



**NATIONAL ENDOWMENT FOR THE ARTS
OFFICE OF INSPECTOR GENERAL**

LIMITED SCOPE AUDIT REPORT

**ON SELECTED
NEA GRANTS TO**

MARYLAND STATE ARTS COUNCIL
Baltimore, MD

REPORT NO. LS-11-02

July 25, 2011

REPORT RELEASE RESTRICTION

In accordance with Public Law 110-409, The Inspector General Act of 2008, this report shall be posted on the National Endowment for the Arts (NEA) website not later than three (3) days after it is made publicly available with the approval of the NEA Office of Inspector General.

Information contained in this report may be confidential. The restrictions of 18 USC 1905 should be considered before this information is released to the public. Furthermore, information contained in this report should not be used for purposes other than those intended without prior consultation with the NEA Office of Inspector General regarding its applicability.

INTRODUCTION

BACKGROUND

The Maryland State Arts Council (MSAC) is an agency of the State of Maryland, under the authority of the Department of Business and Economic Development, Division of Tourism, Film and the Arts. MSAC was established in 1967, the purpose of the MSAC has been “to create a nurturing climate for the arts in the State.” MSAC awards grants to not-for-profit, tax-exempt organizations for ongoing arts programming and arts projects. MSAC awards grants to individual artists, and provides technical and advisory assistance to individuals and groups. MSAC also carries out programs of its own to enhance the cultural life of the residents of Maryland.

OBJECTIVE, SCOPE AND METHODOLOGY

Limited scope audits involve a limited scope review of financial and non-financial information of grant recipients to ensure validity and accuracy of reported information, and compliance with state and federal requirements. The objective of this limited scope audit was to determine whether:

- The grantee fulfilled the financial and compliance requirements as set forth in the grant awards;
- The total project costs claimed under the grants were reasonable, allocable and allowable;
- The required match was met on National Endowment for the Arts (NEA) grant funds.

Our audit was conducted in accordance with the *Government Auditing Standards* (2007), issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. The “Standards” require that we obtain sufficient, competent, and relevant evidence to afford a reasonable basis for our findings and conclusions. We reviewed the Council’s system of internal control and judgmentally selected a sample of transactions for testing from each of the grants reviewed. In addition, we evaluated the recipient’s compliance with the U.S. Office of Management and Budget (OMB) and NEA guidance for the management of the American Reinvestment and Recovery Act of 2009 (Recovery Act) funding.

The Recovery Act provided \$50 million to the NEA to be distributed in direct grants to fund arts projects and activities which preserve jobs in the nonprofit arts sector threatened by declines in philanthropic and other support during the current economic downturn. Consistent with the language in the Act, eligible projects are generally limited to salary support and fees for artists or contracted personnel. Forty percent of such funds were distributed to State arts agencies and regional arts organizations and 60 percent of the funds were competitively awarded to nonprofit organizations that met the eligibility criteria established for this program. For organizations eligible to subgrant, such as State arts agencies, funds may also be used to cover the cost of implementing the subgranting program.

During the period under review, MSAC had seven NEA grants active with awards totaling \$3,752,200. However, due to time constraints our audit was limited to six grants in which NEA funds had been drawn down and costs had been reported. The NEA is the federal oversight agency for the MSAC.

PRIOR AUDIT COVERAGE

During the past five years, the NEA Office of Inspector General (OIG) has not issued any audit reports on Federal grants awarded to the MSAC. However, the MSAC was included in the State of Maryland's OMB Circular A-133 audit for the year ended June 30, 2008. There were no findings indicated in the State's A-133 audit report that were applicable to the MSAC. The State's financial statements were audited by Abrams, Foster, Nole & Williams, P.A., an independent public accounting firm, for the year ended June 30, 2008. The independent audit resulted in an unqualified (clean) opinion on the financial statements.

RESULTS OF AUDIT

MSAC's financial management system is administered in conjunction with the State of Maryland. Our audit concluded that MSAC complied with the financial management system and recordkeeping requirements established by OMB and NEA for its Recovery Act funds under Grant No. 09-6188-2124. However, MSAC did not have an adequate financial management system for five of the six grants tested. The review of the documentation provided, indicated that MSAC's financial management system did not track grant costs separately, as required by NEA and OMB. Therefore, we were unable to determine actual expenditures or if the match was met for each grant. We are questioning the reported total outlays of \$58,400,208 under the selected grants. As a result, a potential refund of \$2,587,559 is possible under five of the six grants (See Appendix I). We also found that the MSAC did not maintain the required personnel activity reports, resulting in questioned costs for salaries and fringe benefits. In addition, MSAC did not have a completed Section 504 self-evaluation on file. Details of our audit findings are presented in the following narrative.

RECOVERY ACT AWARD

MSAC received \$318,600 in Recovery Act funds. MSAC's Recovery Act grant was used to support projects and activities that preserve jobs in the arts. MSAC complied with the financial management system and recordkeeping requirements established by OMB and NEA, such as maintaining subrecipients listing, submitting quarterly reports timely and separately identifying Recovery Act funds in its financial management system. MSAC did not charge salary expenditures to this award.

FINANCIAL MANAGEMENT

Financial Ledgers. MSAC's financial management system did not track grant costs separately. MSAC reconciles by reviewing the balance of prior years and extracting the amount from the current year and then allocating costs to the components. Therefore, we were unable to determine from the documentation provided if the matching requirement was met for each grant. For grant numbers 05-6100-2014 and 06-6100-2017, a one-to-one match was required for each component separately. For grant number 06-5500-7126, a one-to-one match was required for the total award. For grant numbers 07-6100-2031 and 08-6100-2053, a one-to-one match was required on the overall grant; however, the Arts Education component was to be matched by funds at least equal to the amount awarded for that component.

As a result, we were unable to identify expenditures specific to each grant and therefore we are questioning the reported costs of \$58,400,208 for five of the six grants audited (See Appendix I). The NEA's *General Terms and Conditions for Grants and Cooperative Agreements to Organizations (General Terms)* has financial requirements or refers to the NEA OIG *Financial Management Guide for State & Local Governments*¹, which NEA provides to each applicable grantee. The *General Terms* and the *Guide* state in part:

Recipients must have accounting structures that provide accurate and complete information about all financial transactions related to each Federally-supported project.

The Guide further recommends that the "arts agencies maintain their own set of books and ledgers even though the state or local government accounting office may be handling the fiscal transactions."

We are recommending that MSAC develop written policies and implement a system to track each grant award's transactions separately. To support the questioned costs reported on the Financial Status Report, (see Appendix I) MSAC should provide additional documentation, such as general or supplementary ledgers with detailed expenditures for each grant and component, if required, separately. Based on our review of the documentation provided, we will determine if any refund is due to the NEA. Without additional documentation, the potential refund is \$2,587,559 under these grants.

Subsequent to the audit, MSAC submitted additional documentation addressing this finding; however, a management decision cannot be made until the OIG completes its review of the documentation.

Personnel Activity Reports. The MSAC did not maintain personnel activity (time and effort) reports. At the time of the award, personnel activity reports were required for all employees whose salaries and fringe benefits are charged, in whole or in part, to either the award or the matching funds if the award is \$50,000 or more. This requirement is mandated by OMB and is

¹ NEA OIG Financial Management Guide for State & Local Governments can be found at <http://www.arts.gov/about/OIG/FMGSL.pdf>

detailed in NEA's *General Terms*. A sample personnel activity report is also provided in the *General Terms*, which states in part:

For every employee whose salary is charged to an NEA grant, as a whole or in part, personnel activity reports must be maintained to account for all compensated time spent on other activities.

As a result of not maintaining personnel activity reports, we are questioning salaries and fringe benefits. However, the salaries and fringe benefits total cost is included in the total questioned cost under the Financial Ledgers section. Based on our review of the documentation provided, we will determine if any refund is due to the NEA.

We are recommending that MSAC develop written policies and implement procedures to ensure that individual personnel activity reports are maintained for employees whose salaries are charged, in whole or in part, to future grant awards that are \$50,000 or more.

Subsequent to the audit, MSAC submitted additional documentation addressing this finding; however, a management decision cannot be made until the OIG completes its review of the documentation.

SECTION 504 SELF-EVALUATION

The MSAC did not have the required Section 504 self-evaluation on file. As noted in NEA's *General Terms*, "A Section 504 self-evaluation must be on file at your organization." A *Section 504 Self-Evaluation Workbook*, which can be completed online, is available at www.arts.gov/about/504Workbook.html.

Section 504 of the Rehabilitation Act of 1973, as amended, provides for equal opportunity to enter facilities and participate in programs and activities. It does not require that every part of every facility or program be accessible. The important considerations are that individuals with disabilities have the same opportunities in employment, the same opportunities to enter and move around in facilities, the same opportunities to communicate and the same opportunities to participate in programs and activities as non-disabled people. Further, it is important to offer employment, programs, and services in settings that are integrated rather than to segregate individuals with disabilities with special programs.

Subsequent to our audit, MSAC provided us with a completed *Section 504 Self-Evaluation Workbook*. Therefore, no additional action is required on this finding.

EXIT CONFERENCE

An exit conference was held with the MSAC's officials on March 31, 2010. Subsequent to our site visit, a telephone exit conference was held with the MSAC officials on April 7, 2011. MSAC officials concurred with our findings and recommendations.

RECOMMENDATIONS

We recommend that the MSAC:

1. Develop written policies and implement a system to track each grant award separately. The system should include tracking expenditures by component, if required by the grant award.
2. Provide additional documentation to support the questioned costs (See Appendix I) reported on the Final Financial Status Report. Based on our review of the documentation provided, we will determine if any refund is due to the NEA. Without additional documentation, the potential refund is \$2,587,559 under these grants. (Appendix I)
3. Develop written policies and implement procedures to ensure that individual personnel activity reports are maintained for employees whose salaries are charged, in whole or in part, to future grant awards that are \$50,000 or more.

**MARYLAND STATE ARTS COUNCIL
SCHEDULE OF GRANTS WITH QUESTIONED COSTS**

<u>Grant Amount</u>	<u>Grant Number</u>	<u>Grant Period</u>	<u>Reported Costs</u>	<u>Questioned Costs⁶</u>	<u>Potential Refund</u>	<u>Project Description</u>
\$581,200	05-6100-2014	07/01/05 – 12/31/07	\$11,984,204	\$11,984,204	\$565,620 ²	To support Partnership Agreement.
\$624,300	06-6100-2017	07/01/06 – 06/30/08	\$15,208,132	\$15,208,132	\$624,300	To support Partnership Agreement activities.
\$25,000	06-5500-7126	07/01/06 – 01/31/08	\$92,530	\$92,530	\$25,000	To support the sixth year of Maryland Traditions.
\$638,800	07-6100-2031	07/01/07 – 12/31/08	\$15,965,501	\$15,965,501	\$638,800	To support Partnership Agreement activities.
\$759,200	08-6100-2053 ³	07/01/08 – 06/30/10	\$15,149,841	\$15,149,841	\$733,839	To support Partnership Agreement activities.
\$318,600	09-6188-2124 ⁴	04/01/09 – 06/30/10	\$116,800			To support arts projects and activities which preserve jobs in the nonprofit arts sector threatened by declines in philanthropic and other support during the current economic downturn.
<u>\$805,100</u>	09-6100-2043 ⁵	07/01/09 – 06/30/10	<u>\$8,270,616</u>			To support Partnership Agreement activities.
<u>\$3,752,200</u>			<u>\$66,787,624</u>	<u>\$58,400,208</u>	<u>\$2,587,559</u>	

² 05-6100-2014 – De-obligated \$15,580.

³ 08-6100-2053 - Grant was open during audit, total reported costs is based on Request for Advance or Reimbursement as of 11/03/09.

⁴ 09-6188-2124 – Grant was open during audit, total reported costs is based on Request for Advance or Reimbursement as of 11/03/09.

⁵ 09-6100-2043 – Grant not audited because of time restrictions. Total Reported Costs is from Request for Advance or Reimbursement as of 11/03/09.

⁶ Questioned costs are equivalent to total outlays reported on MSAC final Financial Status Report.