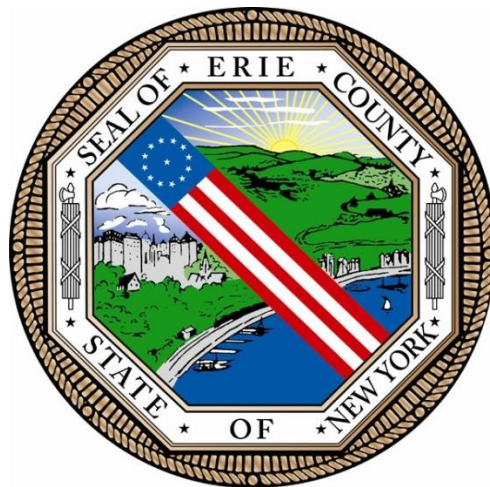


**December 2023**

**Erie County Cultural Funding Grant  
Monitoring Program  
American Legion Band of the Tonawandas  
January 1, 2020 through December 31, 2022**



**HON. KEVIN R. HARDWICK  
ERIE COUNTY COMPTROLLER**

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**HON. KEVIN R. HARDWICK  
ERIE COUNTY COMPTROLLER'S OFFICE  
DIVISION OF AUDIT & CONTROL  
95 FRANKLIN STREET  
BUFFALO, NEW YORK 14202**



December 4, 2023

Erie County Legislature  
92 Franklin Street, Fourth Floor  
Buffalo, New York 14202

Dear Honorable Members:

In 2023, the Erie County Comptroller's Office, Division of Audit & Control initiated a regular Monitoring Program of Erie County Cultural Funding Grants. The Erie County Cultural Funding program provides annual grants to non-profit arts and cultural organizations operating within the County. County funds are intended to be limited in their use to current operating expenses including salaries, program costs, fringe benefits, rents, utilities, office supplies, and equipment. Grant funds may not be used for or applied towards capital projects or physical improvements of buildings or facilities, nor as a revenue offset against accounts receivable. No funds received shall be used for any services provided or activities performed outside Erie County. The County's Department of Environment and Planning executes contracts with organizations and is the primary agency charged with monitoring.

### **Objective**

The objective of the Cultural Funding Monitoring Program is to verify that the recipients have utilized County funds according to the terms and conditions associated with the Erie County Cultural Funding grant process and the recipient's contract with the County. In order to verify the proper use of the grant award, a number of agencies were selected in order to review their expenses and financial records.

### **Scope and Methodology**

Approximately 120 different organizations receive funding annually from Erie County. The Comptroller's Cultural Funding Grant Monitoring Program is intended to review organizations that received a minimum of \$5,000 in funding during any of the three prior years. Approximately 80 agencies were identified as receiving \$5,000 or more in grant funding. The list of recipient organizations was split into two groups of approximately 40 agencies. The first batch of letters announcing the commencement of a review was sent to the selected non-profit organizations during mid-February 2023, with a second batch scheduled to be sent in early October 2023. The review of all agencies is expected to be completed by December 31, 2023.

### **2023 Program**

During the interview phase, the Auditor identifies use of funding to narrow down the expenses to be verified. A table of agencies which meet the criteria for review along with the amount of grant awards can be found on the following page.

## Monitoring Program – Phase I

ACT #	APPROPRIATION	VENDOR NUMBER	TAX YEAR 2019	TAX YEAR 2021	TAX YEAR 2022
	Enlightenment Literary Arts Center &				
517125	Dog Ears Bookstore	152184	\$ 28,600.00	\$ 36,600.00	\$ 55,000.00
518004	African American Cultural Center	112604	\$ 275,450.00	\$ 311,950.00	\$ 200,000.00
518012	Alleyway Theatre	109340	\$ 8,500.00	\$ 8,500.00	\$ 11,000.00
518016	American Legion Band of	100379	\$ 7,500.00	\$ 7,500.00	\$ 45,000.00
518017	Amherst Symphony Orchestra	100475	\$ 32,500.00	\$ 26,750.00	\$ 28,740.00
518019	Arts Services Initiative of WNY Inc	147159	\$ 26,050.00	\$ 26,050.00	\$ 30,000.00
518028	Ballet Artists Of WNY (Neslia)	100794	\$ 24,000.00	\$ 24,000.00	\$ 30,000.00
	Buffalo Arts Studio (Arts Studio of				
518040	Western New York, Inc)	101244	\$ 38,000.00	\$ 45,500.00	\$ 53,000.00
518044	Buffalo Inner City Ballet Co, Inc.	108597	\$ 27,000.00	\$ 27,000.00	\$ 27,000.00
518050	Buffalo Music Hall of Fame	119142	\$ 4,500.00	\$ -	\$ 5,500.00
518051	Buffalo Heritage Carousel	167929	\$ 30,000.00	\$ 30,000.00	\$ 35,000.00
518074	Colored Musicians Club	130377	\$ 5,000.00	\$ -	\$ 12,500.00
518084	El Museo Gallery	109836	\$ 12,585.00	\$ 8,585.00	\$ 11,000.00
518104	Graycliff Conservancy	103197	\$ 59,200.00	\$ 59,200.00	\$ 60,000.00
518113	Hull House Foundation	143473	\$ 15,375.00	\$ 5,375.00	\$ 7,500.00
	Jewish Community Center Cultural				
518119	(Jewish Cr of Greater Buff)	111239	\$ 13,500.00	\$ 8,750.00	\$ 13,500.00
518120	Just Buffalo Literacy Center	108577	\$ 78,100.00	\$ 78,100.00	\$ 83,500.00
518132	Locust St Neighborhood Art Classes	109985	\$ 29,250.00	\$ 25,250.00	\$ 28,500.00
518136	Martin House Restoration	104863	\$ 175,500.00	\$ 175,500.00	\$ 190,000.00
518139	Music is Art	139615	\$ 48,000.00	\$ 48,000.00	\$ 39,000.00
518146	Polish Arts Club Of Buffalo Inc	106132	\$ 7,000.00	\$ 7,000.00	\$ 8,800.00
518147	Preservation Buffalo Niagara	147509	\$ 4,615.00	\$ 4,615.00	\$ 6,000.00
518160	Springville Center For The Arts	111308	\$ 20,505.00	\$ 20,505.00	\$ 36,000.00
518164	Squeaky Wheel	101268	\$ 20,920.00	\$ 20,920.00	\$ 27,000.00
518172	Theodore Roosevelt Inaugural Site	106552	\$ 32,320.00	\$ 32,320.00	\$ 37,000.00
518176	Ujima Company	101047	\$ 83,000.00	\$ 83,000.00	\$ 57,714.00
518180	Western New York Artists Group	108295	\$ 6,275.00	\$ 6,275.00	\$ 7,500.00
518181	WNY Book Arts Collaborative, Inc	135959	\$ 4,640.00	\$ 4,640.00	\$ 6,000.00
518184	Young Audiences Of WNY	109818	\$ 10,500.00	\$ 10,500.00	\$ 14,000.00
518196	Buffalo Niagara Heritage Village	151998	\$ 18,500.00	\$ 18,500.00	\$ 24,500.00
518200	Michigan Str African Amer Heritage	152578	\$ 15,000.00	\$ 15,000.00	\$ 32,500.00
518201	General Pulaski Association	103060	\$ 10,000.00	\$ 11,000.00	\$ 12,500.00
518204	Brighton Place, Inc	156194	\$ 10,000.00	\$ 16,000.00	\$ 20,000.00
518211	Hispanic Heritage Council of WNY	159305	\$ 12,000.00	\$ 20,000.00	\$ 24,500.00
	Black Rock Historical Society (Black				
518216	Rock-Riverdale Alliance)	170369	\$ 22,500.00	\$ 7,500.00	\$ 10,000.00
518233	Centro Culturale Italiano di Buffalo	167500	\$ 25,000.00	\$ 20,000.00	\$ 15,000.00
518549	South Buffalo Irish Feis/Can You Dig	113041	\$ 18,000.00	\$ 15,000.00	\$ 15,000.00
518596	Net Positive DBA The Foundry	168005	\$ 5,000.00	\$ -	\$ 5,000.00

## Monitoring Program – Phase II

ACT #	APPROPRIATION	VENDOR NUMBER	TAX YEAR 2020	TAX YEAR 2021	TAX YEAR 2022
517533	Buffalo Olmsted Parks Conservancy	140237	\$ 25,910.00	\$ 25,910.00	\$ 35,000.00
518008	Albright-Knox Art Gallery	180707	\$ 575,000.00	\$ 575,000.00	\$ 675,000.00
518009	Albright-Knox Public Art Curator	147228	\$ 68,250.00	\$ 68,250.00	\$ -
518025	Assembly House 150, Inc	167747	\$ 1,000.00	\$ 1,000.00	\$ 6,500.00
518034	Buffalo & Erie County Botanical Garden	108743	\$ 102,000.00	\$ 125,000.00	\$ 150,000.00
518036	Buffalo & Erie Co Historical Society	108772	\$ 417,000.00	\$ 667,000.00	\$ 417,000.00
	Buffalo & Erie County Naval & Servicemans				
518052	Park	109339	\$ 35,000.00	\$ 35,000.00	\$ 50,000.00
518060	Buffalo Philharmonic Orch Society	101023	\$ 926,000.00	\$ 926,000.00	\$ 940,000.00
518061	Buffalo Philharmonic Chorus	109796	\$ 34,500.00	\$ 34,500.00	\$ 35,000.00
518064	Buffalo Society Natural Sciences	109767	\$ 955,000.00	\$ 955,000.00	\$ 955,000.00
518065	Buffalo String Works, Inc	167853	\$ 3,500.00	\$ 3,500.00	\$ 3,555.00
518068	Burchfield Penney Art Center	101004	\$ 155,000.00	\$ 155,000.00	\$ 160,000.00
518072	Center for Exploratory and Perceptu	109934	\$ 55,000.00	\$ 55,000.00	\$ 63,000.00
518090	Danceability	156639	\$ 2,500.00	\$ 2,500.00	\$ 3,000.00
518096	Explore & More Children's Museum	102758	\$ 42,000.00	\$ 42,000.00	\$ 78,000.00
518108	Hallwalls Contemporary Arts Center	108598	\$ 57,000.00	\$ 57,000.00	\$ 60,000.00
518112	Hamburg Nat Hist Society/Penn-Dixie	103282	\$ 96,314.00	\$ 96,314.00	\$ 96,314.00
518116	Inish Classical Theatre Company	103727	\$ 83,500.00	\$ 83,500.00	\$ 93,500.00
518124	D'Youville College Kavinsky Theater	109341	\$ 11,750.00	\$ -	\$ 9,500.00
518128	Lancaster Opera House	111681	\$ 43,300.00	\$ 30,300.00	\$ 35,000.00
518140	MusicalAffare Theatre	105308	\$ 61,525.00	\$ 61,525.00	\$ 66,000.00
518141	New Phoenix Theatre	109942	\$ 7,500.00	\$ 7,500.00	\$ -
518146	Road Less Traveled Productions	121043	\$ 63,500.00	\$ 63,500.00	\$ 67,000.00
518152	Roycroft Campus Cooperation	118213	\$ 50,000.00	\$ 40,000.00	\$ 50,000.00
518156	Shakespeare In The Park	109675	\$ 95,000.00	\$ 95,000.00	\$ 95,000.00
518168	Theatre Of Youth	109888	\$ 69,400.00	\$ 69,400.00	\$ 74,000.00
518173	Tom Spack Theatre	143670	\$ 20,480.00	\$ 15,480.00	\$ 29,500.00
518188	Zoological Society Of Buffalo	108623	\$ 1,500,000.00	\$ 1,500,000.00	\$ 1,700,000.00
518195	Orchard Park Symphony Orchestra	147747	\$ 4,615.00	\$ 4,615.00	\$ 6,000.00
518202	Buffalo Opera Unlimited Incorporated	155973	\$ 2,300.00	\$ 2,300.00	\$ 10,000.00
518203	Buffalo-Toronto Public Media WNEO/WBFO	172909	\$ 3,750.00	\$ -	\$ 5,000.00
518205	Cheestowaga Comm Symphony Orchestra	109127	\$ -	\$ -	\$ 7,500.00
518209	Newstead Historical Society	105518	\$ 5,500.00	\$ 3,500.00	\$ 5,000.00
518213	O'Connell & Company Productions	159162	\$ 23,100.00	\$ 23,100.00	\$ 31,500.00
	Amherst Male Glee Club dba Red Blazer				
518219	Men's Chorus	162045	\$ 3,000.00	\$ 3,000.00	\$ 6,000.00
518221	Buffalo Center for Arts and Technology	152207	\$ 3,000.00	\$ 3,000.00	\$ 7,500.00
518226	Cheektowaga Historical Association	163121	\$ 3,250.00	\$ 6,250.00	\$ 6,100.00
518229	Second Generation Theatre Company	164957	\$ 2,020.00	\$ 2,020.00	\$ 5,000.00
518230	Steel Plant Museum of Western New York	147740	\$ 2,020.00	\$ 2,020.00	\$ 5,000.00
518505	Aldent Christian Theater Society	116356	\$ 10,000.00	\$ -	\$ 3,000.00
518514	Clarence Concert Association	101711	\$ 3,500.00	\$ -	\$ 5,000.00
	Clarence Museum (Historical Soc. of the				
518515	Town of Clarence)	113067	\$ 5,500.00	\$ -	\$ 6,000.00

## BEST PRACTICES

Over the course of the Monitoring Program, the Division of Audit found a number of problematic practices and questionable expense categories on a recurring basis. In order to address issues pertaining to a large number of organizations, certain generally applicable best practices and recommendations are included here.

### Alcohol

Several organizations used or appeared to use CGF funds to obtain alcohol. While the Division of Audit does not recommend that CGF awards be made contingent on the absence of alcohol from events hosted by the organization, alcohol should not be purchased with CGF funds. The Division of Audit found dozens of alcohol purchases that appeared to be personal in nature and several more which likely violated NYS Alcoholic Beverage Control Laws. Furthermore, the NYS Comptroller has long held that alcohol is not a "lawful county charge", meaning that government officials and employees may not use taxpayer funds to purchase alcohol. The Division of Audit sees no reason that organizations receiving taxpayer funds should be treated differently.

### Debit Cards

The Division of Audit found a large quantity of small-dollar expenses made with debit cards which appeared personal in nature. If a debit card is used, the money is gone by the time statements are typically reviewed, while a credit card bill often needs to be approved and paid by the organization's board of directors. Thus, the use of credit cards, particularly with smaller organizations, can provide a critical layer of expense control.

### Alternate Funding Sources and Segregation of Accounts

Organizations may have several sources of governmental or philanthropic funding. One way to ensure that CGF funds go farthest is to tailor awards to the needs of the organization. Such an assessment would require applicants to provide certain financial documents covering prior years and a disclosure of current year funding applications. Furthermore, accounts received from Erie County should not be comingled with the other funds of the organization. Having source information upfront and requiring the segregation of accounts substantially decreases the likelihood of wasted CGF funds.

## AMERICAN LEGION BAND OF THE TONAWANDAS

### **BACKGROUND**

The American Legion "Band of the Tonawandas" (ALBT) is a non-profit, award-winning concert band based in Tonawanda, NY. ALBT was established in 1929 by World War I Veterans and American Legion members. The Band is currently comprised of Western New Yorkers with diverse occupations and backgrounds, including management, engineering, medicine, government, sales, and education. Most members are instrumental music educators, graduates, or students attending university music programs. All members participate on a volunteer basis, and membership is open to any musician based upon evaluation and section vacancies. Members are not required to obtain membership in the local musicians' union.

The Band, with ninety members at full strength, rehearses year-round and performs in many concerts and parades annually. The minimum age to become a member is fifteen.

In 2020 and 2021, ALBT received an annual amount of \$7,500 each in Erie County Cultural Grant (CGF) funding. In 2022, ALBT received \$45,000 in County Cultural Grant funding, which included \$35,000 above the Executive recommendation.

### **AUDITOR'S FINDINGS**

ALBT is an all-volunteer organization. ALBT does not have employees or paid positions, except for a stipend paid to the musical conductor/director. The stipends paid out during the audit period were approximately \$2,000 (2022), \$875 (2021) and \$1,700 (2020). The Auditor was unable to verify if the required IRS Form 1099-Misc was filed for each corresponding year.

ALBT ceased operations during some portions of 2020 and 2021 due to the Covid-19 pandemic. Board meetings and a few band meetings took place, but no live concerts were hosted until July 2021, when in-person gathering restrictions were lifted. The first indoor concert took place in Fall 2021.

The organization provides free summer concerts to the public. ALBT also hosts ticketed performances such as Spring and Winter concerts for which admission is charged. Most performances take place within Erie County, but the band also performs in surrounding counties.

CGF awards are utilized by the organization to cover the cost of general operating expenses. Some of the expenses incurred by the organization include rent, dry-cleaning of band uniforms, printing and mailing expenses and concert hall rentals. ALBT hosts a series of social events each year including an installation dinner and Christmas gathering, whereas approximately 50% of the cost is treated as a program expense while the remaining expense is offset by member contributions.

ALBT was able to provide substantiation for eligible expenses incurred for the years under review. The eligible expenses incurred for TY2020 and TY2021 exceeded the amount of grant funding received by the organization. However, the eligible expenses incurred in TY2022 were found to be less than the amount of grant funding received.

In 2020 and 2021, the operating expenses for the organization were consistent. However, expenses incurred during 2022 were substantially higher than in previous years due to the organization's participation in a band competition that took place out of state.

ALBT frequently participates in national band competitions. The organization did not participate in any band competitions during 2020 or 2021 due to the Covid-19 pandemic restrictions and cancellations of like events. The organization participated in a national band competition in 2022. ALBT indicated the possibility of attending another national competition in 2024 in New Orleans.

## **AUDITOR'S CONCLUSION**

Expenses incurred by ALBT in TY2022 increased by approximately 300%, thus generating a large increase to their operating budget for the year. ALBT participated in a national band competition in Wisconsin. The cost of attending the competition was approximately \$46,000. Expenses incurred to attend the competition included transportation, accommodations, meals, tips, and tours. Band members covered a portion of the cost of attending, and ALBT also received a monetary prize for their participation. After reimbursement by band members and the monetary award, ALBT covered over 50% of the cost of attendance.

Per § 22 of the Erie County Cultural Service Contract, the use of County funds shall be limited to current operating expenses including salaries, program costs, fringe benefits, rents, utilities, office supplies and equipment. Furthermore, "[n]o funds received under the contract shall be used for any service provided or activity performed outside Erie County." § 1 of the contract states that CGF recipients agree to provide public service benefits for and within Erie County. Expenses incurred as part of ALBT's participation in the national competition do not meet the eligible expense requirements as stipulated in the Cultural Service Contract.

Based on an analysis of the organization's tax return and a review of other financial documentation, eligible expenses incurred by the organization did not meet or exceed the amount of the CGF award it received in 2022. ALBT received \$45,000 in funding in 2022, and eligible expenses (excluding cost of the national competition) were determined to be approximately \$32,000.

Erie County Legislators have considerable discretion in allocation certain funds to organizations deemed to benefit their district. However, the Auditor cautions Legislators to be aware of the mechanism through which they appropriate funds to cultural organizations. The Erie County Department of Environment and Planning has a thorough process of vetting and approving CGF recipients. When the Executive recommendation is increased, the organization is still required to comply with all the requirements of the contract. Therefore, a large Legislative increase to an organization's CGF award may put that organization in a place where it is unable to substantiate eligible CGF expenses in the amount awarded.