

April 21, 2017

Audit Committee Members
Mayor McMillan and City Council
City of Clarksville
Clarksville, Tennessee 37040

Executive Summary of Miscellaneous Agency Funding Audit

The following is an executive summary of the objectives, findings and recommendations related to the internal audit report on Miscellaneous Agency Funding. The full audit report is attached and contains additional details about the audit results, as well as management's responses. The full report also describes the audit methodology and provides more background and statistical information.

Objectives of the audit

The objectives of the audit were to determine the following in relation to miscellaneous agency funding:

- Ensuring the non-profit selection and award determination processes are consistent and documented
- Determining the adequacy of the City's processes in place to monitor the use of City funding by the non-profits

Brief Background

Tennessee Code Annotated (TCA) Section 6-54-111 authorizes the City to provide annual budgetary support to qualified nonprofit charitable or civic organizations in the community on a limited basis. The City has established a policy surrounding this process in an effort to provide fair and equitable funding to nonprofit organizations and to provide procedures to apply for and receive funding to protect taxpayer dollars and maintain public trust.

Conclusions of Report

Our audit of miscellaneous agency funding resulted in the following conclusions related to our original objectives. Testing during the audit suggested that policies and processes need revision to ensure compliance with the City Ethics Policy, specifically related to conflicts of interest, and TCA Open Records and Meetings Acts.

Based on the audit results, we have made various recommendations to improve screening and scoring of applicants, as well as monitoring spending activities of non-profits awarded funding.

We thank the management and staff of the Mayor, Finance, Legal, and Human Resources departments as well as the City Council for their cooperation and assistance during this audit.

If you have any questions about the audit, the findings, or the recommendations please contact me at 931-472-3573.

Respectfully,



Rodney Wright
Director of Internal Audit

cc: Charlie Gentry, Chief of Administration
Laurie Matta, Chief Financial Officer
Lance Baker, City Attorney
Will Wyatt, Director of Human Resources
Richard Stevens, Communications Director



INTERNAL AUDIT REPORT

AUDIT TITLE:	MISCELLANEOUS AGENCY FUNDING
DEPARTMENT:	CITY OF CLARKSVILLE
AUDIT PERIOD:	MARCH 2015 – JANUARY 2017

CITY OF CLARKSVILLE
Finance Department
Miscellaneous Agency Funding
Audit # 1701

Rodney Wright

Auditor

Rodney Wright

Director of Internal Audit

April 21, 2017

Date

**CITY OF CLARKSVILLE
INTERNAL AUDIT REPORT**

**Miscellaneous Agency Funding Audit
March 2015 to January 2017**

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Internal Audit Report

Origin of the Audit

This audit was conducted as part of the annual audit plan approved by the Audit Committee during the fiscal year 2017.

Audit Objectives

The specific audit objectives were:

- Ensuring the non-profit selection and award determination processes are consistent and documented
- Determining the adequacy of the City's processes in place to monitor the use of City funding by the non-profits

Scope and Methodology of the Audit

The audit period is March 2015 to January 2017 which correlates with non-profit assistance awarded for fiscal years 2016 and 2017. The application process begins prior to the start of each fiscal year. The population consists of all non-profit organizations applying for funding during the audit period. Non-profit organizations receiving funding are listed in the City of Clarksville's General Budget section 2.3 Miscellaneous Agencies for fiscal years 2016 and 2017. The scope of this audit excluded the Ajax Turner Senior Center, the Customs House Museum, E911, Crime Stoppers, and all non-profits in section 2.2 Shared Expenditures w/State and County of the City General Budget.

Judgmentally selected applications from non-profit organizations were tested from organizations receiving funding and those denied funding. As samples were selected judgmentally, the results should not be projected to the population. A total of twenty-five applications were tested for compliance with City and Tennessee Code Annotated (TCA) requirements. Testing also included reviews of all three selection committee meetings for compliance with City Code and TCA. Evidence to support the conclusions was gathered from inquiries of management and staff, as well as observations of source documentation, tests of the award determination process and the City's process to monitor the use of City funding by the non-profits. We also considered and evaluated the following components of internal control: the control environment, risk assessment, control activities, information and communication, and monitoring.

Statement of Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Tennessee Code Annotated (TCA) Section 6-54-111 authorizes the City to provide annual budgetary support to qualified nonprofit charitable or civic organizations in the community on a limited basis. The City has established a policy surrounding this process in an effort to provide fair and equitable funding to nonprofit organizations and to provide procedures to apply for and receive funding to protect taxpayer dollars and maintain public trust.

The applicants are required to complete the application, which includes proof of non-profit status, financial statements, audited financial statements (if applicable), and program information. Each year prior to budget approval, a committee meets to review funding applications submitted by non-profits for the upcoming fiscal year. The committee reviews each application and determines funding recommendations and the amount allocated. The committee composition changed during the audit period. For fiscal year 2016, the committee was comprised of five council members. For fiscal year 2017, the committee was staffed by two members of the Community Development Block Grant Funding Committee. There is currently no standing committee to perform these tasks.

Funding recommendations made by the committee are submitted to the Mayor, who may choose to add the recommendations to the annual budget as is or with modification. The full City Council then votes on the budget, having the opportunity to amend the funding recommendations subject to the vote of the council.

Non-profit organizations are notified of the amount awarded by letter. The letter specifies how the amount awarded will be funded, (i.e. monthly, quarterly, or lump sum), and for what purpose(s) the funds shall be used. The non-profits are required to provide the City's Finance Department quarterly financial reports detailing how City funds were spent. By accepting City funds, the non-profit agrees to allow the City access to all financial records and any other documentation that the City deems necessary.

Statistical Information

The table below summarizes funding statistics for fiscal years 2016 and 2017.

	FY 2016	FY 2017
Number of Non-Profits Applying for Funding	23	35
Amount of Non-Profit Funding Applied For	\$517,000	\$848,000
Number of Non-Profits Awarded Funding	12	12
Amount of Non-Profit Funding Awarded	\$125,000	\$103,500

Noteworthy Accomplishments

Several process improvements were noted, including changes to the award letter, which now specifies how the non-profit agency shall spend City funds. Previous years' versions of the award letters did not specify fund usage, making it more difficult to hold organizations accountable for spending. Better tools to track applications, funding requests and quarterly reports have also been developed.

Results of Audit

The following findings and recommendations are based on Internal Audit's research, testing, and discussions with the Chief Financial Officer, various City Council members, Legal, Human Resources, and the Grants Analyst in Finance.

1. Selection Process Creates the Opportunity for Potential Conflicts of Interest

Criteria: The Clarksville City Code Sec. 1-602 states that "each employee (elected officials included) shall avoid any action, whether or not specifically prohibited by statute, regulation ... which might result in or create the appearance of: (2) giving preferential treatment to any person or organization." Further, section 1-605 – Financial Interest; Sec 1-605(a) states that "...no employee (elected officials included) shall enter into or derive any benefit, directly or indirectly, from any contractual agreement with the City or any of its agencies...".

Condition: Funding awarded to a non-profit organization closely related to a sitting Councilmember may create the appearance of preferential treatment and/or the appearance of direct or indirect benefits.

- For fiscal year 2015, funding was awarded to an organization whose Executive Director was elected to the City Council during that period.
- The organization had received 2 quarterly payments from that funding allocation prior to the Executive Director being sworn in to the City Council in January 2015.
- The City determined that the appropriate course of action was to pre-fund the organization the next two quarterly payments on the condition that the organization could prove the awarded funds were spent on program expenses.
- The organization met this condition and received the quarterly installments prior to the Councilmember taking office.
- In March of 2015, the Councilmember's organization paid the Councilmember's entire budgeted salary for Executive Director responsibilities. Board Meeting minutes categorized the payment of salary as a severance package. The budgeted salary amount was reported on the organization's IRS Form 990 for 2015.
- The Councilmember continued his role as Executive Director in a voluntary capacity.
- Following payment of the severance package in March 2015, the organization submitted an application for non-profit funding to the City, which included a letter explaining that the Councilmember had resigned as a paid Executive Director and would only volunteer in that

capacity going forward. No information regarding the severance package was included with the application.

- The organization was awarded non-profit funding for fiscal year 2016 by the Miscellaneous Agency Funding selection committee, on which the Councilmember did not participate.

In addition to the organization discussed above, other organizations with City employees, including elected officials, on their boards received City funding through the miscellaneous agency funding process. All employees on non-profit boards were performing their roles in a volunteer capacity. However, the potential exists for the appearance of a conflict of interest if City employees, regardless of the nature of their employment at the City, have seats on non-profit boards receiving City funds.

Cause: By omitting the pre-paid salary or severance, the organization did not provide all pertinent information in their application. As a result, the selection committee made funding decisions based on incomplete information. Based on discussions with the Councilmember and review of the organization's board minutes, the board may have had the understanding that if the Councilmember was not paid his salary during the same months as City funding was provided, that there would be no potential for a conflict of interest.

The City Non-profit Agency Funding Policy does not specifically prohibit organizations with City employees on their boards or working as employees of the non-profit from receiving City funds.

Effect: Internal Audit does not have the authority per City Code to determine whether a situation results in a conflict of interest. However, the aforementioned activity creates the potential for the appearance of a conflict of interest. Conflicts of interest can damage public trust and confidence in the City and the City Council's ability to appropriately allocate and safeguard City funds.

Recommendation: Update the Clarksville Non-profit Agency Funding policy to explicitly state that non-profits employing City employees or elected officials, or having City employees or elected officials as board members or in other unpaid management roles, are prohibited from receiving city funding. Further, the Non-profit Agency Funding policy should require organizations to submit a list of their board members and employees, and/or specifically state whether or not city employees, as defined by the City Code of Ethics – Sec. 1-601, hold any management roles with the non-profit organization.

Management Comments:

Agree: _____ X _____

Disagree: _____

Corrective Action Plan: Based on this audit the recommended changes have been added to the City's application packet and information.

Projected Completion Date: 3/1/2017

Responsible Manager: Laurie Matta, CFO

2. Open Meetings and Open Records were Noncompliant

Criteria: The charitable selection committee, if comprised of two or more members of a public body, is subject to the Tennessee Open Meetings Act (TCA 8.44.1) and the Tennessee Open Records Act (TCA 10.7.5). Among the activities required to comply with the Open Meetings Act, the meeting must be open to the public and meeting minutes must be recorded.

The Open Records Act requires that “all documents, papers, ... or other material, regardless of physical form or characteristics, made or received pursuant to ... or in connection with the transaction of official business by any governmental agency” be made “open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen...”. As such, all records created as part of the selection committee meetings are subject to the Open Records Act.

Condition: For fiscal year 2016, the “Non-Profit Agency Review Committee,” consisting of five City Councilmembers, met twice to review non-profit applications and make recommendations for funding. The May 7th, 2015 meeting was a public meeting and was recorded, but no minutes were published. No applications were reviewed and no decisions were made during this meeting other than to make the decision to meet again on May 13th, 2015.

The May 13th meeting was also a public meeting, posted appropriately; however, no recording was made and no meeting minutes were taken. Additionally, no notes, scoring sheets, or any other documents were retained as required. One citizen from a non-profit organization requested records from this meeting that could not be produced. There were no controls in place to ensure that all documents were retained.

Cause: For fiscal year 2016, the City Councilmembers did not retain the documentation or record meeting minutes as required as no one was assigned responsibility for this task.

Effect: Failure to comply with these acts is in violation of Tennessee law, subject to the penalties described in TCA. Additionally, non-compliance with the Open Meetings and Open Records Act damages public trust and is contrary to the City Government’s objective of maintaining a transparent City government.

Recommendation: A formal selection committee should be created, complete with a chair and secretary. Management should assign responsibility for ensuring the selection committee meetings adhere to the Open Meetings and Open Records Acts as applicable.

Management Comments:

Agree: _____ X _____

Disagree: _____

Corrective Action Plan: Should a committee be formed to review the non-profit applications, the Grants Analyst will ensure that all members are fully aware of the requirements and documentation necessary to comply with the open meetings and the open records acts.

Projected Completion Date: 03/01/17

Responsible Manager: Laurie Matta

3. Ethics Policy Acknowledgements Not Obtained

Criteria: The City Code, Chapter 6 – Code of Ethics defines ethical and unethical behavior and states that “the maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the city is essential to ensure the proper performance of government business and maintenance of confidence by citizens in their government.” The Ethics Policy requires that “all employees review this chapter (Ethics Policy) annually and be briefed on any issues of interest related to this chapter.” Further “employees will sign a form of understanding and agreement (to be provided) during the annual review ... (and) the signed form will be retained in the employee records.” The ethics policy defines “employee” as “all full time and part time elected or appointed officials and employees, whether compensated or not, including those of any separate board, council, commission, committee, authority, corporation, ... or created by the City.”

Condition: The non-profit agency review committees did not sign the City’s Ethics agreement. Internal Audit requested the signed ethics agreements from several other committees, including the City Council, and determined that the Ethics agreement is not signed on an annual basis in all cases. There is currently no formal process in place to ensure all signatures are obtained.

Cause: Responsibilities were not assigned to fully implement this process.

Effect: Noncompliance with the City Code, specifically the Ethics policy, could damage public confidence in the City should an Ethics related violation occur. Employees, including elected officials and committee members, may state that they were unaware of the ethics requirements, placing blame on the City for not informing them of their Ethics responsibilities.

Recommendation: The City Code states that the “City Attorney and Human Resources will coordinate and develop the review/signature/filing process.” This process should be developed and adhered to as directed by the City Code. Management should define and assign responsibilities for each step in the ethics acknowledgement process, to include ensuring all required signatures are obtained.

Management Comments:

Agree: _____ X _____

Disagree: _____

Corrective Action Plan:

Response from Legal: I have an ethics presentation that I am ready, willing and able to present to City employees, management, elected officials, and members of committees, boards, authorities, commissions, etc. City Legal and HR need to work out a process to ensure all of these people either conduct an ethics review or receive training through electronic means (long term solution) or by presentation by the City Attorney’s office. This will require coordination with multiple

departments/department heads and multiple presentations which will take many man hours of time, but the City Code requires it.

The City Code may need to be amended to more precisely define how ethics review takes place, what process or procedures are used, and may need to only be done every two years instead of every year, and how all of this is to be documented. Long term solution is probably to go with a web-based type of training format like the IT Department does with computer security awareness training.

Response from Human Resources: The Human Resources Department will ask all Department Heads to have each employee sign the ethics acknowledgement form during the annual performance reviews. Additionally, the form is being redesigned to emphasize the pertinent information within the policy as the current form simply references the policy. Lastly, Human Resources is in the implementation phase of a new learning management system that will house the ethics policy and track compliance with the annual signing requirement.

Projected Completion Date: 09/30/17

Responsible Manager: Lance Baker, City Attorney and Will Wyatt, Director of Human Resources

Other Recommendations

Internal Audit noted additional areas where the existing process could be improved. Recommendations are as follows:

While the award letter specifies the due date of the quarterly reports, the policy is silent to the required due date. TCA requires that quarterly reports be submitted by the non-profits within 45 days of the quarter end. The City requires this information within 5 days of the quarter end. Consider extending the City's due date. Management should also consider developing a formalized reporting process on the status of quarterly reporting to the CFO. These reports could be made available to the selection committee.

Finance should assign personnel familiar with financial statement presentations, and should pre-screen all non-profits' unaudited Profit and Loss statements (P&L) provided as part of the application package. Pre-screening criteria should be developed to ensure that only logical and complete financial statements meeting stated criteria are accepted.

The current City of Clarksville Non-Profit Agency Funding policy lists "recent organizational financial audit" as a document that "must" be included in the application policy. The City's practice has been to accept unaudited P&Ls if the requesting organization has less than \$500,000 in annual revenues. The policy should be updated to reflect this practice.

The signature page of the City's application requires the Non-profit to "comply fully with the provisions of the Americans with Disabilities Act (ADA) of 1990" and with "Title VI of the Civil Rights Act of 1964 (as amended)". The City does not currently confirm compliance with these acts. Management should consider performing random, limited reviews of the non-profits receiving funding and obtaining proof of compliance with these acts should be part of the review.

The standing Non-profit Committee, if formed, should coordinate with the Community Development Block Grant (CDBG) committee to determine whether organizations received funding from the CDBG funds or if not, discuss why the organization was excluded.

While the scoring sheets were completed and retained for fiscal year 2017, the notes and scoring system were difficult to follow. Consider adjusting the scoring model to simplify the process.

Management Comments:

Agree: _____ X _____

Disagree: _____

Corrective Action Plan: Based on these suggested improvements, the City’s non-profit process has been updated as recommended.

Projected Completion Date: 03/01/17

Responsible Manager: Laurie Matta, CFO

Conclusion

In summary, the Miscellaneous Agency Funding process needs significant improvement to ensure compliance with the ethics section of City Code, as well as the Open Meetings and Open Records requirements in Tennessee Code Annotated (TCA). Management agrees with the issues reported and has agreed to improve the process as necessary to ensure compliance.

Internal Audit would like to thank the Mayor’s office, the Finance staff, including the Grants Analyst, the City Councilmembers, the Legal Department, and Human Resources for their assistance and support during the performance of this audit. Their positive and cooperative attitude facilitated the conduct of the audit and provides the necessary environment for process improvements to take place.

If further information about this audit is desired, please contact Internal Audit at 931-648-6106.