



NATIONAL
ENDOWMENT
FOR THE
HUMANITIES

OFFICE OF INSPECTOR GENERAL

1100 PENNSYLVANIA AVE., NW
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WASHINGTON, D.C. 20506
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WWW.NEH.GOV
HOTLINE 877-786-7598

March 10, 2010

RETURN RECEIPT REQUESTED

[REDACTED]
[REDACTED]
Humanities Texas
1410 Rio Grande Street
Austin, TX 78701

OIG-10-01 (EA)

Dear Dr. [REDACTED]

The National Endowment for the Humanities (NEH) Office of Inspector General (OIG) has completed a limited audit of documentation supporting gifts certified on March 19, 2008 (Certification Report No. 1) for NEH grant [REDACTED] as amended on September 26, 2008.

A copy of the report is enclosed, and in general, we believe the report to be self-explanatory. However, we wish to emphasize the need for Humanities Texas (HT) to 1) revise and resubmit Certification Report No. 1 to either eliminate the ineligible and questioned gifts or substitute these gifts with other eligible gifts; 2) maintain on file, documentation for gifts certified consistent with the internal recordkeeping requirements prescribed by NEH; 3) adhere to Financial Accounting Standards Board (FASB) Statement on Financial Accounting Standard (SFAS) 116, *Accounting for Contributions Received and Contributions Made* and properly classify in the accounting system, contributions received and certified as eligible to release Federal matching funds under the NEH challenge grant; and 4) develop and implement plans to ensure compliance with all provisions of the Davis-Bacon Act.

Please consider the recommendations in this report, and within thirty days, provide the OIG with a written response that includes any comments you have regarding the findings and recommendations and a proposed timeline for implementation of the recommendations. Office of Management and Budget (OMB) Circular A-50, *Audit Follow-up*, requires that all recommendations be resolved within six months after a report is issued to a grantee. The thirty day limit has been established for a first response due to the length of time frequently required by grantee and NEH personnel to communicate ideas, reach sound conclusions, and implement recommendations.

If available, documentation supporting the implementation of each recommendation should be included with your response. These responses should be addressed to:

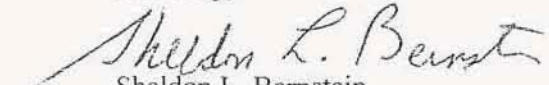
National Endowment for the Humanities
Office of Inspector General
1100 Pennsylvania Avenue NW, Room 419
Washington, DC 20506
ATTN: Audit Resolution Section

[REDACTED]
March 10, 2010

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If you have any questions concerning the findings and recommendations, or need assistance, please call Mr. Gary McGough at (202) 606-8354. We would like to express our appreciation for the cooperation and assistance extended to our auditor by your staff during the audit.

Sincerely,


Sheldon L. Bernstein
Inspector General

Enclosure

cc:

[REDACTED]
[REDACTED]
Humanities Texas
1410 Rio Grande Street
Austin, TX 78701



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LIMITED AUDIT REPORT

ON

GIFTS CERTIFIED UNDER CHALLENGE GRANT

TO

HUMANITIES TEXAS

AUSTIN, TX

OIG-10-01



Latra Davis, Deputy Inspector General

March 10, 2010
Date

**LIMITED AUDIT REPORT
ON
GIFTS CERTIFIED UNDER CHALLENGE GRANT
TO
HUMANITIES TEXAS
AUSTIN, TX**

I. INTRODUCTION

We have performed a limited audit of gifts certified on March 19, 2008 to release Federal matching funds under National Endowment for the Humanities (NEH) grant [REDACTED] awarded to Humanities Texas (HT). HT certified that gifts totaling [REDACTED] were received to match NEH challenge grant [REDACTED]. The distribution between gift categories was amended subsequent to this certification; however the total amount certified remained unchanged. The grantee conveyed in the certification report that all restricted gifts were made in response to the NEH challenge grant; that the gifts meet the criteria for eligibility established by NEH and will be expended for the intended grant purpose; and that the total of unrestricted gifts certified does not exceed the Federal portion of the challenge grant. The grantee further certified that the documentation that substantiates the source, purpose, eligibility and expenditure of the gifts would be retained for three years following the submission to NEH of the final financial and performance reports. This was the first certification report required under the challenge grant and Federal funds in the amount of \$ [REDACTED] were released in 2008. The excess of \$ [REDACTED] was combined with the second certification of gifts in the amount of \$ [REDACTED] to cause the release of \$ [REDACTED] in the fiscal year 2009. As of the date of our report, a cumulative total of \$ [REDACTED] has been released for the challenge grant.

II. BACKGROUND

HT is the state affiliate of NEH and began operations in 1973 as the Texas Committee for the Humanities. In 2004, after an extensive study of the council's needs and the local real estate market, the board of directors directed staff to negotiate the sale of their office space and purchase a more centrally located building. In December 2006, HT purchased the Byrne-Reed House in downtown Austin as its new headquarters. HT was offered the NEH challenge grant, [REDACTED] for an amount up to \$ [REDACTED] to retire debt and fund restoration of the Byrne-Reed House. The challenge grant period is December 1, 2006 to July 31, 2012. To receive the full challenge grant award, HT must raise \$ [REDACTED] in new non-Federal contributions. The challenge grant is part of HT's capital campaign that also consists of plans to raise an additional \$ [REDACTED] to provide an endowment for maintenance of its physical plant over the long term.

III. LIMITED AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

The principal objectives of this limited audit were to determine that 1) the gifts certified are eligible to release Federal matching funds; and 2) a system is in place to ensure compliance with the Davis-Bacon Act (Act). Our review was conducted in accordance

with *Generally Accepted Government Auditing Standards* as promulgated by the Comptroller General of the United States. We examined documentation provided by HT supporting the eligibility of gifts included in Certification Report No. 1, as amended September 26, 2008, for challenge grant [REDACTED]. We also examined documents provided by HT showing how the project manager they hired would monitor compliance with the Davis-Bacon Act.

IV. LIMITED AUDIT FINDINGS AND RECOMMENDATIONS

A-1. Certification of Ineligible Gifts

In Certification Report No. 1, HT reported [REDACTED] gifts totaling \$ [REDACTED] as eligible donations to release matching funds under the challenge grant. The categories of the gifts included in the first certification were amended in Certification Report No. 2 dated September 26, 2008; however, the total dollars certified were unchanged. We determined, based on HT's representations, that [REDACTED] of the [REDACTED] gifts were deposited or pledged before the December 1, 2006 start date of the challenge grant. The [REDACTED] gifts total \$ [REDACTED]. According to the NEH guidance, *Administration of NEH Challenge Grants*, all matching gifts restricted and unrestricted must be given and pledges paid during the challenge grant period. A pledge made during a challenge grant can be used to release Federal funds as long as the pledge commitment is paid within the grant's fundraising period and meets the other eligibility criteria. A pledge commitment made before the fundraising period begins cannot count toward the matching requirements, even if it is paid before the end of the grant period.

We reviewed documentation supporting [REDACTED] gifts totaling \$ [REDACTED]. Our sample included all of the certified gifts over \$ [REDACTED] (gifts) and randomly selected certified gifts under \$ [REDACTED] (gifts). We found one gift for \$ [REDACTED] that appeared to be a duplication for another gift included in the certification.

A-2. Inadequate Documentation Supporting Certified Gifts

Based on our review of documentation supporting the [REDACTED] gifts in our sample, we also questioned the eligibility of [REDACTED] gifts totaling \$ [REDACTED] due to insufficient evidence to substantiate the donors' intent that the gifts be used for the approved NEH challenge grant purpose; [REDACTED] gifts totaling \$ [REDACTED] due to lack of evidence to support the value of the gifts; and [REDACTED] gift in the amount of \$ [REDACTED] which represents an oral pledge. For a listing of the gifts questioned and the reason the gifts were questioned see Exhibit A.

According to the NEH guidance, *Administration of NEH Challenge Grants*, the recipient must keep on file documentation showing 1) the value of all donations; 2) the donor's awareness that it is being used for the approved challenge grant purposes outlined in the proposal (restricted gifts); 3) evidence that the gift was received during the grant period; and 4) the expenditures of grant and matching gift funds during the grant period. All restricted gifts of \$1,000 or more must be accompanied by a donor transmittal letter. Also pledges must be in writing and constitute a legally binding promise to pay. Documentation for all matching gifts and other evidence of eligibility should be

maintained by the grant recipient for at least three years after the NEH's acceptance of the final report.

A-3. Post-Exit Conference Supporting Documentation

At the time of the exit conference, we provided the grantee with a listing of the questioned gifts. Subsequent to the exit conference, the grantee contacted donors of the gifts that needed further documentation and requested a statement of intent for the use of the gift and awareness of the NEH challenge grant. Donor statements and other documentation substantiating gifts determined to be ineligible has been provided to the OIG and reviewed. Based on our review of the supporting documentation submitted after our fieldwork was completed, [REDACTED] of the original [REDACTED] gifts questioned remain as questioned or ineligible for a total of \$ [REDACTED] (see Exhibit B).

Recommendation A

We recommend that HT revise and resubmit Certification Report No. 1 to eliminate the questioned gifts or substitute the questioned gifts with other eligible gifts. [REDACTED] gifts totaling \$ [REDACTED] are incorrectly reported in Certification Report No. 1 as restricted. An adjustment should be made to properly reflect the gifts in the unrestricted gift total and carried forward as unrestricted in subsequent certifications.

We further emphasize the significance of having sufficient evidence to substantiate the eligibility of gifts prior to certifying such gifts to NEH for the release of Federal matching funds. The certifying official conveys in the certification report that:

1. All restricted gifts were made in response to the NEH challenge grant;
2. The gifts meet the criteria for eligibility established by NEH and will be expended for the intended grant purpose;
3. The total of unrestricted gifts certified does not exceed the Federal portion of the challenge grant; and
4. The documentation that substantiates the source, purpose, eligibility and expenditure of the gifts would be retained for three years following the submission to NEH of the final financial and performance reports.

NEH releases Federal matching funds to the grantee organization based on the assertions made in the certification report.

B. Classification of Unrestricted Gifts in Accounting System

According to the [REDACTED] of HT, all donations are listed under donor type in the accounting system and are temporarily restricted until the project or restoration is completed. If a donor's gift is unrestricted, it is noted on a separate spreadsheet outside of the accounting general ledger. NEH's *General Terms and Conditions for Awards to Organizations* indicates that an accounting system must provide accurate, current, and

complete disclosure of all financial transactions related to each federally sponsored project. Therefore, contributions should be recorded in the accounting system upon receipt as either unrestricted support, temporarily restricted support, or permanently restricted support, depending on the absence or existence and nature of donor-imposed restrictions, in accordance with Financial Accounting Standards Board (FASB) Statement on Financial Accounting Standard (SFAS) 116, *Accounting for Contributions Received and Contributions Made*.

Recommendation B

We recommend that HT adhere to SFAS 116 and properly classify in the accounting system, contributions received and certified as eligible to release Federal matching funds under the NEH challenge grant. Gifts for which the donor has not restricted use should be recorded in the accounting system as unrestricted. When an unrestricted gift is certified as eligible to release Federal matching funds, the gift should be reclassified to an Unrestricted – Board-Designated account set-up for the NEH challenge grant.

C. Compliance with the Davis-Bacon Act

HT has hired a consulting firm to manage the renovation project and is relying solely on the efforts of the consulting firm to ensure compliance with the Davis-Bacon Act. Based on our review of the firm's plan to monitor compliance with the Act throughout the Byrne-Reed House Restoration Project, we conclude that the consultant has a system in place to ensure that current wage determinations are incorporated into bid solicitation documents and contract specifications. However, there are no procedures outlined in the plan that specifically address the firm's monitoring of contractor compliance with the Act nor is there any indication as to how reporting requirements under the Act would be accomplished. According to the firm's plan, the contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls and a "Statement of Compliance" to HT as a condition of payment. The consulting firm's plan does not describe their actions concerning the submitted payrolls which would constitute monitoring of contractor compliance with the Act.

According to the NEH guidance, *Administration of NEH Challenge Grants*, if any NEH challenge grant funds, federal or nonfederal, will be used for renovation and construction projects, the institution must comply with the Davis-Bacon Act. Grant recipients are required by law to furnish assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on Endowment-supported construction projects shall be paid wages at rates that are not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor. The Act requires that payrolls and Statements of Compliance submitted by contractors be preserved for a period of 3 years from the date of completion of the contract and be produced at the request of the Department of Labor at any time during the 3-year period.¹ The Act further states that investigations shall be made of all contracts with such frequency as may be necessary to assure compliance with the requisite labor standards clauses and the applicable statutes.² Such investigations shall include interviews with

¹ 29 CFR 5.6(a)(2)

² 29 CFR 5.6(a)(3)

employees, which shall be taken in confidence, and examinations of payroll data and evidence of registration and certification with respect to apprenticeship training plans.² Potential violations of the Davis-Bacon prevailing wage requirements must be reported to the Secretary of Labor.

Recommendation C

We recommend that HT develop and implement plans to ensure compliance with all provisions of the Davis-Bacon Act.

V. EXIT CONFERENCE

The results of our limited audit were discussed with Ms. [REDACTED] Deputy Director of Humanities Texas, on June 04, 2009.

HUMANITIES TEXAS
 AUSTIN, TX
 SCHEDULE OF GIFTS QUESTIONED

<u>Description</u>	<u>Donor Awareness</u> ₁	<u>Prior to Grant</u> ₂	<u>No Written Pledge</u> ₃	<u>Missing Documentation</u>	<u>Duplicate</u>	<u>Amount</u>
1. [REDACTED]	X					\$ [REDACTED]
2. [REDACTED]	X					[REDACTED]
3. [REDACTED]	X					[REDACTED]
4. [REDACTED]	X					[REDACTED]
5. [REDACTED]	X					[REDACTED]
6. [REDACTED]	X					[REDACTED]
7. [REDACTED]	X					[REDACTED]
8. [REDACTED]				X		[REDACTED]
9. [REDACTED]	X					[REDACTED]
10. [REDACTED]				X		[REDACTED]
11. [REDACTED]	X					[REDACTED]
12. [REDACTED]	X					[REDACTED]
13. [REDACTED]	X					[REDACTED]
14. [REDACTED]	X					[REDACTED]
15. [REDACTED]	X					[REDACTED]
16. [REDACTED]	X					[REDACTED]
17. [REDACTED]	X					[REDACTED]
18. [REDACTED]	X					[REDACTED]
19. [REDACTED]	X					[REDACTED]
20. [REDACTED]	X					[REDACTED]
21. [REDACTED]	X					[REDACTED]
22. [REDACTED]	X					[REDACTED]
23. [REDACTED]				X		[REDACTED]
24. [REDACTED]	X					[REDACTED]
25. [REDACTED]	X					[REDACTED]
26. [REDACTED]	X					[REDACTED]
Subtotal						\$ [REDACTED]
27. [REDACTED]		X				[REDACTED]
28. [REDACTED]		X				[REDACTED]
29. [REDACTED]					X	[REDACTED]
Total						\$ [REDACTED]

- 1 Gifts over \$1,000 were not supported by a donor transmittal letter or there was no evidence that the gift was made in support of the NEH challenge grant (gifts less than \$1,000)
- 2 Donation was made prior to December 1, 2006 which is the grant start date.
- 3 Documentation indicated pledge was verbal to Executive Director and not written.

HUMANITIES TEXAS
 AUSTIN, TX
 SCHEDULE OF GIFTS QUESTIONED
 (POST-EXIT CONFERENCE)

<u>Description</u>	<u>Donor Awareness</u> ₁	<u>Prior to Grant</u> ₂	<u>No Written Pledge</u> ₃	<u>Missing Documentation</u>	<u>Duplicate</u>	<u>Amount</u>
1. [REDACTED]	X					[REDACTED]
2. [REDACTED]	X					[REDACTED]
3. [REDACTED]	X					[REDACTED]
4. [REDACTED]	X					[REDACTED]
5. [REDACTED]			X			[REDACTED]
Subtotal						[REDACTED]
6. [REDACTED]		X				[REDACTED]
Total						[REDACTED]

₁ Gifts over \$1,000 were not supported by a donor transmittal letter or there was no evidence that the gift was made in support of the NEH challenge grant (gifts less than \$1,000)

₂ Donation was made prior to December 1, 2006 which is the grant start date.

₃ Documentation indicated pledge was verbal to Executive Director and not written.