

**APPALACHIAN REGIONAL COMMISSION
WASHINGTON, DC**

**REPORT ON APPLYING AGREED-UPON
PROCEDURES TO**

APPALACHIAN SCHOOL OF LAW

GRANT No. VA-12410-96

GRANT PERIOD: AUGUST 1, 1996 THROUGH JULY 31, 1997

OIG Report 98-29 (H)
February 26, 1998

Caution: Certain information contained herein is subject to disclosure restrictions under the Freedom of Information Act, 5 U.S.C. 5222 9(b)(4). Distribution of this report should be limited to the Appalachian Regional Commission and other pertinent parties.

Mr. Hubert Sparks
Inspector General
Appalachian Regional Commission
Washington, DC

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

We have performed the procedures described below, which were agreed-to by the Appalachian Regional Commission's Office of Inspector General, with respect to the Appalachian Regional Commission's (ARC) Grant No. VA-12410-96 to the Appalachian School of Law (ASL) for the period of August 1, 1996 through July 31, 1997, solely to assist you in determining the allowability of costs incurred, whether grant objectives were met, and the current status of the project. This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the Appalachian Regional Commission's Office of Inspector General. Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The following procedures were performed to determine the grantee's compliance with OMB Circulars, provisions of the grant agreement, and the ARC code:

- Held an entrance conference with the grantee.
- Reviewed the grant agreement and any modifications.
- Compared total grant costs by budget category as claimed to ARC to the books of account maintained by grantee.
- Analyzed cash receipts against current needs and interest earned and-remitted.
- Tested the allowability and supporting documentation of a sample of three payroll costs and seven non-personnel costs.
- Determined if specific grant objectives were achieved.
- Determined if matching/non-federal contribution requirements were met.
- Held an exit conference with the grantee.

Appalachian Regional Commission
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The results of the procedures are discussed in the **RESULTS OF APPLYING AGREED-UPON PROCEDURES** section of this report.

We were not engaged to, and did not perform an audit, the objective of which would be the expression of an opinion on payments received and costs incurred under this grant. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the Appalachian Regional Commission and the management of the Appalachian School of Law and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. Upon acceptance, however, this report is a matter of public record.

M. D. Oppenheim & Company, P.C.

Fairfax, Virginia
February 26, 1998

**REPORT ON APPLYING AGREED-UPON PROCEDURES TO
APPALACHIAN SCHOOL OF LAW
GRUNDY, VIRGINIA**

GRANT No. VA-12410-96

GRANT PERIOD: AUGUST 1, 1996 THROUGH JULY 31, 1997

PURPOSE

The purpose of our application of agreed-upon procedures was to determine (1) the allowability of costs claimed, under the Appalachian Regional Commission's Grant No. VA-12410-96, by the Appalachian School of Law, (2) if the grant objectives had been met, (3) the grantee's compliance with OMB Circulars, provisions of the grant agreement, and the ARC code, and (4) the status of the project.

SCOPE

We tested ten costs incurred and claimed for the reimbursement under ARC Contract No. VA-12410-96. Under the terms of this grant, for the complete and satisfactory performance of this grant agreement, and upon receipt of proper invoices approved by ARC, the Commission shall reimburse the grantee for the actual, reasonable and eligible costs of the project, as determined and approved by ARC, provided total cost reimbursement payments shall not exceed \$280,800.

The grantee represented to ARC that \$569,550 would be contributed by the grantee to the project in cash, contributed services, or in-kind contributions.

The period of performance for this grant was August 1, 1996 through July 31, 1997. The Appalachian Regional Commission obligated \$280,800 for this grant. The grantee received payments totaling \$280,800 (see **EXHIBIT A**).

We reviewed reports prepared by the grantee, evaluated project records, toured the Appalachian School of Law facility, and held discussions with the staff and faculty members during the period February 24-26, 1998. As a basis for determining allowable costs and compliance requirements, we used the provisions of the grant agreement, Office of Management and Budget (*OMB Circulars A-21 and A-110*), and the Appalachian Regional Commission Code.

BACKGROUND

The primary purpose of this grant was to provide funds to partially underwrite the operational costs of the third and final year of developing the Appalachian School of Law located in Grundy, Virginia. ARC funds were used to support personnel costs for the Dean, an Admissions Officer and a secretary/clerk and some supplies and office expenses.

The specific objectives of this project, financed by ARC and matching local contributions were to:

- Hire five additional employees: the Dean, Admissions Officer, a secretary, the Director of the Library, and a technical assistant;
- Complete construction of and furnish a 40,000 square foot building to house the school;
- Assemble a library which meets accreditation standards of 60,000 volumes or equivalent;
- Recruit six full-time faculty;
- Identify qualified part-time faculty members;
- Recruit, regionally and nationally, the first student class of about 108 members;
- Develop an innovative curriculum which will emphasize Alternative Dispute Resolution (ADR) and ethics;
- Continue fund-raising activities, and
- Retain an American Bar Association consultant.

RESULTS OF APPLYING AGREED-UPON PROCEDURES

The State Council of Higher Education for Virginia on April 15, 1997 unanimously authorized the Appalachian School of Law to offer courses for credit toward the Juris Doctor degree. By August 1997, the Appalachian School of Law successfully recruited a well-qualified professional and support staff and began teaching its first class of 67 students. The professional staff includes experienced lawyers and librarians. The impact of ASL on the community expands beyond the legal environment to: (1) volunteering in the local schools; (2) involvement in local civic organizations; (3) and supporting local elected officials. Upcoming challenges include providing student housing and gaining accreditation.

We have tested ten costs incurred by the Appalachian School of Law under ARC Grant No. VA-12410-96 for the period August 1, 1996 through July 31, 1997. The results of applying agreed-upon procedures are discussed in the **OBSERVATIONS AND RECOMMENDATIONS** section and in **EXHIBIT A** of this report. This grant established an ARC obligation of \$280,800. The grantee requested and received \$280,800 in reimbursement.

Our procedures disclosed ARC funds were deposited in a non-interest bearing account. Federal grant regulations require that Federal funds be placed in interest-bearing accounts. The grantee concurred with our finding and the Appalachian School of Law has moved all ARC funds to an interest bearing account.

The grantee provided \$569,550 of local funding, as the matching share, resulting in total project costs of \$850,350.

OBSERVATION AND RECOMMENDATION

ARC FUNDS DEPOSITED IN A NON-INTEREST BEARING ACCOUNT

ARC funds are deposited, through the Automated Clearing House (ACH) electronic vendor payments system, into a non-interest bearing business-checking account with the bank in Grundy, Virginia. This account is the operating account for ASL and contains a mix of non-federal and federal funding. Federal regulations require that Federal funds be placed in interest-bearing accounts.

OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations*, subpart C, .22 Payment, sections (k) and (l) state:

Recipients shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.

- (1) The recipient receives less than \$120,000 in federal awards each year.*
- (2) The best reasonably available interest bearing account would not expect to earn interest in excess of \$250 per year on federal cash balances.*
- (3) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.*

For those entities where the CMIA (CASH MANAGEMENT IMPROVEMENT ACT) and its implementing regulations do not apply, interest earned on federal advances deposited in interest-bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. The recipient for administrative expense may retain interest amounts up to \$250 per year.

RECOMMENDATION

We recommend the Appalachian School of Law establish an interest-bearing account for the deposit and maintenance of any future ARC funds.

GRANTEE'S RESPONSE

As of March 1, 1998, all checking account funds including the ARC funds are maintained in an interest bearing checking account with a regional community bank.

ACCOUNTANT'S CONCLUSION

We concur with the grantee's response and consider this finding closed.

**APPALACHIAN SCHOOL OF LAW
GRUNDY, VIRGINIA**

GRANT No. VA-12410-96

GRANT PERIOD: AUGUST 1, 1996 THROUGH JULY 31, 1997

SCHEDULE OF CASH PAYMENTS & PROJECT COSTS

(UNAUDITED)

<u>DATE</u>	<u>PAYMENT</u>	<u>AMOUNT</u>
August 22, 1996	Advance	\$ 95,075
January 24, 1997	Progress	67,328
May 19, 1997	Advance	90,317
October 15, 1997	Final	<u>28,080</u>
ARC Funds		280,800
Total Local Matching Share Contributed		<u>569,550</u>
Total Grant Funding		<u>\$ 850,350</u>

April 6, 1998

Dr. Lucius F. Ellsworth, President
Appalachian School of Law
P.O. Box 2825
Grundy, VA 24614

Dear Dr. Ellsworth:

Enclosed is a copy of the DRAFT report on our grant survey of ARC Grant No. VA 12410-96 for the period August 1, 1996 to July 31, 1997. We are sending you this report so that you may have a chance to make any comments, if you desire. Any comments we receive by Monday April 20, 1998 will be included in the final report. Please note that you are not required to provide a response to this DRAFT report.

Your comments may be sent directly to:

M.D. Oppenheim & Company, P.C.
2750 Prosperity Ave. Suite 250
Fairfax, VA 22031

Attn.: Nancy Davis, CPA

Should you have any questions, please feel free to contact us.

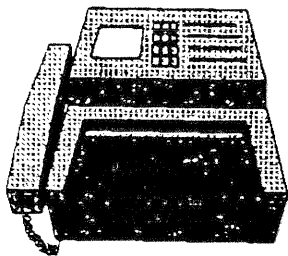
Sincerely,



Nancy Davis, CPA
Manager

M.D. OPPENHEIM & COMPANY, P.C.

CERTIFIED PUBLIC ACCOUNTANTS



FAX TRANSMITTAL SHEET

DATE: 4.20.98 TIME: 7:50 am pm

FAX NUMBER CALLED: (202) 884-7696

TO: Hubert Sparks

TELEPHONE: (202) 884-7675

FROM: Mike Minnehan - Extension 206
M.D. OPPENHEIM & COMPANY, P.C.
2750 PROSPERITY AVENUE, SUITE 250
FAIRFAX, VIRGINIA 22031-4312

PHONE: (703) 698-0083

FAX: (703) 698-8253

E-MAIL: mdocpava@his.com

ADDITIONAL INFORMATION

FYI - Grantee response (Appalachian School of Law)

NUMBER OF PAGES [including transmittal sheet] 2

Please contact Jacquie at (703) 698-0083 should this fax transmission not be received in its entirety.



April 14, 1998

M.D. Oppenheim & Company, P.C.
2750 Prosperity Avenue
Suite 250
Fairfax, VA 22031

Attn: Nancy Davis, CPA

Dear Ms. Davis:

In response to your letter of April 6, 1998, I have read the draft report of the Report on Applying Agreed-Upon Procedures to the Appalachian School of Law, Grant No. VA-12410-96. I was pleased to note the favorable conclusions contained in the report and the one recommendation. As Mr. Mike Minnehan and I discussed during his exit interview on February 16, 1998, locating a local bank which would provide an interest bearing checking account with reasonable charges had been difficult.

Following the interview, I met with Mr. Larry Mullins, a senior officer of Miners and Merchants Bank, a regional community bank and our principal bank. Mr. Mullins agreed to establish an interest bearing checking account for the Appalachian School of Law with few, if any, additional charges. As of March 1, 1998, all checking account funds including the ARC funds are in this interest bearing checking account.

Thank you for providing us a draft copy of the report and this opportunity to respond. If you need additional information, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "L. Ellsworth".

Lucius F. Ellsworth
President

LFE/alo

cc: Hicok & Fern
Joe Wolfe, Chair Board of Trustees