August 2026

Erie County Cultural Funding Grant Monitoring Program
Locust Street Neighborhood Art Classes, Inc.
January 1, 2023, through December 31, 2024

HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER

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DIVISION OF AUDIT & CONTROL
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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 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.

LOCUST STREET NEIGHBORHOOD ART CLASSES, INC.

BACKGROUND

Brief History

Locust Street Neighborhood Art Classes, Inc. (doing business as Locust Street Art or LSA), originally known as Molly-Olga Neighborhood Art Classes, was founded in 1959 and received 501(c)(3) tax-exempt status in January 1972. The organization began when local artist Molly Bethel invited neighborhood children into her Maple Street home for painting lessons, which quickly evolved into a community-based center for arts education.

Over the past six decades, LSA has expanded its programming from drawing and painting to include ceramics, photography, animation, and digital media, providing free or low-cost visual arts instruction to children, youth, adults, and seniors throughout the City of Buffalo and surrounding communities.

A longstanding cultural institution in Buffalo's Fruit Belt neighborhood, LSA provides a safe and welcoming environment that fosters creativity, artistic expression, and personal growth. According to the organization, approximately 67% of its students are people of color, with African American students representing 77% of participants ages 4 through 13. Additionally, approximately 90% of at-risk youth served reside in low-income ZIP codes, and 86% participate in free or reduced-price school lunch programs.

Mission Statement

Locust Street Art provides free or low-cost visual arts instruction on a consistent basis to individuals of all ages, with a particular emphasis on youth, low-income, and minority populations, to help develop the artistic talent and skills necessary to excel in the visual arts.

Community Served

LSA serves individuals ages 4 and older, including seniors, with a particular focus on women, children, minorities, and low-income individuals. During the 2023–2024 school year, 1,747 students were enrolled in LSA programs, increasing to 1,771 students during the 2024–2025 school year.

The organization promotes its programs through online advertising, print media, schools, and community outreach events. All LSA programs are open to the public, with most offered free of charge or on a donation basis to ensure broad community accessibility.

CFG Grant Award History

Locust Street Neighborhood Art Classes, Inc. received Cultural Funding Grants (CFG) totaling:

- **$30,000.00** in 2023.
- **$34,500.00** in 2024.

In addition, Locust Street Art received a $5,000.00 Primetime Grant in 2023 and a $50,000.00 Capital Cultural Project Grant in 2024 from Erie County. These awards were separate from the Cultural Funding Grant program and are outside the scope of this review.

FINANCIAL ANALYSIS

Revenue Sources

For the fiscal years reviewed, grants, contributions, and gifts represented approximately 66% and 83% of total revenue, respectively, and constituted Locust Street Art's primary source of funding. Program service revenue represented approximately 34% and 17% of total revenue, respectively.

Program service revenue decreased during the later fiscal year. Management attributed the decline primarily to a vacancy in the Program Director position from July 2024 through January 2025, which reduced custom programming and paid workshops, and to the expansion of the organization's animation lab, which temporarily reduced available programming space. The Auditor reviewed documentation provided in support of management's explanation.

Total revenue increased from approximately $216,000 to $244,000 during the periods analyzed. Grants and contributions increased while program service revenue declined, indicating increased reliance on contributed revenue. Erie County Cultural Funding Grants represented approximately 13.89% and 14.16% of total revenue, respectively.

	2023	2024
Total Grants, Contribution and Gifts as Percentage of Total Revenue	66%	83%
CFG Funds as Percentage of Total Revenue	13.89%	14.16%

Operating Expenses

Total operating expenses increased approximately 21.7% during the later fiscal year. Management attributed the increase primarily to expenses associated with the expansion of the animation lab. The Auditor reviewed supporting documentation for selected expansion related expenditures to evaluate whether the costs were appropriately classified as operating expenses or whether certain expenditures, such as computer hardware, equipment, or other improvements, met the organization’s capitalization criteria.

This review was relevant because Erie County Cultural Funding Grant requests are evaluated, in part, based on eligible operating expenses, with recommended awards not to exceed 20% of that amount. If expenditures that should be capitalized are instead recorded as operating expenses, expenses may be overstated, which could affect the amount of Cultural Funding Grant assistance for which an organization may be eligible. Based on the documentation reviewed, the Auditor did not identify expenditures that were improperly classified as operating expenses for purposes of the Cultural Funding Grant calculation.

During reconciliation of the organization's accounting records to its financial statements, the Auditor identified differences requiring additional analysis. Management provided the applicable adjusting journal entries and supporting documentation. Based on the procedures performed, the Auditor determined that the differences were adequately explained and did not affect the calculation of eligible operating expenses for purposes of the Cultural Funding Grant program.

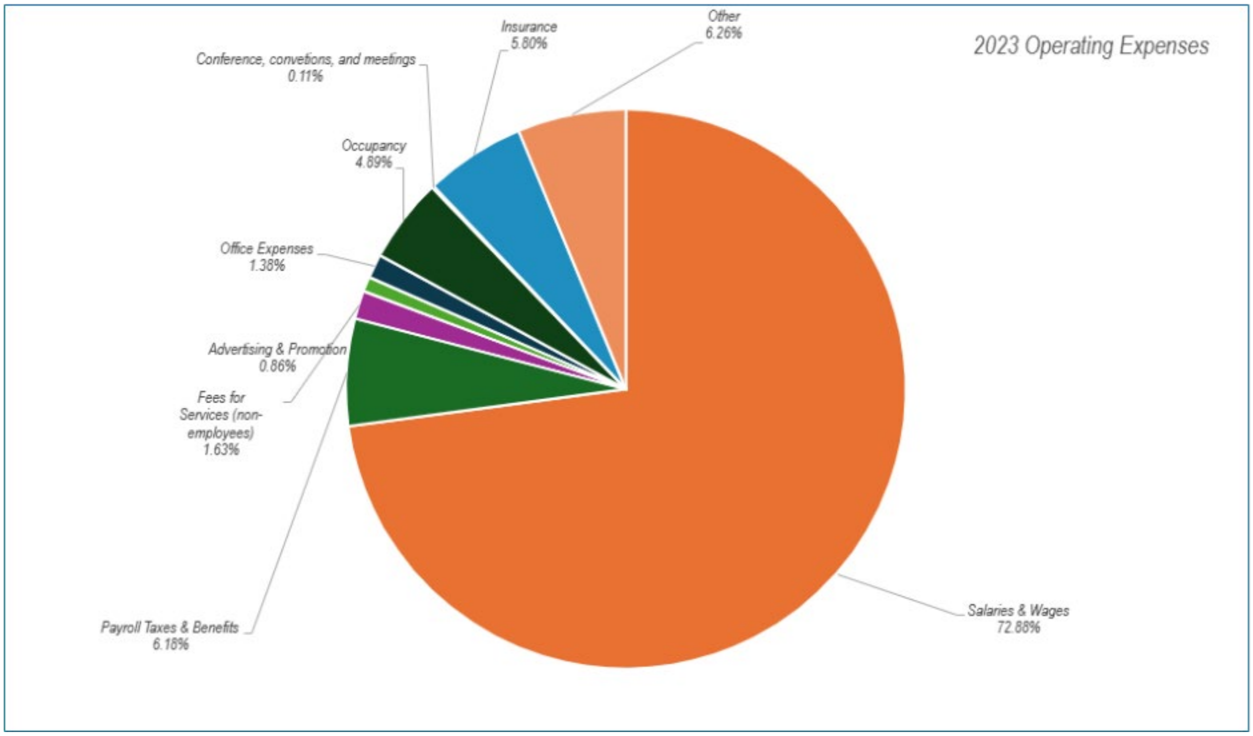
The Auditor also considered whether the increase in operating expenses represented a temporary increase associated with the animation lab expansion or a sustained increase in the organization's ongoing operating cost structure. LSA received a separate $50,000 Capital Cultural Project Grant in 2024, which was outside the scope of the Cultural Funding Grant program. Accordingly, the Auditor reviewed available documentation to determine whether expenditures associated with the expansion were appropriately classified and whether the increase in operating expenses was attributable to one-time expansion-related activity or reflected recurring operating costs.

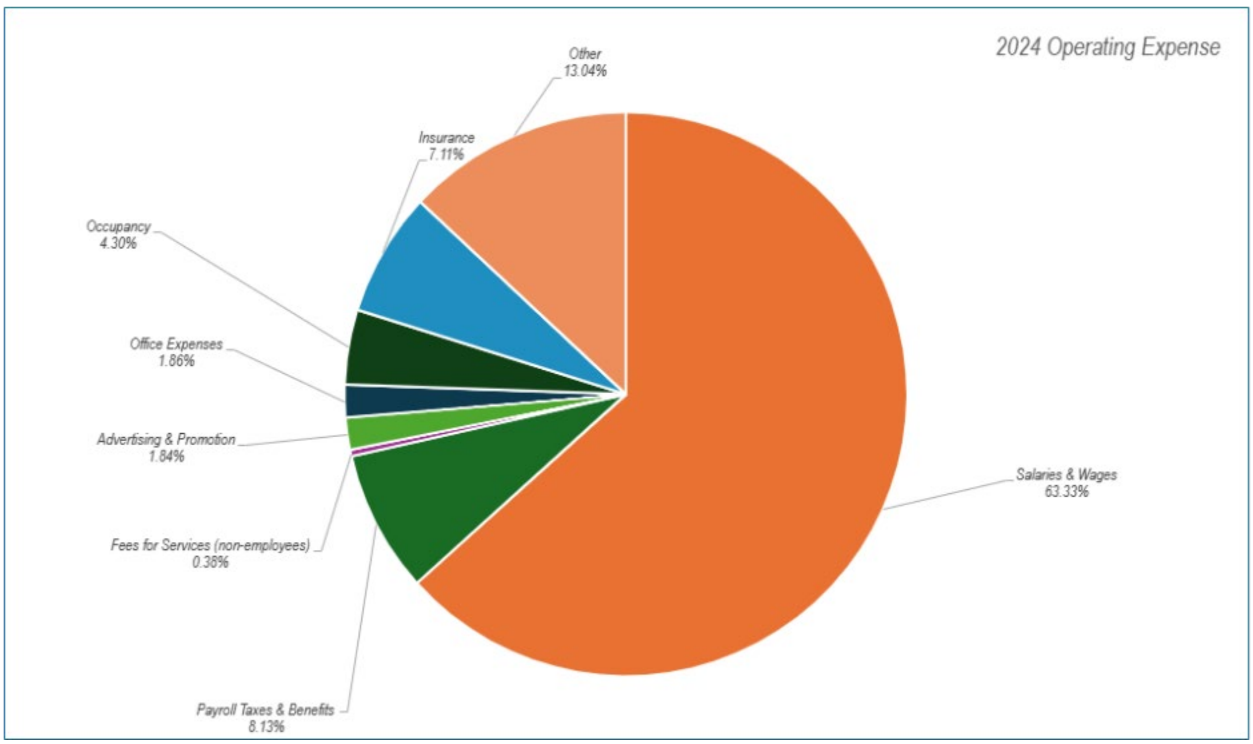
Subsequent financial information indicated that program expenses declined following the expansion and returned closer to historical operating levels. This trend was consistent with management's explanation that a portion of the increase in operating expenses was attributable to temporary expansion-related activity rather than a sustained increase in the organization's recurring operating costs.

Salaries and wages, including compensation for current officers, directors, trustees, and key employees, other salaries and wages, and payroll taxes represented the largest expense category. Other expenses, including program expenses, maintenance and repairs, building studies, and other operating expenses, represented the second largest expense category.

CFG funding requests are evaluated against eligible operating expenses net of depreciation, with recommended awards not to exceed 20% of that amount. Based on this methodology, CFG funding represented:

- 14.91% in 2023, within the recommended threshold.
- 13.98% in 2024, within the recommended threshold.


2023 Operating Expenses
Insurance 5.80%
Other 6.26%
Conference, convetions, and meetings 0.11%
Occupancy 4.89%
Office Expenses 1.38%
Advertising & Promotion 0.86%
Fees for Services (non-employees) 1.63%
Payroll Taxes & Benefits 6.18%
Salaries & Wages 72.88%


2024 Operating Expense
Other 13.04%
Insurance 7.11%
Occupancy 4.30%
Office Expenses 1.86%
Advertising & Promotion 1.84%
Fees for Services (non-employees) 0.38%
Payroll Taxes & Benefits 8.13%
Salaries & Wages 63.33%

OBSERVATIONS & CONCLUSIONS

Credit Card & Bank Statements

Based on the bank statements reviewed, no transactions were identified that required additional follow-up. Locust Street Art did not have any credit cards during 2023 and 2024.

Use of CFG Funds

Locust Street Art utilized CFG funds to support staff compensation, specifically for free and donation-based classes and workshops for participants ages 4 through senior adult in animation, ceramics, drawing, painting, and digital and film photography. The CFG funds were also used toward utility payments and the purchase of supplies and materials.

Beginning in 2024, the County instituted a requirement that all CFG funds be either maintained in a separate bank account or the recipient must be able to account for the funds appropriately. Based on the documentation reviewed, LSA substantiated the use of the CFG funds, and no exceptions were identified

Erie County is appropriately recognized as a sponsor on the LSA website as required by the contract.

General Ledger Review

Based on the general ledger activity reviewed, no transactions were identified that required additional follow-up.

Payroll & Executive Salary & Form 1099 Analysis

The Auditor reviewed employee compensation and selected W-2 information and did not identify exceptions requiring additional follow-up.

Additionally, LSA did not have any eligible independent contractors requiring the issuance of Form 1099 during the review period.

Governance & Policy Review

Directors are elected to serve an initial term of one (1) fiscal year. Upon expiration of the initial term, a Director may be re-elected to serve up to three (3) consecutive additional terms of three (3) years each. Directors continue to serve until their successors are elected and qualified.

No Director may serve more than three (3) consecutive three-year terms following the initial one-year term. After completing the maximum consecutive service permitted, a director must leave the Board and is not eligible for re-election until at least one (1) year has elapsed from the end of his or her service.

A person elected to fill the unexpired term of a director who retires, resigns, or is removed before completing a term serves the remainder of that unexpired term. Such partial terms do not count toward the limitation on consecutive terms. Upon completion of the partial term, the Director may be elected to serve up to three (3) consecutive full three-year terms.

A draft copy of Form 990 is submitted to the Board of Directors for review and approval prior to filing. All Board members and key employees are required to annually review and sign the organization's conflict-of-interest policy, and potential conflicts of interest must be disclosed to the Board. The Auditor reviewed signed conflict-of-interest acknowledgments for the applicable years and identified no exceptions.

The Board of Directors provides governance, fiduciary and financial oversight, strategic direction, supervision of the Executive Director, and accountability for the organization's mission, while delegating responsibility for day-to-day operations to the Executive Director.

LSA maintains a formal Financial Policies and Procedures Manual that establishes policies and procedures governing the Board of Directors, bank accounts, the chart of accounts and general ledger, cash receipts, cash disbursements, expense allocations, credit card usage, purchasing and reimbursement, conflicts of interest, organizational structure, and other key financial processes.

Based on the governance documentation reviewed and the procedures performed by the Auditor, LSA complied with the governance and financial policies and procedures reviewed, and no exceptions related to governance or financial oversight were identified.

Additional Observations (if applicable)

No additional observations.

CONCLUSION

Documentation for the review included IRS Form 990, payroll records, bank statements, canceled checks, general ledger reports, Board of Director meeting minutes and the Financial Policies and Procedures Manual.

Based on the procedures performed and documentation reviewed, the Auditor determined that LSA complied with the requirements of the Erie County Cultural Grant Funding Contract. In addition, LSA filed IRS Forms 990 for the years reviewed. The organization filed New York State Form CHAR500 on June 13, 2025, for fiscal year 2023 and May 15, 2026, for fiscal year 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. ***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. <u>High-Risk Misclassification Areas (Common Audit Findings)</u>

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. <u>Payroll Compliance Requirements (Employees)</u>

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. <u>Independent Contractor Compliance (1099)</u>

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. <u>Best Practices for Non-Profits</u>

- 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