



NATIONAL ENDOWMENT FOR THE ARTS
OFFICE OF INSPECTOR GENERAL

DISPOSITION/CLOSEOUT MEMORANDUM

REFERENCE NUMBER: R-13-04

DATE: 6/05/2013

As a result of compliance deficiencies and potential mismanagement of Federal funds, we conducted an audit of a NEA grant recipient. The audit revealed that the organization materially failed to comply with the grant terms and conditions and could not demonstrate the ability to adequately manage Federal awards.

Therefore, we recommended NEA take action to protect its interests. NEA agreed to do so, and debarred the grantee organization for 3 years.

Accordingly, the report is *closed*. This memorandum, the Debarring Official's adjudication, and our debarment and audit reports constitute the closeout of this report.

CONFIDENTIAL

CONFIDENTIAL

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



Confidential

Recommendation for Debarment Actions

Report No. R-13-04

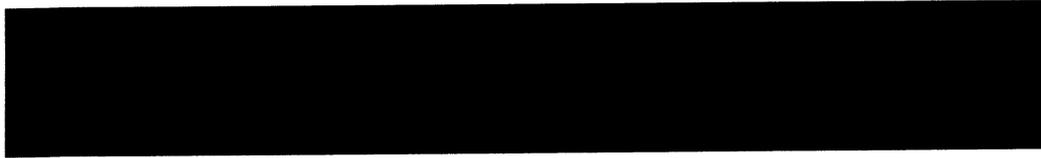
February 21, 2013

This Confidential Recommendation for Debarment Actions is the property of the NEA OIG and may be disclosed outside NEA only by OIG under the Freedom of Information and Privacy Acts, 5 U.S.C. §552, 552a.

SUMMARY

Music-Theatre Group (MTG) has received 43 grants from National Endowment for the Arts (NEA) since 1986 totaling \$1,451,400. MTG has also received grant funds through New York State Council on the Arts (NYSCA).

Since NEA Office of Inspector General's (OIG) May 2012 recommendation to NEA that MTG be ineligible to receive payments or awards, MTG continues to be non-compliant with its [REDACTED] agreement and NEA's *General Terms and Conditions*. As a result, we recommend that NEA debar MTG from receiving Federal funds government-wide for a period of five years.¹ We also recommend NEA terminate all current funding to MTG, including any suspended awards.



OIG ASSESSMENT

Grounds for Debarment

NEA has the authority to debar an individual or organization¹ who "commits a violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program..." Such a violation occurs when the individual commits a "willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction..."⁴ Furthermore, NEA has the authority to debar an individual for other causes, including when a cause is "of so serious or compelling a nature that it affects [the subject of the debarment action's] present responsibility."⁵

Burden of Proof

In debarment actions, the burden of proof lies with the Federal agency (NEA) to demonstrate that a cause for debarment exists.⁶ The cause for this proposed debarment must be established by a preponderance of evidence.⁷ We believe our recommendation for debarment is supported by the preponderance of evidence detailed below.

On November 21, 2007, NEA OIG issued *Financial Management System and Compliance Evaluation of Music-Theatre Group, Report No. SCE-08-03*. The results of that evaluation revealed that MTG [REDACTED] was non-compliant with the Challenge Grant requirements for the Cash Reserve Fund, and did not have a documented

¹ 2 CFR § 180.800(b)(1)(2)(3) & (c)3

² [REDACTED]

² 2 CFR § 180.985

⁴ 2 CFR § 180.800(b)(1) & c(3)

⁵ 2 CFR § 180.800(d)

⁶ 2 CFR § 180.855(a)

⁷ 2 CFR § 180.850(a)

overhead allocation method, accounting manual, or a Section 504 self-evaluation.

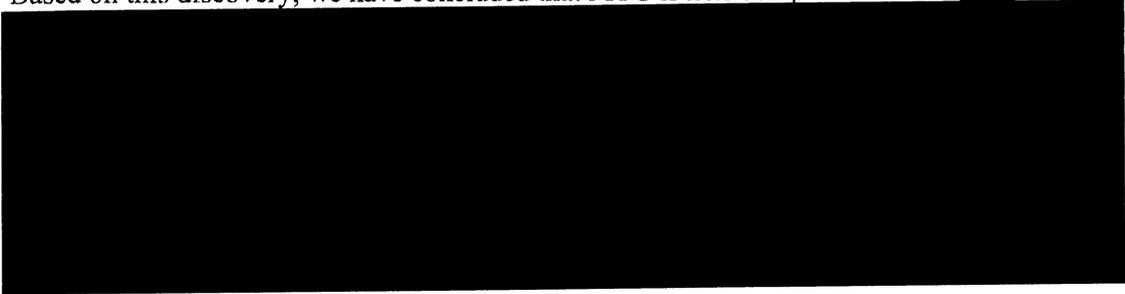
As a result of the evaluation, NEA deemed MTG ineligible for any future awards and payments were stopped until an agreement for repayment was reached [REDACTED] and documentation of payments was provided. MTG was also required to develop a workable plan to come into full compliance with the Challenge Grant requirements for the Cash Reserve Fund of \$135,000 with a 3:1 match, totaling \$540,000.

In March 2010, MTG submitted a workable plan for the repayment of the Cash Reserve Fund, its repayment agreement [REDACTED] and evidence of payments made. MTG agreed to repay the Cash Reserve Fund after its obligation [REDACTED] had been met.

In April 2010, NEA reinstated MTG's eligibility status with the requirement that any changes to the [REDACTED] agreement (e.g., nonpayment, change in terms) or its plan to comply with the Challenge Grant's Cash Reserve Fund requirements be reported to the NEA OIG.

On May 2, 2012, we contacted MTG to request evidence of payments made [REDACTED]. MTG [REDACTED] informed us that in January 2011, MTG requested [REDACTED] to lower the agreed-upon payments. [REDACTED] also informed us that [REDACTED] officials instructed [REDACTED] to discontinue payments until they responded to the request. According to MTG's documentation, the last payment [REDACTED] was dated February 17, 2011. Contrary to the requirement imposed when MTG's eligibility status was reinstated, MTG failed to notify NEA OIG of the request or nonpayment [REDACTED] agreement. We requested supporting documentation [REDACTED], however, as of the date of this report, MTG has not provided adequate documentation.

Based on this discovery, we have concluded that MTG is non-compliant with the [REDACTED]



On May 29, 2012, as a result of MTG's non-compliance with the reinstatement requirements and conditions, NEA deemed MTG ineligible to receive any payments or new awards. NEA OIG scheduled a limited scope audit for MTG on June 20, 2012.

During the planning stage of the audit, we discovered that MTG was delinquent on a NEA payment of \$6,000 for Grant Number 07-2800-7035, which was due December 31, 2011. MTG was placed on a working capital advancement method of funding, which allowed 20% (\$6,000 of the \$30,000 award) to be drawn down without supporting documentation. However, no other requests for funds could be approved without the supporting documentation for the 20%. MTG provided documentation for costs that were outside the award period, therefore, the costs were not accepted. NEA's Grant and Contract Office recommended that if no activity had taken place that MTG

return the \$6,000 and the grant would be closed with no penalty to MTG. [REDACTED] agreed in an e-mail correspondence dated July 27, 2011, which stated "the best course of action for us [MTG] is to request that the grant be withdrawn and for us [MTG] to return the \$6,000 by the end of the calendar year, December 31, 2011." To date, MTG has not repaid the \$6,000.

MTG was awarded a \$20,000 grant to support the development and workshop performances of "Winter's Journey". MTG has not been allowed to draw down any funds on Grant No. 11-2800-7024 because of the outstanding balance of \$6,000 on Grant No. 07-2800-7035. We recommend NEA terminate all current funding to MTG, including any suspended awards.

During our site visit, we were informed that MTG had not received a response [REDACTED] since its request for a reduction in payment made by phone on January 8, 2011. We were also informed that MTG had not made any other attempts to contact [REDACTED].

During our review of MTG's Board Minutes and the New York State Council on the Arts' (NYSCA) website, we discovered that although MTG was ineligible to apply for or receive NEA awards or funds, MTG applied for and received grant funds from NYSCA. NYSCA receives funds from NEA, in which, NYSCA disperse the funds into the arts community. MTG has received a total of \$470,889 from NYSCA since fiscal year 2000.

Mid Atlantic Arts Foundation (MAAF) a regional arts organization, which serves the State of New York, also disburses NEA funds throughout the arts community. We are not aware of any funds MAAF has awarded to MTG [REDACTED]; however, we believe that NEA should notify MAAF to prevent any Federal funds being awarded to MTG [REDACTED]. We recommend that NEA notify NYSCA and Mid Atlantic Arts Foundation of MTG [REDACTED] ineligibility status.

We recommend that NEA implement written policies to ensure that any regranting organizations are notified when NEA has deemed a grantee ineligible to apply for or receive funds or awards. We also recommend NEA implement written policies to ensure that any regranting organizations are notified when a grantee is suspended or debarred government-wide from receiving Federal funds.

We identified additional significant concerns that also demonstrate that MTG is not presently responsible to receive Federal funds, which include: inadequate documentation of grant related costs, costs incurred outside the grant period and unallowable costs. MTG also did not have a documented allocation method, policies in place to prevent payments to debarred or suspended contractors/recipients, a Section 504 self-evaluation on file or a formal manual/handbook for the management of Federal awards.

- [REDACTED]
- Repay NEA \$6,000 for grant number 07-2800-7035 by December 31, 2011, and as of today, has not submitted a payment nor contacted NEA.
 - Implement corrective actions to address deficiencies identified during the OIG's

2007 evaluation. Some of the same deficiencies remained during the 2012 audit.

- NEA's eligibility reinstatement requirements and conditions. In 2011, [REDACTED] requested a reduction in payment and stopped making payments [REDACTED] without notifying NEA OIG, as agreed.

Based on the above deficiencies, we believe MTG [REDACTED] have materially failed to comply with the grant terms and conditions and have not demonstrated the ability to adequately manage Federal awards. Therefore, we recommend that NEA, in accordance with 2 C.F.R. Part 180, debar MTG [REDACTED] from receiving Federal funds, government-wide, for a period of five years. [REDACTED]

Section 180.800 outlines causes of action for nonprocurement debarment, which states in part, that a Federal agency may debar a person or organization for:

- (b) (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions; and,

[REDACTED]

RECOMMENDATIONS

We recommend that NEA:

1. Send a notice of proposed debarment to MTG [REDACTED].
2. Debar MTG from receiving Federal funds government-wide for a period of five years.
3. [REDACTED]
4. Terminate all current funding to MTG, including any suspended awards.
5. Notify NYSCA and Mid Atlantic Arts Foundation of MTG [REDACTED] ineligibility status.
6. Implement written policies to ensure that any regranting organizations are notified when NEA has deemed a grantee ineligible to apply for or receive NEA funds or awards.
7. Implement written policies to ensure that any regranting organizations are notified when a grantee is suspended or debarred government-wide from receiving Federal funds.

Please provide a written response to the recommendations by March 15, 2013. Your

response should include information on *actions taken or planned*, including *target dates* and *titles of officials responsible* for implementation for each of the seven recommendations.

ATTACHMENTS

1. Financial Management System and Compliance Evaluation of the Music-Theatre Group, Report No. SCE-08-03
2. Limited Scope Audit Report on Selected NEA Grants to Music-Theatre Group, Report No. LS-13-02



OFFICE OF INSPECTOR GENERAL

LIMITED SCOPE AUDIT REPORT

**ON SELECTED
NEA GRANTS TO**

Music-Theatre Group
New York, NY

REPORT NO. LS-13-02

Rev. 1

March 1, 2013

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

Music-Theatre Group (MTG), located in New York City, was founded in 1970 to nurture, develop, and produce the works of emerging, mid-career, and established artists in order to take productions to diverse communities. It centers its production activities on the following: 1) to recognize and support artists of considerable gifts at any stage in their development, 2) to support long-term commitments to collaboration, and 3) to produce and promote these artists' music-theatre works.

OBJECTIVE AND SCOPE

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 Federal requirements. The objectives of this limited scope audit by the National Endowment for the Arts (NEA) Office of Inspector of General (OIG) were to determine whether the:

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

Our audit was conducted in accordance with the *Government Auditing Standards* (2011), issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We evaluated the recipient's compliance with the U.S. Office of Management and Budget (OMB) and NEA guidance.

Since 1986, NEA has awarded MTG 43 grants totaling \$1,451,400. For the scope of this audit, we reviewed four grants totaling \$240,000.

PRIOR AUDIT COVERAGE

NEA OIG conducted an evaluation and issued a Financial Management System and Compliance Evaluation report on Federal grants awarded to the Music-Theatre Group (Report No. SCE-08-03, dated November 21, 2007). The evaluation concluded that MTG did not comply with OMB requirements or NEA *General Terms and Conditions*. The evaluation found that MTG [REDACTED] [REDACTED] was not compliant with the terms and conditions of the Challenge Grant's permanent Cash Reserve Fund requirements, did not have an allocation method, did not have an accounting manual and did not have a Section 504 self-evaluation on file.

As of our site visit on June 20, 2012, the most recently issued independent auditor's report on MTG was for the year ended June 30, 2008. The audit was conducted by Bloom and Streit, LLP, an independent CPA firm, which issued an unqualified (clean) opinion. MTG did not provide an audit report for 2009. However, MTG provided review reports for fiscal years 2010 and 2011, which were substantially less in scope than an audit. During the 2010 and 2011 reviews, the auditors applied analytical procedures to management's financial data and made inquiries of MTG's management. The auditors determined that based on their reviews, there were no material misstatements. MTG was not subject to the audit requirements of OMB Circular A-133.

RESULTS OF AUDIT

Our audit concluded that MTG did not have an adequate financial management system in place to manage Federal awards. Specifically, we found that MTG did not:

-
- Comply with the Challenge Grant - Cash Reserve requirement.
 - Comply with Office of Management and Budget (OMB) guidance for reporting accurate, allowable, and allocable costs.
 - Maintain appropriate supporting documentation.
 - Maintain policies and procedures for debarment and suspension.
 - Maintain a Section 504 self-evaluation.
 - Maintain adequate policies and procedures for the management of Federal awards.

FINANCIAL MANAGEMENT

Grant No. 86-4621-0056

In 1986, MTG was awarded a Challenge Grant in the amount of \$150,000, which included \$15,000 to assist in eliminating notes payable and \$135,000 to establish a permanent cash reserve fund, both of which had matching requirements as detailed below.

Purpose	Federal Funds	Matching Funds	Total
Establish a Cash Reserve	\$135,000	\$405,000	\$540,000
Eliminate Notes Payable	15,000	45,000	60,000
Total	\$150,000	\$450,000	\$600,000

The cash reserve was to remain permanent, and funds could be borrowed if repaid within a two-year period from the date of borrowing. The repayment was to be made according to a payment schedule developed and adhered to by the grantee. In addition, the cash reserve was to be reported separately in the grantee's audited financial statements. On September 28, 1992, MTG submitted its final report to NEA, certifying that the notes payable and matching requirement had

been met. On August 30, 1993, MTG submitted documentation to support the establishment of its permanent cash reserve.

In November 2007, NEA OIG conducted a Financial Management System and Compliance Evaluation, Report No. SCE-08-03. During the evaluation, we discovered that MTG had outstanding [REDACTED] debt and had borrowed the entire required cash reserve of \$540,000. The report stated that "MTG indicated that it has not paid back any borrowings to the Fund since the early 1990's." NEA deemed MTG ineligible to receive any payments or new awards until an agreement was reached [REDACTED] and evidence of payments [REDACTED] were provided. MTG was also required to submit a workable plan for the repayment of the Cash Reserve Fund. If reinstated, MTG was to be placed on the Working Capital Advance Method of Funding (WCA). WCA allows the grantee to draw down 20% of the grant funds without documentation; however, the grantee is required to submit supporting documentation for all of the costs before any additional grant funds can be drawn down.

In March 2010, MTG submitted a workable plan for the repayment of the Cash Reserve Fund, its repayment agreement [REDACTED] and evidence of payments made. MTG agreed to repay the Cash Reserve Fund after its obligation [REDACTED] had been met.

In April 2010, MTG's eligibility status was reinstated with the requirement that any changes to the [REDACTED] agreement (e.g., nonpayment, change in terms) or its plan to comply with the Challenge Grant's Cash Reserve Fund requirements be reported to the NEA OIG.

On May 2, 2012, we contacted MTG to request evidence of payments made [REDACTED]. MTG's Producing Director informed us that in January 2011, MTG requested [REDACTED] to lower the agreed-upon payments. She also informed us that [REDACTED] instructed her to discontinue payments until [REDACTED] responded to the request. According to MTG's documentation, the last payment [REDACTED] was dated February 17, 2011. (NEA OIG had not been notified of the request or nonpayment.) We requested documentation to support MTG's request [REDACTED], however, as of the date of this report, MTG has not provided adequate documentation.

On May 29, 2012, as a result of MTG's noncompliance with the reinstatement requirements and conditions, NEA deemed MTG ineligible to receive any payments or new awards.

During our site visit, we were informed that MTG had not received a response [REDACTED] since its request for a reduction in payment made by phone January 8, 2011. We were also informed that MTG had not made any other attempts to contact [REDACTED].

NEA *General Terms* states:

You may not be delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll or other taxes, audit disallowances, and benefits that were overpaid (OMB Circular A-129). Should you become delinquent during your project period, you must notify us immediately. We cannot release your award funds until a repayment plan has been accepted by the Internal Revenue Service.

We recommend that MTG repay NEA \$135,000 for Challenge Grant No. 86-4621-0056, plus any applicable penalties and interest. (See Attachment A)

We also recommend that MTG provide NEA with an approved [REDACTED] Agreement and evidence of payments for at least one year, made in accordance with the agreement.

Grant No. 07-2800-7035

MTG was awarded a \$30,000 grant to support the production of "Golden Motors." As a result of being on the WCA, MTG was allowed to drawn down 20% of the grant award without documentation. MTG provided documentation for the initial advance of \$6,000. However, NEA disallowed the costs because the costs were outside of the grant period. An e-mail correspondence from MTG to the NEA Grants and Contracts Office, dated July 27, 2011, stated that "the best course of action for us (MTG) is to request that the grant be withdrawn and for us (MTG) to return the \$6,000 by the end of the calendar year, December 31, 2011." NEA agreed to MTG's request to "close-out" the grant with the repayment of \$6,000 and de-obligated the remaining \$24,000. As of June 20, 2012, MTG had not submitted a payment nor communicated with NEA about the return of the \$6,000.

We recommend that MTG repay NEA \$6,000 for Grant Number 07-2800-7035. (See Attachment A)

Grant No. 08-2800-7028

MTG was awarded a \$40,000 grant to support the world premiere of the contemporary staged oratorio, "Arjuna's Dilemma." MTG reported \$404,832 in total outlays on their final financial report. During our site visit, MTG provided us with an expenditure listing in the amount of \$400,282. However, MTG could not provide adequate documentation to support the expenditure listing. Although we could not perform transaction testing, our review of this expenditure listing concluded that MTG did not adequately record transactions in its financial system, or report accurate, actual and allowable costs on its final reports.

Costs Outside the Grant Period

MTG reported costs incurred outside the grant period on its final financial report. The expenditure listing provided included costs incurred prior to the start of grant award period. For example, the award period begin June 1, 2008; however, MTG included costs incurred in April 2008. NEA *General Terms* states, in part, that "all costs must be incurred within the approved period of support."

Unallowable Costs

The expenditure listing included costs, such as babysitting, childcare, and cleaning services for a sublet, which are unallowable under OMB Circular A-122, *Cost Principles for Non-Profit Organizations*.

Inadequate Documentation

We could not reconcile the supporting documentation to the expenditure listing, therefore, we are questioning the total outlays reported on the final financial report in the amount of \$404,832.

NEA *General Terms and Conditions* states:

You must maintain financial records, supporting documents (such as cancelled checks, invoices, contracts, travel reports, donor letters, in-kind contribution reports, and personnel activity reports), statistical records, and all other records pertinent to an award consistent with the provisions outlined in OMB Circular A-110, Section 53, or the "Common Rule" Section 1157.42, as applicable. Generally, the retention period is three years from the date the final Financial Status Report is filed.

Although we could not test the total outlays reported in the amount of \$404,832, we were able to test the WCA documentation MTG provided NEA Grants and Contracts Office to support its final request for payment with reported total outlays in the amount of \$80,135. The NEA Grants and Contracts Office accepted all of the costs submitted; however, during our testing we identified a questionable cost.

We found a \$2,000 transaction supported by a contract which was not executed. If MTG does not provide adequate documentation to support this cost, a potential refund of \$932.50 may be due to NEA.

\$80,135.00	Alternative Method of Funding Documentation
<u>(2,000.00)</u>	Questioned Cost for the contract
\$78,135.00	Allowable Costs
\$80,000.00	Minimum Amount required to meet the match
<u>(78,135.00)</u>	Allowable Costs
\$ 1,865.00	Amount needed to meet the match
<u>\$ 932.50</u>	Potential refund due to NEA

We recommend that MTG submit additional documentation to support the \$2,000 transaction including a copy of the executed contract. Without additional supporting documentation, MTG may owe a potential refund of \$932.50. (See Attachment A)

We recommend that MTG develop written policies and implement procedures to ensure that only accurate, actual and allowable costs, within the award period, are reported on the final financial reports. We also recommend that MTG develop written policies and implement procedures to ensure that adequate documentation is maintained.

Grant No. 11-2800-7024

MTG was awarded a \$20,000 grant to support the development and workshop performances of "Winter's Journey". MTG has not been allowed to draw down any funds on Grant No. 11-2800-7024 because of the outstanding balance of \$6,000 on Grant No. 07-2800-7035.

During our site visit, MTG did not provide any documentation for costs incurred for Grant No. 11-2800-7024 as requested.

Subsequent to the audit, we again requested documentation of costs for Grant No. 11-2800-7024. On September 12, 2012, MTG provided a spreadsheet with costs totaling \$9,923. To support the incurred costs, we requested a detailed expenditure listing from MTG's financial management system. On September 28, 2012, MTG submitted another expenditure listing in the amount of \$10,272.74; however, it was not a detailed expenditure listing as requested. We deemed both expenditure listings inadequate to support any costs incurred.

2 CFR Subpart C, §215.61 (a) (1) states:

Awards may be terminated in whole or in part only by the Federal awarding agency, if a recipient materially fails to comply with the terms and conditions of an award.

We recommend that NEA terminate Grant No. 11-2800-7024 and process an Administrative Withdrawal with no penalty to MTG.

INTERNAL CONTROLS

We identified internal control weaknesses regarding allocation methodology, policies for grant management, debarment and suspension, and training.

Allocation Methodology

MTG could not provide written procedures for the methodology used to allocate costs to the NEA awards. According to 2 CFR, Subpart C, §215.21(b) (6), recipients of Federal awards should have:

Written procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

We recommend that MTG develop written policies and implement procedures to ensure the methodology for the allocation of costs charged to Federal awards is documented.

Debarment and Suspension

MTG did not have policies and procedures in place to ensure that contractors or recipients were not debarred or suspended from receiving Federal funds prior to the payment or award of Federal funds.

NEA *General Terms* states:

You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by the Arts Endowment in Title 2 CFR, Chapter 32, Part 3254.

2 CFR Part 180, *OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)*, Subpart C, §180.300, states, in part:

You must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) **Checking the EPLS; or**
- (b) **Collecting a certification from that person if allowed by the Federal agency responsible for the transaction; or**
- (c) **Adding a clause or condition to the covered transaction with that person.**

We recommend MTG develop written policies and implement procedures to ensure that contractors and recipients are not debarred or suspended from receiving Federal funds prior to the payment or award of Federal funds.

Section 504 Self-Evaluation

MTG did not have a 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.

We recommend MTG complete, and update as necessary, a Section 504 self-evaluation to ensure compliance with the Rehabilitation Act of 1973, as amended. A copy of the self-evaluation should be submitted to NEA OIG. NEA OIG will provide a copy to NEA's Office of Civil Rights/EEO.

Formal Policies and Procedures for the Management of Federal Awards

MTG did not have formal policies and procedures in place for grant management.

Based on the results of our prior evaluation and this audit, we believe that MTG's internal controls would be strengthened if MTG formalized many of the Federal policies and procedures, and guidance available on grants and accounting matters. This manual/handbook could contain publications such as the *General Terms and Conditions for Grants*, the *Financial Management Guide for State & Local Governments*, the *OMB Circulars* and other publications on Federal requirements. It could also include procedures for maintaining personnel activity reports and preparation of final reports including maintaining supporting documentation.

We recommend MTG develop a formal manual/handbook, which contains policies and procedures relating specifically to management of Federal awards. Those procedures should ensure that employees, who prepare final financial reports, are familiar with the cost principles of the relevant OMB Circulars. We also recommend that the staff involved in the management of Federal awards receive training in OMB Circulars and NEA *General Terms and Conditions*.

Method of Funding

Based on the deficiencies identified in this report, we believe MTG has materially failed to comply with the grant terms and conditions and has not demonstrated the ability to adequately manage Federal awards. Therefore, we recommend that NEA continue to suspend all funding to MTG.

2 CFR Subpart C, §215.62 states:

If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Federal awarding agency may, in addition to imposing any of the special conditions outlined in Section ____.14, take one or more of the following actions, as appropriate in the circumstances.

- (1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the Federal awarding agency.
- (2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity not in compliance.
- (3) Wholly or partly suspend or terminate the current award.
- (4) Withhold further awards for the project or program.
- (5) Take other remedies that may be legally available.

If, in the future, NEA reinstates MTG's eligibility to receive funding, we recommend that NEA consider MTG a "high-risk" grant recipient, in accordance with 45 CFR §1174.12, and be placed on the Cost Reimbursement method of funding. However, reinstatement should not occur until MTG has implemented corrective actions to address all of the recommendations of this report and provide NEA with evidence of improvements in its management of Federal grants.

Under the Cost Reimbursement method of funding, the grantee will be required to finance its operations with its own working capital with payments to be paid on a reimbursable basis for actual cash disbursements supported by adequate documentation. Costs are only reimbursed when required matching costs have also been incurred. *Documentation, generally, will take the form of an invoice, receipt or contract supported by a copy of a cancelled check/electronic copy or other document supporting that the transaction was enacted; e.g., bank statement, electronic reference, etc.* Specific documentation requirements will be established by the NEA Grants and Contracts Office.

EXIT CONFERENCE

An preliminary exit conference was held with the MTG's President of the Board/Producing Director on June 20, 2012. A telephone conference was also held with MTG's President of the Board/Producing Director and the Chair of the Board on February 13, 2013. MTG's President of the Board/Producing Director and the Chair of the Board acknowledged and generally agreed with the findings and recommendations.

RECOMMENDATIONS

We recommend that MTG:

1. Repay NEA \$135,000 for Challenge Grant No. 86-4621-0056, plus any applicable penalties and interest.
2. Provide NEA with an approved [REDACTED] Agreement and evidence of payments for at least one year, made in accordance with the agreement.
3. Repay NEA \$6,000 for Grant No. 07-2800-7035.
4. Submit additional documentation to support the \$2,000 contract transaction including a copy of the executed contract for Grant No. 08-2800-7028. Without additional supporting documentation MTG may owe a potential refund of \$932.50.
5. Develop written policies and implement procedures to ensure that only accurate, actual and allowable costs, within the award period, are reported on the final financial reports.
6. Develop written policies and implement procedures to ensure that adequate documentation is maintained.
7. Develop written policies and implement procedures to ensure the methodology for the allocation of costs charge to Federal awards is documented.
8. Develop written policies and implement procedures to ensure that contractors and recipients are not debarred or suspended from receiving Federal assistance prior to the payment or award of Federal funds.
9. Complete a Section 504 self-evaluation to ensure compliance with the Rehabilitation Act of 1973, as amended.
10. Develop a formal manual/handbook, which contains policies and procedures relating specifically to managing Federal awards. Those procedures should ensure that employees, who prepare final financial reports, are familiar with the cost principles of the relevant OMB Circulars.
11. Ensure that staff involved in the management of federal awards receive training in OMB Circulars and NEA *General Terms and Conditions* of the award.

We recommend that NEA:

1. Terminate Grant No. 11-2800-7024 and process an Administrative Withdrawal with no penalty to MTG.
2. Consider MTG a "high-risk" grant recipient, in accordance with 45 CFR §1174.12, and be placed on the Cost Reimbursement method of funding, if, in the future, NEA reinstates MTG's eligibility to receive funding. However, reinstatement should not occur until MTG has implemented corrective actions to address all of the recommendations of this report and provide NEA with evidence of improvements in its management of Federal grants.

Schedule of Potential Refund Due NEA

\$135,000.00	Repayment of Grant No. 86-4621-0056 (Cash Reserve)
6,000.00	Repayment of Grant Number 07-2800-7035
<u>932.50</u>	Potential Refund of Grant Number 08-2800-7028
<u>\$141,932.50</u>	Total Potential Refund due from MTG

Note: In addition to the potential refund, there may be a de-obligation of \$20,000 for Grant No. 11-2800-7024.