



# *National Archives and Records Administration*

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8601 Adelphi Road  
College Park, Maryland 20740-6001

Date : October 26, 2009

Reply to

Attn of : Office of Inspector General (OIG)

Subject : OIG Report No. 10-01, National Historical Publications and Records Commission Grant No. 2004-026 Supreme Court Historical Society

To : Kathleen Williams—Executive Director, National Historical Publications and Records Commission

The Office of the Inspector General (OIG) completed an audit of a grant awarded by National Archives and Records Administration's (NARA) National Historical Publications and Records Commission (NHPRC) to the Supreme Court Historical Society (SCHS). The grant award was \$762,320 for the period covering January 1, 2004 to December 31, 2006. This was a multi-year grant project NHPRC began funding in 1977 for *The Documentary History of the Supreme Court of the United States, 1789-1800*: an eight volume research and historical preservation project. The performance objective of the subject grant project was to complete and publish the final two volumes.

The objectives of this portion of the review were to determine whether (1) funds awarded were utilized and expended in accordance with federal guidelines and (2) NARA objectives for issuing the grant were accomplished. This audit report focuses on the results of our audit of the SCHS grant and is part of a larger audit of NHPRC management controls over its grant process. As part of the larger audit we selected several grants for review. Management control issues noted in the SCHS grant review, as well as in the other grants reviewed, will be incorporated in a later report. The background, scope and methodology sections for this audit can be found in attachment A.

## **Results of Audit Effort**

Office of Management and Budget (OMB) Circular A-122<sup>1</sup> defines the requirements for grantees specific to maintaining financial records which are subject to audit. Audit requirements do not allow auditors to validate any portion of grant expenditures claimed based upon performance without required supporting documentation. Thus, while SCHS successfully published the final two volumes of *The Documentary History of the Supreme Court of the United States, 1789-1800* project, receiving favorable editorial reviews, we questioned the entire federal grant award of \$762,320 because timesheets were not maintained to support/document labor costs incurred by SCHS.

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<sup>1</sup> OMB Circular A-122 has been incorporated into 2 CFR 230.

## Unsupported Labor Cost

We questioned the entire federal grant award of \$762,320 provided to SCHS due to lack of documentation/timesheets supporting labor cost. The grant agreement identified that all federal funds were used for labor expenses. SCHS was unable to provide required personnel activity reports or timesheets to support labor expenses reportedly incurred. SCHS personnel stated they were unaware timesheets were required and, thus, did not have a process to record and document their labor costs. Consistent with federal grant regulations, costs are reimbursable if they are reasonable, allowable, allocable for the performance of the award, and adequately documented. Specifically, OMB Circular A-122 states the distribution of salaries and wages to federal awards must be documented by personnel activity reports (timesheets). SCHS has not complied with federal regulations and we were unable to determine the validity of federal funds paid to SCHS.

During the audit we interviewed the SCHS Director, Assistant Director, and SCHS Project Director. All three have been involved with the history of the Supreme Court project all 29 years and all stated they were unaware timesheets were required. Both the SCHS Director and Assistant Director stated they were aware of federal regulations associated with grant funding as these federal regulations were identified in their grant agreement. However, both readily admitted they did not read the applicable federal regulations.

Federal funds were used to pay most of the salaries and wages of three full-time employees and one part-time employee. All employees reportedly worked on the grant project exclusively and were paid a predetermined salary. The SCHS Project Director stated she monitored the hours and productivity of the staff working on the grant project. However, without timecards for review, we were unable to determine whether employees were consistently working full-time on the project.

OMB Circular A-122 Appendix B paragraph (8) (m) entitled *Support of salaries and wages*, states activity reports must be maintained for all staff members whose compensation is charged, in whole or in part, directly to awards and must have the following attributes: a) reflect an after-the-fact determination of the actual activity of each employee (budget estimates do not qualify); (b) must account for the total activity for which employees are compensated; (c) must be signed by the individual employee, or by a responsible supervisory official; and (d) prepared at least monthly and must coincide with one or more pay periods. As a result of SCHS's omission to specifically account for labor costs according to federal regulation, we question all of the costs for labor expenses.

Please provide your written comments within 45 days regarding actions planned to address the questioned costs. Should you have any questions, or require additional information, please contact me of James Springs, Assistant Inspector General for Audits at 301-837-3000.

Paul Brachfeld  
Inspector General

## SUPPLEMENTARY AUDIT REPORT INFORMATION

### BACKGROUND

The NHPRC supports activities to preserve, publish and encourage the use of documentary resources related to the history of the United States. Each year the NHPRC receives a Congressional appropriation from which it awards grants. Additionally, NHPRC staff implements NHPRC grant program policies and guidelines, provides assistance and advice to potential applicants, and advises the Commission on grant proposals.

Finally, NHPRC staff is also responsible for monitoring each grant awarded by the Commission. To monitor grants awarded, NHPRC staff ensures the grantee submits (1) annual financial status and narrative progress performance reports and (2) a final financial and narrative performance report.

NHPRC awarded \$762,320 to SCHS for *The Documentary History of the Supreme Court of the United States, 1789-1800*: a research and historical preservation project. This grant project's goal was to produce and publish the final two volumes of an eight volume series. The history of the Supreme Court project began in 1977 and over a 29 year span NHPRC estimates they provided \$3,718,692 in total funding for this project. SCHS successfully completed the final two volumes; the entire series received favorable review by the American Journal of Legal History and has been cited in books, articles, and court opinions.

The SCHS was founded in 1974 by Chief Justice Warren E. Burger for the purpose of collecting and preserving the history of the Supreme Court of the United States. To accomplish its mission, the Supreme Court Historical Society conducts educational programs, supports historical research, publishes books, journals, and electronic materials, and collects antiques and artifacts related to the Court's history.

The SCHS, located in Washington D.C., is a nonprofit corporation under Section 501 (c) (3) of the Internal Revenue Code. SCHS, as a nonprofit corporation, is required to follow the cost principles specified in OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, and the Federal administrative requirements contained in OMB Circular A-110,<sup>2</sup> *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*.

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<sup>2</sup> OMB Circular A-110 has been incorporated into 2 CFR 215.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The objectives of our review were to determine whether (1) funds utilized were expended in accordance with federal guidelines and (2) NARA objectives for issuing the grant were accomplished. This audit report focuses on the results of our audit of the SCHS grant. A separate report will be issued addressing the overall grant program administered by NHPRC and the results of all grantees visited during the audit including SCHS.

To accomplish our objectives we reviewed NARA and OMB guidance pertaining to applying for, awarding, and administering grants. We reviewed all NHPRC documentation relating to the SCHS grant including the application, award notifications, interim and final narrative and financial reports, deliverables and close-out evaluation documents. Additionally, we reviewed all reported cost-share expenditures including health and retirement benefits, payroll taxes, travel expenses, professional services, and office overhead expenses. Finally, we interviewed NHPRC and SCHS officials.

Our work was performed at Archives I and at the Supreme Court Historical Society both located in Washington D.C. between April 2009 and August 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.





## National Historical Publications and Records Commission

National Archives and Records Administration  
700 Pennsylvania Avenue, NW  
Washington, DC 20408-0001

Date: January 21, 2010

To: Paul Brachfeld  
Inspector General  
Office of Inspector General (OIG)

From: Kathleen Williams  
Executive Director, NHPRC

Subject: Response to OIG Report No. 10-01, National Historical Publications and Records Commission Grant No. 2004-026: Supreme Court Historical Society (SCHS)

This response addresses Office of Inspector General (OIG) Report No. 10-01 (Report), which examined the National Historical Publications and Records Commission Grant No. 2004-026, Supreme Court Historical Society (Grant). The Report, which was issued by OIG on October 26, 2009, questioned the entire award of \$762,320 for the period covering January 1, 2004 to December 31, 2006, because timesheets were not maintained to support/document labor costs incurred by SCHS.

The Report correctly points out that timesheets were not properly maintained by the Supreme Court Historical Society (SCHS). SCHS did not keep a written account of the hours worked by staff, and the NHPRC was unaware that the project lacked proper record keeping procedures.

However, there is no indication of any fraud on the part of SCHS. NHPRC, with NGC's assistance, discussed the matter with SCHS in response to the Report. Both the SCHS Executive Director and the Project Director agreed that project staff devoted many hours to the project, often in excess of what was expected, and all parties agree that the product was excellent. As a result, there is no doubt that the objectives and purposes of the Grant were met and that the government received the product it anticipated when making the Grant.

Accordingly, we believe that the evidence as a whole is sufficient to substantiate that the federal funds granted were used in an appropriate manner by SCHS, and that there is no reason to consider seeking recovery of any of the funds. In conjunction with the discussion below about steps NHPRC will be taking to prevent future occurrences with its grantees, which will be further elaborated upon in the NHPRC's response to the OIG audit of NHPRC's management controls over its grant processes, we consider this response as closing out the Agency's responsibility under the Report.

## **Discussion**

### SCHS record keeping and staffing

In response to the Report, the NHPRC determined that following up with SCHS was appropriate to discuss the lack of recordkeeping, and to ask whether or not staff worked on the project in a manner consistent with the grant application and award.

Accordingly, NGC staff spoke with David Pride, SCHS Executive Director, and Project Director, Maeva Marcus. Both Dr. Pride and Dr. Marcus confirmed that timesheets had not been kept, and as noted in the Report they said they were not aware of that requirement. Dr. Pride noted that although he was not always in the same building as project staff, whenever he called the phone was answered, and it was his impression that Dr. Marcus ran a "tight ship." He said that the last three years of the project were particularly busy since the office space was slated to be given away at the project's end.

Dr. Marcus firmly asserted that staff devoted many hours to the project, and that she and her staff often put in more than 40 hours per week. She said that the *Documentary History* was not like an academic research project where staff spends hours doing research that may or may not be directly related to the project. Her staff was focused on the *Documentary History* project.

Based on these discussions and the quality of the product received, it appears to the NHPRC that SCHS used the Grant award for the purposes it was intended and there has been no loss to the government.

### Quality of product and objectives met

As noted by OIG, the product produced, the final two volumes of *The Documentary History of the Supreme Court of the United States, 1789-1800*, received favorable editorial reviews, as well as praise from the Supreme Court (several of the Justices were readers and on the Board of Advisors).

Moreover, there is little doubt that the objectives and purposes of the Grant were met. The Grant had eight specific performance objectives:

#### *Volume 7*

1. Publish.

#### *Volume 8*

2. Complete transcription and proofreading of documents.
3. Draft annotation and headnotes.
4. Prepare front matter and illustrations.
5. Submit manuscript to the press.

6. Check page proofs and compile index.
7. Publish volume.

### *General*

Submit interim narrative reports and final financial report in a timely manner.

With the exception of the General Objective, which scored 40% due to late submission of several reports, all the other objectives were fully met. The Grant was closed out on November 13, 2007, upon receipt of copies of the volumes.

From the perspective of meeting Grant objectives and producing a worthy product, the Grant was very successful, and it is clear that the government received the product it anticipated when making the Grant. Although perhaps not conclusive by itself, the fact that the product was excellent and the objectives were met indicates that the federal funds advanced were used in an appropriate manner.

### Steps to prevent reoccurrences in the future

At the time the Grant was awarded, the Notification package included a separate sheet entitled "Important Notice to NHPRC Grant Recipients." It informed recipients that they must be ready and able to comply with all federal rules and regulations, and pointed out the location of the rules in the Code of Federal Regulations (CFR). Similarly, the Notification Letter specified that administration of the award would conform to specified sections of the CFR, NHPRC Grant Guidelines, and OMB Circulars A-122 (Cost Principles for Nonprofit Organizations) and A-133 (Audits of State, Local Governments, and Non-Profit Organizations).

Given what Dr. Pride and Dr. Mavis reported, it is clear that further steps need to be taken to make recipients aware of their specific obligations. Going forward, all applicants will receive more direct notice of paperwork requirements beyond being provided with links and being told to comply. Upon receiving an award, the authorizing officials, as well as the program director, will have to initial and sign a document noting paperwork requirements. Upon closing out a grant, grantees will be reminded in writing to hold onto paperwork for at least three years. NHPRC will also take steps throughout the life of the Grant to ensure that grantees comply with these requirements.

A more elaborate description of those steps will be included in our response to the broader OIG report.

### Conclusion

Despite the timesheet record keeping flaw, we believe that we have been able to substantiate that the Grant funds were used appropriately. The objectives of the Grant were met, the product received was unquestionably of high quality, and totality of the circumstances show that the efforts of the Grantee essentially matched what was promised in the application.



Accordingly, we will take no further action on this Grant and do not believe that seeking recovery of any of the funds would be appropriate. However, as stated above, going forward the NHPRC will take steps to prevent reoccurrences.

Should you have further questions, please contact me at 202-357-5263.



KATHLEEN WILLIAMS  
Executive Director  
NHPRC