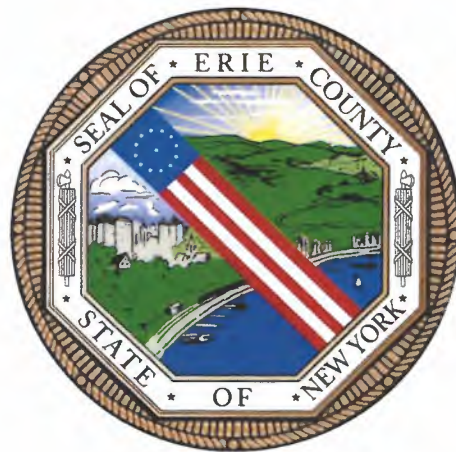


February 2024

**Erie County Cultural Funding Grant
Monitoring Program
El Museo Francisco Oller Y Diego Rivera
January 1, 2020 through December 31, 2022**



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

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



February 22, 2024

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, and a second batch was sent in early October 2023. The review of all agencies is expected to be completed by May 31, 2024.

2023 – 2024 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 2021	TAX YEAR 2022	TAX YEAR 2023
Enlightenment Literary Arts Center &					
517125	Dog Ears Bookstore	152183	\$ 38,800.00	\$ 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 (Negria)	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	113342	\$ 4,500.00	\$ -	\$ 5,500.00
518051	Buffalo Heritage Carousel	187829	\$ 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	Grayliff 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 Ctr 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	\$ 55,000.00
518146	Polish Arts Club Of Buffalo Inc	106132	\$ 7,000.00	\$ 7,000.00	\$ 9,000.00
518147	Preservation Buffalo Niagara	147509	\$ 4,615.00	\$ 4,615.00	\$ 6,000.00
518140	Springville Center For The Arts	113308	\$ 20,505.00	\$ 20,505.00	\$ 36,000.00
518164	Squeaky Wheel	101268	\$ 20,920.00	\$ 20,920.00	\$ 27,000.00
518173	Theodore Roosevelt Inaugural Site	105552	\$ 32,320.00	\$ 32,320.00	\$ 37,000.00
518176	Ujima Company	101047	\$ 83,000.00	\$ 83,000.00	\$ 97,714.00
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	151996	\$ 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	Brighon Place, Inc.	156194	\$ 10,000.00	\$ 16,000.00	\$ 20,000.00
518211	Hispanic Heritage Council of WNY	159305	\$ 12,000.00	\$ 28,000.00	\$ 24,500.00
Black Rock Historical Society/Black					
518216	Rock/Riverside Alliance	170369	\$ 22,500.00	\$ 7,500.00	\$ 10,000.00
518233	Centro Culturale Italiano di Buffalo	167580	\$ 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	168095	\$ 5,000.00	\$ -	\$ 5,000.00

Monitoring Program – Phase II

ACT #	APPROPRIATION	VENDOR NUMBER	TAX YEAR 2022	TAX YEAR 2023	TAX YEAR 2024
517533	Buffalo Olmsted Parks Conservancy	140237	\$ 25,910.00	\$ 25,910.00	\$ 35,000.00
518006	Albright-Knox Art Gallery	148597	\$ 575,880.00	\$ 575,880.00	\$ 675,000.00
518009	Albright-Knox Public Art Curator	147228	\$ 68,250.00	\$ 58,250.00	\$ -
518025	Assembly House 150, Inc.	167247	\$ 1,000.00	\$ 1,000.00	\$ 6,500.00
518034	Buffalo & Erie County Botanical Garden	106743	\$ 102,000.00	\$ 125,000.00	\$ 150,000.00
518036	Buffalo & Erie Co Historical Society	106772	\$ 67,800.00	\$ 667,000.00	\$ 437,000.00
Buffalo & Erie County Naval & Servicemans					
518052	Park	109339	\$ 35,000.00	\$ 35,000.00	\$ 50,000.00
518060	Buffalo Philharmonic Orch Society	103052	\$ 936,000.00	\$ 936,000.00	\$ 940,000.00
518061	Buffalo Philharmonic Chorus	109796	\$ 4,500.00	\$ 34,500.00	\$ 35,000.00
518064	Buffalo Society Natural Sciences	109762	\$ 955,800.00	\$ 955,800.00	\$ 955,800.00
518065	Buffalo String Works, Inc.	167852	\$ 3,500.00	\$ 3,500.00	\$ 5,355.00
518068	Burchfield Penney Art Center	107004	\$ 155,860.00	\$ 155,860.00	\$ 160,000.00
518072	Center for Experimentary and Perceptu	109934	\$ 35,000.00	\$ 35,000.00	\$ 61,000.00
518082	Danceability	156639	\$ 2,900.00	\$ 3,500.00	\$ 3,000.00
518096	Explone & More Children's Museum	102758	\$ 42,000.00	\$ 42,000.00	\$ 73,000.00
518106	Haltwalls Contemporary Arts Center	106598	\$ 37,000.00	\$ 37,000.00	\$ 60,000.00
518107	Hamburg Nat. Hist Society/Penn-Drive	103282	\$ 38,314.00	\$ 36,314.00	\$ 36,314.00
518116	Irish Classical Theatre Company	103727	\$ 83,500.00	\$ 83,500.00	\$ 91,500.00
518124	O'Youville College Kamovky Theater	109341	\$ 11,750.00	\$ -	\$ 9,500.00
518128	Windsor Opera House	111681	\$ 45,900.00	\$ 39,300.00	\$ 35,000.00
518140	Musicalfare Theatre	105308	\$ 61,525.00	\$ 61,525.00	\$ 65,000.00
518141	New Phoenix Theatre	109342	\$ 7,500.00	\$ 7,500.00	\$ -
518148	Road Less Traveled Productions	121043	\$ 61,500.00	\$ 83,500.00	\$ 67,000.00
518152	Roycroft Campus Cooperation	118213	\$ 50,800.00	\$ 48,000.00	\$ 50,800.00
518156	Shakespeare in The Park	105675	\$ 95,000.00	\$ 95,000.00	\$ 83,000.00
518168	Theatre Of Youth	109888	\$ 69,400.00	\$ 69,400.00	\$ 74,800.00
518173	Tom Space Theatre	141673	\$ 15,400.00	\$ 15,400.00	\$ 39,000.00
518188	Zoological Society Of Buffalo	106629	\$ 1,500,000.00	\$ 1,500,000.00	\$ 1,700,000.00
518195	Orchard Park Symphony Orchestra	147472	\$ 4,613.00	\$ 4,613.00	\$ 5,000.00
518202	Buffalo Opera Unlimited (Incorporated)	155973	\$ 2,300.00	\$ 2,300.00	\$ 3,000.00
518203	Buffalo Toronto Public Media WNEO/W2FO	172309	\$ 3,750.00	\$ -	\$ 3,000.00
518205	Cheektowaga Comm Symphony Orchestra	109177	\$ -	\$ 7,500.00	\$ -
518209	Newstead Historical Society	109518	\$ 1,500.00	\$ 3,500.00	\$ 3,000.00
518213	O'Connell & Company Productions	159462	\$ 22,100.00	\$ 23,100.00	\$ 31,500.00
Amherst Male Glee Club 30a Red Blazer					
518219	Men's Chorus	162045	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00
518221	Buffalo Center for Arts and Technology	152207	\$ 3,000.00	\$ 3,000.00	\$ 7,500.00
518225	Cheektowaga Historical Association	168123	\$ 1,250.00	\$ 2,250.00	\$ 5,100.00
518226	Second Generation Theatre Company	164657	\$ 2,800.00	\$ 2,800.00	\$ 5,800.00
518230	Steel Plant Museum of Western New York	147740	\$ 2,020.00	\$ 2,020.00	\$ 3,000.00
518585	Algonquin Choral Theatre Society	134558	\$ 30,800.00	\$ -	\$ 3,800.00
518514	Clarence Concert Association	103711	\$ 1,500.00	\$ -	\$ 3,000.00
Clarence Museum (Historical Soc. of the					
518515	Town of Clarence)	113067	\$ 5,500.00	\$ -	\$ 6,800.00

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

Credit cards, particularly with smaller organizations, can provide a critical layer of expense control. The Division of Audit found a large quantity of small-dollar expenses appearing 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 paid and approved by the organization's board of directors.

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.

EL MUSEO FRANCISCO OLLER Y DIEGO RIVERA

BACKGROUND

El Museo Francisco Oller y Diego Rivera (El Museo) is a 501(c)3 non-profit organization dedicated to the exhibition of contemporary artwork by diverse artists and cultures. El Museo was established in 1981, from a visual artists program called Gallery Without Walls. The name originated from the desire to honor Francisco Oller and Diego Rivera, two highly regarded Puerto Rican and Mexican Artists. It was the founder's belief that the two groups were at odds with each other due to different political views and heritage backgrounds, and El Museo was established as a means to unite those groups.

El Museo received \$12,585.00 in Cultural Grant Funding (CGF) for tax year 2020, \$8,585 in 2021 and \$11,000 in 2022.

AUDITOR'S OBSERVATIONS

El Museo operates as a small visual art gallery in the heart of Buffalo's Allentown District. El Museo hosts approximately six to eight art exhibits per year. Exhibits are presented free of charge to the community.

El Museo shifted its mission and focus in 1993 from the exhibition of Latin art to African American art. The organization wanted to broaden its reach and serve more artists of color and those who identify as underserved artists.

El Museo relies on public funds as its main source of funding. Funding from government grants and foundations represents approximately 70% of El Museo's operating budget. The organization also sells merchandise related to its mission, as well as artwork.

El Museo has undergone many changes in administration over the past few years. The organization has had approximately five Executive Directors over a six-year period. As a result, the organization encountered difficulties providing certain information to the Auditor, including answers to questions regarding its operation in prior years and accessing some of the documentation requested.

El Museo allocated the cultural grant funds towards operational and administrative related expenses such as rent, payroll and insurance and has received other public funds to support the organization's operation.

AUDITOR'S CONCLUSION

During the analysis, El Museo was able to provide adequate substantiation for use of cultural grant funds. The organization allocates grant funding towards expenses for rent, payroll and insurance. Copies of bank statements, cancelled checks and invoices were used by the organization to substantiate expenses. Expenses reviewed by the Auditor for the years covered by this analysis exceeded the amount of the County's grant funding.

Additionally, it was determined that due to the many changes in the organization's administration, internal controls were very weak. The Auditor did observe some questionable practices that are listed below:

El Museo Gallery received a \$18,000 grant from a foundation to assist with the cost of transitioning the organization to a new administration during 2021. It was noted that El Museo hired a consulting firm which is operated by the person who secured the grant for the gallery and who was serving at the time as the interim Executive Director for the organization. Payments to the consulting firm exceeded the amount of the grant and it was unclear if the organization's administration was aware that grant funds were depleted due to the various changes in the gallery's administration. In addition, no IRS 1099-Misc. Information Return was provided showing that the payments made to the consulting firm were properly filed.

During the review of expenses, the invoices from the consulting firm that were submitted by the consultant (also serving as the interim Executive Director) did not provide a clear account of what type of transitioning services were provided during the year. It is recommended that a detailed description of the services rendered with a breakdown of hours worked, should be included on each invoice. This will assist the organization's leadership with verifying the work product or deliverables and help to dissuade any questions that may arise regarding conflict of interest.

The organization incurred an expense for payroll services, but some of the payroll checks were either hand-written or made via web payments. The auditor was unable to reconcile the amount of wages paid as reported on the payroll returns compared to the amounts deducted by the payroll company and the payments identified via canceled checks.

Based on the number of changes in administration, the organization was unable to provide information regarding some of the expenses incurred for the years under review, including ATM withdrawals, expenses incurred for meals, web payments and reimbursements.

The Auditor was not able to perform an analysis of the tax return for the fiscal year ending September 30, 2022, as an extension for filing had been granted and the organization had still not filed its return.