

Renewal of Multi-Year Agreement with the Toronto Arts Council (2014-2018)

Date:	14 November 2013
To:	Economic Development Committee
From:	Michael H. Williams, General Manager Economic Development and Culture
Wards:	All
Reference Number:	

SUMMARY

The City entered into a formal agreement with the Toronto Cultural Advisory Corporation operating as the Toronto Arts Council (TAC) in 2002. The agreement was renewed for another five year term commencing January 1, 2007 and extended twice for one-year terms until December 31, 2013. This report seeks the authority to enter into a new five-year agreement with substantially the same terms and conditions as in previous agreements. A new clause which delineates acknowledgement of the City's funding has been added to the agreement.

The proposed five-year funding agreement, being effective from January 2, 2014 to December 31, 2018, will allow for a continuing and structured link between the City and the Toronto Arts Council. It will enable planning and service delivery that offers an increased degree of stability, accountability to City Council, and sets out the City's terms and conditions. Specific requirements and deliverables from the TAC are set out in the formal agreement based on the nature of the arts and cultural services provided to the City, its residents and visitors to Toronto.

RECOMMENDATIONS

The General Manager of Economic Development and Culture recommends that:

1. City Council grant authority to the Deputy City Manager Cluster A to enter into a five-year agreement effective January 1, 2014 to December 31, 2018, with the

Toronto Arts Council for the administration and distribution of arts and culture funding on behalf of the City of Toronto;

2. The agreement with the Toronto Arts Council be subject to the satisfaction of the General Manager of Economic Development and Culture, the City Solicitor and the Deputy City Manager and Chief Financial Officer; and
3. The Toronto Arts Council continue to submit its annual funding request through the City's annual operating budget process.

Financial Impact

There is no financial impact resulting from the adoption of this report beyond what has been included in the 2014 Cultural Services Operating Budget submission.

ISSUE BACKGROUND

The City entered into a formal agreement with the TAC in 2002. The agreement was renewed for another five year term commencing January 1, 2007 and ending on December 31, 2011 with the same terms and conditions. The agreement was extended twice for one-year terms in 2012 and 2013, effective until December 31, 2013.

<http://www.toronto.ca/legdocs/mmis/2007/ed/bgrd/backgroundfile-2662.pdf>

In 2012, City Council directed the General Manager, Economic Development and Culture to report to the Economic Development Committee prior to the completion of the 2013 Operating Budget Process on the best mechanisms to ensure appropriate recognition of the City of Toronto in its direct and indirect grants awards for arts and culture. This direction has been addressed in the new agreement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.ED14.5>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.ED19.12>

COMMENTS

The Toronto Arts Council is an external, arm's length organization that operates under an agreement with the City to administer its cultural grant funding to not-for-profit organizations and individual artists across the city. TAC has been performing this service for 39 consecutive years. TAC uses a peer review process of grants adjudication by juries and committees to allocate its grants. TAC's volunteer board and committees are made up of artists, administrators, and arts supporters. To guarantee accountability, City Council appoints up to five of its members to Toronto Arts Council's minimum 21 member board of directors.

The intent of the multi-year funding agreement effective from January 1, 2014 to December 31, 2018 is to define the purpose and benefits to the City of such funding and put in place processes that will achieve accountability to the City for the funding it provides. The annual request for funding for the TAC will be subject to review and

approval by City Council. Under the terms of the proposed agreement, the TAC will be required to submit an annual report and a financial audit for review and to submit its funding request to the General Manager of Economic Development and Culture during the City's Annual Operating Budget process, for recommendation and approval by City Council.

Structure of the TAC

The agreement will contain provisions setting out the structure of the TAC including the following:

- (a) TAC is a non-share capital non-profit Ontario corporation accorded charitable status by the Canada Revenue Agency.
- (b) TAC is an Arm's Length funding Body that uses a Peer Review Process of grants adjudication by juries or committees established by it which apply the Peer Review Principle.
- (c) TAC's organizational structure as of the date of execution of the agreement is set out in an attached Schedule. The TAC shall advise the General Manager, in writing, 45 days in advance of any proposed changes to its organizational structure.
- (d) TAC's membership structure as of the date of execution of the agreement is set out in an attached Schedule. TAC shall advise the General Manager, in writing, 45 days in advance of any proposed changes to its membership structure.
- (e) TAC staff shall not be employees of the City. TAC is not an agency, board or commission of the City.
- (f) The Board of Directors shall have at least 21 members. The City shall have the right to appoint five members of Council to the Board of Directors. TAC shall advise the City from time to time when it is necessary for the City to appoint replacement representatives to the Board of Directors.
- (g) The Board of Directors shall govern TAC and oversee its operations.

General Terms and Conditions

- (1) City Council has control over policy;
- (2) TAC will continue to report to City Council through the Economic Development Committee;

- (3) TAC will continue to submit its annual Grant Budget Request to the Budget Committee. To allow staff comments on the request to be considered by the Committee at the same time, TAC will submit copies of the request to the General Manager and the City's Deputy City Manager;
- (4) TAC will submit a description of planned granting activities and anticipated deliverables in its annual Grant Budget Request;
- (5) the actual annual grant amount will be determined through the annual budget process. The annual Grant Budget Request submission would include a separate request for the Cultural Grants Program and a request for the Operations Program;
- (6) the Operations Program will be proposed by the TAC on an annual basis, accompanied with clear rationale and justification. The actual amount of the Operations Program would be subject to the review and approval by City Council;
- (7) TAC shall not use Grant money allocated to the Operations Program, the Cultural Grants Program, or the Loan Program for any purpose other than the specific purpose of that Program without the prior consent of Council,
- (7) TAC will manage its finances in accordance with established City fiscal policies and practices, including record keeping, budget monitoring and the return of unused City funds upon termination of services;
- (8) TAC will submit quarterly and annual reports on its granting activities, including appropriate quantitative and qualitative overview of arts and culture activities funded, and other financial information for the preceding period, to the General Manager;
- (9) TAC will submit on an annual basis, audited financial statements to the General Manager, Economic Development and Culture, the Deputy City Manager, and the City Auditor, prior to submitting to the Committee;
- (10) TAC will submit Board minutes after each Board meeting to the General Manager;
- (11) TAC will provide to the General Manager an annually updated database of its grantees, containing pertinent financial and other information;
- (12) TAC will satisfy the City's insurance and indemnity requirements.
- (13) TAC will satisfy the City's risk management requirements.

Acknowledgement of the City:

Council has requested that the TAC acknowledge the financial support of the City. The agreement will provide that TAC shall acknowledge the financial support of the City in a manner satisfactory to the General Manager on all written material, including grant application forms and grant approval letters. If TAC makes a grant to an artist or arts organization from funds provided by the City, TAC shall require the recipient of the grant to acknowledge the financial support of the City in a manner satisfactory to the General Manager. In addition, TAC shall ensure that grant recipients are made aware that grants are being made to them by TAC on behalf of the City.

Term

The agreement will be in effect for five years from January 2, 2014 -December 31, 2018 subject to provisions for early termination and termination for default.

Conclusion

The proposed five-year funding agreement will allow for continuation of a structured link between the City and the TAC. Overall, the agreement is substantially the same as has been in place for the past fourteen years – the key differences being the addition of an acknowledgement clause and administrative details such position titles. It will enable planning and service delivery that offers a degree of stability; accountability to Council and sets out the City's terms and conditions. Specific requirements and deliverables from the TAC are included in the agreement based on the nature of the arts and cultural services provided to the City, its residents and visitors to Toronto.

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SIGNATURE

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