



**METRO ARTS**

NASHVILLE OFFICE OF ARTS + CULTURE

## **Conciliation Agreement Update**

### **Conciliation Agreement Working Group**

#### **Thursday, October 31, 2024**

Working Group members discussed the details of the proposed new framework for Thrive grants. While not yet finalized, the draft framework will require fiscal sponsorship for Thrive applicants who are not applying as a 501c3 organization. In this framework, grant contracts would be between Metro Arts and the 501c3 applicant or the applicant's fiscal agent (if the applicant is not a 501c3). The fiscal agent and the artist will be required to have an agreement letter that clearly describes expectations and roles and responsibilities for both the fiscal agent and the artist (an example template will be provided). Metro Arts is working to identify a small pool of nonprofit organizations willing to serve as a fiscal agent for applicants who may need guidance or assistance in meeting this requirement. In this draft framework artists are also welcome to identify their own fiscal agent partners not associated with the pool.

The Arts Commission must approve this framework before it is finalized. Prior to that, Metro Arts is hosting three community engagement forums on November 6th – 8th, where applicants can learn more details about this proposed framework and ask questions. We highly recommend individuals with pending applicants attend to learn more about the changes this year and what to expect. The engagement forums are as follows:

- Wednesday, November 6th at 6:15pm – 8:15pm at East Park Community Center
- Thursday, November 7th at 9:30am – 11:30am at East Park Community Center
- Friday, November 8th at 12:00pm – 2:00pm on Webex

#### **Friday, October 18, 2024**

The Working Group made significant progress in developing a framework for fiscal sponsorship to support the Thrive program for the FY25 grant cycle. In this framework, applicants would be required to be a 501c3 nonprofit organization to receive a Metro Arts Thrive grant (note: the name "Thrive" is subject to change with the new proposal, though the intent of the award remains the same). Applicants who are not a nonprofit organization will have the option to identify a fiscal agent of their choice or select one from a pool of fiscal agents recommended by Metro Arts. The Working Group anticipates having a detailed proposal ready to share publicly by the end of October, followed by a period of community engagement directly with applicants and other interested parties. During this period, Metro Arts staff and the Working Group will gather input, explain the proposed changes, and support applicants to assist in tasks needed to ensure applications submitted for the FY25 period meet new requirements. The Arts

Commission must ultimately approve the new framework at a publicly noticed Commission meeting.

### **Thursday, October 3, 2024**

The Working Group is weighing two possible paths forward for Thrive awards for FY25:

1. Thrive applicants identify a qualifying nonprofit to serve as a fiscal sponsor/fiscal agent for their application/award.
1. Metro Arts partners with one nonprofit to serve as the fiscal agent for all Thrive recipients.

Though still in the exploratory and developmental phase, the Working Group is leaning toward the first option. Discussions are focused on concerns about accessibility and administrative costs, for example, and what strategies can be put in place to reduce barriers and extra burdens on the applicant side. Whatever is put in place for FY25 should be considered a transitional solution, with an expectation that the Commission, staff, community, and other stakeholders will continue to shape, change, and improve the arrangement in future cycles.

### **Thursday, September 19, 2024**

The Working Group members discussed a number of procedural considerations, including the payment of a stipend to the artist representative for her participation as a Working Group member, conflict of interest acknowledgements, and the scope of confidentiality. Working Group members began preliminary conversations about options for administering Thrive funds for the current grant cycle. One option is for applicants to identify a non-profit 501c3 organization to serve as their fiscal sponsor, and a second option is for Metro Arts to identify one organization to partner with as the fiscal sponsor for all awards. The first option may provide some benefits to applicants with regard to developing new partnerships, however, this may also be a barrier to require this on a short timeline. For the second option, the group discussed the need to identify an organization that has a track record and capacity to administer funds in this way. Further conversations are needed about both options. The Working Group remains committed to finding a solution for Thrive awards to continue with the goal of supporting independent and individual arts in Metro Arts grant cycle.

### **Thursday, September 5, 2024**

The Working Group had its first meeting with Megan Jordan, a community member representing an artist perspective. Working Group members introduced themselves, and brief bios are available below.

The goals for the September 5, 2024 meeting were to 1) discuss the specific reasons that the Thrive program cannot continue in its current structure from an operations standpoint, and 2) discuss the Working Group's scope of work.

### **Thrive Operations & Compliance**

Section [Chapter 2.112](#) of the Metro Code defines the Arts Commission's authority to "award funds appropriated to it by the metropolitan council to deserving nonprofit civic and nonprofit charitable organizations."

Metro Code sets law and policy for the city, but it must also adhere to and be compliant with Tennessee State law, which further elaborates on the ability to distribute funds to nonprofit organizations.

The Metro Code reflects the state law, [Tenn. Code Ann. § 7-3-314](#), which authorizes art commissions to distribute money to nonprofit organizations involved in the study, participation in and appreciation of the visual, performing, or literary arts. This requirement for grants to go to nonprofits conflicts with Thrive's purpose to fund individuals.

Historically, Thrive has used a process called delegated procurement to distribute payments to artists. Procurement is the process used when Metro purchases or buys a tangible good or deliverable (e.g., a ream of paper or a service that is provided directly to the government).

Early Thrive projects tended to be objects or public art projects and fit better into this structure. But as it grew over the years it evolved to include things like arts programs, classes, events, etc., which are out of the scope of what the procurement process can cover. All parties involve commit to continuing the Thrive or a Thrive-like program, but this method for paying artists directly cannot continue as it has since the program's start.

Other Metro agencies do provide financial support to individuals, but those programs – like rental assistance or other social services – are based on an indigency requirement (a poverty measure based on financial means). Working Group members asked questions about these and other policies to ensure shared understanding.

### **Working Group Scope of Work**

Working Group members briefly brainstormed for how Thrive could be administered for the current grant cycle. There is acknowledgement that the solution the group comes up with for the current grant cycle could change, based on immediate and long-term solutions.

The group acknowledged and emphasized that we want to do everything within our ability to have Thrive awards on the same or similar timeline as General Operating awards for the current grant cycle. Two preliminary ideas for administrating Thrive awards are for recipients to identify a nonprofit of their choice to serve as their fiscal agent, or for Metro Arts to identify one nonprofit that will serve as the fiscal agent in administering awards for all recipients.

Both ideas have many operational questions that need answers in order to consider the strengths, challenges and opportunities of each. Members will collect more information about these possible options and discuss in detail at the next Working Group meeting.

## **Working Group Members**

- Macy Amos (Metro Legal) has served as an attorney for the Department of Law for nearly nine years. As a Nashville native, she advises the city on a range of diverse civil matters and has a deep commitment to advocating for positive change.
- Ashley Bachelder (Metro Human Relations Commission) is the Policy Director at the Metro Human Relations Commission, and has a background in public health, community-based research and teaching. She has worked in academia, nonprofit and government, and has varied experiences in health and healthcare, affordable housing and tenant advocacy, and public policy.
- Paulette Coleman (Metro Arts) serves as the Interim Executive Director of Metro Arts. She has also served as Chair of Metro Arts, a board member and officer of the Tennessee Arts Commission, and a board member of the Southern Arts Federation, now South Arts. Dr. Coleman is a social justice advocate who believes the arts build communities and transforms lives. Most recently, she led the Affordable Housing Task Force for NOAH (Nashville Organized for Action and Hope).
- Amanda Deaton-Moyer (Metro Finance) serves as an Assistant Finance Director for the Metro Government. Prior to this position, she has served in financial and operational leadership roles in Metro Water, and other cities in Tennessee and Georgia. Amanda has an educational background in Public Administration and is an active member GFOA (Governmental Finance Officers Association).
- Megan Jordan (Artist representative) has been a community-engaged working artist in the Nashville area for eight years. Her art and research (on creative careers) center on equity, justice, and mental health.
- Tessa Ortiz-Marsh (Metro Legal) is a member of Metro Legal's client advice team, advising various Metro departments. She has served in the military for 18 years in the Medical and JAG Corps. Prior to joining Metro Legal, Tessa's area of legal practice included immigration defense and Medicaid/Medicare fraud civil prosecution.

## **Thursday, August 29, 2024**

The CA required a one-hour meeting with representatives of the Title VI complainants and representatives of the Metro Arts Commission.

- The meeting was organized and facilitated by Metro Human Relations Commission so that the complainants' representatives could express their concerns about Metro Arts grantmaking (past, present, and future), the Thrive program, and ways of charting an equitable future for grants, particularly those to individual artists.
- Representing the complainants were Christine Hall, Robert Jones, and Lydia Yousief in person and Sangeetha Ekambaram via Webex.
- Representation Metro Arts were Paulette Coleman, Interim Executive Director and Commissioner Beverly Watts.
- Representing Metro Human Relations Commission were Executive Director Davie Tucker and Ashley Bachelder.

**Meeting Outcomes:**

- Mutual agreement to have one additional meeting with the date, time, and place to be determined by MHRC, the facilitators

**Wednesday, August 28, 2024**

The meeting to rank order and select the fifth CAWG member took place via Webex and Megan Jordan, Ph.D. was selected as the fifth member of the CAWG.

**Meeting Outcomes:**

- All four CAWG members were invited to each nominate one individual to be a part of the CAWG.
- Once the names of prospective members were submitted, the CAWG used a rank order system for voting on the fifth member of the CAWG.
- Three names were submitted that met the criteria of background in the arts including having a familiarity with the Metro Arts grantmaking process; commitment to civic engagement and public discourse that is respectful, civil, and productive; the flexibility to participate in the scheduled biweekly meetings and any additional meetings as deemed necessary by the CAWG.
- Profiles and background information on the candidates were provided to the CAWG to complete the rank ordering.
- CAWG met via Webex on August 28 to review and discuss their rank orderings and to use it as the basis for selecting the fifth member of the CAWG.

**Monday, August 19, 2024**

Members of the Conciliation Agreement Working Group (CAWG) as defined in the CA convened its first meeting.

Members are:

- Ashley Bachelder facilitating and representing Metro Human Relations Commission;
- Paulette Coleman representing Metro Arts;
- Amanda Deaton-Moyer representing Metro Finance; and
- Macy Amos representing Metro Legal.

As the attorney for Metro Arts, Tessa Ortiz-Mash was also present, but she is not an official member of the CAWG. The purpose of the CAWG is to engage in problem solving related to the future of grants programming in Metro Nashville while maintaining Metro Arts' commitment to a Thrive-like program that is compliant with state and Metro policies and procedures.

The agenda for this meeting was to cover the following topics:

1. To discuss the goals and scope of work of the CAWG as outlined in the Conciliation Agreement.
2. To determine the criteria and process for selecting the fifth member of the CAWG who will represent artists, stakeholders, and the public.
3. To determine ways to communicate routinely with stakeholders and the public about the outcomes of the deliberations of the CAWG.

4. To identify and consider next steps.

**Friday, August 9, 2024**

By Friday, August 9, 2024, the Conciliation Agreement/Voluntary Compliance Agreement under Title VI of the Civil Rights Act of 1964 was signed by all the parties.

The parties were the six complainants:

- Lydia Yousief
- Christine Hall
- Sangeetha Ekambaram
- Robert Jones
- Donna Caldwell and
- Ashley Mintz and

The two respondents:

- Metro Nashville Arts Commission and the
- Department of Law, both departments within the Metropolitan Government of Nashville and Davidson County, Tennessee, and the Metro Human Relations Commission.