

MIAMI BEACH

OFFICE OF INTERNAL AUDIT

INTERNAL AUDIT REPORT

TO: Jimmy L. Morales, City Manager
FROM: James J. Sutter, Internal Auditor 
DATE: August 24, 2017
AUDIT: Miami Beach Cultural Arts Council Audit
PERIOD: October 1, 2015 to September 30, 2016

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, 2015 through September 30, 2016. 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 titled "Cultural Arts Council," and determine whether grants were awarded in accordance with the Program Guidelines and Eligibility Requirements. During the audit period, \$798,000 in grant monies was awarded to 47 applicants as approved by Resolution # 2015-29141.

INTRODUCTION

The City Commission passed Ordinance No. 97-3075 on March 5, 1997 thereby creating the Miami Beach Cultural Arts Council (CAC). The CAC consists of 11 members appointed at large by a majority vote of the Mayor and City Commission. The CAC 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 \$13 million in cultural grants.

Staff from Cultural Affairs, a division of the City's Tourism, Culture and Economic Development Department, in conjunction with the CAC has 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.

In order for applicants to qualify for the grant program, they 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 (i.e. IRS Form 990, organizational chart, etc.) by the established grant program deadlines.

The grant program offers six (6) different categories including Anchors, Junior Anchors, Cultural Heritage, Cultural Presenters, Artistic Disciplines, and Cultural Tourism. Award amounts range from \$10,000 to \$35,000 depending on the annual organizational budget of the applicant and the grant program category.

CAC program grants are fully 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 fifteen percent to funding for arts (i.e. CAC). 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. During the audit period, October 1, 2015 through September 30, 2016, a total of \$1,368,925 was appropriated to the CAC. Of these monies, \$798,000 was awarded to 47 applicants during the 2015/16 fiscal year through the City Commission's subsequent ratification of Resolution No. 2015-29141.

OVERALL OPINION

The Miami Beach Cultural Arts Council (CAC) has properly followed the guidelines established by the City Commission as to their purpose. Program files were well organized for each tested grantee and sufficient documentation was present confirming that funded programs were staged. Based on the results of our audit, we noted that certain procedures and internal controls require enhancements due to the following deficiencies:

- Documentation provided by some grantees was not in compliance with the requirements of the Program Guidelines and Application Instructions;
- Procedures for the reimbursement of grants were not properly applied, resulting in under/overpayments to grantees; and
- Lack of supporting documentation and improper review of grantees' Final Reports resulted in a reduction of grant awards.

SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to evaluate whether the Miami Beach Cultural Arts Council (CAC) complied with the provisions set forth in Chapter 2, Article III, Division 6 of the City Code titled "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, 2015 through September 30, 2016, 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 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, 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 Internal Audit Division 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 Division 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) All itemized in-kind contributions. In-kind contributions may not exceed 25% of the total organizational budget and total cash project budget.
- f) Minimum \$1 to \$1 funding match, through cash, in-kind, or a combination of both (not applicable to Anchors).
- g) Project must be presented in the City during the period of 10/01/15 and 09/30/16.
- h) Project must be accessible to the public.
- i) City logo must be displayed when project is presented to the public.

Applications are submitted online, through the City's Cultural Affairs Program On-Line Application Web Site, at which time applicants must attach the required documentation

Internal Audit Report
Miami Beach Cultural Arts Council Audit
August 25, 2017

(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.).

We reviewed 18 of the 47 Miami Beach Cultural Arts Council (CAC) grantees who were awarded \$290,300 (or 36.38%) of the \$798,000 total during the 2015/16 fiscal year, to determine their compliance with the grant program eligibility requirements. Based on our review of these 18 grantees' files, we noted the following deficiencies:

- Six (6) grantees did not submit their application corrections by the required due date. The number of days late ranged from a low of 4 days to a high of 40 days with an average of 10 days.
- For two (2) grantees the 501(3)(c) Tax Exempt Status letter provided was not dated within the allowed two-year period as they were dated between January and May 2012.
- Twelve (12) grantees did not comply with the IRS Form 990 requirements, as follows:
 - Eleven (11) provided the Form; however, it was not signed.
 - One (1) grantee provided a letter indicating that the Form would be filed with the IRS; however, it has not been provided to the City to date.
- Three (3) grantees did not provide the required staff lists with brief biographies.
- One (1) grantee did not provide the required current board membership.
- For two (2) grantees the in-kind contribution was greater than the 25% maximum. For one (1) grantee, the contribution was 33.52% of the Total Cash Project Budget while for the other; it was 25.22% of the Total Organizational Budget and 36.47% of the Total Cash Project Budget.

These exceptions occurred due to lack of proper supervisory oversight over the grant award review process. Not adhering to the program guidelines could result in an improper award and disbursement of grant funds.

In performing our testing, it was also noted that the financial section of the application, where grantees are required to provide their financial summary, project revenue budget, project expense budget, organizational budget, and in-kind detail, does not contain necessary data integrity controls. For example, instead of the system being designed to automatically pull data from pertinent sections of the application, grantees manually have to re-input the amounts used in calculations (such as the 25% in-kind contribution requirement). We noted several inconsistencies and inaccuracies within the financial section due to this lack of automation and appropriate controls, which resulted in two (2) of the exceptions noted above with mandatory performance measures.

Recommendation(s):

The City's Cultural Affairs Division should adhere to its established internal controls procedures to ensure that applicants comply with the Program Guidelines and Application Instructions and the terms of the Executed Grant Agreement.

In addition, since applicants may have only retained unsigned taxpayer's copies of the IRS Form 990 provided by their accountant, we recommend that the "Signed IRS Form 990" requirement under the Staff Consultation portion of the Grant Program Guidelines

and Application Instructions-Eligibility Requirements be eliminated, instead updating it to require the organization's IRS Form 990 filed within a two year period, similar to the requirements of the 501 (c)(3) requirement, as indicated in the Application Checklist portion.

Furthermore, we recommend that the City's Cultural Affairs Division consult with the Information Technology Department and/or the application website service provider to enhance the financial section of the on-line application system, to allow for the data to be automatically pulled from the pertinent sections and to automatically calculate the in-kind contribution percentage, in order to make the process less prone to errors and less time consuming during the review process.

Management's Response (Cultural Affairs Division):

The Cultural Affairs Division concurs with the recommendations. Beginning next Fiscal Year (2018-19), the Cultural Affairs Division will offer a series of professional development workshops led by industry leaders who specialize in assisting non-profit and performing arts organizations with capacity building. This series will provide grantees strategic and creative services, as well as innovative management strategies. Attendance will be a mandatory requirement of all applicants to the program. Regarding the application corrections period deadlines, extensions may be granted at Staff's discretion, however for future awards, staff will document the written approval of any extensions granted. As for the Grant Program Guidelines and Application Instructions-Eligibility Requirements, said will be updated as it relates to the requirements of the IRS Form 990. Staff is currently working with the online grant software provider to require the on-line application system to implement a check point that would not allow grantees to begin the application process until a signed IRS Form 990 and 501 (c)(3) is submitted and approved by staff. The software enhancements would also include data controls that would not allow organizations to input line items that exceed maximum in-kind contributions.

2. Finding: *Procedures for the Reimbursement of Grants were not Properly Applied Resulting in Under/Overpayments to Grantees*

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, Cultural Presenters, and Artistic Disciplines) 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.
 - a) \$10,000 for proposed project budgets under \$100,000
 - b) \$20,000 for proposed project budgets at or above \$100,000

Internal Audit Report
Miami Beach Cultural Arts Council Audit
August 25, 2017

3. Artistic Disciplines: arts and cultural organizations whose primary mission is to create and present work in dance, music, theater, film and visual arts categories.
 - a) \$10,000 for proposed project budgets under \$100,000
 - b) \$20,000 for proposed project budgets at or above \$100,000

As per City Resolution 2015-29141, a total of \$798,000 was awarded to 47 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 within 45 days after the project end date, or November 15th for projects ending on September 30th. The second half payment may also include an additional \$2,000 Fresh Air Bonus given to grantees that held outdoor events in the City.

Although 47 applicants received grant awards, two (2) did not sign the grant agreement and were therefore ineligible to receive grant monies. Testing was performed on the 45 remaining approved 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, the Cultural Affairs Division incorrectly issued an additional payment resulting in an overpayment of \$9,996.
- As of February 2017, 25 grantees had not been issued the second half payments totaling \$240,963 (or 64% of the second-half payments awarded).
- For one (1) grantee the first half payment was approved; however, the payment was never issued. Further research found that the 2014/15 fiscal year second half payment was never issued which means that the first half payment of 2015/16 should not have been approved until the grantee had satisfied all the requirements of the prior fiscal year. If grantee complied with the terms of the Grant Agreement and of the Final Report, payment is due to the grantee.

It was noted that these exceptions occurred due to lack of enforcement as it relates to Final Reports' deadlines, lack of timely review of grantees' Final Reports to process issuance of second half payment disbursements, and lack of proper supervisory oversight over the grant payment disbursement process. In addition, Cultural Affairs Division staff maintains an Excel spreadsheet to track payments made to the grantees; however, we noted instances whereby payments indicated as issued where not in fact issued to the grantee, and another instance where the grantee was incorrectly issued an additional payment. Further complicating matters is that no one is currently tasked with reconciling this Excel spreadsheet to the actual grant payments recorded in the City's Financial System.

Finally, as a result of the way in which the payments are being tracked through the Excel spreadsheet, the total amount accrued at the end of fiscal year 2015/16 was understated by \$18,571; the journal entry made should have been for a total of \$367,892 rather than the recorded amount of \$349,321.

Recommendation(s):

It is recommended that the Cultural Affairs Division staff revise the Excel spreadsheet (used to track payments made to grantees) to include additional information such as the check number and the check date in order to avoid missing or issuing additional payments to grantees. Additionally, it is recommended that a staff member be tasked with reconciling the grant payments recorded in the City's Financial System to the applicable City Resolution and the Excel spreadsheet to better ensure their completeness and accuracy. Also, Cultural Affairs Division staff should ensure that no current year grant payments are issued until all prior years' grants have been satisfied.

In addition, it is recommended that the Cultural Affairs Division better enforce the Final Reports' deadlines and include a provision to the Program Grant Agreement whereby failure to submit a Final Report within the established deadlines may result in a forfeiture of part or total remaining grant amount. It is also recommended that the City's Cultural Affairs Division ensure that Final Reports are reviewed and approved timely so that the final payment (i.e. second half payment) can be remitted within the fiscal year, or by December 31st for those completing the projects by September 30th whenever possible.

Lastly, the Cultural Affairs Division staff should consult with the Finance Department regarding the understated accrued amount for the 2015/16 fiscal year.

Management's Response (Cultural Affairs Division):

The Cultural Affairs Division concurs with the recommendations. As for the additional payment issued to one (1) grantee the \$9,996 will be deducted from their FY16-17 grant award. In addition, staff will review and update the Excel spreadsheet used to track the payments made to the grantees and will request access and training to the Munis System. Payment requests for outstanding balances due to FIU-MBUS will be thoroughly reviewed and submitted in date order. Lastly, regarding the Final Reports' deadlines, staff recognizes receipt of Final Reports past the 45-day project completion; however, we feel that the second half of the grant award should not be denied due to a delayed Final Report if the contracted work was completed, unless the required documentation is not provided. Moving forward, staff will require grantees to submit a substantially complete Final Report within the 45-day deadline to avoid jeopardizing funding to the organization.

3. Finding: *Lack of Supporting Documentation and Improper Review of Grantee's Final Report Resulted in a Reduction of Grant Awards*

Article II of the City's Cultural Affairs Program Grant Agreement, titled "General Conditions," states that the grantee may only use the grant for the purposes that are specifically described in the Project Description. Line item changes to the Project Budget shall not exceed ten percent (10%) per category, and shall, in no event, exceed the total amount of grant funds. Amendments to the itemized Grant Award Budget shall not be permitted without the prior written consent of the Cultural Affairs Program Manager. In addition, it 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, invoices and checks must be dated within the fiscal year for which grant was

Internal Audit Report
Miami Beach Cultural Arts Council Audit
August 25, 2017

awarded, etc.) The Final Report must be received by the Cultural Affairs Program Manager within 45 days of the Project's completion. Grantees completing their Project by the end of the Fiscal Year, or September 30, must submit their Final Reports 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.

Furthermore, as discussed in Finding 2 above, grantees receive 50% of the award upfront (first half payment) and the remaining 50% (second half payment) at the end of the project, upon submission and approval of the Final Report. It is possible that a grantee could receive upfront monies for which inadequate support is later provided, in which case originally budgeted expenses would be unsupported, consequently disallowed, and thus monies owed to the City.

We tested 18 grantees' (or 40%) Final Reports, to determine whether they complied with the requirements set forth in the Grant Agreement, and that reviewed grant expenses were allowable and appropriately paid. Based on our examination of the Final Reports, invoices, and payment support provided by the grantees, we noted the following deficiencies:

- Seven (7) grantees had disallowable expenditures resulting in a \$37,540 reduction of grant awards and \$17,960 due to the City for the following reasons:
 - One (1) grantee did not provide documentation (i.e. invoices/receipts, canceled checks) to account for the total originally allocated to the grant expense budget category.
 - Three (3) grantees did not provide invoices and/or proof of payments for line item expenses. Furthermore, some of the invoices provided were for the purchase of items related to the operation of the organization (e.g. cleaning supplies, cleaning equipment, etc.), which are not an allowable use of grant funds.
 - For three (3) grantees, invoices and/or payments were dated outside the 2015/16 fiscal year. As per the Grant Guidelines and Application Instructions both the invoice and payment must be dated within the fiscal year for which they are approved.
- One (1) grantee had changes to the line items greater than 10% of the original grant budget, which were not approved by CAC, as required.
- Seven (7) grantees submitted their Final Reports late, ranging from 2 days to 155 days late, for an average of 46 days late.

In addition, as part of our follow-up to determine whether the CAC had corrected the deficiencies noted during last year's audit regarding four (4) grantees which did not provide the required documentation to satisfy disbursement of the grant monies awarded, we noted that no additional documentation had been received. As a result, \$3,008 is due to the City from these four grantees.

In summary, these exceptions occurred due to inadequate scrutiny of grantees' Final Reports and lack of proper supervisory oversight over the grant payment disbursement process.

Recommendation(s):

The Cultural Affairs Division should adhere to its established internal control procedures to ensure adequate scrutiny of grantees' Final Reports and disbursement of the grants payments. In addition, as a result of the disallowed expenditures, it is recommended that the Cultural Affairs Division collect any monies due; and reduce or not issue second half payments to the grantees noted above accordingly, unless additional support (i.e. invoices, cancelled checks) is submitted to satisfy requirements of the Final Report.

Management's Response (Cultural Affairs Division):

The Cultural Affairs Division concurs with the recommendation. As it relates to the missing invoices/payments, staff has contacted the grantees at fault in order to obtain the necessary documentation. If grantees are not able to provide said requirement, funding from their current FY 16-17 grant award will be reduced to reflect the pending expenses. In regards, to invoices/payments dated outside the grant award fiscal year, the Program Guidelines and Application Instructions for FY 16-17 has been updated to allow grantees to include invoices/payments outside of the grant award fiscal year, provided the expense is directly related to the approved project that is being produced. Moving forward, staff is instating a new policy that will require grantees to submit proof of the required dollar-to-dollar match prior to the disbursement of each grant payment. It should be noted that this requirement is not retroactive and will be implemented for the FY 2018-19 grant cycle.

EXIT CONFERENCE

An exit conference was held which included participants Cultural Affairs Program Manager Brandi Reddick, Grants and Operations Administrator Mary Heaton, Internal Auditor James Sutter, Assistant 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.

JJS:CV:cv

Audit performed by Auditor Coral Vivolo

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cc: Kathie G. Brooks, Assistant City Manager
Eva Silverstein, Tourism, Culture and Economic Development Department Director
Brandi Reddick, Cultural Affairs Program Manager
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