



Massachusetts Cultural Council

Local Cultural Council

PROGRAM REGULATIONS and GUIDELINES

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Local Cultural Council Program

Purpose of these Regulations and Guidelines

The purpose of this document is to provide guidance to local and regional cultural councils on the policies and procedures they must use while regranting public dollars from the Massachusetts Cultural Council. Both regulations and guidelines are included in this document. Regulations are rules that exist as part of the Massachusetts Code of Regulations (962 CMR 2.00) and changes to them must be filed with the Secretary of State's office. The guidelines explain additional procedures LCCs must follow to ensure a thoughtful and fair process for distributing public money.

Background: Massachusetts Cultural Council and Local Cultural Councils

In Massachusetts, public funding for the arts, humanities, and interpretive sciences is provided through a central state agency, the Massachusetts Cultural Council, and through a network of local cultural councils that serve every city and town in the state.

The mission of the Massachusetts Cultural Council is to promote excellence, access, education and diversity in the arts, humanities, and interpretive sciences in order to improve the quality of life for all Massachusetts residents and to contribute to the economic vitality of our communities.

The MCC receives funding from the Massachusetts Legislature and the National Endowment for the Arts, and it distributes funds through two channels:

- 1) Direct grants to individuals and organizations, available through statewide competitive grant processes; and
- 2) Distributions to local councils, which then regrant funds to individuals and organizations in their own communities.

The Local Cultural Council (LCC) program was established in 1982 and was overseen by the Massachusetts Arts Lottery Council until 1990. It then merged with the Massachusetts Council on Arts and Humanities to form the Massachusetts Cultural Council.

LCCs are made up of volunteers who are appointed by the community's chief elected official and who are responsible for making decisions on how they will award the money granted to them by the MCC in ways that will serve local cultural needs. There are currently 329 LCCs in Massachusetts that form an extensive grassroots system of public support for community cultural programs. Collectively, these councils fund thousands of cultural activities in all 351 cities and towns in the state.

Information about the LCC Program and all other MCC Programs can also be found online at www.massculturalcouncil.org.

Regulations for Local and Regional Cultural Council Operations and Procedures (962 CMR 2.00)

- 2.01: Scope and Purpose
- 2.02: Purpose of Local and Regional Cultural Councils
- 2.03: Cultural Access
- 2.04: Establishment of a Local and Regional Cultural Council
- 2.05: Management of Local Council Funds
- 2.06: Local Administrative Expenses
- 2.07: Duties of Local and Regional Cultural Councils
- 2.08: Optional Activities of Local and Regional Cultural Councils
- 2.09: Local Grant Approvals
- 2.10: Assuring Compliance with Local Cultural Council Duties

2.01: Scope and Purpose

The purpose of 962 CMR 2.00 is to provide guidance to local and regional cultural councils about their operations and procedures. These regulations, and supplementary guidelines promulgated independently by the Massachusetts Cultural Council, are designed to be effective for fiscal year 2012 and thereafter. Both are promulgated by the Massachusetts Cultural Council incident to its power to issue guidelines, rules, rulings, or regulations for the use of funds allocable to it and for local or regional cultural council operations and procedures.

2.02: Purpose of Local and Regional Cultural Councils

The purpose of the local and regional cultural councils is to support public programs that promote access, education, diversity, and excellence in the arts, humanities, and interpretive sciences in communities across the Commonwealth. Local decision-making is an integral element of this system. Local councils have the right and responsibility to award grants that address cultural needs specific to their communities, and they can decide how to distribute funds as long as the state policies outlined in these regulations and supplementary guidelines are followed.

2.03: Cultural Access

Local councils have an especially important role in insuring that cultural opportunities are made accessible to all segments of the Commonwealth's population, including all racial and ethnic groups, individuals with disabilities, veterans, and women. The MCC and local councils are committed to cultural access both as a matter of policy and of law, and high priority should be given to projects that address the needs of underserved audiences, including low-income, inner city, and rural populations.

2.04: Establishment of a Local and Regional Cultural Council

Every community in the state is eligible to receive funds from the MCC if the appropriate local town or city officials establish a local council and appoint council members who take on the responsibility for distributing funds on behalf of the community.

Cities and towns may also join forces in the establishment of regional councils, and are encouraged to do so. If two or more towns wish to form a regional council, there must be at least one representative appointed from each community in the consortium. Regional consortia must also be approved by the MCC. (Local councils may consult the provisions of M.G.L. c. 10, §.58.)

Local councils consist of at least five but no more than 22 members appointed by the top appointing official in the community (i.e., the mayor, city manager, board of selectmen, or executive officer). Council members should have a demonstrated interest or record of service to the arts, humanities or interpretive sciences. The chief appointing authority and members of the local appropriating authority, as defined in M.G.L. c. 59, § 21C, cannot serve as council members.

The term of membership for a council member is three years; members can serve a maximum of two consecutive terms, or a total of six years, unless the appointing authority removes a member before the expiration of a term as provided in 962 CMR 2.10. Members must remain off the council for a one-year interval before serving additional terms. Each council must annually elect a chair, secretary and treasurer. To preserve continuity of operations, the terms of individual council members should be staggered (that is, there should never be 100 percent turnover of members in a single year, unless the MCC determines otherwise, as provided in 962 CMR 2.10). Local councils may also elect to designate former officers or members as non-voting, ex officio council members.

2.05: Management of Local Council Funds

Each local council must keep *all funds* (state funds from the MCC, interest earned and locally raised funds) in the LCC's municipal account. The LCC's municipal account must be a revolving account kept separate and apart from all other monies administered by the city or town treasurer as specified by M.G.L. c. 10, § 58. Councils are entitled to interest on their municipal account and to regular financial reports from the municipality. The funds may be spent as the local council directs, but may be accessed only through the process used by the community's treasurer and/or accountant's office for the expenditure of public funds. Separate checkbooks or non-municipal accounts are not permissible.

Locally raised funds and interest earned can be spent at the discretion of the local council, but only to support the arts, humanities and interpretive sciences. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required.

An LCC may not accumulate unspent state funds at the local level. Unspent funds accrue for various reasons, typically because previously approved projects were completed for less than the amount awarded, or not completed at all. Unspent state funds from prior fiscal years must be accounted for, reported to the MCC, and regranted in the next available funding cycle stipulated by the timeline set forth by the MCC. Generally, grant recipients have one year after final notification of an award to spend that award. However, an LCC may, at its own discretion, approve a reasonable extension for a grant recipient.

In summary, if the original source of the funds was the MCC, the LCC must use the MCC process and timeline for redistributing these funds.

2.06: Local Administrative Expenses

Local councils may use up to five percent of their state allocation each funding cycle for administrative expenses such as paid staff, postage, stationery, publicity, and so on. They may also use any interest earned on their state allocation or locally raised funds for administrative expenses without being subject to any such percentage limit. Local council members cannot receive compensation, but can receive reimbursement for expenses. Additional guidelines regarding administrative expenses can be found in the MCC's *Local Cultural Council (LCC) Guidelines* promulgated by the MCC independent of its formal regulations.

2.07: Duties of Local and Regional Cultural Councils

1) Each local or regional cultural council has a number of mandatory duties:

- a) Soliciting community input and assessing local cultural needs (962 CMR 2.07 (2));
- b) Establishing priorities and guidelines for the review of local grant applications (962 CMR 2.07(3));
- c) Communicating with the public (962 CMR 2.07(4));
- d) Reviewing and recommending action on local applications (962 CMR 2.07(5));
- e) Reporting to the MCC (962 CMR 2.07(6));
- f) Carrying out other necessary administrative functions (962 CMR 2.07(7)); and
- g) Complying with guidelines, rules, rulings or regulations promulgated from time to time by the MCC.

2) Community input

Each local council is responsible for insuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct regular assessments of cultural needs within its community. Councils should refer to the *LCC Guidelines* for specific procedures.

3) Establishing local funding priorities

Based on its community input process, each council is then responsible for determining its own funding priorities. While all councils are strongly encouraged to develop written local funding guidelines, councils receiving more than \$20,000 are required to do so. If a council does have local guidelines, it must make them available to prospective applicants. Autonomy is encouraged in the establishment of local funding priorities, as long as it is within the parameters of the guidelines established by the MCC.

4) Communicating with the public

Local councils are responsible for promoting local awareness of their programs; informing the public of the availability of funds; publicizing the names, addresses, and telephone numbers of the local council office or contact person; communicating with grant applicants and recipients; and other duties as the MCC may from time to time elaborate through guidelines, rules, rulings or regulations. Councils will be assisted in this work by the MCC, which will maintain a database on local councils, help publicize the statewide local deadline, assist in the distribution of applications and so forth.

5) Reviewing and recommending action on local applications

Guidelines regarding local eligibility, review criteria and procedures for the review of applications are laid out in detail in the *LCC Guidelines*, including an appendix relating to the open meeting and conflict of interest laws applicable to local councils.

6) Reporting to the Massachusetts Cultural Council

The reporting requirements of local councils and guidelines regarding periodic state audits are set forth in the *LCC Guidelines*.

7) Other necessary administrative functions

Additional administrative functions include the handling and reimbursement of payment requests; all necessary record-keeping; establishment of a local office (if applicable); maintaining communications with the local treasurer; monitoring financial reports; and other tasks as necessary for the efficient operation of the council.

2.08: Optional Activities of Local and Regional Cultural Councils

1) Local or regional cultural councils have broad powers under the provisions of M.G.L. c.10, §.58. In addition, they may:

- a) Fundraise from sources other than the state (962 CMR 2.08(2)); and

- b) Initiate local or regional council-originated projects (962 CMR 2.08(3)).

2) Fundraising from sources other than the state

Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues, interest from the LCC's municipal account, and so on. To enhance the opportunity for the donors of such funds to qualify their gift as deductible for federal income, gifts and estate tax purposes, funds received by gift to a local cultural council are considered to be donated to a political subdivision of the Commonwealth exclusively for public purposes as defined in Section 170(c) of the Internal Revenue Code of the United States.

Regardless of the source, all of a local council's funds must be used to support programs in the arts, humanities or interpretive sciences in Massachusetts, and should meet the other substantive requirements set forth in the *LCC Guidelines*. Locally raised funds and interest earned must be kept in the LCC's municipal account with the LCC's state funds (as specified by 962 CMR 2.05). Locally raised funds and interest earned should be identified on the books of the city or town as funds derived from sources other than the MCC. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required.

3) Initiating council-originated projects

Local cultural councils are themselves eligible to apply for funds for local council-originated programs that respond to cultural needs that are not otherwise being addressed in the community. Councils should refer to the *LCC Guidelines* for information about eligibility, review criteria and procedures.

Funds raised locally from local council-originated projects must be kept in the LCC's municipal account. LCCs must observe the process and procedures outlined in 962 CMR 2.05 and 2.08(2) that detail how these funds must be kept, distributed and reported.

2.09: Local Grant Approvals

The process by which local or regional cultural councils decide the use of state funds allocable to them and then seek approval from the MCC is set out in the following *LCC Guidelines*. In general however, approval by the MCC is contingent upon local councils demonstrating compliance with the provisions of these regulations and those guidelines. Because funds can no longer be held over at the state level for the benefit of a local council, the MCC may elect to reallocate the funds not certified to other local or regional cultural councils.

2.10: Assuring Compliance with Local Cultural Council Duties

An LCC must comply with its duties as specified in 962 CMR 2.00 and elsewhere in the *LCC Guidelines*. When the MCC finds a local cultural council has not adequately complied with 962 CMR 2.00, the MCC may suspend all or part of MCC funding for that council. The MCC may also specify corrective actions that the LCC must take before it can begin to receive funds again. If an LCC fails to take corrective actions specified by the MCC, within a time frame specified by the MCC, the MCC may redistribute any funds allocated to that local council.

If an LCC appears unable to comply not only with its duties but also with corrective actions specified by the MCC, then the MCC may determine that a partial or complete change in the membership of the local council may be in order to enable the community to begin receiving its funds again. In these extraordinary cases, the MCC may authorize the local appointing authority to remove a member or members from the LCC and appoint a new member or members.

Local Cultural Council Guidelines

The following are guidelines that local cultural councils (LCCs) must follow. Please note that from time to time the MCC may issue additional guidelines to promote specific programs at the local level. All local councils will be notified if any guidelines are changed.

Application Instructions

Applicants submit their applications directly to the local cultural council to whom they are applying. Before submitting an application, applicants should read the LCC's local guidelines for additional application instructions. Local guidelines can be found on LCC public webpages at www.mass-culture.org/lcc_public.asp. Applications, information about applying, and answers to frequently asked questions can be found at www.massculturalcouncil.org.

Local councils applying to use their state funds on a local council originated (LCO) project submit their application to the Massachusetts Cultural Council and should refer to "Additional Requirements for Local Council Originated Applications" below.

All LCC grants are reimbursement-based. If approved for a grant, the grantee expends their own money on the project. Once the project is complete, the grantee submits paperwork for reimbursement to the LCC that approved their grant. For more information about when reimbursements take place see "Grant Cycle Timeline" below.

Eligibility

Application deadline. All applicants must submit completed applications by the statewide postmark deadline, generally on **October 15**. In years when October 15 falls on a Sunday, the statewide deadline is the Monday immediately following October 15. **Late applications cannot be accepted.**

Types of grants. A local council may approve grants for projects, operating support, ticket subsidy programs, artist residencies, fellowships or other activities, based on local priorities and needs. Each local council should determine its own local eligibility requirements based on a community input process. These should be incorporated into their local guidelines and published to the council's public webpage.

Local councils may also choose to fund cultural field trips for children, grades pre-K through 12, by subsidizing the cost for children to attend programs in the arts, humanities and interpretive sciences (including performances, educational tours and exhibits). Applicants can request funds for field trips for groups of children affiliated with schools (public, non-profit, religious, and home schools), afterschool and out-of-school programs, neighborhood/community centers, or civic organizations. Based on community input, each local cultural council may determine whether or not they accept requests for field trips, and if so, what types of expenses are eligible (student ticket cost, transportation, chaperone tickets, guide fees, etc.). This type of grant was formerly known as a "PASS grant."

Program eligibility. Applicants may apply for grants for programs that take place during an 18 month window of eligibility between July 1, preceding the application deadline in October, and December 31 of the following year.

This means that applicants may apply for projects that have already happened or which happen prior to LCCs' grant announcements, with the knowledge that funding is not guaranteed. Local councils are authorized to establish a smaller window of eligibility; if they do so, they must publish the eligible dates in their local guidelines.

Applicant eligibility. Applicants must reside in Massachusetts and should have been engaged in the kind of activity for which funds are requested for at least one year. Local councils may accept applications from anyone included in the list below.

- **Individuals.** Individual applicants must show that a public benefit results from the project for which they are applying. A public presentation of an individual's work may provide the needed public benefit.

Individual members of local councils may apply for funding from a local council, but must observe all conflict of interest laws and regulations in the granting process. Local councils may also establish their own guidelines regarding applications from council members as long as these are consistent with the state's conflict of interest laws (see Appendix B).

- **Incorporated private nonprofit organizations.** Nonprofit preschools, elementary schools, middle schools and high schools are subject to the same criteria and restrictions as public schools.
- **Unincorporated associations that can establish a nonprofit objective.** A group of individuals coming together with a common purpose (e.g., local community band, theater group) that do not have nonprofit status.
- **Public schools, libraries, other municipal agencies and the local cultural council itself.** Municipal agencies are eligible to apply for funding, but are subject to the No Substitution criteria. Capital expenditure requests for public agencies are not eligible.
- **Religious organizations.** Religious organizations or groups with a religious affiliation are eligible to apply for funding of cultural programming that is available to the general public. Religious schools are also eligible for LCC funding and are subject to the same criteria and restrictions as public schools. LCCs can only approve applications that are primarily cultural in their intent and do not have the effect of advancing religion. Capital expenditure requests for religious organizations are not eligible.

Criteria

The first four rules listed below must be followed in the review of all funding decisions by local councils. All four rules are equally important. Additionally, councils have the option of developing local review criteria and may decide how to weigh their importance:

1. Arts, Humanities, and Interpretive Sciences
2. Public Benefit
3. No Substitution
4. Non-Discrimination
5. Local Criteria

Arts, Humanities, and Interpretive Sciences. Local council funds may only be used to support programs in the arts, humanities, and interpretive sciences in Massachusetts. This definition includes the study, pursuit, performance, exhibition, and appreciation of cultural activities in the broadest sense.

How does MCC define the arts, humanities, and/or interpretive sciences?

- **Arts** refer to the creation of work in the crafts and performing, visual, media, folk, design, literary, and inter-disciplinary arts. In addition, they also include the presentation and preservation of, and education about works in these disciplines.
- **Humanities** are types of learning that deal with human values and aspirations, human thought and culture, language, and creativity. Examples include, but are not limited to, history, social studies, philosophy, criticism, and literature.
- **Interpretive sciences** are types of learning that deal with nature, science, and technology in ways that explain how they relate to people's lives. Some organizations that conduct this type of activity include aquariums, botanical gardens, nature centers, natural history museums, planetariums, and science centers.

Public Benefit. Local council funds must be used to support activities that contribute to the cultural vitality of the community as a whole, rather than benefiting any private individual or group. However, this does not mean that a large crowd of people needs to participate in order to satisfy the public benefit requirement. For example, an artist working with a small group of teens is a valid public benefit. Whenever possible, activities funded by local councils should be available to the general public by exhibit, performance, demonstration, reading, or other means.

No Substitution. To prevent LCC funds from substituting for or replacing other public funding that the city or town should be responsible for, LCCs may not fund:

- Salaries or stipends for employees of the school system, library, parks department or municipality.
- Capital expenditures for schools, libraries, LCCs or other municipal agencies. A capital expenditure is defined as an item, or group of items, with a life expectancy of more than three years and a total cost of more than \$500. Examples may include books, audio visual materials, equipment, uniforms, musical instruments, etc.

LCCs can fund salaries or stipends for outside artists, humanists, or interpretive scientists to lead cultural activities at schools, libraries and other municipal agencies (field trips, artist-in-residency programs, lectures, performances, etc.).

Non-Discrimination. In accordance with state law, local councils may not discriminate against applicants on the basis of race, gender, religious creed, color, national origin, ancestry, disability, sexual orientation or age, nor may they fund projects that discriminate on the basis of these attributes.

The Americans with Disabilities Act (ADA) requires that persons with disabilities have access to public programs or services on an equal basis with the rest of the general public. Furthermore, federal law mandates that any programs or service that receives federal or state funding must be accessible to persons with disabilities. Therefore, all events and programs funded by the LCCs must be accessible to persons with disabilities, including the facility or event location as well as the content of the program.

Local Criteria. Local councils are authorized to develop additional criteria and may give different weight to their criteria in order to reflect local concerns and community cultural needs. Because local council funding is not intended to be used as the sole source of funding for projects of a continuing nature, local councils are encouraged to formulate local policies regarding matching funding or funding limits over time in order to ensure that funding remains broadly available to the widest range of community cultural needs. Local guidelines and priorities must be posted on an LCC's public webpage (www.mass-culture.org/lcc_public.asp) by September 1 each year.

Grant Restrictions

Refreshments. Grant funds received from a local council may not be used to purchase food or beverages.

Scholarships. Although individual students are not eligible to apply for scholarships, an organization may apply to an LCC to sponsor a scholarship provided it shows evidence of an open and fair review and award process. The applicant organization must also ensure a public benefit component in which the award recipient "gives back" to the community in the form of a lecture, master class, exhibit, performance, etc. Requests for scholarships must be accompanied by responses to a list of supplemental questions.

Capital Expenditures. LCCs can grant funds for capital expenses but the requests for capital expenditures must meet a number of additional requirements. A capital expense is defined as an item, or group of items, with a life expectancy of more than three years and a total cost of more than \$500. Examples include equipment, such as lighting or sound equipment, new construction or the renovation of a cultural facility. LCCs may accept and review capital expenditure requests under the following circumstances:

1. Grants should be for a one-time or special need and should be clearly justified by some longer-term public benefit.
2. Applicants must demonstrate a 2:1 match (the LCC can only fund one-third of the total cost). The match may be comprised of any combination of cash and/or donated goods or services. The match must be documented on the application budget.
3. Requests for capital expenditures must be accompanied by responses to a list of supplemental questions.
4. Capital expenditures for schools, libraries, local cultural councils, municipal agencies and religious organizations are ineligible.

Additional Requirements for Local Council Originated (LCO) Applications

A local council may submit an application to the MCC for funds to support programs initiated by the local council itself. Applications of this kind are known as Local Council Originated (LCO) applications. The dollars approved for local council originated grants come directly from that local council's annual allocation. LCO grants are reimbursement based. Councils can obtain the LCO application at www.mass-culture.org.

LCO applications have the following additional requirements and restrictions:

- LCO applications must demonstrate that they respond to a specific unmet public cultural need in the community. Councils are strongly encouraged to use their community input process to ask for specific suggestions for projects or to elicit feedback on a proposed LCO project.
- LCO applications must demonstrate significant planning and community support.
- Capital expenditure requests are not eligible.
- LCO funds cannot be spent on projects that are primarily typical council administrative expenses, such as paid administrative staff or standard council publicity efforts. Councils may use up to five percent of their allocation annually for such purposes.

Additional LCO Application Instructions

1. LCCs are required to submit a draft of their application to the MCC by October 1 each year. MCC staff will provide feedback and offer the LCC an opportunity to improve their proposal before the final deadline.
2. LCCs must mail final LCO applications to the MCC by the statewide postmark deadline (generally October 15). LCO projects will be evaluated at the state level by a panel of MCC staff who are familiar with the activities of local cultural councils.
3. While formal review of these applications takes place at the state level due to conflict of interest laws, if approved, the LCC must decide how much of its allocation it wishes to set aside for its own project. An LCC must weigh the merits of its own proposal, and how well it meets program guidelines, against all other locally submitted proposals.
4. LCCs will be notified if their applications were approved or disapproved in mid-November and should schedule their voting meeting accordingly.
5. Councils that submit grants for LCO projects will be asked to complete a progress report by June 30 and a final report two weeks after the project has come to an end. Specific information about how to complete the progress and final reports can be found on www.mass-culture.org.

Reconsideration

An applicant may request reconsideration of an LCC decision on his or her application if the applicant can demonstrate that the LCC failed to follow published state and local guidelines and regulations. Dissatisfaction with the denial of an application or with the amount of an award does not constitute grounds for reconsideration.

Disapproval letters must provide applicants with clear reasons for denial based on published state or local guidelines, and information on the reconsideration process. “Insufficient funds” does not provide applicants with adequate rationale for disapproval.

Streamlined Councils. Reconsideration requests must be made in writing and must be sent to the LCC within 15 days of the postmarked date on the disapproval letter. The applicant should also send a copy of the request to the MCC.

Within 15 days of receiving a reconsideration request, the MCC will review the following documents to determine if the applicant has grounds for reconsideration:

- The application in question

- The council's disapproval letter to the applicant
- The applicant's request for reconsideration

If the MCC determines that the applicant has grounds for reconsideration, the local council must convene a quorum of members and review the application, as if for the first time. Following all published state and local guidelines and regulations, the local council must decide whether to approve or deny the grant request and must notify the applicant of the final determination in writing.

A decision on any requests for reconsideration should be made before LCCs finalize funding decisions and complete the annual report to the MCC. Only after the annual report to the MCC has been completed, can approval letters be sent to successful applicants.

Non-Streamlined Councils. An applicant whose grant is denied by the local council should follow the above reconsideration process. An applicant whose grant is recommended for approval by a non-streamlined council and disapproved by the MCC may request reconsideration of the MCC decision if he/she can demonstrate that the MCC failed to follow published state guidelines and regulations. Reconsideration requests must be made in writing and must be sent directly to the MCC within 15 days of the postmarked date on the disapproval letter. The MCC board will vote on reconsideration requests at its next meeting, generally in late May.

If the disapproved applicant elects not to request reconsideration, or in the event that a request for reconsideration is denied, LCCs must reallocate the funds originally awarded to that applicant to other grants approved that grant cycle and inform MCC of their plans within 30 days of notification.

Grant Provisions

Credit and Publicity Requirements. All grant recipients are required to acknowledge the financial support of the LCC that approved their grant and the MCC in published materials and announcements about their project. More information about the MCC credit policy for LCC grant recipients can be found on the MCC website (www.massculturalcouncil.org).

Conditional Approvals. LCCs may place conditions on approved applications (i.e., the applicant must hold the proposed program during the town festival, or the performing group must provide free tickets to senior citizens). LCCs must communicate any conditions to the applicant in writing and note them on the application and in the minutes for that meeting. If the applicant does not agree to the condition they can choose not to accept the grant.

Grant Extensions and Modifications. Grant recipients have one year from the date of their approval letter to request reimbursement. LCCs can, at their discretion, approve reasonable extensions for projects. Project extensions should be requested in writing.

Grant recipients need the LCC's written permission to make changes to their projects. Project modifications should be requested in writing, and the modification should not significantly alter the original purpose of the approved application.

In order to review an extension or other modification to an approved grant the LCC must convene a quorum of LCC members and vote. The LCC must inform the applicant of their decision in writing and ensure that the vote is reflected in the meeting minutes.

Reimbursement

Grant recipients have one year from the date of their final approval letter to request reimbursement. In order to request reimbursement the recipient must complete a reimbursement form, which is provided by the council. Reimbursements may be made either directly to the applicant or to third party vendors who have provided goods, materials or services to the applicant. In either case, the LCC must retain a copy of the documentation provided by the applicant with the application as part of the council's records.

If the local council is satisfied that the project has been completed as promised, a minimum of two council members sign the form and forward it to the municipal treasurer, who will authorize the release of funds to the grantee. Progress payments may be made at the discretion of the LCC, but should be proportionate to the percentage of the project that has been completed.

If the council is not satisfied that the project was completed as promised, the council must contact the grantee with their concerns and allow the grantee the opportunity to respond. Two council members and the grantee may work out a compromise solution, which should be finalized in writing. If a compromise cannot be agreed upon, the council must convene a quorum of LCC members to vote on the request and/or any compromise solution put forward by the grantee or council. The results should be reflected in the meeting minutes, and the grantee should be given final notification in writing as to the outcome of the vote.

LCCs should process reimbursements as they arrive to ensure timely payment of grantees. Councils should take no longer than four weeks to forward approved reimbursement requests to the municipal treasurer.

Grant Cycle Timeline

The following page shows the grant cycle timeline. The major difference between streamlined councils and non-streamlined councils are:

- Streamlined LCCs receive their funds as early as November (versus April for non-streamlined LCCs);
- Streamlined LCCs only need to send one, not two, notifications to their approved applicants.

Non-streamlined councils' locally-approved applications, as well as local procedures, are reviewed for compliance with LCC Regulations and Guidelines by the staff and Board of the MCC. In March, the MCC board approves or denies the applications approved by non-streamlined LCCs. Applications that meet the regulations and guidelines of the MCC will be approved and certified for payment. Those that do not comply will be disapproved.

Grant Cycle Timeline

All LCCs

August

- LCCs publicize the grant program locally.

September

- LCCs post guidelines and funding priorities by September 1.
- MCC notifies LCC of their allocation amounts.

October

- LCO drafts due to MCC by October 1.
- Grant applications due to LCCs by October 15.
- LCC Account Form due to MCC by October 15.
- LCO applications due to MCC by October 15.

November - December

- LCCs determine the total amount available for granting.
- LCCs conduct their grant cycle voting meetings.
- LCCs mail out disapproval letters.
- LCCs handle any reconsideration requests.
- LCCs enter grant decisions and grant cycle voting meetings into the online office.

Streamlined

January

- LCCs submit annual report to MCC by January 15.
- MCC transfers funds to LCCs.
- LCCs send approval letters and publicize grant awards.
- LCCs can begin reimbursements.

Non-streamlined

January - March

- LCCs submit annual report and copies of approved applications to MCC by January 15.
- LCCs mail out preliminary approval letters.
- MCC Board reviews submitted applications.
- MCC notifies LCCs of final approval/disapproval of applications.

April - May

- MCC transfers funds to LCCs.
- LCCs send final approval letters.
- LCCs can begin reimbursements.

All LCCs

Spring

- LCCs process reimbursements.
- LCCs ensure grant recipients acknowledge MCC and LCC funding.
- LCCs attend funded projects and invite elected officials.
- LCCs conduct their community input process.

Grant Cycle Instructions

Community Input. LCCs receiving \$20,000 or more from MCC must gather community input each year; all other LCCs must do so once every three years.

Local Guidelines and Priorities. By September 1, LCCs must update their public webpage with their local guidelines, funding priorities and the council's contact information for prospective applicants. Councils can update their public webpage by logging into www.mass-culture.org.

Grant Review:

- **Technical Disapprovals.** LCCs should not use “technical disapprovals” (not enough copies, unsigned applications, etc.) as the sole basis for disapproving applications. Meeting the statewide application eligibility is a requirement, not a “technicality,” and LCCs cannot accept late applications.
- **Applicant Interviews.** Some councils find it useful to conduct applicant interviews as part of the grant review process. This can be an effective way to learn more about grant applicants, but councils must take extra precautions to ensure that the interview process is consistent and fair. Councils should not disapprove an application for the sole reason that the applicant was unable to attend an applicant interview.
- **Open Meeting Law.** Massachusetts law states that all meetings of local government bodies, including those held by LCCs, must be open to the public. A quorum of LCC members, or half the appointed members plus one, is required to vote at the grant cycle voting meeting. Telephone voting or proxy voting is not allowed. For additional requirements and guidelines on open meeting law, see Appendix A.
- **Conflict of Interest Laws.** In cases where there is a conflict of interest the member should abstain from both the discussion and vote. For additional requirements and guidelines on conflict of interest law, see Appendix B.

Council Administrative Funds. LCCs may spend up to five percent of their state allocation each funding cycle for administrative expenses. Any locally raised money or interest earned from state funds may be used for administrative expenses without being subject to a percentage limit.

Local council members cannot receive compensation, but can receive reimbursement for expenses. Together the LCC and the local municipality should determine specific policies and procedures for reimbursing members for expenses.

While LCCs may use administrative funds to purchase refreshments for public events, such as grantee receptions, LCCs cannot use administrative funds to purchase food for standard LCC meetings, such as grant cycle voting meetings.

LCC Reporting Requirements:

- **Financial Reporting.** LCCs must meet with their municipal fiscal officer (usually the municipal treasurer, auditor or accountant) between September 1 and September 30. The municipal fiscal officer must provide the LCC with a completed LCC Account Form, which the municipality receives directly from the

MCC. Any differences in the LCC's accounting and the municipality's accounting should be worked out at this time. Both parties sign the document and the LCC retains the signed original for their use.

The deadline for LCCs to submit the information from their LCC Account Form to the MCC through the Online Office is October 15.

- **Annual Report to MCC.** Once the reconsideration period is up, but no later than the statewide reporting deadline - generally January 15 - all LCCs complete and submit their annual report to MCC online at www.mass-culture.org. Failure to meet this deadline may result in the loss of that cycle's funds and jeopardize streamlined status.

In addition to submitting the annual report through the Online Office on time, non-streamlined LCCs must also mail one copy of each application recommended for approval, and conflict of interest information to the MCC, postmarked by the deadline, generally January 15.

Communicating With the Public. Each local council is responsible for announcing the availability of funding, the application deadline, funding priorities, local guidelines, grant recipients and other important information through public notices, press releases, public service announcements, mailings and so on.

Record Keeping. All applications (both approved and disapproved), minutes of all meetings, disclosure forms, and any other records of LCCs must be maintained in a public place. At least five years' worth of records must be kept in a secure space identified by the city or town clerk. Records more than five years old should be archived using the same procedures employed by the local government.

To facilitate access to the current year's records, the chair may keep those records in his or her home; however, the city or town clerk should be apprised of their location. Information on members should be entered directly into the LCC Online Office at www.mass-culture.org. The town clerk's office should also be provided with up-to-date council contact information so potential applicants can find LCC contacts and get assistance when needed.

All records of the actions of local councils are considered public information and are subject to the state's public records law. LCCs must be available to respond to requests to view these materials "without unreasonable delay." The public records law establishes a maximum delay of 10 days from the day of the request.

State Audits. Especially with streamlined councils, it will be important for the MCC to conduct periodic performance reviews of LCCs. In particular MCC may review the applications received, approved or denied, and their supporting documentation. The MCC may also occasionally review the payment requests submitted by grantees.

Streamlining

How to Qualify for Streamlining

Streamlining allows qualified LCCs to get their state allocation faster which allows reimbursement to applicants to begin sooner. Streamlining focuses more on the big picture of how LCCs operate than on the specific details of each individual application that an LCC chooses to fund.

In order to participate in streamlining, LCCs need to demonstrate their readiness in three broad areas. The criteria include the following:

1. Sound local administration of the grant making process. This is based on an assessment of the LCC's practices conducted by an MCC staff person during a site visit or phone interview. The assessment includes:

- A review of systems that are required by the guidelines and regulations (i.e., an interest-bearing account, not having a large balance of MCC funds at the local level, appropriate communications with applicants);
- A determination that good practices are in place (i.e., orientation process for new members, shared work load among members, grant workshops for applicants).

2. Demonstrated knowledge of LCC program requirements. An LCC satisfies this criterion by submitting a complete annual report to MCC through the LCC Online Office two years in a row which:

- Meets the state reporting deadline;
- Recommends grant applications that satisfy all the guidelines;
- Follows regulations and procedures governing LCCs (i.e., number of members, a quorum for voting, conflict of interest procedures).

3. LCC Training. All members of the council must take the online LCC Basics Training, available via the LCC Online Office at www.mass-culture.org, within three months of their appointment date. LCC staff or administrators must also complete the training within three months of joining the council.

How to Remain Streamlined

In order to remain streamlined, an LCC will need to continue to satisfy the above criteria over time. MCC's goal will be to keep LCCs in the streamlined group once they have qualified. Unless an LCC awards grants that do not comply with program guidelines, is found to have procedural flaws two years in a row, or does not ensure new members complete their training requirements, it will remain streamlined. If an LCC has been removed from the streamlined group, it will need to meet the above stated criteria for two consecutive years in order to regain its streamlined status.

The fundamental operations of streamlined LCCs are still reviewed and approved by the MCC on an annual basis before funds are released. For streamlined LCCs, MCC staff will check the following before releasing funds:

1. That the annual report to the MCC was submitted by the reporting deadline, generally January 15;
2. That a legal council is in place (at least five members) with an acting chair, treasurer and secretary;
3. That a quorum of the members voted at the council's grant cycle voting meeting;
4. That conflict of interest procedures were observed;
5. That all new funds from the current year were granted.

Appendices

Appendix A - Open Meeting Requirements

Under Massachusetts law, meetings of a local “government body,” including an LCC, must be open to the public (M.G.L.c.30A, 18-25). The Massachusetts Attorney General has all interpretation and enforcement authority over open meeting law. More information about open meeting law can be found at www.mass.gov.

The open meeting law applies to every meeting of a quorum of a government body if any public business over which the government body has jurisdiction is discussed or considered. Because violation of the open meeting law can result in the invalidation of the action taken, the following summary is designed to help a local cultural council comply with the open meeting law:

A notice of any meeting of a local cultural council must be filed with the city or town clerk at least 48 hours prior to the meeting, not counting Saturdays, Sundays and legal holidays. Example: a Monday night meeting must be posted before Thursday night. Notices must (1) include list of topics the chair reasonably anticipates will be discussed, i.e., agenda, and (2) be posted in or on municipal building to be visible to public at all hours.

Minutes must contain the date, place, time and matters discussed and shall include summaries of matters discussed, list of documents used, all decisions made/votes taken.

Emails are expressly included in definition of “deliberation,” which is prohibited outside of meetings; but distribution of agendas, scheduling information or reports to be discussed at next meeting is permitted. While the law specifically refers to “email” as constituting deliberation, similar types of electronic communication, such as blogging, electronic chatrooms, and social networking sites also fall within the scope of the definition of “deliberation” if a quorum of the public body is involved.

Meetings may be recorded on audio or video tape. The person desiring to record a meeting must notify the chair, however, and the chair must inform everyone in the room of the recording

No person may address a public meeting of an LCC without permission of the presiding council member, and all persons shall, at the request of the presiding officer, be silent.

Appendix B - Conflict of Interest Requirements

The purpose of the conflict of interest law, Massachusetts General Laws Chapter 268A, is to ensure that public employees’ private financial interests and personal relationships do not conflict with their public obligations. Local cultural council members are considered special municipal employees for purposes of the conflict of interest law. All public employees, including local cultural council members must also avoid conduct which creates an appearance of conflict of interest, or conduct which creates a reasonable impression that they will act with bias.

This information is not intended as legal advice, and only serves as general guidance on how to comply with the conflict of interest law. If a conflict of interest situation arises for any local cultural council member, she should obtain legal advice prior to engaging in any conduct which might violate the conflict of interest law. The Commission's Legal Division is available to provide free, confidential legal advice to any LCC member during business hours every weekday at (617) 371-9500.

The conflict of interest law regulates the following situations that may arise:

- An LCC member applying for a grant.
- An LCC member applying for a grant on behalf of someone else.
- An LCC member, her immediate family or organization she is affiliated with has a financial interest in a grant.
- An affiliate of an LCC member or non-immediate family member has a financial interest in a grant.
- Restrictions for former members.
- An LCC is faced with an application from a former member.
- Using one's LCC position to obtain benefits for oneself or others.
- Holding another municipal position in addition to the LCC position, including second positions that are part-time and unpaid.
- Giving, requesting or receiving "gifts" related to LCC work.
- Acting in a manner that suggests one can be improperly influenced.
- Abstentions affecting the quorum

Possible Conflict of Interest Scenarios:

An LCC member applying for a grant. When an LCC member applies for a grant from the cultural council on which she serves, there are three important steps to avoid a conflict of interest:

1. The LCC member cannot participate in the council's consideration of her own application for a grant. The member should make a verbal disclosure at the voting meeting which will be recorded in the minutes, and then leave the room during the discussion and voting of her grant application. In order to protect the LCC from accusations of biased decision-making it is important to record who abstained from which grant decisions in the meeting minutes.
2. It is possible that her financial interest could be affected by participating in discussion and awarding other grants that are in competition with her grant for a limited pool of funds. To avoid this possibility, the LCC member should abstain from those applications unless, prior to participating in the matter, the LCC member makes a written disclosure to her appointing authority and receives an exemption allowing her to participate in the review of the other grants. Exemption form: http://www.mass.gov/leth/docs/legal/disc_spec_mun_ee_20c_d.pdf
3. When LCC members are faced with an application from a fellow LCC member, all members who are voting on the grant from the current LCC member should file written disclosures with their appointing authority prior to taking action on the grant request. This will dispel any appearance of a conflict of interest.
Disclosure form: http://www.mass.gov/leth/docs/legal/disc_appearance_23.pdf

An LCC member applying for a grant on behalf of someone else. An LCC member **may not** apply for a grant on someone else's behalf from the cultural council on which she serves – regardless of whether or not she is paid to do so. This prohibition includes signing a grant application, representing or advocating for the application before the LCC.

LCC members may offer standard guidance to applicants (i.e. can answer questions about the guidelines, help with filling out the budget, etc.) but they may not complete or present an application for funding in the capacity of an advocate or agent for that application.

An LCC member, her immediate family or organization she is affiliated with has a financial interest in a grant. If an LCC member, her immediate family (immediate family includes the member's spouse and both sets of parents, children, brothers and sisters) or an organization she is affiliated with has a financial interest in a grant, the LCC member must **either**:

- Abstain from participating in the review of the grant application. The member should leave the room during the discussion and voting. In order to protect the LCC from accusations of biased decision-making, it is important to record who abstained from which grant decisions in the meeting minutes. The MCC recommends this course of action.
- **Or**, prior to participating in the matter, the LCC member can make a written disclosure to the appointing authority and request an exemption allowing her to participate. She can participate only if the exemption is approved. A verbal disclosure should also be made at the voting meeting and recorded in the minutes.

Exemption form: http://www.mass.gov/leth/docs/legal/disc_spec_mun_ee_20c_d.pdf

Examples include:

- A member of an LCC's immediate family applies to the LCC she serves on or will accept compensation to perform in a program funded by the LCC.
- An organization submits a grant for an event at which an LCC member will be a paid performer.
- An LCC member is a teacher at a school and another teacher from the same school is applying to her LCC for a grant. Or an LCC member volunteers at the library and the library applies to her LCC for a grant.
- An LCC member who owns a company patronized by LCC grant applicants, where grant money is likely to be used to make purchases from her company.

An affiliate of an LCC member or non-immediate family member has a financial interest in a grant. If an affiliate of an LCC member or relative beyond a member's immediate family (i.e. cousin, aunt, nephew, etc.) applies for or will benefit financially from a grant, the LCC member must **either**:

- Abstain from participating in the review of the grant application. The member should leave the room during the discussion and voting. In order to protect the LCC from accusations of biased decision making, it is important to record who abstained from which grant decisions in the meeting minutes. The MCC recommends this course of action.
- **Or**, prior to participating in the matter, the LCC member can make a written disclosure to the appointing authority and request an exemption allowing her to participate. She can participate only if the

exemption is approved. A verbal disclosure should also be made at the voting meeting and recorded in the minutes.

Disclosure form: http://www.mass.gov/leth/docs/legal/disc_appearance_23.pdf

Examples include:

- A member of an LCC's non-immediate family applies to the LCC or will accept compensation to perform in a program sponsored by the LCC.
- A close friend or associate of an LCC member applies to the LCC for a grant or will accept compensation to perform in a program sponsored by the LCC.

Restrictions for former members. A former LCC member may never act on another party's behalf on any matter in which she participated while an LCC member. For example, if an LCC member reviewed and approved an application for an arts festival and then after leaving the LCC becomes a volunteer for the festival, that former member cannot submit a request for an extension or project modification to the LCC on behalf of the festival for the grant that he/she reviewed while on the council.

An LCC is faced with an application from a former member. When LCC members are faced with an application from a former LCC member, they can award a grant to the former LCC member providing that they act on the merits of the application and not because of their relationship with their former colleague. All LCC members who worked with the former LCC member should file written disclosures with their appointing authority to dispel any appearance of a conflict of interest prior to taking action on the grant request.

Disclosure form: http://www.mass.gov/leth/docs/legal/disc_appearance_23.pdf

Using one's LCC position to obtain benefits for oneself or others. An LCC member may not award a grant to an applicant if at the same time they are negotiating for employment with the applicant. LCC members also cannot exploit grant applications to create foreseeable future opportunities for compensated work, and then take advantage of those opportunities. Examples include:

- An LCC member who votes to approve a grant that would create a position compensated by the grant money at an organization can't then assume that position once it is created.
- An LCC member who is a musician cannot approve a grant for a group to put on a music festival and then become a paid performer for that festival.

Holding another municipal position in addition to the LCC position, including second positions that are part-time and unpaid. LCC members are considered special municipal employees for purposes of the conflict of interest law. A special municipal employee who is a full-time, part-time or unpaid employee of the municipality in another capacity must at a minimum file a disclosure with the city or town clerk, and may be required to receive an exemption from the board of aldermen, city council, or board of selectmen to serve on the Local Cultural Council.

Exemption form: http://www.mass.gov/leth/docs/legal/disc_spec_mun_ee_20c_d.pdf

Giving, requesting or receiving "gifts" related to LCC work. It is illegal to request or accept anything of "substantial value" (more than \$50) from anyone with whom you have or are likely to have official dealings (absent some family or social relationship which would explain the gift) even if the motivation for the gift is to express gratitude for a job well done or to foster goodwill. Items of "substantial value" range from cash,

additional compensation and tips, to free tickets and passes to entertainment events. In addition, free or discounted services such as construction or accounting work are considered gifts.

Acting in a manner that suggests one can be improperly influenced. The conflict of interest law prohibits all public employees from seeking or receiving bribes, gifts, promises or anything else of value in return for an official favor or a promise of action or inaction. In addition, the law prohibits public employees from accepting anything of value in exchange for committing any fraud on a state, county or municipal agency (or allowing anyone else to commit such a fraud).

A public employee violates this section if the employee acts with “corrupt intent.” As a general rule, whenever there is an agreement that a public official will receive something of value from a private party for certain official action (or inaction), that agreement is sufficient evidence that the public employee is acting with corrupt intent.

Abstentions affecting the quorum. It may occur that an LCC has more than one member who has a conflict and are therefore abstaining on a particular grant application. If such disqualification reduces the number of members who can participate below a quorum (a majority of the local cultural council) please call your staff contact at the MCC to determine how to proceed.

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