

SEMIANNUAL REPORT TO THE CONGRESS

APRIL 1, 2008 – SEPTEMBER 30, 2008

OFFICE OF INSPECTOR GENERAL

NATIONAL ENDOWMENT FOR THE ARTS

October 31, 2008

MEMORANDUM

TO: Dana Gioia
Chairman

FROM: Daniel L. Shaw
Inspector General

SUBJECT: **Semiannual Report to the Congress: April 1, 2008 – September 30, 2008**

The Inspector General Act of 1978 (Public Law 95-452), as amended, 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 from April 1, 2008 to September 30, 2008.

The Inspector General's report is intended to cover audits, evaluations, investigations and other reviews conducted by the OIG as well as our review of the OMB Circular A-133 audits conducted by independent auditors. The report also indicates the status of management decisions whether to implement or not to implement recommendations made by the OIG. The President's Council on Integrity and Efficiency developed the reporting formats for Tables I and II to ensure consistent presentation by the Federal agencies. The tables provide only summary totals and do not include a breakdown by auditee.

The 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 November 30, 2008.

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.

TABLE OF CONTENTS

	<u>PAGE</u>
NATIONAL ENDOWMENT FOR THE ARTS	1
OFFICE OF INSPECTOR GENERAL	1
SUMMARY OF WORK COMPLETED BY THE OIG	2
Audits/Reviews	2
Audit Resolution	2
Investigations	2
Indirect Cost Rate Negotiations	2
Review of Legislation, Rules, Regulations and Other Issuances	3
Technical Assistance	3
Web Site	3
Other Activities	3
Strategic Plan & Five Year Audit Plan	3
SECTIONS OF REPORT	4
<u>SECTION 1</u> - Significant Problems, Abuses and Deficiencies	4
<u>SECTION 2</u> - Recommendations for Corrective Action	4
<u>SECTION 3</u> - Recommendations in Previous Reports on Which Corrective Action Has Not Been Implemented	4
<u>SECTION 4</u> - Matters Referred to Prosecuting Authorities	4
<u>SECTION 5</u> - Denials of Access to Records	4
<u>SECTION 6</u> - Listing of Reports Issued	5
<u>SECTION 7</u> - Listing of Particularly Significant Reports	6
<u>SECTION 8</u> - Statistical Tables Showing Total Number of Audit Reports and the Dollar Value of Questioned Costs	6
<u>SECTION 9</u> - Statistical Tables Showing Total Number of Audit Reports and the Dollar Value of Recommendations that Funds be Put to Better Use by Management	6
<u>SECTION 10</u> - 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	6

TABLE OF CONTENTS

	<u>PAGE</u>
<u>SECTION 11</u> - Significant Revised Management Decisions Made During the Period	7
<u>SECTION 12</u> - Significant Management Decisions With Which the Inspector General Disagrees	7
TABLE I - Inspector General Issued Reports With Questioned Costs	8
TABLE II - Inspector General Issued Reports With Recommendations That Funds Be Put To Better Use	9
Definitions of Terms Used	Appendix A

NATIONAL ENDOWMENT FOR THE ARTS

Founded in 1965, the National Endowment for the Arts (NEA) has offered assistance to a wide range of non-profit organizations and individuals that carry out arts programming. The NEA supports exemplary projects in the artistic disciplines. Grants are awarded for specific projects rather than for general operating or seasonal support. Most NEA grants must be matched dollar for dollar with non-federal funds. During FY 2008, NEA received an appropriation of \$144.7 million. For FY 2009, the NEA is currently operating under a continuing resolution applying FY 2008 appropriation levels.

OFFICE OF INSPECTOR GENERAL

The Inspector General Act Amendments of 1988, Public Law 100-504, amended the Inspector General Act of 1978, Public Law 95-452, and required the establishment of independent Offices of Inspector General (OIG) at several designated Federal entities and establishments, including the National Endowment for the Arts. The Inspector General is appointed by and serves under the general supervision of the NEA's Chairman. The mission of the OIG is to:

- Conduct and supervise independent and objective audits and investigations relating to NEA programs and operations;
- Promote economy, effectiveness, and efficiency within the 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, which is subsequent to this semiannual report period, the President signed the Inspector General Reform Act of 2008, Public Law 110-409. The Act amends the previous IG Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

This semiannual report summarizes the OIG's major activities, initiatives, and results for the six-month period ending September 30, 2008. For part of this period, the OIG consisted of four auditors, however, one auditor retired in July. There is no investigator on the staff. In order to provide a reactive investigative capability, we have a Memorandum of Understanding with the Inspector General of the General Services Administration (GSA) whereby the GSA's OIG agrees to provide investigative coverage for us on a reimbursable basis as needed. (No investigative coverage from GSA was needed during the recent six-month period.) We also have a Memorandum of Understanding with the NEA's Office of General Counsel (OGC) that details procedures to be used for providing the OIG with legal services. An OGC staff member has been assigned to provide such services on an as-needed basis.

SUMMARY OF WORK COMPLETED BY THE OIG

During the six-month period ending September 30, 2008, the OIG conducted the following audits, evaluations, reviews, investigations, and other activities.

Audits/Reviews

During the recent semiannual period, the OIG issued 36 reports. The reports were based on audits/evaluations performed by OIG personnel. Overall, our reports contained 50 recommendations, all of which were related to systems deficiencies or questioned costs at grantee organizations.

Audit Resolution

At the beginning of the six-month period, there were four reports awaiting a management decision to allow or disallow questioned costs of \$3,994,392 and potential refunds of \$1,831,078. During the period, one of the newly issued reports identified questioned costs totaling \$67,228 and potential refunds totaling \$2,479.

One management decision was made on the five open reports to allow questioned costs of \$25,041, which eliminated a potential refund of \$10,185. Therefore, at the end of the period, four reports remained outstanding with questioned costs of \$4,036,579 and potential refunds of \$1,823,372. (See Table I.)

Investigations

The OIG did not open any new allegation cases during the recent six-month period. The one open case prior to start the period remains open at the end of the period. No criminal investigations were performed during the period.

Indirect Cost Rate Negotiations

Indirect costs are incurred for common or joint objectives, which cannot be readily and specifically identified with a particular project or activity. The costs of operating and maintaining facilities, depreciation or use allowances, and administrative salaries and supplies are typical examples of costs that nonprofit organizations usually consider to be indirect.

Indirect cost rates are negotiated by agreement between a non-Federal organization and a Federal agency (usually the agency that furnishes the preponderance of Federal funding) that acts on behalf of all Federal agencies in approving rates with the organization. During this period, the OIG negotiated five indirect cost rate agreements with NEA grantee organizations.

The OIG also makes use of an Indirect Cost Guide. The Guide answers such questions as: What are direct or indirect costs, what is an indirect cost rate, and does an entity need an indirect cost rate? A copy of the Guide can be found on NEA's web site at www.arts.gov/about/OIG/IndirectCost.html.

Review of Legislation, Rules, Regulations and Other Issuances

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

Technical Assistance

The 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*," explaining alternative methods of accounting for indirect costs, 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.

The OIG also assisted Agency staff with technical issues related to auditing, accounting, and audit followup.

Web Site

The OIG maintains an ongoing Internet presence (www.arts.gov/about/OIG/Contents.html) to assist and inform NEA grantees and Agency employees. The site includes the *Inspectors General Vision Statement*, our two *Financial Management Guides*, our *Indirect Cost Guide*, past *Semiannual Reports to the Congress*, the *OIG Strategic Plan*, contact information about OIG staff, how to report wrongful acts, information about alternative methods of funding, and answers to frequently asked questions.

Other Activities

During this period, the OIG took part in the activities of the Executive Council on Integrity and Efficiency (ECIE), and allocated resources for responding to information requests from and for the Congress and other agencies. The OIG also provided oversight of the Agency's independent auditors as they started the Agency's sixth annual financial statement audit for the fiscal year ending September 30, 2008.

Strategic Plan & Five-Year Audit Plan

We have issued our Strategic Plan & Five-Year Audit Plan for the Years 2009 – 2013. The planning methodology that we have adopted is built around the concepts of issues and issue areas. The issue areas are broad categories of prime importance: they highlight the priorities of our customers - Agency management, the Congress and the American people. The individual issues, expressed as questions, represent an assessment of the most significant concerns facing the NEA. The methodology also includes the formulation of annual audit work plans.

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 Act. Table I shows Inspector General issued reports with questioned costs and Table II also 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

Audits, evaluations and other reviews conducted by 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:

- Reported grant project costs did not agree with the accounting records, i.e., financial status reports were not prepared directly from the general ledger or subsidiary ledgers or from worksheets reconciled to the accounts;
- Personnel costs charged to grant projects were not supported by adequate documentation, i.e., personnel activity reports were not maintained to support allocations of personnel costs to NEA projects;
- The amount allocated to grant projects for common (indirect) costs which benefited all projects and activities of the organization was not supported by adequate documentation; and
- Grantees needed to improve internal controls, such as ensuring a proper separation of duties to safeguard resources and including procedures for comparing actual costs with the budget.

SECTION 2 – Recommendations for Corrective Action

To assist grantees in correcting or avoiding the deficiencies identified in Section 1, the 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/Contents.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

No matters were referred to prosecuting authorities during this reporting period.

SECTION 5 – Denials of Access to Records

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

SECTION 6 – Listing of Reports Issued

<u>REPORT NUMBER</u>	<u>TITLE</u>	<u>DATE OF REPORT</u>
---------------------------------	---------------------	----------------------------------

Financial Management System & Compliance Evaluation

SCE-08-12	Tucson Pima Arts Council	04/01/08
SCE-08-13	Association of Writers & Writing Programs	04/17/08
SCE-08-14	Sarabande Books, Inc.....	05/05/08
SCE-08-15	Actors Theatre of Louisville.....	05/05/08
SCE-08-16	The Speed Art Museum	05/05/08
SCE-08-17	Allied Arts of Greater Chattanooga	05/05/08
SCE-08-18	Greater Washington Educational Telecommunications Association, Inc.	05/06/08
SCE-08-19	Nashville Ballet.....	05/06/08
SCE-08-20	Nashville Symphony Association.....	05/06/08
SCE-08-21	Kentucky Center for the Arts Corporation	05/08/08
SCE-08-22	Arts Center of Cannon County, TN.	05/08/08
SCE-08-23	Louisville Orchestra, Inc.....	05/13/08
SCE-08-24	Magical Experiences Arts Company	05/19/08
SCE-08-25	Rutgers University.....	05/19/08
SCE-08-26	McCarter Theatre Company.....	05/28/08
SCE-08-27	Princeton Ballet Society	05/29/08
SCE-08-28	Columbia Center for Theatrical Arts, Inc.....	06/03/08
SCE-08-29	McColl Center for Visual Art	06/25/08
SCE-08-30	Opera Carolina	06/26/08
SCE-08-31	The Light Factory	06/27/08
SCE-08-32	Institute for Arts and Humanities Education.....	07/11/08
SCE-08-33	Charlotte Symphony Orchestra Society	07/14/08
SCE-08-34	National Poetry Series, Inc.	07/18/08
SCE-08-35	Young Audiences of New Jersey, Inc.	07/23/08
SCE-08-36	Allegro Foundation	08/05/08
SCE-08-37	Cornerstones Community Partnerships.....	08/08/08
SCE-08-38	City of Santa Fe Arts Commission	08/15/08
SCE-08-39	National Dance Institute of New Mexico	09/03/08
SCE-08-40	Santa Fe Music Festival	09/04/08
SCE-08-41	Santa Fe Opera.....	09/08/08
SCE-08-42	Milwaukee Repertory Theater, Inc.	09/08/08
SCE-08-43	Milwaukee Symphony Orchestra	09/09/08
SCE-08-44	Sheboygan Arts Foundation, Inc.....	09/10/08
SCE-08-45	First Stage Milwaukee, Inc.	09/12/08
SCE-08-46	Working Classroom, Inc.....	09/30/08

Oversight Audit Agency Review Reports

OAA-08-01	Mid-America Arts Alliance.....	07/23/08
-----------	--------------------------------	----------

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 and the Dollar Value of Questioned Costs

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

SECTION 9 – Statistical Tables Showing Total Number of Audit 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 with recommendations that funds be put to better use by management.

SECTION 10 – 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**1. LS-07-01 – New York Foundation for the Arts – Issued 12/6/06****Recommendations**

Grantee should provide appropriate expenditure documentation for each grant listed in the report or refund the appropriate NEA share of that grant plus any applicable interest.

Grantee should provide information to support the questioned costs up to the amount required to satisfy the NEA share and the matching share for Grant Numbers 99-3400-5056 and 03-7000-9050.

Reason No Management Decision Was Made

Under the first recommendation the grantee provided testimonial evidence and other documentation that it believed would support the costs questioned. Based on the information reviewed, NEA determined that there were sufficient, appropriate and reasonable costs in relation to project accomplishments to satisfy the matching requirements of all but one of the grants listed in Appendix 1. As such, the grantee was asked to repay \$16,630 under the grant. The \$16,630 was received on 10/1/08.

Grantee provided testimonial evidence and other documentation that it believed would support the costs questioned under the two grants. Based on the information reviewed, we determined that there were sufficient, appropriate and reasonable costs in relation to project accomplishments to satisfy the matching requirements under Grant Number 03-7000-9050. However, additional supporting information was requested for Grant Number 99-3400-5056. Grantee anticipates that supporting documentation will be provided to the NEA by 12/1/08. A management decision should be finalized by 3/31/09.

2. LS-08-01 – Film Arts Foundation – Issued 11/1/07**Recommendation**

Grantee should provide appropriate expenditure documentation for each grant listed in Appendix 1 or refund the appropriate NEA share of that grant plus any applicable interest.

Grantee should provide information on whether any of the sponsorees associated with the grants listed in the report qualify as those which can be represented by fiscal agent per NEA Application Guidelines or refund the appropriate NEA share of that grant plus any applicable interest.

Reason No Management Decision Was Made

Grantee has provided documentation for expenditures under some of the grants but has requested additional time to gather remaining documentation. Grantee also requested additional time to gather information from numerous sponsorees as to whether they qualify to be represented by the grantee as a fiscal sponsor. Grantee has started submitting some of the information and we will process it as it is received. A management decision should be finalized by 3/31/09.

3. SCE-08-03 – Music-Theatre Group – Issued 11/21/07

Recommendation

Grantee should provide information to support the questioned salary and overhead costs of \$64,304 claimed under Grant No. 03-2800-5011. If the documentation submitted is not deemed satisfactory, a refund of up to \$18,626 may be required.

Reason No Management Decision Was Made

Grantee's response included information that it believes supports the questioned costs. The information will be reviewed shortly and a management decision should be made by 12/31/08.

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>NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>	<u>POTENTIAL REFUNDS¹</u>
A. For which no management decision has been made by the commencement of the reporting period	<u>4</u>	<u>3,994,392</u>	<u>(3,994,392)</u>	<u>1,831,078</u>
B. Which were issued during the reporting period	<u>1</u>	<u>67,228</u>	<u>(67,228)</u>	<u>2,479</u>
Subtotals (A + B)	<u>5</u>	<u>4,061,620</u>	<u>(4,061,620)</u>	<u>1,833,557</u>
C. For which a management decision was made during the reporting period	<u>1</u>	<u>25,041</u>	<u>(25,041)</u>	<u>10,185</u>
(i) Dollar value of disallowed costs	<u>0</u>	<u>0</u>	<u>(0)</u>	<u>0</u>
(ii) Dollar value of costs not disallowed	<u>1</u>	<u>25,041</u>	<u>(25,041)</u>	<u>10,185</u>
D. For which no management decision has been made by the end of the reporting period	<u>4</u>	<u>4,036,579</u>	<u>(4,036,579)</u>	<u>1,823,372</u>
Reports for which no management decision was made within six months of issuance	<u>3</u>	<u>3,969,351</u>	<u>(3,969,351)</u>	<u>1,820,893</u>

^{1/} The potential refund amount usually will not equal the questioned costs 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 followup process, which includes examination of documentation submitted by the grantee.

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:

Questioned Cost	A cost that the Office of Inspector General (OIG) questioned because of alleged violation with a provision of a law, regulation, contract, or 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.
Unsupported Cost	A cost which the OIG questioned because the cost was not supported by adequate documentation at the time of the audit.
Disallowed Cost	A questioned cost that management has sustained or agreed should not be charged to the NEA grant or cooperative agreement.
Funds Be Put To Better Use	A recommendation made by the OIG that funds could be used more efficiently if management took actions to implement and complete the recommendation.
Management Decision	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.
Final Action	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 the OIG immediately. A complaint/referral may be made by visiting the OIG office, calling the OIG at 202-682-5402, emailing at oig@arts.endow.gov or writing to the Office of Inspector General, Room 601, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

When contacting the 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.