

Performance Audit of the Library of Congress Gift and Trust Funds

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To Dr. Carla Hayden Librarian of Congress

From Kimberly Byrd Inspector General

Subject Final Audit – Performance Audit of the Library of Congress Gift and Trust Funds,
Report No. 2021-PA-101

This transmits the final report for the Office of the Inspector General's audit of the Library of Congress's (Library) Gift and Trust Funds performed by KPMG. KPMG concluded internal controls for gift funds were appropriately designed and implemented but found instances where those controls were either not working effectively or managed and disbursed in accordance with the gift fund agreement or trust fund requirements. 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 Library of Congress Regulation 9-160, Rights and Responsibilities of Library Employees to the Inspector General, §6.A. We appreciate the cooperation and courtesies extended by the Financial Services Directorate.

cc J. Mark Sweeney, Principal Deputy Librarian of Congress

Edward Jablonski, Chief Operating Officer

Mary Klutts, Chief Financial Officer Michael Van Deusen, Comptroller

Katherine Milikin, Director, Development Office

Elizabeth Pugh, General Counsel

Appendix A: KPMG Audit Report

Performance Audit of the Library of Congress Gift and Trust Funds

Prepared for: Inspector General, Library of Congress

As of Date: October 12, 2022

Inspector General U.S. Library of Congress:

This report presents the results of our work conducted to address performance audit objectives related to the Library of Congress's (Library) gift and trust funds for the fiscal year (FY) ended September 30, 2021 (FY 2021).

Our work was performed during the period of September 13, 2021, through October 12, 2022, and our results are as of October 12, 2022. We conducted this performance audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards issued by the Comptroller General of the United States (GAGAS). 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.

In addition to GAGAS, we conducted this performance audit in accordance with the Standards for Consulting Services established by the American Institute of Certified Public Accountants (AICPA). This performance audit did not constitute an audit of financial statements or an attestation level report as defined under GAGAS and the AICPA standards for attestation engagements. Our performance audit objectives were to determine whether:

1. The Library's internal controls for gift funds were appropriately designed and implemented.
2. The Library's internal controls for gift funds were working effectively.
3. Gift and trust funds were managed and disbursed in accordance with the gift agreement or trust fund requirements. To determine whether the gift funds' internal controls were designed and implemented and working (operating) effectively, we used the criteria established in the Government Accountability Office's (GAO) Standards for Internal Control in the Federal Government (the Green Book) and the Library of Congress Regulations (LCRs).

To determine whether gift and trust funds were managed and disbursed in accordance with the gift agreement or trust fund requirements, we used the stipulations provided by the donors. For Objective 1, we did not identify instances where the Library's internal controls for gift funds were not designed and implemented in accordance with the Green Book and LCRs.

For Objective 2, we identified two instances where the Library's internal controls for gift funds were not operating in accordance with the Green Book and LCRs. For Objective 3, we identified two instances where gift and trust funds were not managed and disbursed in accordance with the gift agreement or trust fund requirements, as stipulated by the donors.

See Section IV below for a detail explanation of our findings. KPMG cautions that projecting the results of our audit to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate. This report is intended solely for the use of the U.S. Library of Congress and its Inspector General and is not intended to be and should not be relied upon by anyone other than these specified parties. October 12, 2022.

I. BACKGROUND

The Library of Congress (Library) is the largest library in the world, with millions of books, recordings, photographs, newspapers, maps, and manuscripts in its collections. Title 2 United States Code (U.S.C.) § 154 to 161, 2 U.S.C. § 175, and 20 U.S.C. § 2106 sets forth the legal authority for acceptance of gift and trust funds by the Library and the Trust Fund Board (TFB).

1 The Library is authorized to accept cash, property, and trusts for its benefit, such as for gift funds. 2 These funds are to be used for the benefit of the Library, its collections, or its services. Library fund managers administer and oversee the funds to ensure they are used as directed by the donors and in accordance with laws, regulations, and Library policy. The Library administered gift and TFB programs with combined net asset value of approximately \$203.9 million and \$191.9 million during FYs 2020 and 2019, respectively. 3 Funds are restricted as to their use, which must be in accordance with the terms of the gift agreement or the trust fund requirements, stipulated by the donors. In general, TFB programs are either partially restricted (principal may be spent) or permanently restricted endowments (principal may not be spent). Additional restrictions may be imposed on TFB

programs by the terms of an agreement or donor's will. Library fund managers administer and oversee the gift and TFB programs to ensure they are used as directed by the donors and in accordance with Library policy. 4 The Library's Office of Inspector General (OIG) conducted an audit in FY 2016 entitled, "The Library's Controls for Three Gift Funds Are Generally Working but Need to Be Enhanced" (Report Number 2016-PA-102) to determine whether the Library's internal controls for gift funds were appropriately designed, implemented, and working effectively. As a result of that audit, the OIG identified six recommendations. For FY 2021, the Library's OIG engaged KPMG to conduct a similar performance audit over the Library's internal controls for gift and trust funds.5 KPMG's findings for the FY 2021 performance audit are summarized within this report.

II. OBJECTIVES, CRITERIA, SCOPE, AND METHODOLOGY

A. Objectives We conducted our performance audit to assess whether:

1. The Library's internal controls for gift funds were appropriately designed and implemented.
2. The Library's internal controls for gift funds were working effectively.
3. Gift and trust funds were managed and disbursed in accordance with the gift agreement or trust fund requirements.

B. Criteria To determine whether the gift funds' internal controls were designed and implemented and working (operating) effectively, we used the criteria established in the Green Book and the LCRs. To determine whether gift and trust funds were managed and disbursed in accordance with the gift agreement or trust fund requirements, we used the stipulations provided by the donors. C. Scope The performance audit covered the Library's gift and trust funds for FY 2021. Our work was performed during the period of September 13, 2021, through October 12, 2022, and our results are as of October 12, 2022. We conducted this performance audit in accordance with the standards applicable to performance audits contained in GAGAS and the AICPA's Standards for Consulting Services. 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. D. Methodology To achieve the performance audit objectives, we:

- Obtained an understanding of the criteria relevant to the Library’s gift and trust funds.
- Reviewed the applicable policies and procedures of the Library’s gift and trust funds.
- Reviewed the monthly reconciliations between the system used by the Library to track gift and trust funds (Raiser’s Edge) to the Legislative Branch Financial Management System (Momentum).
- Performed walkthroughs of the processes and transactions relevant to the Library’s gift and trust funds.
- Selected a non-statistical sample of four (4) of the Library’s gift and trust funds to assess internal controls in accordance with the Green Book and LCRs and to assess management and disbursement of funds in accordance with the gift agreement or trust fund requirements, as stipulated by the donors. The gift and trust funds selected met at least one of the following criteria:
 - o Gift and trust funds with financial activity in FY 2021
 - o Gift and trust funds with donor amendments (changes to the donor stipulations or restrictions after the initial agreement) on the original gift.
- For the four selected funds, selected all disbursements in FY 2021 to assess internal controls in accordance with the Green Book and LCRs and to assess management and disbursement of funds in accordance with the gift agreement or trust fund requirements, as stipulated by the donors.

The following four (4) gift and trust funds were selected for testing during our audit:

- o Andrew W. Imbrie Fund
- o Kluge Center – Congressional Masterclass Series (extension of the Democracy Fund)
- o The Gerald E. and Corrine L. Parsons Fund for Ethnography
- o Lavine/Ken Burn Prize for Film

III. RESULTS AND CONCLUSIONS

For Objective 1, we did not identify instances where the Library’s internal controls for gift funds were not designed and implemented in accordance with the Green Book and LCRs. For Objective 2, we identified two instances where the Library’s internal controls for gift funds were not operating in accordance with the Green Book and LCRs. For Objective 3, we identified two instances where gift and trust funds were not managed and disbursed in

accordance with the gift agreement or trust fund requirements, as stipulated by the donors. Section IV contains the details of our findings, identified internal control deficiencies, and related recommendations. Appendix A contains management's responses to our findings and recommendations. IV. FINDINGS Objective 1 – Design and Implementation of Controls We evaluated the design and implementation of the Library's gift fund internal controls in FY 2021. We did not identify instances where the Library's controls were not designed and implemented in accordance with the Green Book and LCRs. Objective 2 – Operation of Controls We evaluated the operation of the Library's gift fund internal controls in FY 2021. We identified two instances where the Library's internal controls for gift funds were not operating in accordance with the Green Book and LCRs. The two findings are denoted below within Objective 3, Finding 1: Noncompliance with the Democracy Fund and Objective 3, Finding 2: Noncompliance with the Gerald E. and Corrine L. Parsons Fund for Ethnography.

Objective 3 – Management of Gift and Trust Funds We evaluated the Library's gift and trust funds in FY 2021 to assess whether the funds were managed and disbursed in accordance with the gift agreement or trust fund requirements, as stipulated by the donors. We identified two instances where gift and trust funds were not managed and disbursed in accordance with the gift agreement or trust fund requirements, as noted below in

Finding 1: Noncompliance with the Democracy Fund and

Finding 2: Noncompliance with the Gerald E. and Corrine L. Parsons Fund for Ethnography.

- A. Finding 1: Noncompliance with the Democracy Fund BACKGROUND On January 9, 2018, the Library entered into a grant agreement (Grant ID: R-201709-02098) with the Democracy Fund to receive a grant of up to \$300,000 for the period of December 1, 2017, to November 30, 2020. The Democracy Fund seeks to promote a stronger democracy and support other organizations with the same mission. The grant renewed support for training programs developed by the Library. Specifically, the grant supported the cost for the Congressional Research Service to conduct orientation seminars for newly elected members of the 116th Congress and for the John W. Kluge Center at the Library to conduct a congressional masterclass series on governance-related topics of wide interest by leading academics. The grant also supported two historical exhibits on the history of baseball and on the women's movement. The agreement also stipulated completion of three progress reports and a final report to the donor, which the Library completed. Upon receipt of the awarded amount, the Library improperly combined

this money in an account containing money awarded by the Henry Luce Foundation, which was meant to fund an orientation seminar for the 117th Congress.

CONDITION During FY 2021, the Library became noncompliant with the grant agreement by keeping the remaining funds from the Democracy Fund award after the grant agreement had expired. The “Kluge Center – Congressional Masterclass Series” fund agreement stipulated an end date of November 30, 2020. In FY 2021, there was no extension for the use of the Democracy Fund award beyond November 30, 2020 and therefore, the Library should have stopped using the funds and returned the unspent portion to the Democracy Fund. Additionally, the Library incorrectly combined the grants from the Democracy Fund with the Henry Luce Foundation in one account. These funds should have been in separate accounts based on the following:

- The Democracy Fund award was designed to fund an orientation session for the 116th Congress while the Henry Luce Foundation’s award is designed to fund an orientation for the 117th Congress. There is a separate grant agreement by the Democracy Fund to fund the 117th Congress which is granted under Grant ID: R-201903-03924 and has been deposited within the Library’s fund 651275.
- The Henry Luce Foundation award allows for unspent monies to be retained by the Library while the Democracy Fund requires that unspent monies be returned at the end of the grant period.

CRITERIA

Government Accountability Office (GAO), Standards for Internal Control in the Federal Government (the Green Book) states, in part: Principle 10 – Design Control Activities 10.03 Accurate and timely recording of transactions: Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition, management designs control activities so that all transactions are completely and accurately recorded.

Principle 14 – Communicate Internally 14.01 Management should internally communicate the necessary quality information to achieve the entity’s objectives.

Principle 16 – Perform Monitoring Activities 16.01 Management should establish and operate monitoring activities to monitor the internal control system and evaluate the

results. Per the Kluge Center- Congressional Masterclass Fund Grant Agreement: “Grant Period Start Date: December 1, 2017 End Date: November 30, 2020” “If no adjustment to the End Date is mutually agreed upon by the parties, Grantee shall repay to Democracy Fund any portion of the Grant which is not spent by the End Date.” Per Library of Congress Regulations (LCR) 6-510, pg. 4: Budgeting Budgeting – The Office of the Chief Financial Officer (OCFO) creates separate gift fund codes in Momentum and coordinates annually with service units to create, review, and approve multi-year budget spending plans for each fund. “Close-Out Review. At the conclusion of a gift fund period, the fund manager shall perform a close-out review of the gift fund and inform the Budget Office when to close the gift fund account. Where a gift fund balance falls below \$5,000, the Library will transfer remaining funds in accordance with the TFB Policy for Gift and Trust Remainders.” CAUSE Management did not have the appropriate controls in place to sufficiently monitor Library compliance with grant agreement requirements. Specifically, management did not have appropriate controls to prevent the incorrect grouping of the Democracy Fund and the Henry Luce Foundation awards described above. Management also did not have appropriate controls over expiring funds, including de-funding associate accounts, as required by the grant agreement with the Democracy Fund and LCR 6-510. Additionally, the Library lacked controls to identify and act upon expiring grant agreements. As a result, the fund manager did not properly close out the Democracy Fund award at the end of the grant period. Furthermore, management did not effectively communicate and monitor the terms of the grant agreement in accordance with Principles 10, 14, and 16 of the Green Book.

EFFECT

The lack of controls led to an overstatement of \$2,327.12 in Fund 651160 that should be returned to the Democracy Fund.

RECOMMENDATIONS

We recommend that the Library:

- Design and implement controls to strengthen communication and monitoring of grant agreement terms and create safeguards to prevent and detect noncompliance with the grant agreement. (Recommendation 1.1)
- Develop and implement processes to work with the donors if modifications are needed to the grant agreements prior to their expiration dates. (Recommendation 1.2)
- Develop and implement processes to close-out expired gifts including returning any unspent portion of funds to the donors as required and take actionable steps to return the

\$2,327.12 of funds that have expired under Grant ID: R-201709-0209. (Recommendation 1.3)

B. Finding 2: Noncompliance with the Gerald E. and Corrine L. Parsons Fund for Ethnography BACKGROUND On December 2, 1994, the Library entered into a grant agreement with Gerald E. Parsons Jr. to establish the Gerald E. and Corrine L. Parsons Fund for Ethnography. The grant agreement stipulates various conditions that the Library needs to abide by to maintain, receive, and distribute from the award. For example, the agreement stipulates that the awards for each year should be no more than 6% of the account balance on December 31st of the previous year.

CONDITION

Since inception of the agreement, the Library had been using the incorrect award calculation date. The grant agreement for the “Gerald E. and Corrine L. Parsons Fund for Ethnography” gift stipulated an annual award calculation date of “December 31” of the previous year. However, the Library’s award calculation date was as of “September 30.” As such the Library calculated the incorrect amount for each year’s award, by applying the 6% requirement to the incorrect account balance.

CRITERIA

GAO’s Green Book states, in part: Principle 10 – Design Control Activities 10.03 Accurate and timely recording of transactions: Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition, management designs control activities so that all transactions are completely and accurately recorded.

Principle 14 – Communicate Internally 14.01 Management should internally communicate the necessary quality information to achieve the entity’s objectives. Principle 16 – Perform Monitoring Activities 16.01 Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

We also considered internal regulations by the Library, as documented in the Library of Congress Regulations and the specific requirements of the grant agreement: Per LCR 6-510

Section 5. Definitions: "Fund manager" or "operational fund manager" means the person appointed by a service unit head to be is [sic] accountable for the fiscal oversight of a

financial gift fund, including the accounting and budgeting activities associated with the fund. Per the Gerald E. and Corrine L. Parsons Fund for Ethnography gift agreement: Second Principle In order to protect the fund principal, the awards for each year shall total no more than six percent of the account balance (including both interest and principal) on December 31 of the preceding year.

CAUSE

Management did not comply with the agreement and did not obtain modification to alter the terms of the agreement. Management lacked the appropriate oversight, communication, and monitoring controls to detect or prevent instances of noncompliance in accordance with Principles 10, 14, and 16 of the Green Book.

RECOMMENDATIONS

We recommend the Library coordinate with the donor to determine whether a modification to the agreement or a recalculation of the award amount is needed. If a modification is needed, obtain written approval from the donor and retain such records. If a modification is not obtainable, correct the inaccurate calculation date and recompute the correct award amount for the current year spending. (Recommendation 2.1)

V. DEFICIENCIES IN INTERNAL CONTROL

In performing our audit of the FY 2021 Library gift and trust funds, we assessed internal controls that were relevant to our audit objectives by obtaining an understanding of those controls and assessing control risk for the purposes of achieving our objectives. The objective of our audit was not to provide assurance on the internal controls; therefore, we did not express an opinion on the internal controls as a whole. Our consideration of the internal controls relevant to our audit objectives would not necessarily disclose all deficiencies that might be significant within the context of the audit objectives. Because of the inherent limitations on internal controls, noncompliance with applicable laws, policies, and procedures may nevertheless occur and not be detected. To assess the implementation and operation of the Library's internal controls relevant to our audit objectives, we performed inquiry with control operators and inspected supporting documentation. For all gift and trust funds selected for testing, we evaluated controls relating to the personnel associated with the fund and the existence of appropriate supporting documentation for the fund, including changes to the fund and the appropriate

obligation and disbursement records. As a result of our assessment over internal controls relevant to the audit objectives, we identified the deficiencies in internal control summarized within Section IV above.

Management Comments on Draft OIG Report No. 2021-PA-101 Performance Audit of the Library Gift & Trust Funds

Recommendation number: 1.1

Recommendation: Design and implement controls to strengthen communication and monitoring of grant agreement terms and create safeguards to prevent and detect noncompliance with the grant agreement.

Responding office: Financial Service Directorate and Development

Comments: The Library will continue refining its processes for monitoring and administrating grant agreements across service units, including efforts to prevent and detect non-compliance. The Library will continue exploring control capabilities and safeguards within the legislative branch financial management system (LBFMS) application for preventing and detecting noncompliance with grant agreement terms. Based on the outcome of the LBFMS assessment, the Library will implement new or improve current controls to strengthen the monitoring of grant agreement terms. Changes in processes will be documented and disseminated to those involved with monitoring and administering the grant agreement.

Target Completion: FY23 Q4

Recommendation number: 1.2

Recommendation: Develop and implement processes to work with the donors if modifications are needed to the grant agreements prior to their expiration dates.

Responding office: Financial Service Directorate and Development

Comments: the Library will enhance monitoring of existing guidelines for grant agreement modifications, including discussions among the Financial Services Directorate, Congressional Research Service, and Development Office to clearly establish, delineate, and delegate responsibilities. Any changes in responsibilities or processes will be updated in established guidelines

Target Completion: Fy23 Q4

Recommendation number: 1.3

Recommendation: Develop and implement processes to close-out expired gifts including returning any unspent portion of funds to the donors as required and take actionable steps to return the \$2,327.12 of funds that have expired under Grant ID: R-201709- 0209 (Grantor: Democracy Fund)

Responding office: Financial Service Directorate

Comments: The Library is engaged in discussions with the donor regarding use of remainder and extension of grant. The Library will take appropriate action upon resolution to execute the donor's decision.

Target Completion: FY23Q4

Recommendation number: 2.1

Recommendation: The Library coordinate with the donor [Gerald E. and Corrine L. Parsons Fund for Ethnography] to determine whether a modification to the agreement or a recalculation of the award amount is needed. If a modification is needed, obtain written approval from the donor and retain such records. If a modification is not obtainable, correct the inaccurate calculation date and recompute the correct award amount for the current year spending.

Responding office: FSD, DEV, OGC

Comments: The Library will administer the award using calendar year calculations. The Library will recompute the award amount and provide the recomputed amount at the board meeting in FY23 Q2.

Target Completion: Closed

End of report.