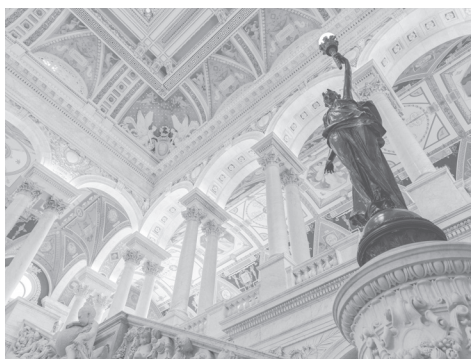


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Statutory Licensing Fiduciary Assets Financial Statements and Independent Auditors' Report

FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023



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FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

Table of Contents


Results of the Library of Congress' FY 2023 Fiduciary Fund Financial Statements Audit	1
Financial Statements	3
Notes to the Financial Statements	5
Independent Auditor's Report	15

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Results of the Library of Congress' FY 2023 Fiduciary Fund Financial Statements Audit



MEMO

Date June 3, 2024
To Dr. Carla Hayden
Librarian of Congress
From Debbie Lehigh 
Acting Inspector General
Subject Results of the Library of Congress' FY 2023 Fiduciary Fund Financial
Statement Audit, Report No. 2023-FN-102

The attached report presents the results of the audit of the fiscal year (FY) 2023 statement of fiduciary net assets and statement of fiduciary activity of the Library of Congress (Library).

We contracted with the independent public accounting firm of Sikich CPA LLC (Sikich) to audit the financial statements of the Library's fiduciary fund as of and for the FYs ended September 30, 2023, and 2022 and to provide a report on internal control over financial reporting and compliance with laws and other matters. The contract required that the audit be performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States; Office of Management and Budget 24-01, *Audit Requirements for Federal Financial Statements*; and the Government Accountability Office/Council of the Inspectors General on Integrity and Efficiency's *Financial Audit Manual*.

Results of Independent Audit

In its audit of the Library's fiduciary fund, Sikich reported:

- the financial statements were fairly presented, in all material respects, in accordance with U.S. generally accepted accounting principles;
- no material weakness in internal control over financial reporting; and
- no reportable noncompliance with provisions of laws and regulations tested or other matters.

Sikich's consideration of internal controls over financial reporting resulted in a significant deficiency concerning the preparation of the fiduciary financial statements.¹

Office of the Inspector General Oversight of Sikich

In connection with the contract, we reviewed Sikich's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit of the financial statements in accordance with *Government Auditing Standards*, was not intended to enable us to express, and we do not express, opinions on the Library's financial statements, conclusions about the effectiveness of internal controls over financial reporting, or on compliance with laws and other matters. Sikich is responsible for the attached auditor's report dated May 14, 2024, and the conclusions expressed therein. However, our review disclosed no instances where Sikich did not comply, in all material respects, with *Government Auditing Standards*.

cc: Principal Deputy Librarian
Register of Copyrights
Chief Operating Officer
Chief Financial Officer
Comptroller
General Counsel

Attachment

¹ A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Library's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

Financial Statements

STATEMENTS OF FIDUCIARY NET ASSETS

AS OF SEPTEMBER 30, 2023 AND 2022

(in thousands)

	FY 2023	FY 2022
Fund Balance with Treasury	\$ 206	\$ 120
Investments in U.S. Treasury securities, net (Note 2)	1,559,330	1,301,467
Accounts receivable	2,093	1,419
Other current liabilities	(74)	—
TOTAL FIDUCIARY NET ASSETS (Note 3)	\$ 1,561,555	\$ 1,303,006

The accompanying notes are an integral part of the financial statements.

STATEMENTS OF FIDUCIARY ACTIVITY

FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022

(in thousands)

	FY 2023	FY 2022
Beginning Fiduciary Net Assets	\$ 1,303,006	\$ 1,217,202
Royalty fees received (Note 4)	211,564	215,592
Investment earnings (Note 5)	61,579	7,167
Total Inflows to Fiduciary Net Assets	273,143	222,759
Distributions to copyright owners (Note 6)	(10,388)	(131,862)
Refunds of royalty fees	(459)	(1,512)
Net royalty fees retained for administrative costs (Note 8)	(3,747)	(3,581)
Total Outflows from Fiduciary Net Assets	(14,594)	(136,955)
Increase/(Decrease) in Fiduciary Net Assets	258,549	85,804
ENDING FIDUCIARY NET ASSETS	\$ 1,561,555	\$ 1,303,006

The accompanying notes are an integral part of the financial statements.

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Notes to the Financial Statements

(1) SIGNIFICANT ACCOUNTING POLICIES

(a) Description of Reporting Entity

The Library of Congress ("the Library") is responsible for the fiduciary activities related to the collection or receipt, and the subsequent management, protection, accounting, investment and disposition of certain statutory royalty fees to which copyright owners have an ownership interest under the Copyright Act (Title 17 of the U.S. Code, "the Act"). As a service unit within the Library, and under the direction of the Register of Copyrights, the U.S. Copyright Office ("USCO") administers the Nation's copyright laws and provides expert advice and guidance to Congress, Executive Branch agencies, and the courts, on matters of copyright law and policy. The USCO manages the nation's copyright registration and mandatory deposit functions, and works to expand and protect the role of copyright in the advancement of the public good and in support of vital segments of the U.S. economy. The Copyright Royalty Board ("CRB"), <https://www.crb.gov>, is an institutional entity in the Library of Congress comprised of three Copyright Royalty Judges ("CRJs") who are appointed by the Librarian of Congress, and supporting staff. Among other duties, the CRJs have jurisdiction over setting or adjusting royalty rates and terms under the Act's statutory licenses. They also authorize certain royalty distributions to copyright owners and resolve any controversies related to the distributions. Determinations of the CRJs may be appealed to the United States Court of Appeals for the District of Columbia Circuit.

As part of its administration of the statutory licensing provisions of the Act, the USCO collects the royalty fee payments due to copyright owners from cable operators for the retransmission of over-the-air television and radio broadcast stations to subscribers (17 U.S.C. §111), from satellite carriers for the retransmission of distant and local over-the-air television broadcast stations for private home viewing (17 U.S.C. §§ 119 and 122), and from importers or manufacturers for distributing products that employ Digital Audio Recording Technologies ("DART") (17 U.S.C. §1003).

The Act provides that the Copyright Office's Licensing Section also may charge cable operators and satellite carriers filing fees for the processing of statements of account ("SOA") under sections 111, 119, and 122. In addition to the filing fees charged by the USCO, the CRB also charges a filing fee for participation in CRB proceedings. See (e) Amounts Collected and Offset for Administrative Costs, below.

The USCO deducts certain reasonable costs of the Licensing Section and of the CRJs from the SOA filing fees, CRB proceeding filing fees, and royalty fee payments collected for administering certain statutory licensing provisions. The amount deducted is limited to the appropriated authority provided by Congress. Further, the SOA filing fees for sections 111, 119, and 122 "may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements." 17 U.S.C. § 708(a). The remaining royalty fee payments for each license type and filing year are then invested on behalf of copyright owners until they are distributed to qualifying copyright owners based on orders issued by the CRJs. The USCO evaluates these fees as part of recurring fee studies conducted for these and other fees established under Section 708.

¹ The term "Copyright Royalty Board" refers to the institutional entity in the Library of Congress that houses the "Copyright Royalty Judges" and their royalty-setting proceedings. 37 C.F.R. § 301.1.

(b) Basis of Accounting and Presentation

The accompanying financial statements report the fiduciary net assets and changes in the fiduciary net assets for fiscal years 2023 and 2022. The statements were prepared from the Library's financial management system in accordance with Generally Accepted Accounting Principles (GAAP). Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

As a legislative branch agency, the Library is not required to follow the executive agency accounting principles established by the Comptroller General under 31 U.S.C. §3511 or the standards developed by the Federal Accounting Standards Advisory Board (FASAB). Nor is the Library required to prepare general purpose financial statements or follow FASAB GAAP. Nevertheless, pursuant to 2 U.S.C. 136, the Library has issued Library of Congress Regulation (LCR) 6-110, Financial Management, which adopts FASAB standards for financial reporting and internal controls in a manner consistent with a legislative agency, and insofar as practical, conforms to GAAP for federal agencies.

The Library has not adopted the Federal Financial Management Improvement Act of 1996, the Federal Managers' Financial Integrity Act, the Government Performance and Results Act (GPRA), and the GPRA Modernization Act, as these authorities are not applicable to the Library. However, the Library uses these sources as guidance and reference in its operations.

Fiduciary cash and other assets are not assets of the Library or the federal government, are not recognized on the balance sheet of the Library or the Federal Government, and are assets of non-federal parties for which the Federal Government is responsible.

(c) Fund Balance with Treasury

The amount shown as Fund Balance with Treasury represents the balance of uninvested royalty fees on deposit with the U.S. Treasury, and filing fees on deposit with the U.S. Treasury that are not part of the net fiduciary assets, but are pending offset against administrative costs of the Licensing Section and of the CRJs.

(d) Investments in U.S. Treasury securities, net

Treasury securities are intended to be held to maturity, are valued at cost and are adjusted for the amortization of discounts and premiums. Discounts and premiums are amortized over the term of the security using the effective interest method for all long term securities and the straight-line method for short term securities. Interest earned is computed using the straight-line method, which approximates the effective interest method.

In accordance with the statutory licensing provisions of the Act, royalty fees collected for each license type and filing year are invested on behalf of copyright owners, net of reasonable costs incurred by the USCO, in U.S. Treasury securities. Interest income accrues to the copyright owners.

To ensure liquidity for distributions, royalty fees collected are generally first invested in U.S. Treasury notes with maturities of approximately one year. If funds are not immediately needed to fulfill a distribution order issued by the CRJs, funds from maturing securities are generally reinvested in U.S. Treasury bills with maturities of six to eight weeks.

(e) Amounts Collected and Offset for Administrative Costs

The USCO's Licensing Section and the CRJs receive annual, appropriated authority to expend for certain costs related to their respective duties regarding the statutory licensing provisions of the Act, including costs of collection and administration of licensee SOAs and administration and distribution of any royalty fees deposited with such statements.

Under the appropriation acts, authority is provided for funding certain administrative costs through fees collected (offsetting collections), and the Library retains the SOA filing fees, CRB proceedings filing fees, and royalty fee payments collected to fund administering certain statutory licensing provisions as stipulated under the authority. In accordance with Library procedures, fees are initially retained in amounts to provide for the full fiscal year authority for the offsetting collections of the Licensing Section and of the CRJs. The offsetting collection authority under the relevant appropriations expires at the end of the associated fiscal year, but remains available for adjustments of obligations for a five-year period, after which the authority is cancelled. Until the cancellation of the appropriation, it is the policy of the USCO to retain one percent of the unobligated offsetting authority remaining for each fiscal year plus any amounts necessary for known contingencies as a reserve for these adjustments.

Filing fees collected by the USCO from licensees required to file SOAs under the statutory licensing provisions of the Act or to participate in CRB proceedings are not part of the fiduciary balances administered by the USCO. Filing fees collected reduce the amount of royalty fees retained for administrative costs of the Licensing Section and of the CRJs.

(f) Refunds and Underpayments

Refunds may arise when a cable, satellite, or DART licensee inadvertently overpays or is otherwise entitled to a refund. Additional royalty fees may also be requested from the licensee to resolve underpayments, including underpayments of interest associated with a late filing.

(g) Accounts receivable

The Library initially offsets the full amount of appropriated authority available to the Licensing Section and CRJs for administrative costs. Although the authority for offset remains available for the five-year period, the authority may be more than the amounts necessary to offset actual obligations. To ensure that the fiduciary accounts reflect an appropriate estimate of amounts that will not be needed to offset actual obligations, an accounts receivable is recorded to the fiduciary accounts. The accounts receivable represents an accrual for the estimated amount that will not be necessary to offset actual obligations and will be transferred back to the fiduciary fund in the next fiscal year.

(h) Other Current Liabilities

The amount shown as Other Current Liabilities represents pending refunds due to cable, satellite, or DART licensee(s). Current liabilities are payable within one year.

(2) INVESTMENTS IN U.S. TREASURY SECURITIES, NET

Non-marketable, market-based securities are Treasury notes and bills issued to governmental accounts that are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms. Maturity dates for fiduciary investments held at September 30, 2023 and 2022 range from November 16, 2023 to August 31, 2024 and November 17, 2022 to August 31, 2023, respectively. The yields on investments that matured in fiscal years 2023 and 2022 ranged between 0.236% and 5.676% and 0.019% and 2.150%, respectively.

Invested royalty fees by license type as of September 30, 2023 and 2022 are as follows:

FY 2023

(in thousands)

Description	Cable Investments (Non-Marketable, Market-Based)	Satellite Investments (Non-Marketable, Market-Based)	DART Investments (Non-Marketable, Market-Based)	Total
Face Value	\$ 1,508,186	\$ 62,676	\$ 148	\$ 1,571,010
Unamortized Premium/(Discount), Net	(11,499)	(431)	(1)	(11,931)
Interest Receivable	250	1	—	251
INVESTMENTS, NET	\$ 1,496,937	\$ 62,246	\$ 147	\$ 1,559,330
MARKET VALUE	\$ 1,496,944	\$ 62,258	\$ 148	\$ 1,559,350

FY 2022

(in thousands)

Description	Cable Investments (Non-Marketable, Market-Based)	Satellite Investments (Non-Marketable, Market-Based)	DART Investments (Non-Marketable, Market-Based)	Total
Face Value	\$ 1,247,079	\$ 59,037	\$ 145	\$ 1,306,261
Unamortized Premium/(Discount), Net	(4,801)	(216)	(1)	(5,018)
Interest Receivable	223	1	—	224
INVESTMENTS, NET	\$ 1,242,501	\$ 58,822	\$ 144	\$ 1,301,467
MARKET VALUE	\$ 1,241,686	\$ 58,824	\$ 144	\$ 1,300,654

(3) FIDUCIARY NET ASSETS

Fiduciary net assets are maintained in separate investment “pools” by license type and by the calendar filing year for which the royalty fee payments were due from licensees subject to the statutory licensing provisions of the Act. Fiduciary net assets by license type and filing year as of September 30, 2023 and 2022 are as follows:

(in thousands)

Calendar License Filing Year	FY 2023				FY 2022			
	Total	Cable	Satellite	DART	Total	Cable	Satellite	DART
2023	\$ 100,947	\$ 100,660	\$ 287	\$ —	\$ —	\$ —	\$ —	\$ —
2022	218,118	217,424	694	—	106,086	105,793	293	—
2021	223,607	222,878	729	—	213,066	212,369	697	—
2020	237,300	233,096	4,204	—	226,253	222,234	4,019	—
2019	152,459	146,987	5,472	—	145,462	140,227	5,231	4
2018	149,262	142,186	7,076	—	142,663	135,907	6,756	—
2017	140,799	132,707	8,086	6	134,600	126,866	7,728	6
2016	120,032	111,334	8,697	1	114,760	106,444	8,315	1
2015	118,251	91,363	26,868	20	116,098	90,391	25,688	19
2014	100,332	100,253	—	79	99,263	99,188	—	75
2013	14	—	2	12	11	—	—	11
2012	31	—	2	29	28	—	—	28
2011	2	—	2	—	—	—	—	—
2010	2	—	2	—	—	—	—	—
2009	63	—	63	—	60	—	60	—
2008	37	—	37	—	35	—	35	—
2007	41	41	—	—	40	40	—	—
2006	12	12	—	—	11	11	—	—
2005	86	86	—	—	82	82	—	—
2004	159	78	81	—	152	75	77	—
2003	—	—	—	—	654	654	—	—
2002	—	—	—	—	859	859	—	—
2001	—	—	—	—	829	829	—	—
2000	—	—	—	—	1,993	1,993	—	—
1999	1	1	—	—	1	1	—	—
TOTAL FIDUCIARY NET ASSETS	\$1,561,555	\$1,499,106	\$ 62,302	\$ 147	\$1,303,006	\$1,243,963	\$ 58,899	\$ 144

(4) ROYALTY FEES RECEIVED

Cable and satellite licensees subject to the statutory licensing provisions of the Act are required to file SOAs and submit royalty fee payments on a semi-annual basis each calendar year. DART licensees file quarterly and annual SOAs based upon the remitter's fiscal year, and submit royalty fee payments as part of those filings. Royalty fees received for the years ended September 30, 2023 and 2022 are as follows:

(in thousands)

Calendar License Filing Year	FY 2023				FY 2022			
	Total	Cable	Satellite	DART	Total	Cable	Satellite	DART
2023	\$ 103,338	\$ 102,924	\$ 414	\$ –	\$ –	\$ –	\$ –	\$ –
2022	106,473	106,052	421	–	108,910	108,484	426	–
2021	779	779	–	–	106,658	106,204	454	–
2020	650	650	–	–	14	14	–	–
2019	316	316	–	–	10	6	–	4
2013	2	–	2	–	–	–	–	–
2012	2	–	2	–	–	–	–	–
2011	2	–	2	–	–	–	–	–
2010	2	–	2	–	–	–	–	–
TOTAL ROYALTY FEES RECEIVED	\$ 211,564	\$ 210,721	\$ 843	\$ –	\$ 215,592	\$ 214,708	\$ 880	\$ 4

(5) INVESTMENT EARNINGS

A significant increase in investment earnings occurred in FY 2023 due to yields on matured investments ranging between 0.236% and 5.676% as compared to 0.019% and 2.150% in FY 2022. Investment earnings by calendar license filing year for the years ended September 30, 2023 and 2022 are as follows:

(in thousands)

Calendar License Filing Year	FY 2023			FY 2022		
	Total	Interest	(Premium)/ Discount, Net	Total	Interest	(Premium)/ Discount, Net
2023	\$ 456	\$ 247	\$ 209	\$ —	\$ —	\$ —
2022	6,925	2,928	3,997	303	225	78
2021	9,791	—	9,791	780	2,293	(1,513)
2020	10,400	—	10,400	1,394	—	1,394
2019	6,686	—	6,686	900	—	900
2018	6,557	—	6,557	880	—	880
2017	6,186	—	6,186	830	—	830
2016	5,274	—	5,274	708	—	708
2015	5,021	—	5,021	716	—	716
2014	4,217	—	4,217	628	—	628
2013	1	—	1	—	—	—
2012	1	—	1	—	—	—
2011	1	—	1	—	—	—
2010	1	—	1	—	—	—
2009	3	—	3	—	—	—
2008	2	—	2	—	—	—
2007	2	—	2	—	—	—
2006	1	—	1	—	—	—
2005	4	—	4	1	—	1
2004	7	—	7	1	—	1
2003	6	—	6	4	—	4
2002	8	—	8	5	—	5
2001	8	—	8	5	—	5
2000	20	—	20	12	—	12
1999	1	—	1	—	—	—
TOTAL INVESTMENT EARNINGS	\$ 61,579	\$ 3,175	\$ 58,404	\$ 7,167	\$ 2,518	\$ 4,649

(6) DISTRIBUTIONS TO COPYRIGHT OWNERS

The CRJs have jurisdiction over determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, and other determinations relating to statutory licensing as set forth in Chapter 8 of the Act. Distributions of fiduciary assets to copyright owners are made by the USCO in accordance with the CRJs distribution orders.

For the years ended September 30, 2023 and 2022, the USCO distributed the following amounts to copyright owners:

(in thousands)

Calendar License Filing Year	FY 2023				FY 2022			
	Total	Cable	Satellite	DART	Total	Cable	Satellite	DART
2019	\$ —	\$ —	\$ —	\$ —	\$ 96,309	\$ 92,848	\$ 3,461	\$ —
2017	—	—	—	—	202	202	—	—
2016	—	—	—	—	170	170	—	—
2015	2,866	2,866	—	—	118	118	—	—
2014	3,145	3,145	—	—	35,063	130	34,933	—
2003	660	660	—	—	—	—	—	—
2002	867	867	—	—	—	—	—	—
2001	837	837	—	—	—	—	—	—
2000	2,013	2,013	—	—	—	—	—	—
TOTAL DISTRIBUTIONS TO COPYRIGHT OWNERS	\$ 10,388	\$ 10,388	\$ —	\$ —	\$ 131,862	\$ 93,468	\$ 38,394	\$ —

(7) AMOUNTS COLLECTED AND OFFSET FOR ADMINISTRATIVE COSTS

For fiscal year 2023, offsetting collection authority for the Licensing Section and the CRJs totaled \$6.636 million and \$0.574 million, respectively, for a combined total of \$7.210 million. For fiscal year 2022, offsetting collection authority for the Licensing Section and the CRJs totaled \$6.411 million and \$0.558 million, respectively, for a combined total of \$6.969 million.

For the years ended September 30, 2023 and 2022, filing and royalty fees available for offset of fiscal year administrative costs (offsetting collections) are as follows:

FY 2023 (in thousands)

Description	Total	USCO Licensing Section	CRJs
Filing fees	\$ 1,301	\$ 1,300	\$ 1
License filing year 2023 royalty fees	4,428	3,998	430
License filing year 2022 royalty fees	1,477	1,334	143
License filing year 2019 royalty fees	4	4	—
FEES COLLECTED TO OFFSET ADMINISTRATIVE COSTS	\$ 7,210	\$ 6,636	\$ 574

FY 2022 (in thousands)

Description	Total	USCO Licensing Section	CRJs
Filing fees	\$ 1,379	\$ 1,378	\$ 1
License filing year 2022 royalty fees	4,193	3,775	418
License filing year 2021 royalty fees	1,397	1,258	139
FEES COLLECTED TO OFFSET ADMINISTRATIVE COSTS	\$ 6,969	\$ 6,411	\$ 558

(8) NET ROYALTY FEES RETAINED FOR ADMINISTRATIVE COSTS

Royalty fee payments are collected on a calendar year basis, so amounts retained for any given fiscal year are deducted from royalties collected for periods that span two calendar years (the current and previous calendar year). In subsequent fiscal years, the Library's upward and downward adjustments of obligated balances may cause adjustments in the balances of royalties retained. Upon the cancellation of the authority for offsetting collections, all residual balances are refunded to the royalty accounts affected.

For the years ended September 30, 2023 and 2022, the net royalty fees retained for administrative costs consisted of the following:

(in thousands)

	FY 2023			FY 2022		
Description	Total Royalty Fees Retained	USCO Licensing Section	CRJs	Total Royalty Fees Retained	USCO Licensing Section	CRJs
2023 royalty fees retained	\$ 4,428	\$ 3,998	\$ 430	\$ —	\$ —	\$ —
2023 royalty fees refunded or payable to the fiduciary fund	(1,570)	(1,514)	(56)	—	—	—
2022 royalty fees retained	1,477	1,334	143	4,193	3,775	418
2022 royalty fees refunded or payable to the fiduciary fund	(530)	(511)	(19)	(1,065)	(771)	(294)
2021 royalty fees retained	—	—	—	1,397	1,258	139
2021 royalty fees refunded or payable to the fiduciary fund	(2)	(2)	—	(451)	(353)	(98)
2020 royalty fees refunded or payable to the fiduciary fund	—	—	—	(319)	(284)	(35)
2019 royalty fees retained	4	4	—	—	—	—
2019 royalty fees refunded	—	—	—	(95)	(84)	(11)
2018 royalty fees refunded	(45)	(6)	(39)	—	—	—
2017 royalty fees refunded	(15)	(3)	(12)	(53)	(24)	(29)
2016 royalty fees refunded	—	—	—	(26)	(16)	(10)
NET ROYALTY FEES RETAINED FOR ADMINISTRATIVE COSTS	\$ 3,747	\$ 3,300	\$ 447	\$ 3,581	\$ 3,501	\$ 80

Independent Auditor's Report



SIKICH.COM

CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS
Members of American Institute of Certified Public Accountants

INDEPENDENT AUDITORS' REPORT

Inspector General, Library of Congress

In our audits of the fiscal years 2023 and 2022 statements of fiduciary net assets and statements of fiduciary activity (the fiduciary financial statements) of the Library of Congress, we found:

- The fiduciary financial statements as of and for the fiscal years ended September 30, 2023 and 2022, are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America;
- No material weaknesses in internal control over financial reporting based on the limited procedures we performed;
- A significant deficiency in internal control over financial reporting as of September 30, 2023;
- No reportable noncompliance with provisions of applicable laws, regulations, contracts, and grant agreements that we tested.

The following sections contain:

1. Our report on the Library of Congress' fiduciary financial statements, which includes an emphasis-of-matter paragraph related to fiduciary cash and other assets; and
2. Other reporting required by *Government Auditing Standards*, which is our report on the Library of Congress' (a) internal control over financial reporting and (b) compliance and other matters. This section also includes a summary of the Library of Congress' comments on a draft copy of this report.

REPORT ON THE AUDIT OF THE FIDUCIARY FINANCIAL STATEMENTS

Opinion

We have audited the fiduciary financial statements of the Library of Congress, which comprise the statements of fiduciary net assets as of September 30, 2023 and 2022, the related statements of fiduciary activity for the fiscal years then ended, and the related notes to the fiduciary financial statements (collectively, the fiduciary financial statements).

In our opinion, the accompanying fiduciary financial statements present fairly, in all material respects, the fiduciary net assets of the Library of Congress as of September 30, 2023 and 2022, and its fiduciary activity for the fiscal years then ended, in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and standards applicable to financial statement audits contained in Generally Accepted Government Auditing Standards (GAGAS), issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements subsection of our report. We are required to be independent of the Library of Congress and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



Emphasis of Matter

As discussed in Note 1(b) to the fiduciary financial statements, fiduciary cash and other assets are not assets of the Library of Congress or the federal government and are not recognized on the balance sheets of the Library of Congress or the federal government. They are assets of non-federal parties, for which the federal government is responsible. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the fiduciary financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and GAGAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgments made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and GAGAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Library of Congress' internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.



OTHER REPORTING REQUIRED BY GOVERNMENT AUDITING STANDARDS

Report on Internal Control over Financial Reporting and on Compliance and Other Matters

Internal Control over Financial Reporting

In connection with our audits of the Library of Congress' fiduciary financial statements, we considered the Library of Congress' internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control over financial reporting was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies or to express an opinion on the effectiveness of the Library of Congress' internal control over financial reporting. Therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. We identified certain deficiencies in internal control, described in Appendix A to this report, that we consider to be a significant deficiency.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

During our 2023 audit, we identified other deficiencies in the Library of Congress' internal control over financial reporting that we do not consider to be material weaknesses or significant deficiencies. Nonetheless, these deficiencies warrant Library of Congress management's attention. We have communicated these matters to Library of Congress management and, where appropriate, will report on them separately.

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to the Library of Congress' internal control over financial reporting in accordance with GAGAS.

Responsibilities of Management for Internal Control over Financial Reporting

Library of Congress management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of the Library of Congress' fiduciary financial statements as of and for the fiscal year ended September 30, 2023, in accordance with GAGAS, we considered the Library of Congress' internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Library of Congress' internal control over financial reporting. Accordingly, we do not express an opinion on the Library of Congress' internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses.



Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of the Library of Congress' internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of the Library of Congress' internal control over financial reporting. This report is an integral part of an audit performed in accordance with GAGAS in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Compliance and Other Matters

In connection with our audits of the Library of Congress' fiduciary financial statements, we tested compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2023 that would be reportable under GAGAS. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to the Library of Congress. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

We performed our tests of compliance in accordance with GAGAS. Our responsibilities under those standards are further described in the Auditor's Responsibilities for Tests of Compliance subsection below.

Responsibilities of Management for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Library of Congress management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to the Library of Congress.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our responsibility is to test compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements applicable to the Library of Congress that have a direct effect on the determination of material amounts and disclosures in the Library of Congress' fiduciary financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, contracts, and grant agreements applicable to the Library of Congress. We caution that noncompliance may occur and not be detected by these tests.



Intended Purpose of Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with GAGAS in considering compliance. Accordingly, this report on compliance with laws, regulations, contracts, and grant agreements is not suitable for any other purpose.

Agency Comments

The Library of Congress commented on a draft copy of this report, which is included at Appendix B. The Library of Congress concurred with the findings in our report. We did not audit the Library of Congress' comments, and accordingly, we express no opinion on the comments.

SiKich CPA LLC

Alexandria, VA
May 14, 2024



APPENDIX A: SIGNIFICANT DEFICIENCY

During our engagement to audit the fiscal years (FYs) 2023 and 2022 statements of fiduciary net assets and statements of fiduciary activity (the fiduciary financial statements) of the Library of Congress, we identified a deficiency in internal control over financial reporting that we consider to be a significant deficiency. The deficiency concerned preparation of the fiduciary financial statements.

Background: Under sections 111, 119, and 1003 of the Copyright Act (Title 17 of the U.S. Code), the Library of Congress (Library) U.S. Copyright Office (USCO) collects, from remitters, royalty payments that are due to copyright owners. Royalty payments are collected from cable operators, satellite carriers, and importers or manufacturers for distributing products that employ Digital Audio Recording Technologies (DART).

From the amounts collected, certain reasonable costs incurred by the USCO Licensing Section and Copyright Royalty Judges (CRJ) for administering specific statutory licensing provisions are deducted. The remaining royalty fee payments for each license type and filing year are invested on behalf of copyright owners. Subsequently, the amounts are distributed to qualifying copyright owners based on orders issued by the CRJs.

These statutory licensing activities are presented on the Library's fiduciary financial statements, which are prepared in accordance with generally accepted accounting principles (GAAP). As a legislative branch agency, the Library is not required to follow the standards issued by the Federal Accounting Standards Advisory Board (FASAB). In addition, the Library is not required to prepare general purpose financial statements. Nevertheless, the Library has issued Library of Congress Regulation (LCR) 6-110, Financial Management, which adopts FASAB standards for financial reporting.

The Library's fiduciary financial statements consist of the Statement of Fiduciary Net Assets and the Statement of Fiduciary Activity. The Statement of Fiduciary Net Assets presents Fund Balance with Treasury, investments in U.S. Treasury securities, and accounts receivable, which are offset by any pending refunds to remitters. The Statement of Fiduciary Activity presents changes to fiduciary net assets during the year, including, among other things, collections of royalty fees, investment earnings, and distributions to copyright owners.

The USCO allocates various of these financial statement amounts among license types and license filing years during its preparation of the notes. The allocations are necessary because most but not all transaction types are recorded with license type and filing year information in Momentum, the Library's financial system.

Condition: The notes to the Library's draft FY 2023 fiduciary financial statements contained allocation errors. The draft notes with the allocation errors included:

- Note 2, *Investments in U.S. Treasury Securities, Net*
- Note 3, *Fiduciary Net Assets*
- Note 5, *Investment Earnings*

Draft Note 2 contained equal and opposite errors for the Unamortized Premium/(Discount), Net. Specifically, the Unamortized Premium/(Discount), Net was overstated by about \$102,000 for cable investments and was understated by the same amount for satellite investments.

Draft Note 3 presented various calendar license filing types and filing years as having negative amounts of net assets even though the concept of negative fiduciary assets is not expected given the Library would not distribute more than it collects. Specifically, the Library's draft FY 2023 fiduciary financial statements displayed 28 separate amounts ranging from \$1 thousand to \$164 thousand as representing negative fiduciary net assets.



Draft Note 5 presented interest earnings as overstated by about \$1 million for license filing year 2023 and interest earnings as understated by the same amount for license filing year 2022.

Criteria: Statement of Federal Financial Accounting Standards (SFFAS) 31: *Accounting for Fiduciary Activities*, states:

*10. In a fiduciary activity a Federal entity collects or receives and subsequently manages, protects, accounts for, invests, and/or disposes of cash or other assets in which **non-Federal individuals or entities** (or "non-Federal parties") have an ownership interest that the Federal Government must uphold. Non-Federal parties must have an ownership interest in cash or other assets held by the Federal entity under provision of law, regulation, or other fiduciary arrangement. The ownership interest must be enforceable against the Federal Government. Judicial remedies must be available for the breach of the fiduciary obligation.*

SFFAS 31 also states:

16. Fiduciary activities reported in the Federal entity's notes to the financial statements, as required in paragraphs 17-24, should be disclosed in the required schedules and measured using the standards provided in generally accepted accounting principles.

...

24. Notes to the financial statements are an integral part of the basic financial statements, essential for complete and fair presentation in conformity with generally accepted accounting principles for the Federal Government.

In SFFAS 1, *Accounting for Selected Assets and Liabilities*, Appendix A, *Basis Of The Board's Conclusions*, explains that "...the items that would provide future economic benefits to the government and its entities are referred to as assets. The term asset as used in this document means an item that embodies a probable future economic benefit that can be obtained or controlled by the federal government or a reporting entity as a result of past transactions or events."

The U.S. Government Accountability Office, *Standards for Internal Control in the Federal Government*, (The Green Book), states:

Principle 10 – Design Control Activities

10.01 Management should design control activities to achieve objectives and respond to risks.

Principle 10 is further explained by the related attributes which present application material management may consider when designing, implementing, and operating the principle. For example:

Design of Appropriate Types of Control Activities

10.03 Management designs appropriate types of control activities for the entity's internal control system. Control activities help management fulfill responsibilities and address identified risk responses in the internal control system.

...

Accurate and timely recording of transactions

Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition, management designs control activities so that all transactions are completely and accurately recorded.

...

10.04 Control activities can be either preventive or detective. The main difference between preventive and detective control activities is the timing of a control activity within an entity's operations. A preventive control activity prevents an entity from failing to achieve an objective or address a risk. A detective control activity discovers when an entity is not achieving an



objective or addressing a risk before the entity's operation has concluded and corrects the actions so that the entity achieves the objective or addresses the risk.

In addition, the Green Book states:

*Principle 12 – Implement Control Activities
12.01 Management should implement control activities through policies.*

Cause: The U.S. Copyright Office's Licensing Fiscal Unit (LFU) forewent preparation and review of interim fiduciary financial statements for FY 2023. In January 2024, LFU completed its review of the draft yearend FY 2023 fiduciary financial statements. In February 2024, the Financial Services Directorate completed its review. The reviews are documented on the *Licensing Section, Licensing Fiscal Unit Financial Statements Reconciliation & Review Checklist*. The reviews did not result in the detection and correction of the abnormal amounts and allocation errors contained in the draft notes to the fiduciary financial statements.

The checklist used to review the FY 2023 draft financial statements differed from the version used to review the FY 2022 draft financial statements. The checklist changes coincided with a change to the information source for preparing certain details in the fiduciary financial statement notes. Specifically, during December 2022, the Library implemented full detailed fund activity in Momentum for the Licensing Section's collections and deposits. In the past, Momentum did not possess this detailed activity, which was instead recorded in a different system called DataPro.

In addition, the version of the checklist used to review the draft FY 2023 fiduciary financial statements does not prescribe specific procedures to identify abnormal amounts in the face of the notes or for correct allocations among detailed lines in the notes.

Effect: Given the notes are integral to the presentation of the Library's fiduciary financial statements, the abnormal amounts and allocation errors represented misstatements to the Library's fiduciary activities and fiduciary net asset details. In response to our inquiries, the Library corrected the presentation of its FY 2023 financial statements.

Recommendation: We recommend the U.S. Copyright Office:

1. Review and update the *Licensing Section, Licensing Fiscal Unit Financial Statements Reconciliation & Review Checklist* to prescribe procedures for identifying, analyzing, and correcting abnormal amounts and detailed allocations.
2. Implement the updated *Licensing Section, Licensing Fiscal Unit Financial Statements Reconciliation & Review Checklist* prospectively when reviewing draft fiduciary financial statements and notes.



APPENDIX B: AGENCY COMMENTS



Office of the Librarian

MEMORANDUM

DATE May 14, 2024
TO Deborah Lehigh, Acting Inspector General
FROM Carla Hayden, Librarian of Congress Dr. Carla Hayden 5/14/2024
SUBJECT Management Response to Independent Auditor's Report on the Library of Congress' FY 2023 Fiduciary Financial Statements

The Library of Congress (Library) has reviewed the draft Independent Auditor's Report from SIKICH (Auditor), which includes the Auditor's opinion on the Library's FY 2023 Fiduciary Financial Statements; report on the Library's internal control over financial reporting; and report on compliance with laws, regulations, contracts, and grant agreements. We are pleased the Library received a clean audit opinion, finding the financial statements were fairly presented, and with no findings of noncompliance with laws and regulations.

We concur with the significant deficiency in internal control over financial reporting and note that the U.S. Copyright Office is in the process of recruiting staff with appropriate financial expertise and the precision necessary to review the licensing program work. While managing at lower staffing levels has been especially challenging during this period of partial transition to a new accounting system, the USCO remains committed to working with the Library to strengthen financial management internal controls and enhancing its business processes in the execution of its fiduciary duties.

We appreciate the professionalism and care by all parties during this audit process.

cc: Shira Perlmutter, Register of Copyrights
Mary Klutts, Chief Financial Officer
Jacklyn Napier, Assistant Register and Director of Operations, USCO

Page 1 of 1

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