

The Boston Globe

Clinton charity never provided foreign donor data

Boston-based group admits to mistakes



AP/File

At her confirmation hearings as secretary of state in 2009, Hillary Rodham Clinton agreed to steps to avoid potential conflicts of interest involving family charities and foreign donors.

By Annie Linskey Globe Staff April 30, 2015

WASHINGTON — An unprecedented ethics promise that played a pivotal role in helping Hillary Rodham Clinton win confirmation as secretary of state, soothing senators' concerns about conflicts of interests with Clinton family charities, was uniformly bypassed by the biggest of the philanthropies involved.

The Clinton Health Access Initiative never submitted information on any foreign donations to State Department lawyers for review during Clinton's tenure from 2009 to 2013, Maura Daley,

the organization's spokeswoman, acknowledged to the Globe this week. She said the charity deemed it unnecessary, except in one case that she described as an "oversight."

During that time, grants from foreign governments increased by tens of millions of dollars to the Boston-based organization.

Daley's acknowledgement was the first by the charity of the broad scope of its apparent failures to fulfill the spirit of a crucial political pledge made by the Clinton family and their charities. The health initiative has previously acknowledged failing only to disclose the identity of its contributors, another requirement under the agreement.

The failures make the Clinton Health Access Initiative, which is headquartered on Dorchester Avenue in South Boston, and goes by the acronym CHAI, a prominent symbol of the broken political promise and subsequent lack of accountability underlying the charity-related controversies that are dogging Clinton as she embarks on her campaign for president.

The charity defended the lack of some disclosures on the grounds that the donations in question were simply passed through the charity to fund an existing project. Previously, it has acknowledged that mistakes were made.

But loopholes and legalistic explanations about what new foreign donations should be excluded from disclosure were not publicly discussed in the initial deal. In 2009, the incoming Obama administration, Clinton, and then-Senator John F. Kerry all publicly touted the Clinton charities' "memorandum of understanding" as a guarantee that transparency and public scrutiny would be brought to bear on activities that posed any potential conflicts of interest with State Department business.

"Transparency is critically important here, obviously, because it allows the American people, the media, and those of us here in Congress . . . to be able to judge for ourselves that no conflicts — real or apparent — exist," Kerry said during a Senate floor speech on Jan. 21, 2009.

The memorandum, which did not outline a penalty for failing to comply, was signed in December 2008 by Valerie Jarrett, co-chairwoman of the Obama transition team, and Bruce Lindsey, a longtime Clinton aide who at the time was CEO of the Clinton Foundation and sits on the board of the CHAI.

Jarrett and Lindsey declined to be interviewed about CHAI's repeated failures to disclose major increases in foreign grants.

The White House and the State Department also declined to take a firm stand on the apparent violations of the agreement. The White House press office declined to comment in any specific way. The State Department released a brief statement in muted tones that contrasted starkly with Kerry's defense of the agreement in 2009.

"We would have expected that CHAI identify for the department the foreign country donors that elected to materially increase their donations and new country donors. The State Department

believes that transparency is the critical element of that agreement,’’ said Alec Gerlach, a Kerry spokesman.



Pat Greenhouse/Globe Staff/File

The building in South Boston where the offices of the Clinton Health Access Initiative are located.

With a budget of more than \$100 million a year, the CHAI makes up nearly 60 percent of the broader Clinton charitable empire, which includes the Clinton Foundation and several offshoots. Government grants to CHAI, nearly all of them from foreign countries, doubled from \$26.7 million in 2010 to \$55.9 million in 2013, according to the charity’s tax forms.

A Republican senator on the Foreign Relations Committee who voted in favor of Clinton’s confirmation in 2009, John Barrasso of Wyoming, said the lack of adherence to the basic terms of the agreement raised questions about her promise.

‘I took her at her word. Maybe I was wrong to do that.’

Senator John Barrasso, Republican of Wyoming, who voted for Hillary Clinton’s nomination as secretary of state in 2009

“I took her at her word. Maybe I was wrong to do that,” he said in an interview. “Because now the evidence shows that she didn’t disclose any of these things. The interesting part is you would think that for all of their time in the White House and time in the Senate, that she would want to be very far away from the hint of this kind of problem.”

Dan Diller, a member of the committee’s Republican staff when Clinton was confirmed, said it was difficult to comprehend why the Boston charity didn’t disclose its foreign grants to the State Department.

“If it is just a pass through to do good works that the whole world is cheering, then what could possibly be the harm in disclosing the donations?” Dillon said. “The administrative burden of disclosing such donations is negligible. I don’t understand why they would not trumpet their success and get credit for transparency in the process.”

Scrutiny of the family foundation shouldn’t be a surprise to the Clintons or their allies running the various pieces of the family’s charitable network. The phrase “Clinton Foundation” came up by name 75 times during Clinton’s confirmation hearing — demonstrating the significant concerns among lawmakers about potential conflicts of interest and a need for transparency.

At the hearing, then-Senator Clinton batted down questions by pointing to the highly specific contents of the agreement and the broad pledges for disclosure.

The agreement said the Clinton charities and the Obama administration wanted to “ensure that the activities of the [Clinton Foundation and its affiliated organizations], however beneficial, do not create conflicts or the appearance of conflicts for Senator Clinton as secretary of state.”

All donors were required to be disclosed. Existing streams of donations from foreign countries did not have to be submitted to the State Department for possible ethics reviews. But it required that Clinton charities disclose to the State Department when foreign nations “increase materially” their commitments to the charities. But the specific amount of increase that triggered such reporting was not defined.

Clinton said at the time that the agreement went “above and beyond the requirements of the law and the ethics rules” to “avoid even the appearance of a conflict of interest” between the foundation and her role as secretary of state.

Kerry’s Senate speech in her defense help clear the way for an overwhelming confirmation vote, 94-to-2.

“All contributions by foreign governments will be subject to a review process by the State Department’s officials,” Kerry said on the Senate floor. “This review will occur prior to the receipt of any such contribution, and Senator Clinton has made clear that the process has been designed to avoid even the appearance of a conflict of interest.”

Kerry played a key role in brokering the disclosure agreement as chairman of the Senate Foreign Relations Committee.

Watch video of the Senate session below:

Over the past several months, various news organizations have reported that individual parts of the memo were disregarded by the Boston charity. However, it has never before been clear that the memo was bypassed entirely.

Reuters reported in March that the organization didn't disclose any donors to the public while Clinton was secretary of state. The Washington Post reported that a donation from Switzerland to the Clinton Health Access Initiative was not reviewed.

The charity declined until this week, when it responded with an e-mail to repeated questions from the Globe, to answer the question of whether it had ever initiated State Department review for any of its foreign donations. The answer was no.

The violations to the agreement went beyond the CHAI, and included the broader Clinton Foundation network. The foundation, an umbrella organization that operates as a separate charity, failed to comply with some portions of the agreement. It didn't activate the State Department ethics review process for new donors or for existing foreign-government donors that expanded their support.

That wing of the charity, which is based in New York City, did regularly disclose donors to the public. The New York Times reported last week that people involved in a series of Canadian uranium-mining deals sent money to the Clinton Foundation while the firm, Uranium One, had business before the State Department.

Another arm of the Clinton charity, based in Canada, failed to disclose donors, the Washington Post reported.

The Boston charity's CEO, Ira Magaziner, has responded to some of these omissions, but has declined to explain why no part of the pact was ever activated. The charity has cited affordable real estate for basing its operations in South Boston.

After the Globe and others wrote about problems with the charity's transparency, it adopted a practice of disclosing donors on a quarterly basis. New countries that want to support the organization will be voted on by members of the board of directors.

Daley said the charity "didn't think" that tens of millions of dollars of increases to grants from donor countries needed to be reviewed by the State Department. She said the failure to report the new donation by the Swiss government was an oversight. Magaziner has said that the charity didn't publicly disclose its donors because it believed the broader Clinton Foundation was doing so; there is considerable overlap in givers to the two entities.

Among the foreign governments that started giving money to the charity while Clinton was secretary of state were Rwanda, Sweden, Papua New Guinea, and Flanders. Daley offered various explanations for why the new money wasn't reported.

Rwanda, she said, paid the Clinton Foundation \$300,000 to implement a medical system and the charity viewed the payment as a “fee” rather than a contribution. “Since it was not a grant or donation, we did not think it needed to be submitted for review,” Daley said.

The charity didn’t view Flanders as a “foreign government” because it is part of Belgium, Daley said, and therefore didn’t disclose funds from the Flanders International Cooperation Agency.

With Swaziland, Daley said the cash the charity received had originally had been given to the African nation by The Global Fund to Fight AIDS, Tuberculosis and Malaria in order to buy AIDS medicine, but the country wasn’t set up to make the bulk buy. The Clinton charity took the money from Swaziland and then used it to buy drugs for the country, she said. “Since it was pass through of Global Fund money, we did not think it needed to be submitted for review,” Daley said.

The reasoning is similar for money from Papua New Guinea. In that case, additional funds from the Australian government, a preexisting donor, were given first to Papua New Guinea and then to the CHAI. The charity also didn’t disclose a bump in giving from Australia.

Vast increases in grants also came in from Sweden, which had supported the CHAI before Clinton was secretary of state. The country didn’t give any money in 2009, 2010 or 2011, then started giving again in 2012.

“We did not think this agreement needed to be submitted because it was from an existing donor,” Daley said.

She said increases in grants also came from the United Kingdom and Ireland, and weren’t submitted for review to the State Department for the same reason.

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