



# **Local Cultural Council**

## **PROGRAM GUIDELINES**

**Revised July 2009**

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*This booklet can be made available in large-print, cassette, or Braille formats. Contact the MCC.*

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# Local Cultural Council Program

## **I. Purpose of these Regulations and Guidelines**

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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. Both regulations and guidelines are included in this document. Regulations are rules that exist as part of the Massachusetts Code of Regulations (962 CMR 2.00) and changes to them must be filed with the Secretary of State's office. The guidelines explain additional procedures LCCs must follow to ensure a thoughtful and fair process for distributing public money. Changes to both the regulations and guidelines take effect July 1, 2006.

## **II. Background:**

### **Massachusetts Cultural Council and Local Cultural Councils**

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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 through two types of grants:
  - ▶ Standard LCC grants which fund a broad range of cultural activities;
  - ▶ PASS grants which fund cultural field trips for young people.

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

LCCs are made up of volunteers who are appointed by the community's chief elected official and who are responsible for making decisions on how they will award the money granted to them by the MCC in ways that will serve local cultural needs. There are currently 329 LCCs in Massachusetts that form an extensive grassroots system of public support for community cultural programs. Collectively, these councils distribute more than \$1.95 million each year to fund cultural activities in all 351 cities and towns in the state.

Distributions to each LCC are based on a local aid formula devised by the state. The formula takes into account population and property values, and is weighted in such a way to give larger distributions to less wealthy communities.

In the fall of 1999, a new process to streamline the administration of the LCC Program was implemented, to allow LCCs with strong local procedures, a history of member training and a clean approval record to receive funds earlier in the year. The MCC's streamlined process pre-approves the grant recommendations from qualified LCCs and:

- ▶ Reduces the long delay between the time applicants request a grant from their local council and when they can be reimbursed; and
- ▶ Focuses more on the big picture of *how* LCCs operate than on the specific details of each individual application that an LCC funds.

Information about the LCC Program, and all other MCC Programs can also be found on line at [www.massculturalcouncil.org](http://www.massculturalcouncil.org).

# Local Cultural Council Regulations

## **III. Regulations for Local and Regional Cultural Council Operations and Procedures (962 CMR 2.00)**

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

### **2.01: Scope and purpose**

The purpose of 962 CMR 2.00 is to provide guidance to local and regional cultural councils about their operations and procedures. These regulations, and supplementary guidelines promulgated independently by the Massachusetts Cultural Council, are designed to be effective for fiscal year 2000 and thereafter. Both are promulgated by the Massachusetts Cultural Council incident to its power to issue guidelines, rules, rulings, or regulations for the use of funds allocable to it and for local or regional cultural council operations and procedures.

### **2.02: Purpose of local and regional cultural councils**

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

### **2.03: Cultural access**

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

### **2.04: Establishment of a local and regional cultural council**

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

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

Local councils consist of at least five but no more than 22 citizens 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. Chapter 59, Section 21C, cannot serve as council members.

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

### **2.05: Management of local council funds**

Each local council must keep all funds (MCC distribution, interest earned and any additional dollars raised locally) in separate interest-bearing revolving accounts administered by the city or town treasurer. Councils are entitled to interest on their accounts 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, while more convenient, are not permissible.

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

An LCC may not accumulate unused state funds at the local level. 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. (Unspent funds accrue for various reasons, typically because previously approved projects were completed for less than the amount awarded, or not completed at all.) Generally, grant recipients have one year after final notification of an award to spend that award. However, an LCC may, at its own discretion, approve a reasonable extension for a grant recipient.

In summary, if the original source of the funds was the MCC, the LCC must use the MCC process and timeline for redistributing these funds. Grants made from unspent state funds must also be reviewed and approved by the MCC.

### **2.06: Local administrative expenses**

Local councils may use up to 5 percent of their state allotment each funding cycle for administrative expenses such as paid staff, postage, stationery, publicity, and so on. They may also use any interest earned on their state allotment or funds derived from sources other than the state allocation for administrative expenses without being subject to any such percentage limit. Local council members cannot receive compensation, but can receive reimbursement for expenses. Specific policies regarding reimbursement beyond these general rules may be established by each local or regional council.

### **2.07: Duties of local and regional cultural councils**

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

- (2)** Community input.

Each local council is responsible for insuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct regular assessments of cultural needs within its community. Councils should refer to the LCC guidelines, Section VII, page 18, for specific procedures.

**(3)** Establishing local funding priorities.

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

**(4)** Communicating with the public.

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

**(5)** Reviewing and recommending action on local applications.

Guidelines regarding local eligibility, review criteria and procedures for the review of applications are laid out in detail in Sections IV, V, VI and VII of guidelines promulgated by the MCC independent of its formal regulations, including an appendix relating to the Open Meeting and Conflict of Interest Laws applicable to local councils.

**(6)** Reporting to the Massachusetts Cultural Council.

The reporting requirements of local councils and guidelines regarding periodic state audits are set forth in Section VIII of the guidelines promulgated by the MCC independent of its formal regulations.

**(7)** Other necessary administrative functions.

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

## **2.08: Optional activities of local and regional cultural councils**

- (1)** Local or regional cultural councils have broad powers under the provisions of M.G.L. C.10, S.58. In addition, they may:
  - (a)** Fundraise from sources other than the state [962 CMR 2.08(2)]; and
  - (b)** Initiate local or regional council-originated projects [962 CMR 2.08(3)].
- (2)** Fundraising from sources other than the state.

Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues and interest from the local account. 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 money 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 Sections IV, V, VI and VII of the MCC's guidelines. Funds from sources other than the MCC distribution must, however, be kept in a separate municipal account of the LCC, and identified on the books of the city or town as funds derived from sources other than the MCC. However, grants made from funding sources other than the state allocation do not need to be approved by the MCC.

- (3)** Initiating council-originated projects.

Local cultural councils are themselves eligible to apply for funds for local council-originated programs that respond to cultural needs that are not otherwise being addressed in the community. (Please see pages 12-13 of the LCC guidelines.)

However, non-MCC funds raised from local council-originated projects must be kept in a municipal account. Such funds would be considered "funds raised from non-state sources." LCCs must observe the process and procedures outlined in 962 CMR 2.08(2) that detail how these funds must be kept, distributed and reported.

## **2.09: Local grant approvals**

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

## **2.10: Assuring compliance with local cultural council duties**

An LCC must comply with its duties as specified in 962 CMR 2.00 and elsewhere in the MCC's *Local Cultural Council Program Guidelines*.

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

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

*The above regulations have been filed with the Secretary of State's office.*

# Local Cultural Council Guidelines

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

## **IV. Criteria for Awarding Funds**

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There are five rules that must be followed in the review of all funding decisions by local councils. All five rules are equally important:

- A. Arts, Humanities, and Interpretive Sciences
- B. Public Benefit
- C. No Substitution
- D. Non-Dependency
- E. Non-Discrimination

These rules are explained in detail below.

**A. 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. A review of the professional qualifications of the individual or the organization leading the cultural activity is a critical component in determining compliance in this area.

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** engage people of all ages in learning about 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.

**B. 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 cultural councils should be available to the general public by exhibit, performance, demonstration, reading, or other means.
- ▶ To the degree possible, activities funded by local councils should ensure the full participation and integration of people with disabilities.

**C. No Substitution.** Local council funds must not substitute for or replace other public funding of programs in the arts, humanities or interpretive sciences. Specifically, this applies to proposals from public institutions, such as schools and libraries, which are already, or should be, an integral part of a community's budget. Any item or activity that is generally considered the funding responsibility of the city or town will not be approved, even if funding did not previously exist for that item or activity.

Municipalities face ongoing difficulties in trying to serve all community sectors, often with limited funds. However, LCC funding must remain broadly available to respond to the widest range of community cultural needs. Therefore, LCCs and the MCC must closely scrutinize requests from libraries, schools and other municipal departments. Expenses related to classroom or extra-curricular activities are not eligible for funding. The MCC will not approve local cultural council funding for standard extracurricular activities (e.g., school plays, musicals, bands, newspapers, art supplies, library books or audiovisual materials, or salaries for teachers or librarians).

Schools and libraries may only request funding for cultural enrichment activities (field trips, artist-in-residency programs, lectures, performances, etc.) that are led by outside artists, humanists, or interpretive scientists. The cultural professional cannot be a current employee of the school system.

**D. Non-Dependency.** Local council funds are not intended to be used as the sole source of funding for projects of a continuing nature. Local councils are encouraged to formulate policies regarding matching funding from other sources. In the first year of a particular program, for example, an LCC may elect to give a large grant. Over time, however, the percentage of the project budget coming from an LCC should decrease. A good rule of thumb is that if the same project has been funded by the LCC at the same level for three years in a row, it violates the non-dependency criteria.

**E. Non-Discrimination.** In accordance with state law, local councils may not discriminate against applicants on the basis of race, gender, religion, creed, color, national origin, disability, sexual orientation or age, nor may they fund projects that discriminate on the basis of these attributes. Additionally, all local cultural councils and their applicants must adhere to the MCC's statement on accessibility of cultural programs to underserved populations, as stated below.

1. The MCC is committed to access not only as a matter of state and federal laws, but also as a policy designed to encourage the participation of all segments of the Commonwealth's population in MCC-funded programs. The Massachusetts Office of Affirmative Action currently designates the following as underserved: African Americans, Asian Americans, Latin Americans, Native Americans, people with

disabilities, Vietnam-era veterans, and women. The MCC also considers low-income and rural communities, as well as citizens over 65-years-old, as underserved populations.

**2.** Cultural organizations funded by local councils and local councils that present public programs or offer services to the public must make reasonable accommodations to insure that people with disabilities have equal physical and communications access, as defined by federal law. Accessibility involves both the location (the facility) and the content (the activity or product) of the program.

Physical access refers to, but is not limited to, the following:

- ▶ Ramp access or elevators to the office, performance, exhibition or presentation areas for persons using wheelchairs.
- ▶ Restroom facilities with grab bars and door widths to accommodate persons using wheelchairs.
- ▶ Accessible parking facilities.
- ▶ Organizations with historic properties and groups with limited financial resources must also meet ADA requirements. The particular situation of these organizations is recognized.

Programmatic and communications access refers to, but is not limited to, the following:

- ▶ Sign language interpreters
- ▶ Assistive-listening devices
- ▶ Telecommunications devices (TTY)
- ▶ Audio description of programs
- ▶ Braille, large-print publications or audio tapes
- ▶ Open captioning, close captioning
- ▶ Computer-Aided Realtime Reporting (CART)

**F. Additional Criteria.** In addition to the five rules described earlier, LCCs should consider the following criteria in assessing applications:

- ▶ Potential to promote excellence in programming and service to the community in the arts, humanities, or interpretive sciences;
- ▶ Community support and involvement;
- ▶ Evidence of track record and dedication of the applicant;
- ▶ Ability to address the diverse cultural needs of a community's underserved populations or support diverse forms of cultural activities;
- ▶ Financial need.

Local councils are authorized to develop additional criteria and may give different weight to criteria in order to reflect local concerns and community cultural needs. Local criteria and guidelines must be posted on an LCC's public web page by September 1 each year. 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 your grant applicants, but your council must take extra precautions to ensure that the interview process is consistent and fair. The MCC strongly discourages councils from disapproving or penalizing an applicant because he/she cannot attend an interview.

## **V. Eligibility Requirements**

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### **A. Eligibility Requirements for Standard LCC Applicants**

In general, local cultural councils may give grants to individuals or organizations for activities in the arts, humanities, or interpretive sciences. Applicants must show that they reside in Massachusetts and should have been engaged in the kind of activity for which funds are requested for at least one year.

Each local council should determine its own priorities for funding, however, based on a community input process.

In general, local councils may accept applications from anyone included in the list below.

#### **1. Individuals.**

- ▶ Individual applicants must show that a public benefit results from the project for which they are applying. Although LCC funds cannot be used to support activities that benefit only the individual applicant, a public presentation of an individual's work may provide the needed public benefit.
- ▶ Individual members of local councils may apply for funding from a local council, but must observe all Conflict of Interest laws and regulations in the granting process. Local councils may also establish their own guidelines regarding applications from council members as long as these are consistent with the state's Conflict of Interest laws (see Appendix B).

#### **2. Private nonprofit organizations that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code.**

**3. Unincorporated associations that can establish a nonprofit objective** – that is, groups of individuals coming together with a common purpose (e.g., local community band, theater group) which do not have nonprofit 501(c)(3) tax-exempt status.

**4. Schools, libraries or other public agencies.** Public agencies are eligible to apply for funding, but local council funds must not be used to replace municipal funding for the arts, humanities, or interpretive sciences. Please refer to page 10 for more specific details.

**5. 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. LCCs cannot approve applications that are not primarily cultural in their intent, have the effect of advancing religion, or substantially benefit religious organizations or schools. Capital expenditure requests (equipment purchases or facilities renovations) from religious organizations are not eligible.

#### **6. The local cultural council itself.**

- ▶ A local council may submit an application to the MCC for funds to support programs initiated by the local council itself. Applications of this kind are known as "LCC-Originated" applications. The local council must submit its own application by the local deadline (generally Oct. 15). These applications

are subject to the same guidelines as all other LCC applications. The dollars approved for LCC-originated grants come directly from that local council's annual allocation.

- ▶ LCCs that are developing LCC-originated projects are asked to submit an intent-to-apply email to the MCC by Oct. 1 each year. All LCCs considering LCC-originated projects are strongly encouraged to talk to MCC staff while developing their projects and submit a draft of their application in late September;
- ▶ **LCCs must submit final LCC-originated applications to the MCC by the local deadline (generally Oct. 15).** LCC-originated projects will be evaluated at the state level by a panel of MCC staff who are familiar with the activities of local cultural councils;
- ▶ LCC-originated applications must be accompanied by responses to a list of supplemental questions for LCC-originated requests, which are available on the LCC Online Office at [www.mass-culture.org](http://www.mass-culture.org);
- ▶ LCC-originated applications must demonstrate that they respond to a specific unmet public cultural need in the community. Councils are strongly encouraged to use their community input process to ask for specific suggestions for projects or to elicit feedback on a proposed LCC-originated project. Significant planning and community support must be demonstrated as part of the LCC-originated application process;
- ▶ LCO funds cannot be spent on projects that are primarily typical council administrative expenses (such as paid administrative staff or standard council publicity efforts). Councils may use up to 5% of their allocation annually for such purposes.
- ▶ An LCC must weigh the merits of its own proposal, and how well it meets program guidelines, against all other locally submitted proposals. While formal review of these applications takes place at the state level due to Conflict of Interest laws, the LCC must decide how much of its allocation it wishes to set aside for its own project;
- ▶ LCC-originated projects that are repeated are expected to develop other sources of support from year to year. LCC-originated projects that do not decrease their dependency on LCC grant funds over time will be disapproved by the MCC;
- ▶ Councils that submit grants for LCC-originated projects will be asked to complete a progress/final report by June 30 detailing the continued planning and implementation of activities, as well as evaluation and intended changes for the future.

## **B. Uses of Standard LCC Grant Funds**

The MCC imposes few restrictions on the use of local funds, as long as the criteria in Section IV and V.A. are met. A local council may make grants for projects, operating support, ticket subsidy programs, artist residencies, fellowships or other activities, based on local priorities and needs.

Further restrictions are placed on the following three types of grants:

- 1. Refreshments:** Local council funds may not be used to purchase food.
- 2. Scholarships:** Although individual students are not eligible to apply for scholarships, an organization

may sponsor a scholarship provided it shows evidence of an open and fair review and award process. The applicant organization must also ensure a public benefit component in which the award recipient “gives back” to the community in the form of a lecture, master class, exhibit, performance, etc.

**3. Capital expenditures:** LCCs can grant funds for capital expenses but they need to make sure that requests for capital expenditures meet a number of additional requirements. A capital expense is defined as: items that have a life expectancy of more than three years and a monetary value of more than \$500. Examples include equipment, such as lighting or sound equipment, new construction or the renovation of a cultural facility.

LCCs may accept and review capital expenditure requests under the following circumstances:

- a)** Grants should be for a one-time or special need and should be clearly justified by some longer-term public benefit.
- b)** Applicants must demonstrate a 2:1 match (the LCC can only fund one-third of the total cost). The match may be comprised of any combination of cash and/or donated goods or services. The match must be documented on the application budget.
- c)** Requests for capital expenditures must be accompanied by responses to a list of supplemental questions for capital expenditure requests. These questions are available on the LCC Online Office at [www.mass-culture.org](http://www.mass-culture.org).

If the applicant for capital expense funding is the local council itself, the property then belongs to the municipality.

**D)** Schools, libraries and religious institutions or organizations are ineligible to apply for capital expenditures.

### **C. PASS Program Eligibility**

The PASS Program funds cultural field trips for children, grades Pre-Kindergarten through 12, by subsidizing the cost of admission to attend programs in the arts, humanities and interpretive sciences (including performances, educational tours and exhibits). Every fiscal year, it is up to each local cultural council to determine how much of its allocation it will dedicate to the PASS Program. At the discretion of the local council, PASS funds may be used to cover travel costs.

Applicants to the PASS Program may be parents, teachers, administrators, PTA/PTOs, neighborhood centers or civic organizations. Public, private, and parochial schools are all eligible for PASS funding. Tickets for PASS events must be purchased in advance by the applicant, who is later reimbursed by the local cultural council that approved the application. For more information, please refer to the PASS Program on the MCC web site.

To qualify for PASS funding:

- ▶ Admission to the event or institution must be \$12 or less. (A standard LCC application may be used

for those events or institutions with an admissions price higher than \$12.)

- ▶ Generally, PASS events must take place outside of the school setting. At the very least, PASS approved events may not take place in a school during normal school hours.

## **VI. Qualifying for Streamlining**

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### **A. How to Qualify for Streamlining**

Several years ago MCC developed a process to make administering grants more efficient for LCCs. This process, called streamlining, allows qualified LCCs to get their state allocation faster and reimburse applicants sooner.

In order to participate in streamlining, LCCs need to demonstrate their readiness in three broad areas.

The criteria include the following:

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

- ▶ A review of systems that are required by the guidelines (i.e., an interest-bearing account, having no large balance of MCC funds at the local level, appropriate communications with applicants);
- ▶ A determination that good practices are in place (i.e., orientation process for new members, shared work load among members, grant workshops for applicants).

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

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

**3. LCC Training.** All members of the council must take the online LCC Basics Training, available via the LCC Online Office at [www.mass-culture.org](http://www.mass-culture.org), within three months of their appointment date. LCCs with allocations of \$20,000 or more must have any staff complete the training within three months of joining the council as well.

### **B. How to Remain Streamlined**

In order to remain streamlined, an LCC will need to continue to satisfy the above criteria over time. MCC's goal will be to keep LCCs in the streamlined group once they have qualified. Unless an LCC awards grants

that do not comply with program guidelines, is found to have procedural flaws two years in a row, or does not ensure new members complete their training requirements, it will remain streamlined. If an LCC has been removed from the streamlined group, it will need to meet the above stated criteria to regain its streamlined status.

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

1. That the Summary to MCC was submitted by the January 15 deadline;
2. That a legal council is in place (at least five members) with an acting chair;
3. That a quorum of the members voted at the local LCC grant cycle business meeting;
4. That conflict-of-interest procedures were observed;
5. That all new funds from the current year were granted.

If these five checkpoints have been met, funds will be released to that LCC. Money will be transferred after the LCC submits their Summary to MCC so that reimbursements to LCC grant recipients can begin to be processed at the local level.

## **VII. The Annual Grant Cycle: Timeline and Instructions**

The following page shows the grant cycle timeline. The major difference between streamlined councils and

## A. Grant Cycle Timeline for LCCs

### FOR ALL LCCs

<b>Spring/Early Summer</b> _____	LCCs gather community input
<b>August</b> _____	The MCC Board approves streamlined status for LCCs
_____	The MCC Board approves allocations for all LCCs
_____	LCCs publicize grant program
_____	LCCs distribute applications and guidelines locally
<b>September</b> _____	MCC sends LCCs notification of their allocations
_____	LCCs should meet with their municipal fiscal officer by Sept. 30
<b>Oct. 1</b> _____	LCC-originated intent to apply e-mail due at MCC, if applicable
<b>Oct. 15</b> _____	Local deadline for all applicants
_____	Deadline to submit Online Municipal Account Statement
_____	LCC-originated deadline. LCCs submit these grant applications to MCC, if applicable
<b>Early-to-mid November</b> _____	LCCs hold grant cycle business meetings to vote on applications
<b>Mid-to-late November</b> _____	LCCs send disapproved letters to unsuccessful applicants
_____	LCCs handle requests for reconsideration, if applicable

### FOR STREAMLINED LCCs

<b>Dec.– mid Jan.</b> _____	LCCs work on their online Summary to MCC
<b>Jan. 15</b> _____	Online Summary to MCC due
<b>January</b> _____	Once the Summary is completed, LCCs send approval letters to successful applicants and publicize the grant awards
_____	MCC transfers grant funds from state to local accounts
_____	Reimbursement process begins

### FOR NON-STREAMLINED LCCs

<b>Early-mid December</b> _____	LCCs send preliminary approval letters to successful applicants
_____	LCCs must submit copies of all approved grant applications to MCC <b>by Dec. 15</b>
_____	LCCs must complete and submit the Summary to MCC online <b>by Dec. 15</b>
<b>Late Dec. – Feb.</b> _____	MCC staff reviews each application for guideline compliance. MCC staff conducts follow-up to rectify LCC procedural problems.
<b>Late March</b> _____	MCC Board approves or disapproves applications
_____	MCC notifies LCCs of approvals and disapprovals
<b>April – May</b> _____	MCC transfers grant funds from state to local accounts
_____	LCCs send final approval letters to successful applicants
_____	LCCs with state disapprovals request reconsiderations or submit pending plans
_____	LCCs begin applicant reimbursement process

### FOR ALL LCCs

<b>June</b> _____	LCC-originated progress/final reports due to MCC
<b>Ongoing</b> _____	Ensure applicants acknowledge funding provided by LCCs and MCC

non-streamlined councils are:

1. Streamlined LCCs receive their funds in January (versus April for non-streamlined LCCs);
2. Streamlined LCCs only need to send one, not two, notifications to their approved applicants.

### **Grant Cycle Instructions for LCCs**

The following is an outline of a typical annual grant cycle for a local cultural council, including the procedures LCCs must follow when approving applications and distributing funds. Please note that the timeline splits at the point when local cultural councils notify their applicants; this split timeline tracks the difference between councils that are on a streamlined schedule and those that are not. Near the end of the timeline the two tracks rejoin to reflect activities that all LCCs and their applicants should be involved in regardless of their streamlined status.

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## **B. FOR ALL LCCs**

### **Spring/ Early Summer**

LCCs begin preparing for the grant cycle several months before any applications are reviewed by gathering input from the 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. LCCs are encouraged to request input on proposed LCC-originated projects and to solicit suggestions for specific programs and activities.

### **August**

LCCs begin the grant cycle by locally publicizing the grant program and distributing applications. Each local council is responsible for announcing the availability of funding, the local deadline, funding priorities, local guidelines and other important information through public notices, press releases, public service announcements, mailings and so on. LCC members and applicants can obtain copies of the LCC application and the PASS application at [www.massculturalcouncil.org](http://www.massculturalcouncil.org). Sample press releases are available to LCC members at [www.mass-culture.org](http://www.mass-culture.org) in the section called "Visibility & Publicity".

At this time, LCCs should schedule a September meeting with their municipal fiscal officer (the municipal treasurer, auditor or accountant) to determine their account balance and complete the LCC Account Form.

### **September**

By September 1, LCCs must update their public web page for prospective applicants with their local guidelines, funding priorities and the council's contact information.

MCC sends allocation notifications to LCCs via email or hard copy; LCCs should check mailboxes or email inboxes for notification information.

By September 1, LCCs must update their public web page for prospective applicants with their local guidelines, funding priorities, and the council's contact information.

The LCC chair, co-chair, treasurer or administrator must meet with the council's municipal fiscal officer prior to September 30. The municipal fiscal officer will provide the LCC with a completed

LCC Account Form. 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.

LCCs also need to make sure that the LCC membership information is updated on the Online Office and assign someone to check the LCC email account regularly.

LCCs that plan to submit LCC-Originated projects are encouraged to email a first draft of their application to their MCC staff contact ([lcc@art.state.ma.us](mailto:lcc@art.state.ma.us)) for review.

### **October 1**

By October 1 Local Councils that plan to submit LCC-Originated projects should e-mail an "intent-to-apply" to [lcc@art.state.ma.us](mailto:lcc@art.state.ma.us).

### **October 15**

Local Deadline. Applicants must submit completed applications to LCCs postmarked by the statewide deadline, generally on Oct. 15. Late applications should not be accepted. Once applications are received, LCCs are responsible for reviewing applications and notifying applicants if their materials are incomplete.

LCC-Originated Deadline. Councils submit final LCC-Originated applications directly to the MCC by the local deadline, along with the required supplemental questions. LCCs will be notified if their applications were approved or disapproved in mid-November.

Deadline for LCCs to submit the information from their LCC Account Form through Step 2 of the Online Summary to the MCC.

### **Mid-to-late October**

LCCs gather grant applications for review and make sure that applications are complete and meet the eligibility criteria.

LCCs are encouraged to enter all applications into the "Grants Management" section of the Online Office before holding voting meetings.

### **Early-to-mid-November**

LCCs conduct their grant cycle business meetings to make funding recommendations for each application. Your LCC must weigh many applications and determine those that best meet MCC criteria and local criteria for approval. The MCC discourages LCCs from using "technical disapprovals" (not enough copies, unsigned applications, etc.) as the sole basis for disapproving applications.

LCCs may place conditions on approved applications (i.e., the applicant must hold the proposed program

during the town festival, the performing group must provide free tickets to senior citizens). LCCs must communicate any conditions to the applicant in writing and note them on the application and in the minutes for that meeting.

A quorum of LCC members, or half the members plus one, is required to vote at the grant cycle business meeting. The meeting must also be open to the public. Telephone voting or proxy voting is not allowed. In cases where there is a conflict of interest the member should abstain from both the discussion and vote.

Massachusetts law states that all meetings of local government bodies, including those held by LCCs, must be open to the public. LCCs must file a notice with the city or town at least 48 hours prior to a meeting, except in an emergency. For additional requirements and guidelines on Open Meeting and Conflict of Interest Laws, see Appendices A and B.

### **Mid-to-late November**

After the council has made its decisions LCCs should immediately mail out disapproval letters.

Disapproval letters must provide applicants with clear reasons why their applications were denied and information on the reconsideration process. “Insufficient funds” does not provide applicants with adequate rationale for disapproval. This is important, because applicants who have been denied can request that their application be reconsidered if they feel that the LCC has not followed the published review procedures or state and local guidelines. A sample disapproval letter and the “Instructions for Reconsideration” are available on the Online Office, in the “The Grant Cycle” section. Applicants cannot request reconsideration because they disagree with the LCC’s decision on artistic grounds or because they are unsatisfied with the awarded grant amount. Reconsideration requests must be made in writing and must be sent to the LCC within 15 days of the postmarked date on the disapproval letter.

LCCs that receive a request for reconsideration should get in touch with their MCC staff contact to discuss the particular situation. The council should then carefully review and verify that both state and local published review procedures and guidelines were followed. If the council finds that the published review procedures and guidelines were not followed, the council must reconsider the application. A determination on any requests for reconsideration should be made before LCCs finalize funding decisions and before LCCs submit their Summary to MCC.

At this time, LCCs are also encouraged to enter their voting meeting, and update individual applications with award amount and/or denial information in the LCC Online Office.

**Streamlined LCCs: Proceed to page 21.**

**Non-streamlined LCCs: Proceed to page 22.**

## C. FOR STREAMLINED LCCs

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Streamlining considerably simplifies the grant process. For streamlined LCCs, once the reconsideration process has been completed at the end of November, the following steps happen:

### **December to mid-January**

Once the reconsideration period is up, **but no later than January 15** LCCs complete and submit their Summary to MCC online at [www.mass-culture.org](http://www.mass-culture.org). Failure to meet this deadline may result in the loss of that cycle's funds and jeopardize streamline status.

Funds allocated to streamlined councils will generally be released by mid-February. LCCs can track their payment from the MCC using the Mass Finance web site if their city or town provides them with the last four digits of the municipal TIN (located under Municipal Information on the Online Office).

Once LCCs receive notification from MCC, they mail out approval letters to successful applicants, along with instructions for requesting reimbursement and information on the MCC credit policy. Recipients are required to acknowledge the source of their grants in all published materials and announcements about activities or programs supported by LCC funds. More information on the MCC credit policy for LCC recipients can be found on the MCC web site ([www.massculturalcouncil.org](http://www.massculturalcouncil.org)) under the "Contracts and Correspondence" section. LCC members can obtain a sample approval letter, the reimbursement form, and the instructions for grant recipients in the "The Grant Cycle" section of the Online Office.

At this time, local cultural councils also issue press releases announcing grant recipients. Councils should contact legislators for a comment before sending out the press release. As LCC activity occurs in every legislative district across the state, these press releases provide an opportunity for cultural councils, senators and representatives to report good news locally. LCCs can obtain a sample press release under the "Visibility & Publicity" section of the Online Office.

### **Late-January, then on-going**

LCCs process reimbursement requests as they arrive.

In order to request reimbursement the recipient must sign 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 accounting provided by the applicant must be retained by the LCC with the application. If the local council is satisfied that the project has been completed as promised, a minimum of two council members (preferably the treasurer and one other member) sign the form and forward it to the town treasurer, who will authorize the release of funds to the applicant. 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.

Grant recipients have one year from the date of their approval letter to complete their projects and request a reimbursement. LCCs can, at their discretion, approve reasonable extensions for projects that are not completed within that year. In order to approve an extension or other modification to an approved project the LCC must reconvene a quorum of LCC members and vote. Project modifications should be requested in writing, and the modification should not significantly alter the original purpose of the approved application. The LCC must inform the applicant in writing about any approved modification requests and ensure that the vote is reflected in the meeting minutes.

## D. FOR NON-STREAMLINED LCCs

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### **Early to mid-December**

Once the reconsideration period is up, **but no later than December 15** non-streamlined LCCs complete and submit their Summary to MCC online at [www.mass-culture.org](http://www.mass-culture.org) and mail a copy of all applications to MCC. Once the reconsideration process is complete, non-streamlined LCCs also mail out preliminary approval letters. Sample preliminary approval letters are available under the “The Grant Cycle” section of the Online Office.

### **Late December - February**

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

### **Late March**

The MCC notifies non-streamlined councils of approvals and disapprovals.

### **April-May**

MCC transfers allocation funds to the local accounts. LCCs can track their payment from the MCC using the MassFinance web site if their city or town provides them with the last four digits of the municipal TIN (located under Municipal Information on the Online Office).

LCCs send final approval letters to applicants. Successful applicants must be sent written notification of the council’s decision, along with instructions for requesting reimbursement and information on the MCC’s credit policy. Recipients are required to acknowledge the source of their grants in all published materials and announcements about activities or programs supported by LCC funds. More information on the MCC credit policy for LCC recipients can be found on the MCC web site ([www.massculturalcouncil.org/contracts/lcccred\\_recip.html](http://www.massculturalcouncil.org/contracts/lcccred_recip.html)). LCC members can obtain a sample approval letter, the reimbursement form, and the instructions for grant recipients in the “The Grant Cycle” section of the Online Office.

An applicant whose grant is recommended for approval by a non-streamlined council and disapproved by the MCC may request reconsideration of the MCC decision if he/she feels that MCC failed to follow published review procedures. Requests for reconsideration should be made directly to the MCC. Applicants have 15 days from the time they are notified to request reconsideration, which must be made in writing. The MCC board will vote on reconsideration requests at its next meeting, generally in late May.

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

Grant recipients can begin to apply for reimbursement.

LCCs process reimbursement requests as they arrive. In order to request reimbursement the recipient

must sign a reimbursement form, which is provided by the council, to indicate that the funds being requested fulfill the intent of the application. 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 accounting provided by the applicant must be retained by the LCC with the application. If the local council is satisfied that the project has been completed as promised, a minimum of two council members (preferably the treasurer and one other member) sign the form and forward it to the town treasurer, who will authorize the release of funds to the applicant. 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.

Grant recipients have one year from the date of their approval letter to complete their projects and request a reimbursement. LCCs can, at their discretion, approve reasonable extensions for projects that are not completed within that year. In order to approve an extension or other modification to an approved project the LCC must reconvene a quorum of LCC members and vote. Project modifications should be requested in writing, and the modification should not significantly alter the original purpose of the approved application. The LCC must inform the applicant in writing about any approved modification requests and ensure that the vote is reflected in the meeting minutes.

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#### **E. FOR ALL LCCs**

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##### **Ongoing**

LCCs continue to process and monitor reimbursements as they come in.

LCCs ensure grant recipients acknowledge the MCC/LCC funding of their grants.

LCCs attend funded projects and invite elected officials to funded projects.

LCCs end the grant cycle as they began it—gathering input from the community on recently funded projects and soliciting ideas for the next grant cycle. In this sense, community input becomes an ongoing conversation. Meetings, surveys, and networking with other community groups helps to make sure that

LCC grantmaking reflects the needs and interests of the local community.

## **VIII. Reporting – Record-Keeping – Audits**

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### **A. Streamlined Reporting Requirements.**

**1. LCCs must submit the Summary to MCC through the LCC Online Office ([www.mass-culture.org](http://www.mass-culture.org)) by the January 15 deadline each year.** Non-streamlined LCCs must submit the Summary to MCC through the Online Office by the December 15 deadline each year. In addition, non-streamlined LCCs must also mail one copy of each application recommended for approval to the MCC by the December 15 (postmark) deadline. LCCs should check to see that the chair or member's signature and the recommended grant amount are on the back side of each application.

**2. LCCs must send progress or final reports for LCC-originated projects to the MCC by June 30 each year.** The project progress/final report questions are available on the LCC Online Office ([www.mass-culture.org](http://www.mass-culture.org)).

**3. All LCCs must publicize a list of their grant recipients.** Suggested vehicles are local newspapers, municipal annual reports or web sites, or local cable access television shows. Please be certain to retain copies (at the local level with the LCC's records) of any materials sent to the MCC.

One function of the MCC is to serve as a central clearinghouse for information on local councils. To this end, the MCC may from time to time request further information from LCCs.

### **B. Record-Keeping.**

All applications (both approved and disapproved), minutes of all meetings, disclosure forms, and any other records of LCCs must be maintained in a public place. At least five years worth of records must be kept in a secure space identified by the city or town clerk. Records more than five years old should be archived using the same procedures employed by the local government. To facilitate access to the current year's records, the chair may keep those records in his or her home; however, the city or town clerk should be apprised of their location. Information on members should be entered directly into the LCC Online Office and your town clerk's office should be provided with regular membership updates so potential applicants can find LCC contacts and get assistance when needed.

All records of the actions of local cultural 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.

### **C. State Audits.**

Especially with streamlined councils, it will be important for the MCC to conduct periodic performance reviews of LCCs, in particular MCC may review the applications received, approved or rejected, and their supporting documentation.

The MCC may also occasionally review the payment requests submitted by grantees.

# Appendices

## **Appendix A - Open Meeting Requirements**

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Under Massachusetts law, meetings of a local “government body,” including an LCC, must be open to the public (M.G.L.c.39, ss23A, 23B, and 23C). 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.

Except in an emergency, 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, including Saturdays, but not Sundays and legal holidays.

The LCC must maintain accurate records of its meetings, setting forth the date, time, place, members present or absent, and actions taken at each meeting. These shall become public records except as otherwise provided by law.

Meetings may be recorded on audio or video tape.

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**

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The purpose of the conflict of interest law, Massachusetts General Laws Chapter 268A, is to ensure that public employees’ (Including Local Cultural Council members) private financial interests and personal relationships do not conflict with their public obligations. Public employees must also avoid conduct which creates an appearance of conflict of interest, or conduct which creates a reasonable impression that they will act with bias.

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

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

- ▶ An LCC member applying for a grant.
- ▶ An LCC member applying for a grant on behalf of someone else.
- ▶ An LCC member, her immediate family or organization she is affiliated with has a financial interest in a grant.

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

## **Possible Conflict of Interest Scenarios**

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### ▶ **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](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](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](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.
- A 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](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 friend 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.

▶ **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](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](http://www.mass.gov/leth/docs/legal/disc_spec_mun_ee_20c_d.pdf).

► **Giving, requesting or receiving "gifts" related to LCC work.**

It is illegal to request or accept anything of “substantial value” (more than \$50) from anyone with whom you have or are likely to have official dealings (absent some family or social relationship which would explain the gift) even if the motivation for the gift is to express gratitude for a job well done or to foster goodwill. Items of “substantial value” range from cash, additional compensation and tips, to free tickets and passes to entertainment events. In addition, free or discounted services such as construction or accounting work are considered gifts.

► **Acting in a manner that suggests one can be improperly influenced.**

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

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

► **Abstentions affecting the quorum.**

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

## **Conflict of Interest Glossary**

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**Agent:** Anybody acting in a representative capacity on behalf of someone else, regardless of whether the person is a lawyer.

**Immediate Family:** The employee and his spouse, and their parents, children, brothers and sisters.  
Note: Cousins, nephews, aunts, uncles, etc. are not considered immediate family members.

**Official Responsibility:** The direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and whether personal or through subordinates, to approve, disapprove or otherwise direct agency action.

**Partner:** Any person who joins with any other person(s) formally or informally in a common business venture. The term is not restricted to those who enter into formal partnership agreements. The following criteria are examined to determine if a partnership exists: whether the person shares on the advantages or risks or ownership, contributes to capital or operating expenses, owns a transferable interest in the assets of the entity, or reasonably appears as having a stake in the ownership of the business to an objective third person. In addition, if a group creates the public appearance of a partnership (for example, by using joint stationery, business cards, and business listings), the group will be treated as a partnership even though profits may not be shared.

**Special Municipal Employee:** Local Cultural Council members are considered special municipal employees for purposes of the conflict of interest law.

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