

AN ORDINANCE 2008-03-20-0224

**IMPLEMENTING AND APPROVING GUIDELINES FOR THE CITY OWNED FACILITIES ANCHOR PROGRAM, INCLUDING ELIGIBILITY AND REVIEW CRITERIA, AND APPROVING CLARIFICATIONS TO THE ARTS FUNDING PROGRAM GUIDELINES.**

\* \* \* \* \*

**WHEREAS**, on Sept. 7, 2006, City Council established a new category of arts funding that includes specific arts and cultural agencies that either manage or are anchor tenants of City owned facilities ("COFA"); and

**WHEREAS**, at that time, City Council voted to utilize a minimum of 4.25% of Hotel Occupancy Tax (HOT) collections to support COFA agencies; and

**WHEREAS**, COFA agencies will undergo the same application process as the Operational Support Program applicants and COFA agency funding requests will be based on their actual total arts and cultural budgets of the prior or current year, as applicable; and

**WHEREAS**, the review of COFA applications will be conducted by a committee of City staff from various departments that have direct interest in the City facilities managed by the applicants, such as Downtown Operations, Finance, the Convention and Visitors Bureau and the Office of Cultural Affairs, and an outside regional representative and the guidelines and review criteria will be substantially similar to those utilized in the current Arts Funding Program, but will include a review of the applicant's facility needs; and

**WHEREAS**, the Arts Funding Guidelines approved by City Council in Fiscal Year 2006 currently require clarification and the necessary clarifications have been made in the Guidelines which are attached to this Ordinance as Exhibit I; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The Arts Funding Guidelines for the City Owned Facilities Anchor Program are approved and implementation is authorized and clarifications to the existing Arts Funding Program Guidelines are approved. A copy of the new Arts Funding Program Guidelines incorporating all these additions and clarifications are attached to this Ordinance as Exhibit I.

**SECTION 2.** This Ordinance shall be effective on and after the tenth day after passage.

**PASSED AND APPROVED** this 20<sup>th</sup> day of March, 2008.

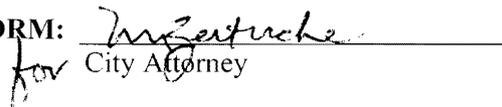
  
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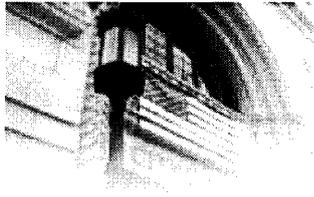
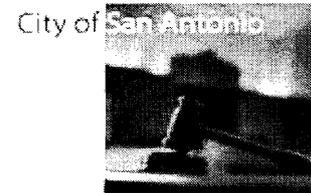
ATTEST:

  
City Clerk

**PHIL HARDBERGER**

APPROVED AS TO FORM:

  
for City Attorney


 Request for  
**COUNCIL**

**Agenda Voting Results - 19**

<b>Name:</b>	19						
<b>Date:</b>	03/20/2008						
<b>Time:</b>	11:23:41 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance implementing and approving guidelines for the City Owned Facilities Anchor Program, including eligibility and review criteria, and approving clarifications to the Arts Funding Program guidelines. [Penny Postoak Ferguson, Assistant City Manager; Felix Padron, Director, Cultural Affairs]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2	x					
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

Exhibit  
I

**FY 08-09**  
**Arts & Cultural Funding Division**  
**City of San Antonio**  
**Office Cultural Affairs**

The goal of the Arts and Cultural Funding Division is to support programs that further artistic excellence and foster increased, diverse public participation and awareness of the role the arts play in San Antonio. The Arts and Cultural Funding Division is the process utilized by the Office of Cultural Affairs to purchase arts and cultural services for the community.

The Arts and Cultural Funding Division offers six grant opportunities

- General Operational Program
- Project Funding Program
- Neighborhood Arts Program
- Stabilization Program (replaces Technical Program)
- Incubator Program
- Collaborations Program

All funds from the Hotel Motel Tax Fund shall be expended for the promotion of tourism and the convention and hotel industry through the encouragement, promotion, improvement, application and exhibition of the arts.

The objectives of the programs are to:

- Serve a broad multidisciplinary constituency, and to encourage growth and viability within arts of diverse cultures.
- Affirmatively encourage and facilitate the participation of culturally diverse populations, geographically underserved neighborhoods and economically disadvantaged populations, and the disabled.
- Promote and/or foster cultural tourism.
- Reach and support organizations of all sizes and artists working within all arts disciplines, and support the development of art that is uniquely San Antonio.
- Promote the development of agencies and expansion of opportunities for artists, and to provide leverage in helping organizations and artists secure additional support from other sources, both public and private.
- Support organizational growth through strategic planning and professional development.

**FUNDING RESTRICTIONS**

The Office will **NOT** fund the following:

- Accredited academic teaching institutions, and departments thereof (except in partnership with a community-based arts organization as the applicant);
- Non-profit agencies and foundations that directly support City Departments;
- Fund deficiencies in previously completed projects or for unanticipated costs in ongoing projects or payment of prior deficits;
- Loans, fines, penalties, costs of litigation or associated interest payments;
- Benefits and projects planned primarily for fundraising purposes;
- Re-granting programs;
- Projects, productions, workshops and/or programs that include obscene material as defined in Section 43.21, Penal Code of Texas;
- Projects or organizations whose primary purpose is not secular and programs where the primary effect of funding would be to support a religion;
- Capital improvements, construction, renovation, structural maintenance of facilities, with the exception of COFA agencies and those agencies which receive funding under the deferred maintenance program guidelines;
- Social functions, parties and receptions, including food and beverage. Programs that are essentially recreational, rehabilitative, or therapeutic;
- Organizations whose programs and events do not have a primary impact on the City of San Antonio;
- Scholarships, purchase awards, or cash prizes; and
- Programs not open to the public.

# Types of Support

## General Operational Program

The General Operational Program provides financial support to arts and/or cultural organizations that offer a wide range of high quality arts and cultural programming made available to the general public. This is a multi year program funded on an annual basis for two years. Continuation of award each year is dependent on availability of funds and the continuation of the same level of services by the organization. The Cultural Arts Board ("CAB") has the option to recommend one year funding, if an agency's service levels or financial history are not stable.

Operational support requests or awards cannot be less than \$5,000.

The Office of Cultural Affairs (OCA) staff may recommend the application be considered as a project if the eligibility criteria are not met.

### Eligibility

To be eligible for the General Operational Program an applicant must:

Be an arts and/or cultural organization. An arts and/or cultural organization is defined as an organization whose mission (as stated in non-profit article of incorporation) and actual operation are the creation, preservation and presentation of arts and/or cultural programming such as music, dance, drama, literature, painting, printmaking sculpture, folk arts, photography, film, crafts, and festivals;

Have its primary base of business operations in the City of San Antonio;

Be tax exempt status under Section 501 (c)(3) of the Internal Revenue Code (at the time of application). An applicant cannot be sponsored by an organization that meets eligibility criteria;

Have been in existence for a minimum of three years, not necessarily as a 501 (c)(3);

Be governed by board of directors/trustees that meets regularly;

Have an operating cash budget of \$50,000 or more with a salaried full or part time manager who is responsible for the business management of the organization (An applicant can commit to hiring a full or part time position to manage the grant if application is funded);

Have all programs and events must be open to the public and ensure accessibility for the disabled;

Be able to match requested amount from other sources and as follows:

Organizations with arts and cultural budgets:		City : Non-City Match Ratio
● Over \$2 million	=	1:3 (must be cash match only)
● \$800,000 to \$2 million	=	1:2 (up to 25% may be in-kind*)
● \$100,000 to \$800,000	=	1:1 (up to 50% may be in-kind*)
● \$50,000 to \$100,000	=	No Match required

\*In-kind is defined as products or goods and services that have and add value to the organization's programs. All in-kind contributions must be documented. Title 43, Part 12, Section 12.64 of the Code of Federal Regulations and other related federal web sites will be posted for identifying and determining allowable In-kind matches;

Submit a financial request that does not exceed the following percentages:

Organizations with arts and cultural budgets:	Requests may range up to:
● Over \$2 million	10% of actual operating budget
● \$800,000 to \$2 million	20% of actual operating budget
● \$50,000 to \$800,000	30% of actual operating budget; and

### Verification of Actual Organization Operating Budget

Organizations requesting \$250,000 or more must submit an Audited Financial Statement from the last completed fiscal year.

Organizations requesting less than \$250,000 can submit either an audited financial statement or the prior year financial statement that has been approved by their board of directors.

Organizations can submit their IRS form 990 that correlates with same year of the audit or financial statement. If not submitted, OCA may access the 990 forms posted on line.

All organizations may submit a current, Board approved, financial statement to facilitate and determine the organization's most current financial position and/or actual operating budget.

## City Owned Facility Anchor (COFA) Agencies

On Sept. 7, 2006 upon approval of the City's budget, City Council established a new category of support that included arts and cultural agencies that either manage or are anchor tenants of City owned facilities. City Council determined that the COFA program budget would be a minimum of 4.25% of Hotel Occupancy Tax (HOT) collections.

COFA agencies include:

- Centro Cultural Aztlan
- Guadalupe Cultural Arts Center
- San Pedro Playhouse
- Symphony Society of San Antonio
- The Alameda National Center for Latino Arts and Culture
- The Magik Children's Theatre
- The Witte Museum
- Carver Community Cultural Center (As a Division of the Department of Community Initiatives, the Carver will receive any funding allocation through an interdepartmental transfer.)

### Principles of Operation

The City Owned Facilities Agencies (COFAs) will undergo the same application and actual budget verification process as the General Operational Support Program applicants.

<u>If operating budget size is:</u>	<u>then</u>	<u>Request may range up to:</u>
—Over \$2 million		10% of actual operating budget
—\$800,000 to \$2 million		20% of actual operating budget
—\$50,000 to \$800,000		30% of actual operating budget

The review of the COFA applications, however, would be conducted by a review committee comprised of various City Departments that have a relationship with the applicants, such as Downtown Operations, Finance, Convention and Visitors Bureau, Office of Cultural Affairs, etc. and an outside regional representative. The review criteria will remain the same as those for Operational Support, but will also include a review of the agency's facility needs. COFA agencies will have the option to present to the review committee. The funding recommendations of this committee would be forwarded to the CAB for approval during their funding deliberation meetings and subject to City Council approval.

The proposed Review Criteria would include

	<u>If facility funds are requested</u>	<u>if facility funds are not requested</u>
Program Service	(40%)	(40%)
Community Involvement, outreach, diversity	(20%)	(25%)
Financial position and administrative ability	(20%)	(20%)
Marketing and promotion	(15%)	(15%)
Facility review*	( 5%)	N/A

\*Areas of Facility review would include

- Adherence to facility contract (if applicable)
- Facility maintenance (interior/exterior) needs
- Safety code and ADA issues

A form similar to the one attached entitled Facility Improvement and Maintenance Form will be utilized to assess facility needs. Funding for facility needs would require match and would be separate from the General Support award. Facility maintenance funding awards would allow two years to complete. Additionally, the COFA agency would have the option to utilize the Operational Support funds to address facility maintenance needs.

COFA agencies will be eligible to apply for the same programs as other Operational support applicants.

### COFA Accountability

All COFA contracts will undergo reviews to validate agency systems and compliance with contract(s), program records systems, validate agency's internal fiscal controls over funds awarded, and validate the agency year end program and fiscal reports to contractual requirements. Periodic staff site visits will be conducted to verify program information on an on-going basis and information will be submitted to CAB on program achievements.

## **Stabilization Program**

The Stabilization Program is a competitive process to provide for professional services or new staff that will have the most impact on an agency's development. The process includes, agency self-assessment, identification of key position/service to stabilize, benchmarks to gauge success. Only current General Operational support and COFA agencies that are recommended for funding are eligible. A Review Committee comprised of City staff, CAB and community representation will review the "Organizational History" information submitted by applicants. Stabilization Program funds are awarded for a two year funding cycle with no match requirement for first year. Second year funds awarded will require a match and will follow operational guidelines matching requirements. Review Committee recommendations will be forwarded to applicants and the CAB.

## **Project Funding Program**

A project is an activity whose objective is the creation, preservation and presentation of an arts and cultural activity. The Project Funding Program provides financial support to specific arts/cultural activities in an organization. The activity is usually separate from the organization's general operating budget. The Project Funding Program funds on an annual basis with new requests considered annually.

For example, a project can be:

- A presentation that is part of a series;
- A one-time only presentation/event; or
- A series of art events with a continuing theme within the grant cycle. (However, a project grant will not provide funding for general operating expenses or for a complete series.)

Project Funding Program requests or awards cannot be less than \$5,000.

### **Eligibility**

To be eligible for the Project Funding Program an applicant must:

Be a "not-for-profit" organization with an operating budget of \$50,000 or less. Organizations with IRS 501(c)(3) status can apply directly. Organizations without IRS 501(c)(3) status must identify a sponsor or fiscal agent that meets the eligibility requirement of the Program;

Organizations with missions that are not arts/cultural must submit the arts and cultural operating budget that they maintain to determine if they fall within the \$50,000 budget limit. If their arts/cultural budget is over \$50,000, they would not be eligible.

Be governed by board of directors/trustees that meets regularly;

Have all programs and events open to the public and ensure accessibility for the disabled;

Have been in existence (operation) for a minimum of one year (not necessarily as a 501 (c)(3)) **and** applied for 501(c)(3) status (An applicant can commit to applying for IRS 501(c)(3) status if funded);

Have its primary base of business operations in the City of San Antonio; (Determination can be based on applicant's mailing address) and

Be able to match requested amount. All funds awarded must be matched 1:1 from other sources. At least 50% of the matching funds must be in cash, while 50% of the match can be in-kind contributions.

An applicant must show a budget that is not a part of their operational budget. Project support is limited to two years for the same activity.

### **Sponsorships (Project Funding Program applicants only)**

Sponsorships provide unincorporated groups the opportunity to compete for funding under the umbrella of a nonprofit organization that meets the eligibility criteria of this Program.

The sponsor organization is the official applicant and is responsible for compliance with all application and reporting requirements and financial commitments of the funded applicants. Attachments are required from both the sponsor organization and the applicant.

The applicant and the sponsoring organization must execute a written agreement and, upon request, provide a copy of the agreement to the City. The agreement should clearly identify the responsibilities of each party and must include the acknowledgement of assurances the required of the application.

## APPLICATION PROCESS

Review Committees' solicitation

Applicant's Workshops

Address application instruction and requirements and review process

Application deadline

Staff reviews for eligibility and completeness

Staff will schedule site visits with new applicants to review various aspects of the organization's operations. A general checklist prior to the visit will be provided in advance to allow them an opportunity to prepare materials and allow the key staff and board representatives to be present. For new applicants, this site visit will be one factor utilized by staff in determining administrative capacity.

Applications will be sorted according to Review Committee category and budget size

Application Support Material deadline

Review Committee and CAB

Three Review Committees (Multidisciplinary, Performing and Visual Arts) will each be comprised of one CAB member, one regional or national participant and five local independent and objective experts and patrons in each discipline for a total of seven committee members.

Staff forwards eligible and complete applications to committee members and CAB

Review Committee members will be made public to allow for agencies to notify OCA of a potential conflict of interest

Review Committee/CAB workshop on review/deliberation process

Review Committee will review applications and support materials

Committee Review Process

Every effort will be made to ensure impartiality during the entire review process by selecting members with no conflicts of interest with any of the applicants to be reviewed. (Conflict of interest is defined as fiduciary, professional, personal or adversarial relationship with a grant applicant.)

Review Committees will reference review criteria as they discuss the applications and their supporting materials

Agencies will make presentations to Review Committee after Review Committee discussion and before scoring

CAB members will be present during Review Committee meetings to observe proceedings, agency presentations, and scoring

Review Committees will evaluate and provide a score for each assigned application and based on Artistic and Cultural Merit and Community Involvement, Outreach and Diversity

Review Committees will not consider fiscal information or make funding decisions

Staff Application Review

Staff will determine Financial Position and Administrative Ability and Marketing and Promotion score separate from the

Review Committee proceeding, utilizing the review criteria, support materials, site visits, and/or information on file

Staff will distribute Review Committee and Staff review results to the Cultural Arts Board and to the applicant

CAB meeting to review outcome of review process, establish minimum score level for funding (CAB will determine a minimum score level every funding cycle in order to adjust to scoring trends and dollars available)

Staff Funding Recommendations

Staff will determine funding recommendations based on:

- Minimum score level for funding
- Dollars available
- Actual operating budgets
- Applicant's scores
- Minimum award (\$5,000)
- Awards are based on the applicant's arts and cultural operational budget.
- Organizations with arts and cultural budgets:

<ul style="list-style-type: none"><li>● Over \$2 million</li><li>● \$800,000 to \$2 million</li><li>● \$100,000 to \$800,000</li><li>● \$50,000 to \$100,000</li></ul>	<p>Awards may range up to:</p> <ul style="list-style-type: none"><li>10% of actual operating budget</li><li>20% of actual operating budget</li><li>30% of actual operating budget</li><li>between \$5,000 and 30% of actual operating budget</li></ul>
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- Equity of services (special populations, special needs, equitable distribution of disciplines and funds) focusing on the development, sustainability and growth of San Antonio's arts and cultural organizations that are deeply rooted in, and able to express the experiences of, culturally specific underserved communities.

Review Committees and staff scores, comments and staff funding recommendations will be forwarded to the Cultural Arts Board and to applicants.

In a CAB scheduled public meeting, applicants may opt to respond to Review Committee scores/comments and staff recommendations.

CAB will issue preliminary funding recommendations.

Appeals

An applicant may submit a written appeal on a funding decision if the applicant can demonstrate that:

1. The Office of Cultural Affairs failed to follow published application and review procedures.

2. Undue influence was placed on the Review Committee or CAB by a member(s) with an undisclosed conflict of interest.
3. The Review Committee's or CAB's decision was based on insufficient information through no fault of the applicant.
4. The Review Committee's or CAB's decision was based on information not related to the proposed outcome of the application.

CAB will issue final funding recommendations.

Funding awards will be made without discrimination and will comply with all applicable local, state and national laws.

CAB makes final funding recommendations based on the following:

- Appeals considerations (considered in writing only)
- Applicants' Scores and Comments
- Staff funding recommendations
- Equity of services

## **GENERAL OPERATIONAL AND PROJECT APPLICANTS APPLICATION REVIEW CRITERIA**

Review Committees and staff will apply the following criteria in the review and scoring of applications:

### Artistic and Cultural Merit (40%)

- High artistic and cultural quality of programs
- Responsiveness to current and future arts and cultural needs
- Vision and leadership of artistic staff
- Creative programming and artist selection
- Program support of artistic and cultural mission

### Community Involvement, Outreach and Diversity (25%)

- Effectiveness of community involvement
- Collaborative programs with other arts and cultural groups to reach new and special audiences
- Effectiveness in developing the culturally specific audiences of San Antonio
- Effectiveness and Accessibility of programs choices made to reach out or target culturally specific communities
- Efforts to recruit board, staff, artists and volunteers who represent the cultural diversity of San Antonio

### Financial Position and Administrative Ability (20%)

- Accurate Budget
- History of planned growth, stability, and vision
- Evidence of effectiveness and efficiency in the organization's operation and delivery of services
- Board governance structure, responsibilities and involvement
- A diverse base of financial support through earned income, private funding and government sources
- Formal plan or strategy to deal with existing or anticipated fiscal challenges
- Evidence of City contract compliance

### Marketing and Promotion (15%)

- Effectiveness of marketing efforts
- Evidence of a marketing and promotion plan
- Effective, measurable promotion and contributing or fostering of cultural tourism
- Evidence of nurturing the arts and cultural traditions of San Antonio

## **ASSURANCES**

At the time of application, the applicant assures that:

1. The activities and services for which financial assistance is sought will be administered by the applicant organization.
2. It will comply with existing local, state and federal laws that prohibit discrimination based on race, color, national origin, age, sex, sexual preference, or disability, as well as, the requirements of this funding program.
3. It is not knowingly fostering, encouraging, promoting, or funding any project, production, workshop, and/or program that includes obscene material as defined in Section 43.21, Penal Code of Texas.
4. It will not identify the City as a funding provider for any events and activities for which City has not authorized funding. Only events and activities identified in the contract shall be considered to be authorized for funding by the City.
5. It will maintain auditable financial records reflecting generally accepted accounting standards related to their overall activities, submit itemized reports or expenditures as required by established City procedures, and submit timely reports reflecting the progress made in achieving the approved goals and objectives of the recipients.

## GRANT APPLICATION INSTRUCTIONS

Instructions will be moved to the OCA website and will be updated as needed

## APPLICATION REVIEW CALENDAR

Calendar will be entered to the website and will be updated as needed

## APPLICATION CHECKLIST

Name of Applicant.....

**The following will be due to the City Clerk's Office within the prescribed deadline.**

- A signed, original Assurance Form.
- Copy of IRS letter determining tax exempt status. Submit even if submitted to OCA previously.
- Sponsored applicants, if applicable, submit copy of request to the IRS for 501c3 designation.
- Copy of Certificate of Incorporation, State of Texas. Submit even if submitted to OCA previously.
- A signed, original agreement from the sponsoring organization acknowledging responsibilities of sponsorship.

### **All applicants must submit:**

- An audit from your most recently completed fiscal year if requesting \$250,000 or more. If requesting less than \$250,000 submit either an audited financial or the prior year's financial statement that has been approved by the board of directors..
- A completed "Anticipated Performance Measures" form.
- A completed "Diversity Activity" Form.
- A completed "Application Timetable".
- A list of your current Board members and their addresses.
- Supporting documents such as publicity materials, reviews, slides, audio cassettes or video tapes that will provide panelists with an indication of artistic merit is required.

**Applicants can submit their IRS 990 form that correlates with the same year of audit or financial statement**

### **Project Support applicants must submit:**

- Sponsorships, collaborations, joint projects, **must submit letters of agreements.**
- If sponsoring an individual artist or group of artists, **attach letter of agreement and résumés of participating artists.**

### **Operational Support applicants must submit:**

- Office of Cultural Affairs' Organizational Budget form.

- Organization's program and operational information for the last three completed fiscal years. Develop the information in the areas noted in OCA's "Organizational History" attachment.
- Attach any critical evaluations or organizational audits conducted by outside sources that occurred in the last three years.

**City Owned Facility Anchor Agencies must submit:**

- Items listed under "All applicants must submit"
- Items listed under "Operational Support applicants must submit".
- Facility Improvement and Maintenance Application