



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General

DATE: November 8, 2023
PROJECT: Miami Beach Cultural Arts Council Audit
OIG No. 22-22
PERIOD: October 1, 2019 – September 30, 2020 (2019/20 fiscal year)

The City of Miami Beach Office of the Inspector General (OIG) completed this 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, 2019, through September 30, 2020. This audit was performed to determine whether the CAC and City Tourism and Culture Department Cultural Affairs Division staff 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 grant funds were awarded and disbursed in accordance with the Program Guidelines and Application Instructions (Program Guidelines) and other pertinent documentation.

INTRODUCTION

The March 5, 1997, adoption of Ordinance No. 97-3075 created the CAC, which consists of eleven members appointed at large by a majority vote of the City Commission. The CAC was created to develop, coordinate, and promote the visual and performing arts in the City of Miami Beach 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.

In conjunction with the CAC, the Cultural Affairs Division staff annually reviews applications received for the Cultural Arts Grant Program, ensures applicants meet the eligibility criteria, and provides award recommendations.

Applicants must be nonprofit, Section 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. These organizations must complete the required application and timely provide all required documentation (i.e., Internal Revenue Service (IRS) Forms 990, organizational charts, and bios of staff) under established grant program deadlines.

The 2019/20 fiscal year grant program comprised two primary categories, Cultural Anchors and Cultural Presenters. Within the Cultural Presenters category, were the following seven sub-categories: Film, Visual Arts, Theater, Multi-Disciplinary, Dance, Music, and Opera.

Award amounts for Cultural Anchors ranged from \$25,000 to \$35,000, depending on the annual organizational budget of the grantee. Although there is no funding cap in the Program Guidelines related to Cultural Presenters, applicable grantees received awards ranging from \$9,027 to \$19,505 during the 2019/20 fiscal year. The amounts of awarded grants are based primarily on the presented projects and the application scores of the grantees.

CAC program grants are funded through Resort Tax revenue, which includes an allocation of funding for the arts. During the audit period, \$850,000 was initially appropriated to the CAC to continue the implementation of its programs. These funds were awarded to 46 applicants through the City Commission's ratification of Resolution No. 2019-31004. The awarded grant funds were subsequently revised to a total allocation of \$845,038 upon the adoption of Resolution No. 2020-31164, resulting in a savings of \$4,962.

Due to the COVID-19 pandemic, the grantees and the City signed an Amendment to the Grant Agreements in February and March 2021, which included the following:

- Paragraph 3 of Section 3 (Budget) of Article II/General Conditions was modified as follows: Grant award budget "shall not exceed the total amount of Grant funds," while previously the agreement stated that the budget, "shall not exceed ten percent (10%) per category and shall in no event exceed the total amount of Grant funds."
- In cases where grantees were "not able to fulfill the programmatic activities by December 31, 2020, Cultural Affairs Division staff would consider allowable expenses to include indirect or general operating costs related to the operation of the organization."
- The final paragraph of Section 2b (Modifications) states, "Any changes to the programming will be approved by Cultural Affairs staff on a case-by-case basis. Grantee should make all attempts to reschedule programming or provide alternative programming solutions, such as live streaming."

OVERALL OPINION

The Program Guidelines, Grant Agreements, Final Reports, and other related grant documents contain strict requirements, often with no exceptions, that are to be timely satisfied for the grantee to be eligible to receive funding. If not, disciplinary actions may be enforced by Cultural Affairs Division staff, including disqualification and loss of funding.

In this audit and in prior audits, Cultural Affairs Division staff have opted to give noncompliant grantees leeway in meeting some grant requirements, such as additional time to comply and acceptance of substitute but occasionally nonconforming documentation. Available disciplinary actions have often gone unenforced in an effort to help promote the arts and to encourage 501(c)(3) organizations to schedule artistic events/activities in Miami Beach. Although this may be well-intentioned and justifiable, it may impede timely prospective compliance by grantees and could lead to some ineligible organizations receiving grant funding.

The OIG recommends that the City re-evaluate the grant process for cultural arts to determine the objectives of the grant program and consider whether the grant documents should be revised

and made less strict. More explicit provisions, such as permitting Cultural Affairs Division management to extend deadlines or make other exceptions for grantees, would at least clarify the degree of leeway that grant applicants may expect and that auditors should consider. Without more explicit direction, confusion will remain regarding what actions are permissible.

After comparing the documentation present in sampled grant files and Go Smart software¹ with the requirements in the executed grant documents, the OIG identified the following shortcomings that merit some corrective action:

1. No evidence of any documented and approved internal Standard Operating Procedures detailing the grant funding process were provided to the OIG Auditor, and one grant award varied from the identified applied formula without a documented explanation.
2. Grantees that were noncompliant with some tested eligibility requirements in approved Grant Applications were not disqualified and were awarded funding contrary to Program Guidelines.
3. No disciplinary actions were enforced against grantees that did not comply with established deadlines in the Grant Agreements and Amendments.
4. Supporting documentation for expenditures submitted by some grantees was insufficient to comply with Grant Agreement provisions.
5. Changes were made to programming without the required documented advance approval from the Cultural Affairs Division.
6. One sampled grantee's publications and credits did not contain the required City of Miami Beach logo.

SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to evaluate whether the CAC and Cultural Affairs Division staff complied with selected provisions in Chapter 2, Article III, Division 6 of the City Code. In general, the audit focused on the following objectives:

- To determine whether sampled applicants met the eligibility requirements of the respective grant category for which they applied.
- To determine whether grantees' reimbursed amounts were within the maximum allowed for Cultural Anchors and did not exceed the totals approved by the City Commission.
- To determine whether sampled grantees complied with the requirements set forth in the Grant Agreements and Final Reports.
- To determine whether tested remitted grant payments and fiscal year-end accrual of non-disbursed awarded grant funds were accurately recorded in the City Financial System.

¹ The website gosmart.org states, "GO Smart is an easy to use, time-saving, and affordable online grants management system that was designed for arts administrators by art administrators." Cultural Affairs Division staff use GO Smart software to administer various functions of the grant program.

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

The audit methodology included the following:

- Reviewed applicable provisions of the City Charter and Code of Ordinances and departmental Standard Operating Procedures;
- Interviewed and made staff inquiries to understand 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 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 RESPONSES

1. ***NO EVIDENCE OF ANY DOCUMENTED AND APPROVED INTERNAL STANDARD OPERATING PROCEDURES DETAILING THE GRANT FUNDING PROCESS WAS PROVIDED TO THE OIG AUDITOR, AND ONE GRANT AWARD VARIED FROM THE APPLICATION FORMULA WITHOUT A DOCUMENTED EXPLANATION.***

City Code Section 2-53, Purpose (2) states: *The cultural arts council shall have the purpose of developing, coordinating and promoting the performing and visual arts in the city for the enjoyment, education, cultural enrichment and benefit of the residents of and visitors to the city. In furtherance of this purpose, the council shall attempt to accomplish the following objectives:*

(2) Develop and establish criteria and guidelines for review and funding of qualified not-for-profit arts organizations, as such shall be approved by the mayor and city commission.

The Cultural Affairs Division is to maintain documented Standard Operating Procedures (SOPs) that detail staff's duties in the grant funding process. Established SOPs help provide more certainty that taxpayer funds are used effectively and responsibly. SOPs are essential as they also promote the following:

- Accountability - providing a clear framework for how the agency operates and manages funds.
- Efficiency and Consistency - employees know what is expected of them and how to carry out their duties, ensuring that transactions are processed similarly.
- Compliance - helping follow applicable regulations and laws reduces the risk of legal or ethical violations.
- Risk Management - providing guidelines for managing potential risks and identifying areas of vulnerability, minimizing the risk of financial losses or other negative consequences.

Despite multiple requests from the OIG Auditor for the criteria, guidelines, and SOPs related to the grant funding of eligible applicants, the Cultural Affairs Division did not provide documentation of any such standards; therefore, it may be assumed that none exist.

The OIG Auditor determined that the CAC typically awarded 88% of fund requests to Cultural Anchors and 83% to Cultural Presenters based on its assigned scores during the 2019/20 fiscal year. The CAC reviewed all submitted Grant Applications and assigned each organization a score ranging between 0 and 100. An application must score a minimum average of 80 points or higher to be eligible to receive funding.

Although grant fund recommendations to Cultural Anchors were consistently applied following the formula in the application, one Cultural Presenter (South Beach Chamber Ensemble Inc.) received \$3,151.57 more than the 83% applied to the other Cultural Presenters. The Tourism and Culture Department (TCD) provided July 11, 2019, CAC meeting minutes included this higher grant award in its listing of approved awards subsequently adopted by the City Commission. However, the minutes did not explain the reasons regarding the awarding of additional monies to the South Beach Chamber Ensemble Inc. and not to other applicants.

Recommendation(s):

Pursuant to City Code Section 2-53, Purpose (2), the CAC must develop and establish criteria in the form of approved SOP detailing its role and staff's duties in the grant funding process and the methodology used to distribute funds to grant requestors. Any prospective deviations from the established criteria, guidelines, or SOPs should be sufficiently documented with evidence of proper approval before being submitted to the City Commission for approval.

Tourism and Culture Department Response:

The Cultural Anchors and Cultural Presenters Grant Guidelines were provided to the Office of the Inspector General via email correspondence dated July 9, 2021. Grant Guidelines and Criteria are released in January of each year. Currently, grant funding is determined by a formula that calculates grant funding request (x) grant score (x) % of available funding. The Cultural Arts Council has established a rubric that evaluates grantees based on various criteria including, but not limited to, cultural impact, social and community impact, economic impact and diversity of programming. Grantees are scored individually as part of an extensive review process conducted by the Cultural Arts Council. Due to the diversity of grant applicants, implementing an "across the board" weighted average score for grantees would result in significantly different and unfair valuations. Staff will create an SOP detailing staff responsibilities and include calculations by which grant funds are awarded.

On July 11, 2019, the Cultural Arts Council recommended South Beach Chamber Ensemble receive \$3,151.57 in additional funding based on the organization's increased offering of free programming throughout the City. Although the minutes indeed reflect an increase to funding, it did not reflect the discussion by the CAC. To ensure greater transparency in the minutes, meetings are recorded and archived on Teams. Subsequently, the funding recommendation was approved by the Mayor and City Commission via Resolution No. 2018-30499, which included South Beach Chamber Ensemble.

OIG Reply To Tourism and Culture Department Response:

Although TCD staff provided the Grant Guidelines to the OIG Auditor, it is important to emphasize that the audit finding is based on the absence of documented SOPs detailing the grant funding process. The provided Grant Guidelines do not sufficiently explain the grant funding process, including the calculations involved and the responsibilities of each party.

For this reason, the OIG recommends the creation of a documented SOP, approved by department management, that comprehensively outlines the grant funding process. Once finalized and approved, it should be consistently followed by all staff. Any deviations from the established criteria, guidelines, and/or SOPs should be documented and approved by departmental management before being submitted to the City Commission for approval.

The above response received from TCD acknowledges that South Beach Chamber Ensemble Inc. received an additional \$3,151.57 in grant funding without providing a corresponding explanation in the meeting minutes. Although CAC meetings are recorded and archived on Microsoft TEAMS, the OIG Auditor was not informed of or provided access to these recordings during the audit process. TCD staff only furnished the meeting minutes, which contained the total approved funds awarded to each grantee, but not the rationale for any differences from the established formula, to provide greater transparency for such decisions.

Going forward, it is recommended that TCD staff timely provide all documentation during the audit process to support its position. It is also recommended that the approved meeting minutes sufficiently summarize the discussion and rationale behind grant award decisions, especially those that deviate from the established formula.

2. ***GRANTEES THAT WERE NONCOMPLIANT WITH SOME ELIGIBILITY REQUIREMENTS IN APPROVED GRANT APPLICATIONS WERE NOT DISQUALIFIED AND WERE AWARDED FUNDING CONTRARY TO PROGRAM GUIDELINES.***

Cultural Affairs Division staff determine the eligibility of grantees based on comparing the furnished documentation with the related requirements in the Program Guidelines. Applicants submit the required documentation in the GO Smart software. The Program Guidelines state, "Applicants must meet all application requirements, including deadlines, or the application should be disqualified."

The OIG examined the Grant Applications and supporting documentation submitted by the following randomly sampled seven Cultural Anchors and 15 Cultural Presenters, stratified to ensure that at least one organization was selected from each category and sub-category, to determine the eligibility of each to receive CAC grant funding:

Sampled Cultural Anchors: (1) Friends of the Bass Museum; (2) Miami Beach Urban Studios (MBUS-FIU); (3) Miami City Ballet; (4) New World Symphony; (5) The Holocaust Memorial Committee; (6) Rhythm Foundation; and (7) Miami Design Preservation League.

Sampled Cultural Presenters: (1) Center for the Advancement of Jewish Education (Jewish Film Festival); (2) Miami Gay and Lesbian Festival Inc.; (3) Fundarte; (4) University of Wynwood Inc. (O, Miami); (5) Juggerknot Theater Company; (6) Edge Zones; (7) The Opera Atelier; (8) Miami Hispanic Ballet Corp.; (9) The Dance NOW Ensemble Inc.; (10) Community Arts and Culture Inc.; (11) Miami Music Festival Inc.; (12) Patrons of Exceptional Artists Inc.; (13) South Beach Chamber Ensemble Inc.; (14) Ballet Flamenco La Rosa Inc.; and (15) Seraphic Fire Inc.

The OIG Auditor selected a sample representing 47.83% of the total grantees awarded CAC funding (22 sampled grantees / 46 total grantees). Examination of the Cultural Affairs Division documentation identified the following deficiencies from the tested criteria:

- a) Cultural Anchors and Cultural Presenters are required by the IRS to submit Form 990, reflecting the prior year's financial information by the 15th day of the fifth month following the organization's taxable year. For organizations on a calendar year, the Form 990 is due to the IRS on May 15th of the following year. Organizations may request an automatic six-month filing extension from the IRS for most Form 990s.

The grant file initially provided by the Cultural Arts Division for Community Arts and Culture included a letter from the IRS stating that the grantee must file either a Form 990, 990EZ, 990-N, or a 990-PF. The file also included a Form 990N (corporations not required to file) for the grantee's October 1, 2016, through September 30, 2017, fiscal year.

The grantee was required to file its applicable form with the IRS by February 15, 2019, for its October 2017 through September 2018 fiscal year, which is one week prior to the full Grant Application deadline of February 22, 2019. No other related documentation regarding a 990 form was found in the Community Arts and Culture grant file.

Afterwards, the OIG Auditor was provided with a Form 990EZ for the grantee's October 1, 2018, through September 30, 2019, fiscal year, which represents the following fiscal year, but it did not contain a date stamp verifying receipt by the IRS. Based on the reported fiscal year, it would have been provided well after the February 22, 2019, application deadline, and it is not related to the questioned October 2017 through September 2018 fiscal year.

- b) The Program Guidelines state, "Organizations which received funding from the Miami Beach Visitor and Convention Authority (VCA) during the same fiscal year are not eligible to apply." There are no exceptions provided for in the Guidelines. None of the sampled grant files contained evidence indicating that Cultural Affairs Division staff had verified whether the grantee received funds from the VCA prior to awarding funding.

The OIG Auditor then independently determined that the Miami Design Preservation League received funds from VCA Miami Beach Visual Memoirs Project, while concurrently receiving CAC grant funds, contrary to the Program Guidelines. Questioned VCA staff informed the OIG that no other sampled CAC grantees received funding from the VCA during the 2019/20 fiscal year.

- c) The Program Guidelines state that organizations must be registered as Lobbyists with the Office of the City Clerk before making any grant presentations to the Grant Panelists. No evidence was provided to the OIG Auditor indicating that Cultural Affairs Division staff verified whether any of the sampled grantees were registered as Lobbyists with the Office of the City Clerk during the 2019/20 fiscal year.

- d) The Program Guidelines require the submission of the grantees' Current Board Membership (with contact information). All the examined grant files contained a listing of Board members; however, Fundarte provided its listing as of October 15, 2020, indicating that it was submitted well after the full Grant Application resubmission deadline of March 8, 2019.
- e) The Program Guidelines require a staff list with a brief bio included for each staff member. Examination of the furnished grant files found all sampled grantees were compliant, except that Community Arts and Culture provided job descriptions of its staff and not the required bios.

Recommendation(s):

All relevant supporting documentation should be maintained in the Cultural Affairs Division grant files to provide a sufficient audit trail to expedite review by departmental supervisors, auditors, etc. The TCD Director or her designee should verify timely compliance with all stated grant requirements before any funds are awarded and/or disbursed. If not, the available disciplinary actions may be enforced against noncompliant grantees.

Tourism and Culture Department Response:

- a) As part of the grant process, staff accepts updated documents from grantees even if submitted past the grant deadline to ensure that each grant file is complete. Staff continues to assert that penalizing cultural organizations financially is in opposition to the purpose of the grant program and to standard cultural arts grant practices. In FY 19-20, cultural organizations experienced unprecedented revenue loss due to the COVID-19 pandemic. The majority of the CAC grantees are small organizations that were operating with significantly reduced staff and budgets as a result of COVID-19. As such, withholding or terminating payment to these organizations could abolish their operations. Cultural Affairs staff did not terminate, withhold or cancel payments to grantees in FY 19/20.
- b) Staff does not agree with this finding. Miami Design Preservation League received funding from the VCA through its Tourism Enrichment Program (TEP). This special initiative grant program is by invitation only and was developed by the VCA Board for projects in which the VCA seeks organizations to implement specific programs. The guidelines for the VCA Tourism Enrichment Program do not include funding restriction for organizations that are currently applying for or have received a grant from the Miami Beach Cultural Affairs Program. FY 19/20 Grant Guidelines for the TEP and correspondence with VCA staff are included.
- c) During FY19-20, staff was working to assist grantees during the COVID-19 pandemic. During this process, some grantees were using an online process for the first time and staff may not have documented all lobbyist registrations. As has always been practice, all organizations that apply for CAC funding must register as Lobbyists with the City Clerk's Office and staff now ensures verification is documented.
- d) As part of the grant process, staff accepts updated documents from grantees even if submitted past the grant deadline to ensure that each grant file is complete. Staff continues to assert that penalizing cultural organizations financially is in opposition to the purpose of the grant program and to standard cultural arts grant practices. In FY

19-20, cultural organizations experienced unprecedented revenue loss due to the COVID-19 pandemic. The majority of the CAC grantees are small organizations that were operating with significantly reduced staff and budgets as a result of COVID-19. As such, withholding or terminating payment to these organizations could abolish their operations. Cultural Affairs staff did not terminate, withhold or cancel payments to grantees in FY 19/20.

- e) As part of the grant process, staff would accept job descriptions, which may include bios and experience. Staff continues to assert that penalizing cultural organizations financially is in opposition to the purpose of the grant program and to standard cultural arts grant practices. In FY 19-20, cultural organizations experienced unprecedented revenue loss due to the COVID-19 pandemic. The majority of the CAC grantees are small organizations that were operating with significantly reduced staff and budgets as a result of COVID-19. As such, withholding or terminating payment to these organizations could abolish their operations. Cultural Affairs staff did not terminate, withhold, or cancel payments to grantees in FY 19/20.

OIG Reply to the Tourism and Culture Department Response:

This audit finding highlights some deficiencies in the grant award process that need to be addressed to ensure transparency and adherence to Program Guidelines, which among other benefits, help serve as the framework for the fair and equitable distribution of taxpayer funds to eligible cultural organizations. Failure to enforce its established terms can lead to a lack of accountability and undermine the grant program's integrity. Also, transparency is paramount in any process involving taxpayers' money. Applicants and the cultural organizations awarded grant funding should be held to the same standards. Exceptions to these standards may be justifiable in some circumstances, e.g., difficulties related to the COVID-19 pandemic, but should always be properly documented and approved by management in support of such exceptions.

While the OIG fully understands TCD's intention to support cultural organizations during challenging times and its willingness to accept documents from grantees past the designated deadlines, balancing flexibility and adherence to established deadlines is essential. Failure to do so without proper justifying documentation can lead to unfair advantages for some organizations and undermine the competitiveness of the grant process.

Furthermore, similar findings were made regarding grant programs examined in previous CAC annual audits completed prior to the challenges associated with the advent of the COVID-19 pandemic. As a result, the willingness to accept late or sometimes incomplete grantee documentation is not new to this audit and remains contrary to established Program Guidelines. If TCD chooses not to follow all terms in its approved Program Guidelines, which did not allow for exceptions during the audit period and not to enforce the available disciplinary actions related to grantee noncompliance, these exceptions should be documented. Otherwise, the stated requirements have little meaning, regardless of the department's good intentions.

It is also important that TCD maintain sufficient documentation to confirm that grantees timely submitted all required documentation, that all stated grant requirements were satisfied, etc., prior to the disbursement of any grant funds. In its absence, departmental management, external and internal auditors, and others, are unable to determine whether the grant funds

were properly disbursed to eligible cultural organizations.

a. Acceptance of Late Documentation:

The above response received from TCD states that it will continue to accept updated documents from grantees even if submitted past the grant deadline to ensure that each grant file is complete. No evidence was provided to the OIG Auditor that any identified deficiencies represent the submittal of updated documents, as the original submitted documents were not found in the examined grant files. Furthermore, no evidence has been located to indicate that TCD staff notified the sampled grantees that its initial submitted documents were incomplete and revisions were needed, which would have prompted the need to submit updated documents. Lastly, there was no evidence in the grant file that Community Arts and Culture had applied for and received an extension from the IRS to file its Form 990 related to its October 2017 through September 2018 fiscal year.

In lieu of being provided the original submitted documents or the related correspondence verifying that the grantees were notified of their incorrect or incomplete original submittal, the OIG Auditor had to move forward under the assumption that the furnished documents were originals and were received after the deadlines specified in the Program Guidelines. As the OIG has been previously advised by the Office of the City Attorney in relation to other audits, the burden of proof lies with the auditee (TCD).

b. Funding from the Miami Beach Visitor and Convention Authority (VCA):

The Program Guidelines state, "Organizations which received funding from the Miami Beach Visitor and Convention Authority (VCA) during the same fiscal year are not eligible to apply," and no exceptions are specified.

The response received from TCD states, "The guidelines for the VCA Tourism Enrichment Program do not include funding restrictions for organizations that are currently applying for or have received a grant from the Miami Beach Cultural Affairs Program." Even assuming the veracity of this statement, it would relate only to the cultural organization's ability to receive VCA funding, which is separate and unrelated to its receiving CAC grant funding.

c. Lobbyist Registration:

While the OIG Auditor acknowledges the challenges posed by the COVID-19 pandemic, all grant applicants are required, pursuant to Program Guidelines, to be registered as Lobbyists with the City Clerk's Office. Verification of Lobbyist registration should be consistently documented in the TCD maintained grant files to help ensure transparency and compliance with the Program Guidelines.

d. Submission of Board Membership and Bios:

The response received from TCD claims that it will continue to accept updated documents from grantees, even if submitted past the grant deadline, to ensure that each grant file is complete. No evidence was provided to the OIG Auditor that any identified deficiencies represent the submittal of updated documents since the original submitted documents were not present in the examined grant files. Furthermore, no evidence was found indicating that TCD staff notified any of the sampled grantees

that its initial submitted documents were incomplete and revisions were needed.

In lieu of being provided the original submitted documents or the related correspondence verifying that the grantees were notified of their incorrect or incomplete original submittal, the OIG Auditor had to move forward under the assumption that the furnished documents were originals and were received after the deadlines specified in the Program Guidelines. As the OIG has been previously advised by the Office of the City Attorney in relation to other audits, the burden of proof lies with the auditee (TCD).

3. ***NO DISCIPLINARY ACTIONS WERE ENFORCED AGAINST GRANTEES THAT DID NOT COMPLY WITH ESTABLISHED DEADLINES IN THE GRANT AGREEMENTS AND AMENDMENTS.***

The OIG Auditor performed testing to determine whether sampled grantees complied with the following established deadlines in the Grant Agreement and corresponding Amendments:

A. Article I.8: Final Report deadline - postmarked or delivered no later than October 16, 2020. Testing performed by the OIG Auditor on the sampled grant files noted that the Signature and Certification Page of Edge Zones Final Report was notarized by its Executive Director on November 12, 2020, which is 27 days after the October 16, 2020, due date.

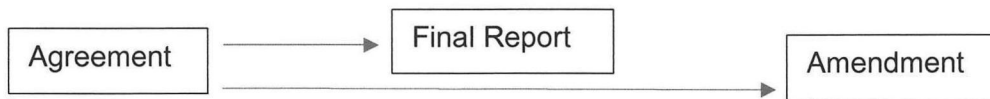
B. Article II General Condition #15: Default/Termination Provisions - *Grantees who fail to comply with any of the covenants, terms, or provisions of this Grant Agreement, including the failure to timely submit any reports when due, as required under this Agreement, may result in its termination and withhold or cancel all or any unpaid installments of the grant upon giving five calendar days written notice to the Grantee, and the City shall have no further obligation to the Grantee under this Agreement.*

Furthermore, the Grant Agreement provides default provisions that apply “for first-time violations” and “for more than first-time violations,” but none were exercised in relation to the sampled grantees. No documentation indicates that the Cultural Affairs Division gave the five-day notice to any of the deficient sampled grantees included in this audit report.

C. Amendment signed and approved after the Final Report deadline.

On March 12, 2020, the City canceled public gatherings due to the spread of the COVID-19 pandemic, which resulted in the closure of cultural facilities and suspension of cultural programming. Grantees were allowed to modify the project by an Amendment. Due to the situation, the City decided to extend the grant funding period to permit the Grantee to complete their programmed activities.

Although the issuance of an Amendment to allow flexibility on artistic projects during the COVID-19 pandemic may have been well-intentioned and justifiable, the corresponding process was not thoroughly vetted, and some inconsistencies were noted. For example, the Amendment extended the timeframe to fulfill the programmatic activities until December 31, 2020, but the due date to submit the Final Reports remained October 16, 2020. This contradictory language makes it difficult to assess itemized compliance with the terms of the Grant Agreement.



Recommendation(s):

The Tourism and Culture Department Director or her designee should require Cultural Affairs Division staff to consistently and uniformly enforce all covenants, terms, and provisions of the executed Grant Agreements and any corresponding Amendments. Any non-compliant grantees should be timely identified, and available enforcement actions considered pursuant to the Grant Agreement. Finally, Tourism and Culture Department management should review the Grant Agreement to determine whether any of the stated terms need revision or clarification, and then make any appropriate changes for future grants.

Tourism and Culture Department Response:

Staff does not agree with this finding. Staff worked with the City Attorney Office to create the unprecedented Grant Amendment 1 due to the COVID-19 pandemic. The Amendment allowed line-item changes in the grant award budget, changes in programming and an extension to their programming through December 31, 2020. The Amendment did not include language to an extension of their Final Report due date, but a grantee would not be able to submit a final report until their programming is completed, which could be after the original September 30, 2020 deadline. Should an Amendment of this nature be required in the future, terms and appropriate changes will be reviewed. Staff will ensure the Final Report deadline for future Grant Contract Amendments corresponds with the extension of the Grant Funding period.

Staff does not agree with this finding. Notwithstanding, staff continues to assert that penalizing cultural organizations financially is in opposition to the purpose of the grant program. In FY 19-20, cultural organizations experienced unprecedented revenue loss and were forced to cancel programming due to the COVID-19 pandemic. Should a Grant Amendment be required in the future due to force majeure or unforeseen circumstances, a thorough review of all deadlines will be conducted.

OIG Reply to Tourism and Culture Department Response:

Parts "a" and "b" above of this audit finding pertain to the lack of disciplinary actions enforced against grantees who did not comply with established deadlines in the Grant Agreements and corresponding Amendments. The course of action recommended is not aimed at penalizing cultural organizations but at ensuring consistency and transparency in enforcing Grant Agreements and Amendments. Otherwise, the importance of complying with stated requirements is minimized.

The OIG does not question TCD's justification for providing leeway to grantees during the COVID-19 pandemic, but such leeway should always be properly documented to show consistency in such circumstances.

Regarding part "c", TCD states that it worked with the City Attorney's Office to create an unprecedented Grant Amendment due to the COVID-19 pandemic. While this Amendment allowed for adjustments to grant awards and programming extensions, it did not include language to extend the due date of the Final Report. The absence of a due date extension

in the Amendment created an inconsistency. Grantees were allowed an extension related to their programming through December 31, 2020, while the original Final Report due date remained September 30, 2020. This contradictory language creates confusion as to the Final Reports actual due date and makes it difficult to accurately assess compliance.

4. **SUPPORTING DOCUMENTATION FOR EXPENDITURES SUBMITTED BY SOME GRANTEES WAS INSUFFICIENT TO COMPLY WITH GRANT AGREEMENT PROVISIONS.**

Exhibit 2-B: Grant Award Budget of the Grant Agreement states as follows:

Required supporting materials for final reports:

- *Grantee shall provide the City with copies of all receipts, invoices, canceled checks (copies of both front and back) and proof of expenditures of Grant monies. **GRANTEE SHALL CATEGORIZE ALL RECEIPTS, INVOICES, AND CANCELLED CHECKS, ETC. ACCORDING TO THE CATEGORIES SET FORTH IN THE GRANT BUDGET.** (For example, all artist payments shall be separate from advertising payments). Invoices and checks must be directly related to expenses for Grant-funded activities taking place within the City of Miami Beach and within the 2019-20 Fiscal Year.*
- *Proof of City logo and credit line in Project publications and advertisements.*
- *Proof of performance(s), such as programs, brochures, and flyers.*

Examination of the grant files maintained by the Cultural Affairs Division found the following shortcomings:

a. The New World Symphony:

- \$1,200.00 in grant funds were disbursed to reimburse the nonprofit organization for paid marketing expenses related to program books for January 2021, which falls outside the October 1, 2019, through September 30, 2020, grant fiscal year, and, therefore, is not permissible.

b. Ballet Flamenco La Rosa Inc.:

- Two Uber transportation charges totaling \$67.50 (\$20.00 + \$47.50) were reimbursed when the Grant Agreement specifically states, "no travel or transportation is an allowed expense."
- Grant funds may be used for the artists in the projects, but the following artists were paid but not listed in the Final Report or provided brochures: Irene Lozano, Emi Grimm, Jose Alconchel, Salvador Losa, Francisco Fonta, and Ena de Barillas. The OIG Auditor was unable to verify whether these artists worked at the Miami Beach events.

c. Seraphic Fire Inc:

- Musician Steven Bradshaw was paid \$3,635.00 for performing at events not held within the City of Miami Beach based on his signed contract and supporting documentation included in the furnished grant files.

d. University of Wynwood Inc (O, Miami):

- A \$1,500.00 electronic transfer to Monica Lopez de Victoria is not sufficiently documented, as the bank statement shows a \$1,700.00 withdrawal on the same day. No evidence was found indicating whether the transfer was completed, and the grant file did not contain any additional documentation or explanation.
- The grant file did not include sufficient payment backup documentation as the submitted electronic transfers did not reconcile correctly with the bank statements.

e. Fundarte:

- A \$5,000.00 payment was documented by a Spanish Broadcasting System statement showing a previous balance of zero dollars and a current balance of a \$5,000.00 credit, with no project or purpose information. The transaction was paid with an American Express credit card, but the grant file included an incomplete credit card statement that could not be reconciled with the bank statement.
- Fundarte listed two contracts of \$815.00 and \$180.00, respectively, with the Spanish Broadcasting System, and it is unclear as to which marketing/publicity event the \$5,000.00 invoice was related.

f. The Dance NOW! Miami:

- Some expenses could not be matched with the Miami Beach events listed in the Grant Agreement and/or Amendment (i.e., Larry Chidsey \$500.00, Miami Herald \$1,000.00, and KCC Productions \$600.00).
- No proof of performance documentation was present in the grant file for four of the five approved Miami Beach events, as it was only present for "Elemental."

Recommendation(s):

Designated Cultural Affairs Division staff should verify that submitted expenses contain sufficient supporting documentation including the required invoice and proof of payment documentation. The OIG recommends that the required supporting documentation be better communicated to grantees, including required participation in scheduled workshops, to help achieve better compliance and reduce the future workload of Cultural Affairs Division staff.

Tourism and Culture Department Response:

- a. Staff does not agree with the finding. New World Symphony is a Cultural Anchor and can use grant funds for general operating expenses. Furthermore, upon reviewing the Final Report, staff identified the invoice dated December 30, 2019 and payment February 14, 2020 to Bellak Color in the amount of \$1,200. Funds were expended within the allowable fiscal year and considered allowable.
- b. Staff agrees with this finding. Please note, the Uber transportation charge in the invoice is documented as \$47.50.
- c. Staff agrees with this finding.
- d. Staff will work with grantees to ensure the bank statements reconcile with the proof of electronic payments.
- e. Staff agrees with this finding and will work with grantees to ensure program

documentation is submitted for the entire season.

In FY 21-22, staff implemented an online final reporting system in GO Smart that categorizes expenses and requires grantees to upload supporting documentation including the required invoice and proof of payment. The final reporting online system will not allow the grantee to submit expenses without the upload of all required documents. In addition, staff continues to host annual grant workshops for all grant recipients to help achieve compliance.

Furthermore, in FY 22-23, staff consulted with Miami-Dade County Department of Cultural Affairs Chief of Grants regarding recent changes in final reporting for County grantees. Based upon extensive research from national funding organizations, including Phoenix, AZ and Houston, TX, Miami-Dade County updated their final reporting system. This practice included changes to the financial document requirements applied to grantees of the Department's general operating support programs with operating budgets of \$50,000 or more. Grantees of the County's project-based programs and general operating support programs with operating budgets of \$50,000 or less must continue to submit copies of canceled checks, proof of payment, invoices, agreements, etc. substantiating grant-related expenditures.

On Tuesday, February 22, 2023, City and County staff presented these recommendations to the City of Miami Beach Audit Committee. The Audit Committee agreed with the recommendations and beginning in FY 22-23, organizations that submit a 990 are no longer required to submit itemized receipts, canceled checks, proof of payments and invoices. Expenditures are captured in an expense report submitted by the grantee. Organizations that submit a 990 EZ are still required to submit copies of canceled checks, proof of payment, invoices, agreements, etc. substantiating grant-related expenditures.

OIG Reply to Tourism and Culture Department Response:

a. New World Symphony:

While the OIG Auditor acknowledges that New World Symphony is a Cultural Anchor and can use grant funds for general operating expenses, it is important to note that the Grant Agreement clearly stipulated that expenses must fall within the grant fiscal year of October 1, 2019, through September 30, 2020. Exhibit 2-B states, "Invoices and checks must be directly related to expenses for Grant-funded activities taking place within the City of Miami Beach and within the 2019-20 Fiscal Year." The payment for marketing expenses related to program books for January 2021 falls outside the designated 2019/20 fiscal year, and is, therefore, not permissible based on the Grant Agreement.

b. Ballet Flamenco La Rosa Inc.:

The OIG appreciates TCD's agreement with this finding, but notes that there are two Uber transportation charges totaling \$67.50 (\$20.00 + \$47.50) that are not permitted pursuant to the Grant Agreement.

The OIG commends TCD for its efforts to improve the grant reporting process by implementing an online system that enforces document uploads and its hosting of annual grant workshops. These initiatives are excellent for achieving better compliance and accountability on the part of grantees.

5. **CHANGES WERE MADE TO PROGRAMMING WITHOUT THE REQUIRED ADVANCE**

DOCUMENTED APPROVAL FROM THE CULTURAL AFFAIRS DIVISION.

The Amendment to the Grant Agreement modified Exhibit 1/ Project Description states as follows:

Should the Grantee not be able to fulfill programmatic activities by December 31, 2020, Cultural Affairs staff will consider allowable expenses to include indirect or general operating costs related to the operation of the organization. Notwithstanding the preceding sentence, amendments to the itemized Grant Award Budget shall not be permitted without the prior written consent of the Cultural Affairs Program Manager. Said requests shall be made in writing, detailing and justifying the need for such changes in advance of the Project's commencement.

Any changes to the programming will be approved by Cultural Affairs staff on a case-by-case basis. Grantee should make all attempts to reschedule programming or provide alternative programming solutions, such as live streaming.

An evaluation of the related expenditures submitted for reimbursement from grant funds was performed on all sampled grantees. All were deemed compliant except that it was determined that the New World Symphony's designated activities were canceled. No evidence was provided indicating whether these activities were rescheduled, or alternative programming solutions were provided.

Recommendation(s):

Cultural Affairs Division staff should maintain documentation verifying that any grantee modifications of initial submittals were approved in advance.

Tourism and Culture Department Response:

In the midst of the COVID-19 pandemic, all cultural organizations struggled to produce programming. With all facilities closed and limited access to streaming capabilities, cultural programming was either cancelled or postponed. While larger organizations were able to eventually offer streaming platforms, small to mid-size organizations struggled to offer virtual programming. As such, all programming planned from March 12, 2020 through the end of the grant cycle, September 30, 2020 was modified. The Amendment 1 of the Grant Agreement served as a "blanket" acceptance of all modified programming. In rare cases, grantees again had to pivot from the revised programming in Amendment 1. Staff made every effort to support organizations during this time.

6. ONE GRANTEE'S PUBLICATIONS AND CREDITS DID NOT CONTAIN THE REQUIRED CITY OF MIAMI BEACH LOGO.

Article II/General Condition #11 "Publicity and Credits" states as follows:

The Grantee must include the City of Miami Beach logo and the following credit line in all publications (where appropriate) related to this Grant: City of Miami Beach, Cultural Affairs Program, Cultural Arts Council. The Grantee's failure to comply with this paragraph may preclude future grant funding from the City in the same manner as if the Grantee defaulted under this agreement under Article 11-15. Except as specified herein, Grantee shall not use

the City's name, trademarks, or logos without the City's advance written approval.

Testing determined that all sampled grantees were compliant with Article II/General Condition #11, except that only web and marketing emails were present for Edge Zones and neither contained the required City of Miami Beach logo.

Recommendation(s):

Grantees should comply with all stated requirements, subject to appropriate action being taken by the Cultural Affairs Division.

Tourism and Culture Department Response:

The grantee marketing campaign showed the City of Miami Beach credit line was included under sponsors in Edge Zones digital marketing emails.

In closing, staff would like to highlight significant updates that have been made to the grant process since FY 19-20, which include the following:

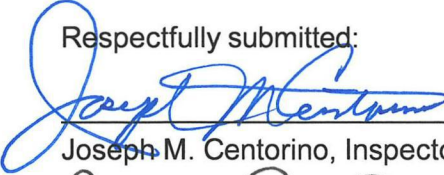
1. In FY 21-22, staff implemented an online final reporting system in GO Smart that categorizes expenses and requires grantees to upload supporting documentation including the required invoice and proof of payment. The final reporting online system will not allow the grantee to submit expenses without the upload of all required documents.
2. Beginning in FY 22-23, organizations that submit a 990 are no longer required to submit itemized receipts, canceled checks, proof of payments and invoices. Expenditures are captured in an expense report submitted by the grantee. Organizations that submit a 990 EZ are still required to submit copies of canceled checks, proof of payment, invoices, agreements, etc. substantiating grant-related expenditures.
3. At the beginning of each fiscal year, an annual grant workshop is held for all grant recipients to discuss compliance and reporting.

OIG Reply to Tourism and Culture Department Response:

Article II/General Condition #11 requires the inclusion of not only the credit line but also the City of Miami Beach logo in all publications, where appropriate. Although the City credit line may have been included in the grantee's digital marketing emails, the required City of Miami Beach logo was not, so the grantee was not fully compliant with General Condition #11.

All auditee responses received within the thirty working days required under City Ordinance No. 2019-4239 were included in this final report.

Respectfully submitted:



Joseph M. Centorino, Inspector General

11/09/2023
Date



Mark Coolidge, Chief Auditor

11/09/2023
Date



Norman Blaiotta, Deputy Chief Auditor

11/9/23
Date

cc: Alina T. Hudak, City Manager
Marcia Monserrat, Chief of Staff
Lissette Garcia Arrogante, Tourism and Culture Department Director

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