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July 17, 2007

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Ladies and Gentlemen:

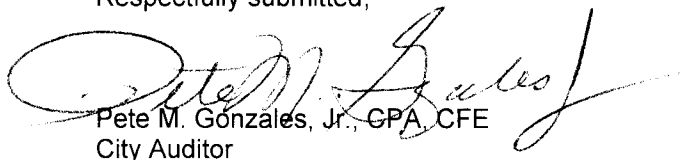
SUBJECT: Office of Cultural Affairs' Cultural Arts Funding Audit

We are pleased to send you the report and Management responses for the Office of Cultural Affairs' Cultural Arts Funding Audit. This audit began in January 2007 and concluded with an exit meeting with Cultural Affairs Management in May 2007.

The Office of Cultural Affairs should be commended for their cooperation and assistance during this audit. The Action Plan indicates full acceptance of all six report recommendations.

The Office of the City Auditor appreciates the opportunity to have performed this audit and is available to discuss this material with you individually at your convenience.

Respectfully submitted,



Pete M. Gonzales, Jr., CPA, CFE
City Auditor

cc: Leticia Vacek, City Clerk

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EXECUTIVE SUMMARY

Overview

We have completed an audit of the Cultural Arts Funding of the Office of Cultural Affairs (OCA). The objective of this audit was to determine the appropriateness of OCA's arts and cultural funding, including compliance with the funding guidelines in City Ordinance 2006-03-09-0305, dated March 9, 2006, for the City's Arts Funding Program.

This report includes background information to assist the reader in understanding the City's Arts Funding Program. The body of the report consists of observations and recommendations.

Results In Brief

The Office of Cultural Affairs' processes and internal controls associated with arts and cultural funding, required supporting documents, performance measures, and contract monitoring should be improved. This audit identified opportunities to better assess accountability, enhance controls, improve performance, and reduce the risk of fraud to the City.

Recommendations are summarized below. The City Internal Audit Department believes the Office of Cultural Affairs Director should:

- Ensure that reimbursements to Delegate Agencies are made only after an executed contract is in place and sufficient supporting documents are received (Recommendation 1, Page 4)
- Maintain appropriate records to support arts and cultural funding decisions, including applicant eligibility, in compliance with OCA's funding guidelines and the City's Administrative Directive 1.34 - Paper, Microfilm and Electronic Records Management, specifically GR1000-25 Contracts, Leases, and Agreements (Recommendation 2, Page 5)
- Ensure that only applications meeting established deadlines are funded (Recommendation 3, Page 5)
- Strictly follow established arts and cultural funding guidelines to avoid the appearance of preferential treatment to certain applicants (Recommendation 4, Page 6)
- Ensure that adequate financial and program monitoring is performed (Recommendation 5, Page 7)
- Ensure that formal policies and procedures contain sufficient detailed guidance for employees to follow when performing the vital arts and cultural funding activities, including contract administration (Recommendation 6, Page 7)

INTRODUCTION

Background

The Office of Cultural Affairs (OCA), staffed by eleven full time employees, supports arts and culture in the community through programs tailored to influence arts and cultural organizations, individual artists, community groups, and the tourism industry. The City's "operational" and "project" grants assist organizations with obtaining essential funding. It helps community groups place arts and cultural projects directly in their neighborhoods and in commercial revitalization zones. OCA promotes participation in arts and cultural activities by developing and marketing a wide range of activities and events. Through these and other research and planning programs, OCA advocates the growth and recognition of San Antonio's creative industry.

In November 1984, the Cultural Arts Board (CAB), an all volunteer eleven member Advisory Board, was established by City Ordinance 59764 to provide oversight to OCA. OCA's policies and procedures are influenced by CAB, whose members are appointed by City Council and the Mayor. Funding decisions are made by the Mayor and City Council based on recommendations from OCA's staff, CAB, and three Art Committees (i.e., Multidisciplinary Arts, Performing Arts, and Visual Arts).

For fiscal year 2007, the Multidisciplinary Arts Committee was responsible for reviewing 13 applications, the Performing Arts Committee 23 applications, and Visual Arts Committee 7 applications. OCA was appropriated \$6,867,010 in fiscal year 2007, of which \$5.3 million was specifically for arts and cultural funding.

OCA is also the lead agency for the Cultural Collaborative. The Cultural Collaborative (TCC) is a plan for San Antonio's creative economy and cultural future. The planning began in 2003 and is the result of effort that involved 86 steering committees of community leaders and 1,000 individuals. There are five objectives and 38 strategies in the plan. It is to be implemented over a three year period beginning fiscal year 2006. Here are the objectives:

- Access - Provide greater access to the arts and culture to residents throughout San Antonio
- Economic Development - Promote the economic growth of San Antonio's creative economy
- Community Awareness - Increase community awareness of the roles and value of all San Antonio's arts and culture
- Authenticity and Creativity - Strengthen San Antonio's unique and diverse culture, heritage and architecture
- Resources - Develop increased resources of all types

Objectives

The objective of this audit was to determine the appropriateness of OCA's arts and cultural funding, including compliance with the funding guidelines in City Ordinance 2006-03-09-0305, dated March 9, 2006, for the City's Arts Funding Program.

Scope

The scope of this audit included arts and cultural funding for fiscal years 2006 and 2007 through January 31, 2007.

Criteria

In conducting this audit, the existing OCA operations and processes were evaluated for compliance with:

- Executed Delegate Agency contracts for fiscal years 2006 and 2007
- City Ordinance 2006-03-09-0305, dated March 9, 2006 regarding OCA's arts and cultural funding
- City's Contracting Policy and Process Manual
- City's Administrative Directive 1.34 - Paper, Microfilm and Electronic Records Management, specifically GR1000-25 Contracts, Leases, and Agreements
- The Cultural Collaborative (TCC) plan
- U.S. Office of Management and Budget (OMB) Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations"
- Departmental policies and procedures

Methodology

The audit methodology consisted of collecting information and documentation, conducting interviews with personnel from OCA, observing processes, performing selected tests and other procedures, and analyzing and evaluating the results of tests performed.

The audit was performed in compliance with generally accepted government auditing standards issued by the U.S. Government Accountability Office (GAO).

Conclusion

Internal controls over OCA's Cultural Arts Funding Program are not adequate to certify that funding is awarded only to eligible applicants. Moreover, they do not appropriately measure Delegate Agency performance.

DETAILED OBSERVATIONS AND RECOMMENDATIONS

1. Ensure that Delegate Agencies are not reimbursed prior to an executed contract and without receipt of adequate support documentation

Observation

The Office of Cultural Affairs (OCA) has contracts with many Delegate Agencies that are awarded arts and cultural funding on a yearly basis. The contracts are based on a cost reimbursement basis. Delegate Agencies incur expenses and then submit requests to OCA for reimbursement. We determined that Delegate Agencies received about \$1.3 million from OCA prior to having a fully executed contract during fiscal year 2007. Contracts were awarded on March 14, 2007. See **Exhibit 1** for details.

Exhibit 1 - Reimbursements to Delegate Agencies Prior to an Executed Contract Fiscal Year 2007 (up to March 13, 2007)

<u>Month</u>	<u>Number of Payments</u>	<u>Dollar Amount</u>
December 2006	26	\$ 578,597
January 2007	16	209,172
February	23	383,881
March (up to March 13, 2007)	<u>10</u>	<u>114,757</u>
	<u>75</u>	<u>\$1,286,407</u>

Source: SAP

According to OCA's contract, Section 4.6G with Delegate Agencies, it requires the contractor to maintain accounting records that are supported by source documentation. We noted that OCA did not receive adequate supporting documents from Delegate Agencies requesting reimbursement. Fiscal years 2006 and 2007 expenditures were tested to determine allowability based on contract terms, as well as to determine the adequacy of supporting documentation. Although expenditures appeared allowable based on contract terms, there was inadequate supporting documentation. Seventeen of twenty-one Delegate Agency reimbursements valued at \$387,425 for fiscal year 2006, and twelve of eighteen reimbursements valued at \$410,195 of fiscal year 2007, were lacking sufficient supporting documents. Supporting documents required but not received include a vendor invoice, receipting report, check register, payroll register, and cancelled checks.

Risk

Supporting documents are needed to evidence that arts and cultural funding was used as intended.

Recommendation

The Office of Cultural Affairs Director should ensure that reimbursements to Delegate Agencies are made only after an executed contract is in place and sufficient supporting documentation is received.

2. Maintain appropriate records to support arts and cultural funding decisions, including applicant eligibility

Observation

On March 9, 2006, City Council approved eligibility guidelines for OCA's arts and cultural funding. Using these guidelines, OCA's Cultural Arts Board (CAB) made its final arts and cultural funding decision on October 31, 2006 for fiscal year 2007. However, based on an evaluation of the funding process and available documents, the following conditions were noted:

- Forms intended to document the CAB member recommended funding amounts for Delegate Agencies did not contain the member's name and/or signature. This is needed to evidence the absence of any conflicts of interests. Moreover, CAB members' original forms could not be located by OCA Staff.
- The summary document of the CAB members' recommended funding amounts contained numerous mathematical errors.

- OCA Staff was unable to locate documentation to support CAB's \$3,313,259 final arts funding decision for fiscal year 2007 (i.e., \$2,887,193 in Operational Support and \$426,066 in Stabilization Support).
- OCA did not stamp-date required supporting information to certify receipt by the deadline, 4:00 pm on May 31, 2006.

OCA has guidelines to approve arts and cultural funding applications. However, there was a need for support to ensure Delegate Agencies met established eligibility requirements for fiscal year 2007. After reviewing applicant files, we determined that certain required supporting documents were not maintained by OCA. These were documents used by OCA and the Review Committees to assess the applicant's administrative and artistic merits. The following items were missing:

- Completed "Anticipated Performance Measures" form with a "Detailed Events" form
- Completed "Diversity Activity" form
- List of current Board members
- Publicity materials, reviews, slides, audio cassettes or videos indicating artistic merit
- Financial Statement, reviewed Financial Statement, or audit from the most recently completed fiscal year by a Certified Public Accountant (Note: Organizations have the option to submit their IRS Form 990)
- An organization's fiscal information of the last three completed fiscal years
- An organization's program and operational information for the last three completed fiscal years

OCA's lack of appropriate documents is in noncompliance with OCA's funding guidelines and the City's Administrative Directive 1.34 - Paper, Microfilm and Electronic Records Management, specifically GR1000-25 Contracts, Leases, and Agreements.

Risk

There is no assurance that only appropriate applicants were funded and at the proper funding levels for fiscal year 2007.

Recommendation

The Office of Cultural Affairs Director should ensure that appropriate records are maintained to support arts and cultural funding decisions, including applicant eligibility, in compliance with OCA's funding guidelines and the City's Administrative Directive 1.34 - Paper, Microfilm and Electronic Records Management, specifically GR1000-25 Contracts, Leases, and Agreements.

3. Ensure that funded Delegate Agencies meet the arts and cultural funding deadline

Observation

Delegate Agencies were required to submit an application for arts and cultural funding by the established deadline of May 19, 2006 at 4:30 pm. We determined that one late application was funded during fiscal year 2007. According to the submittal date in OCA's application database, it was submitted on June 8, 2006. However, we noted that another application was denied funding by OCA; although it was only three minutes late. After further evaluation, it was noted that the database did not have a date and time restriction to prevent access after the deadline.

Risk

One ineligible application (i.e., twenty days late) received \$36,842 in arts and cultural funding from OCA. Also, OCA is at risk of accusation of preferential treatment since another application was denied funding due to being three minutes late.

Recommendation

The Office of Cultural Affairs Director should ensure that only applications meeting established deadlines are funded. Also, the application database should be reconfigured with appropriate date and time restrictions.

4. Improve internal controls regarding Review Committee member selection and voting practices

Observation

Internal controls over Review Committee member selection and voting practices needed strengthening. Conflicts of interest and missing Review Committee member nomination forms were identified in the arts and cultural funding process for fiscal year 2007. Here is what we determined:

- One Review Committee member voted on an application in which he indirectly had a conflict of interest with the applicant. The Committee member appropriately self-reported a conflict of interest with the agency sponsor for this applicant.
- Two Review Committee members voted for applicants who previously nominated them for the Review Committee. Although not prohibited according to the arts and cultural funding guidelines, there is the appearance of conflict of interest when there are reciprocal agreements.
- All nomination forms for the Performing Arts and Multidisciplinary Arts Review Committee members were missing.

On March 9, 2006, City Council approved eligibility guidelines for OCA's arts and cultural funding. The guidelines specifically address conflicts of interest. They also require nomination forms for potential Review Committee members.

Risk

The appearance of conflict of interest opens OCA to accusations of preferential treatment towards applicants.

Recommendation

The Office of Cultural Affairs Director should strictly follow established arts and cultural funding guidelines to avoid the appearance of preferential treatment to certain applicants.

5. Perform systematic financial and programmatic monitoring

Observation

OCA has not implemented an agreed to corrective action plan for conditions identified in a report issued by the Contract Services Department (CSD). At OCA's request, CSD reviewed its contract administration and monitoring activities. On December 13, 2006, CSD issued a report regarding twenty-four of OCA's Delegate Agency contracts. The report noted issues related to unauthorized budget adjustments, inadequate documentation supporting requests for reimbursement, and payments for unauthorized expenditures. According to OCA's Executive Assistant, the Department is to train Delegate Agencies in the future regarding budget and invoice submission requirements, as well as OCA's monitoring standards.

As stated in OCA's contract "Section 8-Records, Reporting, and Copyrights", OCA is responsible for monitoring, fiscal control, and evaluation of projects. However, based on a review of OCA's current monitoring activities, there has been no programmatic monitoring regarding the approximately \$5.3 million awarded to Delegate Agencies during fiscal year 2007. According to OCA staff, some financial monitoring is performed, but there is limited or no support documentation to substantiate this assertion.

OCA Staff is not fully trained to perform contract monitoring. According to the Executive Assistant, a monitoring team of five OCA employees with different backgrounds was established effective October 2006. However, three of the team members do not have any experience in this area and limited training/guidance has been provided to them. The only training they have received in this area has been two three-hour courses presented by the City's Administrative Services Department on December 8, 2006. In the meantime, the Fiscal Officer is verifying all payments made to Delegate Agencies.

Risk

At the Program level, periodic monitoring is an important tool in timely detection and correction of errors. Lack of monitoring activities could allow errors and irregularities to remain undetected. Furthermore, without periodic monitoring, Management cannot be sure that Delegate Agencies accomplish deliverables as required in the contracts.

Recommendation

The Office of Cultural Affairs Director should ensure that adequate financial and programmatic monitoring occurs and that significant issues are timely addressed. To assist with this critical function, OCA Staff should be formally trained on proper contract administration and monitoring procedures, including the requirements of the Federal OMB Circulars.

6. Update formal policies and procedures

Observation

OCA has sufficient guidelines for the arts and cultural funding process. However, formal policies and procedures do not contain sufficient detailed guidance to ensure that OCA staff knows how to appropriately perform assigned duties (i.e., review and score applications, evaluate financial records, monitor applicant performance, authorize expenditures for payment, etc.). These policies and procedures would help ensure good financial stewardship of funds entrusted to departments in conducting City business.

Risk

Without formal procedures to guide OCA employees, critical functions may not be performed to ensure funding is appropriately used by Delegate Agencies.

Recommendation

The Office of Cultural Affairs Director should ensure that formal policies and procedures contain sufficient detailed guidance for employees to perform the vital arts and cultural funding activities, including contract administration.



CITY OF SAN ANTONIO

P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

City Auditor
San Antonio, Texas

RE: Management's Corrective Action Plan for the Audit of the Office of Cultural Affairs' Cultural Arts Funding

City Management and the Office of Cultural Affairs have reviewed the audit report and have developed the Corrective Action Plans below corresponding to report recommendations.

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
Detail Report					
1	<p>Ensure that Delegate Agencies are not reimbursed prior to an executed contract and without receipt of adequate support documentation</p> <p>The Office of Cultural Affairs Director should ensure that reimbursements to Delegate Agencies are made only after an executed contract is in place and sufficient supporting documentation is received.</p> <p><u>Action plan:</u></p> <ul style="list-style-type: none"> • Will not process invoices until CMO representative signs contracts. 	4	Accept	Ernesto Rubio, Executive Assistant	Immediate
2	<p>The Office of Cultural Affairs Director should ensure that appropriate records are maintained to support arts and cultural funding decisions, including applicant eligibility, in compliance with OCA's funding guidelines and the City's Administrative Directive 1.34 - Paper, Microfilm and Electronic Records Management, specifically GR1000-25 Contracts, Leases, and Agreements.</p> <p><u>Action plan:</u></p> <ul style="list-style-type: none"> • Timely approval of minutes by CAB • CAB meeting files will contain copies of funding materials distributed and used by CAB in making funding decisions • Support materials that relate to eligibility will be maintained in accordance with AD 1.34 		Accept	Sarah Yates, Executive Secretary Sarah Yates, Executive Secretary Ernesto Rubio, Executive Assistant	Immediate Immediate Immediate

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
3	<p align="center">Detail Report</p> <p>Ensure that funded Delegate Agencies meet the arts and cultural funding deadline The Office of Cultural Affairs Director should ensure that only applications meeting established deadlines are funded. Also, the application database should be reconfigured with appropriate date and time restrictions. <u>Action plan:</u></p> <ul style="list-style-type: none"> • A staff member will certify hard copies of the applications immediately after the deadline • Will work with ITSD to correct and monitor "date stamp" on future applications • Will work with ITSD to remove ability for "work in progress" applications to be submitted after deadline 	5	Accept	Lewis Andrews, Fiscal Officer, ITSD Liaison	Immediate
4	<p>Improve internal controls regarding Review Committee member selection and voting practices The Office of Cultural Affairs Director should strictly follow established arts and cultural funding guidelines to avoid the appearance of preferential treatment to certain applicants. <u>Action plan:</u></p> <ul style="list-style-type: none"> • Selection of Review committee members will include CAB members to minimize conflict of interest situations • Will request legal clarification on situations that appear inappropriate, prior to committee voting • Transcripts of meetings will reflect explanation of perceived conflicts 	6	Accept	Ernesto Rubio, Executive Assistant	Oct., 2007
				Ernesto Rubio, Executive Assistant	Prior to committee meeting
				Ernesto Rubio, Executive Assistant	Before discussion of the impacted application

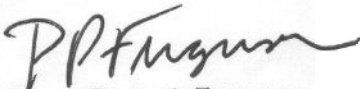
Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
5	<p>Perform systematic financial and programmatic monitoring The Office of Cultural Affairs Director should ensure that adequate financial and programmatic monitoring occurs and that significant issues are timely addressed. To assist with this critical function, OCA Staff should be formally trained on proper contract administration and monitoring procedures, including the requirements of the Federal OMB Circulars.</p> <p>Action plan:</p> <ul style="list-style-type: none"> • Assess areas of monitoring that require improvement • Request assistance from appropriate departments for training in those areas • Formalize OCA monitoring procedures and forms • Request trained contract monitors to offset workload and mentor/train current staff 	7	Accept	Ernesto Rubio, Executive Assistant Ernesto Rubio, Executive Assistant Ernesto Rubio, Executive Assistant Ernesto Rubio, Executive Assistant	July, 2007 August, 2007 August, 2007 July, 2007
6	<p>Update formal policies and procedures The Office of Cultural Affairs Director should ensure that formal policies and procedures contain sufficient detailed guidance for employees to perform the vital arts and cultural funding activities, including contract administration.</p> <p>Action plan:</p> <ul style="list-style-type: none"> • Develop formal detail on the administration of funding activities • Formal monitoring procedures and forms will be reviewed by appropriate department for adherence to COSA contract monitoring standards 	7	Accept	Ernesto Rubio, Executive Assistant Ernesto Rubio, Executive Assistant	Sept., 2007 Sept., 2007

We are committed to addressing the recommendations in the audit report and the plan of actions presented above

Sincerely,

Handwritten signature of Felix Padron in black ink, appearing as 'Padron' in a cursive script.

Felix Padron
Director, Office of Cultural

Handwritten signature of Penny Post oak-Ferguson in black ink, appearing as 'PP Ferguson' in a cursive script.

Penny Post oak-Ferguson
Assistant City Manager