



# **Investigative Report of Brown Foundation for Education Equity, Excellence, and Research**

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This is a version of the report prepared for public release.

## **SYNOPSIS**

In November 2011, the Chief of Law Enforcement, Security and Emergency Services, National Park Service (NPS), indicated that an NPS audit of the Brown Foundation for Educational Equity, Excellence, and Research (Foundation), identified questioned costs of approximately \$620,871 in expenditures from October 2008 to September 2011. Based upon this information, we examined whether the Foundation misappropriated or misused Federal monies allocated through NPS cooperative agreement H6145-05-0001. We also examined NPS' management of that agreement.

A complete review was not possible due to poor financial management and commingling of funds by the Foundation, as well as missing documentation to justify expenses. As a result, we question all funds given to the Foundation. During our review, we found numerous instances of unallowable, unreasonable, and unsupported spending by the Foundation. We additionally found that the Foundation 1) failed to adhere to Office of Management and Budget guidance; 2) did not follow prescribed Federal travel regulations; 3) commingled NPS monies between their accounts; 4) provided accounting records that indicated some entries could be wrong or misaligned, and 5) made it impossible to clearly track specific costs back to the cooperative agreement due to commingling issues.

We found that NPS contracting officials may have violated Title 5 of the Code of Federal Regulations § 2635.101(5) and stipulations outlined in the NPS "Agreements Handbook" by failing to adequately manage the agreement. We also found that NPS did not review Foundation spending due to a hands-off approach to managing the agreement taken by previous NPS officials and possible political influence.

The U.S. Attorney's Office for the District of Kansas declined prosecution. An administrative referral is being made to NPS for appropriate action.

## **BACKGROUND**

### **Brown Foundation**

*Brown v. Board of Education*, a landmark 1954 U.S. Supreme Court case, declared State laws establishing racially segregated educational facilities to be unconstitutional. The decision overturned an 1896 ruling (*Plessy v. Ferguson*) that had institutionalized segregation. The *Brown v. Board of Education* decision established that racial segregation violated the Equal Protection Clause of the 14th Amendment of the Constitution, paving the way for integration and the civil rights movement.

The Brown Foundation for Educational Equity, Excellence, and Research (Foundation) is a nonprofit organization formed in 1988 by the family of Oliver L. Brown, the named plaintiff in *Brown v. Board of Education*. Cheryl Brown-Henderson, Oliver Brown's daughter, established the Foundation to commemorate and inform the public about the 1954 Supreme Court ruling. Brown-Henderson served as the Foundation's founding president and chief executive officer from its inception through June 2010, at which time she briefly worked as the National Park Service (NPS) superintendent of the Brown v. Board of Education National Historic Site (BRVB) in Topeka, KS. Brown-Henderson resigned as BRVB superintendent in December 2010 to return to the Foundation as its president.

### **Prior Investigation of Cheryl Brown-Henderson**

We previously investigated Brown-Henderson (PI-PI-10-0690-I) on allegations that her NPS employment as BRVB superintendent (June 2010 through December 2010) created a conflict of interest. With Brown-Henderson as BRVB superintendent, NPS provided Federal funds to the Foundation through a cooperative agreement, and the Foundation employed Brown-Henderson's mother, sister, and boyfriend. Our prior investigation also examined whether Brown-Henderson failed to comply with the recusal agreement she signed with NPS to resolve potential conflicts of interest. That investigation substantiated Brown-Henderson's conflict of interest and determined that she engaged in Foundation activities despite her recusal agreement. In May 2011, we referred our prior investigative findings to the U.S. Attorney's Office for the District of Kansas, which declined prosecution in March 2011.

Because our prior investigation also revealed that NPS provided insufficient oversight of its cooperative agreement with the Foundation, NPS initiated an independent audit by Jones and Company Professional Corporation, certified public accountants, to examine Foundation spending. After the audit identified questioned costs of approximately \$620,871 that were considered unsupported, unallowable, not allocable, and unreasonable, we initiated our current investigation. Although the scope and allegations of our current investigation differed from our earlier investigation, the U.S. Attorney's Office again declined prosecution.

## Pertinent Regulations

### *Office of Management and Budget Circulars*

The Office of Management and Budget (OMB) generates policy to assure that grants and cooperative agreements are managed properly and that Federal dollars are spent in accordance with applicable laws and regulations. Our review of the NPS cooperative agreement with the Foundation identified two improperly followed OMB circulars, A-122 and A-110.

A-122 provides principles for determining costs of grants, contracts, and other agreements with nonprofit organizations. These principles are used by all Federal agencies to determine the costs of work performed by nonprofits under grants, cooperative agreements, cost-reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. Under these principles, costs must be 1) reasonable (reflecting the cost for an action that a prudent person would have taken under the circumstances); 2) allocable to the particular agreement (determined according to whether it is incurred solely to advance the Federal program or it benefits both Federal program activities and events through reasonable methods); and 3) allowable, as detailed by the selected items of cost outlined in Attachment “B” of the OMB circular. A-110 establishes standards to help Federal agencies administer grants consistently and uniformly and standards for agreements with institutions of higher education, hospitals, and other nonprofit organizations. OMB circulars provide the following guidance pertaining to prohibited items:

- *unallowable entertainment costs*, including amusement, diversion, and social activities, and any directly associated costs (e.g., tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities);
- *unallowable costs for fines and penalties*, including violations or failure to comply with Federal, State, and local laws and regulations (except when complying with provisions of an award or written instructions from an awarding agency);
- *unallowable costs for alcoholic beverages*;
- *unallowable bank charges, credit card fees, interest, and late charges*, including costs incurred for interest on borrowed capital (A-122 does not specifically address the allowability of bank charges, but references the test of reasonableness as to whether individuals acted with prudence under the circumstances); and
- *unallowable fundraising expenses*, which, according to A-122, includes funds used for organized fundraising (e.g., financial campaigns, endowment drives, solicitation of gifts, and bequests to raise capital or obtain contributions).

### *Cooperative Agreement*

The legal basis for the cooperative agreement with the Foundation, 31 U.S.C. § 6305, indicates that a relationship between the U.S. Government and a State, a local government, or another recipient may exist when 1) the primary reason is to transfer something of value to one of these entities to carry out a public purpose; and 2) substantial involvement is expected between the Government and one of these entities when conducting the activity identified in the agreement.

We also learned that—

- The Omnibus Consolidated Appropriations Act of 1997, Public Law (P.L.) 104-208, gave NPS authority to enter into cooperative agreements that involve the transfer of appropriated funds to State, local, and tribal governments, other public entities, educational institutions, and private nonprofits conducting NPS programs.
- The Act of October 26, 1992, P.L. 102-525, created BRVB and authorized the Secretary of the Interior to enter into cooperative agreements to further the legislative purpose.
- Cooperative agreements are defined in 2 C.F.R. § 1401.220 as awards of financial assistance that, consistent with 31 U.S.C. 6305, are used to enter into the same kind of relationship as a grant, except that substantial involvement is expected between the Federal agency and the recipient when carrying out the activity contemplated by the cooperative agreement.
- Cooperative agreements are administered pursuant to the Federal Grant and Cooperative Agreement of 1977, Federal Financial Assistance Act of 1999, OMB circulars, Executive Orders, and U.S. Department of the Interior policies.

#### *NPS “Agreements Handbook”*

The NPS “Agreements Handbook” supplements NPS Director’s Order 20, providing detailed guidance to those developing, administering, and closing out agreements. Specifically, the handbook outlines the following requirements for the contracting officer having responsibility for administering the agreement—

- determine the proper agreement instrument to use;
- review agreement and modification documentation to ensure that the information is complete (e.g., legislative authority, complete statement of work, listing of NPS and its partner’s contributions, substantial involvement, and funding information);
- ensure that agreements are not used to circumvent applicable Federal acquisition laws or regulations and that they comply with the Federal Grant and Cooperative Agreement Act of 1977, OMB circulars, Federal Acquisition Regulation, Executive Orders, and departmental and NPS regulations and requirements;
- review determinations and findings requirements for proposed interagency acquisition agreements under the Economy Act that obligate NPS funds—actions exceeding \$500,000 require legal review and final approval or disapproval from the NPS Washington Office chief of contracting;
- assist program managers or technical representatives for cooperative agreements to develop statements of work for such agreements and modifications; and
- seek competition for cooperative agreements to the maximum extent practicable and award cooperative agreements without the benefit of competition only where the program manager or key official makes a determination, in writing, that competition is not deemed appropriate for a particular project—the contracting officer must approve the determination that a noncompetitive award is in the best interest of NPS.

## **DETAILS OF INVESTIGATION**

In November 2011, we received a referral from the Chief of Law Enforcement, Security and Emergency Services, NPS. The Chief of Law Enforcement, Security and Emergency Services, indicated that an independent audit of the Foundation identified approximately \$620,871 in expenditures incurred between October 2008 and September 2011 that were considered to be unsupported, unallowable, not allocable, and unreasonable. NPS had contracted with Jones and Company Professional Corporation to conduct the audit.

Based upon this information, we initiated an investigation that included reviews of relevant records over a 5-year period, as well as interviews of appropriate personnel during the same time period. Our investigation initially focused on determining whether the Foundation had misappropriated or misused any monies allocated through cooperative agreement H6145-05-0001. We subsequently examined how NPS managed the Foundation, beginning with a review of the cooperative agreement.

### **NPS Failure To Adequately Monitor Cooperative Agreement**

#### *Record Review*

Our review of cooperative agreement records revealed that the most recent agreement, dated February 11, 2005, covered a 1-year performance period from the date of signature and could be extended in 1-year increments up to a total of 5 years from the effective date. Set to expire on September 30, 2010, but extended to September 30, 2011, the agreement was in effect when NPS and the Foundation entered into a \$12,000 interim agreement covering Foundation expenses between October and November 2011. The Foundation elected not to sign this interim agreement and vacated its offices on November 26, 2011.

After discussions surrounding the interim agreement, NPS received the audit for the then-expired cooperative agreement. Because of the audit, on November 2, 2011, BRVB Superintendent David Smith sent a letter to the Brown Foundation Chairman suspending any further NPS negotiations concerning a new cooperative agreement. Smith also told the Brown Foundation Chairman that all cooperative efforts with the Foundation would cease and no further funding would be provided without a new signed cooperative agreement.

At the time of termination, the Foundation had received a total of \$1,877,370.75 in NPS funding. Under the agreement, NPS provided the Foundation with \$300,000 annually to cover the following tasks/work:

- develop an educational outreach program targeted at students and educators within a 60-mile radius of Topeka, Kansas;
- develop and implement training programs and materials for educators to enhance the teaching and understanding of *Brown v. Board of Education*;
- initiate a program to provide in-service training for educators in rural school districts;
- conduct Summer Institutes for educators and policymakers;
- develop training materials and orientation material for BRVB interpretive staff;

- expand and promote existing traveling exhibits to include each of the five cases combined under *Brown*, as well as interpret the role of Charles Hamilton Houston in the civil rights story;
- continue publication of the Brown Quarterly, a newsletter designed to help classroom teachers with instruction in civil rights and multicultural studies;
- plan and cosponsor a symposium to examine historical educational experiences of Hispanic, Asian, and American Indians in their pursuit of equal opportunity;
- develop and implement training opportunities for graduate level students to enhance their understanding of the historic and contemporary impact of the *Brown* decision;
- assist with recruitment and training for the Volunteers-In-Parks program;
- maintain an active presence at BRVB for the duration of the cooperative agreement;
- assist in completing the transcription of oral histories and expanding the library of oral histories;
- plan and sponsor symposia to examine the historical and contemporary impact of *Brown*;
- promptly notify in writing the NPS contracting officer if any conditions occur that materially affect the attainment of project objectives, meeting planned timetables, and preclude the completion of approved work or the need for adjustment to the budget;
- permit substantial NPS involvement in managing and executing the project;
- provide human resources (e.g., volunteers, partners, or staff) to manage and carry out functions associated with the project; and
- recognize that Federal financial assistance will be subject to auditing and accounting policies and to procedures outlined in applicable OMB circulars.

Our records review determined that the former NPS Contracting Officer/Specialist who retired December 31, 2011, conducted oversight from 1994 until the agreement expired on September 30, 2010, and that under the agreement, NPS officials were expected to manage and execute the project as follows:

- provide funding and other assistance pertaining to stipulations outlined in the cooperative agreement;
- review and monitor Foundation objectives every 6 months under the agreement to ensure that they meet NPS standards, policies, and guidelines, and suggest corrections if discrepancies occur;
- provide oversight, monitoring, and assistance with development of Foundation curriculum materials;
- provide oversight and direction in the development of interpretive materials; and
- assist the Foundation in the selection of contractors/personnel to discharge the Foundation's responsibilities under the agreement, ensuring that the NPS chief of interpretation is a member of any group designated to interview potential Foundation employees.

## *Interviews*

Our investigation determined that NPS contracting officials failed to adequately monitor the cooperative agreement with the Foundation and that this helped to facilitate unregulated Foundation spending.

Superintendent David Smith told us that NPS' recent Foundation audit revealed that nearly two-thirds of the Foundation's expenditures failed to meet cooperative agreement requirements and that contracting officials had failed to provide adequate oversight.

During our interview with the former NPS Contracting Officer, she noted having responsibility for overseeing the cooperative agreement, which predated the her arrival at the NPS Midwest Regional Office. Signed in 2005, the agreement had been modified 32 times due to financial increases.

The former Contracting Officer told us that the contracting office required only a standard form (SF) 270, "Request for Advance or Reimbursements," from the Foundation. The former Contracting Officer believed that maintenance of supporting documentation fell on the Foundation, not the Contracting Officer, and so she never asked the Foundation for supporting documentation validating its expenditures. Although the former Contracting Officer said that site visits would have been the only way to validate Foundation expenses, she also said that these never occurred due to program funding and the overall "culture" within NPS.

The former Contracting Officer told us that most NPS cooperative agreements are considered "throwaway documents," since the deals they support have been finalized prior to drafting and signing the documents. The former Contracting Officer said cooperative agreements are treated as "troublesome" collateral duties.

The former Contracting Officer said that the Foundation had completed most, if not all, of the objectives outlined in its agreement and that it had been nearly impossible for NPS to adequately track Foundation spending. Admittedly, the former Contracting Officer said, the contracting office conducted very little oversight and no real follow-up on cooperative agreements to ensure the cooperating organization actually followed through on an agreement once it received appropriated funds. To correct this deficiency, the former Contracting Officer stated that starting in 2011 NPS required the Foundation to cite the appropriate agreement number with each of its 2011 expenses. The former Contracting Officer noted, however, that NPS did not ask for the Foundation's monthly financial reports as required by the agreement until 2011.

When asked if NPS reviewed and monitored the Foundation's objectives, the former Contracting Officer stated: "I was not part of this." The former Contracting Officer said that the Foundation had complied with the agreement's stipulated objectives. Asked if the former Contracting Officer had ever contacted the Foundation to discuss its responsibilities under the agreement, the former Contracting Officer acknowledged doing so in December 2010, but gave no indication of similar discussions prior to this date.



## Issues Identified Through NPS Audit of the Foundation

### *Record Reviews*

The audit performed for the period October 1, 2008, through September 30, 2011, contained the following findings:

- Over all fiscal years, the Foundation had questioned costs of approximately \$620,871 that were considered unsupported, unallowable, not allocable, and/or unreasonable.
- Over all fiscal years, the Foundation incurred costs in connection with its fundraising efforts, which were included in the program expenses and not set forth separately as required by Generally Accepted Accounting Principles (GAAP).
- Internal controls over the preparation of financial statements were inadequately designed.
- Control over significant accounts or processes was inadequately designed.
- Documentation of internal control components was inadequate.
- The Foundation did not maintain an active presence in BRVB for the duration of the cooperative agreement.
- Foundation financial staff lacked the qualifications and training to fulfill assigned functions.
- The person responsible for the accounting and reporting function lacked skills and knowledge to apply GAAP when recording transactions or preparing financial schedules.
- Failure to have controls in place requires dual authorization for disbursements.
- One or two individuals control the day-to-day operations of the Foundation.
- Employees and management may have the opportunity for fraud, illegal acts, violations of cooperative agreements, and abuse.
- Members of the board of directors provided no oversight, and NPS did not request a Generally Accepted Government Auditing Standards (GAGAS) audit in the past.
- The size of the organization's administration and management staff precluded certain internal controls that would have been preferred if the office staff had been large enough to provide optimum segregation of duties and oversight.
- There was a lack of design and operation of effective internal controls for compliance and oversight by the board of directors and executive management.
- After reviewing the SF-270s, auditors found no evidence of invoices or other supporting documentation with which to trace reimbursement requests back to the documentation that justified them, thus showing that the costs associated with the request had been paid prior to the reimbursement request date.
- Auditors found no evidence of expenditures that had been paid or other supporting documentation to validate that program activities and events had occurred during the fiscal years examined (e.g., the Foundation kept no lists of speakers or participant sign-in sheets for each event supported by major expenditures).
- No proper separate accounting records were maintained for the Federal awards program by fund accounting in QuickBooks, the Foundation's accounting program—the Foundation commingled all activities and costs into one chart of accounts.
- The Foundation's executive management and board members did not understand the Government's audit requirements.

- The Foundation engaged an independent public accounting firm that failed to apply GAGAS reporting requirements.

### *Interviews*

Discussing the October 2011 audit of the Foundation, Superintendent David Smith told us that our previous investigation highlighting NPS' oversight deficiencies caused management to initiate an audit of the Foundation. Smith noted that the audit was intended as a comprehensive review that included a full inventory of property purchased by the Foundation and a determination of how the Foundation spent its funds.

Smith recalled that when NPS contract audit personnel began the audit, Foundation staff proved uncooperative, failing to provide auditors with financial records and attempting to film them at work. The owner of Jones and Company Professional Corporation telephoned Smith on the first day to complain about the Foundation's lack of cooperation. In response, Smith contacted Brown-Henderson to tell her that filming audit personnel was unacceptable. He asked her to cooperate with the audit.

On the second day, the owner of Jones and Company Professional Corporation told Smith that Foundation personnel continued to be uncooperative and did not provide necessary financial records. On the third day, the owner of Jones and Company Professional Corporation said that the audit was a "waste of time" since the Foundation failed to produce any records. As a result, Smith told Brown-Henderson that the Foundation's lack of cooperation jeopardized the audit, as well as the Foundation's relationship with NPS. Smith said that Donald Cameron, the Foundation's former chief financial officer (CFO), eventually provided the owner of Jones and Company Professional Corporation with a sampling of records.

We also interviewed the owner of Jones and Company Professional Corporation, who confirmed the audit of the Foundation in October 2011. The audit examined Foundation spending from October 1, 2008, to September 30, 2011, identifying approximately \$620,871 in questionable expenditures, most of which were attributed to unsupported, unallowable, not allocable, and/or unreasonable costs. The audit concluded that the Foundation improperly received payments from annual fundraising efforts, in violation of A-122, without providing supporting documentation.

The owner of Jones and Company Professional Corporation explained that Foundation personnel had improperly removed all supporting documents from the SF-270 documents the auditors received. From the staple marks at the top corner of each form, the owner of Jones and Company Professional Corporation determined that the supporting documents had been removed.

The owner of Jones and Company Professional Corporation said that prior audits of the Foundation had been problematic since it failed to verify compliance and did not follow applicable Government accounting requirements for nonprofit organizations. Instead, prior Foundation audits followed the format of commercial business profit-and-loss statements. The owner of Jones and Company Professional Corporation noted, however, that prior firms auditing the Foundation should have been aware of Government accounting requirements.

### *Prior Foundation Audits*

To determine whether past audits of the Foundation had identified misspent NPS monies, we interviewed auditors from Cummins & Coffman (C&C) and Douthett & Company, CPA, PA.

The Certified Public Accountant (CPA), C&C, confirmed having the lead role in auditing the Foundation in 2010. The CPA explained that a “single audit,” an audit of an entire organization, was not performed since OMB requires such an audit only when Federal funding exceeds \$500,000. Since the Foundation had never exceeded this amount through the cooperative agreement, an audit based on GAGAS was unwarranted. Instead, the CPA said that the Foundation employed C&C to audit Foundation QuickBooks accounting files. The CPA used Foundation trial balance reports and QuickBooks data summaries to audit—

- draw entries;
- cash accounts;
- investment summaries;
- accounts receivable;
- interfund transfers;
- credit card expenditures;
- vacation and compensated time;
- transportation grants;
- contributions; and
- revenue reconciliation processes.

The CPA did not audit Foundation records for regulatory compliance.

Although C&C’s audit revealed accounting mistakes and noncompliance with GAAP, the CPA said that the audit did not uncover fraudulent activities. She said that Foundation personnel complied with all audit requests.

The President of Douthett & Company told us that the firm provided accounting assistance to the Foundation from April 2010 to November 2011. The firm provided oversight for the Foundation’s entries into QuickBooks, assisted with payroll activities, and reconciled Foundation bank records. The firm prepared the Foundation’s 2010 financial statement, a low-level compilation of accounting records not designed to verify compliance. The President of Douthett & Company noted that the 2010 report revealed that Foundation spending exceeded NPS revenue by approximately \$10,000. The President of Douthett & Company claimed that because the firm had worked with more than 40 nonprofit organizations, the firm’s accountants understood the requirements of these organizations. The President of Douthett & Company acknowledged having no experience with the OMB circulars regulating nonprofit funding obtained from Government sources.

Douthett & Company’s Staff Accountant confirmed having the lead role in providing accounting assistance to the Foundation. The Staff Accountant said that former Foundation CFO Donald Cameron performed the day-to-day entries in QuickBooks, appeared proficient in QuickBooks despite limited knowledge of accounting principles, seemed conscientious about correctly

expensing Foundation spending, and regularly called the Staff Accountant for assistance in correctly annotating transactions in QuickBooks. The Staff Accountant said that the Foundation tried to avoid commingling their monies by using two separate asset accounts. The Staff Accountant acknowledged, however, that NPS funds may have been commingled. During a follow-up conversation with Douthett & Company's President, as well as the Staff Accountant, on June 12, 2012, the President of Douthett & Company maintained that movement of funds between Foundation equity accounts did not necessarily constitute commingling.

The BRVB Chief of Interpretation told us that while attending a Foundation board of directors' meeting in February 2009, Donald Cameron remarked that when he (Cameron) arrived at the Foundation, the financial records were in "shambles."

### **Improper Commingling of NPS Funding**

Accounting systems of all grant recipients and subrecipients must ensure that agency funds are not commingled with funds from other awards or Federal agencies. Each award must be accounted for separately, with recipients and subrecipients prohibited from commingling funds on either a program-by-program or project-by-project basis without prior written approval of the awarding agency.

Our review of the Foundation's QuickBooks records showed that the Foundation tried to segregate funds from NPS and other sources by maintaining separate checking, income, equity, and expense accounts. The Foundation created receivable and payable accounts that tracked monies owed and paid. We found, however, that the Foundation also created an equity account named "Undesignated Net Assets" that served to balance equity transfers between itself and NPS. Also, its financial records contained many general journal entries with unclear explanations and imbalanced amounts that contributed to the appearance of commingling.

A profit-and-loss statement for the years 2007 to 2011 from the QuickBooks records revealed that expenses attributed to the Foundation exceeded its reported income by \$91,161.53. Conversely, the expenses attributed to NPS were lower than income derived from the cooperative agreement, indicating expenses may have been erroneously assigned to the wrong account in the financial records. Because of this potential commingling, our investigation reviewed expenditures attributed to NPS and the Foundation.

### **Foundation Spending**

#### *Impermissible Foundation Expenses*

To determine the appropriateness of Foundation spending, we reviewed records and identified expenses prohibited by A-122.

Specific impermissible expenditures included the following:

- During a business trip to Key West funded by NPS, Foundation employees Brown-Henderson and/or Cameron charged \$20.50 in alcohol to the hotel bill.

- The Foundation paid the Senior Vice President for Community Relations, CoreFirst Bank and Trust, \$450 for dinner and entertainment for Foundation guests. The Foundation held accounts with CoreFirst Bank at that time.
- In May 2008, Brown-Henderson charged \$363.60 to Broadway.com, a Web site that sells theater tickets.
- In September and October 2009, the Foundation charged a total of \$1,000 to the Screenland Theater.
- In July 2011, the Foundation charged \$144 for a trip to the American Jazz Museum.

### *Business Expenses*

Our review of Foundation credit card and QuickBooks records did not attempt to duplicate NPS' 2011 audit but rather tried to determine if the Foundation misappropriated or misused Federal monies allocated to it through the agreement. Our review identified items that seemed unallowable at face value but might have been determined to have a legitimate business purpose, had documentation of expenses been available. Without supporting documentation or clarification of these expenses by the Foundation, we could not determine the reasonableness or allowability of such costs. Some of the identified expenses are not expressly disallowed by OMB circulars, but they raise questions about reasonableness, defined by A-122 as whether individuals "acted with prudence . . . considering their responsibilities to the organization, its members, employees, and clients, the public . . . and the Federal Government." Hence, we questioned the reasonableness of the following expenses:

- A review of the Foundation's QuickBooks, Overland Limousine, and credit card statements found questionable charges for limousine services, including \$500 to transport several individuals from Topeka to Kansas City to dine at the Peach Tree Restaurant, for a total of \$459.02.

***Agent's Note:** Brown-Henderson told us that "limousine" services were more aptly described as a car service that proved more efficient for transferring guests and staff to and from the airport or Foundation activities.*

- The Foundation charged \$570 as a management expense, including a \$144 tip, for items at the U.S. Senate's Members Dining Restaurant. This covered hot tea, berry tarts, carrot cakes, cheesecake, butter pecan ice cream, and coffee. We also found charges for Krispy Kreme Doughnuts (\$6.40) and Starbucks (\$2.70), which appeared to be personal rather than management expenses.
- The Foundation spent \$182.11 for Starbucks gift cards intended for NPS employees.
- In 2009, Brown-Henderson took a \$317.85 cash advance against a Foundation credit card but did not repay the advance.
- In May 2008, Brown-Henderson made four charges to Rainbow Car Wash that totaled \$125.90.
- During the first half of 2009, the Foundation paid over-limit or late charges for credit accounts on six different occasions, incurring \$179 in penalties.
- Brown-Henderson charged \$50 in travel expenses to NPS for the American Airlines Admiral's Club.

- Business expenditures included a charge of \$309, prior to a \$46.35 discount, to Hillmer's KC Original Luggage (leather duffel bag with wheels).
- In June 2011, the Foundation charged \$124.44 to Brio Country Club.

### **Foundation's Failure To Adhere to Federal Travel Regulations**

Our review of Federal regulations revealed that in the absence of an acceptable written nonprofit policy regarding travel costs, travel rates and amounts are subject to requirements established in 48 C.F.R. § 31.205–46(a) and A-122, Attachment b, Item 51. The Brown Foundation's Attorney confirmed that the Foundation had no written travel policies and that all travel expenses for speakers were governed by cooperative agreements with those speakers. These expenses ultimately received NPS approval as part of jointly planned events, demonstrating that Foundation personnel failed to adhere to Federal travel regulations governing NPS-funded travel.

The BRVB Chief of Interpretation told us that most, if not all, members of the Foundation's board of directors did not understand how the Foundation was run, and had no knowledge of specific laws, regulations, and guidance governing Federal assistance programs.

Our investigation identified the following noncompliant travel by Foundation personnel:

- *Travel to Key West, FL, in August 2009:* During a 5-night stay at the Key West Hyatt Spa and Resort, Brown-Henderson and Cameron incurred \$2,274.86 in expenses, of which they spent \$2,066.20 on accommodations as part of the Classic Family Vacation Package, \$192.53 on food, \$20.50 on beverages/alcohol, \$29.72 on gratuities, and \$4.29 on gifts. A deduction or adjustment of \$38.38 was made at checkout. Since Brown-Henderson and Cameron shared a room while staying at the hotel, the maximum per diem rate for this period was \$231 a day, for a total of \$1,155.00, rather than \$2,066.20.

Our review of the Foundation's QuickBooks further revealed that Brown-Henderson received a per diem check for \$416 on August 31, 2009, for her Key West travel. Both Brown-Henderson and Cameron claimed food as a reimbursable expense, "double-dipping" on reimbursable items. QuickBooks documents fail to show reimbursement made by either person for the extra per diem.

- *Travel to Charleston, SC, in March 2011:* During a 4-night stay at a Charleston, SC, Marriott Hotel, Cameron incurred a bill totaling \$811.92. A total of \$728.53 was spent on accommodations, \$36.39 on food, and \$47.00 on alcohol. Maximum allowable per diem rate for this period was \$195 a day, meaning his stay should have totaled \$780.00 instead of \$811.20.

Our review of the Foundation's QuickBooks found that both Brown-Henderson and Cameron received per diem checks for \$330 on March 15, 2011, as compensation for their trip. Cameron claimed food and alcohol as a reimbursable expense, a claim that constituted "double-dipping" for reimbursable and nonreimbursable items. Brown-Henderson's receipts were missing. No QuickBooks documentation showed that

Cameron reimbursed the Foundation for his extra per diem and alcohol charges.

- *Lodging at Capitol Plaza Hotel between January 2007 and July 2011:* A review of charges from the Capitol Plaza Hotel, Topeka, KS, found that the Foundation either charged or directly billed NPS \$10,949.60 for rooms between January 2007 and July 2011. In addition, alcohol charges totaled \$153.27. The review also found several instances in which Brown-Henderson and Cameron stayed at the hotel without justifying the expense to NPS, and that Brown-Henderson's son booked two rooms for a December 2009 stay, which totaled \$250.66. This amount was subsequently submitted to NPS for reimbursement, but not by Brown-Henderson's son.

Hotel rates charged by the Capitol Plaza Hotel for Foundation lodging exceeded General Services Administration (GSA) per diem rates after September 2009. Specifically, Brown-Henderson's room rate for May 17, 2010, was billed at \$159.99 per night—more than twice the allowable GSA rate of \$70.00.

### **Alleged Political Influence on NPS Officials**

During our investigation, we developed allegations that outside political influences interfered with NPS' ability to manage its cooperative agreement with the Foundation. During our initial investigation, we received a report that a former U.S. Senator contacted the deputy director of the Midwest Regional Office to endorse Brown-Henderson as BRVB's superintendent. Although the former Senator's endorsement reportedly did not influence Brown-Henderson's receipt of the position, we found that NPS employees may have feared taking any action against Brown-Henderson or the Foundation because of perceived political influence.

Superintendent David Smith told us that in July 2011 he received an unsolicited call from a senior policy advisor for the former Senator. The senior policy advisor mentioned rumors that the Foundation was going to be put on reimbursement status even though the Senator's office felt the work of the Foundation was important. After essentially being warned that NPS might have problems with the Foundation if it took this action, Smith said that this was the first time in his Federal career that he had been threatened.

The former Midwest Regional Office Chief of Contracting told us that "political overtures" concerned NPS officials with oversight of the Foundation and its employees since the Foundation was considered "untouchable." The former Chief of Contracting and other NPS officials generally understood that they had no opportunity to change the relationship with the Foundation and that they had "no place to go" if a problem with the Foundation developed. The former Chief of Contracting told us that previous regional directors "turned a blind eye" to what was happening with the Foundation and did not want to know information. The former Chief of Contracting explained that employees of previous regional directors understood not to raise concerns about the Foundation.

The former NPS Contracting Officer agreed with the former Chief of Contracting that the Foundation was "untouchable," although the former Contracting Officer reported never having been directed, coerced, or threatened regarding how the job was done. The former Contracting

Officer said that because no one felt “any control” over the Foundation, no one challenged that ongoing relationship.

The Brown Foundation’s Administrative Officer also told us that Brown-Henderson “ran the show and anything that Cheryl wanted, she got.” The Administrative Officer stated that if anyone, including the superintendent, disagreed with Brown-Henderson, Brown-Henderson contacted the NPS regional director to get what she wanted. Similarly, NPS staff received letters of support from the former Senator for Brown-Henderson and the Foundation.

A Park Ranger also said that upon the ranger’s arrival at BRVB in 2006, the former Superintendent warned the ranger not to upset Brown-Henderson.

### **Interviews of Foundation Employees**

During our investigation, we interviewed Foundation employees Cheryl Brown-Henderson and Donald Cameron about issues identified in the NPS audit.

#### *Cheryl Brown-Henderson*

On March 20, 2012, Cheryl Brown-Henderson responded to the following issues raised by the NPS audit:

- Brown-Henderson and Cameron telecommuted 2 days a week and used a virtual private network (VPN) to access and complete their work remotely. She believed the costs associated with the VPN were legitimately covered through the cooperative agreement.
- Approximately 90 percent of Foundation funding came from NPS.
- Although the Foundation received donations from private sources, these donations were “minimal,” only representing 3 to 10 percent of the annual operating budget, and were never a consistent source of Foundation funding.
- Brown-Henderson denied that the Foundation actively held “fundraising” events since it did not have the time or resources to do so.
- The Foundation held fundraising activities in 2008 and 2009 but only “broke even” in 2008 and used the money in 2009 to update a mobile building for volunteer activity.
- Brown-Henderson regularly reviewed and approved the Foundation’s invoices for payment, which required two signatures. The same procedures applied to paying and reviewing credit card statements.
- Only Brown-Henderson and particular officers of the Foundation (treasurer, secretary, chair, and co-chair) had signature authority.
- Brown-Henderson and a part-time employee usually reviewed and verified items on the Foundation’s monthly credit card statements.
- In 2006 or 2007, the Foundation permitted its employees to place personal charges on Foundation credit cards. Personal charges were uncommon, however, and required repayment. The Foundation’s board of directors subsequently disallowed this practice to create a clearer picture of Foundation expenses. Brown-Henderson knew of no personal charges submitted to NPS for reimbursement.
- In an attempt to prevent commingling, the Foundation maintained two separate bank



accounts. The first account was for funds received through fundraising efforts, and the second was for NPS monies. Occasionally, funds were transferred between the two accounts, but always returned to their proper accounts once money became available.

- A member of the Foundation's board of directors provided legal advice concerning operations, compliance, and nonprofit requirements.
- Douthett & Company provided oversight on payroll and employers' quarterly Federal tax returns while C&C performed fiscal audits.

On December 17, 2012, we re-interviewed Brown-Henderson concerning our review of the Foundation's QuickBooks and credit card statements, about which she provided the following comments:

- Brown-Henderson's duties as the Founding President included strategic planning, curriculum development, program planning, presentations, and coordination with NPS.
- Brown-Henderson helped develop the original cooperative agreement in collaboration with the former NPS Superintendent. In regard to the cooperating agreement, she said that—
  - she signed the original and subsequent cooperative agreements, but was not "fully versed" with the requirements outlined in the cooperative agreement;
  - she understood Article Seven of the cooperative agreement, which required the Foundation to maintain all records and reports for 7 years;
  - the Foundation kept its financial records in QuickBooks as established by the board of director's financial committee;
  - most of the bookkeepers were proficient in accounting principles, but not as proficient with the requirements of the OMB circulars;
  - the former NPS Contracting Officer did not explain or share requirements outlined by the OMB circulars;
  - she was not well versed in OMB requirements and asserted that the former NPS Contracting Officer was supposed to be the "direct line" to the Foundation on this matter;
  - she thought she knew the requirements outlined by the cooperative agreement but later admitted that she did not; and
  - she did not know what costs the OMB circulars considered unallowable.
- Brown-Henderson acknowledged the Foundation's need to adhere to accounting principles as set forth by Article Six of the cooperative agreement but stated that—
  - the Foundation transferred nonprofit funds to its checking account for restricted NPS funds to cover necessary expenses until NPS provided reimbursement;
  - the Foundation's nonprofit funding contributed to expenses incurred on behalf of the cooperative agreement;
  - the Foundation attributed cost to specific projects, although she could not answer how overhead costs were allocated; and
  - costs associated with gas, mileage, and tolls were reasonable if connected to a specific activity outlined in the cooperative agreement.
- When asked about her knowledge of what types of expenses were disallowable, Brown-Henderson declined to identify any specific expenses, noting that her only concern was whether the expense supported the program. She stated that—

- she did not review the receipts of program speakers, nor did the Foundation provide guidance on types or limits of expenses allowable for its guests;
  - she would have expected guests to pay separately for alcohol charges rather than directly bill them to the Foundation and have them paid by cooperative agreement funding—when shown her own charges for alcohol, however, she declined to admit that they should not have been paid from cooperative agreement funding.
- Brown-Henderson said she understood that the OIG investigation would contain credible information and so deferred answering whether the Foundation would need to reimburse NPS for unallowable costs charged to and reimbursed by the cooperative agreement.
- In reference to the expense for tickets to Broadway.com, Brown-Henderson explained that the Foundation purchased tickets for New York’s Roosevelt Theatre to “evaluate” the potential of the performance to meet Foundation objectives, though she did not document the Foundation’s review of the show because she did not think it was necessary.
- Regarding an \$800 expense for a theater production of “Bunker Hill,” Brown-Henderson explained that the Foundation sponsored the production due to the civil rights issues highlighted by the producer. Brown-Henderson had no documentation explaining the correlation to objectives listed in the cooperative agreement. Brown-Henderson offered to generate notes explaining the expenses.
- When asked about expenses labeled as “entertainment,” Brown-Henderson explained that the Foundation paid CoreFirst Bank’s Senior Vice President for Community Relations to cover the expenses of Foundation guests.
- In response to a \$900 expense to Cortez Limousine, Brown-Henderson said the Foundation transported 12 guests to historical areas in Kansas City. Brown-Henderson explained that the Foundation wanted to connect the guests to historical areas for their edification. When asked whether this benefited the guests or the cooperative agreement, Brown-Henderson said that the trip met objectives of the cooperative agreement.
- In response to a \$1,134 limousine charge in the District of Columbia, Brown-Henderson said that she personally reimbursed the cost and that credit card records should verify the payment.
- Brown-Henderson explained that guests covered by the Foundation at America Restaurant had been discussing legislative details for an exhibit in the Smithsonian National Museum of African-American History. Brown-Henderson stated she did not document the meeting, although the Foundation kept notes related to the agenda.
- In response to questions about Starbucks gift cards purchased for NPS staff, Brown-Henderson replied that the data entry in QuickBooks must have been in error. She affirmed that the gift cards should not have been paid from funds associated with the cooperative agreement.
- In response to gift cards purchased in December 2008 and labeled “blue advertising,” Brown-Henderson explained that the term “blue” denotes nonprofit funds from the Foundation used to cover the expense and that even though she did not recall the purpose of the gifts, the Foundation’s files would contain receipts.
- In response to expenses paid for consulting work with WDM Consulting, Brown-Henderson said that the consultant attended a meeting with Foundation and NPS officials in Omaha, NE, simply to listen with the goal of explaining details to the Foundation. At the time of the meeting, the consultant was unaffiliated with a former Kansas Senator and

current Kansas Governor.

- In response to expenses from the trip to Key West, FL, Brown-Henderson denied making any hotel reservations related to a “Classic Vacation Package” as denoted on the invoice. She said that she booked the hotel online due to its proximity to the location of a meeting. When asked about the reasonableness of \$360 per night, she cited the location rather than cost as the primary concern. She said that Cameron attended “on his own expenses” for part of the trip. She explained that the hotel room was booked as a single room, but declined to answer whether she shared accommodations with Cameron.
- Brown-Henderson asserted the \$416 claimed for per diem during the Key West trip included ground transportation in addition to food. She said that she did not believe NPS required receipts for ground transportation. When asked about alcohol charges on the hotel bill, Brown-Henderson said that “if those are things that are not appropriate,” OIG would need to identify them for repayment by the Foundation. She acknowledged the Foundation would need to repay unallowable expenses identified by OIG.
- In response to Cameron’s claim of per diem for the South Carolina trip, Brown-Henderson did not address the food billed on the hotel invoice, indicating that the OIG report would highlight unallowable costs.
- Brown-Henderson stated she stayed at the Capitol Plaza in Topeka, KS, during events where she was needed as a “babysitter.” She explained that she was needed to “provide medicine” and meet other needs as necessary. Regarding an invoice detailing Brown-Henderson’s son as an occupant of the hotel, Brown-Henderson denied that the Foundation would have paid for her son to stay at the hotel. She speculated that the hotel staff could have mixed up the occupants.
- Brown-Henderson acknowledged that the Foundation did not maintain written travel policies, using Government-issued rates for mileage reimbursements. She said that she did not know the Foundation would fall under Federal travel regulations in the absence of written policy.
- Responding to questions about expenses paid for the presidential inauguration in January 2009, Brown-Henderson said she was surprised the costs were not paid by her credit card.
- Brown-Henderson admitted that the QuickBooks entries might contain occasional errors.
- In response to a question concerning a cash advance in December 2008, Brown-Henderson did not recall taking the advance but explained that it must have paid for an expense related to a Foundation activity or otherwise she would not have taken it.
- In response to a general journal entry reclassifying fundraising expenses as consulting expenses, Brown-Henderson asserted that the initial fundraising code was incorrect and that the auditors made the adjustments in the financial records.
- Brown-Henderson said that the Foundation sold tickets to a “signature event” titled “Anne & Emmett,” which offset some of the event costs. Then the Foundation attributed income from the ticket sales to itself, although it financed the events with cooperative agreement funds. Brown-Henderson said that she disagreed with auditors who directed the Foundation to attribute the income from ticket sales to the cooperative agreement, rather than the Foundation.
- Brown-Henderson excused expenses related to late charges and over-limit fees as routine overhead, speculating that the bookkeeper may have been late with a payment and that the over-limit resulted from lower than necessary credit limits. Responding to a question about late filing fees with the U.S. Treasury, Brown-Henderson stated that she did not

know penalties were unallowable according to the OMB circular. When asked whether a prudent businessperson would incur such charges, Brown-Henderson declined to respond.

- Brown-Henderson purported that expenses from Rainbow Car Wash related to gas purchases. When asked about additional charges to Rainbow for identical amounts, Brown-Henderson maintained that the expenses were for gas purchases, not car washes as indicated in the memo block.
- In response to questions concerning American Airlines charges for the Admiral's Club, Brown-Henderson explained that an older guest speaker of the Foundation needed a comfortable place to wait at the airport. Brown-Henderson said that the Foundation might have agreed to the expense in correspondence with the speaker prior to the 2008 signature event.
- When asked about the reasonableness of claiming meeting expenses for nominal charges associated with coffee or meals, Brown-Henderson explained that the nominal amount may have been associated with small attendance at meetings or limited requirements for refreshments. When asked whether a gathering to discuss work should be considered expendable as a meeting expense, Brown-Henderson responded: "If actual business occurred, absolutely."

#### *Donald Cameron*

On March 20, 2012, we interviewed Donald Cameron about the many issues raised by the NPS audit:

- In June or July 2009, the Foundation hired Cameron to conduct a performance review.
- His review determined that the Foundation's financial documents were disorganized and hard to find. He also identified other deficiencies relating to Foundation business.
- The Foundation subsequently hired him as its CFO, even though he had little experience managing nonprofit organizations.
- Cameron had no knowledge of OMB circular requirements.
- Cameron denied submitting SF-270s to NPS and identified Brown-Henderson as having that responsibility.
- Cameron obtained three Chase Visa cards for the Foundation after pledging \$25,000 from his own line of credit to help establish the Foundation's credit history.
- Cameron identified Foundation credit card holders as Brown-Henderson, Brown-Henderson's sister, the Foundation's former Administrative and Program Coordinator, and himself.
- Cameron and an accountant from Douthett & Company were solely responsible for reconciling monthly credit card statements to ensure that charges were appropriate. He obtained credit card receipts for these reviews.

*Agent's Note: This contradicts what Brown-Henderson told us on March 20, 2012. She told us that she and a part-time employee reconciled charge card expenses monthly.*

- Foundation employees had to repay unauthorized purchases identified on their Foundation credit cards. Repayments would be annotated in QuickBooks.

- Cameron agreed that tolls and gas reimbursements were not allowable expenses unless the expenses pertained to weekend travel to attend an NPS function.
- The Foundation received most of its funding through its cooperative agreement.
- The Foundation also received limited private donations, typically \$300 to \$1,800 monthly.
- To prevent commingling, the Foundation maintained two separate bank accounts. Occasionally, money would be transferred between accounts to cover operational costs, but then be transferred back.
- The Foundation normally paid guests' lodging (room and tax only), transportation to and from the airport, airfare, and actual costs of meals. The Foundation limited what a guest could charge while staying at the hotel. Examples of prohibited items included alcohol and movies. If a guest purchased such items, the Foundation subsequently sent a bill for repayment.
- Cameron denied that the Foundation engaged in fundraising activities.
- Per diem rates dictated how much money was advanced to Foundation travelers. Checks were issued to travelers for 100 percent of the prescribed per diem rate.
- Travel requests had to be approved by Brown-Henderson, the Foundation's treasurer, the secretary, and the chair or co-chair.
- Travelers were required to submit receipts for expenses so as to verify expenses.
- Although the board of directors provided little oversight of daily Foundation operations, any member of the board could review the records at any time.
- Cameron used to provide the board with a monthly profit-and-loss statement until board members discontinued this practice, believing it to be a "waste of time."
- Cameron had been unaware that there was any distinction between audits and had never heard specifically heard of a "Yellow Book audit" (GAGAS audit).
- Cameron consulted with C&C to ensure that the Foundation complied with the Federal regulations governing nonprofits.

#### **SUBJECT(S)**

1. Cheryl Brown-Henderson, founding Foundation President and CEO.
2. Donald Louis Cameron, former Foundation CFO.
3. Former NPS Contracting Officer.

#### **DISPOSITION**

The U.S. Attorney's Office for the District of Kansas declined prosecution. An administrative referral is being made to NPS for appropriate administrative action.