



# Audit of Cultural Programs

April 6, 2026

Mamatha Sparks  
Interim City Auditor

**Mayor**

Eric L. Johnson

**Mayor Pro Tem**

Jesse Moreno

**Deputy Mayor Pro Tem**

Gay Donnell Willis

**Council Members**

Adam Bazaldua

Lorie Blair

Paula Blackmon

Laura Cadena

Zarin D. Gracey

Maxie Johnson

Cara Mendelsohn

Jaime Resendez

Paul E. Ridley

William Roth

Kathy Stewart

Chad West

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## Executive Summary

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The Office of Arts and Culture administers three primary cultural contract programs:

- Cultural Organizations Program, which provides operational support to nonprofit arts organizations.
- Community Artist Program, which contracts with individual artists and organizations to provide neighborhood-based cultural services.
- ArtsActivate, which funds project-based cultural initiatives.

These programs operate under the direction of the Cultural Policy and the Cultural Plan, both adopted by City Council on November 28, 2018. The Cultural Policy establishes the City's guiding principles for cultural services, including a mission to ensure access to arts experiences in every neighborhood, a commitment to cultural immersion, and a framework for contracting cultural services through operational, project-based, and neighborhood-focused programs. The Cultural Plan provides a citywide blueprint for investment and identifies six long-term priorities—equity, diversity, space, support for artists, a sustainable arts ecosystem, and communication—supported by 31 strategies and 140 initiatives.

In Fiscal Year 2024, 249 participants received more than \$8 million from the three programs funded from the City's general fund and/or hotel occupancy tax revenue.

The objectives of this audit were to determine whether primary cultural contracts of the Office of Arts and Culture have working internal controls to: (1) prevent and detect ineligible recipient expenditures, and (2) to monitor recipient performance.

The scope of the audit included Fiscal Year 2024 recipients of monetary awards from the Cultural Organizations Program, Community Artist Program, and ArtsActivate Program.

## Objective and Conclusion

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1. Does the Cultural Program Division of the Office of Arts and Culture have internal controls to monitor recipient performance and expenditures, including use of hotel occupancy tax and general fund revenue?

**Generally, no.** The Cultural Programs Division of the Office of Arts and Culture has defined ineligible expenditures for each contract but does not have internal controls to prevent and detect ineligible expenditures.

While the Cultural Support Programs Division requires recipients to submit performance reports into Zengine (program management web-based application), internal controls to review expenditures are limited, informal, and inconsistently applied. There is no assurance that cultural services were completed as reported, achieved intended program outcomes, or complied with eligibility and funding requirements. (See [Observation A](#) and [Observation B](#).)

## Recommendations

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Management should:

- Develop and implement a formalized process to evaluate and document whether proposed cultural programming expenditures meet hotel occupancy tax eligibility requirements prior to expenditure.
- Establish standardized documentation practices to substantiate hotel occupancy tax reimbursements for arts programs that directly promote tourism and the hotel and convention industry in accordance with Texas Tax Code §351.101.
- Develop and implement formal written procedures and work instructions for monitoring cultural programming contracts, including verification of expenditures and performance results.
- Require submission and retention of supporting financial documentation (e.g., invoices, receipts, payroll records) to substantiate reported expenditures under cultural programming contracts.
- Perform and document budget-to-actual comparisons and require written explanations for significant budget or performance variances.

## Risk Summary

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Risk classification is based on criteria outlined in the *Standards for Internal Control In The Federal Government*—Compliance, Operational, Financial and citizen focused criteria of Public Image. Each program is evaluated against these criteria, and the resulting risk classification reflects the program’s alignment with departmental goals as well as its overall significance to the community.

Classification	No.	Management’s Response
● High	2	Management agreed to 2 out of 2 recommendations.
● Moderate	3	Management agreed to 3 out of 3 recommendations.
● Low	0	

## Audit Results

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Both City Council Resolution 88-3428 and Administrative Directive 4-09, Internal Control prescribe policy for the City to establish and maintain an internal control system. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

### Observation A: Hotel Occupancy Tax Use For Cultural Programming

**Risk Rating:** ● High

The Office of Arts and Culture has not formalized or documented a standardized process for demonstrating how hotel occupancy tax revenues applied to arts programming meet state law requirements. The Office of Arts and Culture currently relies on professional judgment, experience, and varying interpretations of applicable statutes when distributing hotel occupancy tax revenues to arts programs. While these judgments may reflect subject-matter expertise, they are not supported by a formalized documentation process demonstrating how each expenditure satisfies statutory tourism requirements. The City may have difficulty demonstrating compliance with state law if the use of hotel occupancy tax revenues is reviewed or challenged.

Various available guidance consistently emphasizes that hotel occupancy tax revenues must directly promote tourism and the hotel and convention industry by attracting overnight visitors (*“putting heads in beds”*). Texas Tax Code §351.101 requires that expenditures both: (1) promote tourism and the hotel industry, and (2) fall within an authorized category, such as the encouragement and promotion of the arts. Guidance from the Texas State Comptroller, the Texas Municipal League, Texans for the Arts, and the Texas Hotel and Lodging Association reiterates this requirement and provides examples of how municipalities may document tourism impact.

Examples of acceptable documentation may include:

- Demonstrating that events are tied to conventions or hotel bookings.
- Hosting events within designated cultural districts that attract visitors.
- Collecting attendee surveys, ticketing data, or hotel booking information showing overnight visitors attributable to the event.

See [Appendix A](#) for full details on the guidelines and examples on how to demonstrate impact on tourism.

In Fiscal Year 2024, the Office of Arts and Culture received \$8.9 million in hotel occupancy tax reimbursements. Of that amount, approximately \$4 million funded 28 Cultural Organization Program contract recipients considered likely to attract out-of-town visitors. Documentation demonstrating direct tourism impact or support of the hotel and convention industry by these recipients was not maintained. The remaining \$4.9 million in hotel occupancy tax reimbursement was spent on cultural programs that may not meet the requirements for the hotel occupancy tax.

Since the Office of Arts and Culture has not established a formalized process to determine and document which cultural programming directly enhances and promotes tourism, sufficient documentation is not retained to substantiate eligibility for hotel occupancy tax reimbursement. Evidence such as tracking non-local or overnight attendance, conducting post-event surveys, maintaining ticketing data, documenting hotel room reservations, or otherwise demonstrating how funded arts activities directly enhance and promote tourism would strengthen the City's ability to demonstrate that expenditures meet the statutory tourism requirement. While program intent may align with arts promotion, documented evidence of tourism impact is necessary to demonstrate compliance with statutory criteria.

## Criteria

- ◆ Dallas City Code, Section 44-35: Levy; Amount; Disposition of Revenue.
- ◆ Texas Tax Code, Section 351.101. Use of Tax Revenue.
- ◆ Local Hotel Occupancy Tax Overview by Kelly Hancock, Acting Texas Comptroller of Public Accounts.
- ◆ The Hotel Tax “Two-Step” by Bill Longley, Texas Municipal League Counsel.
- ◆ Local Hotel Tax Funding of the Arts by Texas Cities, The Texas Hotel & Lodging Association and Texans for the Arts.
- ◆ *Standards for Internal Control in the Federal Government: Principle 16–Perform Monitoring Activities.*

## Recommendation

We recommend the **Director of Office of Arts and Culture:**

**A.1:** Develop and implement a formalized process to evaluate and document whether proposed cultural programming expenditures meet hotel occupancy tax eligibility requirements prior to expenditure.

**A.2:** Establish standardized documentation practices to substantiate that hotel occupancy tax reimbursements for arts programs directly promote tourism and the hotel and convention industry in accordance with Texas Tax Code §351.101. Documentation may include evidence of out-of-town attendance, post-event surveys, ticketing data, hotel booking information, or other verifiable measures demonstrating tourism impact.

## Management Response

No	Concurrence	Action Plan	Implementation / Follow-Up Date
A.1	Agree	<p>While there are no formal quantitative guidelines, the Office of Arts and Culture (OAC) has historically relied on guidance issued by the presidents of the Texas Hotel &amp; Lodging Association (THLA), Texans for the Arts (TFA), and legal opinions to ensure compliance with Hotel Occupancy Tax (HOT) eligible funding. However, OAC agrees to implement a more formalized and documented process to consistently demonstrate that HOT expenditures meet statutory requirements.</p> <p>OAC has contacted the cities of San Antonio, Houston, and Austin, as well as the THLA and TFA, to inquire about best practices that satisfy the compliance requirements.</p> <p>This process will be formalized in both internal procedures and program guidelines to ensure consistency across all cultural service programs. In addition, OAC will examine partnerships with VisitDallas and the City's Convention and Event Services Department to explore possible approaches for capturing overnight visitor data that are feasible for arts organizations of varying sizes.</p>	12/31/2026; 06/30/2027
A.2	Agree	OAC has developed a soon-to-be-implemented checklist to ensure documentation substantiates that Hotel Occupancy Tax reimbursements for arts programs directly promote tourism and the hotel and convention industry in accordance with Texas Tax Code §351.101.	12/31/2026; 06/30/2027

## Observation B: Expenditure and Performance Monitoring

**Risk Rating:** ● Moderate

The Office of Arts and Culture’s primary arts programs have not established formalized internal controls to monitor cultural programming contracts to ensure that: (1) contract expenditures are eligible, reasonable, and compliant with contract terms and program guidelines, and (2) funded activities achieve results against contract scopes of work and deliverables. The absence of structured expenditure and performance verification increases the risk that public funds may be used for ineligible purposes, that waste or inefficiencies may not be identified timely, and that the City is unable to demonstrate whether funded programs achieve intended outcomes.

In Fiscal Year 2024, the Office of Arts and Culture spent more than \$8 million on Cultural Organizations Program, ArtsActivate, and Community Artist Program contracts. See **Exhibit 1**.

**Exhibit 1:** Fiscal Year 2024 Cultural Programming Contract Count and Amounts

Program	Number of Contracts	Actual Expenditure
Cultural Organizations Program	52	\$6,149,342
Community Artist Program	65	512,934
ArtsActivate Program	132	1,379,347
<b>Totals</b>	<b>249</b>	<b>\$8,041,623</b>

**Source:** Office of Arts and Culture and AMS Advantage.

A review of a sample of 25 Fiscal Year 2024 cultural programming contracts (13 ArtsActivate Program contracts, seven Community Artist Program contracts, and five Cultural Organizations Program contracts) indicated that monitoring activities are limited to confirming the submission of reports in Zengine (program management web-based application). Monitoring activities do not include documented verification of reported financial or deliverable information.

Specifically, the Office of Arts and Culture does not document or perform:

- Reviews of supporting financial documentation (e.g., invoices, receipts, payroll records) to verify reported expenditures.
- Budget-to-actual reconciliations or explanations for significant variances.
- Reviews of expenditures for allowability, reasonableness, or timing within the contract period.
- Site visits or other verification procedures to confirm that funded activities occurred as reported.
- Formal reviews or approvals of reported results against contract scopes of work and deliverables.

- Calculations or enforcement actions related to unspent or ineligible costs.

Although program guidelines for ArtsActivate, Community Artist Program, and Cultural Organizations Program define ineligible costs (such as fundraising, underwriting of capital expenses, travel, or food), structured controls have not been established to verify that these restrictions are enforced in practice.

The Office of Arts and Culture has not developed or implemented formal written procedures or work instructions for monitoring cultural programming contracts. Documented processes have not been established for verifying expenditures, defining and measuring performance expectations, reviewing supporting documentation, or retaining evidence of monitoring activities (e.g., checklists, approval memoranda, signoffs, or verification logs). Monitoring practices are largely informal and not consistently documented. In addition, cultural programming contracts and guidelines do not consistently require performance measures or supporting documentation to substantiate reported costs and outcomes.

## Criteria

- ◆ Cultural Policy, Council Resolution No. 18-1683 November 28, 2018.
- ◆ The 2018 Dallas Cultural Plan.
- ◆ ArtsActivate Fiscal Year 2024 Guidelines for Non-Profit Organizations and Individual Artists.
- ◆ Cultural Organizations Program Fiscal Year 2024 Guidelines for Non-Profit Arts and Culture Organizations.
- ◆ Fiscal Year 2024 Community Artist Program Guidelines for Non-Profit Organizations and Individual Artists.
- ◆ National Endowment for the Arts “Project Budget Instructions 11/12/2024.”
- ◆ Code of Federal Regulations Title 2, Subtitle A, Chapter II, Part 200—Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards.
- ◆ *Standards for Internal Control in the Federal Government*: Principle 16—Perform Monitoring Activities.

## Recommendations

We recommend the **Director of the Office of Arts and Culture**:

**B.1:** Develop and implement formal written procedures and work instructions for monitoring cultural programming contracts, including verification of expenditures and performance results. Procedures should include:

- A documented process for reviewing expenditures for eligibility and allowability, addressing unsupported or ineligible costs, and documenting all review and approval activities.
- A risk-based monitoring approach (e.g., desk reviews and selective site visits) for higher-dollar or higher-risk contracts.
- Defined processes for establishing, monitoring, and documenting completion of contract deliverables.

**B.2:** Require submission and retention of supporting financial documentation (e.g., invoices, receipts, payroll records) to substantiate reported expenditures under cultural programming contracts.

**B.3:** Perform and document budget-to-actual comparisons and require written explanations for significant budget or performance variances.

## Management Response

No	Concurrence	Action Plan	Implementation / Follow-Up Date
<b>B.1</b>	Agree	<p>While the guidelines of our programs and the nature of our interactions with artists do not currently require the collection and review of all receipts, OAC has consistently followed established procedures to review expenses and ensure that ineligible costs are not paid. Consultation with peer municipalities indicates that the auditor's recommendation exceeds the processes of similar cities whose programs are fully funded by HOT revenue.</p> <p>However, in the spirit of Dallas's leadership and in order to mitigate the potential risks identified, OAC agrees that implementing more structured internal controls to verify expenditures, performance outcomes, and contract compliance would be beneficial. Given current staffing levels and the volume of programs managed, OAC will adopt a risk-based approach that balances</p>	12/31/2026; 6/30/2027

No	Concurrence	Action Plan	Implementation / Follow-Up Date
		effective oversight with available administrative capacity.	
<b>B.2</b>	Agree	OAC will seek to revise program guidelines and contract templates to require recipients to submit and retain receipts for materials and labor invoices outlining cost allocation.	12/31/2026; 6/30/2027
<b>B.3</b>	Agree	As part of the final performance report submission process, OAC will require applicants to identify and justify significant performance and budget variances.	12/31/2026; 6/30/2027

## Background

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The Office of Arts and Culture (formerly known as Office of Cultural Affairs) was established in 1989 to oversee the City’s cultural services and arts funding programs. According to the 2018 Cultural Policy, early arts funding primarily supported six major institutions, historically referred to as the “Big Six”:

- Dallas Ballet (no longer in existence)
- Dallas Opera
- Dallas Museum of Art (formerly Museum of Fine Arts)
- Dallas Health and Science Museum (now part of the Perot Museum of Nature and Science)
- Dallas Symphony Association
- Dallas Theater Center

In 1977, these six organizations received more than 90 percent of the City’s organizational arts funding. Over time, the City expanded its cultural services model to include smaller nonprofit organizations, neighborhood-based programming, and individual artists.

Today, the Office of Arts and Culture administers several cultural service programs designed to support a sustainable and diverse arts ecosystem for Dallas residents and visitors. These programs operate under the direction of the Cultural Policy 2018 and the Cultural Plan 2018, both adopted by City Council on November 28, 2018.

The Cultural Policy 2018 established organizational support, project support, and neighborhood engagement as the core components of the City’s cultural funding framework. It outlines guiding principles for cultural services, including expanding access to arts experiences in every neighborhood, promoting cultural immersion, and formalizing contracting mechanisms for operational, project-based, and neighborhood-focused programs.

The Cultural Plan 2018 provides a citywide blueprint for cultural investment and identifies six long-term priorities: diversity, cultural space, equity, support for artists, sustainability of the arts ecosystem, and communication, supported by 31 strategies and 140 initiatives. The Cultural Plan further documented community concerns related to uneven distribution of cultural resources and recommended shifting funding toward programming and neighborhood access.

## Cultural Services Programs

The Office of Arts and Culture administers three primary cultural service programs funded through general fund and hotel occupancy tax revenue. These programs contract for cultural services in alignment with the Cultural Policy 2018 and Cultural Plan 2018.

### **Cultural Organizations Program**

The Cultural Organizations Program provides operational support to established Dallas-based nonprofit arts and cultural organizations. Funding supports annual public-facing programming, including exhibitions, concerts, performances, and workshops.

Eligibility requirements include:

- Nonprofit status in good standing for at least three years.
- A Dallas-based administrative office.
- Minimum annual operating revenue of \$100,000.
- At least one W-2 employee.

Funding is awarded through a panel-based review process and is capped at 50 percent of total revenue for organizations with revenues under \$1 million and 40 percent for organizations with revenues exceeding \$1 million.

Funding recommendations are made by the Allocations Committee of the Arts and Culture Advisory Commission, then recommended to the full commission. Final scopes of service and funding levels are approved by City Council. Program guidelines are approved annually by City Council prior to funding allocation or contracting.

### **Community Artist Program**

The Community Artist Program is a neighborhood-based initiative that contracts with individual artists and nonprofit organizations, particularly those representing ethnically diverse communities, to provide culturally rooted performances and workshops in community settings.

The program operates under a roster model in which artists are reviewed, scored, and selected by a community panel. Payments are made after services are completed.

Funding recommendations are made by the Allocations Committee of the Arts and Culture Advisory Commission in alignment with the Cultural Policy. Program guidelines are approved annually by City Council prior to funding allocation or contracting.

### **ArtsActivate**

ArtsActivate is a project-based funding program that supports one-time cultural projects. Eligible applicants include nonprofit organizations, individual artists, artist collectives, educational institutions, and social service organizations.

Funding is awarded through three application cycles each fiscal year using a combined staff and panel scoring process. Funding levels range from \$8,000 for individual artists to \$16,000 for larger organizations.

Funding recommendations are made by the Allocations Committee of the Arts and Culture Advisory Commission in alignment with the Cultural Policy. Program guidelines are approved annually by City Council prior to funding allocation or contracting.

## Funding Structure

The Office of Arts and Culture's cultural programs are funded through hotel occupancy tax revenues and the general fund. In Fiscal Year 2024, more than \$8 million was expended on cultural programs subject to this audit, including the Cultural Organizations Program, Community Artist Program, and ArtsActivate.

The Office's total Fiscal Year 2024 budget was approximately \$23.2 million, including \$5.6 million in personnel services supporting approximately 68 full-time equivalent positions. The Cultural Support Programs Division, which administers the programs included in this audit, had a staff of approximately four to six employees during the audit period.

## Methodology

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The audit methodology included: (1) interviewing personnel from the Office of Arts and Culture; (2) reviewing procedures, the Texas Tax Code, applicable administrative directives, (3) reviewing a sample of cultural program contracts, and (4) analyzing data from the City's accounting system. In addition, all five components of *Standards for Internal Control in the Federal Government* were considered.

## Government Auditing Standards Statement

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

## Report Classification

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Final Report – For Public Use

This report is a product of the Office of the City Auditor and is issued in accordance with the Texas Public Information Act (Texas Government Code, Chapter 552).

## Major Contributors

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Dan Genz, CIA, CFE, CISA–Engagement Manager

Anatoli Douditski, MPA, CIA, CFE, ACDA–In-Charge Auditor

Michael Warr, CIA–Auditor

## Appendix A – Municipal Hotel Occupancy Tax Guidance

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There are three main sources of guidance for Texas Municipal Hotel Occupancy Tax uses as follows:

- Texas Tax Act Chapter 351 Municipal Hotel Occupancy Tax Section 351.10 excerpt
- Texas Two-Step–Guidance from the Texas Municipal League in 2015
- Texans for the Arts and the Texas Hotel and Lodging Association 2019 on the requirements for using these funds to support the arts

## Texas Tax Code<sup>1</sup>

### Title 3. Local Taxation

#### Subtitle D. Local Hotel Occupancy Taxes

#### Chapter 351. Municipal Hotel Occupancy Tax

#### Subchapter B. Use and Allocation of Revenue

#### Sec. 351.101 Use of Tax Revenue

**(a)** Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

**(1)** the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

**(2)** the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

**(3)** advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

**(4)** the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

**(5)** historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

**(A)** at or in the immediate vicinity of convention center facilities or visitor information centers; **or**

**(B)** located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

....

**(9)** signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

....

**(b)** Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by

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<sup>1</sup> The auditor has provided an excerpt of the original document and formatted it for readability. This excerpt does not represent the full document.

Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

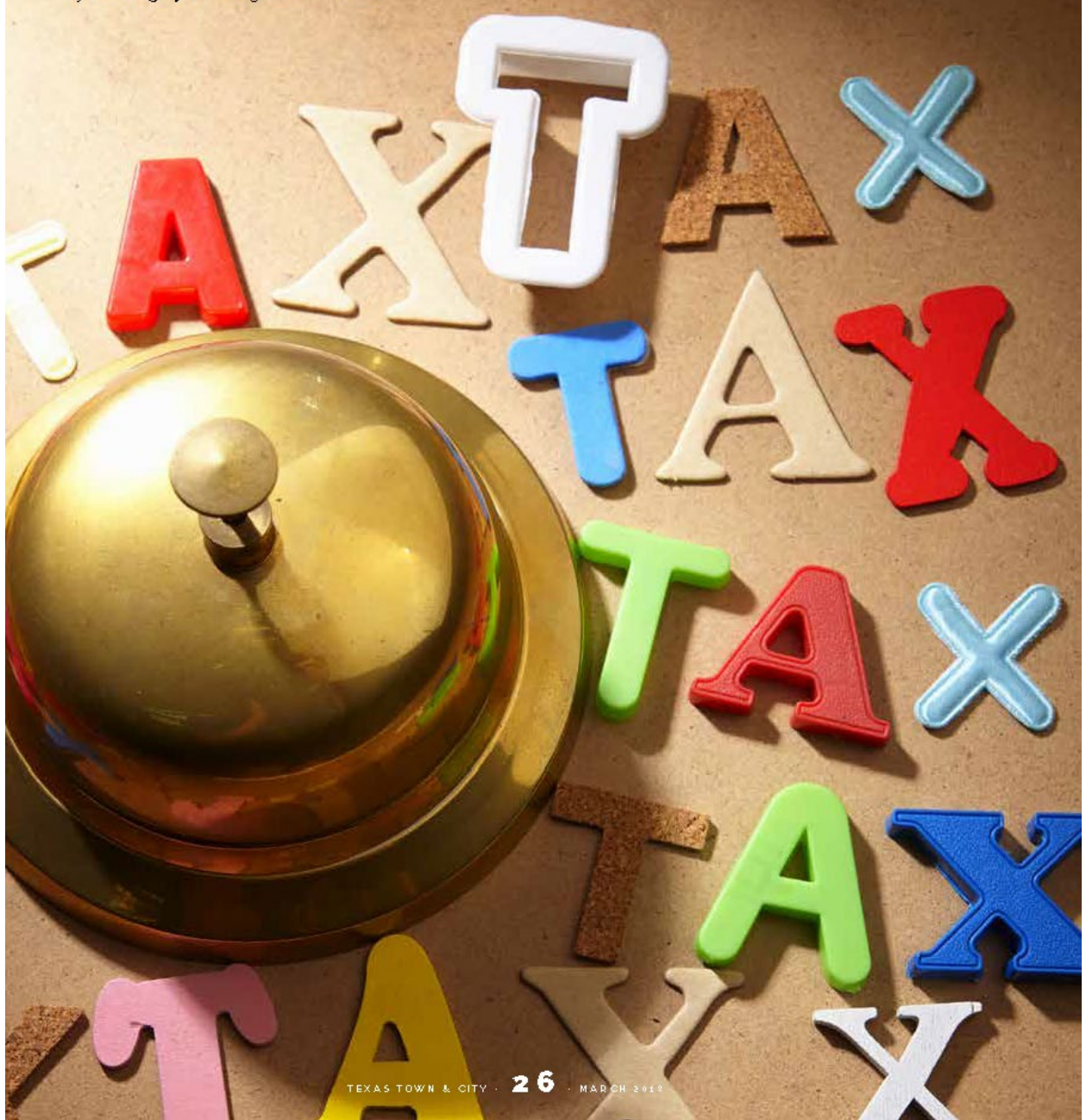
**(c)** The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

**(d)** A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

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# THE HOTEL TAX "TWO-STEP"

By **Bill Longley**, TML Legislative Counsel



In the grand scheme of things, city hotel occupancy taxes account for just a small amount of city revenue. Property taxes and sales taxes are far more important to most cities. Why does it seem, then, that hotel taxes generate so much confusion and controversy?

The answer is this: Hotel taxes, unlike most other taxes, are levied on a specific category of businesses—hotels. As a result, these businesses tend to pay close attention to how cities expend these funds. Spend city sales taxes in a controversial way, and no particular category of business feels singled out enough to raise a fuss. Perceived misuses of hotel taxes, on the other hand, are a different story.

Fortunately, it's very easy for a city official to remember how to legally spend hotel taxes. A city simply needs to remind itself to always follow the "two-part test." The key element of a two-part test is – surprise – that it has two parts! Cities frequently remember to meet one element of the test, but then entirely forget the other part. This article will succinctly describe the two-part test, and then describe some common situations to which we can apply the test.

#### Part 1: Heads in Beds

The first element of the two-part test is this: Every expenditure of hotel taxes must put "heads in beds." What this means is that every funded project must attract overnight tourists to the city's hotels and motels, thus promoting the city's hotel industry.

For example, how about a weekend-long arts and crafts show? There's a very good chance that out-of-town guests might come to visit such an event, so expenditure of hotel tax money on that event would likely qualify.

On the other hand, how about a quilting bee at a local nursing home? While a worthy cause, the quilting bee is unlikely to attract overnight tourists and, therefore, probably wouldn't qualify to receive hotel tax funds.

#### Part 2: The Nine Categories

Once a project has cleared the first part of the test, it's time for – you guessed it – the second part of the test. Here it is: Every expenditure of hotel taxes must also fit into one of nine statutorily authorized categories. These are the nine categories: (1) convention and visitor centers; (2) convention registration; (3) advertising the city; (4) promotion of the arts; (5) historical restoration and preservation; (6) sporting events in a county under one million in population; (7) enhancing or upgrading existing sports facilities or sports fields (only in certain cities); (8) tourist transportation systems; and (9) signage directing the public to sights and attractions that

are visited frequently by hotel guests in the city.

Thus, even if an event puts heads in beds, it cannot receive hotel tax money unless it also fits into one of the nine categories. For instance, what about a livestock auction that will attract attendees from surrounding counties? While that event is likely to attract overnight tourists, it doesn't fit neatly into one of the nine categories. Therefore, it's likely not a valid recipient of hotel tax money.

It's not enough to meet one of the two prongs of the two-part test. A city must meet both! The following are some real-life examples that have been the focus of inquiries received by the Texas Municipal League (TML) Legal Department.

#### Fireworks, Anyone?

The prototype hotel tax controversy is an event like a fireworks show or a parade. Cities frequently ask if they can fund a fireworks show with hotel tax money.

Let's subject a fireworks show to the two-part test. Does a fireworks show put heads in beds? The answer is "probably not," unless it is a truly spectacular event. But let's give it the benefit of the doubt. Suppose the Town of Pyrotechnic, Texas, truly does put on a fireworks extravaganza that attracts tourists from around the state. So far, so good.

But what about the second part of the test – the nine categories? Do fireworks shows fit neatly into any of the nine? Not really. Some may argue that such shows "advertise" the city, but this is likely not what that category means. Advertising the city literally means some sort of print or other media that explicitly promote the city. Otherwise, a city could simply say that any popular event "advertises" the city that holds it. Direct funding of fireworks displays and the like are, usually, not a very good fit.

#### Signs of the Times?

Another frequent question concerns highway signs promoting the city. May a city fund a billboard touting the city's attractions, restaurants, and hotels? Let's put it to the two-part test. Heads in beds? Well, why not? If a billboard encourages motorists to stop in town, those motorists might stay the night, whereas without the sign they would have driven on to the next city. This is exactly what the statute intends. The nine categories? How about advertising? Prior to 2009, a convincing argument could be made that because a billboard literally advertises the city it refers to, that it would fit within the advertising category. All doubt was erased in 2009, when the Texas Legislature added the ninth category – signage directing the public to



sights and attractions. Travel signs are a perfect fit for hotel occupancy tax expenditures.

#### Chambers of Commerce?

Cities frequently wonder if they can fund the local chamber of commerce using hotel tax money. Do chambers put heads in beds? Maybe, maybe not. Chambers of commerce are typically charged with promoting economic development, not tourism. Even assuming a chamber does promote tourism though, how about the nine categories? Funding a chamber doesn't, in itself, fall into any of the nine categories.

Fortunately, there is an easy solution. The laws governing hotel tax expenditures permit the city to delegate expenditure of hotel tax money to another entity, typically a chamber or convention and visitor bureau. As long as the chamber spends the money on projects that otherwise meet the two-part test mentioned above, it's fine to delegate some funds to them. There must be a written contract laying out the duties of the chamber, though. Also, the chamber must keep the hotel funds in an account separate from its general operating fund.

#### Arts Organizations

City arts organizations are a common trouble area. It seems that every arts council in the state knows that promotion of the arts is one of the nine categories on which city hotel taxes may be expended. Cities know this because these

arts groups frequently come asking for the money.

The thing to remember about arts groups is this: Direct funding of the organization's operations does nothing in and of itself to put "heads in beds." Put another way, funding the operating budget of an arts council meets the second part of the test (promotion of the arts) but not necessarily the first.

The solution? The city should encourage the group to seek funding only for its festivals and shows that do, in fact, attract tourists to the city. By limiting the expenditure to such events, the city meets both parts of the test.

#### Don't Forget to Report

Legislation passed in 2017 that requires cities to annually report hotel occupancy tax information to the comptroller, including information on how the funds are spent. Not later than February 20 of each year, a city that imposes a hotel occupancy tax must submit to the comptroller information that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers
- Convention delegates registration
- Advertising to attract tourists
- Arts promotion and improvement
- Historical restoration and preservation projects
- Signage directing the public to sights and attractions

Cities must comply with the annual reporting requirements by either submitting the report to the comptroller on a form prescribed by the comptroller, or alternatively providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the city's website.

#### What Else?

There are numerous other technical details about how to legally expend hotel tax funds. In truth, by simply learning and remembering the two-part test, city officials are 99 percent of the way toward full compliance with hotel tax laws. City officials with questions about the hotel occupancy tax should call the TML Legal Department at 512-231-7400. ★



### Local Hotel Tax Funding of the Arts by Texas Cities

Agreed to Guidelines Presented by Texans for the Arts and the Texas Hotel & Lodging Association.

The Texas Hotel & Lodging Association ("THLA") is a nonprofit trade association representing every aspect of the lodging, convention and tourism industry in Texas. Texans for the Arts ("TFA") is the statewide arts advocacy organization that works to protect and increase public funding for the arts and to promote policies that support the arts as both an enriching cultural resource and a powerful engine for economic growth and development in Texas.

The Municipal Hotel Occupancy Tax Statute (the "MHOT Statute"), Texas Tax Code § 351.101, provides that local Hotel Occupancy Tax ("HOT") revenues may be used to fund nine eligible categories of expenditures that have been found to promote tourism and the hotel and convention industries, including expenditures that promote specific art forms. Sections § 351.101, and Subsection (a) (4) that was added by the Legislature in 1977, provide that revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and allows the following types of arts related expenditures:

"the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms."

THLA and TFA have formed a partnership to assist local governments, state legislators, and tourism leaders throughout Texas to better understand and implement the statutory provisions under the MHOT Statute as they relate to arts related expenditures.

In order to comply with the MHOT Statute, THLA and TFA agree that to be eligible for local hotel tax arts funding, recipients must satisfy the following three requirements:

1. The recipient must present, perform, promote, encourage or otherwise make possible, artistic events, cultural performances, programs, exhibitions or lectures involving any of the major art forms listed in Texas Tax Code Section 351.101 (a) (4), or "other arts related to the presentation, performance, execution and exhibition of these major art forms."
2. The hotel occupancy tax funded programs, facilities, and/or events are advertised and open to the general public.
3. The hotel occupancy tax for funded programs, facilities, and/or events shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry.

With regard to the requirement within Number 3 to directly enhance and promote tourism and the convention and hotel industry, THLA and TFA agree that the MHOT Statute does not require a recipient to demonstrate a proportionate level of direct impact on tourism and the convention and hotel industry to be eligible for HOT funding. However, the demonstration of some level of direct impact on tourism and the convention and hotel industry is required.

The MHOT statutes do not provide a specific methodology for determining a recipient's direct impact on tourism and the convention and hotel industry. Each community has the flexibility, consistent with state law provisions, to consider a number of factors to show a direct impact on tourism and the hotel and convention industry.

Listed below are examples and strategies of what we believe could constitute a direct impact on tourism and the hotel and convention industry from the use of local hotel tax funds. The lists are not exhaustive. Each community may have other examples or determine other strategies to help achieve a direct impact on tourism and the hotel and convention industry.

**Examples demonstrating Direct Impacts by Arts Entities on Tourism and the Hotel/Convention Industry (non-exhaustive list):**

**\*Offering Arts Events as Part of a Tourism/Hotel Event:** The hotel tax funded arts entity may show a direct impact on the hotel and convention industry by providing entertainment or arts related services for conventions, conferences and meetings that are attended in whole or part by convention and/or hotel guests.

**\* Use of Hotel Facilities/Services by the Arts:** The hotel tax funded arts entity may show a direct impact on the hotel and convention industry by using local lodging facilities and/or lodging services for galas or other events that are held by the hotel tax funded arts entity or through the use of hotel dining or hotel entertainment facilities by arts patrons either before and/or after hotel tax funded arts events.

\* **Creating or Causing Room Night Activity at Area Hotels:** The hotel tax funded arts entity may show a direct impact on the hotel and convention industry through the reservation of hotel rooms for visiting artists and/or showing other hotel activity that is directly attributable to the hotel tax funded arts event or facility.

\* **Surveying of Attendees at Arts Related Events:** The hotel tax funded arts entity may show a direct impact on the hotel and convention industry through audience or attendee questionnaires, polling, hotel block booking codes, or other methods that show hotel night or other hotel or convention activity that is directly attributable to the hotel tax funded arts event or facility.

**Strategies That Hotel Tax Funded Arts Entities May Use to Achieve a Direct Impact on Tourism and the Hotel and Convention Industry:**

\* **Enhance the Information Given to Hotel Staff/Guests about Area Arts Offerings:** The hotel tax funded arts entity may work with its area lodging operators and/or the convention and visitors' bureau (CVB), to promote local arts events through hotel concierge services, training of hotel staff, hotel or CVB communications, or other similar measures to inform hotel staff and hotel guests of local arts-related offerings. Such communications can help encourage hotel guests to extend their stay in area hotels and/or to make a return visit to the area and its lodging facilities.

\* **Promotion of the Arts through Standard Media and Social Media Marketing:** The hotel tax funded arts entity may promote or market its events outside of the local area through standard media promotions or advertising, websites, mailing lists, local, regional and national listings in publications, electronic calendars, as well as through the use of social media. When appropriate, such communications can include a link that provides information about area hotels and any negotiated rates or room blocks for the hotel tax funded arts event or facility.

\* **Increasing Awareness of the Arts Through Creation of an Arts or Cultural District:** To increase awareness of the arts to tourists, a hotel tax funded arts entity may produce its events in conjunction with or within the boundaries of an arts or cultural district or within a Cultural and Fine Arts District that is established by the Texas Commission on the Arts pursuant to Texas Government Code § 444.031.

\* **Continued Coverage of Arts Related Offerings in Outside Area Media:** The hotel tax funded arts entity may work to ensure that a performance, exhibition or other event sponsored by the arts entity is reviewed or otherwise noted in a publication that circulates outside of the local community. Such continued coverage can help promote tourism and hotel activity to the area.

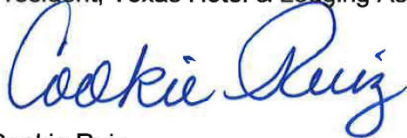
**\* Hold the Arts Event in a Venue that is Likely to be Accessed by Both Residents and Tourists:** The hotel tax funded arts entity may hold the arts event in a facility or location that is likely to be accessed by tourists and hotel and convention guests.

THLA and TFA share the goal of growing and advancing tourism and the convention and hotel industry through the collective promotion of the arts and the encouragement of tourists, convention and hotel guests to attend artistic and cultural events. To this end, THLA and TFA are in the process of creating joint programs and model documents that can be used throughout the State to better market local artistic and cultural events to hotel and convention guests prior to and during their visits to an area. Similarly, TFA and THLA will work to encourage creative strategies and long term partnerships between local artistic and cultural event hosts and local hotels and convention and visitor bureaus to enhance the potential impact of local hotel tax-funded arts programs on tourism and area hotel and convention activity.

THLA and TFA will continue to provide assistance and information about these guidelines to members, arts organizations and HOTA funded arts entities in order to foster understanding of the MHOT Statute and to stimulate collaboration between the local arts communities and the hotel and tourism industries. THLA and TFA will also continue working together to nurture mutual cooperation understanding, and advocacy among all partners invested in the arts, culture and tourism.



Scott Joslove  
President, Texas Hotel & Lodging Association



Cookie Ruiz  
President, Texans, for the Arts

February 26 2019

## Appendix B – Acknowledgement Letter

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Audit of Cultural Programs

Audit Acknowledgement Letter

See following page(s)

# Memorandum



**DATE:** April 6, 2026  
**TO:** Mamatha Sparks – Interim City Auditor  
**SUBJECT:** Response to Audit of Cultural Programs

This letter acknowledges the City Manager’s Office received the *Audit of Cultural Programs* and submitted responses in consultation with the Office of Arts and Culture.

We appreciate the thorough work of the City Auditor’s Office. The Office of Arts and Culture remains committed to the responsible stewardship of cultural programming funds and is proud of the lasting, positive impact these investments continue to make throughout our community.

The Office of Arts and Culture has consistently worked to ensure that Hotel Occupancy Tax–supported activities align with eligibility requirements and established guidelines. While our established processes have helped ensure effective oversight, we recognize the value of this opportunity to further strengthen and formalize them. As such, the Office of Arts and Culture agrees to:

1. Implement an Office of Arts and Culture-specific Hotel Occupancy Tax Eligibility Framework that formalizes the process for documenting how cultural programming expenditures are evaluated against Hotel Occupancy Tax eligibility requirements.
2. Establish standardized documentation practices to support a recipient’s Hotel Occupancy Tax eligibility.
3. Implement a consistent, risk-based approach for validating expenditures, performance outcomes, and contract compliance by re-enforcing formal written procedures, developing a risk-tiered monitoring system, and strengthening completion report requirements.
4. Seek to revise program guidelines and contract templates to clearly define the requirements for submitting and retaining supporting financial documentation, such as labor invoices and material receipts.
5. Monitor final performance reports to ensure minimal variances between budget-to-actual expenditures.

Response to Audit of Cultural Programs

April 6, 2026

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Please let me know if you need additional information.

Service First, Now!

A handwritten signature in black ink, appearing to read "Kimberly Bizer Tolbert". The signature is fluid and cursive, with the first name being the most prominent.

Kimberly Bizer Tolbert  
City Manager

C: Jack Ireland, Chief Financial Officer  
Liz Cedillo-Pereira, Assistant City Manager  
Martine E. Philippe, Director, Office of Arts and Culture