

CITY OF BUFFALO  
DEPARTMENT OF AUDIT AND CONTROL

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AUDIT REPORT ON THE  
COMMON COUNCIL  
DISCRETIONARY FUNDS

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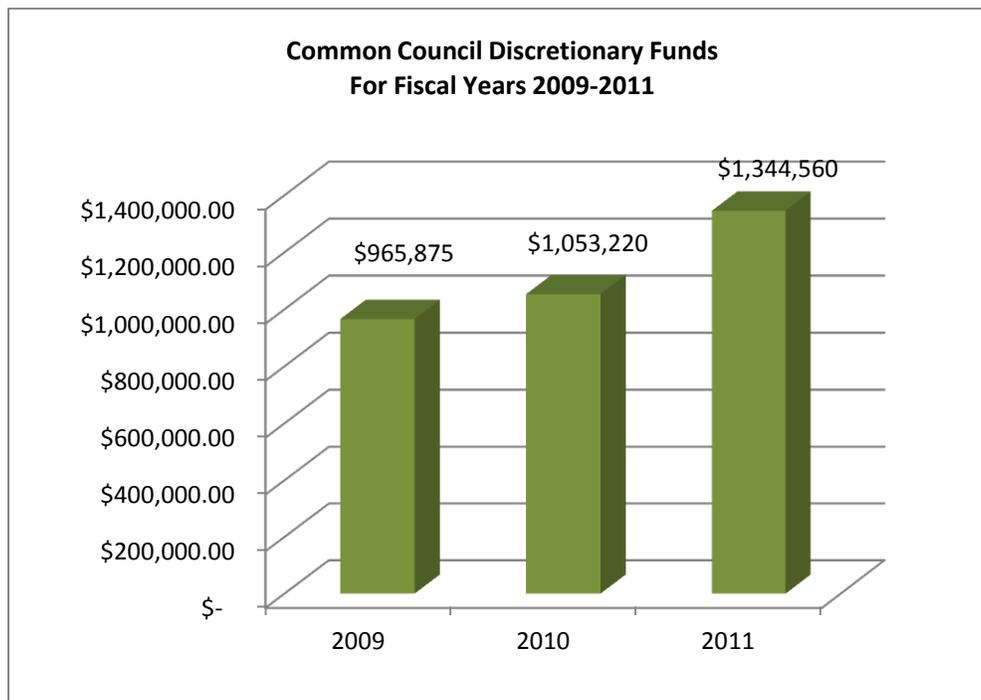
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## **Background**

Discretionary funds are appropriated from the City of Buffalo (the “City”) general fund and expended at the discretion of the Common Council Members. The funds are designated to benefit the community in various ways including community outreach, civic participation, recreational youth services and senior services. The funds are divided among the Council Members and distributed through contracts between the City Clerk and the recipients. Discretionary funds are contained in the City Clerk’s Budget line, “other contractual services.”

Prior to July 2012, there were no guidelines or policies regarding distribution of these funds. Due to the inadequate controls over these funds the Comptroller temporarily suspended payments to agencies until a policy for distribution of funds was adopted. On July 31, 2012 the Common Council adopted Common Council Discretionary Fund Policy – General Guidelines (See Exhibit A). The guidelines are based on rules used in the New York Assembly for a similar program and were recommended by the Comptroller as a template for the Common Council Discretionary Fund Policy – General Guidelines (the “guidelines”). Upon passage of the guidelines, the Comptroller lifted the suspension pending the results of this audit.

Over the past three fiscal years 2009-2011, Discretionary Funding was \$3,363,655. In fiscal year 2011 a total of \$1,344,560 was expended.



The chart below shows the distribution of discretionary funds by district for fiscal year 2011.

<u>District</u>	<u>Amount</u>	<u>% of total</u>
Delaware	\$ 132,960	10%
Ellicott	152,900	11%
Fillmore	147,000	11%
Lovejoy	149,900	11%
Masten	155,300	11%
Niagara	142,000	11%
North	161,500	12%
South	144,000	11%
University	159,000	12%
Total	<u>\$ 1,344,560</u>	100%

### **Audit Objectives**

The audit objectives are to determine if the discretionary funds have been spent in accordance with the guidelines adopted by the Common Council, to determine possible conflicts of interest between the Common Council and the entities receiving funds and to determine the percentage of funding the entities received from the discretionary funds.

The entities are being examined for the period July 1, 2010 to June 30, 2011. The period under audit is prior to the Common Council enacting guidelines on how the discretionary funds can be spent. Therefore it is possible that several of the audit findings have been corrected by the enactment of the guidelines on July 31, 2012.

### **Audit Procedures**

The Division of Audit and Control selected for testing 15 of 59 entities receiving discretionary funding in fiscal year 2011. Entities from each district and entities funded by each council member were selected. The total amount received by the 15 entities selected was \$954,520 or 70% of total Discretionary Funds. It was requested that each selected entity provide cash receipt and expenditure information, a list of board members and a copy of Form 990 for the period of the contract.

To ascertain if discretionary funds were expended in accordance with the guidelines a review of each entity's expenditures was performed. To determine if any conflicts of interest exist between entity's receiving funds and the Common Council a list of board members was reviewed. To determine the amount of total funding the entities received from the Discretionary Fund, Form 990 listing total revenues of the entity was compared to the Discretionary Fund Contract(s).

## **Audit Findings**

Using the guidelines as a minimally acceptable standard the audit findings are as follows:

1. The agencies receiving discretionary funds distributed 43% of the total received to other agencies (a sub-recipient). Once the funds are redistributed the end use is unknown, therefore the benefit to the community cannot be determined.
2. Discretionary funds are not specifically identified in the City of Buffalo Budget Detail, they are included under “other contractual services” in the budget. Therefore taxpayers cannot determine the amount of funds available nor the total spent.
3. Several agencies did not use the discretionary funds for the purpose stated in the grant contract. Therefore discretionary funds were being used for unintended purposes that may not be beneficial to the City of Buffalo and its taxpayers.
4. Several grant contracts were overly vague as to the purpose, allowing the discretionary funds to be used for nearly anything without violating the contract. This could lead to misuse of the discretionary funds.
5. It was found that six of the organizations relied on the discretionary funding for over half of their revenue. If their discretionary funding was reduced or eliminated it appears it would be difficult for the entities to continue operations.
6. Sales tax was paid on purchases by several agencies. All agencies reviewed are exempt from paying sales tax. Discretionary funds spent on sales tax reduce the benefits that can be given to the community.
7. Allentown Associates did not comply with repeated requests to submit all records and receipts therefore we could not verify their expenditures.

## **Audit Recommendations**

In order to improve the process of disbursing Discretionary Funds, we recommend the following enhancements:

1. A separate line item should be created in the City Clerk’s budget for Discretionary Funds. This would create greater transparency and increase accountability over the Discretionary Funds (Exhibit B).
2. The process of disbursing Discretionary Funds should start with a standardized grant application from the agency requesting funding (Exhibit C). The application would be approved by a Council Member. A contract would then be entered into between the City and the agency. Then the agency would submit a request for reimbursement of expenses related to the contract (Exhibit D). All expenses allowable under the terms of the contract, the guidelines and City Code would then be reimbursed.

A standardized grant application form would include, agency name, location, contact person, current list of board members, Tax identification number, a copy of most recently

filed Form 990, detailed purpose for grant, amount requested and Council Member approval. The approved forms should be listed on the City of Buffalo website. This would create greater transparency over the Discretionary Funds.

A contract would be entered into between the City and the agency. The contract should be specific as to purpose. Additionally the rules for receiving discretionary funds should be clearly communicated to the agency in the contract, including that discretionary funds will be used only to reimburse agencies for allowable expenses.

After the contract has been approved and executed a request for reimbursement form could be processed from the agency. The form would be a summary of costs incurred by the agency that are allowable under the terms of the contract, the guidelines and the City Charter and Code. Attached to the request for reimbursement form would be documentation (including invoices and cancelled checks) for all expenditures listed on the form. The same degree of documentation would be required of any sub-recipient of discretionary funds. After a review of the documentation submitted by the agency, allowable reimbursements would be paid. It is anticipated there may be a learning curve as to proper documentation that needs to be submitted to receive Discretionary Funds. A training class should be offered to all agencies approved to receive Discretionary Funds that would illustrate the new process of disbursing Discretionary Funds.

Adopting this change in processing of discretionary funds where there would be verification of the validity of agency expenditures prior to expending discretionary funds could eliminate many of our audit findings. It could eliminate using discretionary funds for the payment of sales taxes. It could eliminate discretionary funding being used for purposes not agreed to in the contract, in addition to eliminating inappropriate use of discretionary funds. Requiring sub-recipients to follow the same procedures as the agency awarded the contract could eliminate distributing discretionary funds for unknown uses.

3. All officers of agencies receiving Discretionary Funds should file conflict of interest forms indicating any relationship that would be considered a conflict of interest. This form is required to be filed in accordance with City of Buffalo Code of Ethics (Exhibit E).