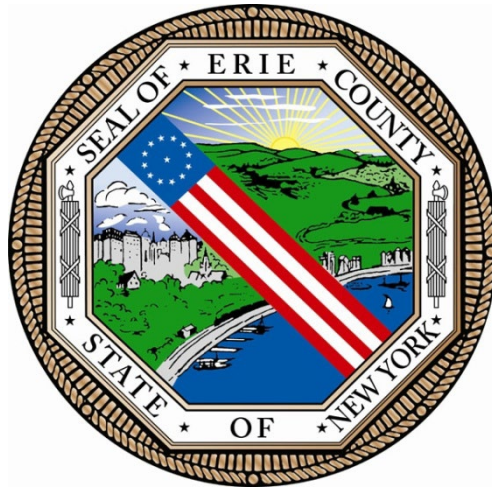


November 2024

**Erie County Cultural Funding Grant Monitoring Program  
Zoological Society of Buffalo, Inc.  
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**



November 27, 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 December 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 NUMBR	TAX YEAR 2020	TAX YEAR 2021	TAX YEAR 2022
517125	Enlightenment Literary Arts Center & Dog Ears Bookstore	152183	\$ 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 (Neglia)	100794	\$ 24,000.00	\$ 24,000.00	\$ 30,000.00
518040	Buffalo Arts Studio (Arts Studio of 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	113142	\$ 4,500.00	\$ -	\$ 5,500.00
518051	Buffalo Heritage Carousel	167829	\$ 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
518119	Jewish Community Center Cultural (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	\$ 39,000.00
518146	Polish Arts Club Of Buffalo Inc	106132	\$ 7,000.00	\$ 7,000.00	\$ 3,800.00
518147	Preservation Buffalo Niagara	147509	\$ 4,615.00	\$ 4,615.00	\$ 6,000.00
518160	Springville Center For The Arts	113308	\$ 30,505.00	\$ 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	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	Brighton Place, Inc	156194	\$ 10,000.00	\$ 16,000.00	\$ 20,000.00
518211	Hispanic Heritage Council of WNY (Black Rock Historical Society (Black Rock-Riverside 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 NUMBR	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	108707	\$ 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 (Buffalo & Erie County Naval & Servicemans Park)	108772	\$ 417,000.00	\$ 667,000.00	\$ 417,000.00
518052	Buffalo Philharmonic Orch Society	109339	\$ 35,000.00	\$ 35,000.00	\$ 50,000.00
518060	Buffalo Philharmonic Chorus	101032	\$ 926,000.00	\$ 926,000.00	\$ 840,000.00
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	\$ 5,355.00
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
518082	Danceability	156639	\$ 2,500.00	\$ 5,500.00	\$ 3,000.00
518095	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-Diaw	103282	\$ 98,314.00	\$ 98,314.00	\$ 96,314.00
518116	Irish Classical Theatre Company	103727	\$ 83,500.00	\$ 83,500.00	\$ 93,500.00
518124	O'Youville College Kavinoky Theater	109341	\$ 11,750.00	\$ -	\$ 9,500.00
518128	Lancaster Opera House	111681	\$ 45,300.00	\$ 30,300.00	\$ 35,000.00
518140	Musicalfare Theatre	105308	\$ 61,525.00	\$ 61,525.00	\$ 66,000.00
518141	New Phoenix Theatre	109342	\$ 7,500.00	\$ 7,500.00	\$ -
518148	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	Torn Space Theatre	143673	\$ 20,460.00	\$ 15,460.00	\$ 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 WNEB/WBFO	172909	\$ 3,750.00	\$ -	\$ 5,000.00
518205	Cheektowaga Comm Symphony Orchestra	109177	\$ -	\$ 7,500.00	\$ -
518209	Newstead Historical Society	105518	\$ 5,500.00	\$ 3,500.00	\$ 5,000.00
518213	O'Connell & Company Productions (Amherst Male Glee Club dba Red Blazer)	159162	\$ 23,100.00	\$ 23,100.00	\$ 31,500.00
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
518503	Alden Christian Theater Society	114358	\$ 10,000.00	\$ -	\$ 3,000.00
518514	Clarence Concert Association (Clarence Museum (Historical Soc. of the Town of Clarence))	101711	\$ 3,500.00	\$ -	\$ 5,000.00
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

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 at several organizations 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.

## **ZOOLOGICAL SOCIETY OF BUFFALO, INC.**

### **BACKGROUND**

The Zoological Society of Buffalo (ZSB) is a 501(c)(3) non-profit organization established in 1931 to raise funds and public interest in the Buffalo Zoological Gardens (The Buffalo Zoo). The stated mission of ZSB is to provide the community with an educationally, culturally and recreationally significant resource through the advancement and encouragement of the science of zoology, through the conservation of the world's wildlife and the innovative exhibition of diverse species of mammals, birds, reptiles, amphibians, insects, and fish.

ZSB received \$1,500,000 in Cultural Grant Funding (CGF) for the years 2020 and 2021 and \$1,700,000 for the year 2022. ZSB was awarded additional \$2,000,000 in Capital Grant funding for the year 2024 for infrastructure repairs, which falls outside of the scope of the current review. ZSB is the largest CGF recipient of Erie County.

### **AUDITOR'S OBSERVATIONS**

ZSB is an organization established to provide care and oversight of the living animal collection and manage the operation of the Buffalo Zoo. The Buffalo Zoo was originally established in 1875 as a deer park and was owned and operated by the City of Buffalo. Operational responsibilities were subsequently turned over from the City of Buffalo to ZSB in 1973. The City of Buffalo owns all structures built prior to the incorporation of ZSB in 1931. ZSB owns all exhibits and structures built after 1931. All structures owned by the City of Buffalo are leased to the organization at nominal cost.

For the years under review, ZSB generated revenue from contributions and programming in equal measure. Grants, contributions, donations, and sponsorships averaged \$4,878,947 over the three-year period, accounting for ZSB's largest source of revenue. Programming-related activities, including admissions, memberships, and guest services averaged \$4,864,811 over that same representing the organization's second-largest source of annual revenue. Salaries, wages, benefits, and other compensation comprises the zoo's largest expense category.

During the year 2020, grants and contributions accounted for the largest source of revenue as the Buffalo Zoo was required to shut down for a short period of time because of the Covid-19 pandemic, resulting in a decrease in admission and membership revenue for the organization. The organization continued administrative functions remotely, and animal caretakers continued to work on site. Pandemic-related economic assistance such as federal Payroll Protection Plan (PPP), and Economic Injury Disaster Loan (EIDL) were used to offset revenue losses. In addition, ZSB received an additional \$363,980 as part of the CARES Act for Coronavirus Relief Fund from the County of Erie to aid in reducing their losses as well as \$1,500,000 in American Rescue Plan funds from the City of Buffalo for critical infrastructure needs.

ZSB also generates revenue from mission-related functions, including the operation of a gift-shop, concession stands, parking fees, and a number of fundraising events. The Zoo Gala and the annual appeal are two of the main fundraising events for the organization. ZSB generates additional operating income by renting its facilities for events such as birthday parties, meetings, conferences and private visits.

The primary operating expenses for ZSB include salaries and wages, veterinary care, animal feed, occupancy-related costs and other miscellaneous expenses. CGF received for years under review was allocated towards the cost of general operating expenses and wages.

### **AUDITOR'S CONCLUSION**

During the grant monitoring review process, ZSB was able to provide the Auditor with adequate substantiation for its use of the CGF award for each year under review. Documentation provided by the organization for this purpose included copies of bank statements, credit card statements, tax return documents, invoices, payroll records, and other electronic financial information. The operating expenses incurred by the organization exceeded the amount of CGF awarded by the County for each of the years under review.

ZSB was able to provide the Auditor with substantiation of additional operating expenses selected for review. As part of the review of the organization's records, the Auditor identified a series of food and beverage expenses incurred by the organization for occurrences such as team meetings, staff lunches and birthdays, and staff development events. Although expenses were substantiated, the same were determined to be above average in nature. Per §162 of the Internal Revenue Code (IRC), expenses are only deductible if they constitute "ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business." While these types of expenditures may have a positive impact on employee morale, they are not deemed ordinary and necessary for the purposes of the tax code and the production of income.

A review of the organization's payroll returns and records indicated that the average salary increases in the years under review for members of the ZSB executive team approached 9%, which is above the national average of 3% to 5%.

During the review, the Auditor identified lobbying-related expenditures incurred by the organization, in the form of payments to a consulting firm. Expenses were listed by the organization as "direct lobbying expenditures to influence a legislative body". The Auditor verified that expenses incurred by the organization did not exceed legal thresholds.

ZSB currently has a Board of Directors consisting of 32 members and are limited to two 3-year terms, which can be served consecutively. Board members must step down for a minimum of one year before being able to return. The organization affirmed that the Board of Directors is part of the internal control system for ZSB. The Board of Directors is responsible for the review and approval of the organization's tax return, the review and approval of salaries, wages and benefits, as well as any proposed changes to the organization's policies. Internal control procedures appear adequate for the organization.

ZSB developed a 15-year plan, dedicated to the expansion and renovation of the Buffalo Zoo. The plan is scheduled to take place in phases and will include the renovation of various exhibits as well as the introduction of new living collections. The estimated renovation cost per exhibit will range anywhere from \$2 million to \$30 million. The organization anticipates undertaking of a series of capital campaigns to offset the cost.

At the conclusion of the grant review, the Auditor was able to determine that ZSB is currently in compliance with the filing of all Federal forms 990, New York State form CHAR500, information return documents as well as other federal and state obligations.