



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: April 13, 2012
AUDIT: Miami Beach Cultural Arts Council Audit
PERIOD: October 1, 2010 to September 30, 2011

This regularly scheduled audit of the Miami Beach Cultural Arts Council awarded and issued grants during the 2010/11 fiscal year by the Cultural Affairs Division was performed in compliance with the annual audit requirements specified by City Code Section 2 - 64.

INTRODUCTION

The City Commission passed City Ordinance No. 97-3075 on March 5, 1997 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 \$7,865,000 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. 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 as this commitment provided a new permanent funding source that sustains cultural programming long term. As a result, the 1% resort tax revenues collected in FY 2009/10 totaling \$1,123,018.80 were appropriated to each of North Beach, Middle Beach, South Beach and the Arts in the 2010/11 fiscal year.

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; Cultural Heritage; Artistic Disciplines –Dance, Music, Theater and Film; 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.
- Cultural Presenters provide grants to organizations whose primary mission is to produce and present cultural and artistic productions.
- 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, Music, Theater, Film and Visual Arts. Proposed projects should be for work that is new or has never before been presented in Miami Beach. Selections are based on the organizations demonstrated artistic talent and potential and the vision for the proposed project, in relation to their overall artistic goals.
- 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. Both the VCA and the CAC gave \$30,000 each to fund this program during the 2010/11 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 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.

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A total of \$1,025,000 was requested in grant monies by fifty-two organizations for the 2010/11 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 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-two organizations exceeded or met the designated minimum score required for funding. As a result, the City Commission, through the passage of Resolution No. 2010-27517, awarded grants totaling \$627,676.04 to these eligible organizations for the 2010/11 fiscal year. The largest award of \$24,101.70 was given to the New World Symphony, while the lowest amount of \$5,671.80 was given to Community Arts and Culture. 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 (excluding the "Byron Bonus").

The CAC adopted the \$2,000 "Byron Bonus" to be given to grant recipients utilizing the Byron Carlyle Theatre as an incentive for programming in North Beach during the 2010/11 fiscal year. These monies are meant to cover the theatre's rental fee and related production costs for the purpose of increasing the amount of cultural activities in Miami Beach's North Beach community. They are included in the \$627,676.04 aforementioned awarded grant amounts but they are fully payable to the grantee in their second annual payment only upon completion of the designated events. Fourteen applicant groups initially qualified for the "Byron Bonus" in the 2010/11 fiscal year but only eight (Tigertail Productions, Florida Dance Association, etc.) have actually satisfied the requirements to date.

Resolution No. 2010-27517 also included four programs (15th Brazilian Film Festival of Miami, XVI International Ballet Festival of Miami, 13th Annual Miami Gay & Lesbian Film Festival in Miami Beach and VI Sicilian Film Festival) 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 2880 dated 11/02/10. These four 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 2010/11 fiscal year due to budget constraints. Yet, the endowment's 09/30/11 balance held in a restricted cash account increased by \$18,974.68 to \$1,567,438.64 from the prior fiscal years ending balance of \$1,548,463.96 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 was 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 2011, the total amount in the Colony Theater Trust account was reduced from \$143,140 to \$75,740 as \$67,400 was transferred in January 2011 by the City 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 that 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:

- The Patrons of Exceptional Artists received \$450 more in grant monies than authorized by the City Commission.
- Three sampled grantees that submitted either incomplete or late documentation (IRS tax exempt letters, IRS form 990s, certified financial statements, cancelled checks and final reports) still received the full second City grant payment.
- Inaccuracies were noted in the number of grants awarded and the number of grants issued performance measures reported in the City's Environmental Scan and performance management software.

PURPOSE

To determine whether the Cultural Arts Council complied with tested requirements set forth by the City Commission during the 2010/11 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 and performance management software.

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.

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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 and performance management software are accurately calculated and properly supported by source documentation.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding – *One Grantee, Patrons of Exceptional Artists, Received \$450 More in Grant Payments than Approved by the City Commission*
 Fifty-two organizations were awarded grant monies totaling \$627,676.04 for the 2010/11 fiscal year by the City Commission's ratification of Resolution No. 2010-27517. These authorized grant recipients were to receive half their funding upon submittal and approval of the required documents with the remaining half upon completion (excluding the \$2,000 "Byron Bonus" which is included only in the second grant payment). 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.

The Grants and Operations Administrator maintains an Excel spreadsheet to record all Cultural Arts Council or CAC grant payments. Among other information, it lists the grant program, the amounts awarded, the date the checks are requested and the amount of the two payments. Internal Audit compared this spreadsheet's data with the actual payments recorded in the City's Financial System general ledger account number 140-6080-000349 for all fifty-two grantees and found that the Patrons of Exceptional Artists received \$450 more than the \$12,558 approved by the City Commission as shown below:

<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
2878	10/28/10	\$ 6,729
3027	08/30/11	<u>\$ 6,279</u>
Total		\$13,008

This overstated first payment of \$6,729 was incorrectly listed on the aforementioned Excel spreadsheet as \$6,279. The Grants and Operations Administrator subsequently notified the grantee of the mistake and informed them that their second 2011/12 fiscal year grant payment will be reduced by \$450.

Recommendation(s):

The Grants and Operations Administrator's maintained Excel spreadsheet should accurately reflect each grant payment made to eligible organizations. In addition, someone other than the Grants and Operations Administrator, who is independent of the reviewing and approving process, should reconcile this Excel spreadsheet with the

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payments recorded in the City's Financial System and investigate any differences. Finally, the Patrons of Exceptional Artists next grant payment should be reduced by \$450.

Management's Response:

Management understands that a clerical error was made and agrees with the recommendation above.

2. Finding – *Submitted Supporting Documentation Does Not Fully Satisfy Tested Grant Requirements*

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 maintains separate grantee files of all submitted documentation which must be approved for sufficiency before a Request for Direct Payment is prepared authorizing the City's Finance Department to issue a check to the grantee.

Ten of these fifty-two grantees' files or 19.23% totaling \$123,135.95 or 19.62% of the \$627,676.04 in awarded grants were randomly selected for review with at least one nonprofit organization chosen from each of the designated programs (Cultural Anchors, Cultural Presenters, etc.). In doing so, the following deficiencies were noted:

- a. The Wolfsonian – FIU's file contain an Internal Revenue Service letter dated 05/06/04 which is well after the 01/01/08 Miami Beach Cultural Arts Council's or CAC's desired date. Internal Audit's further review of the State of Florida Division of Corporation's website properly found that all ten sampled grantees were currently active Florida nonprofit corporations.
- b. The CAC requires each grantee to submit either their most recent completed Internal Revenue Service form 990 or certified financial statements. All ten tested grantees complied except for the Wolfsonian – FIU as no financial documentation was found upon review of their provided files.
- c. Grantees are required to categorize all receipts, invoices and cancelled checks (front and back copies), etc. according to the approved grant budget. However, the Wolfsonian – FIU substituted a screen print from their financial system in place of cancelled checks which does not provide the same level of assurance that the listed amounts were actually paid.
- d. Section 8 of the signed grant agreement requires the grantee to include the City of Miami Beach logo and the following credit line in all publications related to this grant: City of Miami Beach, Cultural Affairs Program, Cultural Arts Council. Failure to do so may preclude future grant funding from the City. Yet, review of The Playground Theatre's provided brochures found that they only included the credit line but not the City logo.

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- e. 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. Many grantees' programs have a September 30th completion date which means that their final report's due date is November 15th.

Unlike the Cultural Grants and Operations Administrator which time/date stamps the grantees' final reports upon submittal, the Miami Beach Visitor and Convention Authority or VCA manually records the date received. A comparison of the final reports' due dates with the listed received dates found that three sampled grantees had submitted these documents late or after the due date ranging from a low of 42 days (13th Annual Miami Gay & Lesbian Film Festival) to a high of 163 days (Clarita Filgueiras – Flamenco Puro, Inc.).

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. Despite more severe warnings in the 2010/11 fiscal year of the need to comply with listed deadlines, Internal Audit's random sample had one more grantee submitting late than in last year's similar audit.

Recommendation(s):

The Cultural Affairs Division should more closely scrutinize the documents received and compare them to the maintained checklist to help ensure that all required items are received and are complete. The grantee's second payment should be withheld until any items required in the signed agreement deemed missing (financial statements, cancelled checks, etc.) are subsequently received. If the grantees don't fully comply by the previously agreed upon due dates, then their funding should be reduced accordingly in accordance with provisions added to future grant agreements.

The implementation and enforcement of these practices 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.

Finally, 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.

Management's Response:

- a. Wolfsonian-FIU is part of the larger FIU "family" and therefore does not have its own 501(c)(3) letter. The letter obtained is the only document FIU Administration stated could be provided. Cultural Affairs Program staff also reviewed the State of Florida Division of Corporations website to confirm their not-for-profit status and will insist on an updated version for the coming Fiscal Year.
- b. Staff acknowledges the oversight with regard to Wolfsonian-FIU. Staff will include language in future Grant Guidelines specifying that the request for IRS 990s be

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dated within the last two years and will work to ensure that all organizations are compliant.

- c. As in prior years and due to the nature of the grant program (Cultural Anchors) Wolfsonian-FIU may use their grant funding for general operating expenses. Also as in previous years, they spend grant funds on the hiring of security guards and in doing so, submit the spreadsheet listing payments made. Cultural Affairs Program staff has deemed this documentation sufficient in the past, but going forward will insist on receiving cancelled checks and/or bank statements providing 3rd party proof of their transactions.
- d. Staff noted and informed The PlayGround Theater of the error.
- e. Cultural Affairs Program Staff remains committed to the task of providing cultural programming to the residents and visitors of Miami Beach. In doing so, extra effort on the part of the Grants and Operations Administrator is sometimes necessary in order to secure all of the documents to complete the final report.

3. 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 fiscal year since grantees may withdraw or be denied funding due to not fulfilling all the 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. The following figures were reported for the two tested measures reported annually in the City's Environmental Scan last updated on 05/19/11:

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	55	55	0	\$630,000	\$630,000	\$0

A comparison of the figures reported above in the Environmental Scan with those similarly reported in the City's performance measurement found the following:

- The number of grants awarded measure reported in the City's performance measurement software is correct but the Environmental Scan contained the three listed incorrect entries for the 2003/04, 2005/06 and 2006/07 fiscal years.
- The grants awarded amounts measure reported in the City's Environmental

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- Scan and performance measurement software were correct.
 • The 2010/11 figures omitted in the Environmental Scan were accurately reported in the City's performance measurement software.

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	47	51	-4
2004/05	46	46	0
2005/06	46	46	0
2006/07	49	49	0
2007/08	36	36	0
2008/09	43	43	0
2009/10	54	54	0
2010/11	52	51	-1

After completing our review of the above measures for the specified fiscal years, 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
Performance Management Software	# of grants Issued	Certified with Qualifications

Recommendation(s):

The identified incorrect or missing figures for the measures reviewed above and reported in the City's Environmental Scan and/or performance measurement software 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/or the adopted budget book are identical and correct going forward.

Management's Response:

Staff has reviewed these figures several times over and has made changes to the various systems software in hopes of clearing up any discrepancies. Additionally, staff was asked to and met with Audit specifically to review the years in question and provided documentation including spreadsheets and Commission Resolutions to substantiate the data on record. Audit and TCD Staff agreed that this documentation resolved any outstanding issues with regard to "differences" in the fiscal years in question.

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It should be noted that many attempts have been made to accurately enter data. That the documents used to measure this data continue to report inaccuracies should not reflect negatively upon staff that made efforts in good faith to correct all entries.

EXIT CONFERENCE

An exit conference was held on April 10, 2012 and the participants included Max Sklar (Cultural Arts and Tourism Development Director), 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: 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).