



July 17, 2020

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

By this correspondence, the DC Commission on the Arts and Humanities respectfully transmits, for the Council's consideration and enactment, the Commission on the Arts and Humanities' ("CAH"): (1) proposed emergency legislation entitled the "Arts and Humanities Omnibus Emergency Amendment Act of 2020"; (2) proposed and related "Resolution"; (3) "Temporary" and "Permanent" versions of the above-referenced CAH emergency bill; and (4) related Fiscal Impact Statement and Legal Sufficiency Certification. The purpose of this legislation is to revise the Commission on the Arts and Humanities Act of 1975, as amended, in a manner that revises some of the formulas used to allocate CAH's grant awards.

On January 31, 2020, the federal Department of Health and Human Services ("DHHS") declared a public health emergency for the United States, for the purpose of aiding the nation's health care community in responding to the worldwide COVID-19 pandemic ("Pandemic"). In response to the Pandemic, the World Health Organization and the United States' Center for Disease Control both declared COVID-19 to be a "public health emergency of international concern." In response to the Pandemic and in accordance with the DHHS' above-referenced public health emergency declaration, the Mayor of the District of Columbia issued, on March 11, 2020, Mayor's Order 2020-045 and Mayor's Order 2020-046 (both of which are captioned "Declaration of Public Health Emergency: Coronavirus (COVID-19)").

Our Commission has learned that many in our local arts and humanities communities are struggling to survive during this ongoing worldwide Pandemic. If enacted, the proposed and accompanying "Arts and Humanities Omnibus Emergency Amendment Act of 2020" will authorize the Commission to lawfully award certain grants to organizations, the proceeds of which may be used by a grantee to pay, among other expenses, the respective grantee's mortgage and/or rent obligations that are directly related to their art-making and/or humanities work-related space.

Accordingly, we respectfully urge the Council to act favorably and expeditiously on the above-referenced legislation. Thank you for your time and consideration.

Sincerely,

On behalf of the DC Commission on the Arts and Humanities



Chairman Phil Mendelson
at the Request of the Chairperson of
the Commission on the Arts and
Humanities

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, Chapter 2 of Title 39 of the District of Columbia Official Code to revise the formulas used to allocate the Commission on the Arts and Humanities' annual budget.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Arts and Humanities Omnibus Temporary Amendment Act of 2020".

Sec. 2. Title 39 of the District of Columbia Official Code is amended as follows:

(a) Chapter 2 is amended as follows:

(1) Section 39-205 is amended as follows:

(A) Section 39-205 (c-1)(2)(A) is amended by striking the entire sentence that reads "17% for grants to fund capital projects in support of either the Arts and Humanities Cohort or the National Capital Arts Cohort" and inserting in its place the following language: "(A) 17% for grants to fund grant recipients' operations-related expenses which, in this context, include capital project-related expenses and, exclusively during the District's Fiscal Year 2021,

certain arts- and/or humanities-related mortgage and/or rent obligations including, but not necessarily limited to: (i) expenses related to the operation of a grant recipient's United States Internal Revenue Service-recognized and arts- and/or humanities-related home-based office; and (ii) expenses related to a grant recipient's rental of District-based space that is used to produce and/or publicly present arts- and/or humanities-related work. Any and all grant funds that are awarded to a grantee by the Commission pursuant to this Subsection but that are not expended during the fiscal year within which the funds were awarded shall be returned to the Commission by the involve grantee immediately after the grantee has determined that she/he/it will not expend the subject funds during the current fiscal year, and by no later than the last day of the fiscal year during which the subject grant award was made. Any such returned grant-related funds shall not revert to the unassigned fund balance of the District's General Fund at the end of the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the Arts and Humanities Fund that was established by D.C. Official Code § 39-205.01;"

(B) Section 39-205 is further amended by inserting, immediately below Section 39-205 (c-1)(2)(A), the following language: "(A-1) During the District's Fiscal Year 2021, members of the National Capital Arts Cohort shall not be eligible to receive any of the Commission grant funds that are referenced in this Chapter's Section 39-205 (c-1)(2)(A);"

(C) Section 39-205 (c-1)(2)(C) is amended by adding the following language: "(iii) Any and all Commission grant funds that are awarded to an organization that is a member of the National Capital Arts Cohort but that are not expended during the fiscal year within which the funds were awarded shall be returned to the Commission by the involve National Capital Arts Cohort member immediately after that grantee has determined that it will not expend the subject funds during the current fiscal year, and by no later than the last day of the fiscal year

during which the subject grant award was made. Any such returned grant-related funds shall not revert to the unassigned fund balance of the District's General Fund at the end of the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the Arts and Humanities Fund that was established by D.C. Official Code § 39-205.01."

(D) Section 39-205 (c-1)(2)(D) is amended by deleting the sentence that reads "5% the [sic] for the Humanities Grant Program" and inserting the following language: "5% for the Humanities Grant Program."

(2) Section 39-205.01 is amended as follows:

Section 39-205.01 (b) is amended by inserting, immediately following § 39-205.01 (b)(4), the following language: "(5) Grant funds that have been awarded by the Commission and subsequently returned to the Commission pursuant to the mandates of either D.C. Official Code § 39-205 (c-1)(2)(A) or D.C. Official Code §39-205 (c-1)(2)(C)."

(3) Section 39-205.02 is amended as follows:

Section 39-205.02 (b)(1) is amended by inserting, immediately following the sentence that begins with the words "Each year, the Commission shall make a grant in the amount provided under §39-205 (c-1)(2)(D) to a grant-managing entity . . ." the following language: "Any and all grant funds that are awarded to the grant-managing entity that is referenced in this Subsection but that are not expended during the fiscal year within which the funds were awarded shall be returned to the Commission by the grant-managing entity immediately after the grant-managing entity has determined that it will not sub-grant and/or expend all of the subject funds during the current fiscal year, and by no later than the last day of the fiscal year during which the subject grant award was made. Any such returned grant-related funds shall not revert to the unassigned fund balance of the District's General Fund at the end of

the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the Arts and Humanities Fund that was established by D.C. Official Code § 39-205.01. The grant-managing entity that is referenced in this Subsection shall not be eligible to receive from the Commission any grant funds that are awarded by the Commission to its grantees for general operating support.”

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and a 30-day period of congressional review as provided in section 602(c) (1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206(c) (1)), and publication in the District of Columbia Register.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

***PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION***

MEMORANDUM

TO: J. Carl Wilson
General Counsel
Commission on Arts and Humanities (DCCAH)

FROM: Brian K. Flowers *BKF*
Deputy Attorney General
Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This responds to an email request we received from your office by which you transmitted proposed legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020” (Emergency Act), substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution (Resolution) on the same subject to our Office for a legal sufficiency review (together, the Legislation).¹

The Legislation will amend, on an emergency, temporary and permanent basis, Chapter 2 of Title 39 of the District of Columbia Official Code to revise the formula used to allocate the Commission on the Arts and Humanities’ annual budget. In substantive part, it provides that the DCCAH may allocate up to:

. . . 17% for grants to fund grant recipients’ operations-related expenses and, exclusively during the District’s Fiscal Year 2021, certain arts- and/or humanities-related mortgage and/or rent obligations including, but not necessarily limited to: (i) expenses related to the operation of a grant recipient’s United States Internal Revenue Service-recognized and arts- and/or humanities-related home-based office; and (ii) expenses related to a grant recipient’s rental of District-based space that is used to produce and/or publicly present arts- and/or humanities-related work.

Further, the Legislation provides that the balance of any unused grant funds must be returned to the DCCAH no later than the last day of the fiscal year of the award for deposit into the Arts and Humanities revolving fund established by D.C. Official Code § 39-205.01.

¹ This Office suggested several clarifying changes that the DCCAH accepted and incorporated into revised versions of the Legislation.

The Resolution establishes the emergency circumstances leading to the need for the emergency version of the Legislation.

This Office has reviewed the Legislation and determined that it is legally sufficient. I have attached a Certificate of Legal Sufficiency for your use. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer to accompany the Legislation. If you have any questions about this memorandum, please contact either Anne R. Hollander, Senior Assistant Attorney General, at 724-5560, or me at 724-5524.

BKF/arh

Attachment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

MEMORANDUM

TO: Ronan Gulstone
Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This is to Certify that this Office has reviewed the legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020”, substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution on the same subject, and determined that the legislation and resolution are legally sufficient. If you have any questions, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers