

## **New York State Council on the Arts Council Meeting Minutes**

300 Park Avenue, New York, NY 10010

May 8<sup>th</sup>, 2018

2:00PM-3:30PM

Present: Katherine Nicholls (Chair), Laura Aswad, Eric Latzky, Richard Mittenthal, John Morning, Hal Payne, Deborah Ronnen

Via Webex: Estrellita Brodsky, Amy Cappellazzo, Rita Paniagua, Elsie McCabe Thompson

Quorum Present: Yes

Others in attendance: Mara Manus (Executive Director), Megan White (Deputy Director of Programs), Ronni Reich (Director of Public Information), Matt Fernandez Konigsberg (Special Counsel for Ethics, Risk and Compliance NYSCA)

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**Meeting called to Order at 2:00PM by Chair, Katherine Nicholls.**

### **Chair's Welcome**

**KATHERINE NICHOLLS:** Good afternoon and welcome to the New York State Council on the Arts' May meeting.

Panel meetings will begin in May and continue through mid-September. Thanks to the diligence of our Operations staff, 87 % of NYSCA's contracts were promptly executed in FY2018—up from 85% last year and 84% the year before. Last year, NYSCA staff had the highest percentage of on-time contracts of any State agency, and we are pleased that we have done even better this year.

For the FY2019 Fiscal Year, NYSCA has received 1,433 applications for funding, in addition to the approximately 800 existing multiyear contracts from prior year awards. These numbers are in line with prior years. Of particular note is that there were 129 new applicants this year, compared to fewer than 100 new applicants per year in prior years.

Lastly, the FY2019 NYSCA Council meetings will be held on July 24 and 25<sup>th</sup>, September 25<sup>th</sup>, September 26<sup>th</sup>, and during the week of December 3<sup>rd</sup>. At the July meeting, the Council will review and vote on a portion of the new FY2019 grant recommendations. The remaining portion of the grant recommendations, including Individual Artists and REDC, will be reviewed at the September and December meetings. The December meeting date is set by the Governors schedule and the announcement of REDC awards and is subject to change. We would like to underscore the importance of your attendance at each and all of our meetings. As you know, in order to conduct business vital to the agency's operations and mission, we must have a quorum in attendance.

## **Council Review & Vote on Multi-Year Grant Recommendations**

**KATHERINE NICHOLLS** welcomes **MEGAN WHITE**, Deputy Director of Operations, to present ongoing multi-year grants.

### **MEGAN WHITE:**

Some grants are renewable annually up to a maximum of 5 years, subject to approval of the Council. Multiyear support is awarded when the panel, staff, and Council agree that a similar level of service or activity will be sustained by the applicant organization over successive years.

Multiyear grantees are required to update the organization's informational profile and budget, register for continued multiyear support, notify Council and Staff of their programming activities and any major institutional changes, submit all interim and final reports as required by their contracts, and maintain prequalification in Grants Gateway.

All FY2019 Multiyear awards, however, are being recommended at the same level of funding as was granted in FY18, as the main NYSCA budget is also at the same level of funding as last year.

Please note, these Multiyear Grants and Returns have already been approved in previous funding meetings and do not require a vote, but they are presented before you to review as these 790 grants represent almost \$21 million, or about half of NYSCA's 40-plus million-dollar Grant Budget.

Most of the grant recommendations are for general operating support, or GOS. For many organizations, especially in their early years, General Operating Support has been their life blood. It is the kind of support that is all too rare in arts funding.

By the Council moving these important multiyear recommendations forward now, it enables us to start staging contract requests sooner than those being deliberated on in upcoming panel meetings.

***Council Reviews Multiyear grants. No questions or comments to enter for the record.***

## **Review & Vote on FY2018 Appeals Panel Recommendations**

**KATHERINE NICHOLLS** welcomes **MEGAN WHITE** to present the **FY2018 Appeals Panel's Recommendations**

### **MEGAN WHITE:**

As part of NYSCA's five step approval process, an applicant may appeal the Council's funding decision. The procedure for appeals is set forth in Part 6401 of the New York Codes, Rules and Regulations.

Valid grounds for appeal are:

- Nonpresentation of information: Information known to the Council staff prior to the Council's decision that was not presented and that might have altered the decision;
- Misrepresentation of information: Information known to the Council staff prior to the Council's decision that was changed in its presentation and that, if presented differently, might have altered the decision;

- Improper procedure: Contention by the applicant that: 1) the review of the funding request by the appropriate advisory panel was biased; 2) the decision by the Council was arbitrary and capricious.

One, two, or all three grounds may be alleged. Dissatisfaction with the level of funding alone is not an acceptable basis for appeal.

Last year the Council received over 2600 applications, and after awarding over 1800 grants to NYSCA received three appeals. The Appeals Panel held a public meeting here at NYSCA on February 14, 2018. After presentation of the grounds, review of the procedure and materials and extensive discussion, all three appeals were denied.

The Council must concur with the panel's recommendations for the FY18 appeal process to be concluded. NYSCA will inform the organizations who appealed of the determination of the Appeals Panel after this meeting. It is important to note that an appeal does not affect an organizations application for the following year – appellants are welcome to submit a request to NYSCA in the subsequent year without penalty.

Each of you received a copy of a memo that shared the information from the appeals meeting outlining this information. Are there any questions?

**Motion to approve the recommendations of the Appeals Panel carries unanimously.**

### **FY2019 Panelist Roster**

**KATHERINE NICHOLLS welcomes MEGAN WHITE, Deputy Director of Programs, to present the FY2019 Panelist Roster.**

#### **MEGAN WHITE:**

NYSCA accepts grant applications from non-profit organizations on an annual basis to contract for funding of arts or cultural projects or programs. All applications are reviewed by staff and advisory panels and, after the review process is complete and the Council has voted to accept grant recommendations, NYSCA awards cultural services contracts to successful applicants.

The panel process is a key component in NYSCA's grant making. Advisory panels evaluate and rate each grant application according to the Council's three primary rating criteria:

- Artistic/Programmatic excellence
- Managerial/Fiscal competence
- Service to the Public/Outreach

Each year, NYSCA solicits nominations from NYSCA staff, Council members, current panelists, current grantees, and the general public. Advisory panelists are selected from these nominees.

You have been provided with the suggested panel roster for each program for this coming year. Overall, the agency has 286 panelists on its roster; 103 of which are new recommendations for this year. Panel members serve single year terms, and may be reappointed for a term of up to three years.

The nominees before you are a group of professionals with wide ranges of expertise representing a broad swatch of the states communities – urban, rural, and suburban, organizations large and small, in every discipline. Advisory panelists are required to act with impartiality with respect to the evaluation and rating of applications and to protect panel deliberations from any potential conflict of interest or the appearance of such a conflict. Prior to serving, panelists are required to acknowledge any affiliations with organizations making applications to the Council and must comply with New York State Ethics Laws.

Panel meetings are scheduled to begin in May and we anticipate them running through mid-September. As always, we encourage Council members to attend and observe panel meetings if at all possible. You have been sent the dates for panel meetings; please let us know if you are able to attend any of them.

***No recusals from Council Members to be entered for the record.***

***Motion to approve the recommendations of the Panelist Roster carries unanimously.***

## **Council Member Handbook Updates**

**KATHERINE NICHOLLS welcomes MATT FERNANDEZ KONIGSBERG, Special Counsel for Ethics, Risk and Compliance NYSCA, to present updates to the Council Member Handbook.**

### **MATT FERNANDEZ KONIGSBERG**

My main role is to ensure that we sustain the highest levels of public integrity in everything we do, and that it is constantly on our minds in all our goings with the council, and how we act outside of the council. We revised the handbook to make certain things clearer, and to make sure it is in line with the NYS public officers laws and ethics laws as they stand right now.

- Every member of the Council, panels, and staff must be free of conflicts of interest, and appearances of conflicts
- Creation of an Ethics Wall:
  - No communications between staff members (non-Council members) and Council members regarding any pending applicants for awards, from the time that a competitive bid process opens until the time of the conclusion of the Council meeting during which the members meet to vote on the eligible grant awards.
  - There shall be no communications between those applying for NYSCA grant funding and Council Members regarding any pending application for an award.
  - If you are aware of a conflict or ethics violation, you will need to report it to the Ethics officer or myself. Intentional violations of these ethics provisions or conflicts of interest rules in Public Officers Law Section 74 may lead to fines, suspensions, and/or removal from office or employment in the manner provided by law.
  - Applicants and Council Members shall not partake in any activity/communication that a reasonable person would infer is an attempt to improperly influence the application process.
- If you have any concerns regarding financial interests and ethics, you should check with me or the Ethics Officer (Mara Manus)
- Affiliation statements are very important. It's important they are accurate and up-to-date, and you should constantly think about where you reasonable should recuse yourself.

## **New Business**

**KATHERINE NICHOLLS welcomes MARA MANUS for NYSCA Updates.**

### **MARA MANUS:**

- NEA Support for NYSCA has been renewed for another three years in the amount of \$743,000. Grant is distributed between three initiatives; Poetry Out Loud, Arts Education, and Underserved Communities.
- Katie Steger has started as the new temporary Program Consultant to manage REDC portfolio and FY2019 Capital Funds. NYSCA is also in the final stages of vetting a finalist candidate for the position of Deputy Director of Operations and General Counsel.
- The new NYSCA website received a Webby Award nomination
- Two new Capital Project funds launched on the CFA on May 1, 2018; The Large Capital Project Fund (request amounts from \$250,000 to \$1mln), and the Mid-Size Capital Project Fund (\$50,000-\$250,000). Capital Opportunities information and comparisons are available on the NYSCA website.

### **RONNI REICH:**

- New NYSCA website received over 226,000 site views since the January launch (more than 40% of our total site views for the previous year.)
- Increased website and page visits correlate with our highest number of new applicants in four years.
- Looking for new photos and videos to incorporate into the website.

### **KATHERINE NICHOLLS:**

- NYSCA will embark on an in depth strategic planning process. The services of an outside firm will be retained to guide this process.
- Encompassed in strategic planning and review will be to research and assess NYSCA's strengths, weaknesses, and opportunities through such methods as interviews, focus groups, and surveys within the agency, Council board and with grantees, applicants, artists and stakeholders throughout New York State.
- Findings from meeting with staff, Council, grantees, applicants and stakeholders will be compiled into a report providing an analysis of NYSCA's current and ideal future position.

## **Adjournment**

**KATHERINE NICHOLLS:** This concludes our agenda for today. I move to adjourn our meeting for today.

**Motion to adjourn carries unanimously.**

**Meeting adjourns at 3:30PM.**