



Office of Inspector General

**SEMIANNUAL
REPORT TO
CONGRESS**

For the Period April 1, 2008 through September 30, 2008

Report No. 39

**“Democracy demands wisdom and vision in its citizens”
National Foundation on the Arts and Humanities Act of 1965**

THE OFFICE OF INSPECTOR GENERAL

serves American taxpayers
by investigating reports of waste, fraud,
mismanagement, abuse, integrity violations or
unethical conduct involving Federal funds.

To report any suspected activity
involving NEH programs, operations, or employees

Call the OIG Hotline

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Government employees are protected from reprisal

Caller can remain anonymous

Information is confidential



NATIONAL
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HUMANITIES

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October 31, 2008

Honorable Bruce Cole
Chairman
National Endowment for the Humanities
Washington, DC 20506

Dear Chairman Cole:

I am pleased to provide you with the Office of Inspector General's Semiannual Report to Congress for the second half of fiscal year 2008. The report is submitted in accordance with the Inspector General Act of 1978, as amended. Section 5 of the Act requires that you submit this report, with your Report of Final Action, to the appropriate committee or subcommittee of the Congress within 30 days of its receipt. The report provides a summary of the activities of the OIG during the six-month period ended September 30, 2008.

Internally, we reviewed and documented the agency's requisition, purchasing, and accounts payable systems/processes to gain an understanding of the internal and security controls within each process. We also reviewed the agency's efforts to comply with Office of Management and Budget (OMB) guidance for implementing privacy provisions of the E-Government Act of 2002 concerning privacy impact assessments, and OMB requirements for the development and implementation of a breach notification policy.

External effort consisted of two desk reviews of grantee compliance with OMB Circular A-122 concerning support of salaries and wages; four reviews of grantee overhead rates; one pre-award telephone survey of a prospective grantee's accounting system and management controls; and review of 54 OMB Circular A-133 audit reports.

In our investigations program, we had seven matters open as of the beginning of the reporting period. We received 15 "Hotline" contacts during the period. As of September 30, 2008, seven matters remain open.

I appreciate your support and look forward to working with you and all agency staff to further our common purpose of assuring the effectiveness, efficiency and integrity of NEH's vital contributions to the humanities.

Sincerely,

Sheldon L. Bernstein
Inspector General

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MESSAGE FROM THE INSPECTOR GENERAL

Over the past several years, our workload has constantly increased in volume and complexity and, as a consequence, oversight of the Endowment's grantees by the OIG is diminishing.

The OIG is responsible for contracting with and reviewing the work of an independent public accountant that conducts the annual financial statements audit. The audit is required by the Accountability of Tax Dollars Act of 2002, and applies to many small agencies as well as the Endowment. The Federal Information Security Management Act (FISMA) review has been performed for several years as required. Each year the Office of Management and Budget (OMB) issues guidance for the review. The National Institute for Standards and Technology (NIST) Computer Security Division issues publications that the agency is responsible for implementing. The OIG is responsible for reviewing the agency's implementation. The General Accountability Office and the President's Council on Integrity and Efficiency periodically update their various guidance on auditing, inspections and reviews, and investigations. This increases the burden on the OIG.

OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, issued pursuant to the Single Audit Act of 1984, (as amended), sets forth audit guidance applicable to the expenditure of Federal awards by non-Federal entities. The threshold for an audit is the expenditure of \$500,000 or more in a fiscal year. Consequently, the threshold level eliminates audits for a significant number of non-profit organizations that receive grants from the Endowment, including approximately 17 of the 56 state humanities councils. The President's Council on Integrity and Efficiency issued a report on the single audits. The report disclosed that a majority of the work performed on OMB Circular A-133 audits did not meet professional standards. Thus, besides having fewer NEH grantees subject to the OMB A-133 audit, the reports issued are not totally reliable. This clearly indicates that the OIG needs more resources to provide adequate coverage of grantees. In addition, monitoring by program offices is not, in our opinion, adequate. (See FY 2008 Management Challenges).

Another impact on our oversight of grantees is internal and grantee investigations. Opening an investigation has a significant impact on our audit plan because we do not have staff dedicated to investigation work. Therefore, it becomes necessary to reassign audit staff trained in investigation work to perform the investigation. With significant fluctuations on a yearly basis, it is difficult to be proactive concerning investigations or realistically budget staff time for this effort. Also, during the past several years, the NEH Office of General Counsel has operated with fewer staff than previously. The Deputy General Counsel is also the General Counsel to the IG. Therefore, we have been operating without counsel for some time.

We previously noted that the OIG needs a part-time auditor. NEH has agreed to provide this position, and we will begin the recruitment process to fill the slot. The previous message from the Inspector General also stated that we need a part-time attorney. On September 27, 2008, the House of Representatives passed H.R. 928, the Inspector General Reform Act of 2008, which was previously passed by the Senate on September 24, 2008. ⁽¹⁾

The Act provides that each Inspector General will have independent counsel. The law states:

“(4) Each Inspector General shall-

- (A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General;
- (B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or
- (C) obtain the services of appropriate staff of the Council of Inspectors General on Integrity and Efficiency on a reimbursable basis.

(c) Rule of Construction — Nothing in the amendments made by this section shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity, except for the availability of counsel as provided under sections 3(g) and 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by this section). The Counsel to the Inspector General shall perform such functions as the Inspector General may prescribe.”

⁽¹⁾ On October 14, 2008, the President signed the bill.

THE NATIONAL ENDOWMENT FOR THE HUMANITIES

In order to promote progress and scholarship in the humanities and the arts in the United States, Congress enacted the National Foundation on the Arts and the Humanities Act of 1965. This Act established the National Endowment for the Humanities as an independent grant-making agency of the Federal government to support research, education, and public programs in the humanities. Grants are made through four divisions - Research Programs, Education Programs, Preservation and Access, and Public Programs -- and two offices -- Challenge Grants and Federal-State Partnership. The divisions and offices also administer the *We the People: NEH's American History* initiative.

The NEH has a new initiative — *Picturing America*. This program "... provides an innovative way for citizens of all ages to explore the history and character of American through some of our nation's greatest works of art. Images of people, places and events from American history give citizens everywhere a chance to better understand our country's past and the principles for which it stands." Information can be found at PicturingAmerica.neh.gov.

The Act that established the National Endowment for the Humanities says "The term 'humanities' includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archaeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life."

THE OFFICE OF INSPECTOR GENERAL

The NEH Office of Inspector General was established April 9, 1989, in accordance with the Inspector General Act Amendment of 1988, (Public Law 100-504). In this legislation, Congress established Offices of Inspector General in several departments and in thirty-three agencies, including the NEH. The NEH Inspector General (IG) is appointed by the Chairman. The independence of the IG is an important aspect of the Act. For example, the IG: cannot be prevented from initiating, carrying out, or completing an audit or investigation, or from issuing any subpoena; has access to all records of the agency; reports directly to the Chairman, and can only be removed by the Chairman, who must promptly advise Congress of the reasons for the removal; and reports directly to Congress.

The Act states that the Office of Inspector General is responsible for (1) conducting audits and investigations; (2) reviewing legislation; (3) recommending policies to promote efficiency and effectiveness; and (4) preventing and detecting fraud, waste, and abuse in the operations of the agency. The Inspector General is also responsible for keeping the Chairman and Congress fully and currently informed of problems and deficiencies in the programs and operations.

The OIG staff consists of the Inspector General, Deputy Inspector General, two auditors, and a secretary. The OIG and the Office of the General Counsel (OGC) have a Memorandum of Understanding detailing the procedures for the OIG to be provided with OGC legal services. Investigations are handled by the Inspector General, an auditor, and as required by the agency's Deputy General Counsel.

AUDIT AND REVIEW ACTIVITIES

LIST OF REPORTS ISSUED

This office is responsible for external and internal audits. External auditing includes grants, pre-award accounting system surveys, review of OMB Circular A-133 audit reports, overhead desk reviews, limited scope desk reviews, and on-site quality control reviews of CPA workpapers. Internal efforts consist of audits, inspections, and reviews/evaluations of NEH administrative, programmatic, and financial operations.

Following is a list of reports issued by the OIG during this reporting period. The Inspector General Act of 1978, as amended, requires us to report on the "Dollar Value of Recommendations that Funds Be Put to Better Use" and the "Total Dollar Value of Questioned Costs" (including a separate category for the "Dollar Value of Unsupported Costs"), [see Table II].

| | <u>Report Number</u> | <u>Date Issued</u> |
|---|----------------------|--------------------|
| <u>INTERNAL AUDITS/REVIEWS</u> | | |
| FISMA Review - Privacy Impact Assessments Process and Compliance and Breach Notification Policy | OIG-08-02 (IR) | 09/08/08 |
| FISMA Review - Review of Requisition, Purchasing And Accounts Payable System/Process | OIG-08-03 (IR) | 09/18/08 |
| FISMA Review - FISMA Reporting Document to the Office of Management and Budget | OIG-08-04 (IR) | 09/25/08 |
| <u>EXTERNAL AUDITS/REVIEWS</u> | | |
| Iraq Memory Foundation | OIG-08-04 (DR) | 08/28/08 |
| The Oasis Institute | OIG-08-05 (DR) | 09/16/08 |
| OVERHEAD DESK REVIEWS | | |
| The Oasis Institute | NEH-08-07 (ODR) | 04/10/08 |
| Iraq Memory Foundation | NEH-08-08 (ODR) | 07/07/08 |
| Museum of Northern Arizona | NEH-08-09 (ODR) | 08/14/08 |
| Southeastern Library Network | NEH-08-10 (ODR) | 09/25/08 |
| PREAWARD TELEPHONE SURVEY | | |
| Walters Art Museum | OIG-08-01 (TS) | 06/03/08 |
| SINGLE AUDIT ACT REVIEWS | | |
| 54 OMB Circular A-133 Reports | | - see Page 7 - |

AUDIT AND REVIEW ACTIVITIES

SUMMARY OF REPORTS ISSUED

INTERNAL AUDITS/REVIEWS

Federal Information Security Management Act (FISMA) Review Privacy Impact Assessments Process and Compliance and Breach Notification Policy September 8, 2008; OIG-08-02 (IR)

The purpose of our review was to 1) determine if formal written policies and procedures for privacy impact assessments (PIAs) exist and if they are being followed; and 2) determine if NEH has complied with OMB Memorandum M-07-16, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information*. We reviewed the agency's formal written privacy policies, procedures and guidance as provided by the Chief Privacy Officer (CPO). We also reviewed OMB Memorandum M-03-22, *OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002*. We reviewed OMB Memorandum M-07-16 to determine its applicability to NEH and the agency's compliance with the time frame for development and implementation of a breach notification policy, and the required elements of the policy.

We found:

- NEH does not have formal written policies or procedures concerning PIAs. In response to our request for copies of the NEH's formal written policies, procedures, and guidance on privacy, the CPO provided the NEH Interim Policy on Proper Handling of Personally Identifiable Information, Administrative Directive M-109 ~ Automated Systems and Services, and the privacy policies currently on the NEH website, (NEH.gov) and the *Picturing America* website. These policies do not cover PIAs. We were informed by the CPO, via e-mail, that the policies stated in OMB Memorandum M-03-22 are followed.
- NEH did not finalize and implement a breach notification policy within the time frame specified in OMB Memorandum M-07-16. The CPO provided a draft of the NEH Breach Notification Policy. In his response to our questions, the CPO indicated that NEH hoped to complete the final version of the policy during the fiscal year ending September 30, 2008. OMB Memorandum M-07-16 applies to all Federal information and information systems, and agencies were required to develop and implement a breach notification policy within 120 days of the May 22, 2007 release date. As of the end of our fieldwork, August 27, 2008, NEH had not finalized or implemented a breach notification policy.

NEH has agreed with our findings.

Federal Information Security Management Act Review Review of Requisition, Purchasing and Accounts Payable System/Process (Process) September 18, 2008; OIG-08-03 (IR)

The purpose of our review was to document the entire Process to gain an understanding of the security and internal controls within the Process. We also sought to use the information gained to determine if the internal and security controls provide adequate security. The scope of our review was limited to the Process, including all applicable internal and security controls in place as of the start of our review. In documenting the Process, we used available information systems documentation and interviewed personnel in the Administrative Services Office (ASO), Office of Strategic Planning (OSP), Accounting Office, and Office of Information Resources Management (OIRM). To test the Process, we reviewed purchase orders created by the ASO to determine if the required elements were present.

We found:

- An individual had purchasing buyer privileges in the Oracle Accounting System (Oracle) but no longer had the day-to-day responsibilities that required these privileges. This individual formerly worked in the ASO, but has since taken a position in the NEH Office of Grant Management. Because of this individual's knowledge, it was decided that he should retain the privileges as purchasing buyer so that he could carry out those functions as a back-up in emergency situations. The agency's Systems Accountant has indicated that it would be possible for this individual to retain these privileges within Oracle but "end-date" them so they could be activated when necessary. In the event of an emergency, with the permission of the Oracle System Owner, it would be possible to quickly change this "end-date" and activate access for this individual.

AUDIT AND REVIEW ACTIVITIES

SUMMARY OF REPORTS ISSUED

INTERNAL AUDITS/REVIEWS (Continued)

- The Director of the ASO has the capability to create a requisition. He has indicated that he has never created a requisition, but when necessary, he has downloaded them for entry as purchase orders in Oracle. We have been informed by the Information Technology Specialist in OIRM who developed and maintains the requisition portion of the Process, that the ability to create a requisition can be disabled without affecting the ability to download a requisition. It is the OIG's opinion that, in keeping with the personnel security control of least privileged, the Director of ASO should not have the capability to create a requisition.

NEH has agreed with our findings.

Federal Information Security Management Act Review Federal Information Security Act (FISMA) Reporting Document to the Office of Management and Budget September 25, 2008; OIG-08-04 (IR)

The purpose of this template/document was to report the results of our annual FISMA review to OMB. This template/document and our other reviews was part of our total FISMA submission to OMB to be included with the agency's FISMA submission. NEH has agreed with what the OIG reported in the FISMA document, and while progress has been made, we believe that further steps need to be taken to improve security.

AUDIT AND REVIEW ACTIVITIES

SUMMARY OF REPORTS ISSUED

EXTERNAL AUDITS/REVIEWS

During the six-month period ending September 30, 2008, we reported on the results of our desk reviews concerning the following organizations:

- ◆ Iraq Memory Foundation [OIG-08-04 (DR)]
- ◆ OASIS Institute [OIG-08-05 (DR)]

The objective of each desk review was to assess the adequacy of the time and effort accounting policies and procedures implemented by the respective organizations to ensure compliance with OMB Circular A-122, *Cost Principles for Non-Profit Organizations*. The desk reviews were performed in accordance with PCIE/ECIE *Quality Standards for Inspections*.

Iraq Memory Foundation August 28, 2008; OIG-08-04 (DR)

Based on the results of our review and our understanding of the organization's time and effort accounting policies and procedures, we concluded that such policies and procedures are adequate to ensure compliance with the requirements set forth in OMB Circular A-122 concerning support of salaries and wages. We have recommended that IMF routinely execute established procedures in a manner to ensure that errors in the completion of employee timesheets are detected and addressed timely. Also, the timesheet approval process should be strengthened to ensure that all timesheets are reviewed for completeness and accuracy and approved by the appropriate official.

OASIS Institute September 16, 2008, 2008; OIG-08-05 (DR)

Based on the results of our review and our understanding of the organization's time and effort accounting policies and procedures, we concluded that such policies and procedures are not adequate to ensure compliance with the requirements set forth in OMB Circular A-122 concerning support of salaries and wages. Personnel activity reports are maintained for individual employees; however, they are prepared quarterly and reflect predetermined effort allocations. It is our understanding that it is the responsibility of the Program Manager to review personnel activity reports to determine if they reflect reasonable allocations of actual time and effort. We have communicated to the organization that the Program Manager's review is not an acceptable control to compensate for the use of predetermined effort allocation factors, which are developed by the President, the Director of Finance, and the Program Manager. We have requested and are currently awaiting a written response from the organization describing actions that will be taken to address our observations.

Overhead Desk Reviews

The OIG performs overhead desk reviews (ODRs) for grantees requiring indirect cost rates. The reviews are done in accordance with the PCIE/ECIE *Quality Standards for Inspections*. The OIG sends the results of the ODRs to the Assistant Chairman for Planning and Operations, who negotiates the indirect cost rates with the grantees. We completed four reviews during this period. (See page 3).

AUDIT AND REVIEW ACTIVITIES

SUMMARY OF REPORTS ISSUED

EXTERNAL AUDITS/REVIEWS (Continued)

The Walters Art Museum June 3, 2008; OIG-08-01 (TS)

We conducted a telephone survey with officials of The Walters Art Museum (Museum). The purpose of our survey was to obtain information to determine the adequacy of the organization's accounting system, management controls, and policies and procedures designed to administer grant funds. Based upon the information obtained, we concluded that the accounting system, management controls, and administrative policies and procedures provide reasonable assurance that the Museum can manage and account for NEH grant funds. We noted conditions to be addressed by the Museum to ensure compliance with Federal regulations. The Museum acknowledged our findings and responded that corrective action would be implemented immediately. We also requested and received written assurance from the Board Chair, Treasurer, Executive Director, Controller, and Project Director that the Museum will:

1. Maintain supporting documentation in accordance with NEH and OMB regulations;
2. Comply with all of the specific terms and conditions of the NEH award;
3. Comply with the Uniform Administrative Requirements of OMB Circular A-110;
4. Comply with the Cost Principles for Non-Profit Organizations (OMB Circular A-122);
5. Comply with NEH General Grant Provisions for Organizations; and
6. Comply with the audit requirements of OMB Circular A-133.

Single Audit Act Reviews

During fiscal year 2008, more than 79 percent of NEH's expenditures were payments made to grantees. The Single Audit Act Amendment of 1996 covers many NEH grantees. Grantees expending \$500,000 or more in Federal dollars per annum are required to obtain an OMB Circular A-133 audit. The objective of the audit is to determine whether the recipients expend Federal funds according to applicable laws and regulations. The OIG receives OMB Circular A-133 reports from other Federal agencies (primarily the Department of Health and Human Services), state and local government auditors, independent public accountants, and grantees.

During the six-month period ended September 30, 2008, we reviewed 54 OMB Circular A-133 audit reports. None of the reports contained findings that required reporting by the OIG to NEH management.

WORK IN PROGRESS

Inspection ~ Newport Historical Society

The objectives of this inspection are to (1) assess the eligibility of gifts certified to release matching funds under a challenge grant awarded to Newport Historical Society (the Society); and (2) determine if the Society is using the income from the NEH-supported endowment in accordance with the budget submitted to and approved by NEH.

AUDIT AND REVIEW ACTIVITIES

WORK IN PROGRESS (Continued)

Financial Statement Audit ~ Fiscal Year 2008

The OIG has engaged Leon Snead & Company, P.C. to perform the audit of the FY 2008 financial statements of the National Endowment for the Humanities in accordance with the Accountability of Tax Dollars Act of 2002. The audit will be conducted in accordance with auditing standards generally accepted in the United States, including standards applicable to financial audits contained in *Government Auditing Standards*; OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, and the *Financial Audit Manual*, issued jointly by the Government Accountability Office (GAO) and the President's Council on Integrity and Efficiency (PCIE).

Desk Review of Documentation Related to Salaries and Wages Charged to NEH Grants ~ Museum of Northern Arizona

The objective of this desk review is to assess the adequacy of the time and effort accounting policies and procedures implemented by the Museum of Northern Arizona to ensure compliance with OMB Circular A-122, *Cost Principles for Non-Profit Organizations*.

INVESTIGATIVE ACTIVITIES

BACKGROUND

The Inspector General Act provides the authority for the Office of Inspector General to investigate possible violations of criminal or civil laws, administrative regulations, and agency policies, which relate to the programs and operations of the NEH. The OIG Hotline, e-mail address, and regular mail are efficient and effective means of receiving allegations or complaints from employees, grantees, contractors, and the general public. The OIG has obtained assistance from other OIGs, the Federal Bureau of Investigation, the Postal Inspection Service, and other investigative entities as necessary.

When the OIG receives a complaint or allegation of a criminal or administrative violation, we make a determination of the appropriate action to take. The result could be an audit, an investigation, a referral to another NEH office or division, a referral to another Federal agency, or no action.

We sent an auditor to the Inspector General Criminal Investigator Academy at The Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. The auditor is now in a position to perform all administrative investigations for the OIG. This auditor is also a Certified Fraud Examiner and a Certified Internal Auditor.

Frequently, during the past several years, the OIG has received Hotline contacts and did not have sufficient resources to complete the inquiry or investigation in a timely manner. Therefore, to alleviate this problem, we will be inquiring of other OIGs if they will be willing and able to assist us under a reimbursable agreement. The agreement will be on an "as needed" basis.

OPEN AT APRIL 1, 2008

Seven files were open at April 1, 2008.

1. A grantee allegedly omitted critical information on a grant application for an archeological project. We obtained the services of a professor working for an archaeology association and learned that the omission of the information was not critical. We closed the case because the allegation was unsubstantiated.
2. A grantee certified ineligible gifts, as part of a challenge grant, which were matched by NEH. During the last semiannual period, we reported that we recovered \$283,000 of the \$400,000 disbursed by NEH. During the current period, the grantee provided sufficient documentation to support the eligibility of the \$117,000 balance. We closed this case.
3. An NEH employee performing timekeeping duties falsified her own timesheets over a period of five years. The amount stolen from NEH amounted to approximately \$35,000. The NEH Office of Human Resources discovered the problem. Administrative action was taken, and the employment of the person was terminated. The OIG presented information concerning this matter to the Department of Justice Criminal Division (DOJ). DOJ recently informed the OIG that additional information is required before they accept or decline the case. The OIG is getting the information ready to be sent to DOJ. This matter remains open.
4. The U.S. General Accountability Office received an allegation concerning improper actions by a former executive director of a state humanities council. GAO referred the matter to the NEH OIG. The OIG has recently received information from the Council concerning the allegation. The Council has a new executive director, new staff, and significant changes in Board membership. We are planning to begin our review in mid- November. This matter remains open.
5. A matter was brought to our attention by NEH staff that Board members of a grantee were resigning because the grantee was allegedly wasting funds on a lavish hotel, including NEH challenge grant funds. Since the NEH challenge grant has ended and the funds were unrestricted after the grant period, we referred the matter to the general counsel and closed our file.
6. A former employee of a grantee organization made an anonymous allegation that the organization falsified information on a challenge grant application. Our review revealed that the allegation was unsubstantiated. However, we found information on the grantee's website that prompted us to refer this matter to the OIG audit section. Therefore, this investigation matter is closed.

INVESTIGATIVE ACTIVITIES (Continued)

7. A person that did not win a contract with a state humanities council claimed that the group obtaining the contract was not qualified. We found that the successful group was qualified and closed the case. However, we recommended to the Council that future requests for proposals to perform work for the Council should be more specific to avoid similar problems.

CONTACTS DURING THE SIX-MONTH PERIOD ENDED SEPTEMBER 30, 2008

During the current reporting period, we received fifteen Hotline contacts.

1. An individual claiming to have a specific patent alleged that the NEH and many other Federal agencies acquiring Access Identification Cards under a U.S. General Service Administration contract are infringing on the individual's patent. We referred the individual to the GSA and closed our file.
2. An individual stated that an application on file for an NEH challenge grant includes a significant amount of funds for a person that allegedly took credit for inventing products made by others. Our review of the application file did not disclose that federal funds would be used to honor the person identified in the allegation. Furthermore, the individual making the allegation could not provide any evidence to substantiate the allegation. We closed our file based on the allegation having no merit.
3. A former employee of an organization in receipt of an NEH fellowship grant alleged that the project director only spent about 20 hours on the project while receiving \$40,000 from the NEH. The person stated that he and the project director only made copies of material previously worked on by the project director. The OIG expects to look into this matter during the next semiannual period. This case remains open.
4. We received a call on our Hotline from an employee of the National Aeronautics and Space Administration (NASA) OIG informing the NEH that a grantee, in receipt of funds from several federal agencies, was allegedly changing the scope of the project. The allegation also stated that the project director was using funds for his personal matters. The Assistant United States Attorney in Atlanta, Georgia is working with several OIGs on this case. We reviewed our files and found that the project director received a \$25,000 grant in 1992, a year prior to the period being investigated for other federal grants. We are monitoring the work of the other OIGs and will be making a determination if the NEH funds were misused. This case remains open.
5. A person contacted us anonymously through our Hotline phone and wanted to know if NEH grantees could hire contractors on a sole-source basis. The person did not leave any information; therefore, we closed our file.
6. An NEH employee sent the OIG an e-mail disclosing that a current NEH employee was on a list of federal employees whom obtained a diploma from a diploma mill. The OIG found that the individual received the diploma after being hired by NEH. Furthermore, there is no mention of this degree in the individual's personnel file. We closed our case since the impact of the allegation is inconsequential.
7. A rejected applicant of NEH alleged that the panel process is flawed and the justification for the rejection of the application shows lack of knowledge on the part of the panelists and NEH staff. The OIG did some preliminary work and found no merit to the allegation. The person making the allegation then claimed that the OIG reviewed the wrong application. During the next reporting period, we will complete the review of this case. Thus, this case is still open.
8. An individual contacted the OIG Hotline and alleged that he was not considered for acceptance to a summer institute hosted by an NEH grantee based on his national origin. The OIG found that the allegation had no merit. The person was not accepted because he did not meet the specific criteria for participation in the summer institute. Furthermore, this person previously attended another summer institute hosted by the grantee organization. This matter has been closed.
9. A former employee of a southwestern city government alleges that the city "padded" telephone invoices charged to federal and state grants. This person contacted over 50 state and federal agencies with this allegation. Since the amounts associated with the NEH grants were immaterial in relation to the other state and federal grants, we advised the person to contact some of the largest grantors. We closed our file.

INVESTIGATIVE ACTIVITIES (Continued)

10. We received a Hotline letter from a former board member of a state humanities council alleging mismanagement by the Council. The contact further alleged that some current Board members are professors at colleges and universities in the state and vote on applications submitted by their respective employers. The OIG has not had the resources to review this matter. We expect to work on it during the next reporting period. This matter remains open.

11. We received an allegation stating that we should look into a certain organization that is involved in wrongdoing. We determined that the allegation was erroneously sent to NEH. Thus, we closed our file.

12. A participant in an NEH-supported summer workshop did not receive the funds that he was due. Ultimately, the person received the funds 76 days after the payment was due to him. The institution failed to pay others in addition to this person. We closed our file. We will notify the NEH programs that oversee grants to colleges, universities, and other organizations for workshops that participants must be paid on time, especially if the organization has received the federal funds.

13. Anonymously, through the NEH e-mail hotline system, an NEH employee alleged that NEH was violating the Office of Personnel Management Merit System Principles. The person alleged that a conversation was overheard regarding an individual's appointment to an acting director position without competition and that the person would later be selected as director, after an announcement is released in a closed competition for NEH employees. We conducted an investigation that included another allegation concerning Merit System Principles. We were unable to substantiate the allegations after we found that one person made an allegation that someone said something and the other person denied that the statement was made. We closed our case.

14. An NEH division director informed the OIG that an award was made to an association that conducts business on a university campus. The project director passed away and the association and the university were in a legal battle to control the project. We reviewed the grant file and met with the division director and staff. We advised the director that the situation must be monitored closely to protect the federal funds that have been disbursed to the grantee. It is possible that an investigation or audit will be necessary in the future. Our file remains open.

15. A participant in an NEH-supported summer institute contacted the OIG alleging that the project director did not pay her in a timely manner and did not disclose the deductions made to the payment in the brochures advertising the summer institute. We worked with NEH program staff to resolve this issue. As mentioned above, we will request that NEH division directors inform summer institute and seminar directors that when NEH pays their organization, the participants should be paid. This matter is closed.

OPEN AT SEPTEMBER 30, 2008

As of September 30, 2008, we have seven matters open. Two matters that were open at the beginning of the period remain open, while five cases from the fifteen received this period are open.

MATTERS REFERRED TO PROSECUTIVE AUTHORITIES

We did not refer any matters to prosecutive authorities during the current reporting period. During September 2008, the Department of Justice (DOJ) Criminal Division informed the OIG that they required additional information concerning the internal matter referred during the prior reporting period. We are gathering the information requested and then we will meet with DOJ attorneys.

INVESTIGATIVE ACTIVITIES (Continued)

HOTLINE AND PREVENTION ACTIVITIES

We maintain a toll-free Hotline phone number, an agency e-mail address, and an internet address to provide additional confidentiality for those persons bringing matters to the attention of the OIG. We periodically issue agency-wide e-mail messages informing NEH staff of violations that are reportable to the OIG. We also send e-mail messages several times during the year to inform NEH staff about the OIG operations. Posters advising staff to contact the OIG are displayed throughout the agency's facilities.

SUMMARY OF INVESTIGATION ACTIVITY

| | |
|---|----|
| Open at beginning of period | 7 |
| Matters brought to the OIG during the reporting period | 15 |
| Total investigative contacts | 22 |
| Closed, referred, or no action needed during the reporting period | 15 |
| Open at end of period | 7 |

OTHER ACTIVITIES

REGULATORY AND LEGISLATIVE REVIEWS

The Inspector General Act of 1978, as amended, requires the Office of Inspector General to review proposed legislation and regulations. The reviews are to assess whether proposed legislation and/or regulations (1) affect the economy and efficiency of agency programs and operations, and (2) contain adequate internal controls to prevent and detect fraud and abuse. During this period, no legislative reviews were required.

WORKING WITH THE AGENCY

OIG staff attend various NEH meetings - panel meetings (where grant applications are reviewed by outside consultants), pre-council meetings (where program staff discuss panel review results with the Chairman and his immediate staff), and the National Council meeting. Also, the IG or Deputy IG attends the Chairman's monthly policy group meetings. The Office of Inspector General contributes to the discussions but does not participate in policymaking.

PARTICIPATION ON THE EXECUTIVE COUNCIL ON INTEGRITY AND EFFICIENCY

In 1992, the President established the Executive Council on Integrity and Efficiency (ECIE) to coordinate and implement government-wide activities to combat fraud and waste in Federal programs and operations. OIG staff regularly attend ECIE meetings and provide input to the ECIE. The Inspector General is a member of the Audit Committee of the President's Council on Integrity and Efficiency, and participates in the Misconduct in Research meetings. In addition, he is a member of the Grant Fraud Committee, a subcommittee of the National Procurement Fraud Task Force. The Deputy IG participates in the Single Audit Roundtable and the Federal Audit Executive Council (FAEC). One senior auditor attends the monthly meetings of the Financial Statement Audit Network, a subcommittee of the FAEC.

INTRA-GOVERNMENTAL ACTIVITY

Congressional Inquiry

We responded to a follow-up inquiry from the Honorable Henry A. Waxman, Chairman of the House of Representatives ~ Committee on Oversight and Government Reform concerning recommendations made by the OIG from January 1, 2001 to the date of the inquiry that have not been implemented by agency officials.

OIG INTERNET AND INTRANET

The OIG has posted several semiannual reports on the internet and on the NEH intranet. The reports are accessible through the NEH homepage and the OIG homepage (<http://www.neh.gov/whowere/OIG.html>).

To advance NEH staff recognition of the OIG mission and responsibilities, we provide links to several other Federal agencies such as the Office of Management and Budget, the General Accountability Office, the Office of Government Ethics, and the IGNET.

OTHER ACTIVITIES (Continued)

TECHNICAL ASSISTANCE

Throughout the reporting period, OIG staff provided telephone technical help to NEH grantees and independent public accountants about various matters. Generally, these involve the preparation of indirect cost proposals and implementation of the audit requirements of OMB Circular A-133.

The Office of Inspector General previously published an *Accounting System Manual for State Humanities Councils* which describes a generic accounting system specifically designed for the needs of the state councils. The manual was last revised in September 1999. During this reporting period, OIG staff worked on revisions to the manual to incorporate updated information and amend model transactions to conform with generally accepted accounting principles.

ASSISTANCE TO THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

The National Endowment for the Humanities OIG has an interagency agreement to provide investigation assistance to the IMLS. The NEH OIG's responsibilities are limited to an internal review of any allegation, and to obtain investigation assistance from another OIG to perform the work. The agreement allows the NEH OIG to recover all direct costs and other costs that meet the legal requirements of the Economy Act. During this period, IMLS did not request any assistance from the NEH OIG.

FYE 2008 MANAGEMENT CHALLENGES

SEPTEMBER 30, 2008

BACKGROUND

For the past several years in the September 30th Semi-Annual Report, the Office of Inspector General has submitted an annual statement of what we consider to be the most important management and performance challenges requiring action by the National Endowment for the Humanities.

The agency has made significant improvements in several areas and we are happy to note that the financial management system and Information Resources Management are not on this year's list of challenges. We have added Grants Management to emphasize that monitoring of the grants needs to be strengthened and consistent throughout the NEH.

The most serious challenges for the agency are:

- Strengthening Information Security
- Continue to Improve Planning and Performance Measurement in Accordance with the Results Act
- Strategic Management of Human Capital
- Continuity of Operations
- Grants Management

Strengthening Information Security

NEH has diligently taken steps to improve the security of the agency information system. The agency is following OMB and NIST guidance more vigorously. NEH is currently providing computer hardware and software to the National Archives and Records Administration (NARA) for NARA's use in managing their grant administration program. NEH has determined that security features, such as firewalls, minimize the security risks associated with these additional responsibilities. While tremendous progress has been made in the area of information security, we believe the agency would benefit from a full penetration test (including social engineering) to determine the system's weaknesses, employment of a log management system to monitor intrusions and continually test the strength of user passwords. NEH's Office of Information Resources Management performs some password cracking; however, it must be performed on a regular basis and staff should be held accountable for a weak password. We understand that the NEH Office of Information Resources Management will be implementing a new system to strengthen and eliminate password concerns.

Without strong IT security, the confidentiality, integrity and availability of the agency's information are threatened. The agency needs a comprehensive security review of the IT security program. The review should encompass:

- assessing implementation of existing requirements;
- evaluating the effectiveness of the IT security organizational structure;
- verifying the accuracy of incident and status reports and evaluating the effectiveness of policy enforcement efforts; and
- enhancing network security monitoring capabilities, assessing feasibility of an intrusion detection system.

Log management and review would be a first step to provide a reasonable level of assurance that security incidents are detected, resolved, and reported in a timely manner.

We will continue to report IT security as a management challenge and potential risk to allow NEH management to continue focus on this area.

FYE 2008 MANAGEMENT CHALLENGES

SEPTEMBER 30, 2008 (Continued)

Continue to Improve Planning and Performance Measurement in Accordance with the Results Act

NEH has made progress over the past several years. However, more effort is required to make the case for justifying NEH as a positive results oriented organization. In the past NEH has relied heavily on anecdotal examples of success. Now NEH is measuring outputs rather than outcomes. The OIG recognizes that measuring the benefits of many NEH programs is difficult. Program offices and divisions should gradually collect outcome-related data from grantees. As an example, while we have learned that a high school teacher uses knowledge gained at a summer seminar during instruction to approximately 250 students a year, we do not know how the students are affected. Do they read more books on the topic, are they thinking about taking more courses on the same topic in college? What is the actual effect of a summer seminar on the students of the teacher attending the seminar? Further, what does the school principal and the department chair see as the outcome of the teacher taking the seminar? These measurements would have to be developed several years after the teacher attended the seminar.

We believe obtaining outcome-based data from grantees would more indicative for performance measurement than collecting output data. However, we recognize that relying on data quality and evaluating program effectiveness on information generated by grantees does not provide a comfort level of accurate information. The GAO and other OIGs have noted numerous incidences of high error rates in grantee-reported performance data and this raises concerns about the use of data for decision-making. Nevertheless, obtaining outcome information would be a significant improvement.

Strategic Management of Human Capital

Positive Action Taken

- Human capital is a high risk for the federal government due to the large number of baby-boomers that are expected to retire in the next three or four years. NEH will face the same situation. NEH recognized this problem when four staff from the Office of Grant Management (OGM) indicated they would retire within a one-year period. All four staff had over 30 years of experience in that office. NEH was proactive and brought replacement staff on board before three of the four people retired. Because of this succession planning strategy, the new staff under the guidance of some of the remaining long-term staff, has done well in processing grant actions and applications. NEH deserves much credit for their approach to address the human capital challenge.

Additional Action Needed

- NEH can ensure that the next wave of OGM staff retirements will go smoothly by providing grant management training to the recently hired employees. Off-site training would offer the new staff the benefit of learning how other agencies handle problems while obtaining knowledge of the Office of Management and Budget circulars that pertain to and affect grant administration. This will put the recent hires into a position to become efficient grant administrators.
- The OGM has well written procedure manuals with standard forms and language used in the letters to applicants and grantees. However, many of the program offices and divisions do not have comparable operations manuals. Therefore, it would be beneficial for program offices to document procedures and processes that are necessary to perform their work. This would be useful for the next generation of program staff and would facilitate consistent processing of grant applications.

FYE 2008 MANAGEMENT CHALLENGES

SEPTEMBER 30, 2008 (Continued)

- The OIG recommends that NEH develop a comprehensive five-year strategic human capital plan. The plan should identify human capital goals and human capital initiatives, including knowledge management and succession planning. Knowledge management involves capturing critical information and making the right information available to the right people at the right time to assure that knowledge and experience of the current staff is passed on to the next generation of NEH staff. This includes mentoring, early replacement hiring and rehiring annuitants. (NEH has taken some of these positive steps and we commend them for this action.) One of the first steps would be to develop a measurement system (workload analysis tool) to determine the FTE needs of the agency, especially in the program offices and divisions.
- A critical component in implementing the human capital plan is provision for management succession. Individuals with the potential to become managers should be identified, provided on-the-job and formal management/leadership developmental opportunities. This would strengthen organizational stability, the retention of institutional knowledge, and the infusion of new talent. Then when the occasion occurs, these staff can be promoted to higher positions. This, as part of a human capital plan, should be linked to the Agency's Strategic Plan for long-term achievement of the Agency's mission.

Continuity of Operations

The agency has developed a Continuity of Operations Plan (COOP); it has not been signed by the Chairman and is not part of the NEH Administrative Directives manual. One part of the plan pertains only to information technology, and while extremely important, the agency relies on paper documents in conducting its business.

The plan contains an agreement with the Millennium Challenge Corporation wherein either agency will assist the other in case a disaster occurs. The agreement only covers a disaster if it occurs in either one of the buildings occupied by each organization. Millennium is located at 875 15th Street, NW Washington, DC. If the downtown area of DC were closed, then execution of the agreement would not be viable. The agreement covers the assistance of Information Technology Equipment and it appears reasonable for a building disaster. One major area that it does not cover is payments to staff, suppliers, grantees and contractors where payment is made through the U.S. Treasury system.

Having a formal, inclusive (covering all NEH operations) and tested COOP is a valuable tool for NEH readiness for a sudden event where the staff may not be in a position to work in the Old Post Office Building for several weeks or more. NEH needs a plan that will have staff working within an acceptable timeframe if a manufactured or natural disaster prevented employees' admission to the building. NEH has taken positive action by obtaining the services of a software program where staff can work at home by accessing the NEH computer system. However, if no NEH staff has access to the building, staff may not be able to remotely access the computer system.

The plan must also take into consideration the agency's heavy reliance on paper files and documentation. If the building is lost, NEH would lose those documents and records, as they are not adequately secured. In addition, the agency needs a plan that will allow it to make payments through the U.S. Treasury system. The OIG understands that the agency has a committee working on the finalization of the plan.

Grants Management

We are including grants management as a challenge because of the inherent nature of a grant. A grant is financial assistance for an approved activity with performance responsibility resting primarily on the grantee, with little or no Government involvement in the funded activity. Although NEH has few incomplete grants (based on the grantee submitting a final financial and narrative report), grant oversight and monitoring is a concern of OIG. NEH does not have agency-wide standard operating procedures concerning grant oversight and monitoring. For example, some the program officials visit grantees on a regular basis, while others do not. The agency would benefit from an agency-wide policy wherein adverse conditions that may delay completion of a grant-funded project are identified, thus requiring more oversight and monitoring. The additional monitoring can be accomplished with site visits, telephone and teleconference, e-mail and by requesting specific documentation be sent to NEH.

FYE 2008 MANAGEMENT CHALLENGES SEPTEMBER 30, 2008 (Continued)

The Single Audit Act (OMB Circular A-133 audits) was enacted to provide audit coverage for grant making agencies. Originally, grantees receiving \$25,000 or more were subject to limited audit requirements; and grantees receiving \$100,000 or more were subject to the Circular. These audits were to give agencies such as NEH, oversight of more than grant expenditures. The law has been amended wherein the requirement for an audit is now \$500,000 or more of federal expenditures by a grantee in its fiscal year. This threshold is high for NEH grantees, and consequently, a significant number of non-profit organizations do not receive audit coverage. Colleges and universities, state and local governments "include NEH" awards, however, NEH grants are too small to be included in audit testing. To further compound this situation, the OIG is troubled about the adequacy and reliability of information being reported in these audits. Public accountants or state auditors perform the audits. When the OIG conducted Quality Control Reviews of public accountants, we found many deficiencies in their work. Last year the President's Council on Integrity and Efficiency issued a report stating that almost half of the audit reports had serious deficiencies making many unreliable.

PRIOR AUDIT REPORTS UNRESOLVED

- Several recommendations from prior FISMA and Information Technology Security reviews remain to be addressed. The staff of the NEH Office of Information Resources Management is currently working on implementing some of the recommendations.

TABLE I

REPORTING REQUIREMENTS

The Inspector General Act of 1978, as amended (Public Law 100-504), specifies reporting requirements for semiannual reports. The requirements are listed and cross-referenced to the applicable pages in this report.

| <u>IG Act Reference</u> | <u>Reporting Requirements</u> | <u>Page</u> |
|-------------------------|---|-------------|
| Section 4(a)(2) | Regulatory and Legislative Reviews..... | 13 |
| Section 5(a)(1) | Significant Problems, Abuses, and Deficiencies..... | * |
| Section 5(a)(2) | Recommendations for Corrective Action | * |
| Section 5(a)(3) | Prior Significant Recommendations Unimplemented..... | * |
| Section 5(a)(4) | Matters Referred to Prosecutive Authorities..... | 11 |
| Section 5(a)(5) | Instances Where Information Was Refused or Not Provided..... | * |
| Section 5(a)(6) | List of Reports Issued..... | 3 |
| Section 5(a)(7) | Summary of Reports Issued..... | 4-7 |
| Section 5(a)(8) | Audit Reports - Questioned Costs..... | 21 |
| Section 5(a)(9) | Audit Report - Funds To Be Put to Better Use..... | 21 |
| Section 5(a)(10) | Prior Audit Reports Unresolved..... | 19 |
| Section 5(a)(11) | Significant Revised Management Decisions..... | * |
| Section 5(a)(12) | Significant Management Decisions with which OIG Disagreed.... | * |

* None this period

**TABLE II
INSPECTOR GENERAL-ISSUED REPORTS
WITH QUESTIONED COSTS**

| | Number Of Reports | Questioned Cost | Unsupported Cost |
|--|----------------------|--------------------|---------------------|
| A. For which no management decision has been made by the commencement of the reporting period. | - 1 - | \$100,000 | \$ - 0 - |
| B. Which were issued during the reporting period. | - 0 - | \$ - 0 - | \$ - 0 - |
| Subtotals (A+B) | - 1 - | \$100,000 | \$ - 0 - |
| C. For which a management decision was made during the reporting period. | | | |
| i. Dollar value of disallowed costs. | - 0 - | \$ - 0 - | \$ - 0 - |
| ii. Dollar value of costs not disallowed (grantee subsequently supported all costs). | - 0 - | \$ - 0 - | \$ - 0 - |
| iii. Dollar value of costs not disallowed based on the "Value of Services Received." | - 0 - | \$ - 0 - | \$ - 0 - |
| D. For which no management decision has been made by the end of the reporting period. | - 1 - | \$100,000 | \$ - 0 - |
| E. Reports for which no management decision was made within six months of issuance. | - 1 - | \$100,000 | \$ - 0 - |

**TABLE III
INSPECTOR GENERAL-ISSUED REPORTS
WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE**

| | Number Of Reports | Dollar Value |
|--|----------------------|-----------------|
| 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 - |
| 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 - |
| ii. Dollar value of recommendations that were not agreed to by management. | | \$ - 0 - |
| D. For which no management decision was made by the end of the reporting period. | - 0 - | \$ - 0 - |

GLOSSARY OF AUDIT TERMINOLOGY

Questioned Cost - A cost that is questioned by the OIG because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; because such cost is not supported by adequate documentation; or because the expenditure of funds for the intended purpose is unnecessary or unreasonable.

Unsupported Cost - A cost that is questioned because of the lack of adequate documentation at the time of the audit.

Disallowed Cost - A questioned cost that management, in a management decision, has sustained or agreed should not be charged to the government.

Funds Be Put To Better Use - Funds, which the OIG has disclosed in an audit report, that could be used more efficiently by reducing outlays, de-obligating program or operational funds, avoiding unnecessary expenditures, or taking other efficiency measures.

Management Decision - The evaluation by management of the audit findings and recommendations and the issuance of a final decision by management concerning its response to such findings and recommendations.

Final Action - The completion of all management actions, as described in a management decision, with respect to audit findings and recommendations. When management concludes no action is necessary, final action occurs when a management decision is made.

Source: Excerpt from Section 106(d) of the Inspector General Act Amendments of 1988 (P.L. 100-504).

