

Audit Report

Cultural Arts Contract Monitoring

September 2018



The Cultural Arts Division's contract monitoring practices are generally aligned with best practices. However, there are opportunities to improve documentation of processes and verification of information reported by contractors. Furthermore, the Division does not use a contract template developed by the Law Department for three of its cultural arts programs and therefore contracts for these programs lack some clauses that protect the City's interests.

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Cover: Graffiti Wall Austin Texas, <https://pixabay.com/en/graffiti-wall-austin-texas-austin-2527331/>

Objective

The objective of this audit was to determine if cultural arts contracts are being administered and monitored effectively to ensure compliance with contract requirements.

Background

The cultural arts are the conscious use of skill and creative imagination, especially in the production of aesthetic objects such as music, dance, theater, folk art, literature, performance art, visual art, and media.

The Cultural Arts Division of the Economic Development Department (the Division) is responsible for managing the City’s cultural arts programs and promoting the economic development of creative industries in the City of Austin. The Division oversees four main cultural arts funding programs, as shown in Exhibit 1. The Core, Community Initiatives, and Cultural Heritage Festival programs are funded by Hotel Occupancy Tax (HOT) revenue, while the Capacity Building program is paid for out of the General Fund. These programs fund projects and activities in all disciplines that provide arts and cultural programming and also support the professional development of artists and arts organizations.

The Division provides financial support to organizations and individuals through a competitive application and review process. Following the approval of funding, the City enters into a contract with the organization or individual for specific services. These contracts are developed based on templates and establish responsibilities for both the City and the contractor. The Division conducts monitoring to verify compliance with the contract requirements.

Exhibit 1: Funding and Number of Contracts for Cultural Arts Programs

Program	Number of contracts		Funding amount		Types of projects funded
	FY16	FY17	FY16	FY17	
Core Funding Program	227	292	\$8,212,763	\$9,951,957	Operational support and/or specific projects
Community Initiatives Program	90	70	\$373,158	\$322,657	Specific, smaller projects
Capacity Building Program	17	20	\$163,600	\$176,500	Professional development of individual artists or arts organizations
Cultural Heritage Festivals Program	12	9	\$188,902	\$190,388	Festivals with a focus on a cultural heritage and its arts
TOTAL	348	391	\$8,938,423	\$10,641,502	

SOURCE: OCA analysis of cultural arts contract information and program guidelines, April 2018

What We Found

Summary

The Cultural Arts Division's contract monitoring practices are generally aligned with best practices. However, there are opportunities to improve documentation of processes and verification of information reported by contractors. Furthermore, the Division does not use a contract template developed by the Law Department for three of its cultural arts programs and therefore contracts for these programs lack some clauses that protect the City's interests.

Finding 1

The Cultural Arts Division's contract monitoring practices are generally aligned with best practices. However, we identified three areas for improvement.

Best practices require organizations to maintain up-to-date written policies and procedures to ensure consistent, high-quality contract monitoring.

The Division follows best practices by providing regular training to staff on contract monitoring, linking payment to contractor performance, receiving performance reports from contractors, and applying consequences for poor performance.¹ However, in order to fully ensure that the contractors are meeting the requirements of their contract, current practices related to documentation of processes and verification of information reported by the contractors can be further improved.

While the Division has a monitoring manual, the manual has not been updated with current monitoring practices.

The current monitoring manual has not been updated since 2015 and as a result the Division does not have consistent written guidance for staff monitoring contracts and institutional knowledge may be lost with staff transfers or retirements.

The current monitoring manual contains some outdated procedures, such as instructions for a database system that the Division no longer uses and references to contract documents that are no longer in use. In addition, the manual does not mention several new monitoring procedures, such as forms that staff complete when processing invoices for payment or when reviewing contractor reports. Although the manual has not been updated, staff are following these practices as outlined later in this finding.

Division staff indicated that since the employees responsible for monitoring contracts are familiar with the contract monitoring procedures, the manual has not been updated.

The Division does not document how contracts are selected for monitoring.

The Division does not document its process for selecting contracts for detailed review to ensure contractors comply with the contract requirements. Without a consistent risk-based process for selecting contracts, the Division may not monitor higher risk contracts.

¹ *Components of an Effective Contract Monitoring System*, State of Georgia Department of Audits and Accounts, 2003. This guide is a comprehensive list of contract monitoring best practices, based on a survey of Georgia state government departments and the governments of other states.

Report Review

The contract requires the contractors to submit both a final report and an expense report. Staff performs a basic review of all contractor reports and a detailed review of at least 10% of expense reports. Division staff asserted that they do consider risk factors when selecting contracts for detailed review, such as whether a contractor is new to the program or whether they have had recent major staff turnover, but they do not document their justification for the selection of contracts. We found that in fiscal year 2016, Division staff performed a detailed review of 16% of contracts, while in fiscal year 2017 they performed a detailed review of 35% of contracts.

Best practices recommend that organizations maintain a plan that clearly outlines its monitoring methods and that its choice of methods be based on an assessment of risks related to the specific contract.

Event Attendance

While the contract is still ongoing, staff ensure compliance with the contract requirements by attending some sponsored events. During these events, staff note whether the event is occurring as described in the contract and whether the contractor is displaying appropriate indications that the event is sponsored by the City. Staff asserted that they do not select events for attendance on a risk basis. In fiscal year 2016, staff attended seven events, while in fiscal year 2017 staff attended twelve events.

The Division does not review documentation to verify that the information reported by the contractor is accurate.

We noted that the current practices of the Division do not require staff to verify the accuracy of the information provided in the final reports and expense reports.² The Core program contracts require the contractors to retain these documents and for other programs Division staff stated that contractors are expected to retain the documentation. Since staff does not verify the supporting documentation for the reported information, there is no assurance that the information submitted by the contractors in the reports is accurate or that the contractor keeps records supporting the information reported to the City.

Best practices recommend that organizations review documentation to verify actual information against information reported by the contractor. The contracts for verification of documentation may be selected based on a risk assessment.

In addition, the Economic Development Department reports audience numbers provided by the contractors as a performance measure. The Division does not verify these numbers or clarify that they are self-reported.

Division staff generally follow the established practices for contract monitoring.

Each contractor must submit a final report and an expense report at the end of their contract, which staff then review for compliance with contract requirements. We selected a random sample of 30 contracts (15 each from fiscal years 2016 and 2017) and based on a review of final reports and expense reports for these contracts, we noted that the Division's staff generally follows monitoring processes to ensure that contractors comply with established requirements.

The Division holds regular trainings for contractors explaining how to complete the final reports and expense reports as required by the contract.

² Verification of reported information can be performed by reviewing bank records, credit card statements, attendance information, personnel records, and other documents.

We noted a few cases where performance did not align with contract requirements, as shown below in Exhibits 2 and 3 and, based on this testing, we found that the Division may have paid two (6%) contractors when work was not performed in accordance with the contract.³

These issues may have been caused by a lack of understanding of the requirements on the contractor's part due to a failure to attend a final report workshop, or by newer Division staff members not being aware of all monitoring requirements.

Exhibit 2: Review of Final Reports

Requirement	Staff monitoring practices	Results of testing
Submit a final report within 30 days of the end of the contract or the last contracted event, whichever is sooner.	Withhold the final contract payment until the final report has been submitted and approved.	Staff withheld payment until the final report was submitted and approved in all cases.
Provide proof that publicity materials indicated City support.	Check that publicity materials with City logo are included in the final report.	1 (3%) contractor did not provide publicity materials.
Perform the work agreed to in the contract.	Review final reports to determine if the work performed by the contractor aligns with the work agreed to in the contract.	2 (6%) contractors' reported work did not align with the work as required by the contract.
Include audience and personnel information in the final report.	Review final reports to determine if contractors provided this information.	2 (6%) final reports did not contain required information.

SOURCE: OCA analysis of contract and program guidelines monitoring requirements and contract files, April 2018

³ Percentage figures in these exhibits are based on the total number of contracts to which the requirements are applicable. The final two requirements of Exhibit 3 are applicable only when the report is subject to a detailed review.

Exhibit 3: Review of Expense Reports

Requirement	Staff monitoring practices	Results of testing
Do not allocate more than 20% of the City award between budgeted items without explanation.	Compare expense report to revised budget.	For 3 (10%) contracts, staff did not request explanations from contractors for changes to their budget.
Provide receipts for all cash expenses and in-kind contributions, if necessary to meet the matching requirement.	Determine if required receipts were provided.	For 1 (6%) contract, receipts were not present in the file.
Match the City award with funds from other sources.	Review expense report to determine if the contractor met the matching requirement.	Contractors consistently met the matching requirement.
City and matching funds are used for allowable expenses.	Review expense report to determine if reported expenses are allowable.	For 1 (3%) contract, staff did not note and follow up on an unallowable expense.
Specify the name and purpose of each expense in the expense report.	Review expense report to determine if contractors provided the required information.	Required expense information was provided in all expense reports reviewed by staff.

SOURCE: OCA analysis of contract and program guidelines monitoring requirements and contract files, April 2018

Finding 2

The cultural arts contracts for three programs do not use a contract template developed by the Law Department, and therefore contracts for these programs are lacking some clauses that protect the City's interests.

To ensure that the City's interests are protected when entering into contracts, the Law Department is required by the Charter to pass upon all City contracts. In response to the contract development and approval audit conducted by our office in 2014, the Law Department developed a template to be used by the Division for any cultural arts programs and reviews it after each session of the Texas Legislature to ensure it is up to date.

We found that the Division uses the template developed by the Law Department for the Core funding program but does not use it to develop contracts for the other three cultural arts funding programs.

Division staff asserted that the some of these programs do not include all the clauses suggested in the contract template developed by the Law Department because the Division wanted to reduce barriers to entry for contractors.

As a result the contract templates for these three funding programs lack some important clauses which are included in the template developed by the Law Department to protect the City's interests. These include clauses that give the City the right to audit contractors and provide for a procedure to terminate the contract.

Recommendations and Management Response

1

The Director of the Economic Development Department should strengthen the monitoring process for cultural arts contracts by:

- Ensuring that the Cultural Arts Division's contract monitoring manual is updated to reflect current practice;
- Ensuring that the Division consistently follows the updated manual;
- Developing and implementing a documented, risk-based approach to select contracts for event attendance and detailed review;
- Developing and implementing a documented, risk-based approach to select contractors for verification of reported information.
- Developing a plan to verify the accuracy of the audience numbers reported as a performance measure or clarify that the numbers are self-reported.

Management Response: Agree

Proposed Implementation Plan: Staff will:

- Update the Cultural Arts Division's contract monitoring manual to reflect current best practices.
- Develop standard operating procedures for assessing risk and selecting contracts for site monitoring, including contract compliance and verification of reported information.
- Schedule and assign staff to monitor selected contracts.
- Develop messaging to communicate the monitoring process to contractors.
- Develop a plan to verify accuracy of audience numbers reported through request of documentation from contractors.

Proposed Implementation Date: Staff has already begun to update standard operating procedures to align with the monitoring manual and ensure that the manual is consistent with operating practices. Staff plans to complete all items of the Implementation Plan by November 2018.

2

The Director of the Economic Development Department should work with the Law Department to ensure all cultural arts contract templates include clauses that safeguard the City's interests.

Management Response: Agree

Proposed Implementation Plan: Staff will, on an annual basis, submit contract templates to the Law Department for review and incorporate any recommended edits for legal compliance and best practices.

Proposed Implementation Date: Staff has already initiated conversation with the Law Department regarding this item and plans to complete this Implementation Plan item by September 2018.

Management Response



MEMORANDUM

TO: Corrie Stokes, City Auditor

FROM: Rebecca Giello, Interim Director, Economic Development Department 

DATE: August 1, 2018

SUBJECT: Response to Cultural Arts Contracts Audit Report

The purpose of this memo is to provide a management response from the Economic Development Department (EDD) regarding the Cultural Arts Contract Audit Report.

The Cultural Funding Program, currently administered by EDD's Cultural Arts Division (CAD), has been in existence for more than 50 years. It has provided ongoing financial support for Austin's creative community that has allowed cultural production and artistic practice to flourish in this city, and to grow Austin's reputation into a world-class creative powerhouse known to generate \$4.3B in economic impact, attract visitors from across the globe, and sustain a rich quality of life for residents.

The majority of the Cultural Funding Program is funded through a portion of the City's Hotel Occupancy Tax, which has grown to a nearly \$12M allocation annually, with staff administering more than 600 contracts annually for arts activity. CAD works closely with the Arts Commission, peer cities, national organizations, and the cultural community to ensure that program administration is grounded in a responsible foundation of best practices in arts grant making and maintains constant responsiveness to changes in the local arts ecosystem and the economic environment. The City of Austin receives regular recognition and is continually benchmarked by other cities for its Cultural Arts programmatic excellence and innovations.

The Cultural Arts Contract Audit is viewed as another valuable tool to ensure that CAD's Cultural Funding is administered to meet the highest standards of excellence set by the Office of the City Auditor. EDD acknowledges the report and findings that overall, best practices are being followed by program staff, and appreciates the ability to refine practices and procedures in two areas referenced in the report. These include the need to update the monitoring manual to reflect process improvements implemented since 2015, and the need to incorporate formal Law Department review of cultural funding contract templates. CAD has begun developing additional staff resources and protocols to meet these recommendations and to better position the Cultural Arts Funding program for continued success.

While EDD values the opportunity to improve its service delivery to the community through this process, it is important to acknowledge factors which does place constraints on CAD's program administration. The increase of outreach and strengthening of community relationships has also increased the program's application intake. In each of the past two funding cycles, the program has seen an increase of 25 percent in the number of applications submitted for funding, which has resulted in almost double the total number of contracts executed in that time period.

1

Management Response

There has been no additional permanent full-time staffing to address this workload increase. Addressing the specialized program requirements has presented challenges in recruitment of qualified, experienced temporary personnel. In order to maintain a high level of quality program administration, inclusive of the recommendations from this Report, the department will evaluate and implement actions that continue to delivery best practice program outcomes, while also presents a sustainable workload for program staff.

EDD and CAD are committed to providing programs that nurture, preserve and promote Austin's creative community in order to strengthen and sustain Austin's dynamic cultural vitality. The prosperity of the cultural arts producers who contribute to Austin's tourism economy is at the heart of the community's economic development mission and policies. This Audit Report identifies recommendations that EDD will prioritize in order to continue to improve the Cultural Funding Program for both the City of Austin and the community we serve.

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Scope

The audit scope included the contract administration and monitoring practices for cultural arts contracts in FY16 and FY17.

Methodology

To accomplish our audit objectives, we performed the following steps:

- interviewed Cultural Arts Division staff and Law Department staff;
- reviewed cultural arts program guidelines and requirements;
- identified and reviewed best practices criteria applicable to contract management;
- reviewed cultural arts contracts templates;
- selected a sample of 30 contract files randomly from the population of contracts administered by the Cultural Arts Division in FY16 and FY17;
 - Source: lists of contracts for FY16 and FY17
 - NOTE: This sample cannot be projected to the population
- reviewed the sampled contract files for monitoring of compliance with contract requirements;
- evaluated the risk of fraud, waste, and abuse with regard to cultural arts contracts; and
- evaluated internal controls related to the monitoring of cultural arts contracts.

Audit Standards

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards 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 Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. We conduct performance audits to review aspects of a City service or program and provide recommendations for improvement.

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