

MIAMIBEACH

INTERNAL AUDIT REPORT

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Office of Internal Audit
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TO: Jimmy L. Morales, City Manager
VIA: Mark Coolidge, Interim Internal Auditor
FROM: Coral Vivolo, Auditor

DATE: May 30, 2019
AUDIT: Miami Beach Cultural Arts Council Audit
PERIOD: October 1, 2017 to September 30, 2018

We have completed the regularly scheduled audit of the Miami Beach Cultural Arts Council (CAC) as required by Section 2-64 of the City Code, for the period of October 1, 2017 through September 30, 2018. This audit was performed to determine whether the CAC complied with the provisions set forth in Chapter 2, Article III, Division 6 of the City Code entitled "Cultural Arts Council," and to determine whether grants were awarded in accordance with the Program Guidelines and Eligibility Requirements. During the audit period, \$850,000 in grant monies were awarded to 48 applicants as approved by Resolution No. 2017-29966.

INTRODUCTION

The City Commission passed Ordinance No. 97-3075 on March 5, 1997 thereby creating the CAC. The CAC consists of eleven (11) members appointed at large by a majority vote of the Mayor and City Commission. It was created to develop, coordinate, and promote the performing and visual arts in the City for the enjoyment, education, cultural enrichment, and benefit of both residents and visitors. Since the program's inception, the City has awarded approximately \$18 million in cultural grants.

Staff from Cultural Affairs, a unit of the City's Tourism, Culture and Economic Development Department (renamed Tourism and Culture Department in January 2019 through the passage of City Resolution No. 2019-30688), in conjunction with the CAC have the primary responsibility of reviewing applications received for the Cultural Arts Grant Program on an annual basis, ensuring that applicants meet the eligibility criteria, and providing award recommendations to City Administration.

To qualify for the grant program, applicants must be non-profit, 501(c)(3) cultural organizations or cultural departments within an institution of higher learning (college or university) with tax-exempt status under other subsections of 501(c)(3), wishing to present or produce cultural and artistic events in the City of Miami Beach. In addition, they must complete the required application and provide the necessary documentation (Internal Revenue Service Form 990, organizational chart, etc.) by the established grant program deadlines.

The grant program currently offers two (2) categories, Anchors/Junior Anchors and Cultural Presenters. Within the Cultural Presenters category, there are six (6) different sub-categories including, Film, Visual Arts, Theater, Multi-Disciplinary, Dance and Music. Award amounts for Anchors/Junior range from \$10,000 to \$35,000 depending on the annual organizational budget, while for Cultural Presenters, as per the Program Guidelines, there is no funding cap. However,

it was noted that Cultural Presenters grantees received awards ranging from \$7,000 to \$25,000 during the 2017/18 fiscal year. The actual grant amounts awarded are determined by the CAC based on the projects being presented and the grantees' application score.

CAC program grants are funded via Resort Tax revenues. In fiscal year 2014/15, the City Commission accepted the recommendations of the Finance and Citywide Projects Committee to modify the split of the Resort Tax Funds to allocate ten percent (10%) to funding for arts (i.e. CAC). During the audit period, October 1, 2017 through September 30, 2018, a total of \$1,327,000 was appropriated to the CAC. Of these monies, \$850,000 was awarded to 48 applicants during the 2017/18 fiscal year through the City Commission's subsequent ratification of Resolution No. 2017-29966.

OVERALL OPINION

Internal Audit noted a significant improvement during this year's audit as the Grants and Operations Administrator, hired in November 2017, has been given more time to correct the deficiencies arising from the position being vacant for a period eight (8) months. Based on the result of our audit, the findings below were noted and are in need of corrective action:

1. Documentation provided by grantees was not in compliance with the eligibility requirements of the program guidelines and application instructions.
2. Grant awards were not timely disbursed.
3. Lack of supporting documentation resulted in a reduction of grant awards.
4. Accrual journal entry for unpaid CAC grant awards was not recorded in the City's Financials.
5. Required annual public hearing was not held.

SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to evaluate whether the CAC complied with the provisions set forth in Chapter 2, Article III, Division 6 of the City Code entitled "Cultural Arts Council," and determine whether grants were awarded in accordance with the Program Guidelines and Eligibility Requirements. The audit covered the period October 1, 2017 through September 30, 2018, and selected transactions prior and subsequent to this period. In general, the audit focused on the following objectives:

- To determine whether the Cultural Arts Council complied with the provisions set forth in Chapter 2, Article III, Division 6, Section 2-55 of the City Code titled "Cultural Arts Council."
- To determine whether the applicants selected met the eligibility requirements of the grant category for which they applied.
- To determine whether the CAC properly reimbursed grantees an amount within the maximum allowed for their organization type (for Anchors only), and not to exceed the City Commission approved total.
- To determine whether the grantees complied with the Final Report requirements set forth in the Grant Agreement.
- To ensure that awarded grant payments were properly recorded in the City's Financial System.

- To determine whether deficiencies noted in the prior audit have been corrected.

We conducted this performance audit in accordance with the Standard Operating Procedures of the City of Miami Beach Office of Internal Audit as well as internal audit best practices. Those require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit methodology included the following:

- Reviewed applicable provisions within the City Charter and Code of Ordinances, and City policies and procedures;
- Interviewed and made inquiries of staff in order to gain an understanding of the internal controls (relative to the award of CAC grants), assess control risk, and plan audit procedures;
- Performed substantive testing consistent with the audit objectives, including but not limited to examination, on a sample basis, of applicable transactions and records;
- Drew conclusions based on the results of testing, made corresponding recommendations, and obtained auditee responses and corrective action plans; and,
- Performed other audit procedures as deemed necessary.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding: *Documentation Provided by Grantees was not in Compliance with the Eligibility Requirements of the Program Guidelines and Application Instructions*

The Cultural Affairs staff is responsible for ensuring that grantees meet the eligibility requirements of the Cultural Arts Grant Program set forth in the Program Guidelines and Application Instructions and comply with the terms of the executed Grant Agreement. As per the City's Cultural Affairs Grant Program Guidelines and Application Instructions-Eligibility Requirements, only non-profit organizations with a 501(c)(3) tax exempt status, or cultural departments within an institution of higher learning (college or university) with tax-exempt status under other subsections of 501(c)(3), are eligible to apply. As part of the application process, applicants must meet all requirements and deadlines and submit/comply with the following:

- a) Organization's 501(c)(3) tax-exempt status letter dated within the past two (2) years.
- b) Most recent IRS Form 990 (Return of Organization Exempt from Income Tax), signed.
- c) Organizational Chart (for Anchors only).
- d) Current board membership (with contact information) and staff lists with brief biographies.
- e) Sample surveys obtained.
- f) All itemized in-kind contributions. In-kind contributions may not exceed 25% of the total organizational budget and total cash project budget.
- g) Minimum \$1 to \$1 funding match, through cash, in-kind, or a combination of both (not applicable to Anchors).

Applications are submitted on-line, through the City's Cultural Affairs Program On-Line Application Web Site, at which time applicants must attach the required documentation (i.e. signed IRS Form 990, current board membership, etc.), and complete their financial information (i.e. organizational budget, itemized project and grant award budget, in-kind contributions, etc.).

Internal Audit reviewed eighteen (18) of the 48 CAC grantees who were awarded \$319,237 (or 37.50%) of the \$850,000 total during the 2017/18 fiscal year, to determine their compliance with the grant program eligibility requirements. Based on our review, the following deficiencies were noted:

- For eighteen (18) grantees, Internal Audit was unable to determine whether the grant applications and/or the application corrections were submitted timely. CAC upgraded their application software and no longer had access to obtain applications from the 2017/18 fiscal year.
- Nine (9) grantees provided the required 501(c)(3) tax exempt status letter within the required two-year period. However, said forms were dated after the application submission due date.
- Eleven (11) grantees provided the required IRS Form 990. However, said forms were signed after the application submission deadline.
- One (1) grantee provided the required IRS "Form 990;" however, said form was not signed as required.
- Three (3) grantees did not provide the required biographies (bios). One (1) grantee provided a bio for only one (1) person, while another grantee only provided bios for two (2) people.
- For two (2) grantees the in-kind contribution was greater than the 25% maximum. For one (1) grantee, the contribution was 26.18% of the Total Cash Project Budget while for the other; it was 28.22%.

These exceptions occurred due to personnel changes. The application process for fiscal year 2017/18 started prior to the hiring of the current Grants and Operations Administrator. Contributing further to these deficiencies, a new grants system was implemented in January 2018 and the Cultural Affairs staff no longer had access to retrieve documentation submitted by the grantees through the previous system.

Recommendation(s):

Although, for fiscal year 2018/19, obtaining the documentation should not be an issue, it is recommended that going forward, Cultural Affairs staff consult with the City's Information Technology Department (I.T.) to ensure that back-ups of all documentation submitted by the grantees through the on-line grant system are maintained.

Management's Response (Cultural Affairs):

In fiscal year 2019/20, Cultural Affairs initiated a Pre-Application phase, which requires all applicants to submit a 501(c)(3) letter of nonprofit determination dated within the past two years, most recent IRS Form 990s, current board membership with contact information, staff list with brief biographies, and an organizational chart. For Pre-Applicants, who do not have the required documentation, they are unable to move their application submission forward without required documents. The most recent grant

application also includes a new budget spreadsheet that requires the inclusion of every in-kind contribution name/amount, and the spreadsheet computes the in-kind contribution percentage for each applicant automatically (allowing staff to easily identify which applicants exceed the 25% in-kind threshold). If the in-kind amount exceeds 25%, the applicant will not be able to submit a full grant application. In addition to the Office of Internal Audit's recommendation, the Cultural Affairs staff has expanded its hard copy filing system, printing all applications and attachments as a means of providing sufficient back-up to the grants software, should a technical error occur in the future. The Division will contact I.T. about the most effective ways the City can provide digital backup. We feel that this will rectify all issues described above.

Implementation Date:

The improvements to the hard copy filing system began in January 2018. The addition of the Pre-Application grant period and updated spreadsheet were initiated in the January 2019 application. The Division will contact I.T. about the most effective ways the City can provide digital backup by the end of May 2019.

2. Finding: Grant Awards were Not Timely Disbursed

As per the City's Cultural Affairs Program Guidelines and Application Instructions, the CAC has established maximum grant award amounts per grant category (i.e. Anchors and Cultural Presenters) as follows:

1. Junior Anchors and Anchors: major preeminent and smaller art institutions physically based in the City, whose primary mission is year-round artistic and cultural programming that contributes significantly to the cultural life of the City.
 - a). \$25,000 for annual organizational budgets below \$750,000
 - b). \$30,000 for annual organizational budgets between \$750,000 and \$3.5 million
 - c). \$35,000 for annual organizational budgets at or above \$3.5 million
2. Cultural Presenters: organizations whose primary mission is to produce and present cultural and artistic productions. As per the Program Guidelines for this category, there is no funding cap; however, it was noted that grantees received awards ranging from \$7,000 to \$25,000.

As per City Resolution No. 2017-29966, a total of \$850,000 was awarded to 48 grant applicants. Awards are to be disbursed in two (2) payments as follows:

- First half payment (50% of the award) issued upon receipt of grantees signed and completed contracts.
- Second half payment (additional 50% of the award) issued upon receipt and approval of the Final Report, and required supporting documentation (i.e. invoices, cancelled checks). Final Reports are to be submitted by the grantee no later than November 15th.

Although 48 applicants received grant awards, four (4) did not return a signed grant agreement and were ineligible to receive grant monies. Testing was performed on the 44 remaining grantees to determine whether the reimbursement amounts were within the maximum allowed per grant category and did not exceed the total approved by the City Commission upon which the following deficiencies were noted:

- For one (1) grantee (an Anchor), Internal Audit was unable to determine whether the grantee was awarded an amount within the limits of the organization as the Grant Application was not available for review as no physical copy of the application was maintained, and Cultural Affairs staff no longer had access to the system to retrieve said application.
- One (1) grantee was incorrectly reimbursed \$25 more than the approved grant amount.
- As of March 2019, thirteen (13) grantees had not been issued the second half payments totaling \$132,352 (or 29%) as additional documentation needed to support grant expenditures had not been provided by the grantee.
- For two (2) grantees funding for the 2017/18 fiscal year has not been issued as follows:
 - i. One (1) grantee was engaged in a legal dispute; therefore, per recommendation of the City Attorney's Office, their grant award was put on hold and their grant application file is currently being reviewed. Fund issuance for this grantee is currently awaiting legal determination.
 - ii. One (1) grantee did not receive funding due to an oversight. As of March 11, 2019, a request has been approved to issue grant funds to the grantee for the 2017/18 fiscal year.
- One (1) grantee did not receive the second half payment as the Final Report was never submitted to the City as required in the Grant Application Guidelines.

It was noted that these exceptions occurred due to personnel and grant system changes.

Recommendation(s):

Cultural Affairs staff should ensure that the Final Reports and/or any additional documentation requested from the grantees are timely reviewed and approved. Any additional supporting documentation requested from the grantee should have a specific submission deadline. This will help ensure that the second-half payment would be remitted and recorded within the same fiscal year, or by December 31st, and that all prior year awards are properly closed out before upcoming fiscal year awards.

Management's Response (Cultural Affairs):

As of May 16, 2019, Cultural Affairs has closed out FY (fiscal year) 15/16 and submitted 98.58% of all payments due to grantees for FY 16/17. In preparation for FY 17/18, and in order to further mitigate future delays in payments, the Division initiated a Contract Submission Deadline of March 15th and has improved its period by working closely with the City Attorney's Office, Mayor's Office, and Clerk's Office by streamlining its Contract Execution Pipeline. Additionally, the Division created a streamlined Final Report, which require Grantees to submit their invoices/payment proofs with a detailed cover sheet, expediting the reviews/close-outs of Final Reports. The Division works to further improve the turnaround time of second payments, which require the submission of an approved final report, by requiring grantees to submit additional requested and/or missing materials within a two-week timeframe. If missing/additional materials are not substantiated within the allotted timeframe, the grant is closed, and payment is made only on expenses substantiated.

Internal Audit Report
Miami Beach Cultural Arts Council Audit
May 30, 2019

The Division will deduct \$25 from the grantee who was overpaid during a multi-year financial review of their grant files, dating as far back as FY14/15; the deduction will occur during the second payment of FY18/19.

Implementation Date:

The Cultural Affairs staff began implementing the aforementioned adjustments to the grants pipeline in FY 17/18. Beginning on May 31, 2019, the Cultural Affairs staff will release a FY 17/18 Final Report Form, and the submission deadline will be October 15, 2019 (30-days earlier than previous years); the intention of an earlier date is to close-out all Final Reports by December 31st (an Internal Audit recommendation). As of May 20, 2019, staff has closed-out 100% of pending FY 15/16 payments and 98.58% of FY 16/17 payments (one grantee is pending Final Payment due to a legal dispute with the City that was recently lifted).

3. Finding: *Lack of Supporting Documentation Resulted in a Reduction of Grant Awards*
Article II of the City's Cultural Affairs Program Grant Agreement, titled "General Conditions," states that in order for the grantee to demonstrate that the grant has fulfilled its purpose, the grantee must provide the Cultural Affairs Program Manager with a written Final Report, which shall document the grantee's satisfaction of all requirements (i.e. copies of all receipts, invoices, cancelled checks and proof of expenditures of grant monies.) The Final Report must be received by the Cultural Affairs Program Manager no later than November 15. Said reports, and the supporting documents are reviewed and signed off by the Cultural Affairs staff (i.e. Grants and Operations Administrator, Program Manager and the Senior Administrative Manager) prior to issuing payment to help ensure compliance with all the grant requirements before monies are disbursed.

Eighteen (18) grantees' Final Reports were tested to determine compliance with the requirements set forth in the Grant Agreement and that reviewed grant expenses were allowable and accurately paid. Based on our examination of the Final Reports, invoices, and payment support provided by the grantees, the following deficiencies were noted:

- One (1) grantee did not provide the necessary documentation (invoices/receipts, cancelled checks, etc.) to account for the total grant awarded. In some cases, the documentation provided was for unallowable expenses. As a result, Cultural Affairs staff reduced the second half payment to the grantee; however, an additional \$90 should have been decreased and is due to the City.
- One (1) grantee did not provide documentation (i.e. invoices/receipts, cancelled checks, etc.) to account for the total allocated to the budget category. As a result, Internal Audit reduced the budget category and \$450 is due to the City.

It was noted that these deficiencies were due to human error and supervisory oversight.

In addition, as part of our follow-up to determine whether the CAC had corrected the deficiencies identified during last year's audit regarding nine (9) grantees which did not provide the required documentation to satisfy disbursement of the grant monies awarded, it was noted that additional documentation to substantiate grant expenditures was received and reviewed by CAC for six (6) of the nine (9) grantees. However, for the additional three (3) grantees no further action was taken; as a result, \$10,057 is still due to the City.

Recommendation(s):

As a result of the disallowed expenditures, it is recommended that the Cultural Affairs unit collect any monies due, unless additional support (i.e. invoices, cancelled checks, etc.) is submitted to satisfy requirements of the Final Report. Furthermore, the \$10,057 in disallowed 2016/17 fiscal year reimbursements, should be immediately addressed.

Management's Response (Cultural Affairs):

Cultural Affairs will contact the grantees who had unsubstantiated payments in FY 16/17 & FY 17/18 and will require them to either return the funds, substantiate their reimbursables, or will have deductions in their future grant payments. Beginning with Final Report submission for fiscal year 2017/18, detailed Final Report cover sheets for grantees' expenditures were created and all grantees were required to complete and submit with Final Reports. This addition has helped correct the lack of substantiated documentation presented in FY 15/16 Final Reports. A drastic reduction in disallowable expenses from FY 16/17 to FY 17/18 is noted as follows:

1. Previous Audit FY 15/16 Disallowable Expenses: \$61,478.86 (or 23.43% of the sample) of unsubstantiated expenditures paid by the City. To date, of the \$61,478.86 of FY 15/16 unsubstantiated expenditures, the City was able to substantiate \$51,421.86 (or 83.64%) post-FY 16/17 Audit.
2. Current Audit: FY 16/17 Disallowable Expenses: \$540 (or 0.17% of the sample) of unsubstantiated expenditures paid by City.

Implementation Date:

Staff will contact the grantees by May 31, 2019, detailing the insufficiencies and request the needed documentation or repayments from them. Grantees will be given two (2) weeks to provide substantiated reimbursables or funds will be withheld from future payment to grantees or grantee will be ineligible to apply for future grants.

4. Finding: *Accrual Journal Entry for Unpaid CAC Grant Awards was not Recorded in the City's Financials*

The Governmental Accounting Standards Board (GASB), which is recognized as the official source of generally accepted accounting principles (GAAP) for state and local governments, establishes modified accrual accounting standards. A governmental entity is focused on current-year obligations, and the modified accrual basis focuses mainly on short-term financial assets and liabilities. Using the modified accrual method, an accountant adjusts for obligations that are incurred during an accounting period for which no payments have been made. The accruals must be added via adjusting journal entries, so that the financial statements report these amounts.

It was noted that at the end of fiscal year 2017/18 (i.e. 09/30/18), \$473,330 of the total \$850,000 grants awarded, had not yet been disbursed to grantees. However, after an account inquiry and confirmation from the City's Finance Department, it was determined that the required journal entry to record the liability accrual for the unpaid grant monies at the September 30, 2018 year-end was not done. As a result, the reported expenditures were understated, and they will be overstated as of the September 30, 2019 year-end. However, it was confirmed that the rollover for said period was requested by Cultural Affairs staff and completed by the Office of Budget and Performance Improvement.

This exception occurred because the Tourism and Culture Department was unaware of the need to complete this journal entry. During the 2016/17 fiscal year audit (issued 01/28/19), the department was made aware, and the issue was discussed with the Finance Department; however, the closing of FY 17/18 (i.e. 09/30/18) had already taken place.

Recommendation(s):

Cultural Affairs staff should ensure that the corresponding accrual journal entry is accurately and timely completed each year.

Management's Response (Cultural Affairs):

As stated by the aforementioned Internal Audit finding, during the fiscal year 2016/17 audit, staff was not made aware of the need to complete a journal entry when discussing the FY 16/17 Internal Audit with the Office of Budget and Performance Improvement. During meetings, regarding the findings of FY 16/17 Internal Audit, staff responded that a rollover request, along with a journal entry to record the accrual, would be done moving forward. However, the notification journal entry was post the closing of FY 17/18. Accordingly, staff is initiating this correction for the FY 18/19 year.

Implementation Date:

Year-end closing of FY 18/19.

5. Finding: *City Code Required Annual Public Hearing was not Held*

In accordance with the provisions set forth in Chapter 2, Article III, Division 6, Section 2-59 (b) of the City Code, the council shall hold at least one public hearing annually, pursuant to public notice, specifying the date, place of the hearing and the subjects to be considered, specifically for the purpose of making the council's work known and investigating and assessing the needs and development of the arts in the City.

In order to determine whether at least one public hearing was held by the CAC during fiscal year 2017/18, the schedule of meetings and the minutes for all meetings held during the year were reviewed. In doing so, it was noted that a public hearing was not held as required by Section 2-59 (b) of the City Code.

As part of the transition, new employees were unaware of such requirement.

Recommendation(s):

The City's Cultural Affairs unit should ensure that in the coming year (October 1, 2018 through September 30, 2019), at least one public hearing is held as required.

Management's Response (Cultural Affairs):

Cultural Affairs staff has scheduled a CAC Public Hearing during the Cultural Arts Council meeting on Thursday, July 11, 2019 at 9:00 a.m. Moving forward, it will be planned to be held annually at the July CAC meeting.

Implementation Date:

Thursday, July 11, 2019

EXIT CONFERENCE

An exit conference was held on May 28, 2019 in the Office of Internal Audit and OBPI's shared conference room. Participants included Tourism and Culture Department Assistant Director Heather Shaw, Administrative Services Manager Luis Wong, and Operations Administrator Catherine Houlihan, Interim Internal Auditor Mark Coolidge and Auditor Coral Vivolo. Audit findings and recommendations were discussed, as were management responses, which are included herein. All were in agreement with the contents of this audit report.

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cc: Kathie G. Brooks, Assistant City Manager
John Woodruff, Finance Director
Marcia Monserrat, Chief of Staff
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