



NATIONAL  
ENDOWMENT  
FOR THE  
HUMANITIES

OFFICE OF INSPECTOR GENERAL

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[WWW.NEH.GOV](http://WWW.NEH.GOV)  
HOTLINE 877-786-7598

June 16, 2010

**RETURN RECEIPT REQUESTED**

██████████  
██████████  
Museo de las Americas  
861 Sante Fe Drive  
Denver, CO 80204

OIG-10-04 (EA)

Dear ██████████

The National Endowment for the Humanities (NEH) Office of Inspector General has completed a limited audit of NEH challenge grant ██████████ awarded to the Museo de las Americas. This included 1) a review of the documentation supporting total certified matching gifts of \$██████████ (Certification Report No.'s one through five), 2) a review of the cumulative challenge grant expenditures incurred, and 3) testing for compliance with the Davis-Bacon Act provisions due to the challenge grant's budgeted building renovation/construction work.

A copy of the report is enclosed, and in general, we believe the report to be self-explanatory. However, we wish to emphasize that our office is recommending that \$██████████ of the \$██████████ award be refunded to NEH due to the scope limitations encountered.

Please consider the recommendations in this report, and within thirty days, provide the OIG with a written response including 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 must 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 grantees and NEH personnel to communicate ideas, reach sound conclusions, and implement recommendations.

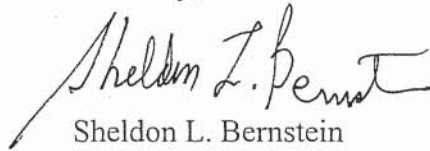
Letter to [REDACTED]  
June 16, 2010  
Page 2

The response 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

If you have any questions concerning the findings and recommendations or need accounting assistance, please call Mr. Steve Elsberg at (202) 606-8353. We would like to express our appreciation for the cooperation and assistance extended to our auditor by your staff during the audit.

Sincerely,

A handwritten signature in cursive script that reads "Sheldon L. Bernstein". The signature is written in black ink and is positioned above the printed name and title.

Sheldon L. Bernstein  
Inspector General

Enclosure



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## LIMITED AUDIT REPORT

NATIONAL ENDOWMENT FOR THE HUMANITIES  
(NEH)

CHALLENGE GRANT AWARD

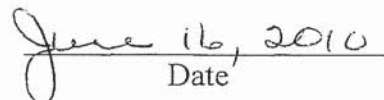
TO THE

MUSEO DE LAS AMERICAS

DENVER, CO

OIG-10-04 (EA)

  
Laura Davis, Deputy Inspector General

  
Date

LIMITED AUDIT REPORT

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)  
CHALLENGE GRANT AWARD  
TO THE  
MUSEO DE LAS AMERICAS  
DENVER, CO

I. INTRODUCTION

We have performed a limited audit of the Museo de las Americas (the "Museo") records as they relate to the following NEH challenge grant.

<u>Grant Number</u>	<u>Grant Period</u>	<u>Amount Awarded</u>
██████████	12/1/1999 – 7/31/2007 Includes a 2 year extension	\$ ██████████

Matching Gifts: Per Certification Report #5, dated December 15, 2008, the Museo certified that eligible gifts totaling \$ ██████████ were received and used to meet the matching requirements stipulated by the above NEH challenge grant. The grantee conveyed in the certification report that all restricted gifts were made in response to the NEH challenge grant; and that the gifts meet the criteria for eligibility established by NEH and would be expended for the intended grant purposes. The grantee further certified that documentation substantiating 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. Based upon the submission of the Certification Reports, the full \$ ██████████ in federal funds was released as a result of the non-federal matching gifts reported to NEH.

Grant Expenditures: As noted below, the purpose of this challenge grant award was three pronged: 1) purchase of equipment and furniture, 2) building renovations, and 3) creation of an endowment. Per review of the Museo's final performance report dated September 12, 2009, the grantee conveyed that the provisions of the grant were met and the related expenditures conformed to the intended grant purposes, as stipulated in the NEH Challenge grant award. In particular, the grantee asserted that all funds were distributed in accordance with the approved budget as follows: \$ ██████████ equipment and furniture; \$ ██████████ building and renovations; and \$ ██████████ for an endowment with expendable income being applied to additional humanities staff.

Davis-Bacon Act: As noted in the *Administration of NEH Challenge Grants* guidelines, any NEH challenge grant funds, federal or nonfederal, used for renovation and construction projects must comply with the Davis-Bacon Act. Major provisions of this Act require 1) grant recipients to furnish assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors, on construction projects, shall be paid wages at rates that are not less than those

prevailing on similar construction in the locality, 2) bid guarantees, and 3) bonding requirements.

## II. BACKGROUND

The Museo, a non-profit organization founded in 1991, is the only museum in the Rocky Mountain Region focusing exclusively on the art, history, and culture of Latinos. The Museo operates a gallery exhibiting items from its permanent art collection as well as sponsored exhibitions throughout the year.

Initially, the Museo was awarded this \$ [REDACTED] challenge grant to perform building renovations to integrate an adjoining building with the museum's existing facility and to purchase related equipment, furniture, and computers. After further discussions, the award budget was subsequently modified to include building renovations, the purchase of furniture and equipment, and the creation of an endowment fund to support additional humanities staff. To meet the terms of the grant award, the Museo was required to raise three times the federal offer in eligible non-federal matching funds (\$ [REDACTED] NEH and \$ [REDACTED] non-federal matching). Based upon the finalized budget, the aggregate \$ [REDACTED] was allocated among the three core tasks as follows:

- Purchase of equipment and furniture - \$ [REDACTED]
- Building renovations - \$ [REDACTED]
- Creation of an endowment fund - \$ [REDACTED]

## III. LIMITED AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

The principal objectives of this limited audit were to determine that 1) the gifts certified by the Museo are eligible to release federal matching funds, 2) grant expenditures were made in accordance with applicable provisions of NEH's *General Terms and Conditions for Awards to Organizations* and the terms of the approved grant budget, and 3) construction work complied with Davis-Bacon Act requirements. Our review was conducted in accordance with *Generally Accepted Government Auditing Standards* (GAGAS) as promulgated by the Comptroller General of the United States.

We examined documentation provided by the Museo supporting a) the eligibility of gifts received during the challenge grant period, b) the allowability of expenses incurred for the NEH challenge grant, and c) compliance with Davis-Bacon Act provisions. Due to significant staff turnover and poor recordkeeping at the Museo, we encountered various scope limitations that prevented us from properly executing our limited audit as discussed in detail below.

#### IV. LIMITED AUDIT FINDINGS AND RECOMMENDATIONS

##### A. Unsupported Matching Gifts

Per our initial communications with the grantee, we were informed that the accounting records and source documentation supporting the matching gifts reported to NEH were misplaced and unavailable. After providing the grantee with an extended period of time to locate these records, certain gift documentation (appears to represent all contributions received by the Museo during the grant period) was ultimately provided for our review. However, the Museo could not produce a detailed listing of the matching gifts that supported the total reported on the Certification Reports. As a result, we were unable to determine whether the contribution records provided by the grantee for testing were actually treated as matching gifts on the Certification Reports.

Although we encountered the scope limitation noted above, we agreed to review the gift documentation provided to assess whether these contributions specifically adhere to the eligibility requirements, as stipulated in the NEH challenge grant guidelines.

First and foremost, the total value of the gifts supplied by the grantee for testing (\$██████████) did not agree to the total matching gifts reported on the Certification Reports. Additionally, no attempt was made to reconcile this difference. After reviewing the gift documentation, only one of the gifts clearly meets the eligibility requirements as stipulated in the *Administration of NEH Challenge Grants* guidelines. This gift represents \$██████████ out of a required \$██████████ in non-federal matching gifts. An additional \$██████████ related to Annual Gala event sponsorships may also be partially eligible. These sponsorships are properly substantiated by donor acknowledgements. However, per the NEH challenge grant administrative guidelines, only the net amount of the proceeds (vs. gross proceeds) would qualify as eligible matching gifts.

The other contributions failed to meet the challenge grant eligibility requirements due to one or more of the following:

- a) Gifts/pledges totaling approximately \$██████████ were received prior to the start date of the NEH challenge grant (12/1/99).
- b) Documentation from donors, verifying their understanding that contributions were to be used as matching gifts for the restricted NEH challenge grant purposes, was missing (approximately \$██████████).

*\*\*NOTE: Documentation stipulating that the Annual Gala fundraising events were held specifically to raise matching funds for the NEH challenge grant was not supplied. The Museo provided newspaper clippings, related to certain Annual Gala events, that stated funds raised would support the Museo's capital campaign; however, the articles make no mention of the NEH challenge grant nor do they impart any evidence that donors were aware that their funds were to be used as matching gifts for the restricted purposes defined by the NEH challenge grant.*

- c) Actual source documentation was not provided (approximately \$ [REDACTED]).

*\*\*NOTE: This includes one material item in which the only supporting documentation provided was a monthly statement (\$ [REDACTED] – November 2009) related to an investment account; no evidence of the underlying donations was submitted. See section IV,B,3 for more details.*

- d) Discounting item (b) above, Annual Gala gifts (approximately \$ [REDACTED]) were identified at gross value, not the net proceed amount as required by the challenge grant guidelines.

According to the NEH challenge grant administration manual (see [www.neh.gov/manage/challenge\\_admin.html](http://www.neh.gov/manage/challenge_admin.html)), restricted matching gifts must be in response to or in anticipation of the challenge grant and must be used to support the purposes outlined in the approved challenge grant application/budget. All donors of the restricted gifts must be aware that their gifts are to be used to match an NEH challenge grant. Proof of donor awareness in the form of individual letters is required for individual gifts of \$ [REDACTED] or more. Additionally, all matching gifts (cash and pledges) must be given and paid during the challenge grant award period. Any unpaid pledges existing at the end of the grant period will be deemed unallowable. Finally, gifts may not derive from the grantee institution; this includes profits from the sale of assets/real property already owned and investment income earned from endowment funds.

The related source documentation and accounting records must be properly maintained in accordance with *NEH General Terms and Conditions for Awards to Organizations*, Article 21, "Record Retention". This provision stipulates that financial and all other records pertinent to a federal award are to be retained for a period of three years after the submission date of the final report. Without sufficient documentation, there is no way to determine if the Museo complied with the NEH challenge grant administrative requirements.

### **Recommendation A**

Due to the unsubstantiated challenge grant matching gifts documented above, the Museo must refund \$ [REDACTED] to the National Endowment for the Humanities (\$ [REDACTED] 3)).

### **B. Lack of NEH Challenge Grant Expense Documentation**

The Museo could not provide the general ledger detail and source records necessary to

- 1) document the total NEH challenge grant expenses spent over the life of the grant or
- 2) substantiate the validity and allowability of such expenditures. Furthermore, several

key events reported in the financial statements pose additional questions concerning the proper management of NEH funds as follows:

- 1) The 2002 and 2003 audited financial statements included a footnote disclosure stating that the Museo improperly “borrowed” over \$ [REDACTED] in NEH challenge grant funds to pay for general operating expenses.
- 2) The NEH challenge grant budget allocated \$ [REDACTED] for building renovations and expansion. However, the Museo’s related capital campaign was ultimately unsuccessful leading to the termination of the fundraising consultant, the write-off of architectural plans/design fees (\$ [REDACTED]) which were initially treated as construction in progress (2003 audit), and the forced sale of both land and a building that were to be used for the museum’s expansion (2004/2005). Based upon this review of the financial statements, the actual outlays related to building renovations/expansion appear to have fallen well short of the budgeted amount.
- 3) The NEH challenge grant budget included the creation of a \$ [REDACTED] NEH endowment fund to support additional humanities staff. Per the June 30, 2007 financial statements (grant expired 7/31/07), the total value of the endowment investment fund was approximately \$ [REDACTED]. The majority of this balance was the result of annual installment payments from an unrelated \$ [REDACTED] permanently restricted multi-year pledge from the [REDACTED] family. These payments totaled \$ [REDACTED] as of 6/30/07. Additionally, the final performance report submitted by the Museo to NEH dated September 12, 2009, stated that the organization contributed \$ [REDACTED] to the endowment after the sale of the adjacent building and back lots (see #2 above). Per the *Administration of NEH Challenge Grant* guidelines, allowable matching gifts may not derive from the grantee institution itself. Finally, this investment fund includes reinvested earnings. Based upon this review, it is evident that the Museo failed to build the budgeted challenge grant endowment.

The related source documentation and accounting records must be properly maintained in accordance with *NEH General Terms and Conditions for Awards to Organizations*, Article 21, “Record Retention”. This provision stipulates that financial and all other records pertinent to a federal award are to be retained for a period of three years after the submission date of the final report. Without this documentation, there is no way to determine if the Museo’s expenditures complied with the provisions of the NEH challenge grant. Since we are recommending a refund of almost the entire federal award amount (\$ [REDACTED] out of \$ [REDACTED]), we are willing to concede that the Museo incurred enough valid challenge grant expenses to cover the allowable portion of the award (approximately \$ [REDACTED]).



### **C. Davis-Bacon Act**

The grantee asserts that the construction work performed during the life of the NEH challenge grant was exempt from the Davis-Bacon Act due to the small amount of work actually performed and fact that individual projects were all less than \$ [REDACTED] (i.e. the Davis-Bacon Act reporting threshold). Due to the scope limitations noted above, we could not verify this assertion since general ledger and source documents were not provided. Considering that \$ [REDACTED] of the NEH challenge grant budget was earmarked for building renovation work, we suspect construction/renovation work falling under the Davis-Bacon Act purview was performed at some point.

The related source documentation and accounting records must be properly maintained in accordance with *NEH General Terms and Conditions for Awards to Organizations*, Article 21, "Record Retention". This provision stipulates that financial and all other records pertinent to a federal award are to be retained for a period of three years after the submission date of the final report. Without this documentation, there is no way to determine if the Museo complied with the legal requirements stipulated under the Davis-Bacon Act.

### **D. Inadequate Record Retention and Lack of Financial Oversight**

As noted in the findings above, the lack of accounting records and source documentation (i.e. complete breakdown in internal controls/financial oversight) has essentially led to an audit scope limitation. This control breakdown was further highlighted by our review of the Museo's key financial reports to include annual financial statements and annual tax return filings with the Internal Revenue Service (IRS).

Significant issues include the following:

- 1) An outside audit was either not performed or reports signed during fiscal years 2004 – 2006.
- 2) The fiscal year 2006 IRS Form 990 (Return of Organization Exempt from Income Tax) extension specifically stated that the "old accounting records were a shambles. This organization has (attempted to) update over three years (worth of) data in the past year."
- 3) A \$ [REDACTED] check from a donor (dated 7/14/03) was provided to the Museo to satisfy a lien levied against the organization by the IRS (per the memo line).
- 4) The item discussed in section IV, B, 1 above.

### **Recommendation D**

New procedures and internal controls must be enacted to ensure accounting records and source documents are properly maintained and grant requirements adhered to.

The organization must also retain the requisite professional accounting competencies to ensure proper financial reporting and to prevent another financial meltdown.<sup>1</sup>

## V. EXIT CONFERENCE

The results of our review were discussed with [REDACTED] on June 3, 2010.

Museum management acknowledges the above recommendations and has asserted that the underlying systemic control deficiencies highlighted in this report are being addressed by both management and the Board.

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<sup>1</sup> We understand that the Museo started addressing these issues as evidenced by the hiring of an outside accountant to assist with monthly financial processing, monthly review of internal financial statements by both management and the Finance & Executive Committee, third party review of the Museo's internal controls, updating and expanding the Policies and Procedures Manual, adoption of revised Bylaws, and other governance changes.