



Massachusetts Cultural Council

Local Cultural Council

PROGRAM GUIDELINES

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Local Cultural Council Program

Purpose of these Guidelines

The purpose of this document is to provide guidance to local and regional cultural councils on the policies and procedures they must use while regrating public dollars from the Massachusetts Cultural Council. The guidelines explain procedures LCCs must follow to ensure a thoughtful and fair process for distributing public money.

Background: Massachusetts Cultural Council and Local Cultural Councils

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

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

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

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

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

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

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

Local Cultural Council Guidelines

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

Local Cultural Council Operations

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

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

Cities and towns may also join forces in the establishment of regional councils. A regional cultural council shall be eligible to receive a total allocation equal to the combined individual allocations of the communities participating in the regional cultural council. If two or more towns wish to form a regional council, there must be at least one representative appointed from each community in the consortium. Regional consortia must also be approved by the MCC. (Local councils may consult the provisions of M.G.L. c. 10, §.58.)

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

The term of membership for a council member is three years; members can serve a maximum of two consecutive terms, or a total of six years, unless the appointing authority removes a member before the expiration of a term. Members must remain off the council for a one-year interval before serving additional terms. Notwithstanding the expiration of a member's term, under the provisions of M.H.L. c. 10, § 58, a member with an expired term shall continue to "serve until the qualification of such member's successor." This rule is a "safe harbor" provision intended to avoid quorum problems for Councils when waiting for new appointments to be made. Councils and municipalities should not abuse this rule in to allow Members to serve endless or greatly extended terms. Membership and leadership transitions must be handled in responsible and timely matter at the discretion of the municipality and Local Cultural Council.

Each council must annually elect a chair, secretary, and treasurer. To preserve continuity of operations, the terms of individual council members should be staggered (that is, there should never be 100 percent turnover of members in a single year, unless the MCC determines otherwise). Local councils may also elect to designate former officers or members as non-voting, ex officio council members

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

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

An LCC may not accumulate unspent state funds at the local level. Unspent funds accrue for various reasons, typically because previously approved projects were completed for less than the amount awarded, or not completed at all. Unspent state funds from prior fiscal years must be accounted for, reported to the MCC, and regranted in the next available funding cycle stipulated by the timeline set forth by the MCC.

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

Council Administrative Funds. LCCs may spend up to five percent of their state allocation each funding cycle for administrative expenses, such as paid staff, postage, stationery, and publicity. Any locally raised money or interest earned from state funds may be used for administrative expenses without being subject to a percentage limit. Local council members cannot receive compensation, but can receive reimbursement for expenses. Together the LCC and the municipality should determine specific policies and procedures for reimbursing members for expenses.

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

LCCs should calculate the amount of administrative funds at the beginning of each grant cycle when they calculate the amount available for granting. Any administrative funds so calculated which are not either spent, encumbered for specific pending expenses, should be treated as unencumbered money and should be regranted during the following grant cycle.

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

Regardless of the source, all of a local council's funds must be used to support programs in the arts, humanities, or interpretive sciences in Massachusetts, and should meet the other substantive requirements set forth in the *LCC Guidelines*. Locally raised funds and interest earned must be kept in the LCC's municipal account with the LCC's state funds. Locally raised funds and interest earned should be identified on the books of the city or town

as funds derived from sources other than the MCC. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required.

Local Cultural Council Duties. Each Local Cultural Council has a number of mandatory duties:

- **Community Input.** Each local council is responsible for ensuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct regular assessments of cultural needs within its community. LCCs receiving \$20,000 or more from MCC must gather community input each year; all other LCCs must do so once every three years.
- **Council Priorities.** By September 1, LCCs must update their council profile with their council priorities, and the council's contact information for prospective applicants. Councils can update their council profiles by logging into www.mass-culture.org. While all councils are strongly encouraged to develop funding priorities, councils receiving more than \$20,000 are required to do so. If a council does have funding priorities, it must make this available to prospective applicants on the council profile. Autonomy is encouraged in the establishment of local funding priorities, as long as it is within the parameters of the guidelines established by the MCC.
- **Communicating With the Public.** Local councils are responsible for promoting local awareness of their programs; informing the public of the availability of funds, the application deadlines and local priorities; publicizing the names, addresses, and telephone numbers of the local council office or contact person; communicating with grant applicants and recipients; and other duties as the MCC may from time to time elaborate through guidelines, rules or rulings. Councils will be assisted in this work by the MCC, which will maintain a database on local councils, help publicize the statewide local deadline, assist in the distribution of applications and so forth.
- **Reviewing and recommending action on local applications.** See the *Local Cultural Council Grant Cycle* section of the guidelines for additional information.
- **Financial Reporting.** LCCs must meet with their municipal fiscal officer (usually the municipal treasurer, auditor, or accountant) between September 1 and September 30. The municipal fiscal officer must provide the LCC with a completed LCC Account Form, which the municipality receives directly from the MCC. Any differences in the LCC's accounting and the municipality's accounting should be worked out at this time. Both parties sign the document and the LCC retains the signed original for their use.

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

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

Assuring Compliance with Local Cultural Council Duties. The fundamental operations of LCCs are reviewed and approved by the MCC on an annual basis before funds are released. MCC staff will check the following before releasing funds:

1. That the Annual Report to the MCC was submitted by the reporting deadline, generally January 15;
2. That all new funds from the current year were granted.

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

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

State Reviews. The MCC conducts periodic performance reviews of LCCs. In particular MCC may review the applications received, approved or denied, and their supporting documentation. The MCC may also occasionally review the payment requests submitted by grantees.

Local Cultural Council Grant Cycle

Application Instructions

Applicants submit their applications directly to the local cultural council to whom they are applying using the online application. Councils may choose to accept paper applications. If a council chooses to accept paper applications they must notify applicants by posting it in their council priorities by September 1. Applicants who submit their application online are not required to mail additional hard copies to the council; however, applicants who mail paper applications must follow the council’s instructions as posted in their council priorities. Before submitting an application, applicants should read the LCC’s priorities for additional application instructions. Council priorities can be found on LCC public webpages at www.mass-culture.org.

Local councils intending to use their state funds for Council Initiated Programs and should refer to “Additional Requirements for Council Initiated Programs.”

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

Eligibility

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

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

Program eligibility. Applicants may apply for grants for programs that take place during an 18 month window of eligibility from July 1, preceding the application deadline in October, through December 31 of the following year. This means that applicants may apply for projects that have already happened or which happen prior to LCCs' grant announcements, with the knowledge that funding is not guaranteed. Local councils are authorized to establish a smaller window of eligibility; if they do so, they must publish the eligible dates in their council priorities.

Applicant eligibility. Applicants must reside or be located in Massachusetts. The applicant, or person leading the project/program, should have been engaged in the kind of activity for which funds are requested for at least one year. Local councils may accept applications from anyone included in the list below.

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

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

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

Criteria

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

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

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

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

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

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

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

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

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

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

The Americans with Disabilities Act (ADA) requires that persons with disabilities have access to public programs or services on an equal basis with the rest of the general public. Furthermore, federal law mandates that any programs or service that receives federal or state funding must be accessible to persons with disabilities. Therefore, all events and programs funded by the LCCs must be accessible to persons with disabilities, including the facility or event location as well as the content of the program. For further information on ensuring accessible programming, please refer to the MCC's UP Inclusive Design Initiative program at <http://www.massculturalcouncil.org>.

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

Grant Restrictions

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

Scholarships. Although individual students are not eligible to apply for scholarships, an organization may apply to an LCC to sponsor a scholarship provided the Local Council feels the scholarship program provides sufficient public benefit and meets all other state and local criteria.

Capital Expenditures. A capital expense is defined as an item, or group of items, with a life expectancy of more than three years and a total cost of more than \$500. Examples include equipment, such as lighting or sound equipment, new construction or the renovation of a cultural facility. Capital expenditures for schools, libraries, local cultural councils, municipal agencies, and religious organizations are ineligible. Local councils can choose to place additional restrictions or requirements upon capital expenditure requests, which should be published in their local priorities.

Council Initiated Programs

An LCC may spend up to 15% of its state allocation each funding cycle for funds to support programs initiated by the local council itself. Council programs should respond to cultural needs that are not otherwise being addressed in the community. Councils are strongly encouraged to use their community input process to ask for specific suggestions for projects or to elicit feedback on proposed projects.

The dollars approved for council programs come directly from that local council's annual allocation and are reimbursement based. Council programs are subject to the same eligibility, review criteria, and restrictions listed in these regulations. Review of the council's proposal takes place locally by the council at its grant cycle voting meeting. At the meeting an LCC must weigh the merits of its own proposal, and how well it meets state and council priorities, against all other locally submitted proposals.

Council Initiated Programs have the following additional requirements and restrictions:

- Council Initiated Program funds cannot be spent on administrative expenses, such as paid administrative staff or standard council publicity efforts. A council may use up to five percent of its allocation annually for such purposes.
- Funds raised locally from local council programs must be kept in the LCC's municipal account.
- Each member of the council must carefully follow the conflict of interest procedures outlined in Appendix B of this document. This information is not intended as legal advice, and only serves as general guidance on how to comply with the conflict of interest law. Conflict of interest law includes the prohibition of using one's LCC position to obtain benefits for oneself or others. This means that council initiated programs cannot create foreseeable opportunities for compensated work that council members then take advantage of. Examples include:
 - If a council is putting on a festival, an LCC member who is a musician cannot then become a paid performer for that festival.
 - If a council creates a program that requires the support of a paid administrator, a council member cannot then assume that position once it is created.

In addition to oneself, each LCC member must be careful if family members, an organization a member is affiliated, or business partners have a potential financial interest in council programming. If a conflict of interest situation arises for any local cultural council member, he or she should obtain legal advice prior to engaging in any conduct which might violate the conflict of interest law. The Commission's Legal Division is available to provide free, confidential legal advice to any LCC member during business hours every weekday at (617) 371-9500.

Grant Review

Technical Disapprovals. LCCs that accept paper applications should not use "technical disapprovals" (typographic errors, unsigned applications, etc.) as the sole basis for disapproving applications. Meeting the statewide application deadline is a requirement, not a "technicality," and LCCs cannot accept late applications.

Applicant Interviews. Some councils find it useful to conduct applicant interviews as part of the grant review process. This can be an effective way to learn more about grant applicants, but councils must take extra precautions to ensure that the interview process is consistent and fair. Councils should not disapprove an application for the sole reason that the applicant was unable to attend an applicant interview.

Open Meeting Law. Massachusetts law states that all meetings of local government bodies, including those held by LCCs, must be open to the public. A quorum of LCC members is required in order to vote at the grant

cycle voting meeting. A quorum is a simple majority of the members of the council – for example, a quorum of five members is three and a quorum of six members is four. Telephone voting, email voting, or proxy voting is not allowed. For additional requirements and guidelines on open meeting law, see Appendix A.

Conflict of Interest Law. In cases where there is a conflict of interest the member should abstain from both the discussion and vote. For additional requirements and guidelines on conflict of interest law, see Appendix B.

Public Records Law. All records of the actions of local councils are considered public information and are subject to the state’s public records law. LCCs must be available to respond to requests to view these materials “without unreasonable delay.” The public records law establishes a maximum delay of 10 days from the day of the request. For additional requirements and guidelines on conflict of interest law, see Appendix C.

Reconsideration

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

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

Reconsideration requests must be made in writing (email or hard copy) and responded to in the same manner. The request must be sent to the MCC at the MCC’s mailing address or lcc@art.state.ma.us within 15 days of the notification date on the disapproval letter (postmark date on envelope or timestamp on email). The applicant should also send a copy of the request to the LCC. The request should include:

- The council’s disapproval letter to the applicant
- The applicant’s reason for requesting reconsideration stating how the LCC failed to follow published state guidelines or council priorities.

Within 15 days of receiving a reconsideration request, the MCC will determine if the applicant has grounds for reconsideration, and will notify both the applicant and council of its decision.

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

A decision on any requests for reconsideration should be made before LCCs finalize funding decisions and complete the Annual Report to the MCC. Only after the Annual Report to the MCC has been completed, can successful applicants be notified of their approval.

Grant Provisions

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

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

Grant Extensions and Modifications. Grant recipients have one year from the date of their approval notification to request reimbursement. Grant recipients need the LCC's written permission (email or hard copy) to make changes to their projects. At their discretion, LCCs can approve reasonable extensions and modifications for projects. The modification should not significantly alter the original purpose of the approved application.

Project extensions and modifications must be requested in writing (email or hard copy) and responded to in the same manner. In order to review an extension or other modification to an approved grant the LCC must convene a quorum of LCC members and vote. The LCC must inform the applicant of their decision in writing and ensure that the vote is reflected in the meeting minutes.

Reimbursement

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

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

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

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

Grant Cycle Timeline

August

- LCCs publicize the grant program locally.

September

- LCCs post council priorities on their council profiles by September 1.
- MCC notifies LCC of their allocation amounts.

October

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

November – December

- LCCs determine the total amount available for granting.
- LCCs conduct their grant cycle voting meetings.
- LCCs send disapprovals notifications
- LCCs handle any reconsideration requests.
- LCCs enter grant decisions and grant cycle voting meeting into the online office.

January

- LCCs submit annual report to MCC by January 15.
- MCC transfers funds to LCCs.
- LCCs send approval notifications and publicize grant awards.
- LCCs begin processing reimbursement requests.

Spring

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

Appendix A - Open Meeting Requirements

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

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

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

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

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

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

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

Appendix B - Conflict of Interest Requirements

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

This information is not intended as legal advice, and only serves as general guidance on how to comply with the conflict of interest law. If a conflict of interest situation arises for any local cultural council member, should obtain legal advice prior to engaging in any conduct which might violate the conflict of interest law. The Ethics Commission’s Legal Division is available to provide free, confidential legal advice to any LCC member during

business hours every weekday at (617) 371-9500. As special municipal employees, LCC members are required to complete the Conflict of Interest Law Online Training program at www.mass.gov.

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

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

Possible Conflict of Interest Scenarios:

Some of the scenarios below indicate that an LCC member must abstain from participating in the review of an application due to a conflict of interest. If the application is awarded a grant, council members who abstained from reviewing the application should also abstain from participating in the review of project modifications or extension requests, and should not review or approve payments to the grantee.

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

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

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

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

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

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

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

Examples include:

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

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

- Abstain from participating in the review of the grant application. The member should leave the room during the discussion and voting. In order to protect the LCC from accusations of biased decision making, it is important to record who abstained from which grant decisions in the meeting minutes. The MCC recommends this course of action.

- **Or**, prior to participating in the matter, the LCC member can make a written disclosure to the appointing authority and request an exemption allowing her to participate. She can participate only if the exemption is approved. A verbal disclosure should also be made at the voting meeting and recorded in the minutes.

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

Examples include:

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

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

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

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

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

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

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

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

Giving, requesting, or receiving "gifts" related to LCC work. It is illegal to request or accept anything of "substantial value" (more than \$50) from anyone with whom you have or are likely to have official dealings

(absent some family or social relationship which would explain the gift) even if the motivation for the gift is to express gratitude for a job well done or to foster goodwill. Items of “substantial value” range from cash, additional compensation, and tips, to free tickets and passes to entertainment events. In addition, free or discounted services such as construction or accounting work are considered gifts.

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

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

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

Appendix C – Public Records Law

Minutes of all meetings, disclosure forms, and any other records of LCCs must be maintained in a public place. A copy of the pdf panel book containing the council’s applications must also be maintained in a public place. Councils should seek guidance from their city or town clerk as to whether this should be an electronic or hard copy. Approval and denial letters should be archived in the same manner. At least six years’ worth of records must be kept in a secure space identified by the city or town clerk. Records more than six years old should be archived using the same procedures employed by the local government. City or town clerks can reference Massachusetts Statewide Records Retention Schedule (L13 24) for additional information.

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

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

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