help promote the kind of leadership necessary to make Red Cross management and operations run more smoothly.

HEARINGS

In the 110th Congress, the Committee held a hearing on March 14, 2007, on American Red Cross Governance Reform with Chairman of the Red Cross, Bonnie McElveen-Hunter, and Chair of the Independent Governance Advisory Panel, Karen Hastie Williams.

COMMITTEE CONSIDERATION

The Committee marked up H.R. 1681 on March 27, 2007. The bill was reported favorably, as amended, by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the Committee Report. There were no votes during consideration of H.R. 1681.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c) (2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1681, the following estimate and comparison prepared by the Director of the Congressional Budget Office under Section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 2, 2007.

Hon. TOM LANTOS, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1681, the American National Red Cross Governance Modernization Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 1681—American National Red Cross Governance Modernization Act of 2007

H.R. 1681 would make amendments to the Congressional charter of the American National Red Cross. CBO estimates that enacting

H.R. 1681 would have no impact on the federal budget. Enacting the legislation would not affect direct spending or revenues.

H.R. 1681 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

H.R. 1681 would amend the charter of the American National Red Cross by limiting the number of members of the Board of Governors to no more than 20 by 2012 and changing the process by which the members of the Board of Governors are appointed. The bill also would establish an Office of the Ombudsman within the Red Cross and an Advisory Council composed of eight to 10 senior federal employees. Because the operations of the Red Cross are not reflected in the federal budget, CBO estimates that enacting H.R. 1681 would have no budgetary impact.

The CBO staff contact for this estimate is Sarah Puro, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

INTERGOVERNMENTAL AND PRIVATE SECTOR IMPACT

H.R. 1681 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of House rule XIII, upon enactment of this legislation, the Red Cross should modernize its governance structure and enhancing the ability of the Red Cross Board of Governors to support the critical mission of the Red Cross in the 21st century.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d) (1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

NEW ADVISORY COMMITTEES

H.R. 1681 establishes a Federal advisory council to the Board of Governors composed of eight to 10 presidential appointees, with at least one but no more than three from the Armed Forces.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 1681 does not apply to the Legislative Branch.

EARMARK IDENTIFICATION

H.R. 1681 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

This section states that the act may be referred to as the “The American National Red Cross Governance Modernization Act of 2007”.

Section 2. Findings; Sense of Congress

This section contains congressional findings describing the background and need for changes to the congressional charter of the Red Cross that would improve the governance structure of the organization. The findings note that substantive changes to the congressional charter of the Red Cross have not been made since 1947. It also details the results and recommendations of the independent governance audit that was commissioned by the Board of Governors of the Red Cross on the board’s role, composition, size, and relationship with management, governance relationship with chartered units of the Red Cross, and whistleblower and audit functions.

The findings highlight the importance of improving the governance structure of the Red Cross, including the governance and strategic oversight of the Board of Governors of the organization. The findings also identify the importance of ensuring geographically and regionally diverse chapters. In addition, the findings include a provision stressing the need for the Red Cross to maintain appropriate communications and collaborations with local, community, and faith-based nonprofit organizations, including organizations that work within minority communities.

This section also contains a Sense of Congress which states that charitable organizations are an indispensable part of American society, and they must maintain the trust of the American public which is fostered by effective governance and transparency. The Sense of Congress provisions discuss the important role Federal and State action play in ensuring effective governance and transparency of the organization by setting standards, rooting out violations, and informing the public; and recommends that the Red Cross should maintain appropriate communications and cooperate with State regulators of charitable organizations to ensure effective governance and transparency.

Section 3. Organization

Section 3 amends Section 300101 of title 36 of the United States Code by: (1) adding that the Red Cross is a Federally chartered instrumentality of the United States in the description of the organization; and (2) authorizing the organization to conduct its business and affairs under the name of the “American Red Cross” in any jurisdiction.

Section 4. Purposes

Section 4 amends Section 300102 of title 36 of the United States Code by making technical changes and providing an additional purpose for the Red Cross to conduct other activities that are consistent with the activities the Red Cross has been historically authorized to carry out.

Section 5. Membership and chapters

Section 5 amends Section 300103 of title 36 of the United States Code by authorizing the corporation, rather than the Board of Governors as previously authorized, to prescribe the policies and regulations relating to the Red Cross chapters. In addition, the section amends the charter by providing that delegates will be selected to the annual meeting rather than the national convention as previously authorized. The section makes additional technical changes to Section 300103 of title 36 of the United States Code.

Section 6. Board of Governors

Section 6 amends Section 300104 of title 36 of the United States Code by amending the Board of Governor's role, size, composition, and relationship with management. This section bestows on the Board of Governors "all powers of governing and directing, and of overseeing the management of the business and affairs of the corporation." This section also reduces the size of the Board of Governors from 50 members to between 12 and 25 members by March 31, 2009, and to between 12 and 20 members by March 31, 2012. It provides that the chairman of the Board of Governors will be appointed by the President with recommendations from the Board of Governors and that vacancies in the office of the chairman must be filled in the same manner.

The chairman will act as a member of the Board of Governors and shall preside at the board meetings. The other members of the Board of Governors shall be elected at the Red Cross annual meeting and any vacancies in any elected board position and in any newly created board position may be filled by a vote of the remaining board members. The section determines the term of office of each board member as 3 years, with the exception of board members elected under the provisions of subparagraphs (A) and (B) of subsection (a)(2), and those board members elected by the board to fill a vacancy. It also provides for staggered terms such that, by March 31, 2012, and thereafter, one-third of the entire board must be elected at each successive annual meeting of the Red Cross, and term limits as provided in the Red Cross bylaws. The Committee notes that the changes reflected in this section are generally consistent with the relationship that national societies in other countries have to their governments as autonomous auxiliaries to public authorities in each such country.

The section provides the board with the power to appoint an executive committee to exercise such powers of the board when the board is not in session and other committees or advisory councils with such powers as the bylaws or a resolution by the Board of Governors may provide. In addition, the board is required to appoint officers of the corporation, including a chief executive officer, and has the authority to remove members of the Board of Governors, other than the chairman, officers, and employees under the bylaws or a resolution of the Board of Governors.

Section 6 also establishes a Federal advisory council to the Board of Governors composed of eight to 10 presidential appointees, with at least one but no more than three from the Armed Forces. The section does not confer any powers to the council. This section provides exceptions for when action by the Board of Governors may be taken without a meeting; in addition, it does not allow voting by

proxy at any meeting of the board or a chapter, or at the annual meeting except the board may allow the election of governors by proxy during an emergency. Finally, the section allows the Board of Governors to adopt bylaws at any time, including bylaws that would be effective in an emergency.

Section 7. Powers

Section 7 amends Paragraph (a)(1) of section 300105 of title 36 of the United States Code by removing the power of the corporation to adopt bylaws, but instead to adopt policies.

Section 8. Annual meeting

Section 8 amends Section 300107 of title 36 of the United States Code by defining the annual meeting, designating the time and place of the annual meeting, and determining the voting guidelines and requirements for the annual meeting.

Section 9. Endowment fund

Section 9 amends Section 300109 of title 36 of the United States Code by eliminating the requirement that the number of trustees overseeing the Red Cross endowment be fixed at nine and gives the corporation, rather than the Board of Governors, the authority of prescribing the policies and regulations on the terms and tenure of office, accountability, and expenses of the board of trustees.

Section 10. Annual report and audit

Section 10 amends section 300110(a) of title 36 of the United States Code by requiring the corporation to submit a report at the end of the corporation's fiscal year, which may be changed by the Board of Governors, to the Secretary of Defense on the activities of the corporation during such fiscal year.

Section 11. Comptroller General of the United States and the Office of the Ombudsman

Section 11 amends Chapter 3001 of title 36 of the United States Code by adding new sections 300111 and 300112.

Section 300111 authorizes the Comptroller General of the United States to review the Red Cross' involvement in any Federal program or activity the U.S. Government carries out under law.

Section 300112 establishes an Office of the Ombudsman which reports annually to Congress on any trends and systemic matters that the Office of the Ombudsman identifies as confronting the Red Cross. The report would be submitted to the Senate Committee on Finance, the Senate Committee on Foreign Relations, the Senate Committee on Health, Education, Labor, and Pensions, the Senate Committee on Homeland Security and Governmental Affairs, and the Senate Committee on the Judiciary. The report would also be submitted to the House Committee on Energy and Commerce, the House Committee on Foreign Affairs, the House Committee on Homeland Security, the House Committee on the Judiciary, and the House Committee on Ways and Means.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 36, UNITED STATES CODE

* * * * *

SUBTITLE III—TREATY OBLIGATION ORGANIZATIONS

CHAPTER 3001—THE AMERICAN NATIONAL RED CROSS

Sec.

300101. Organization.

* * * * *

300111. Reservation of right to amend or repeal.

300111. *Authority of the Comptroller General of the United States.*

300112. *Office of the Ombudsman.*

300113. *Reservation of right to amend or repeal.*

* * * * *

§ 300101. Organization

(a) FEDERAL CHARTER.—The American National Red Cross (in this chapter, the “corporation”) is *a Federally chartered instrumentality of the United States and* a body corporate and politic in the District of Columbia.

(b) NAME.—The name of the corporation is “The American National Red Cross”. *The corporation may conduct its business and affairs, and otherwise hold itself out, as the “American Red Cross” in any jurisdiction.*

* * * * *

§ 300102. Purposes

The purposes of the corporation are—

(1) * * *

* * * * *

(3) to act in matters of voluntary relief and in accordance with the military authorities as a medium of communication between the people of the United States and the Armed Forces of the United States and to act in those matters between similar national societies of governments of other countries through the International Committee of the Red Cross and the Government, the people, and the Armed Forces of the United States; **[and]**

(4) to carry out a system of national and international relief in time of peace, and to apply that system in mitigating the suffering caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry out measures for preventing those calamities**[.]**; *and*

(5) *to conduct other activities consistent with the foregoing purposes.*

§ 300103. Membership and chapters

(a) MEMBERSHIP.—Membership in the corporation is open to all the people of the United States and its territories and possessions, on payment of an amount specified, *or as otherwise provided*, in the bylaws.

(b) CHAPTERS.—(1) The chapters of the corporation are the local units of the corporation. The [board of governors] *corporation* shall prescribe *policies and* regulations related to—

(A) * * *

* * * * *

(2) The *policies and* regulations shall require that each chapter adhere to the democratic principles of election specified in the bylaws in electing the governing body of the chapter and selecting delegates to the [national convention] *annual meeting* of the corporation.

§ 300104. Board of governors

[(a) BOARD OF GOVERNORS.—(1) The board of governors is the governing body of the corporation with all powers of governing and managing the corporation. The board has 50 members. The governors shall be appointed or elected in the following manner:

[(A) The President shall appoint eight governors, one of whom the President shall designate to act as the principal officer of the corporation with the title and functions provided in the bylaws. The other governors appointed by the President shall be officials of departments and agencies of the United States Government, whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation. At least one, but not more than three, of those officials shall be selected from the Armed Forces.

[(B) The chapters shall elect 30 governors at the national convention under procedures for nomination and election that ensure equitable representation of all chapters, with regard to geographical considerations, the size of the chapters, and the size of the populations served by the chapters.

[(C) The board shall elect 12 governors as members-at-large. Those governors shall be individuals who are representative of the national interests that the corporation serves, and with which it is desirable that the corporation have close association.

[(2) One-third of the members elected to the board shall be elected at each national convention, and take office at that time or as soon as practicable after the convention.

[(b) TERM OF OFFICE AND VACANCIES.—(1) The term of office of each governor is 3 years. However, the term of office of a governor appointed by the President (except the principal officer of the corporation) expires if, before the end of the 3-year term, the governor retires from the official position held at the time of appointment as a governor.

[(2) The President shall fill as soon as practicable a vacancy in the office of the principal officer of the corporation or in the position of another governor appointed by the President. The board shall make a temporary appointment to fill a vacancy occurring in

an elected position on the board. An individual appointed by the board to fill a vacancy serves until the next national convention.

[(c) EXECUTIVE COMMITTEE.—The board may—

[(1) appoint, from its own members, an executive committee of at least 11 individuals to exercise the powers of the board when the board is not in session; and

[(2) appoint and remove, or provide for the appointment and removal of, officers and employees of the corporation, except the principal officer of the corporation.

[(d) VOTING BY PROXY.—Voting by proxy is not allowed at any meeting of the board, at the national convention, or at any meeting of a chapter. However, the board may allow the election of governors by proxy at the national convention if the board believes a national emergency makes attendance at the national convention impossible.]

§ 300104. Board of governors

(a) BOARD OF GOVERNORS.—

(1) IN GENERAL.—*The board of governors is the governing body of the corporation with all powers of governing and directing, and of overseeing the management of the business and affairs of, the corporation.*

(2) NUMBER.—*The board of governors shall fix by resolution, from time to time, the number of members constituting the entire board of governors, provided that—*

(A) *as of March 31, 2009, and thereafter, there shall be no fewer than 12 and no more than 25 members; and*

(B) *as of March 31, 2012, and thereafter, there shall be no fewer than 12 and no more than 20 members constituting the entire board.*

Procedures to implement the preceding sentence shall be provided in the bylaws.

(3) APPOINTMENT.—*The governors shall be appointed or elected in the following manner:*

(A) CHAIRMAN.—

(i) IN GENERAL.—*The board of governors, in accordance with procedures provided in the bylaws, shall recommend to the President an individual to serve as chairman of the board of governors. If such recommendation is approved by the President, the President shall appoint such individual to serve as chairman of the board of governors.*

(ii) VACANCIES.—*Vacancies in the office of the chairman, including vacancies resulting from the resignation, death, or removal by the President of the chairman, shall be filled in the same manner described in clause (i).*

(iii) DUTIES.—*The chairman shall be a member of the board of governors and, when present, shall preside at meetings of the board of governors and shall have such other duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.*

(B) OTHER MEMBERS.—

(i) *IN GENERAL.*—Members of the board of governors other than the chairman shall be elected at the annual meeting of the corporation in accordance with such procedures as may be provided in the bylaws.

(ii) *VACANCIES.*—Vacancies in any such elected board position and in any newly created board position may be filled by a vote of the remaining members of the board of governors in accordance with such procedures as may be provided in the bylaws.

(b) *TERMS OF OFFICE.*—

(1) *IN GENERAL.*—The term of office of each member of the board of governors shall be 3 years, except that—

(A) the board of governors may provide under the bylaws that the terms of office of members of the board of governors elected to the board of governors before March 31, 2012, may be less than 3 years in order to implement the provisions of subparagraphs (A) and (B) of subsection (a)(2); and

(B) any member of the board of governors elected by the board to fill a vacancy in a board position arising before the expiration of its term may, as determined by the board, serve for the remainder of that term or until the next annual meeting of the corporation.

(2) *STAGGERED TERMS.*—The terms of office of members of the board of governors (other than the chairman) shall be staggered such that, by March 31, 2012, and thereafter, $\frac{1}{3}$ of the entire board (or as near to $\frac{1}{3}$ as practicable) shall be elected at each successive annual meeting of the corporation with the term of office of each member of the board of governors elected at an annual meeting expiring at the third annual meeting following the annual meeting at which such member was elected.

(3) *TERM LIMITS.*—No person may serve as a member of the board of governors for more than such number of terms of office or years as may be provided in the bylaws.

(c) *COMMITTEES AND OFFICERS.*—The board—

(1) may appoint, from its own members, an executive committee to exercise such powers of the board when the board is not in session as may be provided in the bylaws;

(2) may appoint such other committees or advisory councils with such powers as may be provided in the bylaws or a resolution of the board of governors;

(3) shall appoint such officers of the corporation, including a chief executive officer, with such duties, responsibilities, and terms of office as may be provided in the bylaws or a resolution of the board of governors; and

(4) may remove members of the board of governors (other than the chairman), officers, and employees under such procedures as may be provided in the bylaws or a resolution of the board of governors.

(d) *ADVISORY COUNCIL.*—

(1) *ESTABLISHMENT.*—There shall be an advisory council to the board of governors.

(2) *MEMBERSHIP; APPOINTMENT BY PRESIDENT.*—

(A) *IN GENERAL.*—The advisory council shall be composed of no fewer than 8 and no more than 10 members, each of

whom shall be appointed by the President from principal officers of the executive departments and senior officers of the Armed Forces whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation.

(B) MEMBERS FROM THE ARMED FORCES.—At least 1, but not more than 3, of the members of the advisory council shall be selected from the Armed Forces.

(3) DUTIES.—The advisory council shall advise, report directly to, and meet, at least 1 time per year with the board of governors, and shall have such name, functions and be subject to such procedures as may be provided in the bylaws.

(e) ACTION WITHOUT MEETING.—Any action required or permitted to be taken at any meeting of the board of governors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

(f) VOTING BY PROXY.—

(1) IN GENERAL.—Voting by proxy is not allowed at any meeting of the board, at the annual meeting, or at any meeting of a chapter.

(2) EXCEPTION.—The board may allow the election of governors by proxy during any emergency.

(g) BYLAWS.—

(1) IN GENERAL.—The board of governors may—

(A) at any time adopt bylaws; and

(B) at any time adopt bylaws to be effective only in an emergency.

(2) EMERGENCY BYLAWS.—Any bylaws adopted pursuant to paragraph (1)(B) may provide special procedures necessary for managing the corporation during the emergency. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency.

(h) DEFINITIONS.—For purposes of this section—

(1) the term “entire board” means the total number of members of the board of governors that the corporation would have if there were no vacancies; and

(2) the term “emergency” shall have such meaning as may be provided in the bylaws.

§ 300105. Powers

(a) GENERAL.—The corporation may—

(1) adopt [bylaws] policies and regulations;

* * * * *

[§ 300107. Annual meeting

[The annual meeting of the corporation is the national convention of delegates of the chapters. The national convention shall be held annually on a date and at a place specified by the board of governors. In matters requiring a vote at the national convention,

each chapter is entitled to at least one vote. The board shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters and of the populations served by the chapters. The board shall review the allocation of votes at least every 5 years.】

§ 300107. Annual meeting

(a) *IN GENERAL.*—*The annual meeting of the corporation is the annual meeting of delegates of the chapters.*

(b) *TIME OF MEETING.*—*The annual meeting shall be held as determined by the board of governors.*

(c) *PLACE OF MEETING.*—*The board of governors is authorized to determine that the annual meeting shall not be held at any place, but may instead be held solely by means of remote communication subject to such procedures as are provided in the bylaws.*

(d) *VOTING.*—

(1) *IN GENERAL.*—*In matters requiring a vote at the annual meeting, each chapter is entitled to at least 1 vote, and voting on all matters may be conducted by mail, telephone, telegram, cablegram, electronic mail, or any other means of electronic or telephone transmission, provided that the person voting shall state, or submit information from which it can be determined, that the method of voting chosen was authorized by such person.*

(2) *ESTABLISHMENT OF NUMBER OF VOTES.*—

(A) *IN GENERAL.*—*The board of governors shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters, the populations served by the chapters, and such other factors as may be determined by the board.*

(B) *PERIODIC REVIEW.*—*The board of governors shall review the allocation of votes at least every 5 years.*

* * * * *

§ 300109. Endowment fund

The endowment fund of the corporation shall be kept and invested under the management and control of a board of [nine] trustees elected by the board of governors. 【The board of governors shall prescribe regulations on terms and tenure of office, accountability, and expenses of the board of trustees.】 *The corporation shall prescribe policies and regulations on terms and tenure of office, accountability, and expenses of the board of trustees.*

§ 300110. Annual report and audit

【(a) *SUBMISSION OF REPORT.*—As soon as practicable after July 1 of each year, the corporation shall submit a report to the Secretary of Defense on the activities of the corporation during the fiscal year ending June 30, including a complete, itemized report of all receipts and expenditures.】

(a) *SUBMISSION OF REPORT.*—*As soon as practicable after the end of the corporation's fiscal year, which may be changed from time to time by the board of governors, the corporation shall submit a re-*

port to the Secretary of Defense on the activities of the corporation during such fiscal year, including a complete, itemized report of all receipts and expenditures.

* * * * *

§ 300111. Authority of the Comptroller General of the United States

The Comptroller General of the United States is authorized to review the corporation's involvement in any Federal program or activity the Government carries out under law.

§ 300112. Office of the Ombudsman

(a) ESTABLISHMENT.—The corporation shall establish an Office of the Ombudsman with such duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

(b) REPORT.—

(1) IN GENERAL.—The Office of the Ombudsman shall submit annually to the appropriate Congressional committees a report concerning any trends and systemic matters that the Office of the Ombudsman has identified as confronting the corporation.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of paragraph (1), the appropriate Congressional committees are the following committees of Congress:

(A) SENATE COMMITTEES.—The appropriate Congressional committees of the Senate are—

- (i) the Committee on Finance;*
- (ii) the Committee on Foreign Relations;*
- (iii) the Committee on Health, Education, Labor, and Pensions;*
- (iv) the Committee on Homeland Security and Governmental Affairs; and*
- (v) the Committee on the Judiciary.*

(B) HOUSE COMMITTEES.—The appropriate Congressional committees of the House of Representatives are—

- (i) the Committee on Energy and Commerce;*
- (ii) the Committee on Foreign Affairs;*
- (iii) the Committee on Homeland Security;*
- (iv) the Committee on the Judiciary; and*
- (v) the Committee on Ways and Means.*

§ [300111.] 300113. Reservation of right to amend or repeal

Congress reserves the right to amend or repeal the provisions of this chapter.

* * * * *

AMERICAN RED CROSS CORPORATE COMPLIANCE AND ETHICS
A REPORT TO THE HOUSE COMMITTEE ON FOREIGN AFFAIRS—MARCH
2007

Over the past several years, and particular since passage of the Sarbanes Oxley Act in 2002 (Pub. L. No. 107–204, 116 Stat. 745), the American National Red Cross has taken a holistic approach to *voluntarily* implement corporate ethics and compliance practices.

To achieve this, the American Red Cross has incorporated some of the best practices from the corporate and nonprofit sectors, which include the refinement of its internal and independent external audits, whistleblower reporting and protections, enterprise risk management, a unit focused on Investigations, Compliance and Ethics (ICE), and most recently, the creation of the Office of the Ombudsman.

At the center of corporate compliance is the Board of Governor's Audit and Risk Management Committee, which receives and reviews reports presented by these independent units.

Through these internal and external functions, the American Red Cross endeavors to achieve system-wide corporate compliance. In addition, the organization strives to meet the expectations of transparency and accountability of the United States Congress, internal employee and volunteer stakeholders, and external stakeholders such as clients, donors, suppliers, partners, and the American public. As an independent 501(c)(3) nonprofit organization, the American Red Cross relies on the generosity of the American public to fulfill its mission. The American Red Cross takes seriously all allegations of waste, fraud and abuse as well as other complaints against the organization. Allegations of illegal and unethical activities are fully investigated and, if necessary, reported to appropriate authorities for further action. Fostering such faith, trust and confidence with the American public is an imperative.

This document will identify the various aspects of corporate compliance, as well Red Cross practices to ensure transparency through accessibility and reporting.

Red Cross Board of Governor's Audit and Risk Management Committee

The Audit and Risk Management Committee of the American Red Cross Board of Governors oversees the integrity of the financial statements of the organization, the qualifications and independence of the organization's independent auditors, the performance of the external and internal auditors, investigations, the organization's enterprise risk management functions, the organization's compliance with legal and regulatory requirements, and the Ombudsman. It is composed of entirely independent directors of the Red Cross, and members of the Committee must possess qualifica-

tions and financial knowledge that enable them to discharge the responsibilities of the committee. At least one member is required to be a “financial expert.”

Audits

Both internal and external audit functions of the American Red Cross report directly to the Audit and Risk Management Committee of the Board of Governors.

The internal audit services, led by a Chief Audit Executive, is authorized to examine all aspects of the American Red Cross including but not limited to national headquarters, blood services and chapters. During their review, the auditors are given complete access to manual and electronic records, properties and personnel. Moreover, to ensure impartial and unbiased actions, they are fully independent of the activities they audit. The Chief Audit Executive has direct access to the Audit and Risk Management Committee and reports functionally and directly to the Committee and administratively to the CEO.

The external audit services, conducted by KPMG LLP, review the financial statements and related financial controls of the American Red Cross. To ensure impartiality, the lead partner rotates every five years.

Investigations, Compliance and Ethics (ICE)

The Investigations, Compliance and Ethics (ICE) Unit at the American Red Cross is the central investigatory unit charged with investigating allegations of waste, fraud and abuse. The ICE unit is led by a Vice President, who reports to the organization’s General Counsel, and consists of more than 40 investigators and compliance and ethics specialists.

The American Red Cross encourages all employees and volunteers to alert their supervisors directly if they suspect a dishonest act. If employees or volunteers are not comfortable contacting management, they may call the 24-hour, toll-free Concern Connection Line (CCL), which is overseen by ICE. Through this toll-free number, the CCL allows any employee or volunteer to report confidentially and anonymously any allegation of waste, fraud or abuse. The Red Cross provides whistleblower protections and a “no retaliation” policy to all Red Cross employees and volunteers.¹

The American Red Cross is committed to the highest standards of ethics and workplace conduct. All staff and volunteers are required to read and sign the Code of Business Ethics and Conduct, which provides the guidance necessary for Red Cross employees and volunteers to maintain an environment of integrity. In that regard, ICE oversees Red Cross ethics policy and training programs, including the aforementioned Code of Business Ethics and Conduct. Through training, volunteers and employees will be more familiar with a culture of values and ethics and will know how to report instances of unethical behavior.

¹ The Red Cross also has a Biomedical Response Line (BRL), which allows individuals to report anonymously and confidentially any issues involving biomedical services or FDA compliance issues. These issues are addressed by the Biomedical Services Quality and Regulatory Affairs group.

The ICE unit also manages the Office of Corporate Compliance (which handles grants compliance). In conducting investigations, the unit has unfettered access to all organizational records, physical properties, and individuals. The Vice President of ICE reports regularly to the President and Chief Executive Officer, senior management, and the Audit and Risk Management Committee of the Board of Governors.

Enterprise risk management

In an effort to mitigate risk by the corporation, the American Red Cross has appointed a Chief Risk Officer who is charged with developing an enterprise risk management (ERM) program for the entire organization. Modeled on the best practices of corporate America as a means to better protect corporate assets, enterprise risk establishes a disciplined approach for the organization's various business units to identify, evaluate, manage and report risks and opportunities.

The Red Cross ERM Unit provides counsel to business units to identify, evaluate, and mitigate risk; enhance decision-making at all levels by requiring a clear articulation between business objectives and risk versus reward; assist in identifying insufficient internal controls (particularly in the areas of waste, fraud and abuse); and provide the Board's Audit and Risk Management Committee with information regarding the corporate level risks and mitigation.

Office of the Ombudsman

Most recently, the American Red Cross has created an Office of the Ombudsman. This office will act as a neutral and impartial dispute resolution center whose major function will be to provide confidential and informal assistance to the many internal and external constituents with concerns or complaints about the American Red Cross. The Office of the Ombudsman will have unfettered access to the entire corporation and all personnel, corporate reports, documents, and will report directly to the organization's Chief Executive Officer and on a regular basis to the Audit and Risk Management Committee of the Board of Governors.

In addition to conflict resolution, the Office of the Ombudsman will report annually to the U.S. Congressional Committees of jurisdiction, areas and types of concerns, including trends and systemic matters that the Ombudsman determines to be confronting the organization. As a practice, these reports will also be made available to the public through the Red Cross external website, www.redcross.org.

American Red Cross transparency

The American Red Cross endeavors to achieve enhanced corporate transparency and accountability to internal and external stakeholders. One mechanism is the public website, www.redcross.org. The American Red Cross will make available on that public website detailed information of the programs described above explaining the Red Cross corporate compliance and ethics programs, including audits, investigations (ICE), the Office of the Ombudsman, the Concerned Connection Line (CCL) and Bio-

medical Response Line (BRL), and Enterprise Risk Management (ERM), as well as contact information for each of these units.

Additionally, the Red Cross will fulfill reporting requirements to the U.S. Congress and regulatory agencies and will make these reports available to the American public through its external website, www.redcross.org.²

The American Red Cross is committed to be transparent and accountable to the American public. As such, the American Red Cross already makes available, in its entirety, the annual IRS Form 990, external independent audit, and consolidated financial statements on its external website, www.redcross.org. In addition, the Red Cross requires chapters to share copies of their annual audit and/or annual report in response to any public inquiries about local Red Cross activities. The Red Cross will continue to provide this information on its public website.



²To protect the confidentiality and integrity of clients to the Ombudsman and ICE investigations, the American Red Cross will redact any confidential, identifying, or proprietary information as necessary.