



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

January 15, 2026

Erie County Legislature
92 Franklin Street
Buffalo, NY 14202

Re: Comptroller Cultural Funding Grant Monitoring Program – African American Cultural Center Report

Dear Honorable Members:

I am writing in response to the recently completed Cultural Funding Grant Monitoring Program report on the African American Cultural Center (“AACC”) by the Comptroller’s Office. While I believe several of the key findings in the report are concerning and demand further investigation, including the reference to “potential embezzlement,” I am equally concerned by a series of unsubstantiated claims and factual misstatements also included in the report.

As a former Comptroller, I feel very strongly about the responsibility of being the taxpayers’ watchdog and the work done by the Division of Audit. I believe we should all strive to create the best systems and policies possible, and the Comptroller’s Office can be a valuable partner in that endeavor by lending their expertise in an objective manner. In this role, however, there is a great responsibility in ensuring the unimpeachable accuracy of any claims or findings included in any audit or report released by the office. I believe the inaccurate way some of this report’s findings are described and, especially, the cavalier use of loaded language like “potential embezzlement” and “overpayment” with no substantiation not only erodes the public trust in the Comptroller’s Office but in all County government.

The major headline-grabbing finding by the Comptroller that funding provided to AACC in excess of a “20% limitation” constitutes an “overpayment” of \$352,427 and should be returned to the County is categorically false and relies on both a misreading of the Erie Arts and Cultural Advisory Board’s (“EACAB”) Cultural Grant Funding guidance and a fundamental misunderstanding of the Erie County Charter (“Charter”) and the powers and limitations bestowed on independently elected officials (including the Executive and the Legislature) in the governance of Erie County.

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Among the first actions I took as County Executive in 2012 was to reestablish EACAB under the powers granted by Section 2205 of the Charter. The fifteen (15) member volunteer board engages in a more than six-month process to solicit, review and scrutinize applications; and then make recommendations for awards to ensure residents and taxpayers get the highest return on investment.

Specifically, EACAB starts each round of funding by reviewing the application questions based on trends in the sector, in the U.S. at large, and to ensure they are effective at collecting information on the operations of the organization. Perennial questions ask about the organization's programs, impact, equity and inclusion, management and planning, and review of core documents for compliance with NYS Non-Profit Corporation Law (including By-Laws, Conflict of Interest Policy, and Whistleblower Policy). They also review the organizations' budget summary for the prior year, current year budget and actual, and grant (next/future) year; financial statements; and their tax filings, including compliance with the NYS Charities Bureau reporting requirements. Some temporary questions in the past have included succession planning and dissolution planning.

EACAB's guideline that no organization should submit a request for operating funds' support from the County exceeding 20% is not a law, rule, or formal policy – it is a best-practice guideline. In the various documents and resources on the Department of Environment & Planning's ("DEP") website, verbiage such as "Funding requests exceeding 20% of most recent FY Actual Operating Expenses are discouraged and will be scored lower," or, "The 2026 grant amount requested should not exceed a dollar amount higher than 20% of the organization's most recently completed fiscal year operating expenses" are found throughout. In short, there is no threshold or outright prohibition on organizations requesting or EACAB recommending funding greater than 20% of an organization's operating budget.

I must emphasize that EACAB is a reviewing and recommending body, with no legal authority to approve or withhold funds. As their name states, EACAB is an "advisory board" which brings together community members from a variety of relevant backgrounds, who volunteer their time to review, score, and recommend annual arts and cultural operating funds. DEP staff provide support, capacity, and administrative management, and help review cultural applications, but do not have a final vote on EACAB recommendations.

Section 202 of the Charter grants the Erie County Legislature the fundamental power to make appropriations and Section 302 of the Charter assigns the Executive the role as chief budgetary officer for the County. Together, as outlined in Article 25 of the Charter, the Executive has the power to recommend appropriations both as part of the annual budget adoption process and by supplemental resolutions that are then subject to the approval (with or without modification) of the Legislature. No formal or informal policy, guideline, rule, etc. promulgated by any advisory board (such as EACAB and its 20% limitation) supersedes the Charter granted powers to the Executive to recommend and/or the Legislature to make appropriations under the law.

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As part of the annual budget adoption process, the Executive, in consultation with EACAB, recommends funding levels for all cultural agencies to then be considered by the Legislature. All funding recommendations included in the proposed budget are deemed approved (with or without modification), and the budget adopted as a whole, by the Legislature upon their final vote. As such, any cultural appropriations included in the final adopted budget are the legally authorized funding levels in a given fiscal year.

As noted in the Comptroller's report, the adopted budgets for 2020-22 included appropriations to AACC of \$275,450 in 2020, \$311,950 in 2021 and \$200,000 in 2022. In each of those years, contracts with AACC were executed in those amounts appropriated, and payment was verified and made by the Comptroller's Office to AACC in those same amounts.

AACC was not overpaid; AACC was paid exactly what was appropriated by the Legislature and contractually entered into by the County, said payment having been made by the Comptroller to AACC.

Furthermore, if, as the Comptroller is now suggesting, the County were to seek the return of any amount of funds paid to AACC based on a non-binding guideline established by an advisory board, such action would constitute a breach of contract and subject the County to lawsuit.

As such, for the reasons stated above, Erie County will not be seeking repayment of the payments made in the above-stated prior years.

Finally, the accusation of "potential embezzlement" is very concerning, but without a reference as to why the accusation was made it is very difficult to ascertain the credibility of the statement. That is why I have requested the New York State Attorney General Office's Charities, Nonprofits and Fundraisers Bureau ("AG"), the government agency responsible for supervising charitable organizations, to review the matter, including performing a forensic audit for the years in question. Hopefully, the AG's office will be able to conclusively identify any issues which will assist the new leadership of the AACC as they go forward with their honorable mission of serving the community.

Sincerely yours,



Mark C. Poloncarz, Esq
Erie County Executive

cc: Hon. Kevin R. Hardwick, PhD
Daniel Castle, Commissioner, Dept. of Environment & Planning
African American Cultural Center