OFFICE OF INSPECTOR GENERAL

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Performance Audit of the Western States Arts Federation Denver, CO

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National Endowment for the Arts
Office of Inspector General

Performance Audit of the Western States Arts Federation
(OIG-23-01)

EXECUTIVE SUMMARY

We conducted a performance audit of the Western States Arts Federation (WESTAF) for the period of April 1, 2019 through March 31, 2022. During this audit period, the National Endowment for the Arts (NEA) closed four WESTAF awards totaling $3,576,120 in NEA funds, and $9,274,986 in total reported costs.

Based on our review, we determined WESTAF generally complied with award criteria and met program requirements of each award. However, we identified opportunities for improvement in WESTAF's procurement, suspension and debarment, subawarding, subrecipient monitoring, financial reporting, internal control, and record retention processes that resulted in $1,986,620 in questioned and unallowable costs. Because of the significant level of cost share/match funding provided by WESTAF, we only identified $36,089 in potential refunds due to the NEA.

We developed 17 recommendations to address these issues – 11 to WESTAF and 6 to the NEA. We believe these recommendations, if implemented, will help ensure WESTAF meets Federal and NEA requirements and better manages its awards. WESTAF concurred with these findings and recommendations.

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INTRODUCTION

The following sections provide background on the National Endowment for the Arts (NEA) and the Western States Arts Federation (WESTAF); and a summary of this audit's objectives, scope, and methodology.

BACKGROUND

The NEA is an independent Federal agency, and the largest Federal funder of the arts and arts education in communities nationwide. It has three project-based grant opportunities: Grants for Arts Projects, Challenge America, and Our Town. It also has a partnership award program that provides grant funding to six regional arts organizations, six US jurisdictions, and all 50 states.

NEA awards usually require a one-to-one cost share/match, which requires awardees to report at least two dollars of allowable costs or third-party contributions for every one dollar received from the NEA. The awards are subject to regulations established by the Office of Management and Budget (OMB) in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200), and specific terms and conditions established by the NEA in award documents.

WESTAF is a regional arts organization based in Denver, CO, that supports state arts agencies, organizations, and artists in Alaska, American Samoa, Arizona, California, Colorado, Commonwealth of Northern Mariana Islands, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. WESTAF is dedicated to strengthening the financial, organizational, and policy infrastructure of the arts in the West. It achieves its mission by providing innovative programming, advocacy, research, technology, and grants. WESTAF receives funding from state and Federal agencies, private donations, and sales revenue from web services.

WESTAF experienced significant changes during the audit period. It had a major change-over in senior management, relocated to a smaller office, transitioned to a digital recordkeeping system, and shifted to a decentralized operating structure with remote work. We considered the impacts of these changes during our audit.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and 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.

We limited our audit scope to four awards closed within the audit period of April 1, 2019 through March 31, 2022. One award was issued under NEA's International Performing Arts Discovery program, and the other three were issued under NEA's Partnership (State & Regional) program. The table below provides a breakdown of award terms.

NEA Award No.	Description	Cost Share/Matching Requirement	Award Period
17-6100-2021 1810200-61-17 (2017 Partnership)	Standard partnership award to support operating costs, subaward activities, and approved programs.	1:1 minimum for every award dollar disbursed	07/01/17 – 12/31/19
17-5600-7004 1810317-56-17 (2017 International)	Performing Arts Discovery (PAD) award to support a multi-year project cultivating international relationships to advance opportunities for American artists and performers.	1:1 minimum for every award dollar disbursed	08/01/17 – 06/30/19
1809837-61-18 (2018 Partnership)	Standard partnership award to support operating costs, subaward activities, and approved programs.	1:1 minimum for every award dollar disbursed	08/01/18 – 12/31/20
1860541-61-19 (2019 Travel)	Chairman's delegated small grant authority special award to cover select travel costs for attending a national convention for rural artists.	No requirement	03/01/19 – 06/30/19

During review of these awards, we noted differences between award amounts and disbursement amounts, and award financial reports and WESTAF's cost ledgers. As a result, we further limited the audit scope to the **Final Award Amounts** and **Actual Costs** identified in the table below.

NEA Award	*Original Award Amounts*	*De-obligated Award Funds*	Final Award Amounts	*Reported Costs*	Actual Costs
2017 Partnership	*$1,784,875*	*N/A*	$1,784,875	*$4,830,352*	$3,781,888
2017 International	*$100,000*	*N/A*	$100,000	*$200,380*	$182,582
2018 Partnership	*$1,687,800*	*N/A*	$1,687,800	*$4,240,809*	$3,793,801
2019 Travel	*$4,000*	*$555*	$3,445	*$3,445*	$3,323
Totals	***$3,576,675***	***$555***	**$3,576,120**	***$9,274,986***	**$7,761,594**

The objectives of this audit were to determine whether:

- WESTAF's financial management system and recordkeeping complied with requirements established by OMB and the NEA;
- WESTAF's total project costs reported under the awards were supported, reasonable, allocable, and allowable; and
- Required cost share/matching was met on NEA awards.

To accomplish the first audit objective, we designed and conducted reviews of WESTAF's compliance with Federal requirements and award terms and conditions. Audit procedures included reviews of documented procedures, interviews with WESTAF staff, tests of compliance, and independent verification of information where necessary and available.

To accomplish the second audit objective, we designed and conducted reviews of WESTAF's performance outcomes, reported costs, and the financial impact of audit findings. Audit procedures included reviews of internal WESTAF documents and financial reports, publicly available information, and interviews with WESTAF staff.

To accomplish the third audit objective, we designed and conducted tests of subawards and transactions. Audit procedures included risk assessments to determine test selection methods and levels of testing necessary to support findings and conclusions. Audit judgment was used to select individual test items. As a result, findings and conclusions based on tested items cannot be projected onto the population as a whole.

In accordance with generally accepted government auditing standards, we conducted a review to determine whether internal controls were significant to audit objectives. We identified two significant internal control components that were relevant to audit objectives – control and monitoring activities. Based on these results, we limited our review of WESTAF's internal controls to those related to Federal award management, data protection, program monitoring, and reporting (relevant processes). As a result, we did not provide an opinion on WESTAF's overall internal control structure.

We reviewed WESTAF's manual and automated procedures for the relevant procedures and identified significant controls for further review. We tested the significant controls' operation and reliability, including audit work to verify the reliability of computer-processed data provided by WESTAF. Based on our review, we determined the data obtained and used for the purposes of this audit was reliable. However, we limited our reliance on WESTAF's electronic grants management system's data due to accuracy and reliability concerns.

During the audit, we identified an issue with WESTAF's financial reporting that increased the risk of fraud occurring, but determined it was caused by NEA guidance. Therefore, we did not expand financial reporting audit procedures (see Finding 5 for details). We also identified an issue with WESTAF's subaward processes that increased the risk of fraud occurring, which we determined was caused by weak controls. We conducted additional procedures to determine whether fraud or misconduct occurred and identified signs of potential misconduct, but not fraudulent actions (see Finding 2 for details).

Also during the audit, we amended fieldwork procedures to address an issue with document retention that increased the risk of fraud or noncompliance going undetected (see Finding 6 for details). We determined the risk of fraud going undetected could be lowered by a review of WESTAF's cost ledgers for potentially improper payments to WESTAF employees and Board members (related party payments). Our related party payments review did not identify any suspicious payments.

During the past five years, the NEA OIG has not issued any audit reports on Federal awards to WESTAF. As of the planning phase of this audit, independent auditors issued annual audit reports on WESTAF's consolidated financial statements for fiscal years ended September 30, 2018 through 2020 (FS reports). We reviewed the FS reports and determined the auditors issued unmodified opinions for each year. Along with the FS reports, the independent auditors issued annual audit reports on WESTAF's compliance with Uniform Guidance requirements (Single Audit reports). We reviewed the Single Audit reports for each year and determined the NEA was listed as the only major program. The auditors did not identify any material weaknesses or significant deficiencies with audited internal controls or compliance related to the major program. The auditors also found the Schedule of Expenditures of Federal Awards was fairly stated in all material respects in relation to the consolidated financial statements as a whole. We considered the information within these reports while planning our audit, but did not rely on the independent auditors' work or conclusions during our fieldwork.

AUDIT RESULTS

We determined WESTAF performed the required activities for each award, but identified opportunities for improvement in WESTAF's procedures and controls for subaward management, award management, and internal controls.

SUBAWARD MANAGEMENT

When a Federal award recipient includes its own granting activities in a Federal award's approved activities and reported costs, the associated grants become subawards and subaward recipients become subrecipients. The recipient of the NEA award, WESTAF, then becomes a pass-through entity. Federal regulations and NEA award terms and conditions establish subaward issuance and monitoring requirements for pass-through entities (subawarding requirements).

The 2017 International and 2017/2018 Partnership awards' approved activities included subawarding, and its Federal Financial Reports (FFRs) contained subaward costs. WESTAF leadership relied on one person (currently the Director of Social Responsibility, previously the former Associate Director) to manage its subaward programs, and overall management of its Federal awards. This included establishing procedures and controls over its subawarding programs, and ensuring operational compliance with Federal award requirements. We noted the former Associate Director was part of the leadership team, but is no longer employed by WESTAF.

WESTAF advertised two subaward programs supported by the 2017 and 2018 Partnership awards – TourWest and IMTour. TourWest was advertised as sponsoring presentations of out-of-state performers and literary artists, while IMTour was advertised as supporting artistic fees for independent musicians. Both were advertised with a maximum award amount of $2,500 or half the artist fees, whichever was less. Additionally, TourWest had a limit of two subawards per applicant per year. As a result, the public was informed of two opportunities to receive up to $2,500 per subaward for artistic performances, with a maximum of $5,000 from the TourWest program.

We determined the former Associate Director established standard subawarding procedures for TourWest and IMTour that met subawarding requirements. These included:

- Public solicitation processes that provided entities equal opportunity to apply for program funds;
- An application panel review process that addressed conflicts of interest and provided equitable distribution of available funds;
- A contract that addressed subrecipient eligibility to participate in the Federal award;
- A monitoring process conducted that ensured compliance with WESTAF and Federal requirements; and
- A payment process that provided secondary review and approval of payment requests.

Most of the subawarding internal controls were manual, with reviews documented on paper or in Excel spreadsheets, and the former Associate Director was responsible for internal control enforcement. For example, grant managers were responsible for generating subaward payment requests, and the former Associate Director was responsible for reviewing and approving payment requests. We tested two TourWest subawards (one from each Partnership award) for compliance with Federal award requirements and WESTAF's manual controls, and determined they generally met Federal requirements and operated within the procedures and controls stated above. However, we determined WESTAF did not fully comply with subawarding requirements for subrecipient notification, subaward monitoring, and subaward reporting. Additionally, WESTAF did not follow its internal controls for its Discretionary Grants program, which was created to re-issue unspent funds awarded to subrecipients under the TourWest and IMTour programs.

<u>Finding 1 – Standard Procedures:</u> We determined WESTAF's subawarding procedures did not include subrecipient risk assessments, and did not always provide accurate subaward information to subrecipients.

Pass-through entities are required to conduct subrecipient risk assessments to identify the level of monitoring necessary to ensure compliance with Federal award requirements (2 CFR 200.332(b)[1]). These assessments help pass-through entities reduce their own risk that subawards are mismanaged or costs reported on award FFRs are unallowable. WESTAF had created a policy to conduct risk assessments of applicants, but we did not identify any procedures or controls in place to ensure the risk assessments were conducted, or risk-related notes in monitoring documents. Additionally, WESTAF was unable to provide evidence of when and how the reviews were conducted, metrics for determining risk levels, or examples of adjustments to monitoring processes for any subaward across the four years included in the Partnership awards.

Pass-through entities are also required to notify subrecipients of their participation in the Federal award and identify the award name, number, and period of performance (2 CFR 200.332(a)[2]).

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[1] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.331(b).

[2] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.331(a).

Proper identification of award participation is important for subrecipient decision-making and subaward management. WESTAF established a subaward issuance process that used a standard template to auto-populate current NEA award information into contract documents. We determined this process provided the correct award information when the subaward was funded from the current year's award, but could provide incorrect information if the subaward was funded from a prior year's award. During testing, we identified one 2017 Partnership subaward that provided 2018 Partnership information in the contract, and two 2018 Partnership subawards with contracts providing 2019 Partnership information. As a result, we determined WESTAF misinformed some of its subrecipients about NEA award participation.

Finally, pass-through entities are required to notify subrecipients about the amount of award funds in each subaward, the total amount of that award's funds issued to the subrecipient to date, and the total amount of Federal funds issued to the subrecipient from all the pass-through entity's active Federal awards (2 CFR 200.332(a)[3]). Proper funding notification is important for subrecipient decision-making and cost allocation. Additionally, it helps WESTAF track its funding amounts and meets its own subaward management requirements.

WESTAF's standard contract template stated that the subaward amount was the total amount of Federal funds obligated to the subrecipient, and the total amount of funds from that NEA award. We determined these statements provided incorrect information to subrecipients that received more than one subaward, whether from the same award or from two active awards. For example, if one subrecipient received six subawards across both Partnership awards – two IMTour subawards funded by the 2017 Partnership award, two TourWest subawards funded by the 2017 Partnership award, and two TourWest subawards funded by the 2018 TourWest subawards – the initial subaward would be accurate but the following subaward amounts would be underreported (see table below). We identified 124 subrecipients with more than one subaward issued under the Partnership awards.

Example: Subrecipient A						
NEA Award	**Subaward #**	**2 CFR 200.332(a)ix: Total award funds granted to date**		**2 CFR 200.332(a)viii: Total funds to recipient from all awards**		
		Contract Language	**Actual**	**Contract Language**	**Actual**	
2017	TW2017xxx1	$ 2,125	$ 2,125	$ 2,125	$ 2,125	
2017	IMT00x1	2,500	4,625	2,500	4,625	
2017	IMT00x2	2,500	7,125	2,500	7,125	
2017	TW2018xxx2	2,500	9,625	2,500	9,625	
2018	TW2018xxx1	2,500	2,500	2,500	12,125	
2018	TW2019xxx2	2,125	4,625	2,125	14,250	

WESTAF officials stated the contract identification discrepancy was caused by adjustments to subaward funding pools after the subawards were issued, as Partnership awards overlap and

[3] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.331(a).

WESTAF adjusts subaward funding sources at the time of payment to ensure older awards are fully expended prior to close-out. We determined this was reasonable and could be allowable if WESTAF established procedures to notify subrecipients of the change at the time of the adjustment. WESTAF officials also stated they were not aware of the risk assessment, notification, or identification requirements, and did not realize the established processes were inadequate or could result in misinformed subrecipients. We determined WESTAF's reliance on one person to understand Federal award requirements and implement proper procedures contributed to this finding.

Recommendation A.1: We recommend WESTAF document and implement procedures and controls that ensure potential subrecipients are assessed for risk of noncompliance with Federal subaward requirements, and monitoring procedures are adjusted accordingly.

Recommendation A.2: We recommend WESTAF update its subawarding procedures and controls to ensure subrecipients are properly informed of award participation and total funding amounts.

WESTAF concurs with the finding and recommendations (see Appendix D for full management response).

Finding 2 – Discretionary Grants: We determined WESTAF established a third subawarding program that did not meet allowability requirements, resulting in $223,149 in unallowable costs.

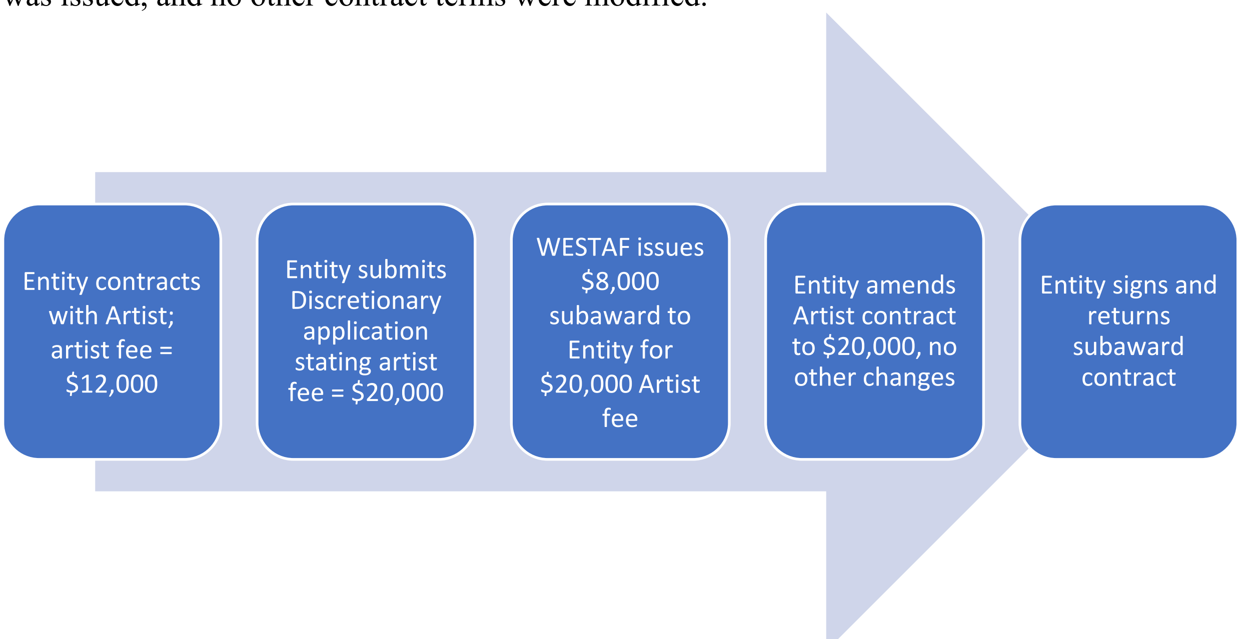
During the audit we identified a third subawarding program, TourWest Discretionary Grants (Discretionary program), that was included in reported costs but not advertised on the WESTAF website or identified in operational documents. We determined the Discretionary program totaled $119,523 (19%) of all 2017 Partnership subaward costs, and $103,626 (16%) of all 2018 Partnership subaward costs.

WESTAF officials stated the Discretionary program was created by the former Associate Director, with prior leadership approval, to re-issue unspent funds awarded to subrecipients under the TourWest and IMTour programs. The former Associate Director personally managed all aspects of the program, from selection and funding to monitoring and payment, and did not follow the standard grant processes or controls applied to the TourWest and IMTour programs. Instead, the former Associate Director worked with preferred entities to identify completed projects that were already funded by a prior subaward, or upcoming projects reasonably certain to occur and be completed by the end of the award period. The former Associate Director then allocated available funds using a process that deviated from WESTAF's approved policies and procedures, drafted and issued contract amendments or new contracts, monitored the subawards, and drafted and approved payment requests.

We tested six Discretionary program subawards during the audit, three from each Partnership award, and identified issues within the documents that verified the program significantly deviated from standard procedures and controls. Two subawards were issued to support artistic performances, similar to TourWest and IMTour, but four were issued to support conferences. The six final payment amounts ranged from $8,000 to $24,950 per subaward ($106,900 in total), exceeding the $2,500 limit advertised for TourWest. All six subawards had application documents that appeared to be completed by WESTAF staff rather than the subrecipients. All six subawards also had missing or incomplete documentation, including signed contracts and final reports, while five of the six had contract or payment documents that were generated and approved by the former Associate Director.

The missing documentation prevented us from determining whether WESTAF complied with subrecipient eligibility requirements, though we verified none of the six subrecipients were suspended or debarred from participating in Federal programs. One of the six subrecipients had final report documentation available to review, and we determined the former Associate Director was not ensuring subrecipients were crediting the NEA in promotion and marketing documents. Additionally, the four conference subawards received funding increases after the subawards were closed out, and documentation in two of the four indicated the purpose of the amendments was to provide new support for current costs. We determined retroactively increasing funding for a subaward that was already closed out does not allow the subrecipient to properly account for the funding within its records. We also determined amending closed subawards to provide new funding for current costs indicated selection bias and deceptive subaward practices by the former Associate Director, which increased the risk that fraud might have occurred. To reduce the risk of fraud going undetected, we conducted public record and internet searches to identify any personal or financial links between the former Associate Director and subrecipients. We did not identify any related parties or connections; therefore, we did not further expand audit procedures.

Finally, we identified one Discretionary program subaward that indicated bias toward one artist. Contract documentation shows the artist fee was increased by $8,000 after the $8,000 subaward was issued, and no other contract terms were modified.



We determined this timeline indicated the former Associate Director worked with the subrecipient to provide additional funds to the artist, rather than to help the subrecipient cover their costs. Current WESTAF officials did not refute this determination. Though this raised a potential fraud indicator for targeted funding, we were unable to identify a personal or professional link between the former Associate Director and the artists; therefore, we did not pursue further action.

We determined WESTAF's management of the Discretionary program circumvented established controls for segregation of duties, did not address conflicts of interest, increased WESTAF's risk of fraud, increased WESTAF's exposure to the appearance of deceptive subawarding practices and preferential treatment, and could result in an inequitable distribution of program funds. We also determined WESTAF did not meet Federal requirements related to record retention (2 CFR 200.302), subrecipient monitoring (2 CFR 200.332(d)[4]), and maintaining internal controls (2 CFR 200.303(a)) for its Discretionary program.

WESTAF officials could not explain why the program was managed in this manner, but stated it was approved by prior leadership. We determined the former Associate Director's position as both program and Federal award manager, with a position on the leadership team, allowed the former Associate Director to circumvent or override manual controls over subaward issuance, monitoring, and payment. We also determined WESTAF's reliance on one person to understand Federal award requirements, establish procedures and controls to meet the requirements, and conduct control activities to ensure enforcement and compliance, contributed to this finding.

Federal regulations state that in order for a cost to be allowable, it must also be reasonable (2 CFR 200.403(a)). Factors for determining reasonableness include considering whether individuals acted in the best interests of entity membership and the public, among others; or significantly deviated from established policy and procedures for incurring costs (2 CFR 200.404). Based on our review, we determined the Discretionary program significantly deviated from established subawarding procedures, resulting in the appearance of deceptive subaward practices, potential biasness towards subrecipients/artists, and an inequitable issuance of grant funds. As a result, we determined Discretionary subaward costs are unallowable.

We identified $223,149 in unallowable Discretionary costs included in Partnership FFR costs – $119,523 in 2017 Partnership FFR costs, and $103,626 in 2018 Partnership FFR costs. We removed these costs from FFR totals and determined this finding contributed to a potential refund due of $23,979 to the NEA for the 2017 Partnership award (see Appendix B).

Recommendation A.3: We recommend WESTAF document and implement subawarding procedures and controls for its Discretionary program that meet Federal subawarding and internal control requirements.

[4] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.331(d).

Recommendation B.1: We recommend the NEA disallow $223,149 in Discretionary program costs - $119,523 from the 2017 Partnership award, and $103,626 from the 2018 Partnership award - and determine whether a refund is due.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

Finding 3 – 2017 International Subaward: We determined WESTAF did not monitor the 2017 International subaward as required.

During our review of the 2017 International award, we noted that WESTAF treated its subrecipient as a partner in award management, where the subrecipient carried out the activities and self-managed the program while WESTAF handled the award's administrative tasks (i.e., application and reporting activities). As a result, WESTAF did not establish monitoring procedures to ensure the subrecipient was properly managing the award. WESTAF officials stated they believed this arrangement was fair and low-risk because the subrecipient regularly received other subawards from WESTAF and was familiar with Federal award management requirements. We determined this was reasonable, but did not absolve WESTAF officials of their due diligence to conduct subrecipient monitoring since they were responsible for the award, they were requesting payment from the NEA, and they were certifying the validity of costs and activities reported in award final reports.

Federal cost allowability requirements state that costs must be adequately documented (2 CFR 200.403(g)) and alcoholic beverages are unallowable (2 CFR 200.423)). *NEA General Terms and Conditions for Grants and Cooperative Agreements to Organizations* states that entertainment costs, including any costs associated with an event serving alcohol, are unallowable (12.3.b).

During our review of the 2017 International award, we identified $23,055 in unallowable or unsupported costs. Specifically, we identified $17,798 in unsupported costs included on the FFR, as WESTAF provided support ledgers totaling $17,798 less than the amount reported on the FFR and could not provide documentation for the difference. Additionally, during cost testing we reviewed 20 transactions and identified three with unallowable costs totaling $5,257. These unallowable costs were related to entertainment and alcohol purchases, gift card purchases, and duplicate travel costs. We determined these cost findings were caused by subrecipient errors that went unnoticed by WESTAF due to their lack of monitoring.

We removed these costs from the final report total and determined this finding contributed to a potential refund due of $11,338 to the NEA (see Appendix B). We determined these unallowable costs could have been prevented if WESTAF had conducted risk-based reviews of subaward costs or monitored changes in subrecipient operations.

Recommendation A.4: We recommend WESTAF document and implement alternative subaward monitoring procedures and controls for its non-standard subaward programs, or establish controls over its revised standard subaward monitoring procedures to ensure they are applied to all subaward programs.

Recommendation B.2: We recommend the NEA disallow $5,257 in unallowable subrecipient costs from the 2017 International award.

Recommendation B.3: We recommend the NEA review any additional support provided for the $17,798 in unsupported 2017 International award costs, then determine allowability and whether a refund is due.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

Finding 4 - Public Reporting: We determined WESTAF did not accurately report relevant subawards to USASpending.gov.

The Federal Funding and Accountability Transparency Act (FFATA) requires pass-through entities to publicly report all subawards that contain at least $30,000 in Federal funds ($25,000 during the 2017 International and 2017-2018 Partnership award periods of performance) (2 CFR 170, Appendix A, 1.a). Pass-through entities must report the information within one month after the month the Federal funds were allocated to the subaward (2 CFR 170, Appendix A, 1.a). For example, if an entity issues a $50,000 subaward on July 1, 2022 that included $35,000 in Federal funds, the entity had until August 31, 2022 to report the $50,000 subaward. If the subaward included $29,900 in Federal funds on July 1, 2022, but then a November 2, 2022 funding adjustment raised the amount of Federal funds applied to the subaward to $35,000, the entity had until December 31, 2022 to report the $50,000 subaward. Prompt and accurate reporting of FFATA information is necessary for providing a complete picture of government spending to the American public, and to prevent misinformed decision-making by concerned citizens or government entities.

WESTAF officials stated the former Associate Director established policy that Partnership subawards would not exceed the reporting threshold; therefore, did not document a FFATA reporting process. After WESTAF received the 2017 International award, the former Associate Director instructed the Finance Director to report the subaward based on the amount of Federal funds included in each payment, rather than the subaward as a whole. We determined this process did not comply with the reporting requirements, and could misinform the public on the amount of Federal funds allocated to the subaward (see below). Additionally, a pass-through entity that bases their reporting on payments alone could structure those payments to stay below the reporting threshold and would never report a qualifying subaward.

We reviewed the 2017 International and 2017-2018 Partnerships costs for subawards that triggered the reporting requirement and verified only the 2017 International subaward exceeded the then $25,000 threshold. WESTAF records show the subrecipient received a $97,000 subaward that was entirely funded by the 2017 International award. However, public records obtained from USASpending.gov state the subaward amount totaled $84,393. We determined this discrepancy occurred because not all subaward payments exceeded $25,000 in Federal funds, therefore WESTAF did not report all payments. Specifically, WESTAF made three payments to the subrecipient during the course of the award period. All three were paid with Federal funds, and all three totaled $97,000. However, only two payments were for more than $25,000; therefore, WESTAF only reported those two payments. As a result, WESTAF misinformed the public that it issued the subrecipient a $84,393 subaward that actually was $97,000.

WESTAF officials stated they did not know the reporting requirements and did not realize the established process could result in inaccurate reporting and a misinformed public. We determined WESTAF's reliance on one person to know and manage all aspects of Federal award requirements contributed to this finding.

Recommendation A.5: We recommend WESTAF document and implement procedures and controls that ensure prompt and accurate compliance with FFATA requirements.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

AWARD MANAGEMENT

Federal award requirements address many areas of internal operations, but some only become relevant when included in approved award activities and reported costs. For example, Federal payroll requirements do not apply unless approved award activities include payroll costs, and payroll costs are included in final reports. During the audit, we reviewed the types of costs reported on final reports and approved award budgets, identified the relevant award management requirements, and reviewed WESTAF's related processes and procedures for compliance with requirements.

Based on this review, we determined WESTAF generally complied with relevant management requirements. For example, WESTAF complied with requirements for financial system award tracking and reporting, requesting payment, determining cost allowability, addressing conflicts of interest, payroll, and travel. However, we determined WESTAF did not comply with Federal award management requirements related to financial reporting, record retention, procurement, and vendor eligibility.

Finding 5 – Financial Reporting: WESTAF included unallowable costs on its Federal Financial Reports (FFRs).

Federal regulations state that third-party in-kind contributions can be used to meet cost share/matching requirements provided certain conditions are met (2 CFR 200.306(b)-(j)). Third party in-kind contributions are defined as the value of goods, services, and property donated to the award recipient by outside entities (2 CFR 200.1[5]).

During our review, we determined WESTAF established subawarding procedures that required subrecipients to submit final reports containing allowable program costs paid by subaward funds (subaward costs) and allowable program costs paid by subrecipient funds (subrecipient costs). WESTAF considered the subrecipient costs to be third-party in-kind contributions, and included them in its own costs on Partnership FFRs. WESTAF officials stated they did this based on guidance from the NEA, which we verified.

We determined subrecipient costs did not qualify as in-kind contributions because there was no donation of goods, services, or property from the subrecipients to WESTAF. Subrecipients received money from WESTAF for meeting contractual obligations documented in the subaward agreement. As a result, we determined subrecipient costs did not meet Federal in-kind cost allowability requirements and could not be used as part of a recipient's cost share/match. We notified NEA officials of this decision.

WESTAF provided revised cost reports to support Partnership FFRs that did not include subrecipient costs, which we used during our audit. However, these revised reports did not equal the amounts stated on the FFRs; therefore, we determined the difference was unallowable – $1,048,464 for the 2017 Partnership award and $447,008 for the 2018 Partnership award.

NEA Award	**FFR**			**Revised Report**	**Difference**
	Subrecipient Costs	**WESTAF Costs**	**Total Costs**	**Total Costs**	**Total Costs *(FFR-Report)***
2017 Partnership	$3,045,477	$1,784,875	$4,830,352	$3,781,888	$1,048,464
2018 Partnership	2,553,009	1,687,800	4,240,809	3,793,801	447,008

Additionally, during transaction testing we identified $14,103 in unallowable entertainment and alcohol subrecipient costs included in the 2017 Partnership award. WESTAF officials stated these were erroneously included during the cost revision process and would have been excluded during their standard cost allocation process conducted at the time of payment. We determined this was reasonable, and considered the unallowable costs an effect of the subrecipient cost reporting issue.

WESTAF's inclusion of subrecipient costs in its Partnership FFRs resulted in $1,509,575 in unallowable costs - $1,062,567 for the 2017 Partnership award and $447,008 for the 2018 Partnership award. We removed these costs from final report totals and determined this finding

[5] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.96

contributed to a potential refund due of $23,978 to the NEA for the 2017 Partnership award (see Appendix B below).

Recommendation A.6: We recommend WESTAF update its FFR reporting procedures to ensure only allowable costs and third-party in-kind contributions are reported.

Recommendation B.4: We recommend the NEA disallow $1,509,575 in unallowable Partnership costs - $1,062,567 from the 2017 Partnership award and $447,008 from the 2018 Partnership award – and determine whether a refund is due.

Recommendation B.5: We recommend the NEA revise its Partnership reporting guidance to reflect that subrecipient cost shares are not third-party in-kind contributions.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

Finding 6 – Record Retention: WESTAF did not comply with Federal record retention requirements.

Federal regulations require award recipients to retain award-related documentation for three years after submission of the award's FFR (2 CFR 200.334[6]). Mandatory document retention applies to financial records, support documents, and procurement records, among others (2 CFR 200.334[6]) (2 CFR 200.302(b)(3)) (2 CFR 200.318(i)). Record retention is necessary to ensure award-related procurements, contracts, subawards, and disbursements meet cost allowability requirements. It is also necessary for verifying compliance with Federal subaward, procurement, and financial management requirements.

WESTAF established and documented a record retention policy that complied with the Federal requirements, but we did not identify procedures or controls to ensure the policy was followed. In addition to missing subaward documents discussed above in our Discretionary Grants finding, we identified missing documentation related to final reports, disbursements, and procurements.

- *Final Reports* – During our review of WESTAF's final reports, we determined WESTAF could not support all the costs stated on the 2019 Travel award's FFR. WESTAF reported $3,445 in costs for this award, but was only able to provide a cost report totaling $3,323. WESTAF did not retain its initial cost report that supported the final FFR, and could not identify the difference in funds. Based on our review, we identified $122 in unsupported 2019 Travel award costs. WESTAF officials stated the discrepancy was likely caused by accounting corrections made after the report was submitted. We determined this was reasonable, but noted WESTAF procedures should include reviews

[6] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.333.

of the effects potential reallocations could have on Federal awards.

- *Disbursements* – During our review of reported costs, we tested 59 transactions across the Partnership and Travel awards – 27 from each Partnership award and 5 from the 2019 Travel award. We identified 20 transactions that WESTAF did not retain complete records – 8 from the 2017 Partnership award, 11 from the 2018 Partnership award, and 1 from the 2019 Travel award. Missing documentation included proof of payment, invoices, and contracts. We identified $126,469 in unsupported 2017 Partnership costs, $103,600 in unsupported 2018 Partnership costs, and an additional $650 in unsupported 2019 Travel costs.

- *Procurements* – During our review of procurement, we tested nine vendors across both Partnership awards and determined WESTAF did not retain complete records for all nine. Missing documentation included quotes, supervisory reviews of proposed costs, and contracts. Unsupported costs associated with these procurements are included in the Disbursements test results above.

Based on our review, we are questioning $230,841 in unsupported costs – $126,469 from the 2017 Partnership award, $103,600 from the 2017 Partnership award, and $772 from the 2019 Travel award. We removed these costs from final report totals and determined this finding contributed to a in potential refunds of $24,750 due to the NEA – $23,978 due back from the 2017 Partnership award and $772 due back from the 2019 Travel award (see Appendix B).

WESTAF officials stated the COVID-19 pandemic severely disrupted WESTAF's operating procedures and contributed to the loss of record availability. For example, digital archiving was not organized properly, and physical files of non-archived documents were difficult to access after WESTAF's shift to a fully remote workplace. We determined this is reasonable, but also noted several instances where support documents were unavailable because they did not exist or were no longer accessible due to employee turnover. We determined WESTAF's lack of procedures or controls for enforcing its record retention policy contributed to this finding.

Recommendation A.7: We recommend WESTAF document and implement procedures and controls that enforce its record retention policy.

Recommendation B.6: We recommend the NEA review any additional support documentation for $127,241 in unsupported costs with potential refunds due - $126,469 for the 2017 Partnership award and $772 for the 2019 Travel award – then determine allowability and whether a refund is due.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

Finding 7 – Procurement: WESTAF did not establish and implement documented procurement procedures.

Federal regulations require award recipients to establish and implement documented procedures for the purchase of goods and services purchased under a Federal award (2 CFR 200.318(a)). The documented procedures must comply with procurement standards established in the Federal award regulations (2 CFR 200.318(a)). These standards address documentation requirements, conflicts of interest, allowable purchasing methods, and required contract disclosures (2 CFR 200.319-.327[7]). These requirements were established to avoid unnecessary or duplicative purchases, foster economy and efficiency, and provide full and open competition.

WESTAF established documented policy and procedures addressing conflicts of interest for employees, Board member, and panelists. It also established documented policy and procedures for purchases made on company credit cards. However, it did not establish documented procurement procedures for purchases made without company cards. As a result, we were unable to determine whether WESTAF's procurement process complied with allowable procurement methods or required disclosures.

Purchases affected by this finding include contracted services for website and product service support, site and catering agreements for conventions and Board meetings, and independent contractors providing operational support. We tested nine vendors across both Partnership awards and determined that WESTAF was unable to provide procurement or contract documents for seven of the nine. These seven vendors accounted for $638,244 worth of contract purchases across both awards.

WESTAF officials stated they were not aware of Federal procurement requirements, as they relied on the director of the grants program (previously the former Associate Director, currently the Director of Social Responsibility) to know Federal award requirements and establish procedures and controls to ensure compliance. We determined this reliance on one person to understand all aspects of Federal award requirements caused the finding.

Recommendation A.8: We recommend WESTAF document and implement procurement procedures that comply with Federal award requirements.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

[7] 2 CFR 200 was revised in 2020; at the time of the award the reference number for this requirement was 2 CFR 200.318-.326.

Finding 8 – Vendor Eligibility: WESTAF did not ensure vendors were eligible to participate in Federal award programs.

Federal regulations require award recipients to ensure potential vendors of goods or services procured under a Federal award are not suspended, debarred, or otherwise ineligible from participating in Federal award programs (2 CFR 200.214). These regulations were enacted in part to prevent vendors convicted of defrauding the government from receiving additional Federal funds or benefits from Federal awards.

WESTAF established policy and procedures for verifying potential subrecipients were eligible to participate in Federal programs, but did not establish similar policy or procedures for verifying the eligibility of potential vendors. Additionally, WESTAF was not able to provide evidence of vendor verification. We tested 35 unique vendors across the Partnership and Travel awards and verified all 35 vendors were eligible to participate in Federal programs.

WESTAF officials stated they were not aware eligibility requirements applied to vendors, as they relied on the director of the grants program (previously the former Associate Director, currently the Director of Social Responsibility) to know Federal award requirements and establish procedures and controls to ensure compliance. We determined this reliance on one person to know and understand all aspects of Federal award requirements caused the finding.

Recommendation A.9: We recommend WESTAF document and implement procedures and controls that verify potential vendors are not suspended or debarred from participating in Federal programs.

WESTAF concurs with the finding and recommendation (see Appendix D for full management response).

INTERNAL CONTROLS

Federal internal controls regulations require award recipients to establish and maintain effective internal controls over Federal awards that provide reasonable assurance the recipient manages its awards in compliance with Federal statutes and regulations, and award terms and conditions (award requirements) (2 CFR 200.303(a)). Recipients must also evaluate and monitor their compliance with award requirements (2 CFR 200.303(c)).

We determined WESTAF established and maintained effective controls over computer processed data and systems access, and effective manual controls over payroll, reconciliations, and disbursements. However, we determined that WESTAF did not comply with Federal requirements for monitoring compliance or maintaining effective control over all areas of award management.

<u>Finding 9 – Maintaining Internal Controls</u>: WESTAF did not monitor its compliance with award requirements or maintain effective control over all aspects of its awards.

Compliance reviews help management stay current on revisions and updates to award requirements. They also serve as a critical control for obtaining reasonable assurance that internal operations are meeting relevant award requirements. WESTAF established a policy to conduct annual reviews of its procedures and controls to ensure compliance with the requirements, but did not identify who was responsible for conducting them, establish procedures for when and how to conduct the reviews, or establish controls to ensure the reviews were conducted. Therefore, the reviews did not occur.

Instead, WESTAF's prior leadership established a management structure that relied on the director of the grants program (previously the former Associate Director, currently the Director of Social Responsibility) to know the award criteria; establish programs, procedures, and controls that met the award criteria; and oversee the award programs to ensure compliance with internal procedures and controls. We determined this structure created a lack of oversight in daily operations, as other employees did not know enough about award criteria to question established procedures that did not meet requirements, and were not in a position to push back against leadership instructions that contradicted or circumvented internal processes. Additionally, we determined this operational silo of knowledge and responsibility increased the importance of annual reviews, as they provided the best opportunity for ensuring compliance and establishing accountability.

Based on our review, we determined WESTAF did not evaluate and monitor its procedures and controls to ensure compliance with award requirements. We determined the lack of review procedures and controls, as well as the consolidation of knowledge and power under one person, caused this failure. WESTAF's current leadership team could not explain why the policy was not enacted, or why prior leadership relied on one person to establish and ensure compliance.

We reviewed the compliance findings identified during the audit to determine whether annual reviews by knowledgeable employees could have detected and corrected the gaps between operations and requirements. We determined the lack of reviews contributed to the subrecipient risk assessment, notification, and eligibility issues, as well as the FFATA, procurement, vendor eligibility, and cost allowability issues. Specifically, reconciling award management processes and procedures to requirements could have determined the following:

- There was policy to conduct subrecipient risk assessments, but metrics were not established and assessments were not included in the application or issuance processes.
- Funding disclosures in subaward contract templates did not accommodate for subrecipients to receive multiple awards and so could be inaccurate.
- Cost reallocation procedures did not consider the impact shifting a subaward from one award to another would have on notification requirements; therefore, procedures needed to be established to ensure subrecipients were informed of the new information.
- The Discretionary Grants issuance process did not always use the standard contract template; therefore, procedures needed to be established to ensure the subrecipient was eligible to participate in the award.

- The FFATA reporting threshold and requirements were based on the total subaward amount, but WESTAF's procedures and threshold were based on the individual payment amount.
- WESTAF did not have documented procurement procedures, and could not ensure it met threshold-specific requirements.
- WESTAF was not verifying potential vendors were eligible to participate in Federal awards. Additionally, the Travel Policy's employee affidavits process (in lieu of receipts) did not provide enough information to verify cost allowability; therefore, procedures and controls needed to be established to ensure those transactions were not coded to a Federal award.

Recommendation A.10: We recommend WESTAF enforce its control monitoring policy by documenting procedures for conducting annual reviews of its award management procedures, and implementing controls to ensure the reviews are conducted.

Recommendation A.11: We recommend WESTAF ensures employees responsible for implementing various Federal award management procedures are trained on the relevant Federal award requirements.

WESTAF concurs with the finding and recommendations (see Appendix D for full management response).

RECOMMENDATION SUMMARY

We recommend WESTAF:

A.1. Document and implement procedures and controls that ensure potential subrecipients are assessed for risk of noncompliance with Federal subaward requirements, and monitoring procedures are adjusted accordingly.
A.2. Update its subawarding procedures and controls to ensure subrecipients are properly informed of award participation and total funding amounts.
A.3. Document and implement subawarding procedures and controls for its Discretionary Grants program that meet Federal subawarding and internal control requirements.
A.4. Document and implement alternative subaward monitoring procedures and controls for its non-standard subaward programs, or establish controls over its revised standard subaward monitoring procedures to ensure they apply to all subaward programs.
A.5. Document and implement procedures and controls that ensure prompt and accurate compliance with FFATA requirements.
A.6. Update its FFR reporting procedures to ensure only allowable costs and third-party in-kind contributions are reported.
A.7. Document and implement procedures and controls that enforce its record retention policy.
A.8. Document and implement procurement procedures that comply with Federal award requirements.
A.9. Document and implement procedures and controls that verify potential vendors are not suspended or debarred from participating in Federal programs.
A.10. Enforce its control monitoring policy by documenting procedures for conducting annual reviews of its award management procedures and implementing controls to ensure the reviews are conducted.
A.11. Ensure employees responsible for implementing various Federal award management procedures are trained on the relevant Federal award requirements.

We recommend the NEA:

B.1. Disallow $223,149 in Discretionary Grant costs – $119,523 from the 2017 Partnership award, and $103,626 from the 2018 Partnership award - and determine whether a refund is due.
B.2. Disallow $5,257 in unallowable subrecipient cost from the 2017 International award.
B.3. Review any additional support provided for the $17,798 in unsupported 2017 International award costs, then determine allowability and whether a refund is due.
B.4. Disallow $1,509,575 in unallowable Partnership costs – $1,062,567 from the 2017 Partnership award and $447,008 from the 2018 Partnership award – and determine whether a refund is due.
B.5. Revise its Partnership reporting guidance to reflect that subrecipient cost shares are not third-party in-kind contributions.
B.6. Review any additional support documentation for $127,241 in unsupported costs with potential refunds due – $126,469 for the 2017 Partnership award and $772 for the 2019 Travel award – then determine allowability and whether a refund is due.

BREAKDOWN OF AWARD COSTS

2017 International Award

Total Reported Costs	$ 200,380
Less Unsupported Report Costs (Finding 3)	(17,798)
Less Unallowable Subrecipient Costs (Finding 3)	(5,257)
Potential Allowable Reported Costs	177,325
Less NEA Share of Costs*	(88,663)
Potential Allowable Cost Share/Match	88,663
Less NEA Disbursement	(100,000)
Potential Refund Due	$ (11,338)

**This award has a one-to-one cost share/matching requirement; therefore, the NEA Share of Costs is half the Potential Allowable Reported Costs, up to the grant amount of $100,000.*

2017 Partnership Award

Total Reported Costs	$ 4,830,352
Less Unallowable Report Costs (Finding 5)	(1,048,464)
Less Unsupported Transaction Costs (Finding 6)	(126,469)
Less Unallowable Discretionary Grants Costs (Finding 2)	(119,523)
Less Unallowable Alcohol Costs (Finding 5)	(14,103)
Potential Allowable Reported Costs	3,521,793
Less NEA Share of Costs*	(1,760,897)
Potential Allowable Cost Share/Match	1,760,897
Less NEA Disbursement	(1,784,875)
Potential Refund Due	$ (23,979)

**This award has a one-to-one cost share/matching requirement; therefore, the NEA Share of Costs is half the Potential Allowable Reported Costs, up to the grant amount of $1,784,875.*

2018 Partnership Award

Total Reported Costs	$ 4,240,809
Less Unallowable Report Costs (Finding 5)	(447,008)
Less Unsupported Transaction Costs (Finding 6)	(103,600)
Less Unallowable Discretionary Grants Costs (Finding 2)	(103,626)
Potential Allowable Reported Costs	3,586,575
Less NEA Share of Costs*	(1,687,800)
Potential Allowable Cost Share/Match	1,898,775
Less NEA Disbursement	(1,687,800)
Cost Share/Match Exceeded	$ 210,975

**This award has a one-to-one cost share/matching requirement; therefore, the NEA Share of Costs is half the Potential Allowable Reported Costs, up to the grant amount of $1,687,800.*

2019 Travel Award

Total Reported Costs	$ 3,445
Less Unsupported Report Costs (Finding 6)	(122)
Less Unsupported Transaction Costs (Finding 6)	(650)
Potential Allowable Reported Costs	2,673
Less NEA Disbursement	(3,445.00)
Potential Refund Due*	$ (773)

**This award does not have a cost share/matching requirement; therefore, any overpayment of NEA funds results in a potential refund due.*

AUDIT CRITERIA

The following provides extracts of relevant criteria used in the report. Skips in reference numbers indicate requirements that were not applicable to report findings.

DEFINITIONS

2 CFR 200.1 Definitions

- ***Cost sharing or matching*** means the portion of project costs not paid by Federal funds or contributions (unless otherwise authorized by Federal statute).
- ***Federal share*** means the portion of Federal award costs that are paid using Federal funds.
- ***Internal controls*** for non-Federal entities means:
    1. Processes designed and implemented by non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:
        i. Effectiveness and efficiency of operations;
        ii. Reliability of reporting for internal and external use; and
        iii. Compliance with applicable laws and regulations.
- ***Pass-through entity*** means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- ***Subaward*** means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement the pass-through entity considers a contract.
- ***Subrecipient*** means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- ***Third-party in-kind contributions*** means the value of non-cash contributions (i.e., property or services) that
    1. Benefit a Federally-assisted project or program; and
    2. Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.

SUBRECIPIENT MONITORING AND MANAGEMENT

2 CFR 200.332 Requirements for pass-through entities

All pass-through entities must:

a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:
    1. Federal award identification

iii. Federal Award Identification Number (FAIN);
iv. Federal Award Date (see the definition of Federal award date in § 200.1 of this part) of award to the recipient by the Federal agency;
vii. Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
viii. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;
ix. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
x. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
xii. Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;

b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
   1. The subrecipient's prior experience with the same or similar subawards;
   2. The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
   3. Whether the subrecipient has new personnel or new or substantially changed systems; and
   4. The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

d) Monitor the activities of the subrecipient as necessary to ensure the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring must include:
   1. Reviewing financial and performance reports required by the pass-through entity.

Federal Funding and Accountability Transparency Act

I. Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.
   1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds $30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
   2. Where and when to report.
      iii. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to https://fsrs.gov.
      iv. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010 the obligation must be reported by no later than December 31, 2010.)

FEDERAL AWARD MANAGEMENT

Internal Control Requirements
2 CFR 200.303 Internal controls
The non-Federal entity must:

a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in Standards for Internal Control in the Federal Government, issued by the Comptroller General of the United States, or the Internal Control Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations, and the terms and conditions of Federal awards.

Procurement Standards
2 CFR 200.318 General procurement standards

a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in sections 200.317 through 200.327.
i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract type.

2 CFR 200.319 Competition

a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and 200.20.

Records Requirements
2 CFR 200.302 Financial management

b) The financial management system of each non-Federal entity must provide for the following
   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, financial obligations, unobligated balances, assets, expenditures, income and interest, and be supported by source documentation.

2 CFR 200.334 Retention requirements for records
Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements on upon non-Federal entities.

<u>Suspension and Debarment Requirements</u>

2 CFR 200.214 Suspension and debarment

Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 200.180. The regulations in 2 CFR 200.180 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.

NEA General Terms for Partnerships, 10. General Procurement Standards

B. You should have written procedures to ensure that contractors or recipients, with whom you intend to do business, are not debarred or suspended prior to the award or payment of Federal funds.

<u>In-kind Contribution Requirements</u>

2 CFR 200.306 Cost sharing or matching

b) For all Federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria: 1)
   1) Are verifiable from the non-Federal entity's records;
   2) Are not included as contributions for any other Federal award;
   3) Are necessary and reasonable for accomplishment of project or program objectives;
   4) Are allowable under subpart E of this part;
   5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
   6) Are provided for in the approved budget when required by the Federal awarding agency; and
   7) Conform to other provisions of this part, as applicable.

e) Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the non-Federal entity. In those instances in which the required skills are not found in the non-Federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-Federal entity competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally-negotiated indirect cost rate or, a rate in accordance with § 200.414(d) provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

g) Donated property from third parties may include such items as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.

i) The value of donated property must be determined in accordance with the usual accounting policies of the non-Federal entity, with the following qualifications:
    1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the non-Federal entity as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the non-Federal entity as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR part 24, "Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs".
    2) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.
    3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.
    4) The value of loaned equipment must not exceed its fair rental value.

j) For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the non-Federal entity.

2 CFR 200.434 Contributions and donations

a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.
b) The value of services and property donated to the non-Federal entity may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements (see § 200.306). Depreciation on donated assets is permitted in accordance with § 200.436, as long as the donated property is not counted towards cost sharing or matching requirements.
c) Services donated or volunteered to the non-Federal entity may be furnished to a non-Federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services may not be charged to the Federal award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of § 200.306.
d) To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services.
f) Fair market value of donated services must be computed as described in 200.306.

<u>Cost Allowability Requirements</u>

2 CFR 200.403 Factors affecting allowability of costs

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
g) Be adequately documented.

2 CFR 200.404 Reasonable costs
A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly Federally-funded. In determining reasonableness of a given cost, consideration must be given to:

- b) The restraints or requirements imposed by such factors as: sound business practices, arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- e) Whether the non-Federal entity significantly deviated from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

2 CFR 200.423 Alcoholic beverages
Costs of alcoholic beverages are unallowable.

NEA General Terms for Partnerships, 13. Cost Principles
The allowability of costs for work performed under your NEA award, including costs incurred under subawards made with Federal or matching funds, is determined in accordance with the NEA's Partnership Agreements guidelines and the Uniform Guidance Subpart E – Cost Principles.

B. <u>Selected costs and their allowability under Partnership Agreements</u>
   The allowability of costs is based on NEA legislation and 2 CFR 200.
   a. <u>Unallowable</u>
      i. Entertainment. Entertainment, including amusement and social activities such as receptions, parties, galas, dinners, community gatherings, etc., and any associated costs including food, catering, alcoholic beverages, as well as costs for the planning, staffing, and supplies for such, etc., are unallowable.
         1. Specific costs that might otherwise be considered entertainment but have a programmatic purpose may be allowable if authorized in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

NEA General Terms and Conditions for Grants and Cooperative Agreements for Organizations, 12. Cost Principles
12.3 Selected items of cost under 2 CFR Part 200 that may or may not be allowable depending on circumstances:
   12.3.b Entertainment (200.438). Entertainment, including amusement and social activities such as receptions, parties, galas, dinners, community gatherings, etc., and any associated costs including food, catering, alcoholic beverages, as well as costs for the planning, staffing, and supplies, for such, etc., are unallowable.

WESTAF

September 11, 2023

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

Subject: Response to NEA OIG Performance Audit of the Western States Arts Federation (OIG-23-01)

To Whom It May Concern:

Please see our responses to each finding and recommendation below.

Finding 1: We determined WESTAF's subawarding procedures did not include subrecipient risk assessments, and did not always provide accurate subaward information to subrecipients.

Recommendation: WESTAF to update its subawarding procedures and controls to ensure subrecipients are properly informed of award participation and total funding amounts.

WESTAF Response: Concur

Finding 2: We determined WESTAF established a third subawarding program that did not meet allowable requirements, resulting in $223,149 in unalllowable costs.

Recommendation: Document and implement subawarding procedures and controls for its Discretionary Grants program that meet Federal subawarding and internal control requirements.

WESTAF Response: Concur

Finding 3: We determined WESTAF did not monitor the 2017 International (PAD) subaward as required.

Recommendation: Document and implement alternative subaward monitoring procedures and controls for its non-standard subaward programs, or establish controls over its revised standard subaward monitoring procedures to ensure they apply to all subaward programs.

WESTAF Response: Concur

Finding 4: We determined that WESTAF did not accurately report relevant subawards to USASpending.gov.

Recommendation: Document and implement procedures and controls that ensure prompt and accurate compliance with FFATA requirements.

WESTAF Response: Concur

Finding 5: WESTAF included unallowable costs on its Federal Financial Reports (FFRs).

Recommendation: Update its FFR reporting procedures to ensure only allowable costs and third-party in-kind contributions are reported.

WESTAF Response: Concur

Finding 6: WESTAF did not comply with Federal record retention requirements.

Recommendation: Document and implement procedures and controls that enforce its record retention policy.

WESTAF Response: Concur

Finding 7: WESTAF did not establish and implement documented procurement procedures.

Recommendation: Document and implement procurement procedures that comply with Federal award requirements.

WESTAF Response: Concur

Finding 8: WESTAF did not ensure vendors were eligible to participate in Federal award programs.

Recommendation: Document and implement procedures and controls that verify potential vendors are not suspended or debarred from participating in Federal programs.

WESTAF Response: Concur

Finding 9: WESTAF did not monitor its compliance with award requirements or maintain effective control over all aspects of its awards.

Recommendation: 1) Enforce its control monitoring policy by documenting procedures for conducting annual reviews of its award management procedures and implementing controls to ensure the reviews are conducted. 2) Ensure employees responsible for implementing various Federal award management procedures are trained on the relevant Federal award requirements.

WESTAF Response: Concur

Sincerely,

Christian Gaines

Christian Gaines
Executive Director
Western States Arts Federation (WESTAF)