

This is the accessible text file for Library of Congress Office of the Inspector General's Audit of the Library's Grants Operations, Policies, and Procedures, Report No. 2020-PA-103 which was released on May 3, 2021.

Office of the Inspector General
Library of Congress
Memo

Date May 3, 2021
To Dr. Carla Hayden
Librarian of Congress
From Kurt W. Hyde
Inspector General
Subject Final Audit Report Audit of the Library's Grants Operations, Policies, and Procedures, Report No. 2020-PA-103

The attached final report presents the results of Cotton & Company's (Cotton) audit. The objectives were to evaluate 1) the adequacy of the Library's grants operations policies and procedures, 2) the Contracts and Grants Directorate (CGD) and the Program Office's compliance with those procedures, and 3) the grantees' compliance with those procedures.

Cotton found CGD could improve its procedures for reviewing, awarding, and monitoring grants and made seven recommendations for corrective action. Specifically, although CGD has policies and procedures for grants and cooperative agreements, it lacks detail to perform more effective financial monitoring of grantees. In addition, although CGD reviews grantee's Federal Financial Reports and budget summary reports, it does not obtain job cost and expenditure reports or review grantee audit reports to provide more thorough reviews of post award expenditures.

Cotton also found further enhancement to existing procedures were needed for pre-award reviews of grantee proposed costs. Lastly, Cotton found and recommended improvement on grants with multiple extensions of periods of performance and those that did not follow proper award and closeout procedures.

Based on management's written response to the draft report, we consider all of the recommendations resolved. Your responses provided an action plan for the implementation of each recommendation, in accordance with LCR 9-160, Rights and Responsibilities of Employees to the Inspector General, 6.A. This report will be made publicly available.

We appreciate the cooperation and courtesies extended by CGD.

cc Chief Operating Officer
Chief Acquisition Officer
General Counsel

Appendix A: Cotton & Company's report, Audit of the Library of Congress's Grants Operations Policies and Procedures

AUDIT OF THE LIBRARY OF CONGRESS'S GRANTS OPERATIONS POLICIES AND PROCEDURES

LIBRARY OF CONGRESS OFFICE OF THE INSPECTOR GENERAL
April 23, 2021

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AUDIT OF THE LIBRARY OF CONGRESS S GRANTS OPERATIONS POLICIES AND PROCEDURES
LIBRARY OF CONGRESS OFFICE OF THE INSPECTOR GENERAL

I. EXECUTIVE SUMMARY

Since 2005, the Library of Congress (Library) has awarded Teaching with Primary Sources (TPS) program grants to build a nationwide network of organizations that deliver professional development, write curricula, and create apps and interactive programs (known as interactives) based on the Library's digitized primary sources. The Library awards these grants to educational organizations that assist in the design and delivery of the TPS program, including universities, historical societies, foundations, companies, and school districts. The Library has 35 active TPS program grants that total more than \$51 million in funding. The Library's Contracts and Grants Directorate (CGD) and Learning and Innovation Office (LIO) work together to administer the TPS program grants; LIO functions as the Program Office and CGD's role is sometimes referred to as the Grants Division.

The OIG engaged Cotton & Company LLP (referred to as we in this report) to conduct a performance audit to evaluate the adequacy of the Library's grants operations policies and procedures, with an emphasis on internal control and fraud prevention.

Based on the audit procedures performed, we identified several areas in which the Library could improve its procedures for reviewing, awarding, and monitoring grants.

We communicated the results of our audit and the related findings and recommendations to CGD and the OIG. We have included management's responses to our findings in Appendix A.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

The OIG engaged Cotton & Company LLP to conduct a performance audit, the objectives of which were to analyze: (1) the adequacy of the Library's grants operations policies and procedures, (2) CGD and the Program Office's compliance with those procedures, and (3) the grantees' compliance with those procedures. Of the 35 grants that were active as of 07/17/2020, we selected a sample of three grantees, for testing, including one for each type of grant. Testing criteria included 2 Code of Federal Regulation (CFR) 200, Library Regulations, the Library's grants operations policies and procedures, and the criteria contained in the awards themselves.

To meet our audit objectives, we:

Obtained and reviewed documentation from CGD and the Program Office, including policies and procedures, grantee award documents, grantee financial and programmatic reports, and Library monitoring and review records.

Interviewed Program Office and CGD personnel regarding their roles in the TPS program and the administration of the program.

Compared the Library's written policies and procedures for grant award and monitoring to the practices as performed by the Program Office and CGD to determine whether the offices' practices for awarding and monitoring grants complied with the Library's policies.

Evaluated whether the grantees adhered to award stipulations such as reporting requirements.

Compared the Library's grant policies and TPS program administration to the testing criteria, as well as to best practices.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), 2018 Revision, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

III. BACKGROUND

The Library is the world's largest and most comprehensive library, maintaining a collection of more than 170 million items—many of them unique and irreplaceable in more than 470 languages. The Library's central mission is to provide Congress, the federal government, and the American people with a rich, diverse, and enduring source of knowledge that can be relied upon to inform, inspire, and engage them, and to support their intellectual and creative endeavors.

The Library's OIG was established in 1988 as a non-statutory office deriving its authority from the Librarian of Congress. The OIG became statutory with the passage of the Library of Congress Inspector General Act of 2005 (2 U.S. Code [U.S.C.] 185), with a mandate to:

Independently conduct and supervise audits and investigations of fraud, waste, and abuse relating to the Library.

Lead, coordinate, and recommend policies to promote economy, efficiency, and effectiveness.

Keep the Librarian of Congress and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Library.

The Library's Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), a unified council of all federal statutory Inspectors General. The OIG Audits Division conducts in-depth reviews that address the efficiency, effectiveness, and economy of the Library's programs, activities,

and functions; provides information to responsible parties to improve public accountability; facilitates oversight and decision-making; and initiates corrective action as needed.

The Library awards three types of grants under the TPS program: (1) regional grants, in which the Library provides funding to consortium members and the consortium members then offer sub-grants of up to \$20,000 to sub-grantees in their respective regions; (2) local grants, in which the Library awards funds directly to consortium members that are working on a project with primary sources; and (3) online interactives and mobile apps grants (civic apps grants for short), a subtype of local grants in which the Library awards funds directly to consortium members that develop online applications for education on Congress and civic participation.

We designed this performance audit to meet the objectives identified in the Objectives, Scope, and Methodology section of this report. We conducted the audit in accordance with GAGAS. Cotton & Company performed the work from June through December 2020. We communicated the results of our audit and the related findings and recommendations to CGD, the Program Office, and the OIG.

IV. AUDIT RESULTS

We identified four areas in which the Library could improve its grants program.

Finding 1: The Library Could Improve Its Procedures for Performing Financial Monitoring of Grantees

Background

According to LCR 7-310 Grants and Funded Cooperative Agreements, the Grants Officer is responsible for monitoring the activities described in the award instrument and ensuring that the activities are being conducted in accordance with the terms and conditions of the award instrument and with sound business practices. Grants and Cooperative Agreements Guidelines and Procedures, a CGD-developed document used to implement Library regulations, states that CGD must review grantees' financial reports on a quarterly basis to verify the reasonableness of costs expended, ensure expenditures are within budget, monitor the expenditure rate, and ensure that advances do not exceed immediate project needs. In addition, CGD must periodically perform risk assessments to identify grantees that are at risk of mismanaging federal funds. CGD utilizes a checklist titled Post Award Procedures for Risk Assessments. The checklist requires the analysis of 18 risk factors based on the review of financial, progress, and audit reports. Some of the risk factors are internal controls, financial management, spend rate, funding percentage out of total Library funding, experience of recipient or inexperienced Key Personnel, project cost ledger, sub-recipient monitoring excessive advances or draws, errors in financial reports, shifting of funds among budget line items, failure to obtain financial reports from sub-recipients, and failure to submit timely reports.

The Library is not subject to Part 200 of Title 2 of the Code of Federal Regulations, however, section 3.C of LCR 7-310 states the Library follows the spirit

of those Executive branch documents, and Library staff are encouraged to consult them in the development of a grant or cooperative agreement. For example, Grants and Cooperative Agreements Guidelines and Procedures states that CGD must obtain and review summaries (SF-SAC) of Single Audit (A-133) reports for financial management system deficiencies, reportable conditions, material weaknesses, instances of material non-compliance disclosed, or questioned costs that may relate to the Library's grant program. If CGD determines that a grantee has significant problems, it must place the grantee on a watch list and require the grantee to take corrective action. In addition, CGD may schedule a site visit to monitor the grantee.

Condition

The Library could clarify, strengthen, and improve its policies and procedures for performing financial monitoring of grantees. In particular, CGD does not have detailed written procedures for performing and documenting the financial monitoring of grantees. CGD also does not obtain job cost reports/grantee expenditure reports or sub-recipient financial reports, nor does it obtain and review any grantee audit reports; its financial monitoring practices are limited to reviewing the grantees quarterly Federal Financial Reports (FFRs) and budget summary reports. In addition, CGD has not been using its Post Award Procedures for Risk Assessments checklist. As a result, CGD is unable to conclude on risk factors such as the adequacy of internal controls and errors in financial reporting, as well as whether grantees obtained financial reports from sub-recipients. The Library could be reviewing, for example, Single Audit reports and the expenditures reported within.

Most nonprofit and educational institutions that receive federal grant funds are required to undergo Single Audits and submit those audit reports to the Federal Audit Clearinghouse (FAC). Grantors may also require audits of private companies pursuant to provisions included in the grant agreements. The Single Audit reports are publicly available on the FAC website (<https://facdissem.census.gov/>). In addition, the Library's policies do not include reviews of the Schedules of Expenditures of Federal Awards (SEFAs) contained in the Single Audit reports. The SEFA is a schedule of expenditures of federal awards for the period covered by the auditee's financial statements, and it must include the total federal awards expended. At a minimum, Library personnel should review the SEFA to determine if the grantee's Library grant was included. If so, then the expenditures reported in the SEFA should be reconciled to those reported in the FFRs and budget summary reports that the grantee submits to the Library. If the Library identifies any discrepancies in the expenditures reported, Library personnel should research and resolve the discrepancies. We reviewed the Single Audit reports that Library grantees submitted to FAC and noted that many of the SEFAs did include expenditures for Library grants.

We interviewed representatives from CGD and the Program Office and identified a knowledge gap related to Single Audits. Specifically, representatives were not aware of information such as which organizations are required to conduct the audits, how often the organization should conduct the audits, where the audit reports are located, how to obtain copies of the audit reports, or what information should be included in the audit reports.

The Library's policies and procedures state that if required by the grant agreement, Library grantees that are private companies must submit their annual audit reports

to CGD for review. If CGD identifies any significant concerns with regard to the contents of the audit report, it should contact the Program Office to discuss a course of action. However, the Library has not included this requirement in its grant agreements with private companies. CGD has therefore been unable to review any audit reports for private companies.

Criteria

CGD s Grants and Cooperative Agreements Guidelines and Procedures, Section 4, Financial Monitoring states:

C. Risk Assessments

The Grants Division performs risk assessments periodically to identify recipients at risk of mismanagement of federal funds by identifying any risk factors. Risk factors may include: inadequate internal controls, inadequate financial management, excessive advances or draws, errors in financial reports, shifting of funds among budget line items, failure to obtain financial reports from sub-recipients, and failure to submit timely reports.

D. Watch List

Any recipient with significant problems will be placed on a watch list and will be notified to take corrective action regarding the identified deficiencies. The recipient may be requested to submit an action plan to address the concerns. If necessary, a site visit will be scheduled to perform more intensive reviews. For any serious or unresolved problems, the Office of the Inspector General will be notified.

CGD s Grants and Cooperative Agreements Guidelines and Procedures, Section 7, On-Site Monitoring states:

A. Purpose

The Grants Division conducts on-site visits in order to monitor recipients that are at a high risk of federal funds mismanagement and recipients with project activities that are best evaluated on- site.

B. Process

1. The Grants Division and Program Office meet to discuss financial and programmatic issues related to the grant.
2. The Grants Division notifies the recipient in writing of the purpose and topics of the on-site visits and plans the date/s of visit and agenda with the project director.
3. After the on-site visit, the Grants Division informs the Program Office of the results and works with the recipient to ensure corrective actions are implemented.

CGD s Grants and Cooperative Agreements Guidelines and Procedures, Section 6.B states:

1. The Federal Audit Clearinghouse website contains the audit report and a summary of the audit report (SF-SAC).
2. The Grants Division reviews the auditor's opinion, financial management system deficiencies, and any unresolved prior audit findings that may impact the recipient's ability to perform under the Library's award program. If the SF-SAC indicates an opinion that is not qualified, the Grants Division reviews the A-133 report's specific reportable conditions, material weaknesses, material non-compliance disclosed, or questioned costs that may relate to the Library's grant program.

CGD's Grants and Cooperative Agreements Guidelines and Procedures, Section 6.A.3 states:

Independent public audits are performed by a CPA firm when the recipient is not subject to A-133 audit requirements. Such recipients are generally private companies or foundations. Such audits may be required pursuant to a special provision in the agreement.

The Library is not subject to Part 200 of Title 2 of the Code of Federal Regulations, however, section 3.C of LCR 7-310, Grants and Funded Cooperative Agreements, states the Library follows the spirit of those Executive branch documents, and Library staff are encouraged to consult them in the development of a grant or cooperative agreement.

According to 2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Section 200.510:

(a) Financial statements. The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited

(b) Schedule of expenditures of Federal awards. The auditee must also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements which must include the total Federal awards expended as determined in accordance with 200.502 Basis for determining Federal awards expended. At a minimum, the schedule must:

- (1) List individual Federal programs by Federal agency.
- (2) For Federal awards received as a sub-recipient, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included.
- (3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available. For a cluster of programs also provide the total for the cluster.
- (4) Include the total amount provided to sub-recipients from each Federal program.
- (5) For loan or loan guarantee programs described in 200.502 Basis for determining Federal awards expended, paragraph (b), identify in the notes to the schedule the balances outstanding at the end of the audit period
- (6) Include notes that describe that significant accounting policies used in preparing the schedule, and note whether or not the non-Federal entity elected to

use the 10% de minimis cost rate as covered in 200.414 Indirect (F&A) costs.

Cause

CGD does not have detailed written procedures for financial monitoring. CGD representatives stated that CGD has not reviewed grantee audit reports for several years. In addition, CGD does not consider any grantees to be high risk. As a result, it has been more than 5 years since CGD has performed an onsite monitoring visit.

Effect

Without adequate financial monitoring, there is a risk that Library grantees will use grant funds to pay for unallowable, over-claimed, or unallocable costs. Not reviewing actual costs increases the risk that Library grantees will have fraud or errors in their expenditures.

Recommendations

We recommend that the Library:

1. Conduct training for CGD on how to obtain and review grantees Single Audit reports. The training should also include the process for identifying internal control deficiencies, performing follow-up activities, and reviewing SEFA expenditures. In addition, the training should define audit terminology.
2. Require grantees to provide grant expenditure reports that detail the grantee s expenditures at the cost code and transaction level at least on an annual basis. These reports should come directly from the grantees accounting system. Also, require the grantee to reconcile these expenditures to the expenditures it reported by budget category in the Budget Summary Reports that it submitted to the Library. Ensure that the grantee researches and resolves any differences.
3. Require that any grantees that are not subject to A-133 undergo an independent audit. This audit could be either a limited financial audit of just the Library grant or an entity-wide audit that is similar to a Single Audit.
4. Include the following steps in its grantee risk assessment procedures:
 - a. If a Single Audit report is available for the grantee, review the report for any internal control or compliance findings that could affect the grantee s performance under a Library award. Determine whether the grantee has taken any corrective actions to address the audit findings.
 - b. Reconcile the expenditures that the grantee reported in its FFR, Budget Summary Report, and drawdowns or advances to the expenditures that the grantee may have reported in its SEFA or audit report. Research and resolve any discrepancies.
 - c. Reconcile the grant expenditure reports that detail the grantee s expenditures at the cost code and transaction level to the expenditures it reported by budget category in the Budget Summary Reports that it submitted to the Library. Research and resolve any differences.

d. Review the transactions in the grantee's expenditure reports and request explanations for any large transactions, transactions that do not appear to be allowable or allocable to the grant, and unusual journal entries

Finding 2: The Library Could Improve Its Procedures for Performing Financial Reviews of Proposed Grant Costs

Background

The Program Office and CGD review grant proposals at the beginning of the award and again at every extension of the project that requires a proposal. The Library conducts pre-award budget reviews in two steps. Personnel conduct the initial review upon receiving the proposal; this review includes ensuring that the grantee has met all required criteria and submitted the application in the format required in the Notice of Funding Opportunity (NOFO). The second review takes place after the Program Office has completed its merit selection process and the finalists have submitted their full budget to CGD for review. CGD personnel perform calculation checks and determine whether costs are allowable, reasonable, and allocated correctly. Once CGD has completed its review, it provides the Program Office with a recommendation to either fund the grant at the requested level or enter into budget negotiations with the applicant.

In 2019, CGD began documenting its reviews of grantee proposals using the TPS Grants Program Budget Review Checklist.

Condition

Prior to 2019, CGD did not document its reviews of grantees' proposed costs. Although CGD has begun using a checklist to document its review, the Library could still improve the review process. In particular, CGD personnel are currently not required to follow any specific procedures when performing financial reviews. The Library should develop procedures that detail the review process and the type of analysis that personnel should perform for each type of cost proposed. The Library should also revise the documentation for CGD's reviews to ensure that the documentation contains detailed information regarding the analysis/conclusions for each type of cost proposed and specifies whether the reviewer has any recommended changes.

The recent implementation of the Uniform Administrative Requirements for federal grants has led to an increased focus on agencies' responsibility for considering the risks posed by potential grantees, including the grantees' ability to properly account for federal awards.

Implementing and following documented procedures for financial reviews can help ensure that the reviews are consistent and complete. In addition, the information obtained during these reviews can be valuable in performing financial monitoring of grantees.

Criteria

According to 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and

Audit Requirements for Federal Awards, Section 200.206, Federal Awarding Agency Review of Risk Posed by Applicants:

- (a) Review of OMB-designated repositories of government-wide data.
 - (1) Prior to making a Federal award, the Federal awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of government-wide eligibility qualification or financial integrity information as appropriate. See also suspension and debarment requirements at 2 CFR part 180 as well as individual Federal agency suspension and debarment regulations in title 2 of the Code of Federal Regulations.
 - (2) In accordance 41 U.S.C. 2313, the Federal awarding agency is required to review the non- public segment of the OMB-designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) prior to making a Federal award where the Federal share is expected to exceed the simplified acquisition threshold, defined in 41 U.S.C. 134, over the period of performance. At a minimum, the information in the system for a prior Federal award recipient must demonstrate a satisfactory record of executing programs or activities under Federal grants, cooperative agreements, or procurement awards; and integrity and business ethics. The Federal awarding agency may make a Federal award to a recipient who does not fully meet these standards, if it is determined that the information is not relevant to the current Federal award under consideration or there are specific conditions that can appropriately mitigate the effects of the non-Federal entity's risk in accordance with 200.208 Specific conditions.
- (b) In addition, for competitive grants or cooperative agreements, the Federal awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Federal awards. This evaluation may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. If the Federal awarding agency determines that a Federal award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award. Criteria to be evaluated must be described in the announcement of funding opportunity described in 200.203 Notices of funding opportunities.
- (c) In evaluating risks posed by applicants, the Federal awarding agency may use a risk-based approach and may consider any items such as the following:
 - (1) Financial stability;
 - (2) Quality of management systems and ability to meet the management standards prescribed in this part;
 - (3) History of performance. The applicant s record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;
 - (4) Reports and findings from audits performed under Subpart F - Audit Requirements of this part or the reports and findings of any other available audits; and
 - (5) The applicant s ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.
- (d) In addition to this review, the Federal awarding agency must comply with the

guidelines on government-wide suspension and debarment in 2 CFR part 180, and must require non-Federal entities to comply with these provisions. These provisions restrict Federal awards, sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

CGD s Grants and Cooperative Agreements Guidelines and Procedures, Section 2.C states:

1. The Program Office enters the grant requisition in the Library s financial system.
2. The Program Office obtains budget, project description, and budget narrative from successful grant recipients.
3. The Program Office submits to the Grants Division a list of potential grant recipients with their funding award amounts.
4. The Program Office reviews and approves each project description, budget, and budget narrative.
5. The Program Office submits to the Grants Division a Funding Commitment notice for each selected recipient. This notice will contain:
 - i. program office contact information;
 - ii. recipient contact information;
 - iii. amount of funding (include any recipient share, if applicable);
 - iv. period of performance; and
 - v. project description, budget, and budget narrative
6. The Grants Division reviews the Funding Commitment notice and attachments; determines applicable 2 CFR 200 sections for the proposed recipient; reviews budget, project description and time periods for the proposed project; and determines if the grant recipient has the authority to receive the grant and carry out the project. For a grant recipient that is not a public entity (state, university, etc.), the Grants Division will request organizational documents from the proposed grant recipient that may include articles of organization (corporation, LLC, LLP), by-laws and a certificate of good standing for the private entity.

Cause

In addition to not updating its policies and procedures to reflect CGD s use of the checklist in its reviews of proposed costs, the Library has not yet developed standard procedures for performing these reviews.

Effect

Without additional procedures for reviewing proposed costs, the Library may not consider all of a potential grantee s risk factors and may mistakenly award grants to entities that are unable to properly account for their costs.

Recommendations

5. We recommend that the Library implement written procedures for performing and documenting its financial reviews of costs included in grantees' original proposals and proposal amendments. Written procedures could include verification that:

- a. Labor costs are supported by payroll records.
- b. Proposed fringe benefit cost rates are supported by grantee records.
- c. Sub-grantee and consultant costs are based on existing proposals and commitments to perform work under the grant.
- d. Travel costs are reasonable.
- e. The grantee applied its indirect cost rates to the correct allocation base.
- f. Other direct costs are supported by vendor quotes.
- g. The grantee's Single Audit reports do not include internal control or compliance weaknesses that could affect the grantee's performance.
- h. For nonpublic entities, audit reports are available to support that the organization is solvent and is able to perform under the award.

Finding 3: The Library Should Consider Limiting Extensions to a Grant's Period of Performance

Condition

We noted that the Library has a practice of continually extending grant periods of performance (POPs). For example:

1. The Library awarded a grant to the Collaborative for Educational Services on October 19, 2010. The grant's original POP was 2 years. The Library has since amended the award 10 times, and as of the date of our audit, the POP extends through September 30, 2020.

2. The Library awarded a grant to the Metropolitan State College of Denver (now the Metropolitan State University of Denver) on November 1, 2007. The grant's original POP was 15 months. The

Library has since amended the award 19 times, and as of the date of our audit, the POP extends through December 31, 2022.

Criteria

As a best practice, most federal agencies limit the POP for grants to a reasonable period.

Cause

The Library stated that awards tend to take at least 3 to 5 years to show results; further, the Library noted that it emphasizes partnerships in all of its grants, stating that it wants grantees to have sufficient time to develop partnerships with the schools and educational programs that the grants benefit. The Library believes that if the scope of a project does not change, it is more efficient to continue extending the award. The Library noted that it does not have any policies in place that would prevent it from extending awards indefinitely. In addition, the Library stated that it considers both new and existing awards when evaluating submissions to NOFOs.

Effect

By continually extending the POP of existing grants, the Library could limit competition by preventing other potential grantees from competing for awards. Introducing new grantees through a competitive process could result in increased innovations, efficiencies, and potential cost savings for the TPS program. In addition, continually extending the POP of an award could cause the related record retention requirements placed on the grantee to become overly burdensome. Grantees are required to retain supporting documentation for 3 years after completing the award. In Example 2 above, this would require the grantee to maintain the award documentation for more than 18 years.

Recommendation

6. We recommend that the Library consider limiting the number of times that it can extend a grant's POP.

Finding 4: The Library Did Not Follow Its Procedures for the Closeout and Award of Grants

Condition

In 2015, the Library awarded Muzzy Lane Software, Inc. (Muzzy) TPS grant GA16C0010. The grant totaled \$355,824 and had a POP of November 2015 - October 2017, which the Library later amended to September 2018. In 2018, Muzzy informed Library representatives that the company was changing its focus and would no longer be performing the type of work required under its grant. The key individual who had been working on the project left Muzzy and formed Bert Snow & Co., LLC (Snow), a for-profit company, to continue the work under the grant. This restructuring occurred at a key point in the project, and the Library wanted to see the project through to completion.

On June 22, 2018, the Library issued Amendment No 2 to the original grant. The amendment referenced the original grant number, POP, and funding amount; it only changed the vendor to Snow. Neither Muzzy nor Snow was required to sign the amendment, although the Library did obtain a letter from Muzzy authorizing the transfer of the project to Snow and an Assignment of Cooperative Agreement from Snow, in which Snow agreed to assume all obligations under the grant and the Library agreed to the assignment. However, the Library did not execute a new grant agreement with Snow.

The Library stated that it considers this situation to be a novation rather than a transfer. Federal agencies typically consider a novation to be a situation in which one organization takes over all of the liabilities and responsibilities of another organization as a result of circumstances such as the two organizations merging, one organization buying another, or one organization going out of business and entering into an agreement with another organization to take over its business. Agencies typically consider a grant transfer to be a situation in which a grant transfers from the original recipient to a new recipient. In a transfer, the original recipient remains responsible for all funds expended to date, as well as for performing agency closeout activities. The new recipient then submits a grant application that includes a proposal and detailed budget narrative for performing

the grant.

The Library stated that, because it considered the award to Snow to be a novation rather than a transfer, it did not perform any closeout procedures with Muzzy. The Library's closeout procedures require it to obtain a final FFR from the grantee, a determination by CGD regarding any remaining grant fund balances, and the execution of a Notice of Closeout or Closeout Agreement with the grantee.

Although Snow was a brand-new company with no financial history, the Library awarded Snow the same budget that it had awarded to Muzzy. The Library also did not require Snow to provide any support for its estimated costs, nor did it require Snow to provide any documentation to demonstrate the adequacy of its financial system. In addition, Snow did not provide any documentation to support that it had executed new agreements with the subcontractors and consultants that had been working on the project. The Library's review was limited to verifying that Snow was a registered business on SAM.gov.

Criteria

LCR 7-310, Grants and Funded Cooperative Agreements, Section 3.A. states:

It is the policy of the Library to use a grant agreement to establish a contractual relationship where the Library awards funds to a recipient in order to accomplish an authorized public purpose, where the Library does not expect to be substantially involved in carrying out the activities described in the agreement.

CGD's Grants and Cooperative Agreements Guidelines and Procedures, Section 2, Grant Award Process states that for a grant recipient that is not a public entity (e.g., a state or university), CGD will request that the grant recipient provide organizational documents such as articles of organization (for corporations, LLCs, or LLPs), by-laws, or a certificate of good standing.

CGD's Grants and Cooperative Agreements Guidelines and Procedures, Section 9, Closeout Process states that the grantee is required to submit financial reports to the Library within 90 days of the grant completion date, and to refund any unused funds. The Library is required to review the final financial report, determine whether there is a remaining balance of grant funds, and provide the grantee with either a Notice of Closeout or a Closeout Agreement.

LCR 7-310, Grants and Funded Cooperative Agreements, Section 5.f. states that every award instrument should, as appropriate, contain: Financial information, including: a budget for costs and, where appropriate, how those costs are allocated; requirement that the recipient has an adequate financial system; procedure for transferring funds; appropriate constraints in the use of funds and expenditure of advances.

Cause

The Library did not have any prior experience with transferring an award from one entity to another, nor did it have any policies in place that covered this situation. Given this lack of experience or guidance, CGD determined that the award transfer procedures it used were acceptable.

Effect

Because the Library did not perform any closeout procedures with Muzzy, there is a risk that Muzzy may not have refunded the Library for any unused funds. In addition, by not verifying Snow's financial viability, the Library risked inadvertently transferring the grant to an organization that did not have the ability to appropriately track and invoice costs. The grantee could also have had difficulty maintaining the consultants, sub-awards, or other contracts that had been in place before the transfer.

Recommendations

We recommend that the Library:

7. Consider updating its guidelines and procedures to include policies for the novation or transfer of a grant to a new organization, and consulting with the Library's Office of General Counsel.

COTTON & COMPANY LLP

Michael W. Gillespie, CPA, CFE Partner

APPENDIX A: MANAGEMENT RESPONSE

Recommendation followed by Responsible Office followed by Comments and Target Completion Date

1. Conduct training for CGD on how to obtain and review grantees' Single Audit reports. The training should also include the process for identifying internal control deficiencies, performing follow-up activities, and reviewing SEFA expenditures. In addition, the training should define audit terminology. CGD. CGD will conduct and/or acquire training on how to obtain and review grantees' reports. The training will include common indicators of fraud and internal control deficiencies that CGD staff can use to determine circumstances warranting additional audit requirements. Q1 FY22.
2. Require grantees to provide grant expenditure reports that detail the grantee's expenditures at the cost code and transaction level at least on an annual basis. These reports should come directly from the grantees' accounting system. Also, require the grantee to reconcile these expenditures to the expenditures it reported by budget category in the Budget Summary Reports that it submitted to the Library. Ensure that the grantee researches and resolves any differences. CGD. CGD will ensure expenditures for Library grants are reported as necessary and follow-up if absent. Policies will be revised to include notification and follow-up actions for future grants if required expenditures are not included. Q2 FY22.
3. Require that any grantees that are not subject to A-133 undergo an independent audit. This audit could be either a limited financial audit of just the Library grant or an entity-wide audit that is similar to a Single Audit. CGD As the threshold for Audit requirements contained in 2 CFR

section 200.501 is executive branch-wide awards of more than \$750,000, CGD will assess the anticipated costs and benefits of requiring audits of exempt entities. If the benefit of conducting audits on exempt entities is found to warrant the additional costs, CGD will coordinate such independent audits with awardees, the Office of the Inspector General, and others as appropriate pursuant to LCR 7-310. Because 2 CFR

section 200.503 (b) and (d) indicate that if an agency, IG, or GAO determine additional audits are necessary, the agency must arrange and pay for such audits, CGD will advise TPS of the potential increased costs that may require a request for expanded program funding to implement this recommendation. Q4 FY22.

4. Include the following steps in its grantee risk assessment procedures:
 - a. If a Single Audit report is available for the grantee, review the report for any internal control or compliance findings that could affect the grantee's performance under a Library award. Determine whether the grantee has taken any corrective actions to address the audit findings.
 - b. Reconcile the expenditures that the grantee reported in its FFR, Budget Summary Report, and drawdowns or advances to the expenditures that the grantee may have reported in its SEFA or audit report. Research and resolve any discrepancies.
 - c. Reconcile the grant expenditure reports that detail the grantee's expenditures at the cost code and transaction level to the expenditures it reported by budget category in the Budget Summary Reports that it submitted to the Library. Research and resolve any differences.
 - d. Review the transactions in the grantee's expenditure reports and request explanations for any large transactions, transactions that do not appear to be allowable or allocable to the grant, and unusual journal entries.

CGD.

CGD will review and update the risk assessment procedures to include post-award review of available SEFA and any required expenditure reconciliation. However, OMB recognizes a correlation between risk and award amount and programmatic complexity as provided in 2 CFR 200.518-520. Accordingly, updates to the risk assessment procedures will consider annual grant amount and any fraud indications or inconsistencies. Q2 FY22.

5. We recommend that the Library implement written procedures for performing and documenting its financial reviews of costs included in grantees' original proposals and proposal amendments. Written procedures could include verification that:
 - a. Labor costs are supported by payroll records.
 - b. Proposed fringe benefit cost rates are supported by grantee records.
 - c. Sub-grantee and consultant costs are based on existing proposals and commitments to perform work under the grant.
 - d. Travel costs are reasonable.
 - e. The grantee applied its indirect cost rates to the correct allocation base.
 - f. Other direct costs are supported by vendor quote.
 - g. The grantee's Single Audit reports do not include internal control or compliance weaknesses that could affect the grantee's performance.
 - h. For nonpublic entities, audit reports are available to support that the organization is solvent and is able to perform under the award.

CGD.

As noted in the report, CGD utilizes a checklist to ensure adequate review. CGD procedures referenced 2 CFR 200 costing standards in a general manner. CGD will update the guidance to include the specific items for review.
Q2 FY22.

6. We recommend that the Library consider limiting the number of times that it can extend a grant's POP.

CGD.

The Library has considered the audit recommendation, but has determined not to adopt a policy that arbitrarily limits the number of times the Library may extend a grant period of performance. However, the Library will continue to maximize notifications of available funding opportunities and will not modify a grant period of performance, where no option is available, unless the Library adheres to announcement and performance objective requirements. The Library will continue to document grant files with actions resulting in any extensions or modifications.

Completed.

7. Consider updating its guidelines and procedures to include policies for the novation or transfer of a grant to a new organization, and consulting with the Library's Office of General Counsel.

CGD, in conjunction with OGC.

CGD will review guidelines to include coordination with OGC in those instances where a grant may be transferred or novated during performance. Note, CGD objects to Finding 4 to the extent it implies the Library did not follow its award and closeout procedures for grants.

Library procedures did not require the closeout of an award based on a transfer to another entity. The Library observes that while such a transfer is a rare occurrence, other agencies have taken a similar approach allowing for assignment or transfer of a grant in lieu of closeout. (See, for example, the Department of Energy novation policies at 2 C.F.R. 910.370.)

Q4 FY21.

APPENDIX B MANAGEMENT RESPONSE

Library
Library of Congress
Office of the Librarian Memorandum

Date April 12, 2021

To Kurt Hyde, Inspector General

From J. Mark Sweeney, Principal Deputy Librarian of Congress

Subject Management Response to OIG report 2020-PA-103, Library's Grants Operations, Policies and Procedures

The Library of Congress (Library) has reviewed the Office of the Inspector General's report on the Library's grant operations. The Library agrees refinement of the grant review procedures will better ensure appropriate risk assessments and validation of

financial expenditures are occurring.

As a general matter, we appreciate acknowledgement that the Library is not covered by the standard regulations pertaining to executive branch financial assistance awards - i.e., 2 C.F.R. part 200. The Library includes such policies and reporting requirements as appropriate and tailored to individual grant awards to follow the spirit of the Office of Management and Budget (OMB) regulations in facilitating administration and monitoring costs. Because this legal distinction can create confusion, we agree additional clarification in Library procedures and training may prove useful in guiding staff on the specific requirements imposed on Library grantees.

The attached chart provides responses to the individual recommendations.

Attachments

cc: Ronald Backes, Director, Contracts and Grants Directorate
Edward Jablonski, Chief Operating Officer
Elizabeth Pugh, General Counsel

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