



OFFICE OF INSPECTOR GENERAL

SPECIAL REVIEW

ON

Houma Regional Arts Council

Houma, Louisiana

REPORT NO. R-15-02

May 13, 2015

REPORT RELEASE RESTRICTION

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INTRODUCTION

BACKGROUND

Houma Regional Arts Council (HRAC), a nonprofit organization incorporated in 1985, is a local arts agency providing grants, development and services to six parishes in south Louisiana (Assumption, Lafourche, St. Charles, St. James, St. John, & Terrebonne). HRAC's mission is to promote and provide arts and cultural activities, through a partnership of public and private funding, which meets the needs of individual communities.

OBJECTIVE AND SCOPE

The objective of this review was to determine the status of Grant No. 12-6200-7033 and HRAC's current financial condition.

The review was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections and Evaluations*, as applicable. Accordingly, we included such tests of records and other procedures that were considered necessary under the circumstances. The Standards require that we obtain sufficient, competent and relevant evidence to support a reasonable basis for our findings and conclusions.

The scope included Grant No. 12-6200-7033, a local arts agencies grant in the amount of \$15,000, with a one-to-one matching requirement. The grant period of support was from June 1, 2012 to June 30, 2014. The grant was to support the "Art of the Bayou," an experimental documentary film project by emerging south Louisiana artists.

PRIOR AUDIT COVERAGE

During the past five years, we have not issued any audit reports on Federal grants awarded to HRAC. A compilation report was issued for the year ended December 31, 2011, by Malcolm M. Dienes, L.L.C., (Certified Public Accountant). The compilation was performed to assist management in presenting financial information in the form of financial statements. Therefore, the accountant did not express an opinion or provide any assurance as to whether the financial statements were in accordance with accounting principles generally accepted in the United States of America.

According to the Louisiana state law, nonprofit entities are required to perform an annual independent audit. HRAC did not conduct the annual independent audit by the June 30, 2013 due date and was placed in a non-compliant status by the State of Louisiana Legislative Auditor. As a result, HRAC is unable to receive state funds in accordance with Louisiana law.

RESULTS OF SPECIAL REVIEW

The review concluded that HRAC did not comply with the financial management system requirements established by the Office of Management and Budget (OMB) and NEA for Federal awards. HRAC could not account for funds received from NEA or provide supporting documentation for costs charged to the grant. In addition, HRAC did not submit the Final Descriptive Report (FDR) or Federal Financial Report (FFR) for the award. Further, HRAC did not maintain an active registration in the General Services Administration's (GSA) System for Award Management (SAM) as required by NEA and OMB.

MISMANAGEMENT OF FEDERAL AWARDS

We received a hotline complaint alleging HRAC mismanaged NEA grant funds. According to the complaint, HRAC requested and received \$15,000 in grant funds; however, HRAC did not fulfill its obligation in making payments for work attributed to the project.

During our assessment of the allegation, we contacted HRAC's Interim Treasurer and the contracted Project Director for the "Art of the Bayou" award. The Interim Treasurer, who was appointed to investigate the alleged mismanagement, stated that HRAC incurred a large amount of debt and encountered financial and compliance issues. These issues led to the shutdown of operations and the dismissal or resignation of staff and board members.

We also contacted officials at Louisiana's Department of Culture, Recreation and Tourism (CRT), Office of Cultural Development (OCD) and Louisiana Division of the Arts (LDOA). LDOA,¹ which is a recipient of NEA awards², provides funding to Regional Development Agencies to regrant to parishes in their regions. HRAC received \$9,000 from LDOA in FY 2013 to provide awards to its underserved population. We were informed that HRAC's re-granting documentation for Fiscal Years 12, 13 and 14 were reviewed by LDOA officials and the OCD legal staff. The review determined that HRAC used LDOA grant funds for operational expenses and obligations. As a result of the noncompliance, HRAC was not allowed to administer the grant program for FY 2014.

We requested documentation to support costs charged to the NEA Grant No. 12-6200-7033. The contracted Project Director for the "Art of the Bayou" award provided support for \$7,000 in allowable costs. The \$7,000 was a payment to the contracted Project Director's company for production and management activities. We were unable to obtain documentation to support any other costs for the project. HRAC received the total award in the amount of \$15,000, which required a one-to-one match. Therefore,

¹Louisiana Division of the Arts is a program of the Office of Cultural Development, an agency within the Department of Culture Recreation and Tourism and the Office of the Lt. Governor.

²NEA OIG issued Report No. LS-15-01, entitled *Limited Scope Audit Report on Selected NEA Grants to Louisiana Division of the Arts*, dated December 22, 2014.

NEA's share of the \$7,000 allowable costs is \$3,500, resulting in a refund due to the NEA of \$11,500. (see Appendix I)

We recommend that NEA request repayment in the amount of \$11,500 and terminate Grant No. 12-6200-7033.

FINAL REPORTING AND REQUIRED REGISTRATION

HRAC did not submit the FDR or FFR for the award that was due on September 28, 2014. According to NEA *General Terms and Conditions for Grants and Cooperative Agreements to Organizations (General Terms)*, recipients are required to submit final reports no later than 90 days after the project period end date. Failure to submit the final report renders the recipient ineligible to receive funding for five years, unless acceptable final reports are provided.

HRAC also did not maintain an active registration in SAM, as required. NEA *General Terms*, in accordance with OMB's *Governmentwide Guidance for Grants and Agreements*, Subpart B of 2 CFR Part 25.200, states that award recipients are required to maintain current information in SAM, until an award is closed. HRAC's SAM registration expired April 9, 2014, and is currently listed as inactive.

If, in the future, NEA considers reinstatement of HRAC's eligibility to receive funding, we recommend the NEA require HRAC to provide evidence of an active registration in SAM.gov.

OVERALL ASSESSMENT

GROUNDINGS FOR DEBARMENT

NEA has the authority to debar an individual or organization³ 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

Based on the above deficiencies, HRAC has materially failed to comply with the grant terms and conditions and has not demonstrated the ability to adequately manage Federal awards.

³ 2 CFR § 180.985

⁴ 2 CFR § 180.800(b)(1) & D(3)

⁵ 2 CFR § 180.800(d)

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 above.

We recommend that NEA send a notice of proposed debarment to HRAC and the former Executive Director, who was the authorizing official and principal for NEA awards. We also recommend NEA debar HRAC and the former Executive Director from receiving Federal funds government-wide for a period of five years.

If, in the future, NEA reconsiders reinstatement of HRAC's eligibility to receive funding, we recommend that NEA require HRAC to provide the NEA Office of Inspector General (OIG) with documentation to demonstrate a stable financial condition and adequate system to manage Federal awards.

We also recommend that NEA place HRAC on the Cost Reimbursement method of payment for a period of not less than one year, or as determined by the NEA Office of Grants and Contracts, as a specific condition of reinstatement of eligibility.

RECOMMENDATIONS

We recommend that NEA:

1. Request repayment in the amount of \$11,500.
2. Terminate Grant No. 12-6200-7033.
3. Require HRAC to provide evidence of an active registration in SAM.gov, if, in the future, HRAC's eligibility is reconsidered.
4. Send a notice of proposed debarment to HRAC.
5. Send a notice of proposed debarment to the former Executive Director.
6. Debar HRAC from receiving Federal funds government-wide for a period of five years.
7. Debar HRAC's former Executive Director, who was the authorizing official and principal for NEA awards, for a period of five years.

⁶ 2 CFR § 180.855(a)

⁷ 2 CFR § 180.850(a)

8. Require HRAC to provide the OIG documentation to demonstrate a stable financial condition and adequate system to manage Federal awards, as a specific condition of reinstatement, if, in the future, HRAC's eligibility is reconsidered.
9. Place HRAC on the Cost Reimbursement method of payment for a period of not less than one year, or as determined by the NEA Office of Grants and Contracts, as a specific condition of reinstatement of eligibility.

APPENDIX I

Grant No. 12-6200-7033

NEA Award Disbursed to HRAC	\$15,000
Less: Unallowable/Unsupported Cost	<u>(8,000)</u>
Total Allowable Costs	\$7,000
Total Allowable Costs	7,000
Less: Required Matching Amount	<u>(3,500)</u>
NEA Share of Allowable Costs	\$3,500
NEA Award Disbursed to HRAC	\$15,000
Less: NEA Share of Allowable Costs	<u>(3,500)</u>
Total Refund Due to NEA	<u>\$11,500</u>