

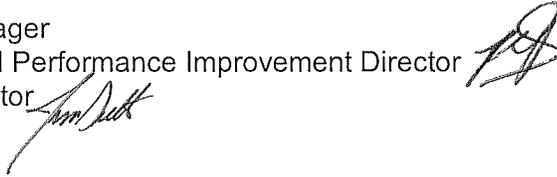


MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor



DATE: January 27, 2011
AUDIT: Miami Beach Cultural Arts Council Audit
PERIOD: October 1, 2009 to September 30, 2010

This regularly scheduled audit of the Miami Beach Cultural Arts Council covering the 2009/10 fiscal year was performed in compliance with the annual audit requirements specified by City Code Section 2-64.

INTRODUCTION

On March 5, 1997, the City Commission passed City Ordinance No. 97-3075 thereby creating the Miami Beach Cultural Arts Council (CAC) to develop, coordinate, and promote the performing and visual arts in Miami Beach for the enjoyment, education, cultural enrichment, and benefit of both residents and visitors. Since that time, the City has awarded more than \$7,200,000 in cultural art grants, supporting thousands of performances, exhibits and other cultural activities in Miami Beach.

On June 3, 1998 the City Commission approved the Miami Beach Cultural Arts Council Master Plan through Resolution No. 98-22760. The Master Plan process began in October of 1997 and was the result of a series of public town meetings held in cultural venues throughout Miami Beach. At these sessions, council members heard directly from members of the City's cultural community and from other municipal agencies and boards with a stake in the City's cultural future. The Master Plan included the program areas of Cultural Grants Program, Joint Marketing, Cultural Facilities, Advocacy and Planning, and Revenue Development; each with individual objectives.

In fiscal year 2004/05, the City Commission authorized expanding the allocation of the 50% of the 1% resort tax previously equally distributed to North Beach, Middle Beach and South Beach, to include funding for the arts. This funding is distributed in the year after it is collected. This commitment of funding for arts and culture provided a new permanent funding source that sustains cultural programming long term. As a result, the 1% resort tax revenues collected in FY 2008/09 totaling \$936,816.27 were appropriated to each of North Beach, Middle Beach, South Beach and the Arts in FY 2009/10.

In an effort to address the needs of the arts community, City staff in conjunction with the CAC Board annually reviews each of the grants programs (currently Cultural Anchors; Cultural Presenters; North Beach Initiative; Arts & Cultural Education; Cultural Heritage; Artistic Disciplines –Dance, Film, Music, Theater and Visual Arts; and Cultural Tourism) to determine the type of programs which will benefit the community. A summary of each grant program follows:

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- Cultural Anchors provide grants to the major preeminent arts institutions physically based in Miami Beach, whose primary mission is year round artistic and cultural programming that contributes significantly to the City's cultural life. Organizations must have minimum organizational budget levels of \$750,000 and the monies received may be used towards operational expenses in association with the annual cultural programming described in the application.

In addition, the CAC approved the addition of four Miami Beach based cultural organizations into this category approximately two years ago. These organizations (Arts at St. John's, Miami Beach Film Society, Miami Contemporary Dance Company and the Miami Beach Garden Conservancy) meet all the same criteria as Cultural Anchors except that they have organizational budget levels below \$750,000.

- Cultural Presenters provide grants to organizations whose primary mission is to produce and present cultural and artistic productions.
- North Beach Initiative earmarks funds for proposed projects at the Byron Carlyle Theatre, North Beach Band Shell and other North Beach locations (north of 63rd Street) for the purpose of increasing the amount of cultural activities in Miami Beach's North Beach community.
- Arts & Cultural Education provides grants to cultural organizations whose primary mission is to provide support for rich and challenging arts learning opportunities for children and adults in Miami Beach schools and neighborhoods. Grants may be used for workshops, lectures/demonstrations, and other projects designed to increase skills and awareness of the arts.
- Cultural Heritage provides project specific grants for arts programming to not-for-profit 501c(3) Miami Beach based institutions devoted to promoting and protecting the diverse heritage, traditions and culture of Miami Beach. Grants may be used for presentation of visual and performing arts, arts programs and workshops, and other projects which emphasize the artistic experience and are accessible to a broad audience.
- Artistic Disciplines funding is limited to arts and cultural organizations whose primary mission is to create and present work in one of the following artistic disciplines; Dance, Film, Music Theater and Visual Arts. Proposed projects should be for work that is new or has never before been presented in Miami Beach.
- Cultural Tourism are grant funds jointly provided by the CAC and Miami Beach Visitor and Convention Authority (VCA) to support major cultural arts performances, festivals, and events which attract a significant number of tourists to the City. The VCA provided \$42,500 and the CAC gave \$30,000 to fund this program during the 2009/10 fiscal year.

Suggestions and ideas are received from grantees, grants' panelists, members of the CAC and other granting organizations through orientation meetings held at the beginning of each grant period, consultations with grantees, public application and proposal reviews, public meetings held at the end of the review cycle, the Grants Task Force, and through staff, so that the programs can

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continually be improved. Program application periods and relevant deadlines are announced in January via press releases, electronic mail, on its website and in area newspapers. Program guidelines, applications and instructions are created in Microsoft Word format and made available on the website in both English and Spanish.

To be eligible to apply, organizations must be non-profit, 501c(3) cultural organizations and cultural departments within an institution of higher learning (college or university) with tax-exempt status under subsections of 501c(3) wishing to present or produce cultural and artistic events in the City of Miami Beach. Furthermore, any applying organization that satisfies one of the following criteria is not entitled to receive funding:

- applied through a fiscal agent
- received prior CAC grant funding and did not comply with the Grant Agreement and/or other requirements
- did not include the City of Miami Beach logo and required credit line in all publications related to the grant
- received funding from the VCA during the same fiscal year.

A total of \$1,145,000 was requested in grant monies by sixty organizations for the 2009/10 fiscal year. Each grant applicant must follow an extensive multi-level public review process which includes a general orientation for all applicants and required consultations with CAC staff to determine eligibility and appropriate programs. Applicants must meet all application requirements, including deadlines, or be disqualified.

Applications were scored by the CAC at a series of publicly noticed panel meetings. Applicants should attend their panel meeting where they will be permitted to respond to panelists' questions. The applications were scored using evaluation forms based on criteria listed in the application, then averaged dropping the highest and lowest scores. An application must have scored a minimum average of 80% with a maximum possible score of 100 points, to be eligible to receive funding.

Fifty-five organizations exceeded or met the designated minimum score required for funding. As a result, the City Commission, through the passage of Resolution No. 2009-27214, awarded grants totaling \$630,000.00 to these eligible organizations for the 2009/10 fiscal year. The largest award of \$29,785.14 was given to the New World Symphony, while the lowest amount of \$5,048.85 was given to the Center for Folk & Community Art. All of these authorized grant recipients receive half their funding upon submittal and approval of the required documents with the remaining half upon completion from the City.

Resolution No. 2009-27214 also included three programs (14th Brazilian Film Festival of Miami, XV International Ballet Festival of Miami and 12th Annual Miami Gay & Lesbian Film Festival in Miami Beach) whereby the CAC partnered with the Miami Beach Visitor and Convention Authority or VCA for Cultural Tourism grants that support cultural events with documented tourism benefits. The City's agreed upon payment of \$30,000 was made to the VCA through check number 2728 dated 12/01/09. These authorized grant recipients receive all their funding from the VCA upon submittal and approval of the required documents after the project's completion.

The CAC budget did not include a contribution towards the City's Cultural Endowment for the

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2009/10 fiscal year due to budget constraints. Yet, the endowment's 09/30/10 balance held in a restricted cash account increased by \$29,442.31 to \$1,548,463.96 from the prior fiscal year's ending balance of \$1,519,021.65 due to the interest earned on the invested monies.

Under Resolution No. 99-23228, the City Commission approved the appropriation of \$220,000 from the CAC budget to provide matching funds in the form of a non-interest bearing loan to fund a portion of the Colony Theatre Improvements. Since the City was able to obtain the maximum grant award from the State's Cultural Arts Facilities Grant Program, the loan has been reduced to \$165,000. The City will repay the loan to the Cultural Arts Council from the 70% recapture of the Colony Theatre Café revenues.

As of September 2010, the total amount in the Colony Theater Trust account was \$143,139.82 with no payments made during the past five fiscal years. Monies totaling \$67,400 were transferred in January 2011 by the Finance Department to fund the purchase of new sound/audio equipment in accordance with the 2010/11 approved capital budget. The remaining monies will remain in the trust account until there is another approved appropriation.

OVERALL OPINION

The Cultural Arts Council has properly followed the guidelines established by the Miami Beach City Commission as to their purpose in the City. It has established a master plan for the arts, and developed and established criteria and guidelines for review and funding for qualified not-for-profit organizations. The active Cultural Arts Council is comprised of eleven Miami Beach residents who routinely meet once a month to plan the organizations' future. Program files were well organized for each tested vendor. Documentation was present confirming that funded programs were properly staged and written final reports were received before grant payments were authorized for reimbursement. Finally, grantee payments were made timely and were recorded correctly in the City's Financial System.

However, the following findings were identified which are in need of corrective action:

- Grantees are submitting either incomplete or late documentation (IRS tax exempt letters, IRS form 990s, certified financial statements and/or completed final reports) but are still receiving the full second City payment.
- Inaccuracies were noted in the number of grants awarded, the grant award amounts and the number of grants issued measures reported in the City's Environmental Scan, performance management software and adopted budget book.

PURPOSE

To determine whether the Cultural Arts Council complied with tested requirements set forth by the City Commission during the 2009/10 fiscal year, which includes the timely distribution of approved grant funds in the correct amounts to qualified eligible not-for-profit organizations; properly reported grant payments in the City's Financial System; and accurately reported data in the City's Environmental Scan, performance management software and adopted budget book.

SCOPE

1. Confirm that the Cultural Arts Council has developed, established and adhered to criteria and guidelines for review and funding of qualified not-for-profit arts organizations.
2. Confirm that the Cultural Arts Council consists of eleven Miami Beach residents, who are appointed for three-year terms and no more than six consecutive years.
3. Confirm that Cultural Arts Council meetings are held once a month (excluding August) and that one public hearing before the City Commission is held annually.
4. Confirm that grant payments were correctly recorded in the City's Financial System.
5. Select a sample of grants awarded, ensuring that all grant categories are represented, and confirm that funds paid for grants were for approved programs, meeting the criteria set forth by the Cultural Arts Council.
6. Confirm that selected departmental measurement data reported in the City's Environmental Scan, performance management software and the adopted budget book are accurately calculated and properly supported by source documentation.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *Submitted Supporting Documentation Does Not Fully Satisfy Grant Requirements*
Fifty-five grantees were awarded monies totaling \$630,000 for the 2009/10 fiscal year by the City Commission's ratification of Resolution No. 2009-27214. These authorized grant recipients are to receive half their funding upon submittal and approval of the required documents with the remaining half upon completion. Prior to receiving any monies, a grant agreement must be completed and signed by both the City and the participating 501(c)3 entity.

This standard document requires the submittal of a final report within 45 days of the project's completion date; proof of the City of Miami Beach logo and credit line must be included in all project publications and advertisements; proof of performances such as programs, brochures and flyers; etc. The Grants and Operations Administrator approves the submitted documentation for sufficiency before a Request for Direct Payment is prepared authorizing the City's Finance Department to issue a check to the grantee.

Additionally, the Grants and Operations Administrator monitors these nonprofit organizations maintaining all received required documentation in separate files. Eleven of these fifty-five grantees' files or 20.00% representing 25.23% of the dollars disbursed were randomly selected for review with at least one nonprofit corporation chosen from each of the designated categories (Cultural Anchors, Cultural Presenters, etc.). In doing so, the following deficiencies were noted:

- a. One of the eleven files reviewed or 9.09% did not contain an Internal Revenue Service letter dated after 01/01/07 granting the grantee 501(c)3 tax exempt status in adherence to the grant application's terms. Florida Film Institute's provided letter was dated 03/22/04 with a notation by the Grants and Operations Administrator stating that an updated letter had been requested on 02/27/09. However, no documents were present in the file to indicate that the grantee responded. Fortunately, Internal Audit's review of the State of Florida Division of Corporation's

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website properly found that all eleven grantees were currently active Florida nonprofit corporations.

- b. The Miami Beach Cultural Arts Council or CAC requires each grantee to submit either their last completed Internal Revenue Service form 990 or certified financial statements. All tested grantees complied with these terms except for the Miami Contemporary Dance Company as no applicable financial documentation was found upon review of the provided file.
- c. The signed grant agreements require grantees to postmark or deliver their final report no later than 45 days after the project end to receive the second half of their grant award. Although most grantees' programs end before September 30th, this is the date that is typically used to signify the program's completion. Consequently, the grantee is then given another 45 days until November 15th to submit their completed final report. For example, nine of the eleven reviewed grantees contained a 09/30/10 program completion date.

Both the CAC and the Miami Beach Visitor and Convention Authority properly time/date stamped the reviewed documents to accurately record the date received. Internal Audit compared these two dates (the final report deadline and the actual date received) to find that two grantees, Florida Film Institute and the 12th Annual Miami Gay & Lesbian Film Festival, were received late. Coincidentally, neither of these grantees had a September 30th program completion date.

Subsequent inquiries with Cultural Affairs Division staff found that they continually spend time reminding the grantees that deadlines have passed and work with them to help ensure that they receive full funding, whenever possible. They have been flexible on the program completion and due dates in the past but 2010/11 approved grantees were warned of the need to comply with the listed deadlines.

Recommendation(s)

The implementation of the following recommendations should help alleviate the aforementioned documentation shortcomings:

- a & b. Although Cultural Affairs Division staff is doing better in securing timely documentation than in previous annual audits, there still is room for improvement. Internal Audit opines that future grant applications should contain similar wording to the Internal Revenue Service 501(c)3 tax exempt status letter requiring the submittal of Internal Revenue Service form 990 or certified financial statements from within the past two years. Also, the division's adoption and completion of a checklist for each grantee would be beneficial in ensuring that all requirements are satisfied before any grant monies are disbursed.
- c. Program completion dates should be the date of the last program so that the final report deadline date could be moved forward. Also, it should represent the date that the final report is approved and not just submitted as it is possible that some grantees could intentionally submit unfinished reports in order to comply.

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Finally, future grant application's wording should be changed to include provisions stating that late submittal of final reports will result in a designated reduction in the grant monies due. This practice should result in better grantees' compliance thereby giving Cultural Affairs Division staff additional time to focus on more important duties and helping ensure that most, if not all, grant monies are disbursed in the fiscal year appropriated/awarded by the City Commission.

Management's Response

a & b. Staff recognizes and acknowledges that follow-up to ensure updated information was received did not occur in this instance. The recommendation to include a checklist of missing or outdated items for each grant has been implemented in the 2011-2012 grant cycle. Going forward, staff will request IRS 990s be dated within the last two (2) years.

c. Grantees determine their project completion dates. Final Report approval dates directly correspond to dates noted on the Grant Payment Schedule. Final Report Form language includes the following paragraph regarding penalty for non-compliance:

Final reports must be filed no later than 45 days after the project end date or November 15, 2011, for projects ending on September 30th, for the applicant to receive the second half of the grant award. Additionally, once the final report has been reviewed, grant recipients must submit any additional required documentation by the deadline provided or the grant recipient will be non-compliant and ineligible to receive remaining grant funds, and ineligible to receive next year's grant funds if awarded.

Similar language will be incorporated into Applications and Contracts.

2. Finding – Review of Departmental Measures

The Cultural Affairs Division measures both the number and amounts of grants awarded by the City Commission, as well as the actual number of grants issued (output measures). These numbers may differ as the number of grants issued is usually not available until the end of the year since grantees may withdraw or be denied funding due to not fulfilling grant requirements.

These tested departmental measures are reported in either the City's Environmental Scan and/or the performance management software. We reviewed the basis for each measure and compared the reported amounts to the actual supporting documentation. For the two measures reported annually in the City's Environmental Scan, the following was noted:

Fiscal Year	# of grants Awarded			Grant Award Amounts		
	Reported	Audited	Difference	Reported	Audited	Difference
2003/04	51	53	-2	\$500,750	\$500,750	\$0
2004/05	49	49	0	\$599,015	\$599,015	\$0
2005/06	50	47	3	\$613,810	\$613,810	\$0
2006/07	51	50	1	\$642,887	\$642,887	\$0
2007/08	36	36	0	\$630,000	\$630,000	\$0
2008/09	43	43	0	\$627,169	\$627,169	\$0
2009/10	N/A	55	N/A	N/A	\$630,000	N/A

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The number of grants awarded reported in last year's Environmental Scan for fiscal years 2003/04 through 2008/09 correctly equaled the audited figures. However, there are now differences for three of the fiscal years as the previously reported numbers were incorrectly changed. Furthermore, the May 2010 Environmental Scan was not updated with the 2009/10 figures.

These two measures are now also reported in the City's performance measure software but a comparison to the figures listed in the Environmental Scan found the following:

- The number of grants awarded measure reported in the City's performance measurement software is correct as the Environmental Scan contained three incorrect fiscal year entries.
- Conversely, the grant award amounts measure reported in the City's Environmental Scan is correct as the performance measurement software contained three incorrect entries.

Meanwhile, results from the audit of the amount of cultural grants issued (paid out), as reported solely in the performance management software were as follows:

Fiscal Year	# of grants Issued		
	CAC	Audited	Difference
2003/04	51	53	-2
2004/05	49	49	0
2005/06	50	47	3
2006/07	51	50	1
2007/08	36	36	0
2008/09	43	43	0
2009/10	N/A	55*	N/A

* This figure assumes that the first half grant payment to Culture in the City which was subsequently returned in full would be included as the monies were initially paid out.

The number of grants issued for the 2009/10 fiscal year had not yet been entered into the performance measurement software as of the conclusion of this audit. Also, variance reports were not created to explain the reasons for the differences listed from the designated targets for the 2007/08 and 2008/09 fiscal years.

After completing our review of the above measures for fiscal year 2009/10, we determined the following assessment categories suitable as defined in Exhibit 1 attached at the end of this audit report:

Source	Name of Measure	Assessment Category
Environmental Scan	# of grants Awarded	Certified with Qualifications
Environmental Scan	Grant Award Amounts	Certified
Performance Management Software	# of grants Awarded	Certified
Performance Management Software	Grant Award Amounts	Certified with Qualifications
Performance Management Software	# of grants Issued	Certified with Qualifications

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Finally, the 2004/05 fiscal year performance measure entitled "# {number} of cultural grants issued" was incorrectly listed as 45 in the City's 2010/11 fiscal year adopted budget book when the correct number is actually 49.

Recommendation(s)

The identified incorrect or missing figures for the measures reviewed above and reported in the City's Environmental Scan, performance measurement software and/or adopted budget book should be corrected and included in the next scheduled publication. In addition, designated City employee(s) should be assigned the responsibility to ensure that the dually reported figures in the Environmental Scan, performance measurement software and the adopted budget book are identical and correct going forward.

Management's Response

Staff has identified and corrected the figures noted above in the City's Environmental Scan and in Active Strategies. Ensuring these figures match throughout all City reporting tools is a priority of this Department.

EXIT CONFERENCE

An exit conference was held on January 21, 2011 and the participants included Gary Farmer (Cultural Affairs Program Manager), Mary Heaton (Grants & Operations Administrator), James Sutter (Internal Auditor), and Mark Coolidge (Senior Auditor). All present were in agreement with the findings and recommendations discussed and management responses were submitted shortly thereafter for inclusion in this report.

JJS:MC:mc

Audit performed by Senior Auditor Mark Coolidge

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cc Hilda Fernandez, Assistant City Manager
Patricia Walker, Chief Financial Officer
Max Sklar, Cultural Arts and Tourism Development Director
Gary Farmer, Cultural Affairs Program Manager

EXHIBIT: 1 – Assessment Categories for Performance Measures Verification

Assessment Category	Criteria
Certified	If reported performance is 100% accurate and if it appears that controls are in place to ensure accuracy for collecting and reporting performance data. Measurement data is supported by source documents.
Certified with Qualifications	This category is assigned under either one of two conditions: <ol style="list-style-type: none"> 1. <i>Reported performance is within +/- 3%, but the controls over data collection and reporting are not adequate to ensure continued accuracy.</i> 2. <i>The department's calculation of actual performance deviates from the measure definition, but was still within an acceptable range.</i>
Factors Prevented Certification	Documentation is unavailable or incomplete and controls are not adequate to ensure accuracy. This category is also assigned when there is a deviation from the measure definition and the reviewer cannot determine the correct measure result.
Inaccurate	Actual performance is not within 3% of reported performance, or there is a greater than 5% error in the sample of documents tested.

EXHIBIT: 2 - Additional References for Performance Management Software's Description of Measure

- 1) **Measure Name:** Should list the name of the measure for which data is being collected and reported.
- 2) **Measure Type:** Should recognize whether the measure is an "Input", "Output", or "Outcome" measure. One must consider whether results are measured through input (Ex: Customer surveys), output (Ex: Number of contracts completed without change orders), or outcome (Ex: % of projects substantially completed or in beneficial use within 120 days).
- 3) **Measure Description:** Should describe the measure. Some measures are self explanatory and some may not; however, a description should always be included (Ex: The measure considers the % of change in the value of the change orders for a specific category divided by the original project cost).
- 4) **Measure Frequency:** Describes how often performance data is reported (Ex: Quarterly).
- 5) **Data Sources:** Should list sources used to collect performance data (Ex: System Software Names, Report Names, Schedules, etc.)
- 6) **Calculation Methodology:** Should explain how data reported was calculated (Ex: change orders for that quarter divided by the original total projects costs, projects substantially completed or in beneficial use within 120 days of the contract milestone date divided by the total number of projects completed during the same quarter).