



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued June 16, 2022

Massachusetts Cultural Council

For the period March 1, 2020 through March 31, 2021





Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

June 16, 2022

Mr. Michael J. Bobbitt, Executive Director
Massachusetts Cultural Council
10 St. James Avenue, Third Floor
Boston, MA 02116

Dear Mr. Bobbitt:

I am pleased to provide this performance audit of the Massachusetts Cultural Council. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, March 1, 2020 through March 31, 2021. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Massachusetts Cultural Council for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular watermark.

Suzanne M. Bump
Auditor of the Commonwealth

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
OVERVIEW OF AUDITED ENTITY	3
AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY	9
DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE.....	16
1. The Massachusetts Cultural Council did not verify that all recipients of grants from its 2019 coronavirus pandemic relief funding met eligibility requirements.	16
2. MCC awarded \$39,000 to 26 ineligible applicants.	19
3. MCC’s internal control plan was not updated with a COVID-19 component.	21
4. MCC did not ensure that all employees completed required annual cybersecurity awareness training during the audit period.	22
APPENDIX A	24
APPENDIX B	25
APPENDIX C	26
APPENDIX D	28

LIST OF ABBREVIATIONS

COVID-19	2019 coronavirus
CTR	Office of the Comptroller of the Commonwealth
EOAF	Executive Office for Administration and Finance
EOHED	Executive Office of Housing and Economic Development
EOTSS	Executive Office of Technology Services and Security
GKV	Gary Knisely and Varian
ICP	internal control plan
IRS	Internal Revenue Service
ISA	interdepartmental service agreement
MCC	Massachusetts Cultural Council
MMARS	Massachusetts Management Accounting and Reporting System
NEFA	New England Foundation for the Arts
NPO	nonprofit organization
OSA	Office of the State Auditor
OST	Office of the State Treasurer

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Massachusetts Cultural Council (MCC) for the period March 1, 2020 through March 31, 2021. The purpose of our audit was to determine the following:

- Did MCC administer funds from its appropriations and donations that were used for 2019 coronavirus (COVID-19) pandemic relief funding for individuals in accordance with its grant guidelines for the fiscal year 2020 COVID-19 Relief Fund for Individual Artists, fiscal year 2020 Gary Knisely and Varian, and fiscal year 2021 COVID-19 Relief Fund for Individual Artists grants?
- Did MCC administer funding from the Cultural Organization Economic Recovery Program according to its interdepartmental service agreement (ISA) with the state Executive Office for Administration and Finance and to MCC's grant guidelines?
- Did MCC update its internal control plan (ICP) to address the COVID-19 pandemic as required by the Office of the Comptroller of the Commonwealth's "COVID-19 Pandemic Response Internal Controls Guidance"?
- Did MCC ensure that its employees received annual cybersecurity awareness training as required by Section 6.1.1 of the Executive Office of Technology Services and Security's (EOTSS's) Acceptable Use of Information Technology Policy IS.002 and Section 6.2.4 of EOTSS's Information Security Risk Management Standard IS.010?

For the fiscal year 2021 grants issued to individuals, we extended the audit scope through June 30, 2021.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 16	MCC did not verify that all recipients of grants from its COVID-19 pandemic relief funding met eligibility requirements.
Recommendation Page 18	MCC should establish policies and procedures to ensure that supporting documentation is provided to prove eligibility before it awards grants.
Finding 2 Page 19	MCC awarded \$39,000 to 26 ineligible applicants.
Recommendations Page 20	<ol style="list-style-type: none">1. MCC should stay informed of the requirements of its ISAs.2. MCC should establish policies and procedures to ensure that future ISAs are followed or properly amended and communicate the policies and procedures to all employees who are responsible for ISAs.

Finding 3 Page <u>21</u>	MCC's ICP was not updated with a COVID-19 component.
Recommendation Page <u>21</u>	MCC should establish policies and procedures, including a monitoring component, to ensure that its ICP is updated when significant changes occur.
Finding 4 Page <u>22</u>	MCC did not ensure that all employees completed required annual cybersecurity awareness training during the audit period.
Recommendations Page <u>22</u>	<ol style="list-style-type: none">1. MCC should establish policies and procedures to ensure that all employees complete annual cybersecurity awareness training.2. MCC should assign an employee to be responsible for ensuring that the agency complies with EOTSS's cybersecurity awareness training policy.

OVERVIEW OF AUDITED ENTITY

The Massachusetts Cultural Council (MCC) was created by Section 15 of Chapter 653 of the Acts of 1989. This act added Section 52 to Chapter 10 of the Massachusetts General Laws, establishing MCC within the Office of the State Treasurer (OST), but not making MCC subject to OST's control.

According to its website,

The Mass Cultural Council is a state agency that promotes excellence, inclusion, education, and diversity in the arts, humanities, and sciences, fosters a rich cultural life for all Massachusetts residents, and contributes to the vitality of our communities and economy.

The Council pursues this mission through a wide range of grants, initiatives, and advocacy for artists, communities, organizations, and schools.

MCC is governed by the Massachusetts Cultural Council Board, which consists of 19 members appointed by the Governor (there were 18 members and 1 vacancy as of June 30, 2021). Board members serve three-year terms with staggered appointment dates to avoid all 19 members having the same term expiration date. The Governor chooses a chair and vice chair from the board members. By majority vote, the board approves an annual program of grants to offer and an annual budget. An executive director, who is appointed by the board, manages MCC's daily activities.

As of March 31, 2021, MCC had approximately 32 full-time employees. Its office is at 10 St. James Avenue in Boston. In fiscal year 2020, MCC received an appropriation of \$18,180,000, received \$9,713,228 from donations and grants, and expended \$20,516,542. In fiscal year 2021, MCC received an appropriation of \$18,180,000, received \$19,738,444 from donations and grants, and expended \$32,914,373.

Surveys

According to MCC management, during the last two weeks of March 2020, MCC management and staff members met to discuss their concerns about the effect of the 2019 coronavirus (COVID-19) pandemic on individuals working in the arts; at Massachusetts cultural nonprofit organizations (NPOs), which are Internal Revenue Service (IRS) 501(c)(3) organizations¹ that dedicate all profits to enhancing art programs in the community; or at local town cultural councils. MCC was concerned about how cultural NPOs and

1. IRS 501(c)(3) organizations are public, charitable, tax-exempt organizations.

scheduled performances for individual artists and independent teaching artists, humanists, or scientists² were affected by the COVID-19 pandemic.

In late March 2020, MCC conducted the first of five surveys that asked individuals working in the arts and at cultural NPOs about the financial effect the COVID-19 pandemic had on them. On April 7, 2020, based on the first survey, MCC’s board approved the first grants and created guidelines for its fiscal year 2020 COVID-19 Relief Fund for Individual Artists, which was funded by MCC’s appropriation, of \$1,000 grants to artists. That month, MCC sent a second survey to individual artists and cultural NPOs. In June 2020, MCC conducted a third survey that was available only to cultural NPOs. In October 2020, MCC conducted a fourth survey of individual artists and cultural NPOs. In January 2021, MCC conducted a fifth survey of only individual artists. On January 7, 2021, MCC’s board approved a second round of grants (\$1,500 for individual artists).

The tables below detail the results of the five surveys MCC sent to individual artists and cultural NPOs.

Survey Responses from Individual Artists

Dates of Surveys	Number of Respondents	Total Loss of Revenue	Canceled Performances and Closed Schools of Dance, Music, and Art
March 2020	595	\$2,885,222	5,047
April 2020	2,345	\$16,527,749	38,219
October 2020	2,423	\$20,138,858	39,693
January 2021	2,951	\$30,403,616	67,986

Survey Responses from Cultural NPOs

Dates of Surveys	Number of Respondents	Total Loss of Revenue	Jobs Affected by Layoffs, Furloughs, and Reduction of Hours
March 2020	566	\$55,748,138	8,221
April 2020	700	\$264,799,746	15,381
June 2020	392	\$424,866,284	17,020
October 2020	898	\$483,519,270	30,616

2. The fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines define individual teaching artists, humanists, or scientists as individuals “who [promote] education in the arts, humanities, or interpretive sciences to people of any age, who typically [work] in schools or other educational settings.”

COVID-19 Relief Fund for Individual Artists Grants

On April 7, 2020, according to the meeting minutes of MCC's board, the board approved a fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant program (with grants totaling \$272,000) for individuals who were negatively affected by the COVID-19 pandemic. Under this relief fund, MCC offered \$1,000 grants to 272 individuals. MCC allocated \$225,000 from its annual appropriation, and the New England Foundation for the Arts (NEFA) committed an additional \$47,000.

MCC disbursed grants to 271 of the 1,872 applicants:³ \$224,000 from its appropriation and \$47,000 from the NEFA funding. See [Appendix A](#) for the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines.

Individuals could apply using the MCC website. Since there were more than 1,800 applicants, MCC selected the 272 grant recipients by using a random number generator to assign a number randomly to each applicant. MCC sorted the applicants by region, based on their locations in the state, and sorted the numbers from lowest to highest. MCC selected applicants from each of the six regions, starting with the lowest random numbers, and disbursed the funding based on the percentage of applications received from each region:

Applications per Region

Region	Number of Applications	Percentage
Greater Boston	640	34%
Central	166	9%
Metrowest	107	6%
Northeast	210	11%
Southeast	359	19%
Western	390	21%
Total	<u>1,872</u>	<u>100%</u>

In addition, on May 19, 2020, the Gary Knisely and Varian (GKV) Foundation donated \$30,000 to MCC for grant awards to individual theater professionals living in Berkshire County. According to the GKV

3. One applicant, after being chosen to receive funds, did not provide MCC with a signed contract.

Foundation's website, the foundation supports "individual development and related community impact through the use of a range of artistic media such as the visual arts, music, and dance."

MCC disbursed the fiscal year 2020 GKV Foundation donation in \$1,000 grants to 30 individual theater professionals who met the criteria for the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant and lived in Berkshire County. See [Appendix B](#) for the GKV Foundation grant guidelines.

MCC's management approved \$1,500 fiscal year 2021 COVID-19 Relief Fund for Individual Artists grants to individuals on January 7, 2021. MCC allocated approximately \$1,801,000 from its annual appropriation for these grants.

MCC started processing fiscal year 2021 COVID-19 Relief Fund for Individual Artists disbursements on April 21, 2021. As of June 30, 2021, it had issued grants of \$1,500 each (for a total of \$1,155,000) to 770 individuals who had not previously received grants from the fiscal year 2020 COVID-19 Relief Fund for Individual Artists or GKV Foundation grants, and it was still processing 11 disbursements. Individuals could apply using the MCC website. See [Appendix C](#) for the fiscal year 2021 COVID-19 Relief Fund for Individual Artists grant guidelines.

Cultural Organization Economic Recovery Program

In October 2020, as part of Governor Baker's economic recovery plan, MCC received \$10,000,000 to address the needs of Massachusetts cultural NPOs that were negatively affected by the COVID-19 pandemic. Under this plan, the state Executive Office for Administration and Finance initiated an interdepartmental service agreement (ISA) with MCC. The ISA partnered MCC with the state Executive Office of Housing and Economic Development (EOHED) to issue grants to selected cultural NPOs using the aforesaid \$10,000,000. MCC was responsible for creating grant guidelines, developing the grant application, processing grantee documentation, scoring and evaluating applications and supporting documentation, submitting prospective grantees' applications to EOHED, contacting approved grantees, and processing payments in the Massachusetts Management Accounting and Reporting System (MMARS). EOHED was responsible for reviewing and approving the final grantee list. The ISA stated that \$2,000,000 was to be allocated to cultural NPOs with no more than 25 employees and the remaining \$8,000,000 was to be allocated to cultural NPOs of any size.

These grants were to be used for general operations, employee payroll and benefit costs, mortgage interest, rent, utilities, and interest on other debt obligations, according to the ISA. The awarded grants ranged from \$1,000 to \$100,000; they equaled either the cost of three months of documented operating expenses or a total of \$100,000, whichever was lower. Cultural NPOs applied using the MCC website and uploaded the required grant application documentation. During the application process, MCC used a scoring system that awarded points based on how applicants answered each question. The applicants were scored using Pearl, a repository software program that can score and rank information, and then ranked in relationship to need: the highest scores indicated the highest need. Grants were awarded to cultural NPOs with the highest scores until funding was exhausted. MCC's management stated that they reviewed documentation and started processing payments in December 2020. See [Appendix D](#) for Cultural Organization Economic Recovery Program grant guidelines.

MCC's Software

MCC uses Go Smart, a grant management program designed for arts administrators,⁴ on its website. This software allows administrators to design online grant applications. It enables individuals or cultural NPOs using MCC's website to apply online for grants, upload required documents, and receive confirmation emails from MCC. In addition, MCC can use Go Smart to generate grant application reports and a list of all grant applications.

MCC exports the list of all grant applications from Go Smart to Excel and uploads the applications to Pearl. Pearl imports Excel reports; scores and ranks applicants based on how they answer application questions; sorts application data; and then exports Excel reports using the sorted application data, which MCC employees can use as working lists. Based on these lists, employees who are assigned to the grants review applications to ensure that the necessary documentation has been uploaded and supports applicants' requested amounts.

Payments are made to each individual and cultural NPO through MMARS once MCC receives from the applicant a signed contract, completed electronic fund transfer forms, and a completed IRS Request for Taxpayer Identification Number and Certification.

4. Art administrators operate programs whose missions are in the arts, such as cultural organizations, theaters, museums, symphonies, and ballet companies. Their other responsibilities may include managing budgets, receiving and disbursing grants, raising funds, and promoting events.

Office of the Comptroller of the Commonwealth’s “COVID-19 Pandemic Response Internal Controls Guidance”

On September 30, 2020, the Office of the Comptroller of the Commonwealth provided guidance for state agencies in response to the COVID-19 pandemic. The guidance helped state agencies that were experiencing significant changes identify their goals, objectives, and risks associated with the COVID-19 pandemic. Objectives included telework, return-to-work plans, changes to business processes, and safety protocols for staff members and visitors.

Cybersecurity Awareness Training

According to MCC’s *Employee Handbook FY2020*,

The Mass Cultural Council follows the Enterprise Information Security Policies and Standards established by the [Executive Office of Technology Services and Security, or EOTSS] Enterprise Security Office.

EOTSS has established policies and procedures that apply to all Commonwealth agencies. Information Security Risk Management Standard IS.010 requires that all new and existing Commonwealth personnel be trained annually on cybersecurity awareness. Section 6.2 of the document states that the objective of information security training is to “educate users on their responsibility to help protect the confidentiality, availability and integrity of the Commonwealth’s **information assets.**”

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of the Massachusetts Cultural Council (MCC) for the period March 1, 2020 through March 31, 2021. For fiscal year 2021 grants issued to individuals, we extended the scope through June 30, 2021.

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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer, the conclusion we reached regarding each objective, and where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did MCC administer funding from its appropriations and donations for the fiscal year 2020 and fiscal year 2021 COVID-19 Relief Fund for Individual Artists in accordance with its grant guidelines?	No; see Finding <u>1</u>
2. Did MCC administer funding from the Cultural Organization Economic Recovery Program in accordance with its grant guidelines and its interdepartmental service agreement (ISA) with the Executive Office for Administration and Finance?	No; see Finding <u>2</u>
3. Did MCC update its internal control plan (ICP) as required by the Office of the Comptroller of the Commonwealth's (CTR's) guidance dated September 30, 2020?	No; see Finding <u>3</u>
4. Did MCC employees receive cybersecurity awareness training in accordance with Section 6.1.1 of the Executive Office of Technology Services and Security's (EOTSS's) Acceptable Use of Technology Policy IS.002, effective October 15, 2018, and Section 6.2.4 of EOTSS's Information Security Risk Management Standard IS.010, effective October 15, 2018?	No; see Finding <u>4</u>

To achieve our audit objectives, we gained an understanding of MCC's internal control environment related to the objectives by reviewing applicable agency policies and procedures, as well as conducting inquiries with MCC's staff and management. We evaluated the design of controls over grants to

individuals, grants to cultural nonprofit organizations (NPOs), updates to the ICP, and cybersecurity awareness training.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address the audit objectives.

Grants to Individuals

We recalculated the prorated percentages based on applications received and compared it to the percentages of grants awarded to individual artists in the six regions MCC had designated for the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grants to determine whether funds were disbursed using the prorated percentages for each region.

We sorted the 1,603 applicants who were not awarded grants in fiscal year 2020 by the six regions and then by their assigned random numbers, from lowest to highest. We compared those numbers to the numbers assigned to applicants who received grants in the same regions to confirm that all applicants selected had lower random numbers than those who were not selected. For each of the 17 applicants we identified who had lower numbers than applicants who received grants, we inspected the application and the Contract Authorization Form that listed all the grantees and asked MCC management to verify that the applicant was ineligible.

We inspected the application of each of the 37 applicants for the fiscal year 2020 grant whom MCC deemed ineligible and who were not assigned random numbers, and we asked MCC management to confirm that each applicant was ineligible.

In addition, we inspected the application and Contract Authorization Form for funding for the 1 applicant who was not awarded a grant from the Gary Knisely and Varian (GKV) Foundation funding and the 35 who did not receive awards from the fiscal year 2021 COVID-19 Relief Fund for Individual Artists to confirm that the applicants were ineligible.

For all 1,071 applicants who were awarded grants (totaling \$1,456,000) from the fiscal year 2020 COVID-19 Relief Fund for Individual Artists, fiscal year 2020 GKV Foundation donation, and fiscal year 2021 COVID-19 Relief Fund for Individual Artists during the expanded audit period (March 1, 2020 through June 30, 2021), we compared grant payments to the amounts in the applicable grant guidelines to determine that none of the grants awarded exceeded the amounts stipulated in the guidelines. We also requested

supporting documentation to confirm that each applicant was a legal resident of Massachusetts; was 18 or more years old; reported that 25% of the applicant's total taxable income was earned as an individual artist or independent teaching artist, humanist, or scientist in the applicant's most recent tax return; and had lost at least \$1,000 because of COVID-19.

For the 1,071 grantees who were paid from the fiscal year 2020 COVID-19 Relief Fund for Individual Artists, the fiscal year 2020 GKV Foundation donation, the fiscal year 2021 COVID-19 Relief Fund for Individual Artists, and \$39,000 of ISA funding, we separated the population into three strata. Stratum 1 consisted of 1,026 individuals paid from the fiscal year 2020 COVID-19 Relief Fund for Individual Artists, fiscal year 2020 GKV Foundation donation, and fiscal year 2021 COVID-19 Relief Fund for Individual Artists. Stratum 2 consisted of all 19 grantees that had business names rather than individuals' names. Stratum 3 consisted of all 26 individual grantees paid from the \$39,000 of ISA funding for cultural NPOs. For Stratum 1, we sampled 47 grantees using a random, statistical selection with a 90% confidence level, 5% error rate, and 0% expected error rate. Our testing included all 19 grantees from Stratum 2 and all 26 grantees from Stratum 3. For all three strata (92 grantees) tested, we inspected the contracts, Requests for Taxpayer Identification Number and Certification, Electronic Funds Transfer Sign Up Forms, and Authorization for Electronic Funds Transfer Authorization Agreements to determine whether contracts were signed, whether the Massachusetts Management Accounting and Reporting System (MMARS) payment records agreed with the names and amounts on the contracts, and whether the names on the contracts agreed with the names on the Requests for Taxpayer Identification Number and Certification and both of the electronic fund transfer forms.

For the grants from the fiscal year 2020 COVID-19 Relief Fund for Individual Artists, fiscal year 2020 GKV Foundation donation, and fiscal year 2021 COVID-19 Relief Fund for Individual Artists, we compared all 1,071 grantee names to the list of MCC's 53 employees and board members and their 114 affiliated corporations to confirm that no MCC employee, board member, or affiliated cultural NPO received grant funding.

Cultural Organization Economic Recovery Program Grants

We selected a nonstatistical, random sample of 35 grants (totaling \$1,966,000) to cultural NPOs from the population of 183 such grants (totaling \$9,960,600). To ensure that each grantee met eligibility requirements, we inspected each grantee file from our sample to determine whether it contained the following:

- A signed and dated contract between MCC and the cultural NPO. We examined the amount awarded according to the contract to ensure that it did not exceed the amount paid to the cultural NPO.
- A signed and dated Request for Taxpayer Identification Number and Certification (Form W-9).
- A signed and dated Contractor Authorized Signatory Listing.
- A signed and dated CTR Electronic Funds Transfer Authorization Agreement.
- A signed and dated Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax.
- Documentation to support the requested amount, such as payroll reports, invoices, rental agreements, and loan statements.

We also examined the Office of the Secretary of the Commonwealth’s corporate database to determine whether each cultural NPO was formed before June 2019.

In our analysis of the scoring, we determined that 26 of the cultural NPO applications had scores higher than those of some cultural NPOs that had been awarded grants. We divided the 26 cultural NPOs into two strata based on the application status (“ineligible” or “unverified”) as determined by MCC. For Stratum 1, we selected a random, nonstatistical sample of 10 of the 22 applications that were marked ineligible. For this sample of 10, we verified that MCC had correctly determined ineligibility by reviewing the files for missing documentation, and we confirmed using the IRS’s Tax Exempt Organization Search tool that none of the applicants was registered as a cultural NPO. For Stratum 2, we selected all 4 applications with a status of “unverified” and a higher score than the cultural NPO that received the final grant. For all 4, we inspected the applicant’s file to determine whether MCC had verified the documentation that the applicant had provided based on the eligibility criteria for the Cultural Organization Economic Recovery Program.

We obtained a list of MCC employees and MCC board members from the audit period. We entered all employee and board member names in the Office of the Secretary of the Commonwealth’s corporate database to identify all the corporations with which the employees and board members were affiliated. We compared this list of 114 corporations and 53 employees and board members to a list of the 183 cultural NPOs that received grants, and the 44 aliases associated with these cultural NPOs, to confirm that no MCC employee or board member was affiliated with any cultural NPO that received grant funding.

When nonstatistical sampling methods were used, we could not project the results of our testing to the population.

ICP

We requested the ICPs for 2020 and 2021 that were prepared during the audit period to evaluate, so that we could determine whether they had been updated with COVID-19 guidance (as required by CTR's *Internal Control Guide* because COVID-19 had caused a significant change to the work environment). We also examined a copy of the ICP to determine whether it contained the components required by CTR's "COVID-19 Pandemic Response Internal Controls Guidance."

Cybersecurity Awareness Training

We requested from MCC management all certificates of completion of cybersecurity awareness training for MCC employees during the audit period to determine whether they completed the training in accordance with CTR's "COVID-19 Pandemic Response Internal Controls Guidance," dated September 30, 2020; Section 6.1.1 of EOTSS's Acceptable Use of Information Technology Policy IS.002; and Section 6.2.4 of EOTSS's Information Security Risk Management Standard IS.010.

Data Reliability

Go Smart

We assessed the reliability of the data obtained from Go Smart by interviewing knowledgeable MCC personnel about online system access controls and segregation of duties. We observed MCC management exporting the list of all grant applications from Go Smart to Excel and generating Application by Status Reports, which totaled all applications received for each of the following grants:

- Fiscal year 2020 COVID-19 Relief Fund for Individual Artists: 2,044 applications
- Fiscal year 2021 COVID-19 Relief Fund for Individual Artists: 956 applications
- Fiscal year 2020 GKV Foundation Fund for Berkshire County Theater Professionals: 28 applications
- Fiscal year 2021 Cultural Organization Economic Recovery Program: 505 applications

We compared each grant's Application by Status Report totals to the totals from the list of all grant applications from Go Smart to determine the completeness of the population. We analyzed the list of all grant applications from Go Smart for any hidden columns or rows. In addition, we ran data integrity

tests to identify dates outside the audit period and checked for duplicate names and duplicate application numbers.

Pearl

We assessed the reliability of the data obtained from Pearl by interviewing knowledgeable MCC personnel about online system access controls and segregation of duties. To test the completeness of the data, we compared the Go Smart Application by Status Reports for each of the four grants to the Excel spreadsheets of application data from Pearl. We also tested the Excel spreadsheets of application data from Pearl for each grant for duplicate names and duplicate application numbers.

To test the accuracy of the data, we performed the following procedures:

- Fiscal year 2020 COVID-19 Relief Fund for Individual Artists: We compared the cities/towns applicants assigned by Pearl to MCC's six defined regions to determine whether applicants were placed in the correct regions. We observed the method MCC used to generate a random identification number for each applicant to ensure that the method was random for all applicants. We then traced a random sample of 20 grant applications to and from Go Smart and Pearl to confirm that names, application numbers, and application statuses matched.
- Fiscal year 2021 COVID-19 Relief Fund for Individual Artists: We traced a random sample of 20 grant applicants to and from Go Smart and Pearl to confirm that names, application numbers, and application statuses matched.
- Fiscal year 2020 GKV Foundation Fund for Berkshire County Theater Professionals: We traced a random sample of 5 grant applicants to and from Go Smart and Pearl to confirm that names, application numbers, and application statuses matched.
- Fiscal year 2021 Cultural Organization Economic Recovery Program: We traced a random sample of 20 grant applicants to and from Go Smart and Pearl to confirm that names, application numbers, and application statuses matched.

MMARS

In 2018, OSA performed a data reliability assessment of MMARS that focused on testing selected system controls (access controls, configuration management, contingency planning, and segregation of duties) for the period April 1, 2017 through March 31, 2018. As part of our current audit, we asked MCC management for the agency's cybersecurity awareness policy and personnel security policy and procedures. We tested system authorization for all four employees who had access to MMARS during the audit period. We requested certificates of completion of cybersecurity awareness training for all employees (see [Finding 4](#)).

We analyzed the data to verify that all data were within our audit period. To test the data for completeness, we compared fiscal year 2020 COVID-19 Relief Fund for Individual Artists, fiscal year 2020 Gary Knisely and Varian, fiscal year 2021 COVID-19 Relief Fund for Individual Artists, and Cultural Organization Economic Recovery Program grant payments recorded in MMARS to payments reported on MCC's website in its published press releases. To test the data for accuracy, we selected a random sample of 65 of 1,254 MMARS grant payments and traced them to the Excel spreadsheets of application data from Pearl and signed Contract Authorization Forms for the corresponding grants.

Based on the results of our data reliability assessments, we determined that the information obtained for our audit period was sufficiently reliable for the purpose of our audit objectives.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Massachusetts Cultural Council did not verify that all recipients of grants from its 2019 coronavirus pandemic relief funding met eligibility requirements.

The Massachusetts Cultural Council (MCC) did not verify that all 1,071 individuals who received some of \$1,456,000 in grants from its 2019 coronavirus (COVID-19) pandemic relief funding were eligible to receive it. As a result, there is a higher-than-acceptable risk that grants were awarded to ineligible applicants.

Authoritative Guidance

According to the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines, an applicant must meet all of the following criteria to be eligible:

You may apply for Mass Cultural Council COVID-19 Relief funding if you are:

- 1. An individual artist working in any artistic discipline. Artist here is defined broadly to include, but is not limited to artists such as musicians, theater artists (including those that work on sound, lighting, and costume design), photographers, puppeteers, crafts artists, painters, poets and authors, vocalists, folk and traditional artists, dancers, etc.*

OR

- 2. An individual teaching artist, humanist, or scientist who promotes education in the arts, humanities, or interpretive sciences to people of any age, who typically works in schools or other educational settings.*

AND you meet all five of the following requirements:

- You are 18 years or older.*
- You are a legal resident of Massachusetts. We define "legal resident" as someone who meets the definition of a "full-year resident" in the Massachusetts tax code. . . .*
- You have reported taxable income related to earnings working as an individual artist and/or as an individual teaching artist, humanist, scientist in your most recent tax return.*
- The income you reported earning as an individual artist and/or as an individual teaching artist, humanist, scientist in your most recent tax return represented more than 25% of your total income from all sources.*
- You can demonstrate at least \$1,000 of lost income directly related to COVID-19 that is not eligible to be recouped through Massachusetts unemployment benefits. This could include lost revenue due to:*
 - Canceled jobs/gigs, classes, performances, exhibitions, shows, residencies, etc.*

-
- *Organizational closures and/or suspended operations*
 - *Lost sales, commissions, vendor fees from canceled markets, events, exhibitions, etc.*

According to MCC's website, eligibility requirements for an individual grant from the Gary Knisely and Varian Foundation grant guidelines had the same criteria as the MCC fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines, except that the applicant had to be an individual theater professional (e.g., a performer or director) and live in Berkshire County (see [Appendix B.](#))

The website also states that the fiscal year 2021 COVID-19 Relief Fund for Individual Artists grant guidelines had the same criteria as the fiscal year 2020 grant guidelines, except that the definition and requirements for reported income had changed.

Specifically, reported income under the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines was based on the most recent tax return. In the fiscal year 2021 COVID-19 Relief Fund for Individual Artists grant guidelines, income is defined as follows:

- *The income (gross) you reported earning as an individual artist and/or as an individual teaching artist, humanist, scientist in at least ONE tax return filed within the last three years represented more than 25% of your total income from all sources.*

In addition, in the fiscal year 2020 COVID-19 Relief Fund for Individual Artists grant guidelines, applicants were required to demonstrate at least \$1,000 of lost income directly related to COVID-19 that was not eligible to be recouped through Massachusetts unemployment benefits. In the fiscal year 2021 COVID-19 Relief Fund for Individual Artists grant guidelines, the requirement was revised as follows:

- *You can demonstrate at least \$1,500 of lost income directly related to COVID-19 that is not eligible to be recouped through Massachusetts unemployment benefits.*

The state Department of Revenue's "Form 1 2020—Massachusetts Resident Income Tax" instructions defines "legal resident of Massachusetts" as follows:

You are a full-year resident if your residence (domicile) is in Massachusetts or if you maintain a permanent place of abode in Massachusetts and during the year spend more than 183 days, in the aggregate, in the state.

Reasons for Issue

MCC officials told us they did not require applicants to prove eligibility because they wanted to provide relief funding as soon as possible and did not want to delay grant payments to request supporting documentation and verify each grantee's eligibility.

Recommendation

MCC should establish policies and procedures to ensure that supporting documentation is provided to prove eligibility before it awards grants.

Auditee's Response

The draft report states that the Council did not appropriately verify the eligibility requirements of the grant recipients of its Covid-19 relief programs leading to a "higher-than-acceptable risk" that ineligible applicants received grants. The Council acknowledges that it did not independently verify all of the information submitted by grant applicants to these emergency relief programs but believes its procedures were appropriate and necessary in the circumstances—especially given the nature of the funding crisis for the cultural sector caused by the pandemic and the need to respond to the emergency in haste (as noted in the surveys detailing the effects of the pandemic on the sector which are cited in the draft report). In the case of the [Cultural Organization Economic Recovery Program], the fact that the allocation of [Coronavirus Aid, Relief, and Economic Security, or CARES] Act funds was made in late October 2020 with an absolute deadline of awarding the grants by the end of the calendar year (it was unclear at that time that the CARES Act would be extended until late December 2020). Greater review and verification of the data submitted by applicants would have required a great deal of time and additional staff neither of which the Council had. . . .

Based upon the draft report's finding, Mass Cultural Council will design future pandemic recovery programs so as to either provide for easily verifiable information using available resources or to not require information difficult to verify.

Auditor's Reply

Based on its response, MCC plans to take measures to verify grantee eligibility in future pandemic recovery programs, but did not have the time or personnel to appropriately do so for the COVID-19 Relief Fund for Individual Artists.

The Office of the State Auditor (OSA) believes that MCC could have verified grantees' eligibility in a timely manner if it had required documentation supporting applicant eligibility at the time applications were submitted, as it did for the Cultural Organization Economic Recovery Program. Go Smart allows applicants to upload and submit supporting documentation when applying for a grant. MCC could have required

applicants to upload photo identification such as a Massachusetts-issued identification card to determine whether they were 18 or more years old and met the residency requirement. MCC could also have required applicants' most recent Internal Revenue Service income tax returns, which would show whether applicants were legal residents and whether at least 25% of their total reportable taxable income was related to earnings from work in a qualifying artistic discipline. Finally, as evidence of loss of income, MCC could have required documentation such as notifications of organizational closures, canceled fairs, and canceled performances.

OSA believes MCC could have reviewed this documentation for the selected grantees before approving the grants. Therefore, we reiterate our recommendation that MCC establish policies and procedures to ensure that applicants provide supporting documentation to prove eligibility before it awards any grants.

2. MCC awarded \$39,000 to 26 ineligible applicants.

MCC awarded 26 ineligible applicants \$39,000 from funding provided under its interdepartmental service agreement (ISA) with the Executive Office for Administration and Finance (EOAF) for grants to cultural nonprofit organizations (NPOs) without amending the terms of the ISA. Also, MCC did not provide the Executive Office of Housing and Economic Development (EOHED), its partner under the ISA, with the names of the 26 applicants and the amounts of the grants for EOHED's authorization before payment. The Cultural Organization Economic Recovery Program grant was to be disbursed only to cultural NPOs, unless the terms of the ISA were amended by MCC and approved by EOAF.

As a result of this issue, eligible cultural NPOs that could have been awarded full or partial grant funding from this \$39,000 may have been denied grants.

Authoritative Guidance

The ISA between MCC and EOAF for the Cultural Organization Economic Recovery Program states that the grants were to be disbursed "to support 501(c)(3) nonprofit organizations negatively impacted by the 2019 novel coronavirus."

Section 6.03(3)(e) of Title 815 of the Code of Massachusetts Regulations states,

An ISA Amendment is required for . . . any material change in performance requirements . . . and must be executed by the Buyer and Seller Department prior to the termination date of the ISA, or as amended.

Reasons for Issue

MCC management told us that they had notified EOHEd that MCC had \$39,400 remaining from the ISA. MCC did not receive any objections or directions from EOHEd regarding what to do with this remaining funding, so MCC decided to disburse it to individuals who were eligible, but not selected, for grant funding under the fiscal year 2021 COVID-19 Relief Fund for Individual Artists. They told us they had made this decision to enable an additional 26 artists to receive \$1,500 grants because the next several cultural NPOs in line had each requested more grant funding than the remaining \$39,400 available. MCC's governing council approved the \$39,000 of payments to individuals. MCC's management was not aware that MCC needed to amend the ISA, and MCC did not have a policy in place to ensure that ISAs were amended when needed.

Recommendations

1. MCC should stay informed of the requirements of its ISAs.
2. MCC should establish policies and procedures to ensure that future ISAs are followed or properly amended and communicate the policies and procedures to all employees who are responsible for ISAs.

Auditee's Response

Mass Cultural Council agrees that it did not obtain an amendment to interdepartmental service agreement (ISA) regarding usage of the leftover \$39,400 of CARES Act funds from the [Cultural Organization Economic Recovery Program] (0.394% of a program allocation totaling \$10 million) to support its FY21 Individual Artist Relief Program. Please note that as described in the draft report, under the [Cultural Organization Economic Recovery Program], the list of approved grantees were required to [be] approved by the Executive Office of Housing and Economic Development (EOHED) and such Department approved \$9,960,600 of grants under the program. There were several grantees tied on scoresheet as next in line for funding . . . and distributing such leftover funds would have resulted in relatively small amounts to those grantees. However, Mass Cultural Council did not have the option of making additional grants under the program to the next-listed organizations. After notification of the leftover funds, EOHED did not opt to further approve any more grants but indicated Mass Cultural could determine the use of such funds. While Mass Cultural Council subsequently informed EOHED that it would be applying such funds to the Individual Artists Relief Fund, and was not informed that the Department had any objections, the Council did not document that decision with an amendment to the ISA. Mass Cultural Council will establish policies and procedure to ensure compliance with ISAs and obtaining necessary amendments in the future.

Auditor's Reply

Based on its response, MCC is taking measures to address our concerns on this matter.

3. MCC's internal control plan was not updated with a COVID-19 component.

MCC's internal control plan (ICP) was not updated with a COVID-19 component as required by the Office of the Comptroller of the Commonwealth's (CTR's) "COVID-19 Pandemic Response Internal Controls Guidance," issued September 30, 2020. MCC's ICP was last updated in July 2019, before the start of the COVID-19 pandemic.

The absence of an up-to-date ICP may hinder MCC's effective and efficient achievement of its mission and objectives.

Authoritative Guidance

CTR's "COVID-19 Pandemic Response Internal Controls Guidance," dated September 30, 2020, states,

Department internal control plans must be based on risk assessments and updated annually, or when significant changes occur. Because the COVID-19 Pandemic has affected all departments, The Comptroller, in consultation with the State Auditor's Office, is providing two options for updating internal controls.

- 1. If the impact to your department is such that it can be reflected in your Internal Control Plan (ICP), then update the ICP as you would for any other mid-year changes.*
- 2. Departments experiencing a significant impact, and requiring the accumulation of substantial documentation (e.g. changes to business processes, requirements of federal and state specific laws or guidance, new funds or new programs), can draft a separate COVID-19 Pandemic Response Plan Appendix to the ICP as an organized set (hard or soft copies) of emails, documents, risk assessments, policies and procedures.*

Reasons for Issue

MCC did not have policies and procedures, including a monitoring component, to ensure that its ICP would be updated when significant changes occurred.

Recommendation

MCC should establish policies and procedures, including a monitoring component, to ensure that its ICP is updated when significant changes occur.

Auditee's Response

[MCC] concurs in this finding. It did not update its internal controls plan to reflect the effects of the pandemic. Mass Cultural Council will appropriately update its plan annually and establish a monitoring component to ensure that the plan is updated when significant changes occur.

Auditor's Reply

Based on its response, MCC is taking measures to address our concerns on this matter.

4. MCC did not ensure that all employees completed required annual cybersecurity awareness training during the audit period.

MCC did not ensure that all 37 of its employees completed required annual cybersecurity awareness training during the audit period. A lack of such training may lead to user error and compromise the integrity and security of protected information in MCC's information technology systems.

Authoritative Guidance

The "Network Integrity & Personal Information Security" section of MCC's *Employee Handbook FY2020*, effective August 22, 2019, states,

The Mass Cultural Council follows the Enterprise Information Security Policies and Standards established by the [Executive Office of Technology Services and Security, or EOTSS] Enterprise Security Office.

Section 6.1.1 of EOTSS's Acceptable Use of Information Technology Policy IS.002, which went into effect October 15, 2018, requires all employees to complete cybersecurity awareness training during their orientation and regularly thereafter.

Section 6.2.4 of EOTSS's Information Security Risk Management Standard IS.010, which went into effect October 15, 2018, states, "All personnel will be required to complete Annual Security Awareness Training."

Reasons for Issue

MCC stated that it had not assigned an employee the responsibility of ensuring compliance with EOTSS's cybersecurity awareness training policy.

Recommendations

1. MCC should establish policies and procedures to ensure that all employees complete annual cybersecurity awareness training.
2. MCC should assign an employee to be responsible for ensuring that the agency complies with EOTSS's cybersecurity awareness training policy.

Auditee's Response

[MCC] concurs in this finding that staff had not undergone cybersecurity training during the audit period. As was discussed during the course of the audit, certain Council staff did attempt to undertake the training and were not given access to the Commonwealth's training module. The Commonwealth's communications at the time even specifically indicated that such training was not available to independent agencies or other parties outside the Executive Branch. Consistent with the draft report's recommendation that the Council assign an employee to be responsible for maintaining compliance with the Commonwealth's cybersecurity training requirement, Mass Cultural Council's newly-hired Director of People & Culture (11/2021) took responsibility for the training and successfully obtained access to Commonwealth's cybersecurity training module in early 2022. Staff were notified the training was available January 13, 2022 and 100% had completed the training by March 15, 2022. Cybersecurity training has also been implemented as part of the onboarding process for new employees. Staff will be required to complete such training annually as monitored by the Director of People & Culture.

Auditor's Reply

Based on its response, MCC is taking measures to address our concerns on this matter.

APPENDIX A

Fiscal Year 2020 [2019 Coronavirus] Relief Fund for Individual Artists Grant Guidelines (Excerpt)

Eligibility

You may apply for Mass Cultural Council [2019 coronavirus, or COVID-19] Relief funding if you are:

- 1. An individual artist working in any artistic discipline. Artist here is defined broadly to include, but is not limited to artists such as musicians, theater artists (including those that work on sound, lighting, and costume design), photographers, puppeteers, crafts artists, painters, poets and authors, vocalists, folk and traditional artists, dancers, etc.*

OR

- 2. An individual teaching artist, humanist, or scientist who promotes education in the arts, humanities, or interpretive sciences to people of any age, who typically works in schools or other educational settings.*

AND you meet all five of the following requirements:

- You are 18 years or older.*
- You are a legal resident of Massachusetts. We define "legal resident" as someone who meets the definition of a "full-year resident" in the Massachusetts tax code. Visit the Mass Department of Revenue web site to learn more.*
- You have reported taxable income related to earnings working as an individual artist and/or as an individual teaching artist, humanist, scientist in your most recent tax return.*
- The income you reported earning as an individual artist and/or as an individual teaching artist, humanist, scientist in your most recent tax return represented more than 25% of your total income from all sources.*
- You can demonstrate at least \$1,000 of lost income directly related to COVID-19 that is not eligible to be recouped through Massachusetts unemployment benefits. This could include lost revenue due to:*
 - Canceled jobs/gigs, classes, performances, exhibitions, shows, residencies, etc.*
 - Organizational closures and/or suspended operations*
 - Lost sales, commissions, vendor fees from canceled markets, events, exhibitions, etc. Federal [Coronavirus Aid, Relief, and Economic Security] Act unemployment benefits do not affect eligibility to this program.*

Applicants may submit one application and may receive no more than one grant during this FY20 grant opportunity.

APPENDIX B

Gary Knisely and Varian Foundation Grant Guidelines for Berkshire County Theater Professionals (Excerpt)

Eligibility

You may apply for [Gary Knisely and Varian] Foundation funding if you are **an individual Theater Professional**.

- *Individual Theater Professionals include theater artists who work on stage, such as performers and musicians, as well as those who work on productions such as directors, designers, stage managers, choreographers, stagehands, writers, and professionals who work on production elements, such as sets, props, lighting, effects, sound, make-up, and costumes.*

AND you meet all five of the following requirements:

- *You are 18 years of age or older.*
- *You are a legal resident of Berkshire County in Massachusetts. We define "legal resident" as someone who meets the definition of a "full-year resident" in the Massachusetts tax code. Visit the Mass Department of Revenue website to learn more.*
- *You have reported taxable income related to earnings working as an individual theater professional.*
- *The income you reported earning as an individual theater professional in your most recent tax return represented more than 25% of your total income from all sources.*
- *You can demonstrate at least \$1,000 of lost income directly related to [the 2019 coronavirus, or COVID-19] that is not eligible to be recouped through Massachusetts State unemployment benefits from:*
 - *canceled jobs/gigs, performances, productions, shows, or theater residencies*
 - *closures or suspended operations of theater or venues.*

Receiving federal [Coronavirus Aid, Relief, and Economic Security] Act unemployment benefits, for contract employees and gig workers, does not affect eligibility for this funding.

Theater Professionals who meet the requirements above but did not receive funding from Mass Cultural Council's COVID-19 Relief Fund for Individuals are encouraged to submit a new application to this fund.

Recipients of the Mass Cultural Council FY20 COVID-19 Relief Fund for Individuals are NOT eligible for the funding.

APPENDIX C

Fiscal Year 2021 [2019 Coronavirus] Relief Fund for Individual Artists Grant Guidelines

Eligibility

You may apply for Mass Cultural Council [2019 coronavirus, or COVID-19] Relief funding if you are:

1. An individual artist working in any artistic discipline. Artist here is defined broadly to include, but is not limited to artists such as musicians, theater artists (including those that work on sound, lighting, and costume design), photographers, puppeteers, crafts artists, painters, poets and authors, vocalists, folk and traditional artists, dancers, etc.

OR

2. An individual teaching artist, humanist, or scientist who promotes education in the arts, humanities, or interpretive sciences to people of any age, who typically works in schools or other educational settings.

AND you meet all six of the following requirements:

- You are 18 years or older.
- You are a legal resident of Massachusetts. We define "legal resident" as someone who meets the definition of a "full-year resident" in the Massachusetts tax code. Visit the Mass Department of Revenue web site to learn more.
- You have reported taxable income related to earnings working as an individual artist and/or as an individual teaching artist, humanist, scientist in your most recent tax return.
- The income (gross) you reported earning as an individual artist and/or as an individual teaching artist, humanist, scientist in at least ONE tax return filed within the last three years represented more than 25% of your total income from all sources.
- You can demonstrate at least \$1,500 of lost income directly related to COVID-19 that is not eligible to be recouped through Massachusetts unemployment benefits. This could include lost revenue due to:
 - Canceled jobs/gigs, classes, performances, exhibitions, shows, residencies, etc.
 - Organizational closures and/or suspended operations
 - Lost sales, commissions, vendor fees from canceled markets, events, exhibitions, etc. Federal [Coronavirus Aid, Relief, and Economic Security] Act unemployment benefits do not affect eligibility for this program.
- You did not receive a COVID-19 Relief Fund for Individuals grant or a [Gary Knisely and Varian Foundation grant] for Berkshire County Theater Professionals Fund grant in FY20.

Applicants may submit one application and may receive no more than one grant during this FY21 grant opportunity.

APPENDIX D

Cultural Organization Economic Recovery Program Grant Guidelines

Applicant Eligibility

- *Applicant must be a Massachusetts **cultural organization**, which is defined as a non-profit corporation:*
 - *whose mission is primarily concerned with the arts, humanities, or interpretive sciences, including but . . . not limited to, museums, historic sites, zoos, aquariums, theaters, concert halls, exhibition spaces, classrooms, and auditoriums;*
 - *that offers public cultural programming in Massachusetts annually and maintains year-round operations in Massachusetts; and*
 - *has a 501(c)3 designation with the Internal Revenue Service which is currently active.*
- *Applicant must be able to document a loss of revenue due to [the 2019 coronavirus] between March 10, 2020 and December 31, 2020 equal to or greater than requested assistance.*
- *Applicant must be currently in operation or, if not in operation, must have an intent to reopen.*
- *Applicant must have been incorporated prior to 06/30/2019.*
- *Ineligible applicants include but are not limited [to]:*
 - *For-profit entities*
 - *Unincorporated associations*
 - *Colleges and Universities*
 - *Private/Nonprofit secondary schools*
 - *Nonprofit organizations whose mission is not primarily concerned with the arts, humanities, or interpretive sciences*
 - *Municipal entities*