

**BEFORE THE BOARD OF ETHICAL CONDUCT
OF THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY TENNESSEE**

Lydia Yousief,
Complainant,

v.

Carol McCoy
Respondent

MOTION TO DISMISS COMPLAINT

The Respondent respectfully moves that the complaint filed against her be dismissed based upon her affidavit rebutting any violation of the Metro Code.

Respectfully submitted,

Carol L. McCoy

June 19, 2024

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AFFIDAVIT OF CAROL L. McCOY

I, Carol L. McCoy, state under oath as follows:

1. I am over the age of eighteen (18) and have personal knowledge of the facts set forth herein.
2. I was appointed by Major John Cooper, my appointment of which was approved by the Metro Council, in March 2023.
3. In July 2023, I abstained from voting on motions regarding funding and conflicts of interests.
4. On August 17, 2023, I voted in the affirmative on several motions to fund arts organizations and Thrive applicants based upon a scenario presented by Dana Parson, a Baltimore, Maryland consultant whose services were secured by the Executive Director.
5. The Metro Code, Chapter 2.112 (H) defines the Metro Arts Commission's authority to award funds to a "nonprofit charitable organization" or a "nonprofit civic organization." The Code did not authorize the Metro Arts Commission to grant funds to individuals nor to entities that are not a nonprofit based upon my understanding of this provision. (Pertinent portion attached hereto.)
6. My vote on August 17, 2023, and all my comments made for funding were solely based upon my understanding of this provision of the Metropolitan Code.
7. According to the Order issued by this Board on May 1, 2024, I am required to respond to an allegation that I violated section 2.222.020(k) of the Metropolitan Code. (Pertinent portion attached hereto.)
8. The precise language of the Metro Code Section 2.222.020(k) states as follows:
Employees "(k) shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person.
9. I was not and have not been influenced by anyone for my vote nor have I unduly enjoyed any person's favor because of my vote or my comments. I have not been unduly affected by the kinship, rank, position or influence of any person in the exercise of my duties, votes or comments as a Commission of the Metro Arts Commission.
10. After voting in August, 2023, I requested that an audit be conducted of the Metro Arts Commission's finances because I was concerned about malfeasance and/or misfeasance.

11. The Metro Arts' audit recently completed reflects that my concerns were warranted. The audit states that the administration of Thrive awards as a procurement violated the Metro Code and the Code and Metro purchasing rules. Audit report, page 21. In addition, the audit states that "Metro Arts does not have a process in place to monitor operating grant and Thrive award recipients to ensure award amounts are utilized as intended." Audit report, p. 15. The audit, and these two findings in specific, demonstrate my concern was warranted. I did not give "undue" preference to any "nonprofit charitable organization" or a "nonprofit civic organization" but I was unable to discern how Thrive awards of \$20,000 each could be audited. The legal issues surrounding Thrive awards and how they developed was addressed in Observation N of the Audit – Thrive Award Classification which states:

"The appropriateness of classifying Thrive awards as a procurement transaction should continue to be reviewed by Metro Arts. The Metropolitan Code and Resolution RS2001-729 explicitly state that grant given by Metro Arts can only be distributed to "nonprofit civic and nonprofit charitable organizations". In 2014, Metro Arts obtained permission from the Metropolitan Procurement Agent to allow individual artists to be treated as a procurement activity for the establishment of the Thrive program. Allowable procurement activity in the expressed context was to apply in limited circumstances. Specifically, allowable activity was to engage artists in a variety of venues on very small engagements. Small engagements were defined as an item not exceeding \$4,000 in cost. The Thrive program has expanded to no longer conform with the Procurement Agent's approval. As award amounts have increased over the years, additional approval from the Procurement Agent was not sought. Additionally, the nature and type of activities conducted by Thrive recipients varies significantly. The nature of some activities is more in line with a procurement while others are more in line with a grant. For example, grants award funding to a recipient for the recipient to achieve its own goals and objectives consistent with Metro Arts. Procurements typically would be used for the direct benefit of Metro Arts and seek best value. Administering Thrive awards as a procurement is in violation of Metropolitan Nashville Procurement Code, the Metropolitan Nashville Code of Laws, and RS2001-749 and increases the risk of the integrity of Thrive awards being scrutinized."

Further saith the Affiant not.

Carol L. McCoy
June 19, 2024

Two attachments

- **Chapter 2.112 - METROPOLITAN NASHVILLE ARTS COMMISSION (Excerpt)**

- **2.112.010 - Established.**

There is created and established a **commission** to be legally known as the "Metropolitan Nashville **Arts Commission**," referred to in this chapter as "**commission**." (Prior code § 2-1-101.61)

- **2.112.040 - Powers and duties.**

In order to carry out and facilitate the **commission**'s general purposes, it shall have authority to:

H. Award funds appropriated to it by the metropolitan council to deserving nonprofit civic and nonprofit charitable organizations. Criteria for the awarding of such funds shall be established by the Metropolitan Nashville **Arts Commission** and approved by resolution of the metropolitan council. Once a determination is made by the Metropolitan Nashville **Arts Commission** that a deserving nonprofit civic or nonprofit charitable organization is to receive funds, a grant contract shall be prepared and signed for each such organization. A notice shall be published in a newspaper of general circulation of the intent to make an appropriation to deserving nonprofit civic and nonprofit charitable organizations; included within that notice shall be the amount of the appropriation and the purpose for which the funds will be spent. The grant contracts shall then be submitted to the metropolitan council for approval by resolution at two consecutive regularly scheduled meetings of the metropolitan council.

1. A "**nonprofit charitable organization**" is defined as one in which no part of the net earnings benefit any private shareholder or individual and which provides year-round services benefiting the general welfare of the residents of the municipality.

2. A "**nonprofit civic organization**" is defined as a civic organization exempt from taxation pursuant to Section 501(c) of the IRS Code. A nonprofit civic organization must operate primarily for the purpose of bringing about civic betterment and social improvements through efforts to maintain and increase employment opportunities in the municipality.

3. For purposes of this code section, both nonprofit charitable organizations and nonprofit civic organizations shall be involved in the study, participation in and appreciation of the visual, performing and literary **arts** for the Metropolitan Nashville and Davidson County area.

(Ord. 94-993 § 1, 1994; prior code § 2-1-101.64 (**Emphasis added**)).

Chapter 2.222 - STANDARDS OF CONDUCT, DISCLOSURE OF INTERESTS, AND ENFORCEMENT

2.222.020 - Standards of conduct.

Employees:

- a. Shall not accept or solicit, for **personal financial gain**, any benefit that might reasonably tend to influence them to act improperly in the discharge of their official duties;
- b. Shall not accept or **solicit bribery**;
- c. Shall promptly report to the district attorney or other investigative authority any attempts made to **bribe** the employee or any other employee;
- d. Shall **not accept or solicit any cash** of any amount, other than in compliance with election campaign laws and fully reported pursuant to same, irrespective of the intent of the payor, if such payment or solicitation is in any way directly or indirectly related to the employee's position in the metropolitan government;
- e. Shall **not accept or solicit anything of value** as herein defined, except for the acceptance of food and/or beverages that would not be prohibited pursuant to subsection s. of this section;
- f. Shall **not accept or solicit any promise of any benefit, direct or indirect**, to himself, family members, or his employer (if the employer is other than the metropolitan government) which the employee believes or should reasonably believe was intended to influence action taken in the employee's official capacity;
- g. Shall **not receive or use for personal purposes** any property, services or funds of metropolitan government unless authorized by law;
- h. Shall **not use for personal gain**, or for the gain of any family member or employer, information pertaining to metropolitan government which is not a matter of common knowledge, or use his or her position to secure information about any person or entity for any purpose other than the performance of official responsibility;
- i. Shall **not use their** metropolitan government positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others, **provided**, however, that this provision does not preclude employees from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;
- j. Shall **not participate in making** or influencing any metropolitan governmental **decision or action in which they know that they have any material financial interest** distinguishable from that of the public generally or from that of other metropolitan officers or employees generally;
- k. Shall **not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person; (emphasis added).**

2023 & 2024 METRO ARTS COMMISSIONER'S CONSULTING/PROFESSIONAL EXPENSES

41106000 - ART Public Art & Artist Devel
 041 - Arts Commission 10101 - GSD General 502220 –

FY 2022 Actual	FY 2023 Budget	FY 2023 Actual	FY Initial Budget	FY 2024 Changes	New Budget
		Other Professional Services			
\$146,281	\$200,000	<u>\$251,750</u>	\$200,000	\$712,500.00	\$912,500.00

41106000 - ART Public Art & Artist Devel
 041 - Arts Commission 10101 - GSD General 502220

		Management Consultant			
\$600	\$0	<u>\$120,332</u>	\$0		

41106100 - ART Cultural Vitality Index
 041 - Arts Commission 10101 - GSD General 502229

		Management Consultant			
\$44,234	\$50,000	<u>\$98,434</u>	\$50,000	-\$50,000.00	\$0.00

41106200 - ART Grants Development
 041 - Arts Commission 10101 - GSD General 502229

		Management Consultant			
\$175	\$18,700	<u>\$24,099</u>	\$18,700	\$18,700.00	\$0.00

	FY 2022 Actual	FY 2023 Budget	FY 2023 Actual	FY Initial Budget	FY 2024 Changes	New Budget
41106250 - ART Organizational Development 041 - Arts Commission 10101 - GSD General 502229						
			Management Consultant			
	(\$14,522)	\$145,000	\$129,653	\$145,000	-\$7,400.00	\$137,600.00
41310270 - ART TAC Major Cultural Inst 041 - Arts Commission 32241 - Arts Commission Grant Fund 502220						
			Other Professional Services			
	\$7,178	\$7,000	\$30,998	\$0	Services?	\$7,000.00
41310270 - ART TAC Major Cultural Inst 041 - Arts Commission 32241 - Arts Commission Grant Fund 502229						
			Management Consultant			
	\$65,000	\$66,300	\$45,573	\$0	?	\$90,300.00
TOTAL CONSULTING EXPENSES 2023						\$449,089
TOTAL CONSULTING EXPENSES 2024						\$1,147,400
			<u>CONSULTING INCREASE FROM 2023 TO 2024</u>			\$698,311



**A Report to the
Audit Committee**

Mayor
Freddie O'Connell

**Arts Commission Interim
Executive Director**
Dr. Paulette Coleman

Audit Committee Members
Burkley Allen
Tom Bates
Kevin Crumbo
Angie Henderson
Courtney Johnston
Matthew Scanlan

Metropolitan
Nashville
Office of
Internal Audit

Audit of the Metro Arts Financial Processes

June 12, 2024

EXECUTIVE SUMMARY

June 12, 2024



Why We Did This Audit

The audit was requested by various parties over concerns related to the fiscal operations of the Metropolitan Arts Commission.

What We Recommend

- Establish written policies and procedures, adequate training programs, and succession plans to ensure institutional knowledge is retained for staff and commission members.
- Ensure policies related to Civil Service Rules, procurement standards, and payroll policies are followed.
- Ensure supporting documentation is retained, accessible, and conforms to retention policies.
- Establish a monitoring program for operating grants and Thrive awards.
- Explore procuring a more advanced application management system that enhances monitoring and analysis.

AUDIT OF THE METRO ARTS FINANCIAL PROCESSES

BACKGROUND

The Metropolitan Nashville Arts Commission is a 15-member commission charged with governing the mission of the related Metropolitan Nashville Government department, Metro Arts. Metro Arts is the office of arts & culture for Metropolitan Nashville and Davidson County. The department operates under the belief that arts drive a more vibrant and equitable community. The department provides Nashvillians access to a creative life through community investments, artist and organizational training, public art, and direct programs.

OBJECTIVES AND SCOPE

The objectives of this audit are to determine if:

- Metro Arts had processes and internal controls in place to ensure operating grants and Thrive award applications and applicable payments were properly recorded, processed, reviewed, scored, approved, and paid in a timely manner.
- Metro Arts had internal controls in place to ensure significant financial transactions were made in accordance with applicable financial policies and procedures.

The audit scope included Metro Arts financial activity from July 1, 2022, to February 29, 2024.

WHAT WE FOUND

Training of staff and succession planning need improvement. The Metropolitan Arts Commission lacked clarity in their roles and responsibilities. Metro Arts intentionally circumvented Civil Service Rules, procurement standards, and payroll policies. Critical documentation was not retained consistently. Monitoring of awards to ensure funds were being utilized by organizations and artists was not sufficient. Scope of work for consultants and temporary employees were vague or could not be provided. Leveraging of technology opportunities exist.

Metro Arts had a well-developed website to communicate meaningful information on applying for funding, scoring rubrics, and award recipients. Metro Arts spent a great deal of effort generating a thoughtful scoring matrix and communicating the matrix to the public. Former and current staff noted Metro Arts had generated a comprehensive process for evaluating applications. However, documentation to verify the processes actually occurred could not be provided.

GOVERNANCE

The Metropolitan Nashville Arts Commission is governed by the *Metropolitan Nashville Code of Laws § 2.112 – Metropolitan Nashville Arts Commission*, which also defines the commission’s purpose, structure, and powers and duties. Additionally, *Metropolitan Nashville Code of Laws § 5.10 – Public Art Financing* governs the one percent Public Art fund which requires setting aside for Public Art one percent of the net proceeds of all general obligation bonds issued to fund construction projects.

A 15-member Commission is appointed by the mayor and confirmed by the Metropolitan Nashville Council. The Commission is charged with creating and maintaining its own rules and regulations and establishing guidelines for all programs administered by the Metropolitan Arts Commission.

The Metropolitan Arts Commission is responsible for appointing, employing, and discharging the Executive Director of Metro Arts. The Executive Director is delegated the responsibility of hiring, supervising, and discharging clerical staff. During the audit period, Metro Arts had 15 budgeted staff being led by the Executive Director.

BACKGROUND

Metro Arts is the office of Arts & Culture for Metropolitan Nashville and Davidson County. The department operates under the belief that arts drive a more vibrant and equitable community. The department provides Nashvillians access to a creative life through community investments, artist and organizational training, public art, and direct programs. The General Fund budgets to provide these services for fiscal years 2023 and 2024 and actual incurred expenses through February 29, 2024, are shown in Exhibit A and Exhibit B.

Exhibit A: Metro Arts General Fund Budget to Actuals Fiscal Year 2023

Account	Budget	Actual	Variance
Salaries and Benefits	\$ 1,026,100	\$ 545,362	\$ 480,738
Operating Grants	3,063,200	3,144,774	(81,574)
Thrive Awards	200,000	251,750	(51,750)
Temporary Service	51,400	345,161	(293,761)
Management Consultant	213,700	321,074	(107,374)
Project Administration	138,100	95,047	43,053
Other	133,000	114,332	18,668
Grand Total	\$ 4,825,500	\$ 4,817,500	\$ 8,000

Source: Oracle R-12

Exhibit B: Metro Arts General Fund Budget to Actuals July 1, 2023, to February 29, 2024

Account	Budget	Actual	Variance
Salaries and Benefits	\$ 1,808,700	\$ 911,854	\$ 896,846
Operating Grants	2,350,700	1,902,280	448,420
Thrive Awards	912,500	908,000	4,500
Temporary Services	56,400	275,429	(219,029)
Management Consultant	137,600	298,011	(160,411)
Project Administration	88,100	55,802	32,298
Other	107,700	127,695	(19,995)
Grand Total	\$ 5,461,700	\$ 4,479,071	\$ 982,629

Source: Oracle R-12

Metro Arts’ financial processes encompass four significant process areas reviewed during the audit – operating grants, Thrive awards, staffing, and other operating expenses.

Operating Grants and Thrive Awards

Operating support is provided to nonprofit arts organizations through grant contracts. Organizations are divided into five size categories – large, midsize, medium, small, and micro. Each organization applies for support related to various defined community outcomes that promote the mission of Metro Arts.

Metro Arts established the Thrive awards in 2014 as a micro-funding program. The program was designed to create, support, and promote communities in the Metropolitan Nashville area by providing resources for artist led projects that encourage artistic and cultural experiences, community investment, and neighborhood transformation.

Both operating grant and Thrive applications are externally input and internally tracked through the Submittable system. Applications are internally reviewed to ensure they include essential documentation and meet eligibility requirements. Once internally approved, applications are reviewed by a scoring panel comprised of community volunteers. Using a Metro Arts established rubric, panelists individually score applications within Submittable. Panelist scores are accumulated, and panelists later meet to publicly discuss the overall score for the applicant and any feedback on the application.

Metro Arts staff create multiple funding methodologies for the Metropolitan Arts Commission to review. Funding scenarios model the expected outcomes of funding for individual applicants based on the overall panelist scores. The Metropolitan Arts Commission approves the annual methodology, and Metro Arts staff notify applicants of the resulting funding amount based on the methodology.

For operating grants, a grant contract is established, and grantees request payments and report results through the Submittable system. At the end of the grant period, a close out report is submitted by grant recipients. For Thrive awards, applicants request funding by submitting invoices to Metro Arts.

Exhibit C below shows the budgeted amounts for operating grants in fiscal years 2023 and 2024. The chart also shows the Metropolitan Arts Commission approved funding per provided meeting workbooks.

Exhibit C: Budgeted Funding vs Awarded Funding

	FY2023	FY2024
Budgeted Funding	\$ 3,263,200	\$ 3,263,200
Awarded Funding		
<i>Operating Grants</i>	3,063,139	3,805,600
<i>Thrive</i>	178,600	908,000
Total Awarded	3,241,739	4,713,600
Difference	21,461	(1,450,400)
Surplus Budget Funding*	-	2,000,000
Overall Difference	\$ 21,461	\$ 549,600

Sources: Oracle R-12, Metro Arts Website, Metropolitan Nashville Arts Commission Workbook Materials

**In the fiscal year 2024 budget ordinance, the Metropolitan Nashville Council allocated an additional \$2M in funding to Metro Arts in the event of a budget surplus following the financial statement audit. The funding was not guaranteed and would not be available until at earliest January 2024.*

Salaries and Benefits

Metro Arts has 15 budgeted staff positions to support the department’s mission. Allocated position classifications and the status of each is shown below in Exhibit D.

Exhibit D: Metro Arts Budgeted Positions and Status

Position Name	Quantity	Position Status As of 2/29/24
Administrative Services Manager	5	Filled
Administrative Services Officer 2	2	Filled
Administrative Services Officer 3	2	1 Vacant/2 Filled
Administrative Services Officer 4	3	Filled
Arts Commission Executive Director	1	Filled
Finance Manager	1	Filled
Office Support Specialist 1	1	Filled

Source: Metro Budget Book, Oracle R-12

Leave time for staff is recorded in the HoneybeeBase online timekeeping application. All Metro Arts budgeted staff are Civil Service employees, except for the Executive Director.

Other Operating Expenses

Included in the Metro Arts annual budget is funding to cover non-salary expenses to support operations. Procurement of external goods and services throughout the audit period were the responsibility of the department through delegated purchasing authority. All purchases by the department are expected to be in accordance with the Metropolitan Nashville Government’s Regulations to the Procurement Code. Contracts, purchase orders, invoices, and payments are all processed through the Oracle R-12 system.

Other operating expenses reviewed during the audit scope are shown in Exhibit E and Exhibit F.

Exhibit E: Fiscal Year 2023 Budget to Actual Other Operating Expenses

Category	Budget	Actual	Difference
Temporary Service	\$ 51,400	\$ 345,161	\$ (293,761)
Management Consultant	213,700	321,074	(107,374)
Project Administration	138,100	95,047	43,053
Other	133,000	114,332	18,668
Total	\$ 536,200	\$ 875,614	\$ (339,414)

Source: Oracle R-12

Exhibit F: Fiscal Year 2024 Budget to Actual Other Operating Expenses as of February 29, 2024

Category	Budget	Actual	Difference
Temporary Services	\$ 56,400	\$ 275,429	\$ (219,029)
Management Consultant	137,600	298,011	(160,411)
Project Administration	88,100	55,802	32,298
Other	107,700	127,695	(19,995)
Total	\$ 389,800	\$ 756,937	\$ (367,137)

Source: Oracle R-12

Audit Limitations

The Office of Internal Audit utilized numerous methods to obtain information for the audit. Attempts were made to learn processes and obtain documentation through, but not limited to:

- Inquiry of current and former staff,
- Reviews of documents on the department's SharePoint site,
- Reviews of emails of former staff,
- Inquiry of former consultants,
- Requests of information from other Metropolitan Nashville Government departments,
- Surveys of operating grant and Thrive program applicants,
- Reviews of information in the Submittable software application,
- Reviews of documentation within the Oracle R-12 system,
- Reviews of current and previous versions of the Metro Arts website,
- Reviews of Metropolitan Arts Commission meetings and minutes,
- Reviews of reports produced by other Metropolitan Nashville Government departments,

However, due to significant turnover in key roles at Metro Arts, validation of communicated process steps could not be completed. Multiple instances occurred where documentation discussed in interviews with former staff could not be provided. Additionally, due to the timing of the audit, the Office of Internal Audit was not able to interview or request information from the Executive Director.

OBJECTIVES AND CONCLUSIONS

1. *Does Metro Arts have processes and internal controls in place to ensure operating grant and Thrive award applications and applicable payments are properly recorded, processed, reviewed, scored, approved, and paid in a timely manner?*

Unable to Determine/Scope Limitation. Metro Arts developed a website containing meaningful information such as how to apply for funding, scoring rubrics, award recipients, and major programs. Metro Arts also generated a thoughtful scoring matrix and communicated the matrix to the public. Current and former staff noted that Metro Arts had generated a comprehensive process for receiving applications, training scoring panelist, monitoring the scoring process, and granting awards.

However, Metro Arts was unable to provide a significant amount of supporting documentation related to the processes. Due to the lack of supporting documentation, determining if key components were actually being carried out as Metro Arts intended was not possible. (See Observations G and H.)

Training and succession planning of key Metro Arts staff and Metropolitan Arts Commission members could be improved. (See Observations A and B.) Conflicts of Interest statements were not being completed by scoring panelists. Payments to scoring panelists were inconsistent and lacked supporting documentation. (See Observation J.) Payments were being made for operating grants without a duly executed contract or before a contract was signed. (See Observation G.) Supporting documentation for why certain applications were declined funding was lacking. (See Observation H.) Monitoring of grant and Thrive Award recipients was lacking. (See Observation I.) The funding tracking software system was cumbersome, and an excessive number of people had administrative rights. (See Observation J.)

2. *Does Metro Arts have controls in place to ensure significant financial transactions are made in accordance with applicable financial policies and procedures?*

No. Metro Arts circumvented established Metropolitan Nashville Government Civil Service Rules related to selection and employment practices. Metro Arts also circumvented the Metropolitan Nashville Government Procurement Code and payroll policies. (See Observations C, D, E, F, K, and L.)

AUDIT OBSERVATIONS

Internal control helps entities achieve important objectives and sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission (*COSO*), *Internal Control – Integrated Framework*, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environment, mitigate risks to acceptable levels, and support sound decision making and governance of the organization. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

Observation A – Succession Planning and Training

Training of staff and implementation of succession planning needs improvement. Metro Arts had turnover in key positions over the past year including the finance manager and grant manager roles. Inquiries made to current staff indicated a lack of understanding about how fundamental processes operated and where applicable supporting documentation was retained. Management of Metro Arts took steps related to succession planning including retaining critical staff members to train new employees. The steps were ineffective.

Metro Arts did not have detailed policies and procedures over key processes. A Metro Arts consultant interviewed stated policies and procedures were created and implemented in 2023. However, current Metro Arts staff were unaware of the policies and procedures. Attempts to locate them on the department’s shared drive were unsuccessful.

Central Metropolitan Nashville Government departments such as Finance, Human Resources, and Law provide departmental contacts, entity wide trainings, and documented policies and procedures to support key departmental functions. The central departments provide advisory services in critical areas such as financial and human resources management. When departments experience turnover of key positions and lack documented internal policies, leveraging central departments’ institutional knowledge of the Metropolitan Nashville Government and best practices in their respective fields is key to continuing basic operations until positions are filled and internal policies are produced. Metro Arts limited interactions with central departments and did not fully leverage their services.

Having well-trained knowledgeable staff is critical to ensure key operational and financial objectives of an entity are met. Well written, comprehensive policies and procedures over key functions assist to ensure institutional knowledge is retained when turnover occurs. Utilizing available internal resources also helps ensure established practices are being followed. Lack of quality training and succession planning increases the risk that staff are unable to perform their job duties to meet key departmental objectives.

Criteria:

- *COSO*, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Develop and document detailed, comprehensive policies and procedures for critical areas such as grant management and financial transactions. Ensure staff are aware of these procedures and have easy access to them. Periodically review policies and procedures and update as needed.
2. Utilize other Metropolitan Nashville Government departments to ensure applicable policies are being followed.

Observation B – Metropolitan Arts Commission Training and Expectations

Metropolitan Arts Commissioners lacked clarity in terms of individual roles and responsibilities on the commission. The *Metropolitan Nashville Code of Laws § 2.112 – Metropolitan Nashville Arts Commission*, defines the commission’s general purpose, structure, and powers and duties. Additionally, the Metropolitan Arts Commission bylaws provide more detail regarding basic rules of conduct during commission meetings, individual commissioner roles and responsibilities, removal of a commissioner, etc.

The Metropolitan Arts Commission experienced significant turnover over during the audit period. A review of Metropolitan Arts Commission meetings indicated a general lack of understanding of what the expectations are for the commission and the general purpose and duties as outlined in the Metropolitan Nashville Code and bylaws. Orientation for new members was provided by Metro Arts or a consultant. However, the orientation’s depth was not sufficient to prepare commissioners for meetings and decision making. The orientation primarily covered the mission of the commission and the role Metro Arts plays in the community. However, meeting procedures, expected meeting materials, and commission bylaws were not sufficiently discussed.

Meeting recordings, minutes, and board packets aide new members in understanding and reviewing prior commission work. Meeting recordings and minutes during the audit period were reviewed. While most minutes and some recordings were maintained, the consistency and the quality varied widely. Documents within board packets also varied in level of detail.

The Metropolitan Arts Commission was in good faith attempting to carry out their governance responsibilities. The amount of turnover in both commission members and Metro Arts staff has blurred the distinction between governance and management. This has placed the Metropolitan Arts Commission in a role it is not designed or established to do.

A lack of understanding of roles, duties, and responsibilities greatly diminishes the ability to provide adequate governance.

Criteria:

- *COSO, Control Activities—Principal 10—* the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- *The Metropolitan Code Chapter 2.112 – The Metropolitan Arts Commission*
- *The Metropolitan Arts Commission Bylaws*

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Work with the Department of Law to create a standard onboarding for new commissioners. Orientation with new members of the Metropolitan Art’s Commission should include the mission, operational objectives, bylaws, responsibilities, expectations, governing legislation, and meeting procedures.
2. Periodically solicit feedback from the Metropolitan Arts Commission on the type and amount of information to be provided at commission meetings.
3. Document the Metropolitan Arts Commission annually reviewing and approving the Metropolitan Arts Commission bylaws. Record any changes to the bylaws and discussion around them.
4. Retain meeting minutes and board packets for all Metropolitan Arts Commission meetings. Ensure documents are retained in accordance with Metropolitan Nashville Government retention requirements.

Observation C – Circumventing Employee Selection and Employment Practices

Metro Arts intentionally circumvented Civil Service Commission hiring practices by improperly utilizing temporary employees. Metro Arts also bypassed the Department of Finance’s Payroll Division.

All Metro Arts staff except the Executive Director are supposed to be Civil Service employees. All personnel policies for civil service employees must conform to Metropolitan Nashville Government Civil Service Rules and Civil Service Policies. Civil Service Rule Chapter 2 provides requirements on the recruitment and hiring process for all civil service employees. The rules help ensure hiring practices are fair, equitable, and transparent. Human Resources plays a significant role in the hiring process to ensure rules are followed. Once hired, the Department of Finance’s Payroll Division ensures employees are paid accurately and timely, including ensuring applicable wage deductions are made.

At times, a department may need to use temporary staff to fill open positions supporting critical departmental functions. The Metropolitan Nashville Government has protocols in place to contend with staff shortages and utilization of temporary services. Civil Service Rules set guidelines for using temporary services. Typically, a department requests a temporary agency to provide staffing for a specific position such as a payroll clerk. Three entity wide contracts are in place with temporary staffing agencies for departments to use. The temporary agency recruits, hires, and sends the staff member to the department.

Along with the temporary staffing contracts, the Metropolitan Nashville Government has a contract with Goodson Inc. to provide payroll services only for interns and seasonal workers. The purpose of the contract is *“to provide specialized payroll services, not to include temporary staff or personnel.”* Management of Metro Arts used Goodson Inc. to process payroll for 10 temporary employees from July 1, 2022, to February 29, 2024. A total of \$629,703 was paid to these 10 temporary employees for 12,385 hours of work.

Metro Arts utilized Goodson Inc. to purposely bypass the Civil Service hiring process. Metro Arts stated temporary staff were used due to significant staffing shortages and asserted that going through the required processes would be too time intensive. The temporary employees utilized by Goodson Inc. were treated, in substance, as Metropolitan Nashville Government employees. Metro Arts independently posted positions, recruited and interviewed applicants, set hourly pay rates, completed performance evaluations, and provided leave time and pay raises generally in line with what Metropolitan Nashville Government employees received. Goodson Inc.’s role was to obtain timesheets from Metro Arts and process payroll checks. In some instances, departing Metro Arts staff were transferred to Goodson Inc. so they could continue to work for Metro Arts.

Metro Arts’ decision to circumvent Human Resources, Civil Service Rules, and Payroll increases multiple risks. The hiring process lacks transparency and assurance that candidates are interviewed appropriately and are qualified for positions. Independently determining pay rates could result in staff being overpaid or underpaid. Additionally, budgetary funding may not be available to pay the agreed upon rates, and the appropriate payroll withholdings may not occur. Staff not covered under Civil Service Rules run the risk of unfair treatment or dismissal without recourse, missing out on covered benefits, and losing pension opportunities.

Nothing in the audit revealed any discriminatory practices or any temporary employee was underpaid. However, the risk of discriminatory or unfair treatment of employees is greatly enhanced by utilizing temporary employees as Metro Arts did.

Criteria:

- *COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.*

- Metropolitan Government of Nashville and Davidson County Civil Service Rules, Chapter 2— Selection Practices
- Metropolitan Government of Nashville and Davidson County Civil Service Rules, Chapter 3— Employment Practices
- Contract 6487706 with Goodson Inc.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Discontinue utilizing the Goodson Inc. contract and work with Human Resources to determine movement of current temporary staff into Metropolitan Nashville Government positions.
2. Ensure that Civil Service Rules are followed for future hiring opportunities.
3. Utilize the Metropolitan Human Resources Department and Division of Payroll properly in the hiring and payroll process.

Observation D – Temporary Employees – Overtime

Metro Arts paid excessive overtime to temporary employees through Goodson Inc. Metro Arts utilized Goodson Inc. to pay 10 temporary employees from July 1, 2022, to February 29, 2024. A total of \$629,703 was paid to these 10 temporary employees for 12,385 hours of work. A summary of the payroll categories paid to temporary employees is presented in Exhibit G.

Exhibit G: Breakdown of Pay Code Descriptions to Goodson Inc.

Category	Amount
Regular Pay	\$ 513,168
Overtime	106,253
Retro Pay	10,267
Reimbursement	16
Total	\$ 629,703

Source: Goodson Inc.

Temporary employees’ regular pay, overtime pay, and length of service between July 1, 2022, and February 29, 2024, are presented in Exhibit H.

Exhibit H: Regular Pay and Overtime by Temporary Employee from July 1, 2022, to February 29, 2024

Temporary Employee	Length of Service (Days)	Regular Pay Total	Overtime Pay Total	Total Compensation*
A	630	\$ 215,108	\$ 83,838	\$ 298,946
B	574	\$ 123,152	\$ 20,850	\$ 144,002
C	420	\$ 47,265	\$ 1,565	\$ 48,830
D	308	\$ 35,754		\$ 35,754
E	171	\$ 34,484		\$ 34,484
F	126	\$ 33,256		\$ 33,256
G	42	\$ 20,480		\$ 20,480
H	14	\$ 3,150		\$ 3,150
I	182	\$ 360		\$ 360
J	84	\$ 160		\$ 160
Grand Total	2,551	\$ 513,169	\$ 106,253	\$ 619,422

Source: Goodson Inc. payroll records

*The Total Compensation of \$619,422 does not include Retro Pay and Reimbursement from Exhibit G.

Temporary employees were paid on a bi-weekly basis. A review was conducted of all payments made to Goodson Inc., applicable time sheets, and supporting documentation. The review revealed temporary employees were paid overtime 88 times totaling \$106,253 for 1,323 hours. There were 6 instances where the amounts paid did not appear reasonable. Exhibit I summarizes the instances of atypical payments.

Exhibit I: Instances of Excessive Overtime or Hours Worked

Temporary Employee	Atypical Transaction
Temporary Employee A	Paid \$13,931 for 279 hours of regular pay for one pay period. This would average a 20-hour workday if all 14 days were worked during the pay period.
Temporary Employee B	Paid 75 hours of overtime totaling \$6,773 for a single pay period.
Temporary Employee B	Paid 68 hours of overtime for \$6,120 for a single pay period.
Temporary Employee B	Paid 66 hours of overtime for \$5,963 for a single pay period.
Temporary Employee B	Paid 62 hours of overtime for \$5,535 for a single pay period.
Various Temporary Employees	492 hours in leave time was paid during the scope period.

Source: Goodson In. payroll records

Documentation showing the scope of work for the amounts paid could not be provided. One temporary employee stated the reason for high overtime amounts was they were working two distinct jobs at the same time. Determining if the overtime was merited was not possible due to a lack of supporting documentation.

Failure to document reasons for overtime paid, scopes of work, or expected deliverables of temporary employees increases the risk of misuse of public funds. Additionally, temporary employees are not entitled to leave pay. Granting leave time also increase the risk of misuse of public funds.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Metropolitan Government of Nashville and Davidson County Civil Service Rules, Chapter 2— Selection Practices
- Metropolitan Government of Nashville and Davidson County Civil Service Rules, Chapter 3— Employment Practices
- Contract 6487706 with Goodson Inc.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Discontinue utilizing the Goodson Inc. contract and work with Human Resources to determine movement of current temporary staff into Metropolitan Nashville Government positions.
2. Ensure hours worked and overtime are necessary, reasonable, and properly documented.

Observation E – Utilization of Goodson Inc. Contract

Metro Arts utilized the Goodson Inc. contract for services outside the scope of the contract, and temporary employees did not meet applicable criteria as defined in Civil Service Rules.

Civil Service Rule 2.15 (B) defines and sets guidelines for temporary employees. Specifically, temporary employees are appointed to fill positions created by a special project or the extended leave of an employee assigned the position. Temporary employees may not be used to fill vacant civil service positions except on a temporary basis not to exceed 12 months of employment. The appointing authority must stipulate the projected length of the project or extended leave at the time of the employment on the employee profile document.

The Metropolitan Nashville Government has three entity-wide contracts to utilize for temporary staffing needs. The contracts in place are:

- Abacus Corporation: Contract Number 6528029
- Infojini Inc.: Contract Number 6528030
- Randstad North America, Inc.: Contract Number 6528031

Contracted scope of services includes, *“providing temporary professional and business clerical related staffing positions.”* All three contracts require the vendor to recruit, interview, test, screen, and ensure compliance with legally required pre-employment obligations for anyone assigned to Metropolitan Nashville Government facilities. The contracts specify a broad range of positions including accounting, human resources, finance officers, and customer service representatives. Hourly rate schedules for each position are set in the contract.

Metro Arts utilized the Goodson Inc. contract to pay 10 temporary employees for the scope period. The Goodson Inc. contract was not intended to be used for temporary employees. The contract explicitly prohibits utilizing the contract for temporary employees. The contract intent is for a payroll processing service for seasonal employees or interns. Metro Arts utilized Goodson Inc., in part, to circumvent Metropolitan Nashville Government rules, policies, and controls. (See Observation B.)

All invoices from Goodson Inc. and supporting documentation were reviewed. Additionally, relevant documentation related to work conducted by temporary employees was requested. The review noted:

- Documentation related to scope of work, project length, and expected outcomes could not be provided by Metro Arts. Accordingly, the specific work requested, completed, and the monitoring of work conducted could not be determined.
- The Goodson Inc. contract limits the hourly rate to be paid to a Goodson Inc. processed employee to \$25 per hour. Metro Arts paid 8 of the 10 (80 percent) temporary employees more than the threshold. The highest rate paid temporary employee earned \$86.25 an hour in regular pay, and \$104 per hour in overtime pay.
- Metro Arts retained 3 of the 10 (30 percent) temporary employees in excess of the 12-month limit specified in Metro Civil Service Rules. The length of service for one temporary staff was over two years.

Metro Arts purposefully utilized the Goodson Inc. contract to circumvent Civil Service Rules selection practices to have more control over who was hired and amounts paid. Improperly utilizing contracts to circumvent Civil Service Rules and the Metropolitan Procurement Code enhances the risk that public funds are not being utilized effectively, fairly, or properly. Additionally, the risk that employment practices do not conform to Civil Service Rules increases.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Contract 6487706 with Goodson Inc.
- Contract 652029 with Abacus Corporation
- Contract 652030 with Infojini Inc.
- Contract 6528031 Randstad North America Inc.
- The Metropolitan Nashville Government Procurement Code

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Utilize established temporary staffing contracts to hire temporary employees. Ensure the required documentation of reason and time frame are maintained and followed.
2. Establish policies and procedures to ensure that Metro Arts is utilizing contacts in conformance with the contractual terms of the contract.

Observation F – Circumventing the Metropolitan Nashville Procurement Code

Metro Arts circumvented the Metropolitan Nashville Procurement Code by issuing multiple purchase orders to the same vendor same vendor for up to and including \$25,000. The Metropolitan Nashville Procurement Code establishes guidelines for the solicitation process. Generally, the solicitation method is a function of the anticipated spend amount. Exhibit J summarizes the solicitation guidelines.

Exhibit J: Summary of Solicitation Requirements

Dollar Amount of Purchase	Solicitation Requirements
Up to \$2,499	A minimum of one written quotation
\$2,500 to \$25,000	A minimum of three written quotations
Greater than \$25,000	Competitive sealed bids or Request for proposal

Source: *The Metropolitan Nashville Procurement Code*

Exceptions for sole source or emergency purchases exist and have separate requirements. Requests for proposals require far more time and scrutiny than solicitations under \$25,000. Metro Arts split purchases with three contractors to circumvent the request for proposals requirement.

Exhibit K summarizes the purchase orders issued for three vendors, the number of purchase orders issued during the scope period for under \$25,000, and the total amount paid.

Exhibit K: Summary of Vendors

Vendor	Purchase Orders < \$25,000	Cumulative PO Amounts	Total Amount Paid
Dana Parsons	7	\$161,605	\$149,270
Rise Research and Evaluation	3	\$74,500	\$55,766
Hillombo LLC	2	\$49,999	\$27,475

Source *Oracle R-12*

Each of the purchase orders in the exhibit above were submitted for the same vendor for up to and including \$25,000 with the average purchase order issued being \$24,159. Copies of the three quotes obtained for each purchase order were requested but could not be provided.

Splitting purchases enhances the risk of overpaying for goods and services and not getting the best quality for the cost. Circumventing the request for proposal process also increases the risk awards are not determined transparently, fairly, or equitably.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- The Metropolitan Nashville Government Procurement Code

Assessed Risk Rating:

High

Recommendation for management of Metro Arts to:

Establish and implement processes to ensure that all solicitations methodologies conform to the Metropolitan Nashville Government Procurement Code.

Observation G – Operating Grants Documentation

Document retention and monitoring activities related to the administration of operating grants needs improvement. Supporting documentation related to key components of the operating grants cycle were not consistently available or retained.

A complete listing of applications submitted for operating grants could not be obtained. Accordingly, a listing of 197 payments made to operating grant recipients during the grant period was generated from Oracle R-12. A random sample of 47 payments from the listing were reviewed.

Information within the Submittable system, Oracle R-12 system, inquiries to Metro Arts, and information available in DocuSign was reviewed. The review revealed the following:

- Supporting documentation related to the application and payment process were inconsistently retained. Accordingly, verification of key components of the process could not be determined.
- 29 of the 47 (62 percent) sample payments did not have a duly executed grant agreement in place at the time of payment.
- 18 of the 47 (38 percent) payments did not have grant contracts that could be located.
- 3 of the 47 (6 percent) applications did not have documentation of Metro Arts staff review.

Not retaining adequate supporting documentation reduces transparency and the ability to monitor financial and operational activities. Processing payments without a duly executed grant agreement enhances the risk that the objectives of the grant award will not be met.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Establish policies and procedures ensuring that all grant applications are properly recorded, reviewed tracked, processed, scored and that award amounts are properly communicated to applicable stakeholders.

2. Ensure supporting documentation related to significant pieces of the application and award process are retained. Ensure retention policies conform to Metropolitan Nashville Government document retention policies.
3. Ensure payments on grant awards are not made without a duly executed grant agreement.

Observation H – Thrive Awards

Document retention and monitoring activities related to the administration of Thrive awards needs improvement. Supporting documentation related to key components of the Thrive award cycle were not consistently available or retained.

A listing of submitted Thrive award applications during the scope period could not be provided. A report of all Thrive payments was generated in Oracle R-12. A total of 22 Thrive awards were granted in 2023 for a total of \$178,600. A total of 101 Thrive Awards were granted in 2024 for a total of \$908,000. A review of all Thrive payments made during the scope period revealed the following:

- Supporting documentation related to the application and payment process were inconsistently retained. Accordingly, verification of key components of the process could not be determined.
- Award amounts on the Metro Arts website agreed to the amounts paid to each recipient. One exception was a payment of \$7,600 made to an individual who was not on the 2023 listing. The reason for the payment could not be explained.
- Panelist scores were tabulated correctly in all instances.
- Timeliness of payment varied significantly. For fiscal 2024, the first Thrive payment occurred on September 27, 2023, and the last payment occurred on February 9, 2024, a range of 135 days.
- For fiscal year 2023, the first Thrive payment for Round 1 occurred on November 15, 2022, and the last payment occurred on March 22, 2023, a range of 127 days. For Round 2, the first payment occurred on January 18, 2023, and the last payment occurred on September 20, 2023, a range of 245 days. For Round 3, the first payment occurred on February 8, 2023, and the last payment occurred on July 12, 2023, a range of 154 days.
- Individual communications to applicants related to award decisions could not be obtained.

A listing of 55 Thrive applications denied funding by Metro Arts in fiscal year 2024 was reviewed. A similar listing for fiscal year 2023 was not provided. Reasons listed for the application being declined by Metro Arts are summarized below:

- 26 applications were related to mural projects. Metro Arts decided not to fund mural related projects for fiscal year 2024.
- 24 applications were declined due to scoring below the 75 percent threshold. However, 20 of the 24 scored the same or higher than other applications receiving funding. No reason for this could be provided.
- 5 applications were declined with no explanation provided by Metro Arts.

Criteria:

- *COSO, Control Activities—Principal 10*— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Establish policies and procedures ensuring that all Thrive applications are properly recorded, reviewed tracked, processed, scored and that award amounts are properly communicated to applicable stakeholders.
2. Ensure supporting documentation related to significant pieces of the application and award process are retained. Ensure that retention policies conform to Metropolitan Nashville Government document retention policies.
3. Ensure the funding decision, especially for those denied funding, is properly documented and supported for all applications.

Observation I– Monitoring of Recipients

Metro Arts does not have a process in place to monitor operating grant and Thrive award recipients to ensure award amounts are utilized as intended.

Operating grant and Thrive award recipients were required to provide close out reports at the end of the year detailing how funding had been used. The information is self-reported and lists amounts spent in various categories and accomplishments of the specific program. Metro Arts does not have a process in place to conduct random audits or reviews of information provided. Documentation related to close out reports was not being consistently retained.

In the 2019 audit of Metro Arts, a recommendation to implement monitoring procedures around funding recipients was made. Metro Arts accepted and later implemented a process to randomly select a percentage of recipients to monitor. The implementation of the recommendation was verified in the 2021 recommendation implementation follow-up audit. No evidence of the process occurring during the current audit scope could be provided.

The risk of misused funding increases without a systematic monitoring process. Additionally, monitoring enhances the ability to determine misunderstandings in funding guidelines earlier.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendation for management of Metro Arts to:

Establish and implement a process for monitoring operating grants and Thrive recipients to ensure funding is spent in accordance with approved application and award documentation.

Observation J– Scoring Panelists

Conflicts of interest statements are not being completed by grant and Thrive panelists. Payments to panelists varied, and supporting documentation for the variances was not sufficient.

Panelists were paid a stipend to score grant and Thrive applications. Scoring panelists were paid for time required for training and participation in the scoring process. Paying panelists ensured a more equitable scoring process.

Payments to panelists during the audit scope totaled \$63,550. A manual review of invoices noted supporting documentation was available for payments made to 19 panelists for a total of \$10,400. A review of the supporting documentation revealed the following:

- Invoice data agreed with the amounts paid to panelists, and all payments were made subsequent to the panelist’s participation in the scoring process.
- Supporting documentation regarding how the amounts paid were determined could not be provided. Individual payment amounts to panelists varied significantly from \$50 to \$1,500.
- Supporting documentation could not be obtained for the remaining \$53,150.

In the 2019 audit of Metro Arts, a recommendation was made and later implemented for all panelists to complete conflict of interest forms prior to scoring. In the recommendation implementation follow-up audit in 2021, Metro Arts demonstrated a conflict of interest form in the Submittable system. The forms were verified as being completed by all panelists at the time. Inquiry of current staff noted the Submittable conflict of interest form was not being used during the current audit period.

Retaining adequate supporting documentation regarding scoring panelist pay rates reduces the risk of public funds are not being expended fairly, equitably, or accurately. Completing conflict of interest forms help to ensure panelists can perform their duties fairly and without bias.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Ensure adequate documentation is retained related to how payments made to scoring panelists are calculated.
2. Ensure all panelists complete a conflict of interest form before participating in scoring applications.

Observation K– Compensatory Time

Metro Arts compensatory time paid violated Civil Service Policies. Processes or controls in place to properly request, approve, and monitor compensatory time could not be determined.

Civil Service Policy 5.7 C-1 provides guidance on properly defining and classifying employees. Job descriptions for each job classification state whether an employee is eligible for overtime or compensatory time. The classification is based on review of the job requirements by Human Resources.

A list of all employees paid compensatory time during the scope period was generated. A total of 11 employees used compensatory time during the period. Job descriptions maintained by Human Resources were reviewed for compensatory time eligibility. The list was also submitted to Human Resources for eligibility confirmation.

Compensatory time was improperly paid to 4 of the 11 (36 percent) Metro Arts employees. The total amount paid in ineligible compensatory time during the scope period was \$12,257, representing 235 hours. Exhibit L summarizes the employees who improperly received compensatory time.

Exhibit L – Ineligible Compensatory Time July 1, 2022, to February 29, 2024

Employee	Eligible?	Comp Hours Used	Amount Paid
A	No	209	\$10,781
B	No	17	\$1,056
C	No	5	\$234
D	No	4	\$187
	Total	235	\$12,257

Source: Oracle R-12

Inquiries regarding how compensatory time was requested, approved, and tracked could not be answered. Inquiries regarding the reason the amount of compensatory time was taken could not be answered.

The Oracle R-12 payroll report generated included amounts accrued but not used by each employee. However, reliance could not be placed on the numbers reported due to materially lower accruals than the amounts used. Additionally, inquiries into how compensatory time was requested, approved, recorded, and monitored could not be answered.

Not having processes in place to ensure requested compensatory time is reviewed, approved, recorded, tracked, and monitored increases the risk of improperly using compensatory time. Additionally, without proper processes, risks of violating labor laws increase.

Criteria:

- COSO, Control Activities—Principal 10— the organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Civil Service Policy 5.7 C-1 Special Pay Provisions

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Ensure employee eligibility for compensatory time is documented internally based on job description.
2. Create a process for compensatory time to be properly requested, approved, accrued, reviewed, tracked, and monitored.
3. Reconcile compensatory time accruals and usage in Oracle R-12 with external balances regularly.

Observation L – Leave Time Recording and Utilization

Metro Arts circumvented the Payroll Division and Civil Service Rules by creating an internal leave category only recorded in the internal payroll management system. The amount of leave time taken in the created category and Administrative Leave with Pay was excessive. Controls related to the request, tracking, recording, and approval of leave time need improvement. Leave time recorded internally was not consistently being recorded into the Oracle R-12 payroll system.

Metro Arts utilizes a software application called HoneybeeBase to submit and approve timesheets and leave time. At the end of each payroll cycle, information from HoneybeeBase is tabulated and entered in the Oracle R-12 system. A payroll report was generated from HoneybeeBase for the scope period. The report was compared to a corresponding payroll report from Oracle R-12. A comparison of the reports revealed the following:

Unallowable Leave Category: A review of information in the HoneybeeBase report noted a leave category titled “Executive Director Leave.” The leave category does not exist in Civil Service Policies or Rules, and the category is unique from Administrative Time. A total of 904 hours had been recorded in HoneybeeBase for the Executive Director Leave category. An analysis of the leave category revealed the time was granted to all employees around holidays to extend the amount of allowable leave time without using other leave balances.

Excessive Administrative Leave Time: A significant amount of Executive Director and Administrative Leave with Pay was granted during the scope period. Civil Service Rules Section 4.10 addresses Administrative Leave with Pay which allows an appointing authority to provide up to 40 hours a year of paid leave to employees only when other such leave is not appropriate. An example of when the leave time might be utilized is when a new employee who has not accrued any vacation or sick leave gets a contagious illness.

An analysis of HoneybeeBase payroll reports revealed Metro Arts staff used 1,737 hours of leave time for Executive Director Leave and Administrative Leave with Pay.

Exhibit M – Significant Leave Time Categories for July 1, 2022, to February 29, 2024

Leave Category	Fiscal Year 2024	Fiscal Year 2023	Total
Executive Director Leave	832.5	71.75	904.25
Administrative Leave with Pay	243.25	590.25	833.5
Total	1,075.75	662	1,737.75

Source: HoneybeeBase System

Oracle R-12 does not have an Executive Director Leave category. Analysis showed the corresponding entry to Oracle R-12 was typically regular pay.

Recording of Leave Time Leave time recorded in HoneybeeBase does not agree with what is recorded in the Oracle R-12 system. Approximately 1,152 hours of routine leave recorded in HoneybeeBase was not recorded in Oracle R-12. A summary of the variance per leave category in the scope period is presented in Exhibit N.

Exhibit N – Leave Time Variances Between HoneybeeBase and Oracle R-12

Leave Time Comparison Fiscal Year 2024 as of February 29, 2024			
Category	Honeybee	R-12	Variance
PTO: Vacation	252	177	75
PTO: Administrative Leave With Pay	243	3	240
PTO: Sick	217	238	-21
PTO: Comp	188	154	34
PTO: Personal	48	24	24
PTO: Bereavement	0		0
Total	947	595	352

Leave Time Comparison Fiscal Year 2023			
Category	Honeybee	R-12	Variance
PTO: Vacation	588	521	67
PTO: Administrative Leave With Pay	590	3	587
PTO: Sick	537	436	101
PTO: Comp	186	174	12
PTO: Personal	2	2	0
PTO: Bereavement	32	0	32
Total	1,936	1,136	800
Grand Total	2,883	1,731	1,152

Source: HoneybeeBase System, Oracle R-12

The Executive Director Leave category was not included in the table above. The 1,152 represents routine leave time taken by Metro Arts staff that was not recorded in Oracle R-12. Adding the Executive Director Leave category of 904 hours to the 1,152 indicates that 2,056 hours of leave time taken by Metro Arts was never recorded in Oracle R-12. Additionally, 492 hours in leave time was paid to temporary employees on the Goodson Inc. contract.

Payroll information in HoneybeeBase is not being accurately recorded in the Oracle R-12 system. Thus, payroll leave balances in Oracle R-12 are not accurate and understate leave time taken.

Accurately recording leave amounts in Oracle R-12 is critical in ensuring payroll information is accurately stated, transparent, and can be monitored. Civil Service Rules establish leave time policies and limits for accountability purposes and to ensure Metropolitan Nashville Government entities are good stewards of public funds.

Criteria:

- COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- *Metropolitan Government of Nashville and Davidson County Civil Service Rules, Chapter 4—Attendance and Leave*

Assessed Risk Rating:

High

Recommendations for management of Metro Arts to:

1. Establish policies and procedures to ensure that all leave time is properly requested, approved, recorded, tracked, monitored, and reported.
2. Discontinue the use of Executive Director Leave time.
3. Ensure all applicable payroll information is properly recorded in the Oracle R-12 system.
4. Follow all Civil Service Rules and Policies related to leave time.
5. Ensure leave categories such as Administrative Leave with Pay are reasonable and adhere to Civil Service Rules.

Observation M – Leveraging of Technology

The current technology used by Metro Arts lacks capabilities to effectively monitor and meet Metro Arts operational and financial objectives. An excessive number of Metro Arts staff have administrative rights to the grants management software.

Metro Arts primarily utilizes the Submittable software application for receiving, tracking, scoring, and monitoring application activity for operating grants and Thrive awards. The system is effective in the

individual management of applications. However, the process is highly segregated by individual applications. The system does not have inherent reconciliation or queuing capabilities to ensure all applications submitted by artist are appropriately processed through the system.

The ability to conduct system-wide analysis within Submittable is challenging. Audit trails related to modifications or edits exist. However, audit trail reviews must be done by conducting inquiries on individual applications as opposed to generating system wide exception reports.

Finally, an excessive number of Metro Arts staff have administrative rights to the Submittable system. Administrative rights give a person the ability to delete and modify critical application information. Nine Metro Arts staff members have the highest access rights.

Utilizing ineffective technology increases the risk of applications being overlooked, improperly processed, or mishandled without management noticing. Additionally, the inability to capture and analyze data at all levels throughout the application life cycle limits management oversight and monitoring.

Criteria:

- COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- COSO, Control Activities—Principle 11—The organization selects and develops general control activities over technology to support the achievement of objectives.

Assessed Risk Rating:

Medium

Recommendations for management of Metro Arts to:

1. Perform a cost-benefit analysis related to the implementation of a grant management system that allows for enhanced monitoring and analyzes.
2. Evaluate the access levels for all staff. Limit administrative rights to a small number of employees.

Observation N – Thrive Award Classification

The appropriateness of classifying Thrive awards as a procurement transaction should continue to be reviewed by Metro Arts.

The Metropolitan Code and Resolution RS2001-729 explicitly state that grant given by Metro Arts can only be distributed to “nonprofit civic and nonprofit charitable organizations”. In 2014, Metro Arts obtained permission from the Metropolitan Procurement Agent to allow individual artists to be treated as a procurement activity for the establishment of the Thrive program. Allowable procurement activity in the expressed context was to apply in limited circumstances. Specifically, allowable activity was to engage artists in a variety of venues on very small engagements. Small engagements were defined as an item not exceeding \$4,000 in cost. The Thrive program has expanded to no longer conform with the Procurement Agent’s approval. As award amounts have increased over the years, additional approval from the Procurement Agent was not sought.

Additionally, the nature and type of activities conducted by Thrive recipients varies significantly. The nature of some activities is more in line with a procurement while others are more in line with a grant. For example, grants award funding to a recipient for the recipient to achieve its own goals and objectives consistent with Metro Arts. Procurements typically would be used for the direct benefit of Metro Arts and seek best value.

Administering Thrive awards as a procurement is in violation of Metropolitan Nashville Procurement Code, the Metropolitan Nashville Code of Laws, and RS2001-749 and increases the risk of the integrity of Thrive awards being scrutinized.

Criteria:

- *COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.*
- *Metropolitan Code Chapter 2.112.040 Powers and Duties (of the Metropolitan Arts Commission*
- *Resolution RS2001-729*

Assessed Risk Rating:

Medium

Recommendation for management of Metro Arts:

Work with the Metropolitan Nashville Council, Department of Finance, Department of Law, and other stakeholders to establish a framework where the categorization of Thrive conforms to the Metropolitan Nashville Code, resolutions, and the intent of lawmakers.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

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 observations and conclusions based on our audit objectives.

METHODOLOGY

To accomplish our audit objectives, we performed the following steps:

- Interviewed key personnel within Metro Arts and other departments.
- Reviewed and analyzed documentation for compliance with the Tennessee Code Annotated, Metropolitan Nashville Code of Laws, and other applicable laws, regulations, and policies.
- Evaluated internal controls currently in place.
- Reviewed sample selections to determine the effectiveness of internal controls.
- Reviewed financial related transaction files using analytic audit software.
- Considered risk of fraud, waste, and abuse.
- Considered information technology risks.

AUDIT TEAM

Bill Walker, CPA, CIA, CFE, CCFO, Audit Manager

Lauren Riley, CPA, CIA, CFE, ACDA, CMFO, Metropolitan Auditor

PAULETTE COLEMAN / Executive Director



FREDDIE O'CONNELL / Mayor of Nashville

Lauren Riley, Metropolitan Auditor
Office of Internal Audit
150 2nd Avenue
Nashville, TN 37219

Re: Acceptance Letter of Audit of the Metro Arts Financial Process for Fiscal Years 2023 and 2024

Dear Ms. Riley:

Thank you for providing me with the results of your June 2024 internal audit of the financial processes of Metro Arts. It was very informative. While it was beyond the scope of this audit to include attention to the related issues of operations, structure/organization and staffing of Metro Arts, the observations dovetail closely with concerns I have identified. I have carefully reviewed your report and so appreciate the diligence, thoroughness, and details reflected in the observations and recommendations. I accept the audit of Metro Arts for FY 2023 and 2024.

The findings and recommendations will be extremely valuable to the Metro Arts Commission and the Art's Staff as we seriously review them and then take appropriate action to bring the Department into compliance. These results will provide the basis for more strategic introspection and action by the members of the Arts Commission and the staff of Metro Arts. It is my hope that our Metro partners including the Departments of Law, Finance, and Human Resources will work with the Commission to assist us in aligning our processes and policies with Metro's standard operating procedures and the best practices in local government arts and culture administration.

The Arts Commission will strive for excellence and equity as we work together to strengthen the integrity, functioning, effectiveness, and impact of our work. We welcome the opportunity to amplify the arts to drive a more vibrant and equitable arts community and city.

Sincerely,

Paulette Coleman, Ph.D.
Interim Executive Director

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PO Box 196300 / Nashville, TN 37219

APPENDIX B – ASSESSED RISK RANKING

We believe that operational management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendations for management of Metro Arts to:</i>			
H	<p>A.1 Develop and document detailed, comprehensive policies and procedures for critical areas such as grant management and financial transactions. Ensure staff are aware of these procedures and have easy access to them. Periodically review policies and procedures and update as needed.</p>	<p>Agree/Disagree</p>	
H	<p>A2. Utilize other Metropolitan Nashville Government departments to ensure applicable policies are being followed.</p>	<p>Agree/Disagree</p>	
H	<p>B1. Work with the Department of Law to create a standard onboarding for new commissioners. Orientation with new members of the Metropolitan Art’s Commission should include the mission, operational objectives, bylaws, responsibilities, expectations, governing legislation, and meeting procedures.</p>	<p>Agree/Disagree</p>	

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Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
H	B2. Periodically solicit feedback from the Metropolitan Arts Commission on the type and amount of information to be provided at commission meetings.	Agree/Disagree	
H	B3. Document the Metropolitan Arts Commission annually reviewing and approving the Metropolitan Arts Commission bylaws. Record any changes to the bylaws and discussion around them.	Agree/Disagree	
H	B.4. Retain meeting minutes and board packets for all Metropolitan Arts Commission meetings. Ensure documents are retained in accordance with Metropolitan Nashville Government retention requirements.	Agree/Disagree	
H	C.1. Discontinue utilizing the Goodson Inc. contract and work with Human Resources to determine movement of current temporary staff into Metropolitan Nashville Government positions.	Agree/Disagree	
H	C.2. Ensure that Civil Service Rules are followed for future hiring opportunities.	Agree/Disagree	

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H	C.3. Utilize the Metropolitan Human Resources Department and Division of Payroll properly in the hiring and payroll process.	Agree/Disagree	
H	D.1. Discontinue utilizing the Goodson Inc. contract and work with Human Resources to determine movement of current temporary staff into Metropolitan Nashville Government positions.	Agree/Disagree	
H	D.2. Ensure hours worked and overtime are necessary, reasonable, and properly documented.	Agree/Disagree	
H	D.3. Utilize established temporary staffing contracts to hire temporary employees. Ensure the required documentation of reason and time frame are maintained and followed.	Agree/Disagree	
H	E.1. Ensure hours worked and overtime are necessary, reasonable, and properly documented.	Agree/Disagree	
H	E.2. Establish policies and procedures to ensure that Metro Arts is utilizing contacts in conformance with the contractual terms of the contract.	Agree/Disagree	

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H	<p>F.1. Establish and implement processes to ensure that all solicitations methodologies conform to the Metropolitan Nashville Government Procurement Code.</p>	<p>Agree/Disagree</p>	
H	<p>G.1. Establish policies and procedures ensuring that all grant applications are properly recorded, reviewed tracked, processed, scored and that award amounts are properly communicated to applicable stakeholders.</p>	<p>Agree/Disagree</p>	
H	<p>G.2. Ensure supporting documentation related to significant pieces of the application and award process are retained. Ensure retention policies conform to Metropolitan Nashville Government document retention policies.</p>	<p>Agree/Disagree</p>	
H	<p>G.3. Ensure payments on grant awards are not made without a duly executed grant agreement.</p>	<p>Agree/Disagree</p>	
H	<p>H.1. Establish policies and procedures ensuring that all grant applications are properly recorded, reviewed tracked, processed, scored and that award amounts are properly communicated to applicable stakeholders.</p>	<p>Agree/Disagree</p>	

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H	<p>H.1. Establish policies and procedures ensuring that all grant applications are properly recorded, reviewed tracked, processed, scored and that award amounts are properly communicated to applicable stakeholders.</p>	<p>Agree/Disagree</p>	
H	<p>H.2. Ensure supporting documentation related to significant pieces of the application and award process are retained. Ensure that retention policies conform to Metropolitan Nashville Government document retention policies.</p>	<p>Agree/Disagree</p>	
H	<p>H.3. Ensure the funding decision, especially for those denied funding, is properly documented and supported for all applications.</p>	<p>Agree/Disagree</p>	
H	<p>I1. Establish and implement a process for monitoring operating grants and Thrive recipients to ensure funding is spent in accordance with approved application and award documentation.</p>	<p>Agree/Disagree</p>	
H	<p>J.1. Ensure adequate documentation is retained related to how payments made to scoring panelists are calculated.</p>	<p>Agree/Disagree</p>	

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H	J.2. Ensure all panelists complete a conflict of interest form before participating in scoring applications.	Agree/Disagree	
H	K.1. Ensure employee eligibility for compensatory time is documented internally based on job description.	Agree/Disagree	
H	K.2. Create a process for compensatory time to be properly requested, approved, accrued, reviewed, tracked, and monitored.	Agree/Disagree	
H	K.3. Reconcile compensatory time accruals and usage in Oracle R-12 with external balances regularly.	Agree/Disagree	
H	L.1. Establish policies and procedures to ensure that all leave time is properly requested, approved, recorded, tracked, monitored, and reported.	Agree/Disagree	
H	L.2. Discontinue the use of Executive Director Leave time.	Agree/Disagree	

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Risk	Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
H	L.3. Ensure all applicable payroll information is properly recorded in the Oracle R-12 system.	Agree/Disagree	
H	L.4. Follow all Civil Service Rules and Policies related to leave time.	Agree/Disagree	
H	L.5. Ensure leave categories such as Administrative Leave with Pay are reasonable and adhere to Civil Service Rules.	Agree/Disagree	
M	M.1. Perform a cost-benefit analysis related to the implementation of a grant management system that allows for enhanced monitoring and analyzes.	Agree/Disagree	
M	M.2. Evaluate the access levels for all staff. Limit administrative rights to a small number of employees	Agree/Disagree	
M	N.1. Work with the Metropolitan Nashville Council, Department of Finance, and Department of Law, and other stakeholders to establish a framework where the categorization of Thrive conforms to the Metropolitan Nashville Code, resolutions, and the intent of lawmakers.	Agree/Disagree	

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Observations identified during the course of the audit are assigned a risk rating, as outlined in the table below. The risk rating is based on the financial, operational, compliance or reputational impact the issue identified has on the Metropolitan Nashville Government. Items deemed “Low Risk” will be considered “Emerging Issues” in the final report and do not require a management response and corrective action plan.

Rating	Financial	Internal Controls	Compliance	Public
HIGH	Large financial impact >\$25,000 Remiss in responsibilities of being a custodian of the public trust	Missing, or inadequate key internal controls	Noncompliance with applicable Federal, state, and local laws, or Metro Nashville Government policies	High probability for negative public trust perception
MEDIUM	Moderate financial impact \$25,000 to \$10,000	Partial controls Not adequate to identify noncompliance or misappropriation timely	Inconsistent compliance with Federal, state, and local laws, or Metro Nashville Government policies	The potential for negative public trust perception
LOW/ Emerging Issues	Low financial impact <\$10,000	Internal controls in place but not consistently efficient or effective Implementing / enhancing controls could prevent future problems	Generally complies with Federal, state, and local laws, or Metro Nashville Government policies, but some minor discrepancies exist	Low probability for negative public trust perception
Efficiency Opportunity	An efficiency opportunity is where controls are functioning as intended; however, a modification would make the process more efficient			