

Memorandum



CITY OF DALLAS

DATE March 17, 2017

Honorable Members of the Arts, Culture and Libraries Committee:
TO Mayor Pro Tem Monica R. Alonzo (Chair), Mark Clayton (Vice Chair), Deputy Mayor Pro Tem Erik Wilson, Carolyn King Arnold, Jennifer S. Gates, Scott Griggs

SUBJECT Update – Cultural Facilities Support Program

On Monday, March 20, 2017, the Arts, Culture and Libraries Committee will be updated on the proposed Cultural Facilities Support Program. The briefing materials are attached for your review.

Please contact me if you have questions or need additional information.

A handwritten signature in black ink, appearing to read 'Joey Zapata'.

Joey Zapata
Assistant City Manager

c: Honorable Mayor and Members of the City Council
T.C. Broadnax, City Manager
Larry Casto, City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Kimberly Bizzor Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager

Theresa O'Donnell, Interim Chief of Economic Development & Neighborhood Services
Mark McDaniel, Assistant City Manager
Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
M. Elizabeth Reich, Chief Financial Officer
Alan E. Sims, Interim Chief of Community Services
Directors and Assistant Directors

Update - Cultural Facilities Support Program

**Arts, Culture & Libraries
Committee**

March 20, 2017



Office of Cultural Affairs
CITY OF DALLAS

**Jennifer Scripps, Director,
Office of Cultural Affairs
City of Dallas**

Purpose

- To continue review of proposed guidelines for the Cultural Facilities Program, a grant program for renovation and repair of cultural facilities owned and operated by non-profit organizations, to be administered through the Office of Cultural Affairs
- Complete program guidelines are attached

Background

- As part of the FY 2016-17 capital budget, City Council appropriated \$1 million in capital funds for major maintenance and repair of cultural facilities
 - City Council designated \$400,000 of that appropriation for improvement and renovation or major repair of cultural facilities **owned and operated by not-for-profit cultural organizations** with annual operating budgets less than \$5 million (Ord. 30179, Adopted Sept. 21, 2016)



Program Purpose

- To coordinate and guide one-time City support and funding of investment in long-term improvement, renovation or major repairs of cultural facilities owned and operated by organizations with an annual operating budget less than \$5 million

Community Feedback

- Briefed to Cultural Affairs Commission and Arts, Culture and Libraries Committee in February 2017
- Draft guidelines published online and sent via email requesting feedback
- Contact with artists, galleries and other cultural organizations
- Responses consistently positive
 - Concerns with match requirement and payment process

Summary of Revisions To Proposed Guidelines

- Increase maximum of total annual award from \$100,000 to \$200,000
- Increase maximum total award for multiple phases of a single project over up-to 5 years from \$250,000 to \$500,000
- Allow for 10% of funds to be used for construction management
- Allow for up-to 25% of funds to be paid in advance
- Reduce match requirement for organizations with budgets less than \$1 million from 1:1 to ½:1, and for organizations with budgets of \$1 million to \$4,999,999 from 2:1 to 1:1

Summary of Guidelines

- Awards of up to \$200,000/year
 - Up to \$500,000 for different phases of a project over up to 5 years
- Applicants must be a not-for-profit organization, own their property, and 85% of the facility's use must serve a cultural/artistic purpose
- Projects must have a public purpose, a measurable community impact, and address at least one related priority
- Matching Funds Requirement
 - ½:1 match for organizations with annual budgets less than \$1 million
 - 1:1 match for organizations with annual budgets between \$1 million - \$4,999,999
- Local Support Requirement - 3 letters of support for the project from community leaders



Summary of Guidelines

- Review Process:
 - Applications reviewed and scored by a community review panel
 - Allocations Committee of the Cultural Affairs Commission reviews and makes funding recommendations
 - Full Cultural Affairs Commission makes final award recommendations
- Grant Award Process
 - Contract and detailed scope of work developed
 - Contracts may be structured as secured loans, requiring a lien be placed on a contractor's property, to be amortized (written off) over a period of time
 - Final review of compliance with all program guidelines, insurance, and other legal requirements
 - Execution of contract, upon approval as to form by the City Attorney
 - Awardees may be paid up to 25% in advance of work, provided that appropriate protections for the funds are provided. Remaining funds will be paid on a reimbursement basis

Next Steps

- ACL Committee consideration and recommendations
- Full Council consideration may be scheduled for April 12, 2017
 - Authorization to establish grant program, and approval of program guidelines
 - Authorization to execute future grant agreements with qualified organizations



Update - Cultural Facilities Support Program

**Arts, Culture & Libraries
Committee**

March 20, 2017



Office of Cultural Affairs
CITY OF DALLAS

**Jennifer Scripps, Director,
Office of Cultural Affairs
City of Dallas**



OFFICE OF CULTURAL AFFAIRS CULTURAL FACILITIES PROGRAM GUIDELINES

Purpose of This Grant

The Cultural Facilities Program coordinates and guides the City of Dallas support and funding of investment in long-term improvement, renovation or major repairs of cultural facilities owned and operated by organizations with an annual operating budget less than \$5 million.

The applicant's primary mission must be to conduct arts and cultural programming. By program definition, a cultural facility is a building which shall be used for the programming, production, presentation, exhibition of any of the arts and cultural disciplines. These disciplines are music, dance, theatre, creative writing, literature, architecture, painting, sculpture, folk arts, photography, crafts, media arts, visual arts, and programs of museums and must comprise at least 85% of facility use. The Program is intended for investment, long-term improvement, renovation or major repair. City funding IS NOT to be used for land, facility acquisition, landscaping, constructing or fabricating exhibits.

The City may structure award agreements as a secured loan, requiring a lien be placed on the contractor's property, to be amortized (written off) over a period of time (see Contracting and Schedule of Payments section for more details).

Projects must have a public purpose, a measurable community impact, and should address at least one of the following priorities:

- Urgent-need remodeling, renovation or major repairs of existing facilities including equipment and technology upgrades or replacement
- Improvements to a historic building
- Allow for significant organizational growth
- Bring buildings into compliance with the Americans with Disabilities Act or other building code requirements
- Parking expansion

Funding Period

Awarded funds must be spent on project expenses incurred during the funding period as defined in your funding award agreement.

Request Amount

Applicants may request up to \$200,000 for the long-term improvement, renovation, or major repair of a cultural facility. There is no minimum request amount.

Eligibility

All applicants must meet the following requirements. All documentation must be provided by the application deadline unless otherwise noted. In other words, documentation must be submitted with the application and will not be accepted later.

1. Have the correct **legal status** (not-for-profit, tax-exempt, Texas corporation)
2. Have **unrestricted use** of the land and buildings associated with the project (for new construction or renovation) which means you **MUST** be able to file a Restrictive Covenant on the property with the Clerk of Court for up to ten (10) years. See Unrestricted Use of Land and/or Buildings for additional information.
3. **Retain ownership** of all improvements made under the funding program
4. Provide documentation of **Total Support and Revenue** (operating budget) for the last completed fiscal year
5. Have appropriate **matching** funds and properly document matching funds at submission
6. Provide an 8.5" x 11" reduction of **current architectural plans for renovation projects**
7. Have **support of local community leaders** —for this project— documented in writing with the application
8. A certificate appropriateness is required for construction, demolition or alteration of any structure or site that is located in a designated landmark district or is designated as a landmark site
9. Complete an application form
10. All projects must happen within the city limits of Dallas to receive funding
11. Administrative offices permanently located in the City of Dallas

Legal Status

All applicant organizations must:

1. Have been established as a **not-for-profit, tax-exempt Texas corporation** according to the following definitions:
 - a. Incorporated as an active not-for-profit Texas corporation. OCA staff will verify that the applicant was in "active" status at the time of application
 - b. Designated as a tax-exempt organization as defined in Section 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1954 and
 - c. Allowed to receive contributions pursuant to the provisions of s. 170 of the Internal Revenue Code of 1954

Documentation of Legal Status

Organizations must provide IRS determination letter documenting not-for-profit, tax-exempt status with each application. The IRS determination letter must be submitted with the application.

The Office of Cultural Affairs will verify that the applicant is registered with the Texas Secretary of State Corporations Section as of the application deadline. If the applicant is not registered by the application deadline, the application will be ineligible.

For more information on corporate status, visit <http://sos.state.tx.us> or call the Corporations section at (512) 463-5555.

Number of applications per deadline

You may only submit one (1) Cultural Facilities Program application per deadline, for a single facility, project, site, or phase.

Number of applications per project

Applicants may request funding for different phases of the same project over a period of 5 consecutive fiscal years should appropriations for the Cultural Facilities Program be available in future years. These are called multiphase projects, and they must have activity in each year for which funding is requested.

In multiphase projects, matching funds may be expended on the current project phase in advance; however, city funds may only be expended on activity occurring after a contract is fully executed. You may not use funds expended in earlier phases as match for later phases.

The phase number of the project is equal to the number of applications submitted to the Office of Cultural Affairs over a 5-year period in order to complete the project. All eligibility criteria continue to apply.

Restrictions (City funds may not be used for...)

- Facilities that provide less than 85% of Cultural Programming by non-profit organizations
- Specific non-allowable expenses
- Project planning such as feasibility studies and architectural drawings but may be used as match if within 5 years of funding. City funds may be used for shop drawings and field engineering
- Projects or facilities restricted to private or exclusive participation, including restriction of access to programs on the basis of sex, race, creed, national origin, disability, age, marital status, sexual orientation or gender identity and expression
- Projects funded by the City outside of this funding program during the same fiscal year
- Design, fabrication or construction of exhibits
- Commercial property
- No project may receive more than \$500,000 during a 5-consecutive fiscal year period. ("Receive" means measured from October 1 through September 30 of the fiscal year in which funds were awarded if funds are available.)

Non-Allowable Expenses

The Grantee agrees to expend all funds received under this agreement solely for the purposes for which they were authorized and appropriated. Program funds may not be spent on the following:

- General Operating Expenses (GOE): Administrative costs for running the organization (including but not limited to salaries, travel, personnel, office supplies, mortgage or rent, operating overhead or indirect costs, minor repairs or maintenance etc.)
 - Up to 10% of awarded funds may be used for construction management
- Costs associated with representation, proposal, or application preparation
- Costs incurred or obligated outside of the funding period
- Costs for lobbying or attempting to influence federal, state or local legislation, the judicial branch, or any City agency
- Costs for planning, which include those for preliminary and schematic drawings, and design development documents necessary to carry out the project
- Costs associated with prior debts, contingencies (money set aside for possible expenses), fines and penalties, interest, taxes (of any kind), and other financial costs including bank fees and charges and credit card debts
- Costs for travel, private entertainment, food, beverages, plaques, awards, or scholarships
- Projects restricted to private or exclusive participation, including restriction of access to programs on the basis of sex, race, creed, national origin, disability, age, or marital status, sexual orientation or gender identity and expression
- Re-granting, contributions, and donations
- Reimbursement of costs that are paid prior to the execution of the Funding Award Agreement or outside the dates stated in the grant award agreement

Matching Funds

You must match your request amount with non-City funds. The amount you must provide as match depends on your Total Support and Revenue (annual budget).

Summary of Match Requirements	
Total Support and Revenue	Required Match
Annual Budget less than \$1,000,000	½:1
Annual Budget of \$1,000,000 - \$4,999,999	1:1

Types of Match

There are four types of match:

- Cash on Hand (liquid assets), at least 25% of total request amount match must be cash-on-hand

- Expenditures (expenditures must be made within 5 years before the application deadline) and may not have been used as match in a previous project funded by the City
- Irrevocable pledges (no more than 50% of the match)
- Documented in-kind contributions (no more than 50% of the match)

All applicants must have all match complete and confirmed at execution of the contract.

Restrictions on Matching Funds

- Funds that are for General Operating Expenses (i.e. the un-restricted column on the Statement of Activity page of the organization's audit) will not be allowed.
- Revenue from grants that have not yet been awarded will not be acceptable as match.
- Fundraising costs will not be acceptable as match
- Legal fees or taxes will not be acceptable as match
- Matching funds will be designated only to the project phase presented in this application and may not be used in previous or succeeding applications, or in any other City grant
- Matching funds may have been expended prior to the execution date of the Funding Award Agreement; as long as the funds are clearly a part of the project described and can be documented. However, **at least 25% of the matching funds must be cash-on-hand** at the application deadline
- Interest paid on mortgage (the interest paid on the mortgage is considered to be the "cost of doing business," and may not be used as match)
- Building or land as match:
 - The value of buildings or land not owned by the applicant may not be used as match.
 - The building or land **must have been purchased or acquired within 5 years prior** to the award of the grant (For the purposes of this program, award means October 1 of the fiscal year in which funds are appropriated by the City of Dallas for this grant)
 - Only the purchase price or documented acquisition date value, not current market value, may be used as match
- **Loans may not be used as match**, only unencumbered equity may be counted as match
- Any City of Dallas funds may not be used as match for this program

Matching Funds Documentation

Documentation of matching funds may include:

- Award letters from third parties
- A list of irrevocable pledges; list of in-kind contributors
- Bank statement confirming Cash-on-Hand

- A list of liquid assets dedicated to the project, or other documents that substantiate funds claimed as match
- Expenditures made within five (5) years before the application deadline for Scope of Work as described in the application

Unrestricted Use of Land and/or Buildings

You must provide documentation that the Applicant has Unrestricted Use (ownership) of the building and the land associated with the proposal/project.

- **Ownership.** Legal proof of unrestricted ownership of property and building. Unrestricted means unqualified ownership and power of disposition. Property that does not meet the unrestricted ownership criterion will not be eligible for match. Documentation may include a deed, title, or a copy of a recent property tax statement. Provisional sales contracts, binders, or letters of intent are not acceptable documentation of ownership.
- **Ownership of Improvements** Applicants must retain ownership of all improvements made under the program.

Total Support and Revenue (Annual Budget)

You must provide documentation of your Total Support and Revenue (annual operating budget) for your last completed fiscal year.

- Provide an audit to substantiate Total Support and Revenue that has been conducted by an outside certified accountant for the recently completed fiscal year.

Architectural Plans for Renovation Projects

All applicants for renovation projects must provide an 8 ½" x 11" reduction of current architectural plans for the facility. DO NOT send full size architectural plans or drawings with the application. See below for suggested submissions for each project type:

- For renovations an architectural drawing, artist's rendering of the proposed renovation if the renovation is an addition; or a "footprint" of the facility with the renovations clearly marked

Historical Review Requirements

A Certificate of Appropriateness is required for construction, demolition or alteration of any structure or site that is located in a designated landmark district or is designated as a landmark site.

For more information regarding compliance with Dallas historic preservation regulations visit <http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/> or call 214-670-4209.

Local Support

All applicants must submit current letters of support from community leaders who are lending support to this project. Letters should be from individuals who have actually visited the facility (if a renovation project) or participated in programs. **Applicants should avoid form letters; original letters are preferred.** Three to six support letters are sufficient.

Support letters will not be accepted after the application deadline.

Proof of Insurance

Insurance requirements will be included in the contract. A certificate of insurance must be submitted to the City whenever a policy expires and is renewed. Funds cannot be released without a memorandum of compliance from the Office of Risk Management stating insurance requirements have been met. Proof of insurance must meet the specific terms of the contract. Failure to meet insurance requirements could possible result in contract termination.

Applicants are required to obtain and maintain during the contract term all necessary licenses, permits, insurance and other approvals required by law for the provision of services.

Contracting and Schedule of Payments

State law authorizes the purchase of services on behalf of the public, but not the donation of public money to organizations or individuals. Funded organizations must provide public benefits to citizens of Dallas equal to the amount of the award as a condition of their funding.

At the City's discretion, the contract may be structured as a secured loan, requiring a lien be placed on the Contractor's property, the amount of which shall be amortized over a period of time correlated with the funding amount. The lien amount will be reduced in a proportionate amount annually upon completion of the project's scope of work. Should the contractor default on obligations of the contract, the lien will remain in full force and effect until the outstanding balance is repaid to the City.

The Director of Cultural Affairs may authorize subordination of City's lien to that of other lenders that have issued or may issue debt for the same project.

After funding recommendations are approved, the Office of Cultural Affairs staff will work with the applicant to develop a contract, including a scope of services (public benefit). These contracts will govern project evaluation and the payment of funds. Contractors are

generally paid on a reimbursement basis, and will be scheduled per the contract requirements. Up to 25% of the award amount may be paid in advance, provided that appropriate protections for the funds are provided, as determined by the City Attorney. A percentage of the allocation will be withheld pending the City's receipt and approval of the final narrative and financial reports upon project completion.

Payments may be delayed or withheld at the discretion of the City if determined that the organization is not in full compliance with the terms of the contract. All financial obligations of the City shall be subject to appropriation of funds by the City Council. Contractors agree and understand that the full scope of services and/or amounts payable under the contract is subject to amendment and revision. Any such revision shall be accomplished pursuant to the pertinent sections of the Dallas City Code.

Final Report

A final evaluation report of a summary of activities for the contract period must be submitted to OCA upon completion of the project. Failure to submit the report in a timely manner or submission of an incomplete report may result in delayed payment of the final contract installment as well as payment on future contracts. **All Supplemental material should be submitted online as well.**

Submitting the Application

All application information submitted to the Office of Cultural Affairs are open for public inspection and subject to the Texas Public Information Act.

Application Form

The application form must be completed using the Office of Cultural Affairs grant application and submitted online by 5:00 pm on the application deadline. Deadlines are is posted on the OCA's web site.

Attachments and Support Materials

Submit your attachments and support materials. Acceptable file formats are as follows:

- .pdf, (documents)
- .jpg, .gif, .pdf (images)
- .mp3 (audio excerpts)
- .mp4, .mov, .wmv (video excerpts)

The application must include the following:

1. **Matching Funds** Documentation
 1. Bank statements, awards, contracts, and/or a list of liquid assets for **cash on hand**
 2. Cash receipts for **expenditures** (must be within five (5) years)
 3. A list of **irrevocable pledges**

4. A list of **in-kind contributions**
2. Documentation of **Unrestricted Use** (construction and renovation projects) or **Intent to Sell** (acquisitions)
 1. Deed, title, property tax statement to document **unrestricted use**, OR
 2. Executed copy of lease and written explanation of any easements, covenants, or other conditions to document **unrestricted use**, OR
 3. Description of facility, purchase price and letter of **intent to sell**
3. **Total Support and Revenue** Documentation
4. Audit that has been conducted by an outside certified accountant for the recently completed fiscal year.
5. 8.5 x 11 inch reduction of current **Architectural Plans**
6. **Local Support** Documentation
 1. Up to 6 current letters of support from community leaders
7. **Non-profit IRS Letter**. Not-for profit tax exempt applicants must provide one (1) copy of your IRS 501(c) (3) determination letter.
8. **Support Materials** such as:
 1. Photographs (original or electronic on CD)
 2. Supplemental or expanded budgets
 3. Flyers, brochures
 4. Newspaper articles
 5. Plans for sustainable design

Review Process (How your application will be reviewed)

The Office of Cultural Affairs shall administer the Cultural Facilities Program with the review and advice of the Cultural Affairs Commission. The Director of Cultural Affairs shall assemble an advisory panel composed of a diverse group of artists, representatives from cultural institutions and organizations, and representatives from the community to assist with the review of applicant proposals. The director shall have final approval of awards for this program.

Review steps:

1. OCA staff will review the applications for basic eligibility and meeting all criteria. OCA will submit eligible applications to a grant review panel.
2. The panel will evaluate each application on the four review criteria and assign a score.
3. OCA will forward a ranked list to the Allocations Committee of the Cultural Affairs Commission for review and recommendations.
4. The Allocations Committee forwards the ranked list to the full Cultural Affairs Commission for final review and funding recommendation.

Note: Material variances from these guidelines shall require City Council approval.

Review Criteria and Scoring

Each eligible application will be evaluated on four competitive criteria:

Criteria	Application section(s)	Worth
Scope/Feasibility of Work	Scope of Work: Project Narrative and Deliverables	up to 20 points
Capacity: Project Budget and Matching Funds	Proposal Budget Detail: Expenses Proposal Budget Detail: Income Matching Funds Statement Project Team	up to 20 points
Community Impact	Need for Project, Operating Forecast Detail and Project Impact	up to 40 points
Organizational Impact	Will improve the organization's effectiveness	up to 20 pts

The total possible number of points the panel can award to an application is 100. The panel's evaluation will be based on the information contained in the application, required attachments and support materials submitted with the application. The panel's individual scores will be averaged to determine a final score for each application.

Applications must receive a minimum average score of 75 or higher to be recommended for funding.