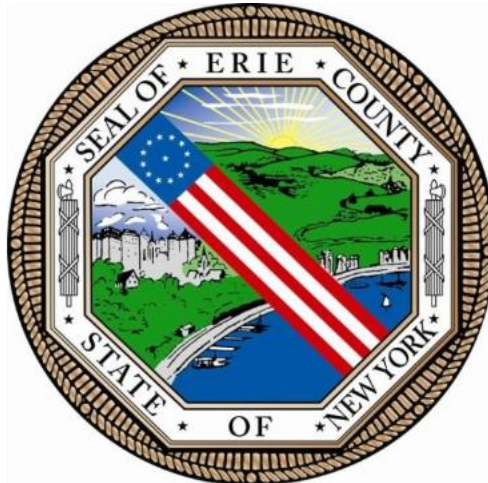


**May 2026**

**Erie County Cultural Funding Grant Monitoring Program  
EL BATEY INC  
January 1, 2023, through December 31, 2024**



**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**



May 29, 2026

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 Grant Monitoring Program is to verify that grant recipients utilize County funds in accordance with the terms and conditions of their grant agreements with the County. To support this objective, the Comptroller's Office selects a sample of organizations annually to review financial records, substantiate the proper use of County grant funds, verify that required IRS Form 990 and New York State Form CHAR500 were completed, and assess board oversight for the fiscal years under review.

## **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 \$10,000 in funding during any of the two prior years. For this round of review, covering fiscal years 2023 and 2024, approximately 15 agencies were identified for examination.

# EL BATEY INC

## BACKGROUND

### Brief History

El Batey Inc is a 501(c)(3) non-profit organization established on February 21st, 2020. El Batey offers folkloric dance instructions and percussion classes for both kids and adults. Participants learn the rich history and connections of their African and Indigenous heritage through the native cultural musical expressions called Bomba and Plena. The center also offers sports and self-defense classes, based on Brazilian Jiu Jitsu with a focus on self-control, anger management and anti-bullying practices. El Batey also offers weekly social emotional lessons that focus on teaching kids and their parents' nonviolent communications. Together the family learns the skills to express themselves honestly and to empathically receive difficult messages. Skills that are necessary for long-term healthy relationships within a nuclear family structure.

### Mission Statement

The stated mission of El Batey Inc is committed to creating safe and engaging spaces for youth. The services center family, education, culture, and traditions as the cornerstones for a thriving and healthy Puerto Rican community. Their vision is to build a community of possibilities, where they have the capacity, expertise, programs, leaders, and wealth required to end unnecessary suffering and create an alternative future.

### Community Served

The organization's target audience includes Puerto Rican youth and low-income families, with a focus on providing culturally grounded programs that support education, wellness, and community development.

### CFG Grant Award History

El Batey Inc. received Cultural Funding Grants (CFG) totaling:

- 2023 organization did not apply
- \$13,000 in 2024, including \$10,000 above the executive recommendation.

## FINANCIAL ANALYSIS

### Revenue Sources

For the years under review, program-related revenue comprised around 60% of total revenue and contributions, gifts, grants, and membership fees comprised around 40%, representing the organization's two primary revenue sources.

El Batey conducts fundraising activities periodically throughout the year to generate operating revenue. These activities include live music events, candy bar sales, and chicken dinner sales. Live music events and food-related sales (candy bars and chicken dinners) constitute the organization's primary fundraising activities.

### Grant Revenue

<b>Grant Dependency</b>	<b>2023</b>	<b>2024</b>
Total Grant Revenue as Percentage of Total Revenue	45.44%	34.50%
CFG Funds as Percentage of Total Revenue	Did not apply	8.88%

Total grant revenue accounted for 45.44% of El Batey's total revenue in 2023, declining to 34.50% in 2024, indicating a reduced but still moderate dependence on grant funding.

Within this, CFG funds represented a comparatively small share, contributing 0.00% in 2023 and 8.88% in 2024.

### Operating Expenses

Total operating expenses increased significantly from 2023 to 2024, driven primarily by travel-related expenditures associated with Puerto Rico, which accounted for approximately 62 percent of the overall increase. Because Erie County Cultural Funding (CFG) is calculated based on total operating expenses and is capped at 20 percent of that amount, this increase may affect the organization's future funding eligibility.

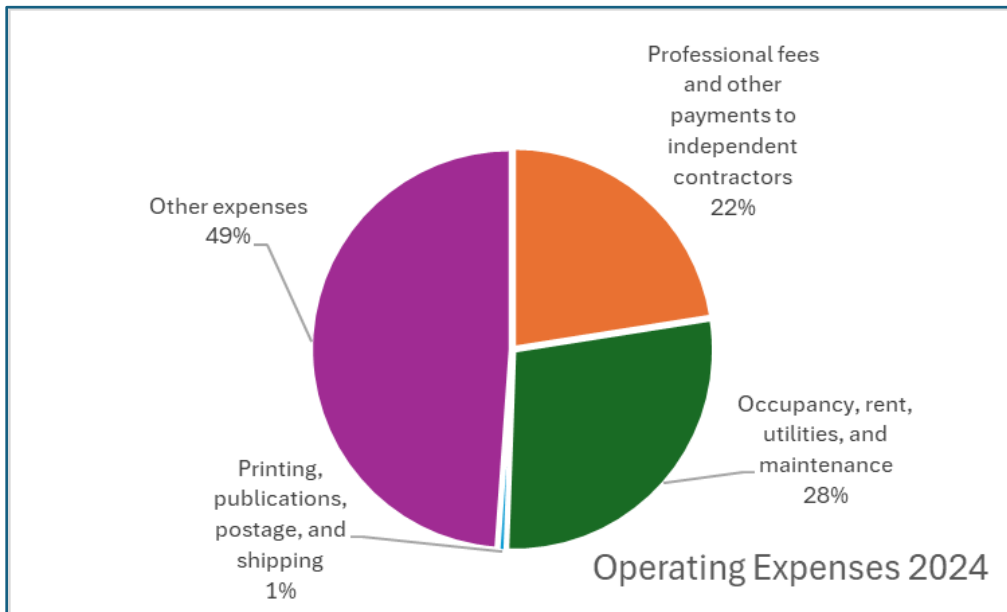
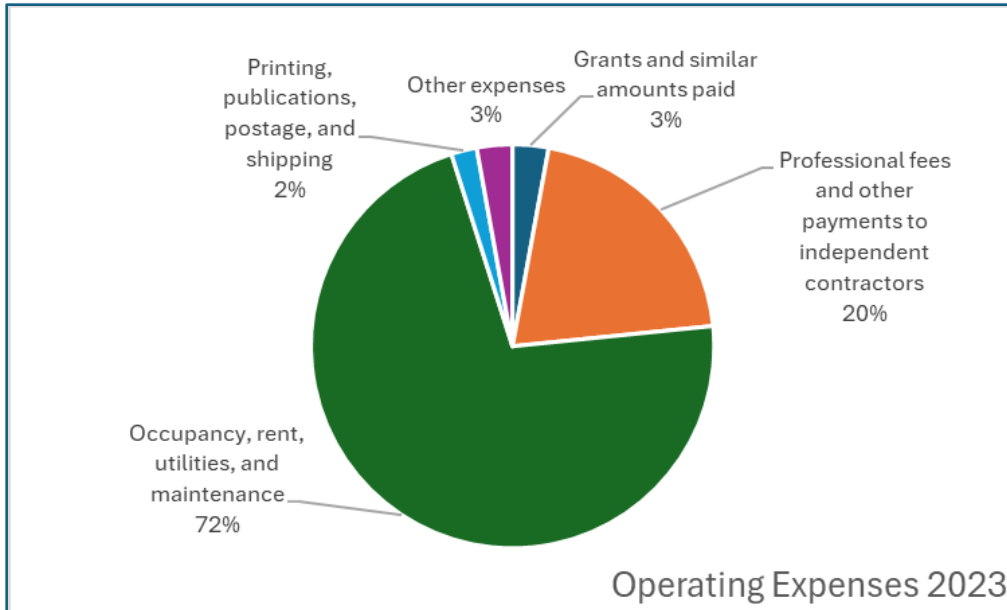
CFG guidelines limit funding to general operating support, such as salaries, rent, utilities, and equipment, and require that funded activities be conducted within Erie County. Travel expenditures associated with Puerto Rico were incurred outside Erie County and did not meet this location-based eligibility requirement. While these activities may provide indirect benefits, their inclusion in operating expenses may overstate the base used to calculate future CFG eligibility.

In contrast, occupancy-related costs, including rent, utilities, and maintenance declined during the same period.

The CFG was evaluated against total operating expenses net of depreciation, with funding not to exceed 20% of that amount as recommended by the County.

Based on this methodology, CFG funding provided to El Batey, Inc. represented the following percentages of net operating expenses:

- 0.00% in 2023 (did not apply)
- 9.27% in 2024 (within the recommended threshold).



## OBSERVATIONS & CONCLUSIONS

### Use of CFG Funds

El Batey Inc. utilized CFG funds to support the delivery of its cultural arts programming, including facility rent, program materials, stipends for skilled dance instruction and folkloric music accompaniment, and the purchase of folkloric garments and costumes. Supporting documentation provided by the organization was adequate to substantiate the use of grant funds for the years under review.

### Bank Statement review

During the review of the organization's bank statements, auditors identified two cash withdrawals and one PayPal transfer totaling \$9,000 for which supporting documentation was not initially provided. Organization leadership later stated that the funds were used to compensate instructors and subsequently provided documentation describing the related program costs.

Based on additional records reviewed, auditors noted that the organization's customary practice for compensating individuals for services was to issue payments by check, including multiple check payments during the year to the same individuals associated with these transactions. However, the transactions in question were processed outside the organization's normal payment procedures, and no supporting documentation, such as board authorization or meeting minutes, was provided to explain or approve the deviation from standard practices.

Although the documentation provided was generally consistent with the programming offered, the organization did not issue any Forms 1099-NEC or W-2 related to these payments. As a result, auditors were unable to determine whether the disbursements constituted reportable compensation or whether applicable tax reporting requirements were satisfied.

### Credit Card Review

No credit card activity was identified during the review period. The organization's leadership confirmed that the organization does not maintain any organizational credit cards, however they do utilize a bank debit card.

### General Ledger Review

Based on a review of the organization's financial records, the Auditor was provided with "Projected Monthly Budget" spreadsheets; however, no supporting transaction-level detail or formal general ledger was made available. These spreadsheets outlined general revenue and expense categories but did not include sufficient detail to substantiate financial activity or allow for standard audit procedures.

As a result, the Auditor was unable to perform a comprehensive general ledger review or fully assess the accuracy and completeness of recorded financial transactions.

The absence of a formal general ledger raises concerns regarding the organization's financial recordkeeping practices and its ability to support reported financial information. The Auditor recommended the implementation of a reliable accounting system, such as accounting software or a structured and consistently maintained workbook to record activity at a transaction level. This system should be designed to align with the organization's Form 990-EZ to enable proper reconciliation and support effective financial oversight by management and the board.

Additionally, the Auditor recommended that the organization consult with a qualified accounting professional to ensure that fundraising activities, grant revenue, and compensation are appropriately recorded on Form 990-EZ and evaluated for any related tax implications. During the exit conference, the organization reported that corrective actions are underway, including implementing QuickBooks and engaging an accountant.

### Payroll & Executive Salary & Form 1099 Analysis

Based on a review of the organization's records, the Auditor identified that El Batey did not issue the required IRS forms to eligible individuals who received reportable compensation. This includes members of the executive team, as well as members of the organization's Board of Directors, who were compensated for providing instructional services.

During the site visit, management informed the Auditors that they were unaware of the applicable IRS reporting requirements. Auditors advised management to consult with a qualified accounting professional to ensure compliance with Internal Revenue Code (IRC) requirements.

The organization should establish and implement formal procedures to properly classify individuals performing services and receiving compensation as either employees (Form W-2) or independent contractors (Form 1099-NEC). This applies to all individuals, including those serving as officers, board members, or in executive roles. Additionally, policies and procedures should be developed or strengthened to ensure adequate internal controls over financial transactions.

Management acknowledged the Auditor's concerns, expressed appreciation for the guidance, and noted that as a relatively new organization, they are continuing to develop their understanding of operational and compliance responsibilities. The organization did acknowledge at the exit conference that they are currently working with an accountant to take corrective action.

While management's response is acknowledged, the Auditors recommend that the organization prioritize the issuance of the appropriate Forms 1099-NEC for both applicable tax years. Payments meeting or exceeding the \$600 IRS reporting threshold were made to at least eight individuals, indicating a reporting obligation that should be addressed promptly.

### Governance & Policy Review

El Batey Inc. is governed by a Board of Directors consisting of six members, with directors limited to a maximum of two consecutive two-year terms. The Board convenes semi-annually to provide guidance and direction regarding the organization's operations.

However, based on the documentation provided, formal governance and financial oversight practices appear limited. Specifically, the documentation reviewed did not demonstrate sufficient evidence of board-level review of financial activity, formal approval of key financial decisions, or clearly defined oversight responsibilities among board members. The absence of these practices increases the risk that financial or operational issues may not be identified or addressed in a timely manner.

Auditors also noted that a personal relationship exists between a member of the executive team and a member of the Board of Directors. The Board of Director's President and the Executive Director are married, and both serve as authorized signatories on the organization's bank account. This relationship presents an appearance of a conflict of interest and undermines the effectiveness of independent financial oversight, as it concentrates financial authority among closely related parties. While auditors make no assertion of impropriety, the organization should take proactive steps to mitigate the appearance of this conflict and ensure that appropriate checks and balances are maintained.

The Auditor recommends that El Batey Inc. take the following steps to strengthen its governance and oversight practices:

- Board Oversight: Formalize board oversight responsibilities by establishing clearly defined roles and expectations for the review and approval of financial matters.
- Documentation: Maintain thorough and consistent records of board monitoring activities, financial reviews, and actions taken, ensuring these are accurately reflected in board meeting minutes.
- Conflict of Interest: Adopt or strengthen a formal conflict of interest policy that addresses personal and familial relationships among board members, officers, and key personnel. The organization should consider requiring that at least one authorized bank signatory be independent of any familial or personal relationships with other signatories or executive staff.
- Segregation of Financial Authority: Ensure that financial decision-making responsibilities are distributed among individuals without familial or personal conflicts of interest to safeguard the integrity of the organization's financial operations.

## **Additional Observations**

### Reimbursement Policy Compliance

El Batey Inc. maintains a written Reimbursement Policy for board members, volunteers, and employees, which provides that mileage for personal vehicle use shall be reimbursed at the current IRS standard mileage rate, where applicable. However, based on the review conducted during the site visit, reimbursements do not appear to have been processed in accordance with this policy.

Specifically, board members were found to have used the organization's bank debit cards to purchase fuel for personal vehicles, rather than submitting mileage reimbursement requests as outlined in the policy. No supporting documentation was provided for these expenditures. This practice is inconsistent with the organization's established reimbursement procedures and limits the ability to verify that expenditures were reasonable, necessary, and incurred for organizational purposes.

The Auditor recommends that the organization discontinue the use of organization's bank cards for personal vehicle fuel purchases and ensure that all travel-related reimbursements are processed in accordance with the established policy. Supporting documentation, including mileage logs and trip purposes, should be required and retained for all reimbursement requests.

### Requirements for Food Sales

As part of its fundraising activities, El Batey sells dinners in connection with programs offered to the public. Under New York State law and Erie County Health Department requirements, such activities are subject to applicable licensing and permitting.

Based on discussions with the organization and the Erie County Health Department, it was determined that the organization is required to obtain a "Letter of Permission" from the Health Department for these occasional events.

The Auditor recommends that the organization obtain a “Letter of Permission” from the Erie County Health Department for all applicable events and maintain documentation of such approvals on file to ensure compliance with regulatory requirements.

## **CONCLUSION**

Based on the documentation reviewed during the grant monitoring engagement, concerns were identified regarding the organization’s financial recordkeeping and timeliness of certain required regulatory filings. The organization was unable to provide transaction-level financial records, such as a formal general ledger, which limited the Auditor’s ability to fully assess financial activity for the review period.

The Auditor reviewed the organization’s Form 990-EZ and CHAR500 for the years under review. The 2023 filings were verified through publicly available records and appeared to have been submitted in accordance with applicable filing requirements.

For 2024, the Auditor was provided with copies of the organization’s Form 990-EZ and CHAR500. The Form 990-EZ was available through third-party reporting sources, including ProPublica and GuideStar, and reflected a filing date in January 2026, which is after the extended filing deadline. At the time of review, the 2024 Form 990-EZ and CHAR500 were not yet reflected on the IRS or New York State Attorney General websites for independent verification.

While the documentation provided indicates that the required filings were completed, the delayed filing and the inability to independently verify certain 2024 submissions through official public records at the time of review raise concerns regarding timely compliance with filing requirements. Combined with the limitations in financial recordkeeping, these matters indicate areas where stronger internal financial controls and regulatory compliance practices are needed.

## General Governance and Compliance Guidance for Non-Profit Organizations



Strong financial management depends not only on the integrity of staff and board members, but on the existence of clear, board-approved policies that establish expectations, define responsibilities, and provide a framework for accountability.

This appendix contains general reference information compiled from publicly available federal and New York State sources. It is provided for educational purposes only and is not part of the audit criteria applied in this review unless specifically referenced in the report body. It should not be interpreted as legal, tax, or accounting advice.

### 1. Board Oversight

#### 1a. Board Oversight Responsibilities

Responsibility	Description	Purpose / Risk Mitigated	Applicable IRC Reference
Monitor Required Filings	Ensure timely submission of all required federal and NYS filings (e.g., Form 990, CHAR500)	Prevents penalties, loss of good standing, and revocation of tax-exempt status	IRC §6033; IRC §6033(j)
Approve Financial Policies	Review and approve key financial and governance policies	Establishes accountability and governance framework	IRC §501(c)(3)
Oversight of Internal Controls	Ensure appropriate financial controls are implemented and functioning	Reduces risk of fraud, waste, and misuse of funds	IRC §501(c)(3); IRC §4958
Compliance Monitoring	Periodically review compliance with regulatory and grant requirements	Ensures ongoing adherence to laws and funding conditions	IRC §6033
Documentation of Oversight	Maintain board minutes documenting financial oversight and decisions	Provides evidence of due diligence and governance	IRC §6001

#### 1b. Key Governance and Financial Policies

Adopting written policies is a necessary first step, but policies are only effective when they are communicated to staff, consistently applied, and reinforced through regular board review. Boards are encouraged to include a policy review as a standing item on their annual meeting agenda.

Policy Area	Purpose and Key Elements
Procurement and Purchasing	Governs purchasing procedures, vendor selection, competitive bidding thresholds, and approval authority. Includes provisions for sole-source and emergency procurements.
Credit Card	Typically defines authorized users, allowable expenses, and documentation requirements. Requires timely submission of receipts and supervisor or board review of reconciliations.
Travel, Meals & Entertainment Expense Reimbursement	Outlines how an organization manages, monitors, and reimburses costs incurred by employees while conducting business away from their usual workplace or entertaining clients. It usually defines what expenses are reimbursable, setting spending limits, and establishing the procedures for reporting and approval
Cash Handling and Bank Accounts	Covers the receipt, deposit, and disbursement of funds. Establishes segregation of duties, authorized signatories, and monthly reconciliation requirements.
Record Retention	Establishes minimum retention periods for financial records, contracts, invoices, and supporting documentation, consistent with IRS, New York State, and applicable grant requirements.
Conflict of Interest and Related-Party Transactions	Requires annual disclosure of potential conflicts by board members and staff. Prohibits participation in decisions where a personal or financial interest may compromise organizational integrity.

Policy Area	Purpose and Key Elements
Whistleblower and Fraud Reporting	Provides a mechanism for reporting suspected fraud, waste, or misuse of funds. Prohibits retaliation against individuals who report concerns in good faith.
Internal Controls and Compliance	Defines roles and responsibilities for financial oversight, budgeting, and reporting. Establishes procedures for reviewing and approving transactions, reconciliations, and financial statements. Establishes a framework to ensure compliance with adopted policies and provides for corrective action when deficiencies are identified.

### 1c. Key Filing Deadlines

Timely filing of required forms is essential to maintaining compliance.

#### Federal Filing Requirements

Form	Purpose	Deadline
Form 990 / 990-EZ / 990-N	Annual informational return	15th day of the 5th month after fiscal year-end
Form 990-T	Reports unrelated business income (UBIT)	Same as Form 990
Form 941	Quarterly payroll reporting	End of month following quarter
Form W-2	Employee wages	January 31
Form 1099-NEC	Independent contractors	January 31

#### New York State Filing Requirements

Form	Agency	Purpose	Deadline
CHAR500	NYS Charities Bureau	Annual financial report	4.5 months after fiscal year-end
CHAR410	NYS Charities Bureau	Registration (if applicable)	As required
CT-13 / CT-13-A	NYS Dept. of Taxation and Finance	State exempt organization filing	4.5 months after fiscal year-end
NYS-45	NYS Dept. of Taxation and Finance	Quarterly payroll reporting	End of month following quarter

Filing extensions may be available depending on filing type.

#### Key New York-Specific Considerations

Organizations registered with the Charities Bureau must file Form CHAR500 annually, even if no financial activity occurred.

The CHAR500 must include:

- A copy of the organization's IRS Form 990
  - Required financial statements (reviewed or audited, depending on revenue thresholds)
- Failure to file may result in:
  - Loss of registration status
  - Financial penalties
  - Restrictions on fundraising activities within New York State
- Organizations should track both federal and state deadlines, as they may differ in requirements and extensions.

## 2. Meals, Entertainment & Travel Expense Guidance

Non-profit organizations must ensure that all expenditures further the organization's mission and comply with applicable tax rules and internal policies.

General Principles:

- Expenses must be reasonable, necessary, and directly related to the organization's exempt purpose.
- All expenses must be supported by adequate documentation, including itemized receipts and a clear business purpose.
- Policies should clearly distinguish between allowable and non-allowable expenses.

Category	Guidance / Standard
<b>General Principle &amp; Governing Guidance</b>	Expenses must further the organization's exempt purpose, be reasonable, necessary, and properly documented. Must avoid private benefit. Follow standards from the Internal Revenue Service and apply an accountable plan framework.
<b>Travel – Allowable</b>	Conferences, training, program delivery, grant activities, and meetings with funders or stakeholders.
<b>Travel – Reasonableness</b>	Airfare (economy), lodging (moderate), meals (within per diem), transportation (cost-effective). Use General Services Administration per diem as a benchmark.
<b>Travel – Documentation</b>	Dates, location, business purpose, itemized receipts, proof of payment, agendas, mileage logs (if applicable).
<b>Travel – Best Practices</b>	Pre-approval required, written policy, spending limits, consistent reimbursement method (per diem or actual), timely submission (e.g., 30 days).
<b>Meals &amp; Entertainment – General Rule</b>	Meals & Entertainment expenses should be supported by a documented business or program purpose and reviewed for reasonableness.
<b>Meals &amp; Entertainment – Allowable (Limited)</b>	Modest meals with donors/partners, board meetings, or fundraising-related events tied to mission.
<b>Entertainment – Unallowable</b>	Personal celebrations, guest expenses without business purpose, or excessive hospitality expenses may present heightened compliance risk.
<b>Meals &amp; Entertainment – Documentation</b>	Names and affiliations of attendees, business purpose, itemized receipts, date/location, explanation of mission relevance, Agendas, meeting notices, invitations or program materials help substantiate the business purpose and measurable outcomes (if applicable)
<b>No Private Inurement/Excess Benefit</b>	Expenses must not provide disproportionate personal benefit to insiders (officers, directors, key employees). Violations may trigger penalties under Internal Revenue Code.
<b>Accountable Plan Requirements</b>	Must meet: (1) business connection, (2) substantiation, and (3) return of excess reimbursements. Otherwise, it may be treated as taxable wages.
<b>Internal Controls (approval &amp; authorization)</b>	Segregation of duties, independent review (especially executives), board oversight, approval thresholds, periodic audits.
<b>Alcohol (if applicable)</b>	If included in meals or events, consumption must be limited, reasonable, and consistent with policy. Alcohol-related expenditures generally warrant additional documentation and review for allowability under grant terms.
<b>Audit Red Flags</b>	Missing business purpose, no receipts, round-dollar amounts, excessive costs, weekend/holiday expenses without explanation, lack of independent approval.
<b>Policy Requirement</b>	Maintain a formal written T&E policy defining allowable costs, documentation standards, limits, and approval requirements.

Key Notes:

- Meals: Allowable if directly mission-related and properly documented; follow per-meal limits or per diem where possible.
- Entertainment: Generally disallowed unless it directly furthers the mission and is modest; high scrutiny from IRS audits.
- Travel: Must be necessary, reasonable, and supported by receipts and business purpose documentation.

### 3. Unrelated Business Income (UBIT) Considerations

Unrelated Business Income Tax (UBIT) applies when a tax-exempt organization generates income from activities that are not substantially related to its exempt purpose.

Even when an organization is tax-exempt, it may still be required to pay tax on certain types of income.

Activity	Guidance	Compliance Risk	IRC Reference
Fundraising Events	Occasional events generally not subject to UBIT	Low risk if not regularly carried on	IRC §513(a)
Ongoing Commercial Activity	Regular business activity may generate taxable income	Subject to UBIT and reporting on Form 990-T	IRC §511-514
Alcohol Sales	Regular sales may be considered unrelated business activity	May trigger UBIT and licensing requirements	IRC §513

#### 3a. Key Criteria (All Three Must Apply)

Income is generally subject to UBIT if the activity is:

1. A trade or business - Conducted to generate income from selling goods or services
2. Regularly carried on - Occurs frequently or continuously (similar to a for-profit business)
3. Not substantially related to the organization's mission - Does not directly support the organization's exempt purpose

#### Generally Subject to UBIT

- Operating a gift shop or café not related to the mission
- Running a bar or regular alcohol sales operation
- Renting out space with services provided (e.g., catering, staffing)
- Selling advertising in newsletters or websites
- Providing paid services unrelated to programs

#### Generally, NOT Subject to UBIT

- Occasional fundraising events (e.g., annual gala, festival)
- Activities conducted primarily by volunteers
- Sale of donated goods (e.g., thrift stores)
- Income directly related to the mission (e.g., museum admissions, program fees)

#### 3b. Key Compliance Requirements

- Report UBIT on Form 990-T
- Pay applicable federal (and possibly state) taxes
- Track unrelated income and expenses separately

#### 3c. Important Considerations

- Generating some UBIT does not automatically jeopardize tax-exempt status
- However, excessive unrelated activity may raise concerns with the IRS
- Proper classification and documentation are essential

#### Simple Rule of Thumb

If the activity looks like a regular business and is not tied to your mission, it may be subject to UBIT

#### 4. Alcohol Sales by Non-Profit Organizations: IRC §513

Non-profit organizations may sell alcohol at events provided they obtain appropriate state permits, ensure the activity is occasional and fundraising-related, maintain adequate documentation, and implement appropriate internal controls. Ongoing or unrelated alcohol sales may trigger tax liabilities and additional regulatory requirements. Organizations should also review grant agreements, as some funding sources prohibit alcohol-related expenditures regardless of tax treatment.

Category	Requirement / Guidance	Reference / Notes
<b>Licensing &amp; Permits</b>	Obtain appropriate NYS permit prior to event: Temporary Beer, Wine & Cider Permit for short-term events; Catering Permit or On-Premises License for regular sales	New York State Liquor Authority; local municipality approvals may also be required
<b>Eligible Activities</b>	Occasional fundraising events are generally exempt from UBIT; recurring or regular sales may trigger UBIT	IRC §511–514 (UBIT); §513 (unrelated trade/business)
<b>Purchasing &amp; Vendor Compliance</b>	Alcohol must be purchased from licensed distributors; age restrictions (21+) enforced	NYSLA regulations
<b>Internal Controls</b>	Board-approved policy, pre-approval of events, segregation of duties, controlled sales or cashless systems, inventory tracking	Best practices for audit and compliance
<b>Documentation</b>	Maintain permits, invoices, contracts, event purpose, attendee list, and revenue/expense records	Supports compliance and audit trail
<b>Risks of Non-Compliance</b>	Fines, permit revocation, UBIT exposure, reputational risk, grant compliance issues	NYSLA and IRS enforcement

##### 4a. State and Local Licensing (New York State)

In New York, alcohol sales are regulated by the New York State Liquor Authority.

Non-profits must obtain appropriate permits before selling alcohol:

- Temporary Beer, Wine & Cider Permit
- For one-day or short-term events
- Most common for fundraisers, festivals, and galas
- Catering Permit or On-Premises License (if applicable)
- Required if alcohol is sold regularly or through a contracted vendor
- Permit must be obtained in advance of the event
- Alcohol must be purchased from licensed distributors

Must comply with:

- Age restrictions (21+)
- Responsible service requirements
- Local municipality approvals may also be required

##### 4b. Federal Tax Considerations (IRS / UBIT)

Alcohol sales may trigger Unrelated Business Income Tax (UBIT) depending on how the activity is conducted.

Generally, NOT subject to UBIT:

- Occasional fundraising events (e.g., annual gala, festival)
- Activities not “regularly carried on”

May be subject to UBIT:

- Ongoing or recurring alcohol sales (e.g., operating a bar)
- Activities not substantially related to the organization’s exempt purpose

##### 4c. Financial Controls and Governance

Even when permitted, alcohol sales require strong internal controls to ensure compliance and accountability.

Recommended Controls:

- Board-approved policy addressing alcohol sales and use
- Pre-approval of events involving alcohol
- Segregation of duties (sales, cash handling, reconciliation)
- Use of cashless or controlled sales systems where possible
- Inventory tracking (to prevent loss or misuse)

4d. **Documentation Requirements**

Organizations should maintain:

- Copies of permits and licenses
- Vendor invoices (proof alcohol was purchased legally)
- Event records (date, purpose, attendees)
- Revenue and expense tracking specific to the event
- Contracts with caterers or third-party vendors

4e. **Risk Considerations**

Failure to comply may result in:

- Fines or penalties from the New York State Liquor Authority
- Loss of ability to hold future events
- Exposure to UBIT and IRS scrutiny
- Reputational risk and grant compliance issues

## 5. Payroll vs. Independent Contractor Guidance for Non-Profit Organizations

Non-profit organizations should classify workers based on the level of control and the nature of the working relationship.

Category	Guidance / Standard
Classification Principle	Based on control, financial dependence, and relationship (IRS common law test, IRC §3121(d)).
Employee (W-2)	Ongoing, supervised, integral to operations; regular hours; organization provides tools, training; paid wages with taxes withheld.
Independent Contractor (1099)	Project-based or specialized service; independent business; controls work method; multiple clients; paid per contract.
Compliance – Employees	Withhold/pay federal income, FICA; file Form W-2, Form 941; comply with wage and hour laws, unemployment insurance.
Compliance – Contractors	Obtain Form W-9; issue Form 1099-NEC for payments ≥ \$600; maintain contracts; avoid treating like employees.
Best Practices	Written classification policy; pre-approval of contractors; maintain W-9, contracts, invoices, payments; annual review.
Risks of Misclassification	IRS penalties, back taxes, interest/fines, state labor violations.

### **5a. Core Principle: Classification Is Based on Control (Not Preference)**

The IRS determines whether a worker is an employee or independent contractor based on the degree of control and independence, not what the organization chooses to call them.

Three Key IRS Factors:

- Behavioral Control – Does the organization control how the work is done?
- Financial Control – Are expenses reimbursed? Is payment hourly vs. per project?
- Relationship – Is the work ongoing? Are benefits provided?

### **5b. When a Worker Should Be on Payroll (W-2 Employee)**

A worker should generally be classified as an employee if:

- The organization controls how, when, and where work is performed
- The role is ongoing or integral to operations
- The individual works regular hours or under supervision
- The organization provides tools, equipment or training
- The worker is part of day-to-day operations

Examples:

- Administrative staff
- Program coordinators
- Site managers
- Regular event staff

Best Practice:

If the role looks like a job, functions like a job, and is ongoing → likely should be on payroll

### **5c. When Independent Contractor (1099) Is Appropriate**

A worker may be classified as an independent contractor if:

- They operate an independent business
- They control how the work is performed
- They are hired for a specific project or short-term service
- They use their own tools/equipment
- They work with multiple clients

Examples:

- Guest performers
- Grant writers (project-based)
- Marketing consultants
- IT specialists (contract work)

#### **5d. High-Risk Misclassification Areas (Common Audit Findings)**

Non-profits frequently misclassify:

- Workers performing ongoing roles but paid via 1099
- Individuals working set schedules under supervision
- Board members or officers receiving compensation improperly
- “Consultants” who function as staff

Red Flag:

If someone is paid regularly (weekly/monthly) and acts like staff → likely should be W-2

#### **5e. Payroll Compliance Requirements (Employees)**

If classified as an employee, the organization must:

Withhold and remit:

- Federal income tax
- Social Security and Medicare (FICA)

Filing requirements:

- Form W-2
- Form 941 (quarterly payroll tax)

Comply with:

- Wage and hour laws
- Unemployment insurance (state)

#### **5f. Independent Contractor Compliance (1099)**

For contractors, organizations must:

- Obtain Form W-9 before payment
- Issue Form 1099-NEC for payments ≥ \$600
- Maintain contracts defining scope of work
- Avoid treating contractors like employees

#### **5g. Best Practices for Non-Profits**

- Governance & Controls
- Adopt a written worker classification policy
- Common to document pre-approval for contractor engagements
- Maintain written contracts for all contractors

Documentation

- W-9 forms
- Contracts
- Invoices
- Payment records
- Periodic Review
  - Review worker classifications annually
  - Reclassify if roles evolve into employee-type positions

When in doubt, seek professional advice or IRS determination through Form SS-8.

### **5h. Risks of Misclassification**

Failure to properly classify workers may result in:

- IRS penalties and back taxes
- Liability for unpaid payroll taxes
- Interest and fines
- Exposure to state labor law violations

#### *Disclaimer*

*The guidance presented in this appendix reflects generally accepted governance practices and applicable federal and New York State requirements for tax-exempt organizations, including those required to file Form 990. While certain references are derived from provisions of the Internal Revenue Code, this appendix is not intended to represent a comprehensive statement of legal requirements. Not all provisions apply uniformly to every organization. Accordingly, this information is provided for general guidance only, and organizations should consult qualified legal or tax professionals regarding their specific circumstances.*

# Non-Profit Quick Reference: Tax, Filing, and T&E Guidance (501(c)(3))

## 1. Board Oversight & Governance

Responsibility	Purpose / Risk Mitigated	IRC Ref.
Monitor Filings	Ensure timely federal/NYS submissions	§6033; §6033(j)
Approve Policies	Establish financial accountability	§501(c)(3)
Oversight of Controls	Prevents fraud, misuse, errors	§501(c)(3); §4958
Compliance Monitoring	Adherence to laws and grants	§6033
Document Oversight	Board minutes as evidence	§6001

## 2. Filing Deadlines (FY End)

### Federal

Form	Purpose	Deadline
990 / 990-EZ / 990-N	Annual return	15th day of 5th month
990-T	Unrelated Business Income (UBIT)	Same as 990
941	Payroll	End of month post quarter
W-2 / 1099-NEC	Employee / Contractor	Jan 31

### New York

Form	Agency	Purpose	Deadline
CHAR500	NYS Charities Bureau	Annual financial report	4.5 months after fiscal year-end
CHAR410	NYS Charities Bureau	Registration (if applicable)	As required
CT-13 / CT-13-A	NYS Dept. of Taxation and Finance	State exempt organization filing	4.5 months after fiscal year-end
NYS-45	NYS Dept. of Taxation and Finance	Quarterly payroll reporting	End of month following quarter

## 3. Alcohol Sales (Events / Fundraisers)

Category	Guidance	Ref / Notes
Licensing	Temporary or catering permit required	NYSLA
Eligible Activities	Occasional fundraising exempt; regular sales may trigger UBIT	§511–514; §513
Controls & Documentation	Board approval, segregation of duties, invoices, attendee list, event purpose	Audit best practice
Risks	Fines, UBIT, permit revocation, reputational risk	NYSLA / IRS enforcement

## 4. Meals, Entertainment & Travel (T&E)

Category	Guidance / Standard	IRC Ref.
General	Must support exempt purpose; reasonable, necessary; documented	§501(c)(3); §62(a)(2)(A)
Travel	Conferences, training, stakeholder meetings; moderate lodging/transport	GSA per diem benchmark
Meals	Modest, mission-related, board/donor meetings; avoid excess	§274(d)
Entertainment	Generally disallowed unless modest, mission-related	§274; §4958
Documentation	Receipts, date/location, purpose, attendees, agendas, measurable outcomes	§274; §4958
Internal Controls	Pre-approval, segregation of duties, board oversight, periodic audits	§501(c)(3); §4958

## 5. Unrelated Business Income (UBIT)

Activity	Guidance	IRC Ref.
Occasional Fundraising	Generally, not subject	§513(a)
Regular Commercial Activity	Reportable; may trigger UBIT	§511–514
Alcohol Sales	Regular sales may be taxable	§513

**Rule of Thumb:** Subject to UBIT if 1) trade/business, 2) regularly carried on, 3) not substantially related to mission.

## 6. Payroll vs. Independent Contractor

Category	Guidance	IRC Ref.
Employee (W-2)	Ongoing, supervised, integral to operations; taxes withheld	§3121(d); IRS Common Law Test
Contractor (1099)	Project-based, independent, multiple clients; control own work	§3121(d)
Compliance	Employees: W-2, 941, wage laws; Contractors: W-9, 1099-NEC, contract	IRS Publications 15-A, 15-B
Best Practices	Written classification policy, contracts, pre-approval, annual review	IRS guidance
Risk	Misclassification → penalties, back taxes, interest, state labor violations	§3121(d); IRS enforcement