



**John Keel, CPA**  
**State Auditor**

An Audit Report on

# **Selected Funds and Financial Transactions at the Commission on the Arts**

May 2010

Report No. 10-029



An Audit Report on

## *Selected Funds and Financial Transactions at the Commission on the Arts*

SAO Report No. 10-029  
May 2010

### *Overall Conclusion*

The Commission on the Arts (Commission) did not adequately manage the Cultural Endowment Fund (Endowment) to ensure that all funds were deposited and withdrawn appropriately and that adequate documentation was retained for the Endowment.

Complete documentation related to the Endowment's financial transactions was not available for 1993 through 2003. As a result, auditors cannot provide assurance that all funds were correctly deposited into and expended from the Endowment account. Because of the lack of documentation, auditors made various assumptions to determine the amounts stated in this audit report and recalculated Endowment transactions and account activity from September 1, 1993, through December 1, 2009, using available bank records, data from the Uniform Statewide Accounting System, available donation documents, Commission meeting minutes, and information from the Commission's contracted fund-raiser.

Auditors identified errors in three primary areas—deposits, withdrawals, and refunds/transfers—that result in approximately \$2.0 million not accounted for in the Endowment fund. Specifically:

- **Deposits** - Auditors calculated that the Commission should have deposited \$1.0 million more into the Endowment account than it did. The Commission should have deposited approximately \$13.9 million into the Endowment account from September 1, 1993, through December 1, 2009, according to the General Appropriations Act and donation restrictions contained in donor letters and agreements. However, Endowment bank account statements show that the Commission deposited only \$12.9 million during this time frame. A portion of this \$1.0 million gap consisted of \$487,500 in donations intended for the Endowment that the Commission's contracted fund-raiser withheld from the Commission. Because the Commission did not enforce its contract with the contracted fund-raiser and ensure that it received these donations, the

#### **Background Information**

House Bill 2223 (73rd Legislature, Regular Session), effective September 1, 1993, established the Cultural Endowment Fund (Endowment); amended Texas Government Code, Chapter 444; and provided \$2.2 million in seed money for the Endowment.

The Commission contracted with a fund-raiser between 1995 and 2003 to raise private donations for the Endowment and to deposit the funds into the Endowment account. The contracted fund-raiser is a 501(c)(3) non-profit organization that was formed in 1995.

In May 2006, the Sunset Advisory Commission recommended that the Endowment be dissolved. House Bill 2242 (81st Legislature, Regular Session), effective May 26, 2009, abolished the Endowment effective December 1, 2009, and amended Texas Government Code, Chapter 444.

*This audit was conducted in accordance with Texas Government Code, Section 321.0132.*

*For more information regarding this report, please contact Verma Elliott, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.*

Endowment also did not earn potential interest and earnings on the donated funds.

- **Withdrawals** - Based on auditors' calculations, the Commission withdrew approximately \$1.5 million more in interest and earnings from the Endowment account between September 1993 and December 2009 than it should have withdrawn because it did not comply with the restrictions in Texas Government Code, Sections 444.026 (c) and (e).
- **Refunds/Transfers** - Auditors calculated that the Commission should have transferred and refunded \$2.0 million more to donors, the Commission's Operating Fund, and/or the Commission's contracted fund-raiser than it did upon the Endowment's dissolution. The Commission transferred and refunded \$8.7 million; auditors calculated that refunds and transfers should have totaled \$10.7 million (see page 7 in the Detailed Results section of this report for more information).

The Commission did not maintain appropriate documentation for the Endowment. The Commission did not have endowment agreements for all of the donors. Additionally, the Commission did not maintain adequate levels of financial documentation to track funds deposited and withdrawn from the Endowment.

## ***Summary of Management's Response***

Commission management concurs with the findings in this report, and its response is in Appendix 3 on page 13.

## ***Summary of Objective, Scope, and Methodology***

The audit objective was to determine whether the Commission has received, disbursed, and recorded selected funds in accordance with applicable laws, regulations, and restrictions on the use of the funds.

The scope of this audit covered Endowment-related financial transactions from September 1, 1993, through December 1, 2009.

The audit methodology included collecting information and documentation; reviewing applicable laws, statutes, and Commission policies and procedures; analyzing and reviewing the financial activity of the Endowment; and interviewing management and staff at the Commission and the executive director of the Commission's contracted fund-raiser.

Auditors also identified other less significant issues that were communicated separately in writing to the Commission.

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## *Detailed Results*

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# Detailed Results

## Chapter 1

### *The Commission Did Not Ensure That It Deposited All Funds Intended for the Endowment*

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The Commission on the Arts (Commission) should have deposited \$13.9 million into the Cultural Endowment Fund's (Endowment) account from September 1, 1993, through December 1, 2009, based on General

Appropriations Act requirements and donation restrictions in donor letters and donor agreements. However, Endowment bank account statements show that the Commission deposited only \$12.9 million during this time frame. Deposits to the Endowment account included legislative appropriations and private donations that were made directly to the Commission or through the Commission's contracted fund-raiser (see Appendix 2 for more information about the flow of funds through the Endowment).

Complete documentation related to the Endowment's financial transactions was not available; therefore, auditors made various assumptions to determine the amounts stated in this audit report.

#### Legislative Appropriations to the Endowment

House Bill 2223 (73rd Legislature, Regular Session), effective September 1, 1993, established the Cultural Endowment Fund (Endowment) and provided \$2.2 million in seed money for the Endowment.

The Legislature appropriated approximately \$10.9 million to the Endowment between 1993 and 2005. However, there were no funds dedicated for the Endowment.

The Commission did not ensure that all funds designated for the Endowment were deposited into the Endowment account.

Auditors calculated that the Commission should have deposited \$1.0 million more into the Endowment account than it did. Table 1 on the next page details the amounts deposited and the amounts that should have been deposited into the Endowment account from September 1, 1993, through December 1, 2009. Auditors reviewed Endowment account transactions for the three time periods that correspond to its three financial managers (see text box).

Auditors cannot provide assurance that all funds were completely and correctly deposited into the Endowment account because the Commission did not retain key financial documentation. The Commission did not maintain appropriate documentation for the Endowment. The Commission did not have endowment agreements for all donors. Additionally, the Commission did not maintain adequate levels of financial documentation to track funds deposited into and withdrawn from the Endowment account.

The Commission was in compliance with its records retention policies when it discarded some bank statements related to the Endowment account. However, its records retention policy does not specifically address the retention of

#### Endowment Financial Managers

The Commission contracted with three financial managers during the life of the Endowment to manage the investments within the Endowment account:

- First financial manager, from 1993 to 1998.
- Second financial manager, from 1998 to 2004.
- Third financial manager, from 2003 through 2009.

The Endowment account was maintained outside the State Treasury.

donation-related documentation. In addition, retaining bank records for only three years limits the Commission’s ability to conduct long-term financial reviews and verify that donated funds are deposited and spent appropriately. Long-term maintenance of financial records by the Commission is also important because financial institutions retain account records for only seven years in compliance with the Bank Secrecy Act and Internal Revenue Service records retention requirements.

Auditors recalculated Endowment transactions and account activity from September 1, 1993, through December 1, 2009, using available bank records, data from the Uniform Statewide Accounting System (USAS), available donation documents, Commission meeting minutes, and information from the Commission’s contracted fund-raiser. Auditors assumed that deposits not related to legislative appropriations were funds from private donations. Because of the lack of adequate documentation, auditors were unable to confirm all activity that took place in the Endowment account from 1993 through 2003, including what funds were included in each deposit.

Table 1

Difference Between Amounts That Should Have Been Deposited and Amounts That Were Deposited into the Endowment Account 1993 through 2009						
Time Period	Total Legislative Appropriations That Should Have Been Deposited <sup>a</sup>	Total Legislative Appropriations That Were Deposited <sup>b</sup>	Difference - Legislative Appropriations	Total Private Donations That Should Have Been Deposited <sup>a</sup>	Total Remaining Deposits into the Endowment Account <sup>b</sup>	Difference - Private Donations
September 1993 - October 1998	\$ 6,174,600	\$ 6,049,600	(\$125,000)	\$ 393,947	\$ 453,837	\$ 59,890
November 1998 - June 2003	4,000,000	3,800,000	(200,000)	2,357,762	1,329,630	(1,028,132)
July 2003 - December 2009	700,000	700,000	0	296,000	521,111	225,111
<b>Totals</b>	<b>\$10,874,600</b>	<b>\$10,549,600</b>	<b>(\$325,000)</b>	<b>\$3,047,709</b>	<b>\$2,304,578</b>	<b>(\$743,131)</b>
<sup>a</sup> Auditors’ calculations were based on available bank records, the General Appropriations Act, and USAS data. <sup>b</sup> Auditors’ calculations were based on available bank records, USAS data, available donation documentation, Commission meeting minutes, and information from the Commission’s contracted fund-raiser. Auditors also assumed that deposits not related to legislative appropriations were funds from private donations.						

From September 1993 through October 1998. Approximately \$6.2 million in legislative appropriations and approximately \$394,000 in private donations should have been deposited into the Endowment account from September 1993 through October 1998 based on information from donor agreements, correspondence, Commission meeting minutes, and USAS. The Commission deposited approximately \$6.1 million in legislative appropriations, which is \$125,000 less than the amount that should have been deposited. The

Commission deposited approximately \$454,000 in private donations into the Endowment account, which exceeds auditors' calculation of what should have been deposited by approximately \$60,000. Because of the lack of adequate documentation from this time period, the Commission could not explain this difference.

From November 1998 through June 2003. Approximately \$4.0 million in legislative appropriations and \$2.4 million in private donations should have been deposited into the Endowment account from November 1998 through June 2003 based on information from donor agreements, correspondence, Commission meeting minutes, and USAS. However, the Commission deposited only approximately \$3.8 million in legislative appropriations and approximately \$1.3 million in private donations into the Endowment account during this time period based on available bank statements.

During this time period, the Commission operated two bank accounts: a "commercial" account and an Endowment account. It appears that the Commission initially deposited all donations designated for the Endowment into the commercial account, for which neither the Commission nor the bank could provide auditors bank statements or other documentation for 1998 through 2002. The transaction descriptions in the Endowment account statements also indicate that the Commission then transferred funds from the commercial account to the Endowment account. Because the Commission could not provide bank statements for the commercial account and the transaction descriptions in the Endowment account bank statements provided for this time period were not adequate, auditors were unable to confirm that the Commission deposited all individual donations into the commercial account or that it transferred all donations into the Endowment account. In addition, auditors cannot provide assurance that all deposits into and withdrawals from the Endowment and commercial accounts were for the correct amounts and for appropriate purposes.

From July 2003 through December 2009. From July 2003 through December 2009, the Commission should have deposited \$700,000 in legislative appropriations, and it did deposit \$700,000 in legislative appropriations. Auditors also calculated that the Commission also should have deposited \$296,000 in private donations, including \$275,000 from private donations that the Commission's contracted fund-raiser did not forward to the Commission for deposit into the Endowment (see next page for information about these donations). However, the Commission deposited approximately \$521,000 in private donations – \$500,111 of which does not correspond to any of the donation documents from this time period. Commission management could not provide an explanation for the source of these funds. Although the Commission provided auditors with all Endowment account bank statements for this time period, the transaction information did not provide adequate information on the purposes or sources of the deposits.

The Commission did not ensure that five private donations intended for the Endowment were received and deposited.

The Commission did not ensure that \$487,500 in private donations was deposited into the Endowment. The Commission received private donations for the Endowment in two ways: donations made directly to the Commission and donations intended for the Endowment made to the Commission's contracted fund-raiser (see text box for additional information about the contracted fund-raiser). Included in the \$13.9 million that should have been deposited into the Endowment account from September 1, 1993, through December 1, 2009, are five private donations totaling \$487,500 that the contracted fund-raiser collected between 2002 and 2004 but did not forward to the Commission for deposit into the Endowment. These five private donations included restrictions that limited the funds for transactions related to the Endowment and the Commission's Young Masters scholarship program.

**The Commission's Contracted Fund-raiser**

The Commission contracted with the Texas Cultural Trust Council from 1995 through 2003 to raise private donations for the Endowment and deposit the donations in the Endowment account. The contracted fund-raiser is a 501(c)(3) non-profit organization that was formed in 1995. It solicits donations and provides funding for the administration of many arts-in-education initiatives performed by the Commission throughout Texas.

Texas Government Code, Section 444.025(a), required the Commission to deposit all donations designated for the Endowment fund into the Endowment account. However, the Commission did not enforce its contract with the contracted fund-raiser to ensure that all donations meant for the Endowment were forwarded to the Commission. In addition, because it did not receive these five donations from its contracted fund-raiser, the Endowment did not earn potential interest and earnings on the \$487,500.

The Commission's contracted fund-raiser indicated that it retained the funds from the five private donations because it was concerned that the Legislature was considering obtaining funds from the Endowment to reduce the State's budget shortfall in 2003, which was not the donors' intent. In November 2004, the Office of the Attorney General issued an informal opinion stating that the State may obtain the interest earned on donations designated for the Endowment for the State's General Revenue Fund, but it could not remove the principal. However, the contracted fund-raiser continued to retain the funds after this opinion was issued, and the Commission did not ensure that it obtained the funds from these five private donations before ending its contract with the contracted fund-raiser as of August 31, 2003.

The contracted fund-raiser retained the funds from the five private donations in its bank account and told auditors that it contacted the five donors to obtain permission to retain the funds and not forward them to the Endowment; however, the contracted fund-raiser did not provide any documentation to support this assertion. It should be noted that, although the contracted fund-raiser retained the funds from the five donations, it disbursed \$112,791 to the Commission for the Young Masters scholarship program from 2004 through 2008; these funds were drawn from the interest earned by the funds from the five donations in the contracted fund-raiser's account.

## Recommendations

The Commission should:

- Ensure that it obtains all necessary documentation to manage an endowment.
- Ensure that it obtains endowment agreements for all donors.
- Establish a records retention policy to ensure that all documentation necessary to manage and maintain an endowment is retained to facilitate comprehensive reviews of long-term financial transactions.
- Develop policies and procedures related to the Commission's role in managing an endowment, including donation management.
- Ensure that it receives and deposits all donations designated for an endowment.

## ***The Commission Did Not Ensure That Withdrawals from the Endowment Were Accurate and Complete***

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The Commission's withdrawals of interest and earnings from the Endowment account did not comply with Texas Government Code limitations. The Commission withdrew approximately \$1.5 million more in interest and earnings from the Endowment account than it should have withdrawn from September 1993 through December 2009. In addition, auditors' calculations of what the Commission should have transferred and refunded from the Endowment account upon its dissolution differ from the Commission's calculations. Auditors calculated that Commission should have transferred and refunded approximately \$2.0 million more that it did.

The Commission did not maintain adequate levels of financial documentation to track funds deposited into and withdrawn from the Endowment. Therefore, auditors made various assumptions to determine the amounts stated in this audit report. Auditors recalculated Endowment transactions and account activity from September 1, 1993, through December 1, 2009, using available bank records, data from USAS, available donation documents, Commission meeting minutes, and information from the Commission's contracted fund-raiser.

The Commission did not transfer the correct amount of interest and earnings from the Endowment account to its Operating Fund.

### **Texas Government Code, Sections 444.026(c) and 444.026(e)**

Texas Government Code, Section 444.026(c), states that interest and income earned before September 1, 1994, on money deposited in the Endowment account shall be deposited to the credit of the Endowment. Interest and income earned on or after September 1, 1994, on money deposited in the Endowment account shall be deposited to the credit of the Endowment and then transferred by the Commission on September 1 of each year to the Commission's Operating Fund.

Texas Government Code, Section 444.026(e), states that the Commission may transfer from the Endowment account the amount of interest or income earned on the seed money of \$2.2 million deposited in the Endowment account that exceeds the amount of private monetary donations made to the Endowment during the fiscal year. Interest or income remaining in the Endowment under this requirement becomes part of the corpus of the Endowment. This subsection expired September 1, 2005.

The Commission withdrew approximately \$1.5 million more in interest and earnings from the Endowment account than it should have withdrawn from September 1993 through December 2009. The Commission's withdrawals of interest and earnings from the Endowment account, which it then transferred to its Operating Fund, did not comply with Texas Government Code, Sections 444.026(c) and 444.026(e) (see text box for details about these sections of the Texas Government Code). Specifically, the Commission did not calculate the withdrawals for interest and earnings based on the requirements in the Texas Government Code; instead, the Commission asserts that it withdrew the amounts authorized in the General Appropriations Act, regardless of whether those amounts corresponded to the actual interest and earnings within the Endowment account. In addition, the Commission did not consider the management fees assessed by the Endowment account's financial managers when calculating the amounts to withdraw. Management fees assessed against the Endowment account from 1993 through 2009 totaled approximately \$693,000.

Auditors calculated that the Commission should have transferred and refunded approximately \$2.0 million more than it did upon the Endowment's dissolution.

House Bill 2242 (81st Legislature, Regular Session) abolished the Endowment effective December 1, 2009. The Commission refunded and transferred \$8.7 million from the Endowment account upon its dissolution (see text box for the three options given to donors). Specifically:

- State contributions of \$6.2 million were transferred to the Commission's Operating Fund.
- Private donations totaling \$2.5 million were returned to the donors or transferred to the Commission's contracted fund-raiser.

<p style="text-align: center;"><b>Dissolution of the Endowment</b></p> <p>The Commission contacted private donors and gave them three options for their donated funds when the Endowment was dissolved:</p> <ul style="list-style-type: none"><li>▪ The funds would be refunded to the donor.</li><li>▪ The funds would be transferred to the Commission's contracted fund-raiser for the benefit of the arts.</li><li>▪ The funds would be transferred to the Commission's Operating Fund.</li></ul>
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However, auditors calculated that refunds and transfers should have totaled \$10.7 million. Specifically:

- State contributions of \$7.2 million should have been transferred to the Commission's Operating Fund.
- Private donations totaling \$3.5 million should have been returned to the donors or transferred to the Commission's contracted fund-raiser.

Auditors' methodology for calculating the amounts of transfers and refunds that should have been made upon the Endowments' dissolution differs from the Commission's methodology because auditors used different sources of data, developed calculations that complied with statute, included all donors, and ensured that donors did not receive more than the principal they originally donated. Auditors' calculations of refunds and transfers do not include the five private donations totaling \$487,500 that the Commission's contracted fund-raiser collected but did not forward to the Commission for deposit into the Endowment (see Chapter 1 for more information about these donations).

The methodology the Commission used to dissolve the Endowment was inaccurate and incomplete. Specifically, auditors noted the following errors:

- The Commission's estimates relied primarily on the information in its annual financial reports to reconstruct the transactions and calculate the amounts of transfers and refunds. Specifically, the Commission reconciled the Endowment account's balance for each fiscal year to the Commission's annual financial reports. The Commission classified any differences for which there was no supporting documentation as funds from "an unknown donor." The unknown donor account totaled approximately \$306,000. In contrast, auditors relied on information in the

Endowment account's bank statements, donation documents, USAS, documents from the Commission's contracted fund-raiser, Commission meeting minutes, and applicable statutes and regulations.

- The Commission did not take into account donor restrictions or the requirements in Texas Government Code, Sections 444.026(c) and 444.026(e). In addition, the Commission's reconstruction of Endowment account transactions did not match the information in the Endowment account statements and donation documents.
- The Commission did not include four private donations totaling approximately \$20,000 in its calculations. The Commission stated that it did not contact the donors for direction on disposition of the donations because it assumed that the donated funds had been spent during the year in which the Commission received each donation. However, Texas Government Code, Section 444.026(c), states that only interest and income earned on the Endowment should be transferred from the Endowment to the Commission's Operating Fund.
- The Commission did not base its transfer to the Commission's contracted fund-raiser on the amount that the contracted fund-raiser donated to the Endowment. Instead, the Commission refunded the sum of the "unknown donor" amounts to the contracted fund-raiser. The amounts comprising the "unknown donor" represent unsupported amounts that the Commission noted while preparing its recalculation of the Endowment account transactions (see the previous page). As a result, the amount that the Commission transferred to the contracted fund-raiser exceeded the contracted fund-raiser's actual donation to the Endowment by approximately \$33,000.

## Recommendations

The Commission should:

- Comply with all regulations and requirements related to an endowment and agency funds.
- Ensure that it obtains all necessary documentation to manage an endowment.
- Establish a records retention policy to ensure that all documentation necessary to manage and maintain an endowment is retained to facilitate comprehensive reviews of long-term financial transactions.

# Appendices

Appendix 1

## ***Objective, Scope, and Methodology***

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### **Objective**

The objective of this audit was to determine whether the Commission on the Arts (Commission) has received, disbursed, and recorded selected funds in accordance with applicable laws, regulations, and restrictions on the use of the funds. The sub-objectives for this audit were to:

- Determine whether the Commission appropriately and completely deposited all designated funds into the Cultural Endowment Fund (Endowment).
- Determine whether funds in the Endowment account were used and disbursed properly.

### **Scope**

The scope of this audit covered Endowment-related financial transactions from September 1, 1993, through December 1, 2009.

### **Methodology**

The audit methodology included collecting information and documentation; reviewing applicable laws, statutes, and Commission policies and procedures; analyzing and reviewing the financial activity for the Endowment; and interviewing management and staff at the Commission and the executive director of the Commission's contracted fund-raiser.

Information collected and reviewed included the following:

- Endowment account bank statements for 1997 through 2009. Auditors were able to obtain only a few bank statements for the Endowment Account for 1993 through 1996.
- Bank statements for the Commission's "commercial account" for 2003 and 2004.
- Donor agreements and supporting documentation for private donations made to the Endowment between 1995 and 2005.
- Contracts between the Commission and financial managers for the Endowment account.

- Contracts between the Commission and a contracted fund-raiser.
- Uniform Statewide Accounting System (USAS) data associated with the Endowment account and the Commission's Operating Fund.

Procedures and tests conducted included the following:

- Interviewed management and staff at the Commission and the executive director at the Commission's contracted fund-raiser.
- Reviewed and analyzed Endowment account bank statements.
- Reviewed the Commission's methodology for calculating the financial activity in the Endowment account that occurred from 1993 through 2009.
- Reviewed the calculations that the Commission used to refund donations upon the Endowment's dissolution.
- Reviewed restrictions contained in supporting documentation for private donations made to the Endowment.
- Recalculated the activity within the Endowment account in accordance with laws and regulations using available supporting documentation.
- Compared the Commission's calculations and auditors' calculations for Endowment financial activity that occurred from 1993 through 2009.
- Analyzed transactions in USAS related to the Endowment account and the Commission's Operating Fund.
- Reviewed the Commission's investment and records retention policies.
- Analyzed the contracts between the Commission and a contracted fund-raiser and between the Commission and the Endowment account's financial managers.

Criteria used included the following:

- House Bill 2242 (81st Legislature, Regular Session).
- House Bill 2223 (73rd Legislature, Regular Session).
- Texas Government Code, Chapter 444.
- Texas Property Code, Chapter 163.
- The Commission's records retention policy and Endowment investment policy.

- *Bank Secrecy Act/Anti-Money Laundering Examination Manual*, Federal Financial Institutions Examination Council, 2006 edition.
- Texas Administrative Code, Title 13, Rule 31.11.
- Provisions in contracts between the Commission and a contracted fundraiser, and between the Commission and the Endowment account's financial managers.
- Restrictions in donor agreements and documents.

### **Project Information**

Audit fieldwork was conducted from March 2010 through April 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

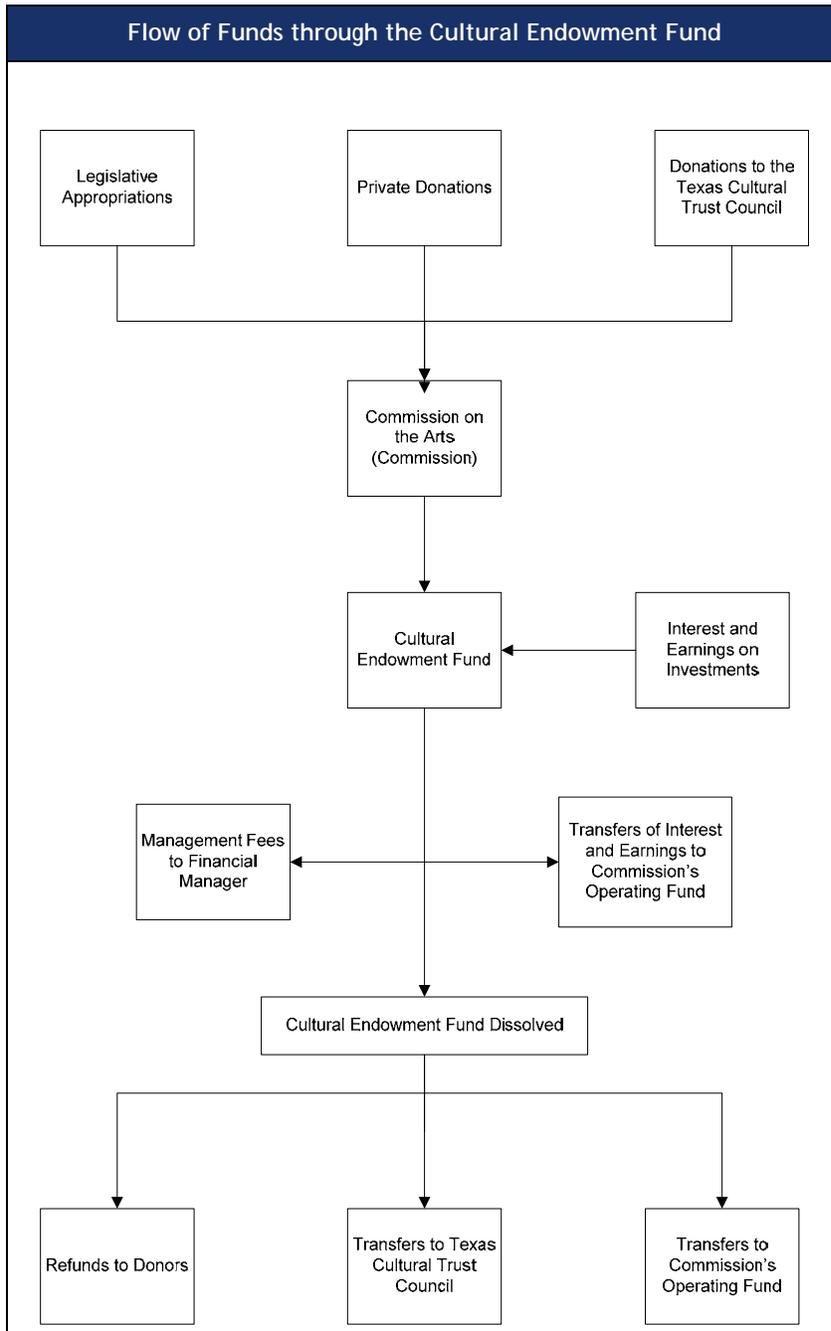
The following members of the State Auditor's staff performed the audit:

- Jennifer Lehman, MBA, CGAP (Project Manager)
- Namita Pai, CPA (Assistant Project Manager)
- Olivia Gutierrez
- Robert Pagenkopf
- Christy Srubar
- Charles P. Dunlap, Jr., CPA (Quality Control Reviewer)
- Verma Elliott, CPA, CGAP, CIA, MBA (Audit Manager)

## Flow of Funds Through the Endowment

Figure 1 shows how funds were deposited and withdrawn from the Cultural Endowment Fund (Endowment) and how funds were disbursed when the Endowment was dissolved.

Figure 1



Source: Figure based on documents from the Commission and the Endowment.

## Management Response



Texas  
Commission  
on the Arts

Investing in a Creative Texas

May 20, 2010

To: John Keel, CPA  
State Auditor

From: Gary Gibbs, Ph.D. *rg*  
Executive Director – Texas Commission on the Arts

Re: Management Response to Audit Report

Texas Commission on the Arts' (TCA) current management concurs with the findings as reported by the State Auditor's Office. Both the Executive Director and Chief Financial Officer have only been with TCA for two years. They both noticed the issues early on and brought them to the attention of the seventeen Commissioners who govern the agency.

After the passage of H.B. 2242 (81<sup>st</sup> Legislature, Regular Session) requiring the dissolution of the Texas Cultural Endowment Fund (endowment), the Commissioners and Executive Director agreed to request an audit of the endowment.

Within the last two years, TCA has changed several of its past practices. It has implemented internal controls, changed the approval process for donations, and has changed its records retention policy. Due to these changes, TCA has already implemented many of the recommendations outlined by the SAO. The specific audit recommendations are addressed below:

### Chapter 1 Recommendations

TCA does not currently manage an endowment. However, the agency does receive donations that are deposited into the Arts Operating Fund and given out as grants in the year they are received. The following are changes the agency has implemented to manage these donations.

- All donations (restricted and unrestricted) made to TCA must be accepted formally by the Commission in a public meeting. Thus, Commission meeting minutes will document the philanthropic gift, and Commissioners can better monitor the appropriate use of donations.
- Current management has instituted a new system of record keeping associated with donations. Specific files related to each donor are maintained in accordance with accepted industry practice. These files will be maintained in perpetuity.
- All donations received are deposited in the Treasury within three business days in compliance with the Cash Management Improvement Act.

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- If an Endowment or any other account were held outside the State Treasury, all records (deposits and withdrawals) associated with the account would be preserved permanently.
- If another Endowment were created to benefit TCA, the Commission Chair would appoint a sub-committee of the Finance Committee to monitor the performance and management of the fund.

Chapter 2 Recommendations

TCA does not currently manage an endowment. However, TCA's current management recognizes the importance of compliance with all regulations and requirements related to agency funds and an endowment. TCA, in conjunction with its oversight agencies, will make certain that its financial management and transactions are fully transparent and appropriate. TCA's management has also implemented a new system of record keeping associated with donations. Specific files related to each donor are maintained in accordance with accepted industry practice. These files will be maintained in perpetuity. In addition, if another Endowment were created to benefit TCA, all records associated with the account would be preserved permanently.

Copies of this report have been distributed to the following:

### **Legislative Audit Committee**

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair  
The Honorable Joe Straus III, Speaker of the House, Joint Chair  
The Honorable Steve Ogden, Senate Finance Committee  
The Honorable Thomas "Tommy" Williams, Member, Texas Senate  
The Honorable Jim Pitts, House Appropriations Committee  
The Honorable Rene Oliveira, House Ways and Means Committee

### **Office of the Governor**

The Honorable Rick Perry, Governor

### **Commission on the Arts**

Members of the Commission on the Arts

Ms. Patty Bryant, Chair  
Mr. David Garza, Parliamentarian  
Ms. Jeanne Parker, Treasurer  
Mr. Paul Kellam McCash, Jr., Secretary  
Mr. Dale Brock  
Mr. Alphonse A. Dotson  
Ms. Linda Hatchel  
Ms. Molly Hipp Hubbard  
Ms. Susan Howard-Chrane  
Ms. Patty Huffines  
Ms. Liza Lewis  
Mr. Cobie Russell  
Ms. Billye Proctor Shaw  
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Mr. Gary Gibbs, Executive Director



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