



**NATIONAL ENDOWMENT FOR THE ARTS
OFFICE OF INSPECTOR GENERAL**

Desk Review Report No. FDR-22-01

**Gray Area Foundation for the Arts, Inc.
San Francisco, California**

December 22, 2021

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SUMMARY

We conducted a desk review of two National Endowment for the Arts (NEA) awards issued to the Gray Area Foundation for the Arts, Inc. (Gray Area). Based on our review, we determined that Gray Area did not fully comply with Federal grants management requirements. For instance, Gray Area:

1. Did not report actual costs on its Federal Financial Reports (FFRs) that included \$225 in overstated costs;
2. Included \$84,252 in unsupported costs on its FFR;
3. Reported \$48,961 in cost incurred outside the award period on its FFR;
4. Did not submit adequate final reports by the reporting deadline;
5. Did not verify the contractors' eligibility to receive Federal funds; and
6. Did not maintain policies and procedures for the management of Federal awards.

Thus, we are questioning costs in the amount of \$133,438. Based on our review, Gray Area did not meet the required cost share/match requirement resulting in a potential refund due to the NEA totaling \$14,466. There are six recommendations addressed to Gray Area, and three recommendations to the NEA.

INTRODUCTION

BACKGROUND

Gray Area is a non-profit organization dedicated to using digital tools to create art and design projects. Established in 2008, Gray Area's mission is to apply art and technology to create social and civil impact through education, incubation and public events. Gray Area hosts and produces over 100 public events per year, demonstrating the value of art as a necessary tool for critical thinking.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this desk review was to determine whether Gray Area reported financial information that was valid, accurate, and complied with Federal award requirements. More specifically, we sought to determine whether the:

- Total project costs reported under the award(s) were supported, reasonable, allocable, and allowable; and
- Required cost share/matching was met on the NEA award(s).

We reviewed NEA award records and determined that Gray Area received award no. 1858901-34-20 during the review period in which funds had been drawn down and reported within the last three years. We identified that Gray Area submitted final reports for award no. 12-3446-7131 during the review period. Therefore, we included award no. 12-3446-7131 in our scope for review. The desk review consisted of the two NEA awards (see the chart below for details).

Award No.	Award Period	Award Amount	Reported Costs
1858901-34-20	1/1/2020 – 12/31/2020	\$ 20,000	\$ 41,838
12-3446-7131	5/1/2012 – 5/31/2015	100,000	300,000
Total		\$120,000	\$341,838

Gray Area was awarded two media arts awards that required a one-to-one cost share/match. The purpose of NEA award no. 1858901-34-20 was to support the online Gray Area Festival and associated programming. Gray Area was subject to follow a cost reimbursement method of payment¹ for NEA award no. 1858901-34-20. NEA award no. 12-3446-7131 was to support the development and implementation of a series of data-driven art works intended for the public.

To conduct our review, we obtained Gray Area’s financial reports and supporting documents for costs reported on its FFR for both NEA awards. For NEA award no. 1858901-34-20, we tested the reported costs and related supporting documents against criteria established in the NEA’s award file, *NEA General Terms and Conditions for Grants and Cooperative Agreements to Organizations (General Terms)* and Code of Federal Regulations (CFR) 2 CFR 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200 Uniform Guidance)*. For NEA award no. 12-3446-7131, we tested reported costs and related supporting documents against criteria established in the NEA’s award file, *General Terms** ; Office of Management and Budget (OMB) Circular A-110 *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations (Uniform Administrative Requirements)*; and OMB Circular A-122 *Cost Principles for Nonprofit Organizations*.

RESULTS

ACTUAL COSTS NOT REPORTED

Gray Area did not report actual costs on its FFRs for both NEA awards reviewed. Based on our review of the FFRs and general ledgers, we determined that Gray Area understated costs for NEA award no. 12-3446-7131 by \$4,280, and overstated costs for NEA award no. 1858901-34-20 by \$225. Awards issued by the NEA are subject to the following requirements:

- **2 CFR 200.302(b)(2). Financial Management stated, in part:** The financial management system for Federal award recipients must provide accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with reporting requirements established in 2 CFR 200.327.
- **NEA Instructions for Completing the Federal Financial Report states:** For the FFR you must report actual expenditures that you assigned to the approved NEA project, based on supporting documents such as invoices, contracts, receipts, checks, transaction

¹ Under the cost reimbursement method of payment, the grantee is required to finance its operations with its own working capital. The NEA will release payments to reimburse the grantee for actual cash disbursements supported by adequate documentation. Costs are only reimbursed when required cost share/matching costs have also been incurred and paid.

* The *General Terms* for awards issued under Federal Fiscal Years 2014 and earlier.

reports, and bank statements. Review your accounting and supporting documentation and report only actual, documented costs on the FFR.

- **NEA Handbook(6.2)(b). How to Manage Your Award, Additional Reporting Tips states, in part:** The amount you show on your FFR in box 10j (recipient cost share) plus the NEA award funds in box 10e must equal the total actual, allowable expenditures.
- **General Terms* (12). Matching states, in part:** The FFR is used to verify that the required match has been met. Ensure that the amounts reported on your FFR are based on actual allowable project expenditures and can be easily reconciled to your accounting records. Unallowable costs, such as fundraising or receptions (see the Cost Principles - 2 CFR 230, 2 CFR 220, and 2 CFR 225), cannot be included in your reported numbers.

According to Gray Area officials, the overstated costs was a clerical error in which the values from an incorrect version of the expense report was entered on the FFR. Gray Area officials also stated that the understated costs were due to inaccurate tracking of grant expenditures during the performance period. We determined that Gray Area did not have policies and procedures in place to ensure actual costs were reported. Thus, we are questioning overstated costs in the amount of \$225 for NEA award no. 1858901-34-20. Not reporting actual costs could result in Gray Area not meeting the required cost share/matching amount, leading to a potential refund due to the NEA. To ensure complete coverage of award costs for NEA award no. 12-3446-7131, we included the additional understated costs identified in the general ledger in our transaction testing (See Appendix A). For NEA award no. 1858901-34-20, we reduced the award's total costs by its respective overstated costs amount. We determined that without these costs, Gray Area still met the required cost share/match; therefore, no refund is due to the NEA (See Appendix A).

We recommend that Gray Area establish written policies and implement procedures to ensure actual costs are reported on its FFRs for NEA awards.

We also recommend that the NEA disallow overstated costs in the amount of \$225.

Gray Area concurs with this finding and recommendation (see Appendix B).

UNSUPPORTED COSTS

Gray Area did not maintain adequate documentation to support all costs reported on its FFR for NEA award no. 12-3446-7131. Specifically, we reviewed 15 transactions and found four instances of unsupported staff travel, contractor and payroll costs totaling \$84,252. Gray Area provided documentation that included contractor invoices, payroll payment documents, and bank records to support costs. However, Gray Area was unable to provide the following documentation to fully support reported costs: contract(s), personnel activity reports or equivalent documentation, and travel receipts. Therefore, we were unable to determine the allowability and reasonableness of these costs. Awards issued by the NEA are subject to the following requirements:

- **OMB Circular A-110(53)(b). Uniform Administrative Requirements. Subpart C – Post – Award Requirements. Reports and Records. Retention and Access Requirements for Record states, in part:** Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a

period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency.

- **General Terms* (16). Recordkeeping. Record Retention states, in part:** You must maintain financial records, supporting documents (such as cancelled checks, invoices, contracts, travel reports, donor letters, in-kind contribution reports, and personnel activity reports), statistical records, and all other records pertinent to an award according to the provisions outlined in OMB Circular A-110 (2 CFR 215), Section 53, or the "Common Rule," Section 1157.42, as applicable. Generally, the retention period is three years from the date the final FFR is filed.

Gray Area officials indicated that they were unable to locate the supporting documentation due to mismanagement of the award by former personnel. Thus, we are questioning unsupported costs in the amount of \$84,252. Including unsupported costs on the FFR could result in Gray Area not meeting the cost share/matching requirement, leading to a potential refund due to the NEA. To determine if a refund was due, we reduced the award's total costs by its respective unsupported costs amount (see Appendix A). We determined that without these costs, Gray Area did not meet the one-to-one cost share/match requirement for NEA award no. 12-3446-7131, resulting in a potential refund due to the NEA in the amount of \$14,466 (see Appendix A).

We recommend Gray Area establish written policies and implement procedures for record retention in accordance with *2 CFR 200 Uniform Guidance* and *General Terms*.

We also recommend that the NEA determine whether unsupported costs in the amount of \$84,252 for NEA award no. 12-3446-7131 should be disallowed and whether a refund is due.

Gray Area concurs with this finding and recommendation (see Appendix B).

COSTS OUTSIDE THE AWARD PERIOD

Gray Area reported costs incurred outside of the award period for NEA award no. 12-3446-7131. Specifically, we reviewed 15 transactions and found eight instances of costs incurred outside of the award period that included payroll and consultant costs totaling \$48,961. Awards issued by the NEA are subject to the following requirements:

- **OMB Circular A-110(28). Uniform Administrative Requirements. Subpart C – Post – Award Requirements. Financial and Program Management. Period of Available of Funds states:** Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the Federal awarding agency.
- **General Terms* (7)(a). If There Are Changes in Your Project Award Amendments Period of Support Extensions (Time Amendments) states:** All project activities and the commitment of project funds must take place within the period of support set out in your award document. As Page 8 of 26 soon as you become aware that your project cannot be completed on schedule, you must request a time amendment following the procedures outlined above. Requests submitted after the current end date of your award,

or requests to extend the total period of support beyond four years, might not be approved.

Gray Area officials indicated that they were unable to elaborate on this issue because it occurred with former staff. Gray Area did not have policies and procedures to ensure that only costs incurred within the award period were reported on its FFR. Thus, we are questioning \$48,961 in costs incurred outside of the award period. Reporting costs incurred outside the award period on the FFR could result in a refund due to the NEA. To determine whether a refund was due, we reduced the award's total costs by its respective questioned costs amount (see Appendix A). We determined that without these costs, Gray Area did not meet the one-to-one cost share/match requirement, resulting in a potential refund due to the NEA in the amount of \$14,466 (see Appendix A).

We recommend Gray Area establish written policies and implement procedures to ensure only costs incurred during the award period are reported on its FFRs.

We also recommend that the NEA review the supporting documentation of questioned costs outside the award period in the amount of \$48,961 for NEA award no. 12-3446-7131 and determine whether a refund is due.

Gray Area concurs with this finding and recommendation (see Appendix B).

SUBMISSION OF FINAL REPORTS

Gray Area did not submit adequate final reports by the reporting deadline for NEA award no. 12-3446-7131. Based on our review of the NEA award requirements, we determined that the FFR and Final Descriptive Report were due on August 29, 2015. According to NEA officials, Gray Area submitted both reports in April 2017; however, they were rejected. Gray Area failed to address the NEA's inquiries with supporting documentation. As a result, the NEA closed the award without final reports and Gray Area was ineligible for future funding for a period of five years. Gray Area attempted to re-establish eligibility by submitting final reports on October 30, 2019; however, those final reports were also rejected. Final reports were not approved for this award. Awards issued by the NEA are subject to the following requirements:

- **General Terms* (11)(d). Reporting Requirements states:** Failure to submit the required final reports for any award(s) renders you ineligible to receive funding for five years following the final report due date of the award(s) or until the delinquent final reports are submitted, whichever occurs first. Acceptability of final reports may also affect eligibility for new awards. In addition, failure to submit required final reports within 210 days after the project period end date will result in the withdrawal of any funds remaining on that award.

According to Gray Area officials, support for the award was not maintained properly by former management which caused final reporting issues. Gray Area did not have policies and procedures for submitting Federal reports. Failure to submit final reports on time without requesting an extension could result in not being eligible to receive funding for five years following the final report due date of the award(s) or until the delinquent final reports are submitted, whichever occurs first.

We recommend that Gray Area establish written policies and implement procedures to ensure that final reports are accurately filed on time.

Gray Area concurs with this finding and recommendation (see Appendix B).

DEBARMENT & SUSPENSION

During the review, we determined that Gray Area did not verify that the contractors were eligible to receive Federal funds. We tested 17 contractors to determine eligibility and verified that all 17 contractors were eligible to receive Federal funds. Awards issued by the NEA are subject to the following requirements:

- **2 CFR 200.214. Suspension and Debarment states:** Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. The regulations in 2 CFR part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.
- **Subpart C of 2 CFR Part 180.300. OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement) states, in part:** Awardees must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:
 - (a) Checking SAM.gov; or
 - (b) Collecting a certification from that person if allowed by the Federal agency responsible for the transaction; or
 - (c) Adding a clause or condition to the covered transaction with that person.
- **General Terms(3). Debarment and Suspension. Appendix A states:** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by NEA in Title 2 CFR, Chapter 32, Part 3254.

Gray Area officials stated that they were not aware of the requirement. Gray Area does not have written policies and procedures in place to ensure that contractors are not debarred or suspended prior to the award of Federal funds. Without written debarment and suspension policies and procedures in place, Gray Area could have instances of debarred or suspended individuals or organizations receiving Federal funds.

We recommend Gray Area establish policies and implement procedures to ensure that contractors and recipients are not debarred or suspended from receiving Federal assistance prior to the payment or award of Federal funds.

Gray Area concurs with this finding and recommendation (see Appendix B).

MANAGEMENT OF FEDERAL AWARDS

Gray Area did not maintain policies and procedures for the management of Federal awards. Gray Area submitted information via email of the process for grants management; however,

these processes were not formally documented policies and procedures. The processes also did not include detailed procedures for determining the allowability of costs in accordance with publications such as *General Terms* and the *2 CFR 200 Uniform Guidance*. Awards issued by the NEA are subject to the following requirements:

- **2 CFR 200.302(b). Financial Management states, in part:** The financial management system of each non-Federal entity must provide for the following:
 - (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Catalog of Federal Domestic Assistance title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
 - (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 200.327 Financial reporting and 200.328 Monitoring and reporting program performance. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a passthrough entity must not require a sub-recipient to establish an accrual accounting system and must allow the sub-recipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
 - (3) Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
 - (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303 Internal controls.
 - (5) Comparison of expenditures with budget amounts for each Federal award.
 - (6) Written procedures to implement the requirements of § 200.305 Payment.
 - (7) Written procedures for determining the allowability of costs in accordance with Subpart E – Cost Principles of this part and the terms and conditions of the Federal award.
- ***General Terms*(8.1)(b). Financial Management and Internal Controls states:** Your financial management systems must meet standards described in §200.302(b)(1) through (b)(7), including: Written procedures for determining the allowability of costs and for managing payments.

Gray Area officials stated that they were aware of the requirement; however, they were not aware of the format in which the policies and procedures needed to be produced for the audit. Without written policies in place, Gray Area could fail to implement Federal award requirements. Thus, we recommend that Gray Area develop written policies and implement procedures for the management of Federal awards in accordance with *2 CFR 200 Uniform Guidance* and *General Terms*.

Gray Area concurs with this finding and recommendation (see Appendix B).

RECOMMENDATION SUMMARY

We recommend Gray Area:

1. Establish written policies and implement procedures to ensure actual costs are reported on its FFRs for NEA awards.
2. Establish written policies and implement procedures for record retention in accordance with *2 CFR 200 Uniform Guidance* and *General Terms*.
3. Establish written policies and implement procedures to ensure only costs incurred during the award period are reported on its FFRs.
4. Establish written policies and implement procedures to ensure that final reports are accurately filed on time.
5. Establish policies and implement procedures to ensure that contractors and recipients are not debarred or suspended from receiving Federal assistance prior to the payment or award of Federal funds.
6. Develop written policies and implement procedures for the management of Federal awards in accordance with *2 CFR 200 Uniform Guidance* and *General Terms*.

We recommend the NEA:

1. Disallow overstated costs in the amount of \$225.
2. Determine whether unsupported costs in the amount of \$84,252 for NEA award no. 12-3446-7131 should be disallowed and whether a refund is due.
3. Review supporting documentation of questioned costs outside the award period in the amount of \$48,961 for NEA award no. 12-3446-7131 and determine whether a refund is due.

**GRAY AREA FOUNDATION FOR THE ARTS, INC.
BREAKDOWN OF COSTS**

Award No. 1858901-34-20

Total Reported Costs	\$41,838
Less Overstated Costs	(225)
Adjusted Allowable Costs	41,613
Less NEA Disbursement	(20,000)
Potential Allowable Cost Share/Match	21,613
Less Required Cost Share/Match	(20,000)
Gray Area Cost Share/Match Exceeded	\$1,613

Award No. 12-3446-7131

Total Reported Costs	\$300,000
Add Understated Costs	4,280
Adjusted Allowable Costs	304,280
Less Unsupported Costs	(84,252)
Less Cost Outside the Award Period	(48,961)
Adjusted Allowable Reported Costs	171,067
Less NEA Share of Adjusted Allowable Costs	(85,534)
Adjusted Allowable Cost Share/Match	85,533
NEA Disbursement	(100,000)
Less NEA Share of Adjusted Allowable Costs	85,534
Gray Area Potential Refund	(14,466)

Barry Threw
Gray Area Foundation for the Arts
2665 Mission St.
San Francisco, CA 94110

December 21st, 2021

Office for the Inspector General
National Endowment for the Arts
400 7th Street, SW
Washington, DC 20506

Re: Desk review of NEA awards 1858901-34-20 and 12-3446-7131

To Whom It May Concern,

The NEA Office for the Inspector General undertook a desk review of two NEA awards issued to Gray Area. We thank the Inspector General's Office for their work in ensuring that our administration of these grants complies with Federal requirements. Based on their review, the Inspector General recommended six actions be undertaken by Gray Area to ensure our future compliance with rules for Federal grant administration.

Gray Area concurs with all of the Inspector General's recommendations.

The majority of the recommendations are related to a lack of adequate record keeping for grant 12-3446-7131 with an award period from 05/1/2012 – 05/31/2015. No personnel from the performance period for grant 12-3446-7131 are still employed with the organization, and we believe our record keeping has improved substantially in the subsequent six years.

The minor overstated costs for grant 1858901-34-20 were the result of a clerical error copying the final figure from a previous iteration of the report made in conversation with our NEA grants officer, and we do not expect an issue of that nature to recur.

We look forward to updating our written policies and procedures in accordance with the Inspector General's recommendations so that we may continue to enjoy the support of Federal funds from the NEA to fulfill our mission of demonstrating the value of art as a necessary tool for critical thinking.

Sincerely,



Barry Threw
Executive Director
Gray Area Foundation for the Arts