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**Audit Report**

**CULTURAL ARTS FUNDING PROCESS**

**September 2002**

**Office of the City Auditor  
Austin, Texas**

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On September 24, 2002, the Office of the City Auditor presented this report to the Audit and Finance Committee. On November 5, 2002, the Committee accepted the report and concurred with the recommendations.

For additional copies of this report, please request Audit No. AU02304.



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# City of Austin

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September 24, 2002

To: Mayor and Council Members

From: Stephen L. Morgan, City Auditor

Subject: Cultural Arts Funding Process Audit

Attached is our draft report on the Cultural Arts Funding Process. Our objectives included:

- Determine whether the work of the Arts Commission meets the intent of the City Ordinance.
- Determine whether the process for allocating and administering cultural arts funding is meeting the needs of the stakeholders and supporting the new creative environment in Austin.
- Determine if the City's use of the hotel occupancy tax revenues for cultural arts funding realizes the intent of state laws to maximize promotion of tourism and the convention and hotel industry.

The attached report addresses the first two objectives. Before releasing information on the third objective, we are consulting with the City Attorney.

We found that several factors contribute to the dysfunction of the current funding process.

- Limited guidance in the ordinance.
- Inconsistent and changing funding procedures.
- Multiple avenues for appeal by artists.
- Poor communication among stakeholders.

Our recommendations in this report suggest actions that the City Council may use when overhauling the cultural arts funding process.

Stephen L. Morgan, CIA, CGAP, CFE, CGFM  
City Auditor

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## **COUNCIL SUMMARY**

Several factors have created an increasingly unworkable system for allocating City funds to cultural arts organizations.

### **Limited policy guidance in the Arts Commission ordinance.**

- Ordinance indirectly places policy decisions in the hands of the Arts Commission.
- Ordinance does not specify the complete role of the City Council in the funding decisions.
- Arts Commission appointed a task force to develop a comprehensive plan, but has not implemented portions.
- Arts Commission has adopted ad hoc policies by developing guidelines.
  - ❖ Guidelines specify funding categories.
  - ❖ Guidelines specify funding levels by type of organization and length of time receiving City funds.

### **Funding allocation and evaluation procedures are inconsistent.**

- Criteria for evaluating artists' applications are vague.
- Criteria for evaluating artistic presentation are weighted in favor of prior performances.
- Panel review attendance is mandatory, but site visits can be optional.
- Conversion of scores to funding allocations lack consistency.
- Additional funding awards by the Commission compromises the intent of the ordinance.

### **The ordinance establishes only one avenue for appeal, but numerous circumventions occur.**

- Appeals board is only avenue for appeal.
- Appeals to Cultural Arts Services, the Commission, and the City Council circumvent the process, but yield positive results for artists.

### **Effective communication among stakeholders can be improved.**

- Verbal communication is frequently emotional and mean-spirited.
- The Guidelines lack clarity between requirements and guidance for the application process.

### **Additional funding sources for the arts are needed for stabilization.**

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## **ACTION SUMMARY CULTURAL ARTS FUNDING PROCESS**



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### Rec. # Recommendation Text

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1. The City Council should utilize the expertise of the consultant currently working on arts funding and governance structures to:
  - assess possible funding models or frameworks for funding the creative/cultural arts in Austin, determine the model that is the best fit for Austin, and provide the means to implement the chosen model; and
  - derive a short-term solution for funding the arts in fiscal year 2004 while the long-term solution is being implemented.
2. The City Council should:
  - fund the second phase of the arts consultant's contract, which is the implementation of the chosen model/framework for funding the creative/cultural arts; and
  - evaluate the management and organizational placement of any City staff that will be available to assist with the contracting of arts groups.
3. Whether the City Council decides to keep the current structure of the Arts Commission or chooses to use another structure, the Council should direct the City Manager to draft a resolution or revised ordinance that includes the following issues as appropriate.
  - a. Council's funding policy priorities and a mechanism for periodic review of the policy priorities.
  - b. A mechanism that distributes available funds among policy priorities.
  - c. A single appeals mechanism, as in the existing ordinance, which includes measures to uphold its integrity, such as limiting recourse seeking more money.
  - d. A strict conflict-of-interest policy including a document that all parties to the funding process sign, which indicates their understanding of the policy. Refer alleged violations to an authority, such as the Ethics Commission.
  - e. Contracting criteria that are congruent with policy priorities and City purchasing standards.
  - f. A standard model for advocating for changes to the application guidelines, such as 30-day advance publication, comment periods, and final approval.

4. The City Council should encourage and fund facilitation sessions to assist the new or reorganized arts organization for allocating funding to the arts and its leaders and volunteers on effective communication and managing the new processes.
5. To develop more stability in funding for cultural arts, the City Council should direct the City Manager to employ a grant writer within the City organization to pursue grants for cultural arts funding.

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## **INTRODUCTION**

Public support for the arts in the City of Austin has evolved over the last 35 years. Since 1986, an Arts Commission and panels representing arts disciplines have allocated public funding for the arts. During this time, several notable attempts have been made to address the needs of artists and arts organizations and encourage the creation of a cultural climate to benefit all the community. Most recently in 1993, the Arts Commission appointed a task force to create a comprehensive arts plan to help the Commission carry out its mandate. Exhibit 1 shows a brief timeline with explanatory information about each major structure change and organizational initiative between 1967 and 1986. In addition, funding levels have changed significantly since 1971 when the first Hotel Occupancy Tax was adopted by the City Council.

### **Current Arts Commission**

In April 1986, the Austin City Council passed an ordinance, 860417-J, that sunsetted an existing arts commission, established a new arts commission, and amended the Code of the City of Austin, to state that:

The Arts Commission shall serve as an advisory body to the City Council in all arts related matters, including but not limited to long range planning, allocations process, and coordination with comprehensive plan (sic)...will develop an allocations process, delineating categories, funding criteria, an evaluation system, and shall utilize a peer review panel system.

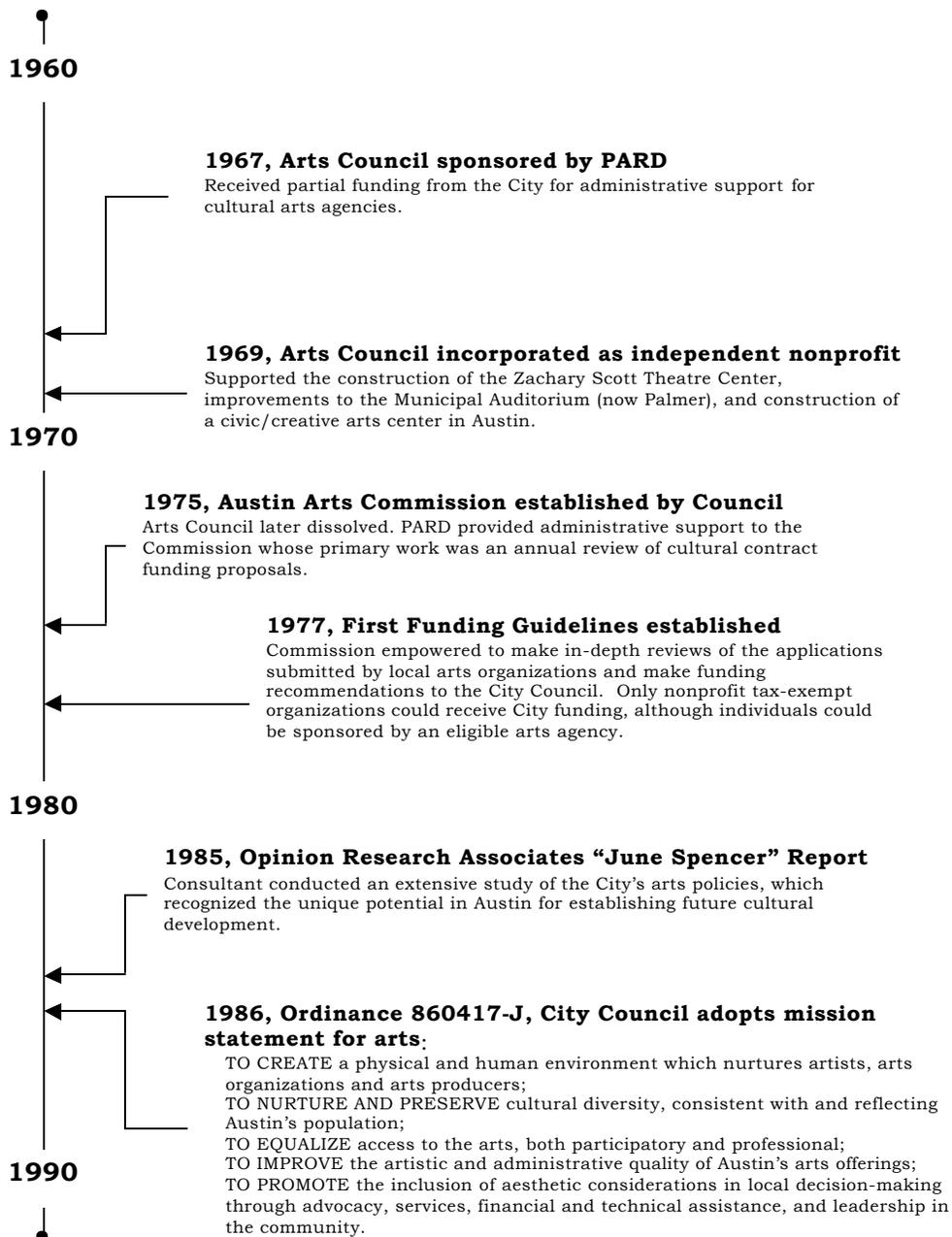
This ordinance remains the main legislation defining the arts funding process in Austin. Specifically, peer review panels are legally charged with reviewing all grant applications, comparing them to established criteria, and making funding recommendations to the Commission. The Commission, in turn, is charged with making recommendations to the Council for allocations of City funds to arts organizations. A flow chart in Exhibit 2 shows the major steps in the funding process.

According to the ordinance, arts commissioners are to have in-depth knowledge of arts and arts administration, and both commissioners and panelists are to reflect the ethnic diversity of Austin. The panelists are also to reflect diversity of artistic form within the disciplines.

Moreover, the ordinance calls for development of an appeals process and specifies the appropriate appeals panel to be a newly created Arts and Recreation Subcommittee. This subcommittee is to be composed of three arts commissioners, three members of the Parks and Recreation Board, and one at-large member selected by the City Council.

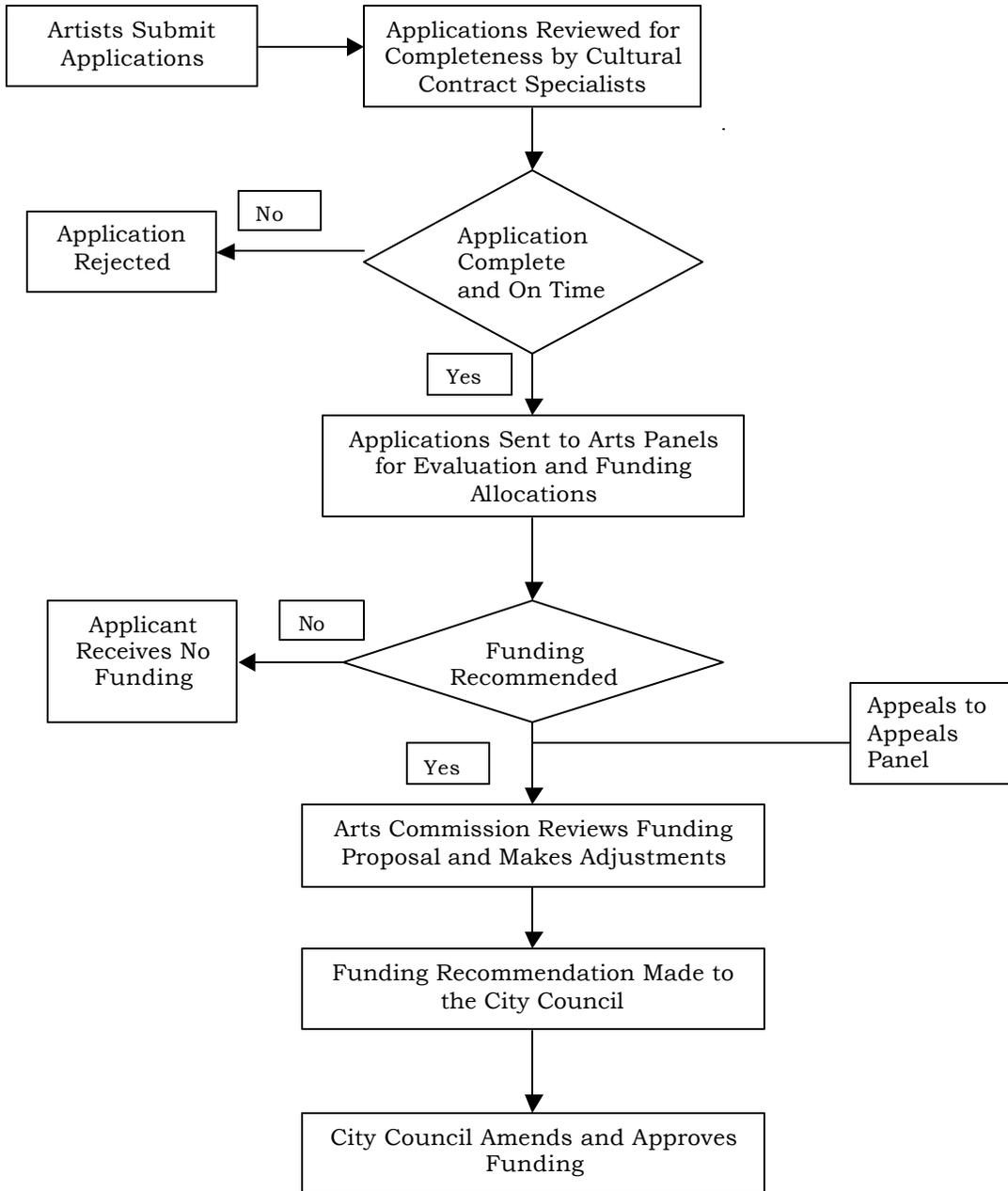
Other City ordinances enacted subsequently first established and then abolished term limits, changed the number of members of the Commission, and staggered the terms of appointment.

**EXHIBIT 1**  
**Timeline of City Support of the Arts**  
**1960 to 1990**



SOURCE: City of Austin ordinances, *The City of Austin and the Arts*, report commissioned by Parks and Recreation Department, June 1985; Opinion Research Associates Report.

**EXHIBIT 2  
Cultural Arts Funding Process**



SOURCE: Arts Commission Guidelines.

Note: The appeals panel shown in the diagram is defined by the ordinance. Other avenues of appeal are used by artists and will be discussed in the audit findings.

To assist the Arts Commission with its long-range planning to promote artists and arts organizations and advance the cultural environment of Austin, the

City Council authorized the Arts Commission to appoint a task force to develop a comprehensive arts plan.

## **Austin Comprehensive Arts Plan**

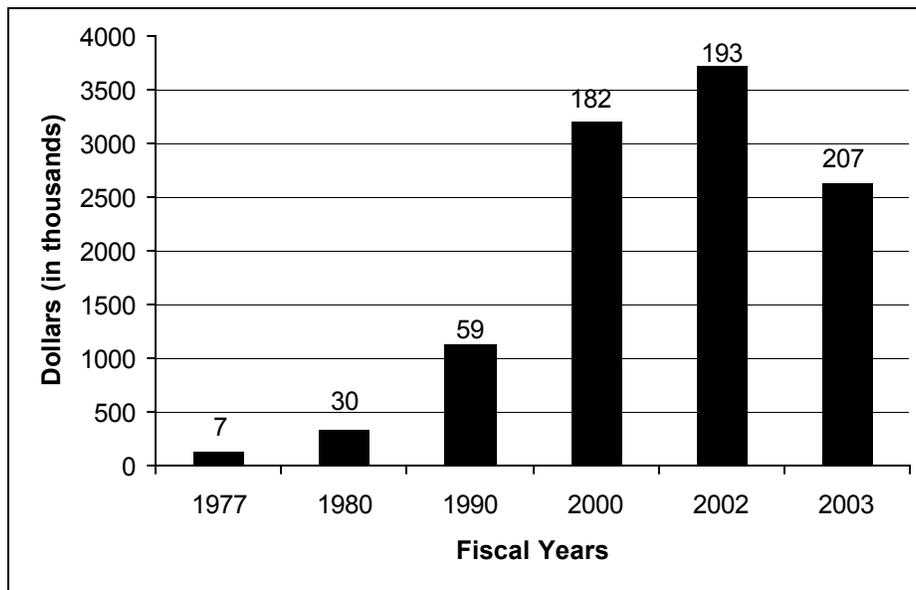
Most recently, in August 1993, a major community effort requiring many months of research and community involvement produced the Austin Comprehensive Arts Plan (ACAP). Intended to be a “working document” to serve as policy for the arts in Austin, the ACAP included eight initiatives to pursue that would help “to create an environment which enables artists and arts organizations to realize fully their potential as contributors to the economic and cultural prosperity of the City of Austin.” In addition, the ACAP proposed multiple strategies for each initiative. The initiatives and strategies are:

- Advocacy for the arts—establish an advocacy coalition to encourage arts facility development, increased dialogue, tools for advocacy, and volunteerism for the arts.
- Artists and arts organizations—establish an arts support office, increase technical assistance, and provide an arts clearinghouse.
- Arts education and outreach—encourage arts education advocacy and public/private partnerships and develop an educational clearinghouse.
- Economic development—generate an economic impact study on the arts and advocate for state and local cultural trusts.
- Facilities and spaces—evaluate cultural facilities and the cultural affairs division of the Parks and Recreation Department (PARD) and continue strong support for visual and performance arts in public venues.
- Funding—reinstate a cultural affairs grants writer and encourage funding from other public agencies, enhance support for the cultural affairs division’s portion of the bed tax, and improve the bed tax funding process.
- Minority equity—establish a cultural affairs equity office and a committee for minority affairs, develop specific funding sources for the culturally diverse, and include equity principles in the cultural facilities policy.
- Public relations/marketing—establish an arts marketing and public relations office, hold a major arts event, and highlight the arts through the Sister Cities program.

## **Funding Trends**

Over the past 25 years, the amount of City funding for the cultural arts has generally followed an upward path. Beginning in 1977, as shown in Exhibit 3, seven contractors with the City received approximately \$150,000. This upward trend coincides with the passage of the state’s Lalor Law, which allowed cities in Texas to use up to one-third of the 3% hotel tax revenue for the arts or to promote tourism. Three years later in 1980, the number of contractors had jumped to 30 and the dollars awarded had increased almost 2 ½ times to about \$357,000.

**EXHIBIT 3**  
**Cultural Contract Awards by Fiscal Year**



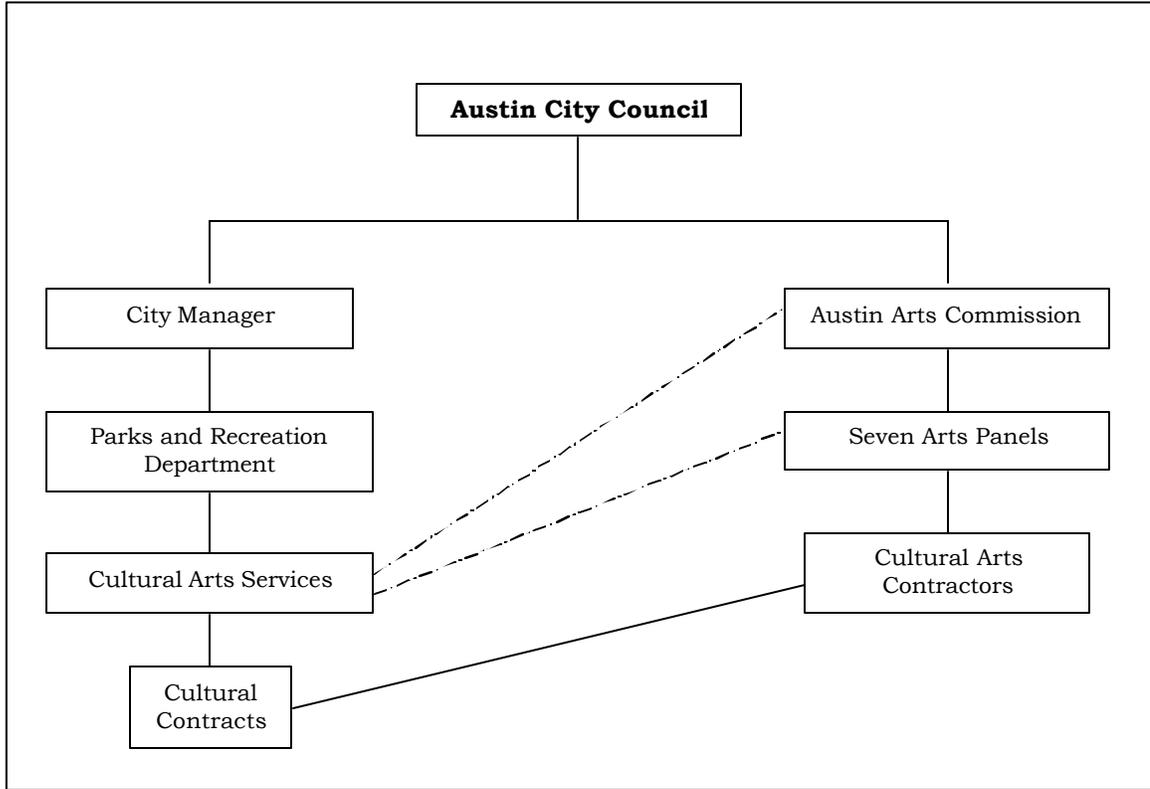
SOURCE: City of Austin Budget Documents. The data in this exhibit was not audited.

By the end of the next decade, the City awarded over a million dollars (\$1,164,000) to 59 contractors, and in 2000, in excess of \$3.2 million was awarded to 182 artists and arts organizations. During this period, however, no significant efforts to establish other public or private funding sources, such as an endowment, have been undertaken. In Fiscal Year (FY) 2001-2002, over \$3.7 million in cultural arts contracts were awarded to 193 contractors. In the current fiscal year projections for bed tax revenue are down dramatically, and the City was able to award only \$2.6 million.

### **Organizational Relationships**

The defining ordinance for the Arts Commission mandates that “the Director of Parks and Recreation shall provide the appropriate administrative support to assist the Arts Commission in its endeavors.” To accomplish this and other mandates, the Director has established the Cultural Arts Services Program. Staff from the Cultural Arts Services Program is responsible for accepting and compiling applications from artists and arts organizations for the cultural arts funding process. In addition, once the contracts for funding have been signed, the Cultural Contracts staff is responsible for monitoring contract compliance. Exhibit 4 shows the relationships between the Arts Commission and the Parks and Recreation Department.

**EXHIBIT 4**  
**Organizational Relationships**



SOURCE: City of Austin budget documents and ordinances.

Note: The dotted line represents a non-reporting relationship, only an assistance role.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

### **Objectives**

Our objectives for this audit were to:

1. Determine whether the work of the Austin Arts Commission meets the intent of the City ordinance.
2. Determine whether the process for allocating and administering cultural arts contracts is meeting the needs of stakeholders and supporting the new creative environment in Austin. If not, why not?
3. Determine if the City's use of the hotel occupancy tax revenues for cultural arts funding realizes the intent of state laws to maximize promotion of tourism and the convention and hotel industry.

### **Scope and Methodology**

To gain an understanding of the current cultural arts funding process and whether it reflects the intention of the City ordinance and optimizes the City's awarding of cultural contracts, we studied:

- City ordinances and the City's Code of Ordinances,
- Published Guidelines,
- The Arts Commission Handbook and Resource Notebook,
- Budget and allocation documents, and
- Other documents such as meeting minutes.

Furthermore, we observed the FY 03 funding process by attending different meetings and training sessions during the period from December 2001 through August 2002. Included in our observations were:

- Meetings of the Arts Commission,
- Artists and panelist orientation training,
- Assistance workshops,
- Executive meetings and the Commissioner's retreat,
- Panel review and funding allocation sessions, and
- Public hearings.

Additionally, a team of graduate students of the University of Texas School of Communication conducted interviews with commissioners, panelists, and City Council aides. Our audit work included interviews and interaction with arts commissioners, panelists, staff in the Cultural Arts Services of the Parks and Recreation Department, and City Council staff. We also reviewed contract files from previous funding cycles, FY 01 and FY 02, a previous Office of the City Auditor (OCA) memo audit report conducted in 1999 and follow-up to that report issued in September 2001. In addition, we reviewed a study by a

master's degree candidate at the LBJ School of Public Affairs of the University of Texas comparing Austin's funding process to that of other cities. Previous consultants' reports on the cultural arts funding process were also reviewed.

To determine if the City was properly using the hotel occupancy tax, we:

- Reviewed state tax code, legislation from the 77<sup>th</sup> State Legislature, and related components of the City Code, and
- Reviewed a sample of applications from the FY 03 funding cycle.
- Interviewed a representative of the State Attorney General's Office.

This audit was conducted in accordance with generally accepted government auditing standards.

## AUDIT FINDINGS

The following factors have created an increasingly unworkable framework/structure for distributing public funding to the arts organizations and artists in the community, suggesting that a restructuring of the process may be needed.

- Limited policy guidance in the ordinance.
- Inconsistent and changing funding procedures.
- Multiple avenues for appeal.
- Poor communication among stakeholders.

Moreover, each of these factors can create a ripple or domino effect in conjunction with the others that undermines the process and causes it to become emotionally charged for many participants.

State law allows the City to use part of the Hotel Occupancy Tax for cultural events, but this fund alone is insufficient funding for the creative industry in Austin.

### **The ordinance establishing the Austin Arts Commission does not define specific policy for allocating funds to artists and art organizations.**

As passed by the City Council in 1986, the ordinance states that the Arts Commission (the Commission) is an advisory body whose duties include developing long-range plans, establishing an allocations process, and coordinating the implementation of a comprehensive arts plan. However, the Commission has not allocated its time to long-term planning, but rather to resolving immediate problems of each funding year. Further, the Commission has interpreted the requirement to conduct an annual review survey of the allocation process as a call for incorporating modifications in the process after every funding year. In addition, the Commission has not effectively communicated information about conflict of interest as it applies to the funding allocation process.

**To accomplish its long-range planning, the Commission has developed seven goals to assist in achieving its mission, but has not developed strategies to carry out the goals.** Long-range planning entails developing plans that will be executed over several years and modifying the plan each year as needed. Goal setting is one part of the long-range planning process while a second vital part is developing strategies that will help achieve the goals.

The Commission has taken the first important step by establishing the following goals.

- Enhancing the City's artist and cultural heritage

- Nurturing a nationally recognized and diverse cultural environment which attracts citizens and tourists
- Nurturing cultural diversity and encouraging cooperative joint ventures
- Enabling citizens to fully experience the cultural life of the City
- Strengthening the administrative ability of arts organizations
- Providing opportunities for youth to experience the arts
- Encouraging arts education programs

While these goals reflect the stated mission, the Commission has not outlined how to implement and achieve its goals. For example, one goal is to “strengthen the administrative ability of arts organizations,” but strategies are lacking that would direct this accomplishment. Strategies might include holding seminars on budget preparation for events or how to publicize the arts events. Further, measuring achievement of such a goal may be beyond the capability of the Commission. In addition, without strategies, the Commission has not used the goals to set policy on the distribution of funding.

As previously described, in 1993 the Commission appointed a task force to assist with additional long-range planning for advancement of cultural arts in the city. In addition to the issues and strategies mentioned earlier in this report, the ACAP report included the following general recommendations for the Arts Commission.

- Perform an assessment of the placement of the Cultural Affairs Division within the Parks and Recreation Department.
- Establish a subcommittee of the Commission to oversee implementation and ongoing support of the ACAP.
- Establish issue subcommittees of the Commission to help implement other recommendations in ACAP that dealt with minority equity, funding and economic development, advocacy and public relations, facilities and spaces, arts education, and technical assistance.

However, the Commission, though empowered by ordinance to implement the recommendations and strategies in the ACAP, has made minute progress, because the Commission appears focused on short-term issues. Although the Commission has standing committees for facilities, funding, and special populations, only the special populations committee has as its purpose one similar to that recommended by the ACAP. The mission of the other two committees on facilities and funding do not meet the intent of the ACAP recommendation. Further, other subcommittees suggested by the ACAP for advocacy and public relations, arts education, or technical assistance have not been established.

**Even though ad hoc policy has been established through the Guidelines, the Commission has not developed overarching policies for the funding process.** The Commission’s main vehicle for information on the allocation of funding is the Guidelines, a brochure that describes the application process

and the criteria by which the applications will be judged. Through the Guidelines, the Commission has established several ad hoc policies. While using the Guidelines to establish ad hoc policy is not bad, specific statements of the policy would assist

- commissioners to make informed decisions when they are voting on changes to the Guidelines or funding issues,
- panelists to make judgments about scoring applicants and allocating funding when the Guidelines are not specific enough, and
- artists to understand how their work fits into the City's goals for community enrichment.

As an example of ad hoc policy, the Commission has defined various categories in the Guidelines, which designate how applications are divided among the panels and how City funds will be distributed. In FY 95, six funding categories were defined by discipline.

- Music
- Literature
- Dance
- Theater,
- Visual arts
- Mixed Arts

In FY 01, film projects were moved from Mixed Arts to a newly created category called Media Arts.

An additional policy decision included in the Guidelines is the consideration of length of time artists and arts organizations have been applying and receiving City funds. The longer an applicant has been receiving funding, the more money the applicant may receive, which may adversely affect emerging artists. However, the applicant is not entitled to the maximum amount by virtue of the application, but must offer something of merit. During our observations of the funding cycle, at least one commissioner suggested that some applicants should be funded to "keep them in the system," thereby encouraging the notion that there is an entitlement.

More importantly, the Commission has not developed any policies that establish programming priorities. Examples of such priorities are: sustaining major established arts organizations through operational support; building capacity or stabilizing small or mid-sized providers with special project funding. Further, programming policies could provide support for the advancement of artists serving special populations, nurture new artists or art forms, and encourage technical assistance initiatives in areas such as cultural arts marketing. Instead, in the current process, all artists and arts organizations compete against one another within their disciplines.

Other communities in the state and nation have designed their policies for funding cultural events around benefits to the community rather than simply to advance artists in specific disciplines. A study released in November 2000

by Jeffrey Grove, a graduate student at the LBJ School of Public Affairs of the University of Texas, produced a snap shot of 10 comparable cities' arts funding process.

Unlike Austin, grants programming for these communities was not allocated by arts discipline, but rather by grant funding programs for such projects as: sponsoring community cultural events, providing operating support, sustaining established organizations, ensuring cultural equity initiatives, encouraging neighborhood arts programming and supporting touring activities. Funds were also granted for creative fellowships, technical assistance, new works, and festivals or celebrations. In fact, some of the cities surveyed had little or no program funding for individual artists. In San Francisco, a Cultural Equities Grants program targets small organizations and individual artists to nurture the arts environment's ethnic diversity and great variety of cultural traditions. At the time Grove's study was released, three cities, Fort Worth, Sacramento, and Seattle were embarking on major overhauls of their programs, but further analysis or updating was not conducted as part of this audit.

**The empowering ordinance calls for an annual review survey of the allocations process, but the Commission has interpreted this to mean that the Guidelines should be modified annually.** The Commission has established a Guidelines Committee to hold open forums with applicants to identify perceived loopholes or issues with the Guidelines. As a result, the Guidelines are in a constant state of flux. Not only does this process deflect time and energy that the Commission could spend on long-range planning and implementing the ACAP, the constant adjustment of parts of the Guidelines fosters a climate of inconsistency and a wholesale mistrust in the funding process.

As called for in the ordinance an appropriately designed survey can generally provide the same information as the open forums. Currently, the Cultural Arts Services conducts a survey of applicants, panelists, and commissioners after the completion of annual funding allocations, which appears to meet this requirement. Specifically, each group is asked two questions about the Guidelines.

1. What changes should be made to the Guidelines?
2. What areas of the Guidelines need clarification?

We reviewed the responses for the FY 03 funding cycle and found the comments supplied by participants to focus on the following issues.

- Simplify/streamline the Guidelines
- Address the changes in the Guidelines
- Present items in the Guidelines in logical order
- Separate judging and funding for large from small arts organizations
- Clarify conflict of interest and principle member
- Improve criteria and clarify the relation among criteria, scoring, and funding

- Clarify appeal process

These responses by the participants in the survey are on point and need the attention of the Commission.

**The conflict of interest policy of the Commission lacks clarity for all involved parties.** The empowering ordinance requires the Commission to develop a conflict of interest policy that is in compliance with the Ethics and Financial Disclosure ordinance of the City. The Ethics ordinance includes a section on conflict of interest and states that “a city official shall disclose the existence of any substantial interest he may have in a person, entity or property which would be affected by a vote or decision of the body of which the city official is a member.” Commissioners and panelists are considered city officials.

In place of any guidance, the Commission has used a form developed by the Cultural Contracts group for the purpose of reporting a conflict of interest when such arises. All participating parties are required to use this form to declare a conflict-of-interest.

The Commission has not clarified in a document what might constitute a conflict of interest among the parties, but has adopted a simple definition in the Guidelines. This definition is given without explanation, so panelists and applicants may interpret the single definition differently from commissioners and panelists. For example, during the funding process for FY 03, an applicant declared a conflict of interest with a panelist because the two had had an adversarial conversation during a site visit; however, this was not a conflict of interest as stated in the City ordinance. The absence of clear guidance is compounded by the fact that experienced panelists familiar with the arts are drawn from a community that, in at least some of the disciplines, is quite small. In fact, this year’s pool of applicants included two panelists applying to a different panel. Without a clear statement of policy outlining what is or is not acceptable practice, continued perceptions of conflict may further undermine public confidence in the process.

**Funding allocation and evaluation procedures yield inconsistent, sometimes contradictory, results.**

The absence of sound criteria for assessing and scoring artist’s applications and artistic presentation and applying the scores to a fair allocation scheme for funding erodes faith in the process. To compound the problem, commissioners step in with contingency funding and modify funding amounts recommended by panels, using what appear to be personal criteria and applying them somewhat arbitrarily.

**The criteria for evaluating artists' applications are vague and do not suggest ways to assess the quality or effectiveness of stated intentions.**

The Guidelines specify three requirements for consideration of cultural contract funding: the written application, the artistic performance, and participation in the panel review sessions. Application criteria seem to outline topics for discussion more than providing ways to evaluate the strength of the application. Two of the criteria points, for example, suggest only that the applicant demonstrate plans for achievement of audience development and individual or organizational growth. However, the Commission has not developed these points into specific qualities to evaluate effective audience development or artistic growth by the applicant.

Further, during the FY 03 cycle, panelists frequently questioned applicants about aspects of their budgets, suggesting that improvements in the application information might be in order. Specifically, applications ask only for the actual expenditure figures for the previous year and the projected budget. Without having the proposed budget figures from the previous funding year, as well as the actual expenditure figures for comparison, a panelist is unable to assess an applicant's ability to accurately forecast costs.

Additionally, the criteria, for confirming status as a mixed arts applicant, are difficult to apply. According to the Guidelines, Mixed Arts are divided into three subcategories: folk arts; interdisciplinary arts, using one or more art forms for multi-formatted programming; and multidisciplinary, fusing two or more art forms in a single event or programming. This broad definition has caused some to charge that Mixed Arts enables some applicants to apply in the hope of bettering their chances for optimum funding. Conversely, some artists have charged that panelists in this discipline are not sufficiently skilled at judging artistic merit.

**Criteria for judging applicants are heavily weighted in favor of reviews of past performances, putting new artists at a disadvantage for funding.** All panelists are asked to evaluate artistic presentations using six general criteria.

- Applicant's artistic work upholds its mission.
- Applicant's work is consistent with one or more of the overall goals of the Cultural Contracts Program.
- Within the context of the applicant's field of artistic work (similar artists or groups), the applicant meets a generally accepted definition of excellence in their chosen art form.
- Applicant's work is innovative, creative, or relevant in terms of the current mix of Austin's cultural offerings.
- Applicant's artistic production demonstrate(s) the ability to manage and produce an artistic presentation.
- Publicity packages (press release, program etc.) are engaging and appropriate to the presentation.

In addition to these six criteria, panels are also given criteria for judging the application and each discipline. However, even the criteria for each discipline tip the scales in favor of applicants with prior creative events that have been attended by a panel member. Panelists who do not see presentations are unable to score for artistic merit. Though this is not supposed to work against an applicant, judging by these criteria would seem to favor more established contractors and require a high degree of proficiency in the art form on the part of panelists.

Applying these general criteria to evaluate artistry would be difficult for anyone. For example, how can one reconcile generally accepted definitions of excellence with innovative and creative work? How can a successful production show capable management, when a panelist may not be privy to what has happened behind the scenes? Without more specific criteria, this kind of assessment is simply a subjective one.

**Although panel review attendance is mandatory, some panelists may regard site visits as if they too were required.** Attendance or representation at panel review sessions is the formal face-to-face mechanism for panelists to evaluate application proposals. The review sessions consist of a verbal presentation and a question and answer session based on application/review sheet criteria between the panel and applicant. Usually a commissioner is available to answer questions on Guidelines, but commissioner attendance is not required.

Additionally, advisory panelists may conduct personal interviews or site visits with applicants. There are pros and cons to having these visits, but applicants do have the option to forego this requirement with a written request to their panel chair. While the site visits may be viewed as a positive part of the evaluation process, they also create tension or difficulties for some applicants or panelists. Further, these site visits are not specified in the Guidelines as an applicant responsibility or a requirement of the application process.

Rather than using one panelist to conduct a site visit, the media panel has asked applicants to make formal presentations to the panel as a whole outside of the standard panel review sessions. These informal sessions, however, have been a source of complaints because the sessions are not taped or attended by commissioners or staff. Although they have apparently taken place in a public library, the sessions have not been posted publicly, according to the mandating ordinance.

On the other hand, some panelists have experienced unwilling or abusive treatment from applicants in attempting to set up site visits. In consequence of the difficulties posed by site visits, panelists may not be objective in construing an applicant's desire to opt out of the site visit and may judge more negatively as a result.

**Comparison of scores to funding allocations demonstrates a lack of consistency among the discipline panels.** The process used by panels for converting panel evaluation scores to funding allocation is carried out differently by each panel. This inconsistency may be due to panel inexperience and turnover, but ultimately the connection between scores and awarded funds is tenuous. Furthermore, funding allocation summary reports submitted by panel chairs do not follow a consistent standard. Suggestions for the summaries are provided in a description of panel chair roles and responsibilities, but they are not stated as requirements, and Commissioners accept the reports submitted without comment.

**The panel process for allocating funds based on average panel scores has no set procedures and the connection between scores and funding amounts becomes murky.** Consequently, each panel sets about its review of scores and allocations differently. Auditors observed panel sessions ranging from chaotic to methodical, depending on the approach used for distributing funds. Panelists were instructed to use the full 10-point range to assess nine application criteria and eleven artistic and discipline specific criteria; however, allocations based on average scores in each panel revealed broad variations in interpretation of these criteria.

These scoring variations may indicate that some panelists attempt to maximize funding to top scorers, under the assumption that the Commission will adjust allocations. The mixed arts panel recommended funding to those artists or organizations that scored above the 50 percent mark. The media panel awarded no funds to applicants scoring below 80 percent, while the visual arts panel awarded all 23 applicants some funding with scores ranging from 94 percent to 62 percent.

**Funding allocation summary reports, submitted by panel chairs, do not provide commissioners with standard information.** The Commission does not specify that panel chairs use a uniform report describing standard information. In consequence, the Commission does not get a complete overall view of the evaluation process used by each panel, and commissioners are unable to view trends over time. The brief outline of expectations given to panel chairs is simply suggestions, and panel chairs submit allocation reports of wide variance in quality and format. Some reports consist of elaborate prose descriptions and data, while others are more brief and general.

**The Commission's practice of allocating "extra" funding compromises the intent of the ordinance, which empowers the peer review panels to allocate funding.** Some commissioners may view these discretionary allocations as a "perk" of office, but doing so undermines the peer panel review system. During their work sessions, commissioners assess and modify funding recommendations made by panelists, using a 10 percent "contingency" amount

of the expected revenues. While this practice has apparently been ongoing for some time, auditors observed that commissioners propose modifications using what appear to be personal criteria and applying them selectively.

A recently appointed commissioner offered to read from the panel reports she had at hand, for help in evaluating additional funding; however, some commissioners seemed surprised at this approach. Occasionally, this commissioner was asked to read from the reports or volunteered to do so. Frequently, commissioners cited reasons for advocating the addition of funds, using such phrases as: “value for kids; keep in the system; convinced can leverage City funds; sentimental connections; ambassadors of Austin’s identity; and special population.”

The Commission signals at the outset of the funding process that it may diverge from the panels’ decisions. Specifically, applicants promote their projects directly to commissioners before the evaluation process even begins, suggesting at the start that the real decision making stems from the Commission and not the peer panel review process. Applicants are given several opportunities for pitching their organizations or projects to the Commission. Two public hearings were scheduled where artists and organizations had the opportunity to address commissioners and communicate about their projects or express appreciation for past funding and request more generosity. Some stakeholders view this as a form of lobbying that sets up a continuum of direct interaction with the Commission and provides a venue for circumventing the panel process.

**Only one avenue for appeal is established by ordinance, but artists use other routes to appeal decisions thereby affecting the integrity of the process.**

The ordinance establishes a single entity for hearing appeals of artists who bring legitimate complaints about actions during the application review and funding allocations. However, when some artists are not satisfied with that single approach, they take their case to the Cultural Arts Services staff, the commissioners, or individual City Council Members.

**According to the ordinance, the only body for addressing appeals is to be an Arts and Recreation subcommittee.** However, the grounds for appeal are not specified. So the Commission has chosen the Guidelines as the means to define the grounds for appeal and these are:

- Failure of commissioners, panelists or contract staff to follow published guidelines and procedures;
- Decisions based on incomplete or incorrect information through no fault of the applicant, and

- Failure to comply with conflict of interest requirements by Advisory Panelists or Arts Commissioner.

Qualities ruled specifically as insufficient grounds for appeals are comments made by Advisory Panelists, dissatisfaction with the level of funding or assigned score, and failure of at least one panelist to conduct an artistic observation.

However, applicants can and do seek redress through other avenues. For example, in the past, applicants who submitted late or incomplete applications have appealed to the Cultural Contracts office and the Cultural Arts Services Manager to be allowed back in the process. In the FY 03 cycle, the Commission assumed that responsibility, so initial appeals were directed to that body.

To put in perspective, during the FY 03 funding process, applications were received from 246 applicants. Of that number, 31 applications were ineligible because they were late, incomplete, outside the City, or the scope of work was inappropriate. Of those, 21 were late, even though the time for submission was extended two hours to avoid rush-hour traffic. The Commission later reinstated 13 of the 21 late applicants.

Nine of the 246 applicants used the formal appeal process, and five were eventually recommended by the Appeals Board to receive funding.

Disgruntled applicants sometimes direct their appeals directly to City Council Members or their staff, expecting Council will find funding for artists who either had late or incomplete or rejected applications or will find additional funding for artists who received less than they anticipated. In fact, the Council restored funding for two applicants in FY 03 that were rejected during the process.

Since the grounds for appeals are restrictive, circumvention of the process by appealing to the Commission or to the Council causes hard feelings among those applicants who respect all aspects of the process. And more importantly, resolving these appeals in favor of applicants sets precedent and serves to perpetuate the practice of appealing outside the process.

**Over several years, the City Council's actions diverged from the funding decisions made by the Commission.** Because the City Council has awarded funding for the arts during the allocation process and in the middle of the fiscal year, some applicants may anticipate that an appeal to Council will override the recommendations of the Commission and panel structure. However, in the past three fiscal years, Council has only taken action on a handful of such projects each year.

On a few occasions, artists' appeals to Council Members when funding is denied or reduced have met with success as Council votes to grant funding. In addition, artists or arts organizations that did not submit applications and go through the allocation process have taken proposed artistic events to the Council in mid-year or at budget approval time and have received money for an event. Exhibit 5 demonstrates how Council has authorized money over the Commission recommendations. At the final FY 03 budget reading, the Council rejected all of the Commission's funding recommendations, choosing an alternative funding mechanism, because Council Members perceived the allocations contained problems and inequities. The actions shown in the exhibit below were added to the budget in the alternative funding approved.

**EXHIBIT 5**  
**Additional Funding by City Council**

<b>FISCAL YEAR</b>	<b>COMMENT</b>	<b>NUMBER OF APPLICANTS</b>	<b>COUNCIL ACTION: ADDED FUNDS</b>	<b>TOTAL FUNDING TO APPLICANT (\$)</b>
<b>FY 00</b>	Not in process	1	\$144,810	\$144,810
	Appeal to Council	3	14,110	44,110
	Appeal to Council	1	4,000	4,000
<b>FY 01</b>	Not in process	2	250,000	250,000
	Additional funding	1	12,500	28,500
<b>FY 02</b>	Rejected application	1	56,596	56,596
	Not in process	4	230,000	230,000
<b>FY 03</b>	Rejected application	2	50,224	50,224
	Not in process	1	10,000	10,000

SOURCE: Cultural Arts Services.

Note: Total funding includes Commission recommendation plus Council action.

As an example of funds drawn from other sources, during FY 02, the City Council also approved \$10,000 to an arts group out of the Austin Energy Holly Good Neighbor Program.

A number of Council members have stated that their funding actions were necessary to ensure that the City is supporting important contributions to the arts. In addition, Council also recognizes that the process is not working well and recently hired a professional arts consultant to examine the process. However, unless the restructured process design ensures the integrity of the funding decisions, the cycle of intervention will begin again.

## **Characteristics of effective communication are missing in many interactions among key stakeholders.**

During our observation of the allocation of funds to cultural arts organizations, we found that verbal communication among participants on occasions was counter productive. In addition, the Guidelines, which is the primary written information used by all participants in the process, has become a difficult document to navigate.

**Verbal communication among commissioners, panelists and artists sometimes becomes emotional and mean-spirited.** Some elements of good verbal communication include:

- Stating ideas concisely and clearly
- Listening actively
- Accepting new ideas
- Building on ideas of others, not attacking
- Allowing others to express themselves without interruption
- Bringing in others who seem reluctant to express themselves
- Being polite, avoiding language that shuts others out

By observing Commission meetings, panel reviews, and appeals sessions during the FY 03 funding cycle and reviewing meeting tapes from the previous fiscal year, we found many instances of communication that did not meet the above elements. Long-standing commissioners often dominate discussions and appear more interested in using history of the process to direct the allocation of funding rather than establishing new policies that encompass the ever-changing arts environment in Austin. This domination of discussion on the Commission has a tendency to squelch new ideas. Further, new commissioners appear reluctant to express themselves during meetings, and commissioners with tenure do not encourage newer appointees by bringing them into discussions and building on ideas they express. On occasion, commissioners have difficulty putting ideas or motions into clear, concise language for action by the Commission.

In addition, interactions between panelists and applicants are sometimes laced with inappropriate communication. On occasion, applicants exhibit hostility toward and become argumentative with the panel members during panel inquiries and interviews. For example, a panel chair resigned midway during the panel process when an applicant became verbally abusive to the staff at the panelist's office as the panelist was attempting to set up a site visit. In addition, unsatisfied applicants turn public hearings into gripe sessions or employ email campaigns to further their cause when funding has been reduced or has not been granted through the panel process. In turn, panelists at times are not respectful to applicants and do not actively listen to applicants. During one panel session, a panelist recused himself from scoring an applicant who

declared a conflict-of-interest due to the perception that a verbal disagreement between the panel member and the applicant qualified. However, this incident was not a conflict-of-interest issue as defined by the ordinance.

Further communication shortcomings are centered on the distribution of adequate information to panelists from the commission and the staff, and the lack of recognition for the work of the panelists. Panelists expressed the need for more interaction with and support from the commissioners, better criteria for judging applicants, and information on how to interpret budgetary information submitted by applicants.

In addition, panelists stated in a survey that the Commission could support panel decisions on funding or communicate more effectively with the panelists when the commissioners change funding, giving the rationale or criteria used. At present, the Commission has not established a process that brings a panel back in to funding decisions when the Commission sees the need to alter the suggested funding. Panel members would like feedback from the commissioners so that funding decisions in following years can address the Commission's concerns.

Communication issues can be a contributing factor in the retention of panelists and commissioners. Year to year the turnover of panelists contributes to concerns that insufficient information has been given to panelists for them to carry out their function. In addition, the number of commissioners has fluctuated during each funding cycle with some recent appointees resigning before the funding cycle is complete.

**The Guidelines represent an important written communication mechanism, but clarity of purpose is missing.** The distinction between steadfast rules, guidance, or long-standing practice is not clear throughout the Guidelines document. Further, the Guidelines' lack of clarity about actual requirements for funding consideration contributes to misunderstanding and uncertainties among applicants about the process. For example, requirements that applicants are to meet in order to be considered for funding are given in two formats, one graphic and the other a list, but neither is complete in itself.

Although changes are made to the Guidelines document virtually every year, the changes are not highlighted on a separate page in the front of the document so that all applicants will be made aware of potential new requirements for funding. In some cases, the changes are minor points of clarification. But this constant work in progress has become less straightforward for applicants to follow.

Further, the Guidelines attempt to serve too many purposes. The document serves as the primary guide for artists and arts organizations that are seeking City funding. In addition, the Guidelines state the procedures that panelists

follow during the review of applications, scoring, and allocation of funding. The Guidelines also include guidance for the Arts in Public Places activity.

**The City's dependence on the Hotel Occupancy Tax as the sole revenue source for funding the arts limits the City's ability to support the creative community.**

The FY 03 funding cycle has been chaotic because of the projected decrease in the Hotel Occupancy Tax revenues. Commissioners and panel members began the allocation process knowing that projections were lower than the previous year, but were surprised by a second lower revenue projection as the allocation process was being completed.

With the downturn in the economy, the city's reliance on the Hotel Occupancy Tax as the only resource for funding the creative arts has resulted in reduced funding for many organizations. As the City moves forward, it needs to expand the type of funds used for the creative arts. For example, grant money from organizations such as the National Endowment for the Arts is another potential source of funding. However, grant writing for the arts by the City is not currently being pursued. In addition, many cities establish an arts endowment, but the City has also not pursued this strategy.

**Recommendations:**

01. The City Council should utilize the expertise of the consultant currently working on arts funding and governance structures to:
  - assess possible funding models or frameworks for funding the creative/cultural arts in Austin, determine the model that is the best fit for Austin, and provide the means to implement the chosen model; and
  - derive a short-term solution for funding the arts in fiscal year 2004 while the long-term solution is being implemented.
02. The City Council should:
  - fund the second phase of the arts consultant's contract, which is the implementation of the chosen model/framework for funding the creative/cultural arts; and
  - evaluate the management and organizational placement of any City staff that will be available to assist with the contracting of arts groups.
03. Whether the City Council decides to keep the current structure of the Arts Commission or chooses to use another structure, the Council should direct the City Manager to draft a resolution or revised ordinance that includes the following issues as appropriate.

- a. Council's funding policy priorities and a mechanism for periodic review of the policy priorities.
  - b. A mechanism that distributes available funds among policy priorities.
  - c. A single appeals mechanism, as in the existing ordinance, which includes measures to uphold its integrity, such as limiting recourse seeking more money.
  - d. A strict conflict-of-interest policy including a document that all parties to the funding process sign, which indicates their understanding of the policy. Refer alleged violations to an authority, such as the Ethics Commission.
  - e. Contracting criteria that are congruent with policy priorities and City purchasing standards.
  - f. A standard model for advocating for changes to the application guidelines, such as 30-day advance publication, comment periods, and final approval.
04. The City Council should encourage and fund facilitation sessions to assist the new or reorganized arts organization for allocating funding to the arts and its leaders and volunteers on effective communication and managing the new processes.
05. To develop more stability in funding for cultural arts, the City Council should direct the City Manager to employ a grant writer within the City organization to pursue grants for cultural arts funding.

## **ISSUES FOR FURTHER STUDY**

A randomly selected sample of contract files showed that contract records for the most current completed funding year were generally in order, with only a few minor exceptions. A more hands-on approach could strengthen the process of contract monitoring and ensure that public cultural arts monies are being spent in the public interest and in compliance with legal requirements.

Although contracts office staff received high marks from applicants and other stakeholders in the end-of-cycle surveys, a review of the cultural contracts administrative practices could yield some important improvements to support of the process. Aspects that could be reviewed include:

- Consistency and effectiveness of communication with applicants, panelists, and commissioners;
- Adequacy of and compliance to policies and procedures;
- Competence of staff and training;
- Efficiency and adequacy of staffing levels; and
- Consistency among staff and across contractors in monitoring and contract enforcement practices.