August 2026

Erie County Cultural Funding Grant Monitoring Program
Just Buffalo Literary Center
January 1, 2023, through December 31, 2024

HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER

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DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
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August 14, 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 nonprofit arts and cultural organizations operating within the County. County funds are intended to be limited to current operating expenses, including salaries, program costs, fringe benefits, rent, utilities, office supplies, and equipment. Grant funds may not be used for capital projects or physical improvements to buildings or facilities, nor as a revenue offset against accounts receivable. No funds received may be used for services provided or activities performed outside Erie County. The County's Department of Environment and Planning executes contracts with recipient organizations and is the primary agency responsible for monitoring.

OBJECTIVE

The objective of the Cultural Funding Grant Monitoring Program is to verify that grant recipients use 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 use of County grant funds, verify the filing of required IRS Form 990 and New York State Form CHAR500, and assess Board oversight for the fiscal years under review.

SCOPE AND METHODOLOGY

Approximately 120 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 either of the two prior years. For this round of review, covering fiscal years 2023 and 2024, approximately 15 organizations were identified for examination.

JUST BUFFALO LITERARY CENTER

BACKGROUND

Brief History

Just Buffalo Literary Center (JBLC) was founded in 1975 by Debora Ott, who hosted a reading from poet Diane Di Prima at the Allentown Community Center in Buffalo. In the following years, notable authors and poets such as Robert Creeley, Ed Dorn, Alice Notley, Maureen Owen, and Ted Berrigan came to Buffalo to participate in readings offered by what had by then become "Just Buffalo."

In 1982, JBLC established its Writers in Education program, providing in-school creative writing programs for young people. At its peak, the program served approximately 4,000 students per year. After more than two decades of stewarding community-based literary programs and establishing Just Buffalo Literary Center as a national presence in the literary community, Debora Ott left the organization in 1998.

Mission Statement

Just Buffalo Literary Center is dedicated to strengthening communities through the literary arts by providing opportunities for individuals to engage in reading, writing, and literary expression. The organization promotes access to literary experiences that encourage creativity, learning, connection, and personal growth, while supporting the role of literature in enriching individuals and communities throughout the region.

Community Served

Just Buffalo Literary Center serves individuals of all ages throughout Buffalo and Erie County by providing literary arts programming that encourages reading, writing, and community engagement. The organization's programs are intended to reach children, youth, adults, educators, writers, readers, and lifelong learners with opportunities to participate in author events, writing workshops, educational initiatives, and other literary experiences.

Programming is designed to be inclusive and accessible, welcoming participants from diverse backgrounds and life experiences. Through partnerships with schools, libraries, community organizations, and cultural institutions, the organization expands access to literary arts experiences across the region and encourages participation from communities that may have limited access to arts and cultural programming.

By fostering a love of reading, supporting creative writing, and creating opportunities for meaningful dialogue and shared experiences, the organization engages a broad audience and contributes to individual growth, cultural appreciation, and stronger community connections throughout Buffalo and Erie County.

CFG Grant Award History

Just Buffalo Literary Center received Cultural Funding Grants (CFG) totaling:

- $91,850.00 in 2023.
- $95,000.00 in 2024.

FINANCIAL ANALYSIS

Revenue Sources

During the review period, government grants and other contributions, gifts, grants, and similar amounts represented the organization's primary source of revenue. Program service revenue was the second-largest source of revenue in both 2023 and 2024.

Total grant revenue represented the following percentages of total revenue:

- 73.60% in 2023.
- 70.56% in 2024.

JBLC relies significantly on grant funding to support its operations.

Within this total, CFG funds represented a comparatively small share of total revenue:

- 8.81% in 2023.
- 9.49% in 2024.

Operating Expenses

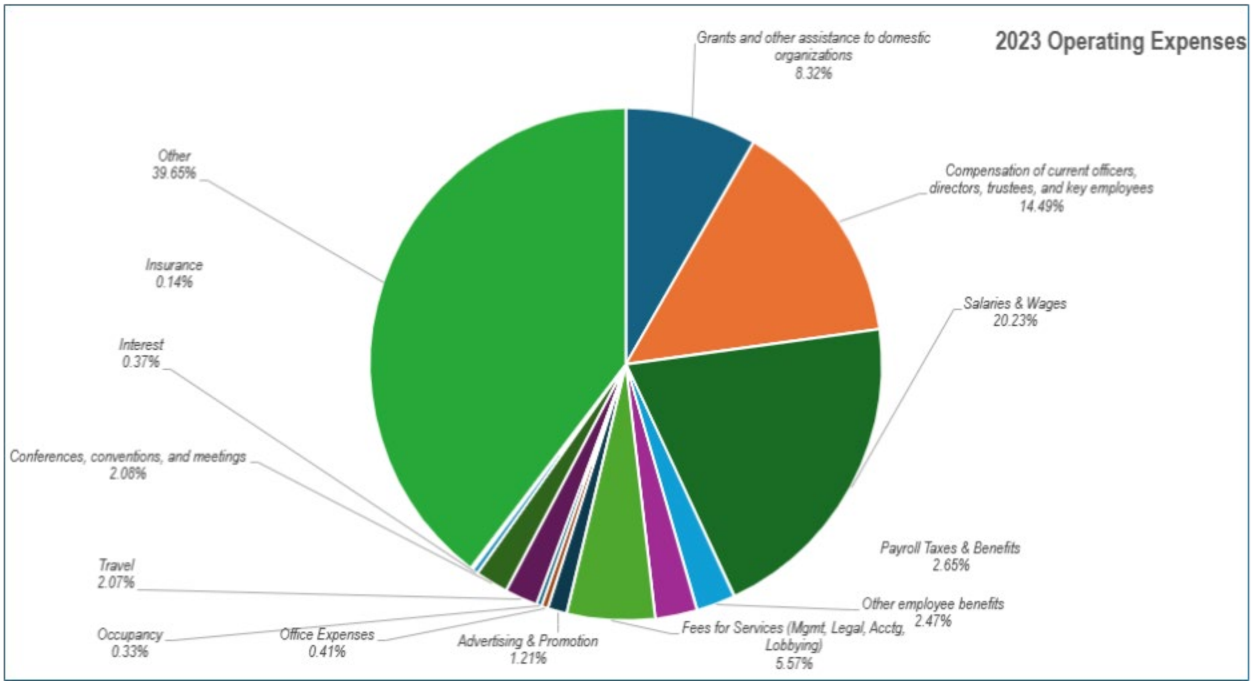
JBLC's total operating expenses remained relatively stable between 2023 and 2024, with a slight decrease in 2024. In 2023, the largest expense categories were "Other Operating Expenses", which included program fees, writers' fees, space rental, amortization, and salaries and wages which included compensation of current officers, directors, trustees, and key employees, as well as employee benefits and payroll taxes.

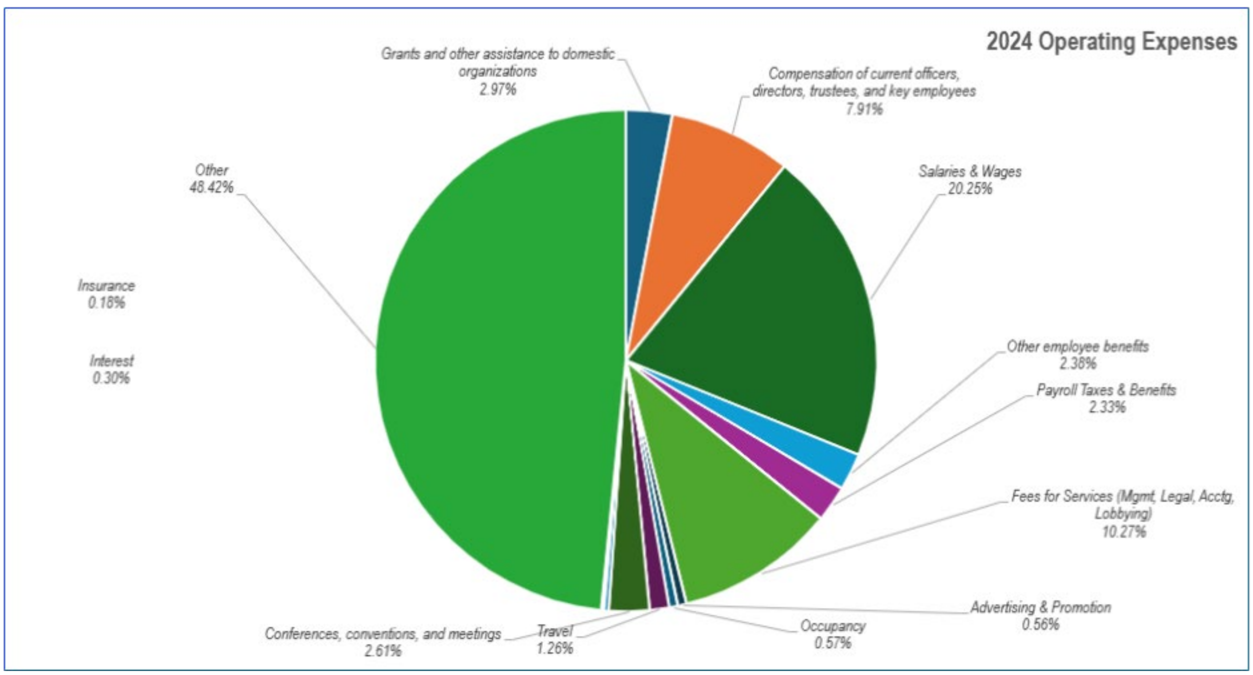
In 2024, Other Operating Expenses remained the largest expense category, while salaries and wages continued to represent the second-largest expense category.

CFG grant funding requests are evaluated against total operating expenses, net of depreciation, with recommended funding not to exceed 20% of that amount.

CFG funding to JBLC as a percentage of net operating expenses was as follows:

- 7.93% in 2023. (within the recommended threshold)
- 8.26% in 2024. (within the recommended threshold)


2023 Operating Expenses
Grants and other assistance to domestic organizations 8.32%
Compensation of current officers, directors, trustees, and key employees 14.49%
Salaries & Wages 20.23%
Payroll Taxes & Benefits 2.65%
Other employee benefits 2.47%
Fees for Services (Mgmt, Legal, Acctg, Lobbying) 5.57%
Advertising & Promotion 1.21%
Office Expenses 0.41%
Occupancy 0.33%
Travel 2.07%
Conferences, conventions, and meetings 2.08%
Interest 0.37%
Insurance 0.14%
Other 39.65%


2024 Operating Expenses
Grants and other assistance to domestic organizations 2.97%
Compensation of current officers, directors, trustees, and key employees 7.91%
Salaries & Wages 20.25%
Other employee benefits 2.38%
Payroll Taxes & Benefits 2.33%
Fees for Services (Mgmt, Legal, Acctg, Lobbying) 10.27%
Advertising & Promotion 0.56%
Occupancy 0.57%
Travel 1.26%
Conferences, conventions, and meetings 2.61%
Interest 0.30%
Insurance 0.18%
Other 48.42%

OBSERVATIONS & CONCLUSIONS

Credit Card & Bank Statements

The Auditor selected a sample of 113 credit card transactions to assess whether JBLC complied with its credit card policy. Supporting documentation, including invoices, receipts, and event-related documentation, was provided for all sampled transactions.

Based on the transactions tested, JBLC complied with its credit card policy, and supporting documentation was retained for all sampled credit card purchases. No exceptions were identified.

Use of CFG Funds

JBLC utilized CFG funds to support organizational operations and programmatic activities, including support staff salaries, rent and utilities, and facility rental for the BABEL visiting author series at Kleinhans Music Hall.

Beginning in 2024, the County required CFG funds to be either maintained in a separate bank account or otherwise appropriately accounted for by the recipient. JBLC substantiated the use of CFG funds, and no exceptions were identified.

Erie County was appropriately recognized as a sponsor in accordance with contractual requirements. Sponsorship acknowledgment was verified across multiple platforms, including the digital program book at Kleinhans Music Hall, the digital BABEL and Silo City Reading Series programs, social media, and the Government Support page on JBLC's website.

General Ledger Review

The Auditor selected a sample of ten transactions related to conference and leadership programs, staff mileage, travel reimbursements, and entertainment expenses to assess whether the organization complied with its accounting and reimbursement policy.

The organization provided supporting documentation, including invoices, receipts, and event-related documentation, for all transactions tested. Based on the transactions tested, the organization complied with its accounting and reimbursement policy, and no exceptions were identified.

Payroll & Executive Salary & Form 1099 Analysis

Salary increases were reviewed and exceeded the 3%–5% annual benchmark used for this analysis. For the four employees examined, the average salary increase from 2023 to 2024 was 9.64%. The salary increases were reviewed and approved by the Board of Directors. The Auditor also reviewed Forms 1099 issued during the review period and reconciled reported amounts to the general ledger without exception.

Governance & Policy Review

JBLC is governed by a 12-member Board of Directors. Directors are generally limited to three consecutive three-year terms. The Board meets five times per year to conduct strategic discussions and review administrative, governance, and financial matters, as well as committee findings. Board committees meet as necessary between meetings and report to the full Board.

The Board of Directors provides guidance and oversight and has final approval authority over the operating budget, including compensation arrangements. A draft of Form 990 is submitted to the Executive Director and the Board of Directors for review and approval prior to filing. Each Board member is required to annually review and sign the conflict-of-interest policy, and potential conflicts must be disclosed to the Board.

JBLC provided accounting and organizational policies and procedures, including its Accounting Policy, Conflict-of-Interest Policy, Equal Employment Opportunity Policy, and Document Retention Policy. Based on the governance documentation reviewed and the procedures performed by the Auditor, no exceptions were identified indicating that JBLC was adhering to its established governance policies and procedures and financial oversight appear to be in place.

Additional Observations (if applicable)

No additional observations.

CONCLUSION

Documentation reviewed included IRS Forms 990, Forms 1099, payroll records, bank and credit card statements, cleared checks, general ledger reports, accounting and organizational policies and procedures, the personnel handbook, and Board of Directors meeting minutes.

Based on the documentation reviewed and procedures performed, the Auditor determined that Just Buffalo Literary Center complied with the Erie County Cultural Funding Grant Contract and filed IRS Form 990 and New York State Form CHAR500 for 2023 and 2024.

APPENDIX

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
General Principle & Governing Guidance	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.
Travel – Allowable	Conferences, training, program delivery, grant activities, and meetings with funders or stakeholders.
Travel – Reasonableness	Airfare (economy), lodging (moderate), meals (within per diem), transportation (cost-effective). Use General Services Administration per diem as a benchmark.
Travel – Documentation	Dates, location, business purpose, itemized receipts, proof of payment, agendas, mileage logs (if applicable).
Travel – Best Practices	Pre-approval required, written policy, spending limits, consistent reimbursement method (per diem or actual), timely submission (e.g., 30 days).
Meals & Entertainment – General Rule	Meals & Entertainment expenses should be supported by a documented business or program purpose and reviewed for reasonableness.
Meals & Entertainment – Allowable (Limited)	Modest meals with donors/partners, board meetings, or fundraising-related events tied to mission.
Entertainment – Unallowable	Personal celebrations, guest expenses without business purpose, or excessive hospitality expenses may present heightened compliance risk.
Meals & Entertainment – Documentation	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)
No Private Inurement/Excess Benefit	Expenses must not provide disproportionate personal benefit to insiders (officers, directors, key employees). Violations may trigger penalties under Internal Revenue Code.
Accountable Plan Requirements	Must meet: (1) business connection, (2) substantiation, and (3) return of excess reimbursements. Otherwise, it may be treated as taxable wages.
Internal Controls (approval & authorization)	Segregation of duties, independent review (especially executives), board oversight, approval thresholds, periodic audits.
Alcohol (if applicable)	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.
Audit Red Flags	Missing business purpose, no receipts, round-dollar amounts, excessive costs, weekend/holiday expenses without explanation, lack of independent approval.
Policy Requirement	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
Licensing & Permits	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
Eligible Activities	Occasional fundraising events are generally exempt from UBIT; recurring or regular sales may trigger UBIT	IRC §511–514 (UBIT); §513 (unrelated trade/business)
Purchasing & Vendor Compliance	Alcohol must be purchased from licensed distributors; age restrictions (21+) enforced	NYSLA regulations
Internal Controls	Board-approved policy, pre-approval of events, segregation of duties, controlled sales or cashless systems, inventory tracking	Best practices for audit and compliance
Documentation	Maintain permits, invoices, contracts, event purpose, attendee list, and revenue/expense records	Supports compliance and audit trail
Risks of Non-Compliance	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 Key Requirements:
- 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*.* ***<u>Documentation Requirements</u>***

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. ***<u>Risk Considerations</u>***

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. <u>Core Principle: Classification Is Based on Control (Not Preference)</u>

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. <u>When a Worker Should Be on Payroll (W-2 Employee)</u>

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. <u>When Independent Contractor (1099) Is Appropriate</u>

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. <u>Risks of Misclassification</u>

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