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U.S. House of Representatives
Committee on Energy and Commerce
 Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

December 8, 1993

ALAN J. ROTH, STAFF DIRECTOR AND CHIEF COUNSEL
 DENNIS E. FITZGERALDS, DEPUTY STAFF DIRECTOR

The Honorable James J. Duderstadt
 Chairman
 National Science Foundation
 4201 Wilson Boulevard
 Arlington, Virginia 22230

Dear Chairman Duderstadt:

Pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, and our continuing oversight of securities and exchanges, we are conducting an inquiry into issues raised in the Securities and Exchange Commission's (SEC) EDGAR Status Report (June 30, 1993) which was received by the Committee on October 8, 1993, and in press reports about National Science Foundation funding for a project to make the EDGAR database available on the global Internet computer network. We are looking into concerns that have been raised about the awarding of the grant, the impact of the underlying project on the existing contract between SEC and Mead Data Central Inc. (Mead), and potential security threats to the data.

On Friday, October 22, 1993, the National Science Foundation announced a \$660,000 two-year grant to the Stern School of Business at New York University and a small Washington, D.C. company called Internet Multicasting Service ("Grantees").

Press reports indicate that this grant is in response to an unsolicited grant application to NSF from the Grantees. There was no public notice of this sole-source procurement/solicitation. The grant supplies the funds to the Grantees to buy two years of EDGAR tapes from the SEC's contractor. This will cost approximately \$80,000 per year. The remainder of the money is to develop public domain software that will provide a user interface with EDGAR for use over the Internet. The Grantees will purchase tapes from the SEC contractor, develop software, and make the information available through the facilities of the Stern Business School to users of the Internet. We are advised that, contrary to press and other reports, access by the public will

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not be free. It will cost \$25.00 per hour as currently projected. This reflects a subsidized, rather than a true, cost of making the EDGAR data base available to the public.

This idea had originally been considered in June and July of 1993 by NSF, the Grantees, the Subcommittee on Telecommunications and Finance staff, and SEC staff. The Committee on Energy and Commerce also expressed its views in a letter to the SEC dated June 7, 1993. By letter dated June 25, 1993, acting SEC Chairman Mary L. Schapiro responded to the Committee's questions by stating:

Is government-funded Internet access
necessary at this time?

The dissemination system for EDGAR data has been carefully constructed to provide wide-spread, low cost information that should meet the needs of the academic and research communities as well as the needs of individual investors. To date the dissemination system has not been given the opportunity to meet these goals. Today, 500 entities are mandated to file on EDGAR. That number will expand this year to reach 3,400 by mid-December. The retail market for EDGAR filings accordingly should begin to develop this year. That demand should be reflected in orders to the dissemination contractor for its wholesale services from retail providers of information, including those offering data base services on the Internet. Therefore, government-funded Internet access does not appear necessary at this time.

Is there any evidence that the market will
not perform as expected?

No, interest among database service companies in EDGAR data is growing rapidly. All indications are that companies will offer the wide variety of value-added services expected as the number of mandated filing entities begins to grow through this year.

Would not the market-driven solution be the
most cost efficient?

Yes, it would appear that the market-driven solution is the most cost-efficient approach. A firm that is in the business of

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offering data base services to the public can spread its operating costs over a number of offered data bases. The marginal costs of adding a data base, such as EDGAR, are quite low when spread across an entire subscribing customer base. Competition helps ensure a low price to the consumer. On the other hand, if the SEC were to directly offer the EDGAR data base to the public, all implementation and operating costs would be attributed entirely to EDGAR data base access. No spreading of costs over a number of data bases could occur. The SEC could not, therefore, directly provide EDGAR data base access to the public at a lower cost than the private sector. It would, of course, be a matter of public information policy whether to recover those costs from those benefitting from the system, or whether to partially or totally subsidize system costs from general tax revenues.

The SEC's June 30, 1993 EDGAR status report specifically addressed public access to the database. The SEC reported that it was working on dissemination of CD-ROMs and floppy disks containing EDGAR data in order to provide the public with alternate electronic formats of EDGAR data.

In response to the Taxpayer Asset Project's (TAP) concerns regarding public access to EDGAR data, the SEC considered the feasibility of providing online public access to the agency computer system. The SEC reported that it is not currently prepared to provide the public with online access to its computer system because of concerns about security. In the agency's view (confirmed by a July 15, 1993 GAO letter report to this Committee's Subcommittee on Oversight and Investigations), the SEC would be exposing its computer systems and data to risks such as computer viruses, data corruption, and other security threats by allowing the public online access without a careful analysis of the possible threats and vulnerabilities, and in the absence of appropriate countermeasures to such threats. In addition, the SEC believes that the EDGAR computer system does not currently have the capacity to handle online data requests from the public.

TAP also has proposed making EDGAR data available through the Internet public data network. However, the value of this approach over other approaches has not been fully evaluated by either TAP or the SEC. TAP suggested that using Internet would produce lower costs for the public's access to the data compared to the costs incurred by the public for access to the data through the services of commercial data vendors. The SEC has

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taken the position that it should not change the current dissemination strategy before assessing its efficacy. Any approach to dissemination strategy outside the current one must be evaluated to determine its impact on the current EDGAR contract and whether it is in conformance with the authorizing legislation.

This matter was discussed at length in the July 15, 1993 Committee report accompanying H.R. 2239, the SEC authorization bill for 1993 (see pages 20-23 of H.Rept. 103-179). In that report, the SEC was asked to report to the Committee on Energy and Commerce on its efforts to broaden dissemination of EDGAR data and to provide wider access to the public, including the feasibility of access through Internet. Specifically, the Committee asked the SEC to consider the EDGAR dissemination policy in light of the revised OMB Circular A-130, which calls for a diversity of vendors of government information.

Notwithstanding these concerns and the Committee's request for a report before any action was taken, the NSF appears to have acted secretly to complete this project. A recent article in Communications Daily stated that: "But with backing from Markey and key direction from NSF Computer Networking Dir. Steve Wolff, effort went forward in secrecy, sources familiar with project said. 'The project was kept in low profile, in hopes that Mead would think the issue had been dropped,' NSF source said."

We are advised that the SEC was not consulted, and did not realize until the October 22, 1993 release of the grant that a grant was being considered by the NSF. Also in contravention of OMB Circular A-130, this was done with no public knowledge or participation. It appears that NSF, through its grant-making powers, has seen fit to replace the SEC in determining how to fulfill the SEC's statutory and contractual obligations.

The SEC has a contract with BDM and a subcontract with Mead Data that Mead will build a dissemination system for EDGAR data and make it available to the public in a manner and at a price regulated by the SEC. This system was built at no cost to the government and Mead was to get paid for creating this system from the sale of regulated products. There is no restriction on the use of these products. This was authorized in the legislation that set up and authorized EDGAR in 1987 (see section 35A of the Securities Exchange Act of 1934). As Internet became a reality in the last several years, it was fully anticipated that EDGAR data would find itself on the Internet and other alternative sources. However, it was not anticipated that the government itself would fund alternative sources to the data. The decision to develop an alternative source may also be in violation of the letter and spirit of the Mead contract with the SEC.

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It is not apparent that the NSF considered or evaluated the impact of this grant on the SEC. Nor is it clear that NSF considered whether the funding of this grant will encourage or discourage others from taking the public feed from the SEC and distributing it to all segments of the public.

In order to assist us in evaluating the complex issues raised, please provide the Committee with a full report on this matter, including but not limited to your responses to the following:

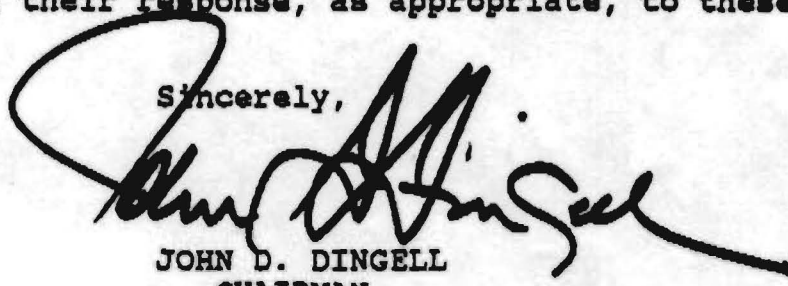
1. What is the exact nature of this project and why was this done in secrecy?
2. Does this violate the principles of OMB Circular A-130 in, among other things, eliminating consideration by the agency responsible for dissemination? How do you retroactively cure such violations? the negative substantive effects of any such procedural violations?
3. What is the impact on Mead's contract with the SEC? on future cost-sharing ventures with the private sector? Please explain fully.
4. Did the grant consider how best to maintain a diversity of sources? Please explain fully.
5. Is the funding here just the opening for a long-term and expensive commitment by the U.S. government? Please explain fully.
6. Is government-funded Internet access necessary at this time? Please explain fully.
7. Recent press reports, "A Dose of Computer Insecurity," New York Times, Monday, November 1, 1993 ("The vision of a national information superhighway is being threatened by a group of anonymous computer intruders who have broken into hundreds of university, government and commercial computers in recent months, bedeviling many of the nation's computer managers...The intruders have been able to obtain passwords for hundreds, or even thousands, of computers that are attached to Internet, which connects more than two million computers at universities, corporations and government sites around the world"), and "'Sophisticated' Intruder Breaches Internet

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Security," Friday, November 19, 1993, indicate serious, fundamental weaknesses in the security of the Internet which would threaten the integrity of important SEC disclosure information. To what extent, if any, was this considered by NSF and how will it be addressed?

Thank you for your cooperation and attention to this request. Your response by Friday, December 31, 1993 would be appreciated. I also am making a copy of this letter available to the SEC and requesting their response, as appropriate, to these questions.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "John D. Dingell". The signature is written over the word "Sincerely," and extends across the line for the name.

JOHN D. DINGELL
CHAIRMAN

Enclosures

cc: The Honorable Carlos J. Moorhead
The Honorable Edward J. Markey
The Honorable Jack Fields
The Honorable Arthur Levitt, Jr.