

# **NATIONAL ENDOWMENT FOR THE ARTS**

## **OFFICE OF INSPECTOR GENERAL**



### **SEMIANNUAL REPORT TO THE CONGRESS**

**OCTOBER 1, 2012 - MARCH 31, 2013**

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**NATIONAL ENDOWMENT FOR THE ARTS**

April 30, 2013

## MEMORANDUM

TO: Joan Shigekawa  
Acting Chairman

FROM: Tonie Jones  
Inspector General



SUBJECT: **Semiannual Report to the Congress: October 1, 2012 - March 31, 2013**

The Inspector General Act of 1978 (IG Act), as amended (5 U.S.C. App. 3), calls for the preparation of semiannual reports to the Congress summarizing the activities of the Office of Inspector General (OIG) for the six-month periods ending each March 31 and September 30. I am pleased to enclose the report for the period of October 1, 2012 - March 31, 2013.

The Inspector General's report is intended to cover audits, inspections, evaluations, investigations and other reviews conducted by the OIG. The report also indicates the status of management decisions whether to implement or not to implement recommendations made by the OIG. The former President's Council on Integrity and Efficiency developed the reporting formats for Tables I and II to ensure consistent presentation by Federal agencies. The tables provide only summary totals and do not include a breakdown by auditee.

The IG Act requires that you transmit this report to the appropriate committees of the Congress within 30 days of receipt, together with any comments you may wish to make. Comments that you might offer should be included in your "Report on Final Action," a management report that is required to be submitted along with the Inspector General's report. We will work closely with your staff to assist in the preparation of the management report. The due date for submission of both reports is May 30, 2013.

I appreciate the continuing support we have received from the Chairman's Office and your managers throughout the Agency. Working together, I believe we have taken positive steps to improve Agency programs and operations. We look forward to continuing these efforts.

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## NATIONAL ENDOWMENT FOR THE ARTS

Founded in 1965, the National Endowment for the Arts (NEA) offers assistance to a wide range of non-profit organizations and individuals that carry out arts programming, as well as to State Arts Agencies and Regional Arts Organizations. NEA supports exemplary projects of excellence in the artistic disciplines of artist communities, dance, design, folk and traditional arts, literature, media arts, museums, music, opera, presenting, theater and musical theater, and visual arts, as well as for arts education projects and local arts agencies. Grants are awarded for specific projects rather than for general operating or seasonal support. Most NEA grants are matched dollar for dollar with non-Federal funds. Through the Consolidated and Further Continuing Appropriations Act, 2013, NEA received \$145.729 million, net a 0.16% across-the-board rescission included in Division F, Section 1101(c)(1), and a 0.2% across-the-board rescission included in Division G, Section 3004(c)(1). This appropriation was further subject to a reduction of \$7.346 million per a sequestration order issued by the President on March 1, 2013.

## OFFICE OF INSPECTOR GENERAL

The Inspector General Act of 1978 (IG Act), as amended (5 U.S.C. App. 3), established independent, objective units within Federal agencies for oversight purposes. In 1988, the Congress amended the IG Act (Public Law 100-504) to establish statutory Inspectors General at additional departments and agencies, as well as designated Federal entities and establishments, including NEA. The mission of NEA Office of Inspector General (OIG) is to:

- Conduct and supervise independent and objective audits, inspections and evaluations relating to NEA programs and operations;
- Promote economy, effectiveness, and efficiency within NEA;
- Prevent and detect fraud, waste, and abuse in NEA programs and operations;
- Review and make recommendations regarding existing and proposed legislation and regulations relating to NEA programs and operations; and
- Keep the NEA Chairman and the Congress fully and currently informed of problems in Agency programs and operations.

On October 14, 2008, the President signed the Inspector General Reform Act of 2008, Public Law 110-409. The 2008 Act amends the previous IG Act of 1978 by enhancing the independence of the Inspectors General and creating a Council of the Inspectors General on Integrity and Efficiency.

This semiannual report summarizes NEA OIG's major activities, initiatives, and results for the six-month period ended March 31, 2013. NEA OIG consists of four full-time positions, the Inspector General and three auditors. Currently, NEA OIG is fully staffed. There is no investigator or general counsel on the staff. To provide a reactive investigative capability, we have a Memorandum of Understanding with the General Services Administration's Office of Inspector General (GSA OIG) to provide investigative coverage for us on a reimbursable basis, as needed. (No investigative coverage from GSA OIG was needed during the recent six-month period.) We have a Memorandum of Understanding with the National Credit Union Administration's Office of Inspector General (NCUA OIG) that details procedures to be used for providing NEA OIG with legal services pursuant to the new requirements reflected in the 2008 Act. A NCUA OIG staff member has been assigned to provide such services on an as-needed basis. We also have a Memorandum of

Understanding with the International Trade Commission's Office of Inspector General (ITC OIG) to provide technical assistance with our evaluation of NEA's compliance with the Federal Information Security Management Act of 2002 on a reimbursable basis, as needed.

## **SUMMARY OF WORK COMPLETED BY NEA OIG**

During the six-month period ended March 31, 2013, NEA OIG conducted the following audits, inspections, evaluations, reviews, investigations, and other activities.

### **Audits/Inspections/Evaluations/Reviews**

During the recent semiannual period, NEA OIG issued nine reports, which contained forty recommendations based on audits and evaluations. Twenty recommendations were related to NEA programs and twenty were related to NEA grantees. Three recommendations related to NEA grantees were cleared during this reporting period. We also issued one memorandum to the agency related to a NEA grantee which contained one recommendation. The agency implemented the recommendation during this reporting period.

### **Audit Resolution**

At the beginning of the six-month period, there were no reports awaiting a management decision to allow or disallow questioned costs. During the period, three of the newly issued reports identified questioned costs of \$739,924, with potential refunds of \$248,608. Two of the organizations submitted documentation to support all of the questioned costs. A management decision was made to allow \$576,924 of the questioned costs, which eliminated potential refunds of \$106,675. (See Table I)

### **Inspections**

The OIG did not conduct any inspections during the recent six-month period.

### **Investigations**

We conducted a joint investigation with the OIGs of the National Science Foundation (NSF) and the National Endowment for Humanities (NEH), of a Massachusetts public broadcasting company for allegedly failing to properly track and account for Federal grant funds. Our investigation found that the broadcasting company could not demonstrate that project costs charged to the Federal grants from the three agencies were reasonable, allowable, and allocable. The company submitted inaccurate financial reports over three years to the Federal agencies, used Federal funds to pay for impermissible expenses, and maintained an inadequate accounting system for tracking grant expenditures.

The U.S. Attorney's Office entered into a civil settlement whereby, without admitting liability, the company repaid \$300,173—of which \$1,747 was associated with NEA funds—and entered into a five-year compliance plan to strengthen its oversight of Federal funds. NEA OIG did not open any new allegation cases during the recent six-month period. No criminal investigations were performed during the period.

## **Audit of the NEA Fiscal Year 2012 Financial Statements**

The *Accountability of Tax Dollars Act of 2002* requires NEA OIG or an independent external auditor, as determined by the Inspector General, to audit the agency financial statements. Under a competitively awarded contract monitored by NEA OIG, Leon Snead & Company, an independent certified public accounting and management consulting firm, received a one-year contract, with a four-year option, in January 2011 to audit NEA's financial statements. The audit was conducted following Generally Accepted Government Auditing Standards (GAGAS) and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as revised. In addition, the firm provided reports on internal controls and compliance with laws and regulations for matters relevant to the financial statement audit. The 2012 Financial Statement Audit Report was issued November 8, 2012, and resulted in an unqualified (clean) opinion.

## **NEA's Compliance with the Federal Information Security Management Act of 2002 (FISMA)**

FISMA requires that each Federal agency develop, document, and implement an agency-wide program for providing security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source.

NEA OIG completed a full FISMA evaluation in FY 2012 using the most recent applicable FISMA requirements and guidelines published by OMB, the U.S. Department of Homeland Security and the National Institute of Standards and Technology. The evaluation concluded that although NEA made progress in complying with FISMA, some additional improvements were needed. NEA OIG made four recommendations.

Two evaluation reports were issued relating to NEA's network perimeter security and patching program. The evaluations were performed by ITC OIG on behalf of the NEA OIG. The evaluation of NEA's perimeter security concluded that while NEA's perimeter defense is effective, continuous attention and improvement are required to ensure that it remains effective in the future. The report contained seven recommendations. The evaluation of NEA's patching program concluded that NEA has not implemented an effective, comprehensive system maintaining patch levels. The report contained six recommendations. Corrective actions for all of the recommendations are in process.

## **Review of Legislation, Rules, Regulations and Other Issuances**

NEA OIG is required to review and comment on proposed legislation and regulations for potential impact on the Agency and its operations. During this reporting period, NEA OIG provided analysis and written commentaries on Agency and other government publications/reports and regulations.

## **Technical Assistance**

NEA OIG provided technical assistance to NEA grantees and their independent auditors. Our efforts included, for example, clarifying and interpreting the audit requirements of OMB Circular



A-133, "Audits of States, Local Governments, and Non-Profit Organizations," and advising some of the first-time and smaller organizations on implementing practical accounting systems and internal controls sufficient to assure compliance with their grant agreements.

NEA OIG also assisted Agency staff with technical issues related to auditing, accounting, and audit follow-up.

## **Web Site**

NEA OIG maintains an ongoing Internet presence ([www.arts.gov/about/OIG/Contents.html](http://www.arts.gov/about/OIG/Contents.html)) to assist and inform NEA grantees and Agency employees. The site includes pages for *Reports; Recovery Act* including a section for *Training and Resources; Reporting Fraud, Waste and Abuse; Career Opportunities; External Peer Reviews of NEA OIG and Other Resources*.

## **Peer Reviews**

The Government Accountability Office's *Government Auditing Standards* requires audit organizations that perform audits or attestation engagements to have an appropriate system of quality control and to undergo external peer reviews at least once every 3 years. Federal audit organizations can receive a rating of *Pass*, *Pass with deficiencies*, or *Fail*. A peer review of NEA OIG was conducted in August 2010 by the Federal Trade Commission's Office of Inspector General. NEA OIG received a rating of *Pass* and that report is posted on our website.

In addition, NEA OIG performed an external peer review of the Export-Import Bank of the United States Office of Inspector General Office of Audits. The report was issued February 2, 2012, and can be found at <http://www.exim.gov/oig/reports/audits-and-evaluations.cfm>.

## **Outreach Activities**

Outreach remains an essential component of our mission to prevent and detect fraud, waste, and abuse, and to promote economy, efficiency and effectiveness in NEA programs and operations. The numerous proactive activities undertaken by NEA OIG staff have addressed programmatic and financial responsibilities of NEA grant recipients, education of NEA grant recipients and staff about fraud recognition and prevention and improving management of Federal awards.

Our office participates in the meetings of the National Single Audit Coordinators, Federal Audit Executive Council, and the Financial Statement Audit Network. We also participate in the Federal Audit Executive Council, Grant Reform Initiatives Working Group, Interagency Fraud and Risk Data Mining Group and Grant Fraud Working Group.

## **Other Activities**

During this period, NEA OIG took part in the activities of the Council on Inspectors General for Integrity and Efficiency (CIGIE), and allocated resources for responding to information requests from and for the Congress and other agencies. We have also participated in various efforts by CIGIE and other Federal agencies to develop effective oversight strategies for Recovery Act activities. Our staff are members of CIGIE's Inspection and Evaluation Committee and the Small Office of Inspectors General Group and the Suspension and Debarment Working Group.

We continued our proactive oversight of NEA's management of its Recovery Act funds with an emphasis on the evaluation of recipients' management of Recovery Act funds.

The *Improper Payments Information Act (IPIA) of 2002*<sup>1</sup> and OMB Circular A-123, Appendix C, *Management's Responsibility for Internal Control: Requirements for Effective Measurement and Remediation of Improper Payments*, require agencies to review all programs and activities, identify those that are susceptible to significant erroneous payments, and determine an annual estimated amount of erroneous payments made in those payments. The IPIA was followed by the *Improper Payments Elimination and Recovery Act (IPERA)* in 2010 and a series of OMB memoranda, which included requirements for inspectors general to annually review and report on their agency's compliance with IPERA. The second annual report was due by March 15, 2013, to the head of the Agency, Congress, OMB and the General Accountability Office. We issued our annual report March 4, 2013.

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<sup>1</sup> P.L. 111-204.

## SECTIONS OF REPORT

The following sections of this report discuss the 12 areas specifically required to be included according to Section 5(a) of the IG Act of 1978, as amended. Table I shows Inspector General issued reports with questioned costs and Table II shows that there were no Inspector General issued reports with recommendations that funds be put to better use.

### **SECTION 1 – Significant Problems, Abuses and Deficiencies**

Prior to this period, we became aware of significant deficiencies in the management of Federal awards by an NEA grant recipient. We issued an alert memorandum to the agency recommending suspension of payments and awards to the grantee until the conclusion of our audit. Management concurred with our recommendation and immediately suspended payments and awards to the grantee. The audit, which concluded during the current period, confirmed the deficiencies and as a result, we issued recommendations to the grant recipient and NEA officials.

Audits, evaluations and other reviews conducted by NEA OIG personnel during the current and prior periods have disclosed a few instances of deficient financial management practices in some organizations that received NEA grants. Among these were:

- Not accounting for costs separately by grant award; (e.g., accounting structures that do not provide accurate and complete information about all financial transactions related to each Federally-supported project);
- Reported grant project costs did not agree with the accounting records, (e.g., financial status reports were not always prepared directly from the general ledger, subsidiary ledgers or worksheets);

- Personnel costs charged to grant projects were not supported by adequate documentation, (e.g., personnel activity reports were not maintained to support allocations of personnel costs to NEA projects);
- Grantees needed to improve internal controls, (e.g., ensuring that contractors and recipients are not debarred or suspended from receiving Federal funds prior to the payment or award of Federal funds and developing written policies and procedures for the management of Federal awards).

### **SECTION 2 – Recommendations for Corrective Action**

To assist grantees in correcting or avoiding the deficiencies identified in Section 1, NEA OIG utilizes two “*Financial Management Guides*,” one for non-profit organizations and the other for state and local governments. The guides are not offered as complete manuals of procedures; rather, they are intended to provide practical information on what is expected from grantees in terms of fiscal accountability. The guides are available at [www.arts.gov/about/OIG/Guidance.html](http://www.arts.gov/about/OIG/Guidance.html).

The guides discuss accountability standards in the areas of financial management, internal controls, audit, and reporting. The guides also contain sections on unallowable costs and shortcomings to avoid. In addition, the guides include short lists of useful references and some sample documentation forms.

**SECTION 3 – Recommendations in Previous Reports on Which Corrective Action Has Not Been Implemented**

There were no significant recommendations in previous reports on which corrective action has not been implemented.

**SECTION 4 – Matters Referred to Prosecuting Authorities**

A joint-agency investigation of a grantee resulted in a referral to the United States Attorney's Office for the District of Massachusetts. A civil settlement included a five-year compliance plan and a recovery of \$ 1,747 to the NEA (see *Investigations*).

**SECTION 5 – Denials of Access to Records**

No denials of access to records occurred during this reporting period.

**SECTION 6 – Listing of Reports Issued and OIG Hotline Contacts**

<b><u>REPORT NUMBER</u></b>	<b><u>TITLE</u></b>	<b><u>DATE OF REPORT</u></b>
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*Audit Reports*

A-13-01	NEA FY 2012 Financial Statement Audit .....	11/08/12
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*Limited Scope Audits*

LS-13-01	Arts Midwest (MN) .....	01/11/13
LS-13-02	Music Theatre Group (NY) .....	03/01/13
LS-13-03	Minnesota State Arts Board (MN) .....	03/15/13

*Financial Management System & Compliance Evaluations*

SCE-13-01	Greater Philadelphia Cultural Alliance (PA) .....	02/07/13
SCE-13-02	Philadelphia Orchestra Association (PA) .....	03/27/13

*Special Review Reports*

R-13-01	FY 2012 Evaluation of NEA's Compliance with FISMA .....	12/17/12
R-13-02	Evaluation of NEA Patching Program .....	02/15/13
R-13-03	Evaluation of NEA Perimeter Security .....	02/15/13

**TOTAL REPORTS – 9**

*Memoranda*

M-13-05	Music Theatre Group (NY) .....	01/22/13
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**TOTAL MEMORANDA – 1**

*Contacts*

Telephone Calls .....	0
Email .....	1
Standard Mail .....	0
Referred by Other Sources .....	1
Fax .....	0
FIOA Request .....	1

**TOTAL CONTACTS – 3**

**SECTION 7 – Listing of Particularly Significant Reports**

There were no particularly significant reports during the reporting period.

**SECTION 8 – Statistical Tables Showing Total Number of Audit Reports, Inspection Reports, and Evaluation Reports and the Dollar Value of Questioned Costs**

Table I of this report presents the statistical information showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs.

**SECTION 9 – Statistical Tables Showing Total Number of Audit Reports, Inspection Reports, and Evaluation Reports and the Dollar Value of Recommendations that Funds be Put to Better Use by Management**

As shown on Table II, there were no audit reports, inspection reports and evaluation reports with recommendations that funds be put to better use by management.

**SECTION 10 – Audit Reports, Inspection Reports, and Evaluation Reports Issued Before the Commencement of the Reporting Period for Which No Management Decision Has Been Made by the End of the Reporting Period**

As shown on Table I, there were no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

**SECTION 11 – Significant Revised Management Decisions Made During the Period**

No significant revised management decisions were made during the reporting period.

**SECTION 12 – Significant Management Decisions With Which the Inspector General Disagrees**

There were no significant management decisions that the Inspector General disagreed with during the reporting period.

## TABLE I

### INSPECTOR GENERAL ISSUED REPORTS WITH QUESTIONED COSTS

	<u>QUESTIONED COSTS</u>			<u>POTENTIAL REFUNDS</u> <sup>2</sup>
	<u>NUMBER</u>	<u>TOTAL</u>	<u>UNSUPPORTED</u>	
A. For which no management decision has been made by the commencement of the reporting period	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
B. Which were issued during the reporting period	<u>3</u>	<u>739,924</u>	<u>28,000</u>	<u>248,608</u>
Subtotals (A + B)	<u>3</u>	<u>739,924</u>	<u>28,000</u>	<u>248,608</u>
C. For which a management decision was made during the reporting period				
(i) Dollar value of disallowed costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
(ii) Dollar value of not disallowed costs	<u>2</u>	<u>576,924</u>	<u>0</u>	<u>106,675</u>
D. For which no management decision has been made by the end of the reporting period <sup>3</sup>	<u>1</u>	<u>163,000</u>	<u>28,000</u>	<u>141,933</u>
Reports for which no management decision was made within six months of issuance	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

<sup>2</sup> The potential refund amount may not equal the questioned cost amount because matching requirements must be considered and the grantee may be either under or over matched. In addition, historically, the potential refund generally is reduced significantly as a result of the audit follow-up process, which includes examination of documentation submitted by the grantee.

<sup>3</sup> Potential refund does not include \$20,000 award, in which, no funds have been drawn down.

## TABLE II

### INSPECTOR GENERAL ISSUED REPORTS WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE

	<u>NUMBER</u>	<u>DOLLAR VALUE</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A + B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
- based on proposed management action	0	0
- based on proposed legislative action	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
Reports for which no management decision was made within six months of issuance	0	0



## DEFINITIONS OF TERMS USED

The following definitions apply to terms used in reporting audit statistics:

<b>Questioned Cost</b>	A cost that the National Endowment for the Arts (NEA) Office of Inspector General (OIG) questioned because of alleged violation with a provision of a law, regulation, contract, other agreement or document governing the expenditure of funds; such cost is not supported by adequate documentation; or the expenditure of funds for the intended purpose is unnecessary or unreasonable.
<b>Unsupported Cost</b>	A cost which NEA OIG questioned because the cost was not supported by adequate documentation at the time of the audit. Unsupported costs are included in the total questioned costs.
<b>Disallowed Cost</b>	A questioned cost that management has sustained or agreed should not be charged to a NEA grant or cooperative agreement.
<b>Funds Be Put To Better Use</b>	A recommendation made by NEA OIG that funds could be used more efficiently if management took actions to implement and complete the recommendation.
<b>Management Decision</b>	Management's evaluation of the findings and recommendations contained in the audit report and the issuance of management's final decision, including actions to be taken. Interim decisions and actions are not considered final management decisions for the purpose of the tables in this report.
<b>Final Action</b>	The completion of all actions that management has concluded in its management decision with respect to audit findings and recommendations. If management concluded that no actions were necessary, final action occurs when a management decision was made.

## REPORTING WRONGFUL ACTS

Anyone, including Agency employees, who learns about or has reason to suspect the occurrence of any unlawful or improper activity related to NEA operations or programs, should contact NEA OIG immediately. A complaint/referral may be reported using any of the following methods:

Toll-free OIG Hotline: 1-877-535-7448  
Local Calls: 202-682-5479  
Fax: 202-682-5649  
Email: [oig@arts.gov](mailto:oig@arts.gov)  
Website: [www.arts.gov/about/oig/fraud.html](http://www.arts.gov/about/oig/fraud.html)

You may also visit or write us at the National Endowment for the Arts, Office of Inspector General, Room 601, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

When contacting NEA OIG, it will help if you have answers to the following questions:

- Who are the parties involved (names, addresses and phone numbers if possible);
- What is the suspected activity (specific facts of the wrongdoing);
- When and where did the wrongdoing occur;
- How did you learn about the activity (from a third party, actual observation, conclusion drawn from observing or performing different activities, etc.); and
- Where can you be contacted or when will you contact us again.

The OIG will not disclose the identity of a complainant or informant without consent, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation. You may remain anonymous, if you choose. Federal employees are protected against reprisal for disclosing information to the Inspector General unless such disclosure was knowingly false.

