

Metro Human Relations Commission

Title VI Fact Finding Report

March 4, 2024

Davie Tucker, Executive Director

Ashley Bachelder, Director of Policy and Research

Mel Fowler-Green, Legal Counsel





Title VI Process

- Filing of a complaint (September 29, 2023)
- Review of content
- Staff conference with complainant (October 23, 2023)
- Service of complaint to responded (October 10, 2023)*
- Mediation
- Probable cause determination
- Conciliation
- Public hearing



Title VI Process

- ~~○ Filing of a complaint (September 29, 2023)~~
- ~~○ Review of content~~
- ~~○ Staff conference with complainant (October 23, 2023)~~
- ~~○ Service of complaint to responded (October 10, 2023)*~~
- Mediation
- Probable cause determination
- Conciliation
- Public hearing



Title VI Process

- ~~Filing of a complaint (September 29, 2023)~~
- ~~Review of content~~
- ~~Staff conference with complainant (October 23, 2023)~~
- ~~Service of complaint to responded (October 10, 2023)*~~
- ~~Mediation~~
- Probable cause determination
- Conciliation
- Public hearing

“The Director shall determine from all the evidence submitted whether or not there is a probable cause to believe that discrimination or illegal discrimination practices exists in violation of the Metro Code.”



Title VI Process

- ~~Filing of a complaint (September 29, 2023)~~
- ~~Review of content~~
- ~~Staff conference with complainant (October 23, 2023)~~
- ~~Service of complaint to responded (October 10, 2023)*~~
- ~~Mediation~~
- Probable cause determination
- Conciliation
- Public hearing

“At least 2 attempts to effectuate conciliation and persuasion. In determining what steps must be taken to eliminate the discriminatory or illegal discriminatory practice, the ED shall consult with the Complainant as to a resolution with the Complainant believes appropriate. The ED shall also take into account the Respondent’s particular circumstances in fashioning the terms of the resolution.”



Title VI Complaint

“On June 20, 2023 Metro Council allocated \$2M to Metro Arts specifically to support the Thrive program, which offered equitable funding to 40% BIPOC-led projects via individual artists and smaller organizations... On July 20, 2023, Arts Commission voted to fully-fund Thrive recipients... On August 17, 2023, the Commission reversed the vote and cut funding to those individual artists and projects; instead, funding a higher majority of large and white-led organizations.”

- August 17 vote was discriminatory
- Upholds historical funding inequities



Title VI Complaint

“On June 20, 2023 Metro Council allocated \$2M to Metro Arts specifically to support the Thrive program, which offered equitable funding to 40% BIPOC-led projects via individual artists and smaller organizations... On July 20, 2023, Arts Commission voted to fully-fund Thrive recipients... On August 17, 2023, the Commission reversed the vote and cut funding to those individual artists and projects; instead, funding a higher majority of large and white-led organizations.”

- August 17 vote was discriminatory
- Upholds historical funding inequities

6 Complainants

68 Supporters



32 Adversely affected



2022

- Community Editing Panels
- Commission votes to adopt a new funding formula



Community Editing Panels - Process

- Application for Community Editors (48 applications)
- Panel One (November 29, 2023): General Operating Grants
 - 12 Editors representing different size orgs
- Panel Two (November 30, 2023): Thrive and New Programs
 - 15 Editors representing artists
- Prep packet; staff made initial recommendations to increase equity; Editors worked through materials and proposed changes
- Proposals posted online for more feedback



Community Editing Panels - Outcomes

- Increase Thrive awards from \$10,000 to \$20,000 maximum
- Create a funding formula based on budget size
- Plus others (other changes not contested)

Organization Size	Award Amount
Micro (org budget <\$25k)	75% of budget, minimum \$2k
Small (org budget \$25k-\$100k)	50% of budget, minimum \$3k
Medium (org budget \$100k-\$500k)	25% of budget
Midsize (org budget \$500k-\$3M)	17% of budget, maximum \$120k
Large (org budget \$3M+)	1.8% of budget, maximum \$200k



Community Editing Panels - Outcomes

Redistribution

In FY23, 20 large & mid-size organizations operating over \$500k received ~80% of the funding. The proposed model would shift that by 10%, with 20 large & mid-size orgs receiving ~70% and more funding going to micro, small and medium organizations.

Cap Allocation

“Should the Total Ask Amount be unavailable, a percentage will be assigned to all orgs that allows for the maximum grant amount, first honoring that all organizations receive a grant greater than or equal to the previous year, and secondly, honoring small and medium organization full asks. All award allocations will be made based on Metro Arts funding availability.”

December 15, 2022

- Arts Commission meeting
- Adoption of proposed changes
 - 9 yea
 - 1 nay
 - 2 abstentions

	December 2022 (equitable funding formula)
Commissioner	
Angelico, Ellen	Yea
Bell, Darek	N/A
Brewer, Dexter	Yea
Bucy, Sheri	Yea
Byrd, Marianne	Abstain
Cheek, William	Nay
Edward, Clarence	Yea
Haynes, Clay	Yea
Kurtz, Janet	N/A
Love, Leah	N/A
McCoy, Carol	N/A
Perez, Diana	Yea
Polycarpou, Paul	Yea
Powell, Matia	Yea
Schmidt, Jim	Abstain
West, Campbell	Yea
Total	9 yea; 1 nay; 2 abstentions



2023

- Applications
- Metro Budget
- July 20, 2023 Vote
- Metro Legal involvement
- August 17, 2023 Vote



FY24 Application Process

- January 23, 2023: Applications open
- April 10, 2023: Application close
 - 92 organizations apply to General Operating
 - 155 artists apply to Thrive
- April 24, 25, 27, 28, 2023: Grant review panels
 - 88 organizations are eligible
 - 131 Thrive applicants are eligible

June 2023 - Metro Budget



Arts spending lags behind peer cities

"We are known as a cultural city ... a well-renowned arts city. Our budget does not reflect that," Metro Arts Commission Chair Matia Powell said. "We haven't had an increase in years."

Peer cities like Austin, Dallas and San Francisco fund their arts communities at around 1% of their overall budget, Powell said. Nashville devotes about 0.017% of its budget to Metro Arts.

Department leadership is seeking \$12 million for fiscal year 2024 — a significant increase from the proposed budget's \$5.3 million allocation. The department's ultimate goal is securing an annual allocation of at least 1% of the city's overall budget, or about \$30 million, for the arts.

An additional one-time \$2 million cultural support allocation from excess reserve funds should be funneled directly through Metro Arts instead of bypassing the commission, advocates said.

TENNESSEAN

June 2023 - Metro Budget



Arts spending lags behind peer cities

"We are known as a cultural city ... a well-renowned arts city. Our budget does not reflect that," Metro Arts Commission Chair Matia Powell said. "We haven't had an increase in years."

Peer cities like Austin, Dallas and San Francisco fund their arts communities at around 1% of their overall budget, Powell said. Nashville devotes about 0.017% of its budget to Metro Arts.

Department leadership is seeking \$12 million for fiscal year 2024 — a significant increase from the proposed budget's \$5.3 million allocation. The department's ultimate goal is securing an annual allocation of at least 1% of the city's overall budget, or about \$30 million, for the arts.



An additional one-time \$2 million cultural support allocation from excess reserve funds should be funneled directly through Metro Arts instead of bypassing the commission, advocates said.

TENNESSEAN



June 2023 - Metro Budget

*“Clarifying the language [to] give Metro Arts Commission **the leeway to open up the funding to a greater variety of organizations.** As written, there was concern from Metro Arts that it would restrict them and they really want to **open up funding for Thrive projects, that goes to smaller organizations, and led by people of color, so they just want to make sure they have that equity, so they can truly affect the equity piece.**”*

*-- Councilmember Toombs,
Amendment Sponsor*

AMENDMENT NO. ____

TO

ORDINANCE NO. BL2023-1867, AS SUBSTITUTED

Mr. President –

I hereby move to amend Ordinance No. BL2023-1867, as substituted, by amending the allocation to General Fund Surplus Allocations to Arts Commission Capital Grants for Cultural Support in Section I, Schedule F, as follows:

Arts Commission	Capital Grants <u>Funding</u> for Cultural Support	\$2,000,000
-----------------	---	-------------



July 20, 2023

Arts Commission

July 20, 2023 - Arts Commission Meeting



- Budget is short \$1.9M of fully funding all Thrive and General Operating grants according to December 2022 Funding Formula
- “Funding scenarios” created
 - All equal roughly \$4.6M
- Consultant Dana Parsons
 - 1 on 1s with Grant Committee members
 - Pre-recorded video
 - Public meeting

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M	A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M	A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M	A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M	A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M	A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%

July 20, 2023 - Arts Commission Meeting



Allocation	Full Funding: Need \$1.9M more to total 6.6M	Last Year's Formula: Need \$4.7M more to total 9.4M					
			A	B	C	D	E^
Thrive Project % Funded	100%	100%	100%	75%	50%	50%	50%
Thrive BIPOC Impact	\$ 608,055.00	\$ 608,055.00	\$ 608,055.00	\$ 456,041.25	\$ 304,027.50	\$ 304,027.50	\$ 228,020.63
Thrive white Impact	\$ 1,122,710.00	\$ 1,122,710.00	\$ 1,122,710.00	\$ 842,032.50	\$ 561,355.00	\$ 561,355.00	\$ 637,361.88
Thrive Total Allocation	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,730,765.00	\$ 1,298,073.75	\$ 865,382.50	\$ 865,382.50	\$ 865,382.50
GenOp Total Allocation Remaining	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,969,235.00	\$ 3,401,926.00	\$ 3,834,617.00	\$ 3,834,617.00	\$ 3,834,617.00
GenOp Distribution Micro and Small	100%	N/A	80% FY24 formula	100% FY24 formula	100% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Medium	100%	N/A	75% FY24 formula	75% FY24 formula	90% FY24 formula	75% FY24 formula	~40% FY24 formula
GenOp Distribution Mid-Sized	100%	N/A	55% FY23 grant	65% FY23 grant	70% FY23 grant	75% FY23 grant	~100% FY23 grant
GenOp Distribution Large	100%	N/A	40% FY23 grant	50% FY23 grant	60% FY23 grant	75% FY23 grant	100% FY23 grant
GenOp Total	\$ 4,938,389.75	\$ 7,743,436.40	\$ 2,908,834.71	\$ 3,366,217.06	\$ 3,750,998.13	\$ 3,642,589.13	\$ 3,726,833.70
	\$ (1,969,155.00)	\$ (4,774,201.00)					
GenOp BIPOC Impact	\$ 621,239.50	\$ 741,556.80	\$ 308,423.38	\$ 426,568.38	\$ 485,097.05	\$ 450,937.13	\$ 379,689.00
GenOp white Impact	\$ 4,317,150.25	\$ 7,001,879.60	\$ 2,528,411.34	\$ 2,939,648.69	\$ 3,265,901.08	\$ 3,191,652.00	\$ 3,347,194.70
Total BIPOC Impact	\$ 1,229,294.50	\$ 1,349,611.80	\$ 988,478.38	\$ 882,609.63	\$ 789,124.55	\$ 754,964.63	\$ 607,709.63
Micro/Small/Med Orgs Percentage (FY23=24%)			54%	52%	51%	42%	23%



- 8 yea
- 3 nay
- 1 abstention

	July 2023, Scenario A (most equitable)
Commissioner	
Angelico, Ellen	Yea
Bell, Darek	Absent
Brewer, Dexter	Absent
Bucy, Sheri	Yea
Byrd, Marianne	Yea
Cheek, William	Nay
Edward, Clarence	Yea
Kurtz, Janet	Nay
Love, Leah	Yea
McCoy, Carol	Abstain
Perez, Diana	Yea
Polycarpou, Paul	Yea
Powell, Matia	Yea
Schmidt, Jim	Absent
West, Campbell	Nay
Total	8 yea; 3 nay; 1 abstention



July 21, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

“The Metro Nashville Arts Commission approved funding for scenario A for FY24 Operating Support and Thrive grants at yesterday’s monthly meeting (link to the scenario). Only Thrive submissions that scored 75% or above in the panel review process were recommended for funding. There are several issues still being worked out due to the shortage of funding as appropriated in the Metro Budget, and a portion of our funds will not be available for distribution until after January 1, 2024. We will be sending award notifications with instructions early next week.”



July 21, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

“The Metro Nashville Arts Commission approved funding for scenario A for FY24 Operating Support and Thrive grants at yesterday’s monthly meeting ([link to the scenario](#)). Only Thrive submissions that scored 75% or above in the panel review process were recommended for funding. There are several issues still being worked out due to the shortage of funding as appropriated in the Metro Budget, and a portion of our funds will not be available for distribution until after January 1, 2024. We will be sending award notifications with instructions early next week.”



July 21, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

“The Metro Nashville Arts Commission approved funding for scenario A for FY24 Operating Support and Thrive grants at yesterday’s monthly meeting (link to the scenario). Only Thrive submissions that scored 75% or above in the panel review process were recommended for funding. **There are several issues still being worked out due to the shortage of funding as appropriated in the Metro Budget,** and a portion of our funds will not be available for distribution until after January 1, 2024. We will be sending award notifications with instructions early next week.”



July 21, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

“The Metro Nashville Arts Commission approved funding for scenario A for FY24 Operating Support and Thrive grants at yesterday’s monthly meeting (link to the scenario). Only Thrive submissions that scored 75% or above in the panel review process were recommended for funding. There are several issues still being worked out due to the shortage of funding as appropriated in the Metro Budget, **and a portion of our funds will not be available for distribution until after January 1, 2024.** We will be sending award notifications with instructions early next week.”



July 21, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

“The Metro Nashville Arts Commission approved funding for scenario A for FY24 Operating Support and Thrive grants at yesterday’s monthly meeting (link to the scenario). Only Thrive submissions that scored 75% or above in the panel review process were recommended for funding. There are several issues still being worked out due to the shortage of funding as appropriated in the Metro Budget, and a portion of our funds will not be available for distribution until after January 1, 2024. **We will be sending award notifications with instructions early next week.**”



Metro Legal Involvement

- At Commission meetings
- Commissioner-Legal communication
- Memo & Executive Session



July 20, 2023 - Commission Meeting

Commissioner Cheek: *I have a question for Legal. So I got nervous when I saw Thrive BIPOC impact and Thrive white impact, particularly with the Supreme Court's race-based case. Are you comfortable that what we are doing doesn't violate equal protection under our Supreme Court's new decision?*

Tessa Ortiz-Marsh (Legal): *Legal is currently analyzing. We've given the Arts Commission and Director guidance with last year[\'s process]. I'm currently working with Dana [Parsons] on this year's process. But Legal is currently analyzing the most recent decision and how that can and will affect organizations. And, I don't know if anyone knows AG Skrmetti also released a statement in the last week. So, I can't give you a current, concrete answer on the most current AG's statement because that is something that Legal is working through.*



July 20, 2023 - Commission Meeting

Commissioner West: *Question for Metro Legal, following up on Will's [Commissioner Cheek] question. As you all work through the Supreme Court cases, are there any chances that we make a funding decision and may need to roll them back?*

Tessa Ortiz-Marsh (Legal): *There's always a chance we get sued for something. That's the reality so yes, but –*

Commissioner West: *[inaudible]*

Tessa Ortiz-Marsh: *Truthfully, any decision in the public sphere can subject you to litigation. What Daniel [Singh] said is the application process has been run by Metro Legal. I'm going through with Dana [Parsons] now on the new editing process. It complies with the Equal Protection Clause. So – you know – essentially there's nothing in the application process that overtly takes race into account. So legally, that is sufficient.*



Likely between July 20-24, 2023

Commissioner Cheek calls Legal Director Wallace Dietz to express his concern over the legality of the vote.

July 25, 2023 - Legal Memo



To: Metropolitan Arts Commission
From: Lora Barkenbus Fox, Associate Director of Law
& Tessa Ortiz-Marsh, Metropolitan Attorney
Date: July 25, 2023
Subject: The U.S. Supreme Court Ruling in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*

At the last Arts Commission meeting, the Department of Law was asked about the effect of the recent U.S. Supreme Court ruling on race-based decision-making. Here is a summary of the ruling and how it would apply to local government grants.

Race may not be used as a way of distinguishing between applicants. The Equal Protection Clause forbids treating people differently because of the color of their skin. Preferences for one race over another may not be used to remedy the effects of societal discrimination. Racial balancing is patently unconstitutional.

People may be treated differently based on individual skills, differences, or unique abilities. They may be treated differently based on where they live. Grant-makers may consider an applicant's discussion of how race or other societal issues affected his/her life or experiences as an individual – but a decision may not be made on the basis of race.



August 7, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

... Since the July 20th Commission meeting and vote, we've received additional information from internal Metro departments. We are currently incorporating that information back into our process. Our plan right now is to create adjusted scenarios based on current feedback and re-present these recommendations at the following meetings:

- Arts Commission Grants and Funding Committee meeting, Monday, August 14th, 2023, 12:30PM-1:30PM, Metro Southeast (1417 Murfreesboro Pike, Nashville, TN 37217, United States), Room B
- Arts Commission Joint Commissioners and Committees Meeting, Thursday, August 17th, 2023, 9:30AM -2:00PM, Southeast Community Center Park, 5260 Hickory Hollow Pkwy, Suite 202, Antioch, TN 37013



August 7, 2023 - Email Communication

From: Jonathan Saad (Grants Manager)

To: Applicants

... Since the July 20th Commission meeting and vote, we've received additional information from internal Metro departments. **We are currently incorporating that information back into our process. Our plan right now is to create adjusted scenarios based on current feedback and re-present these recommendations** at the following meetings:

- Arts Commission Grants and Funding Committee meeting, Monday, August 14th, 2023, 12:30PM-1:30PM, Metro Southeast (1417 Murfreesboro Pike, Nashville, TN 37217, United States), Room B
- Arts Commission Joint Commissioners and Committees Meeting, Thursday, August 17th, 2023, 9:30AM -2:00PM, Southeast Community Center Park, 5260 Hickory Hollow Pkwy, Suite 202, Antioch, TN 37013



August 11, 2023 - Executive Session

Tennessee Open Meetings Act (Sunshine Law)

Limited Exception for Attorney-Client Discussions:

- (1) The meeting must concern litigation that has already been filed or that is likely to be filed and to which the county is or will be a party,
- and (2) the private meeting must be limited to discussions between the attorney and members of the public body regarding the public body's legal options, and no discussions between members of the public body as to what action should be taken can take place.



August 11, 2023 - Executive Session

Stated justification for the meeting:

- Process was unconstitutional because it named the racial impacts of the various funding scenarios
- Discussion on July 20th meeting could give the impression that race was used as the primary factor in determining how to vote

Quotes about the Legal Advice

- Refuted, challenged, or questioned it
- Frustrated or concerned
- Agree or did not question
- Indifferent



“The whole race thing for me was never an issue. I was totally comfortable with what we voted on. What I heard was ‘you guys could end up before a judge over this decision.’ Someone else said how about we just revote exactly how we voted the first time. Someone from Legal said judges are not stupid they’ll see through that... It was definitely said you could end up in front of a judge. 100% that was said. Absolutely.”

Commissioner Polycarpou

Refuted, challenged, or questioned it



“Just because something benefits people based on race doesn’t mean it’s unconstitutional. I didn’t vote solely on race. We really weren’t given a full explanation. I understood it to mean we had to rescind because the only reason commissioners voted the way they did was because it would benefit people based on race. Commissioners could have been asked if that’s why they did. Some may or may not have. Others needed time to be able to say, ‘well that’s not why I voted that way.’”

Commissioner Love

Refuted, challenged, or questioned it



“We couldn’t talk about race. But like ok, well it’s not about race. It’s a money thing. I remember feeling so lost in the meeting about what we can and cannot do. All I wanted to do was be fair and move the needle in favor of smaller artists and not large institutions. For me, nothing was going to change, whether the word race was in there. The intent is the same. I was out of my depth with legal jargon. She [Fox] didn’t really do anything to make it less muddy for me.”

Commissioner Bucy

Refuted, challenged, or questioned it



“I didn’t agree with it at all, that’s why my vote didn’t change. [I] didn’t vote based on race, we voted on size of organization. The scenarios at the beginning acknowledged that race was referenced, but that wasn’t the scenario overall. I was voting based on size and how much funding they get. I don’t even remember the percentage of BIPOC percents. Commissioner [redacted] had done a good job of arguing with Legal, letting them know it was based on size. I think it was intimidating. I was like whaaaat. It was intimidating.”

Commissioner Edward

Refuted, challenged, or questioned it



“Each scenario did have a BIPOC impact metric. We absolutely did talk about it. It was divvied up based on size, it wasn’t divvied up based on BIPOC impact, even though that was part of the conversation. Also for me, seeing what the COB has gone through -- not being able to have their our representation -- we’d have to get other representation and I just didn’t have confidence that was possible.”

Commissioner Angelico

Refuted, challenged, or questioned it



“Legal called us in, said we talked too much about race. If someone were to sue, they couldn’t determine based on our conversation, whether we funded on race or on size. There were people trying to recommend to ignore Metro Legal, but we are volunteers. So we took the advice of the legal counsel that we actually have, and did what they said we should do.”

Commissioner Powell

Frustrated or concerned



“We had to follow legal of course. But are we still feeling good that we can accomplish the purpose, and still be equitable in how we distribute funds? I did NOT leave the meeting feeling that way. It wasn’t that we were definitely not going to accomplish it, but after that meeting I didn’t have clarity about how we were going to stay in our commitment.”

Commissioner Perez

Frustrated or concerned



“I was highly disturbed by what we were having to do. It was completely unfair to everyone that Metro Legal had waited until after we had taken all our votes to say we had to undo it... I don’t think anyone questioned their opinion because it was given to us by Metro Legal. That’s the way it came across, we had to do it.”

Commissioner Byrd

Frustrated or concerned



“I don’t want Metro to get sued, or the Arts Commission get in trouble. It was federal, we’re a city under the state – could it trickle down and affect us? We probably should have better clarified, does it affect grants? Have there been any lawsuits on this? Any time legal says something we’re going to try to follow what they say. They should be the ultimate authority on whatever we do.”

Commissioner Bell

Frustrated or concerned



“I’m a lawyer and I think about things legally. I think we reconsidered our decision because the reliance on race that was in the funding scenarios, we could not legally rely on race when making a decision about funding... the question is whether you can do something that is constitutional or not. In the United States, if you do something that is in violation of the constitution, it doesn’t matter if you can be sued, it’s still a violation of the law.”

Commissioner Cheek

Agreed or did not question it



“The discussions in the July meeting were focused very heavily on BIPOC representation and the dollars that would flow there. Legal said that we were suspect under the Supreme Court case and that we made a decision based on race, which isn’t allowable. I mean, I rely on the legal experts. I’m not a lawyer, and I didn’t have any reason to question their interpretation.”

Commissioner Schmidt

Agreed or did not question it



“Their advice to us was that they would have that conversation again, being mindful of where we might redo that conversation. They simply said, you know, we had been talking for months about budget sizes. You can talk about that without talking about race. I’m a lawyer myself, it all made sense to me.”

Commissioner Brewer

Agreed or did not question it



“I’d like to say that I have good recall, but I was still focused on how we needed to change a very complicated formula in 4 days. Let me think. I don’t really remember focusing on what she said that much... When she said that, I did not focus on what Metro Legal was saying... I don’t remember the big scheme of things where Metro Legal said something.”

Commissioner McCoy

Indifferent



“In August they felt the language was problematic, so they recommended we vote again with the new scenarios. I really can’t speak to what my state of mind was at that point. I just remember they had that conversation with us and that was their recommendation.”

Commissioner Kurtz

Indifferent



August 17, 2023

Arts Commission



August 17, 2023 - Commission Meeting

Tessa Ortiz-Marsh: *“So, uh, the funding was [inaudible] as I believe Commissioner Cheek asked [inaudible] under what is, what, went through at Harvard [inaudible] affirmative action [inaudible] Metro Legal reviewed the commission at the last commission meeting where they, where the vote that was on the funding scenarios. It appears the decision by this commission was centered on people’s race, ethnicity, race-based factors, rather than legally acceptable factors such as skills [inaudible]. So Legal is recommendation this commission have a new discussion based on criteria that is legally acceptable. Commissioner does that answer your question?”*

Commissioner Polycarpou: *“Yeah even though race was only one of the factors that we used?”*

Tessa Ortiz-Marsh: *“Correct, but it came down to the vote and – it was asked commissioners, race was, seemed to be, the prevailing factor in decision making.”*



August 17, 2023 - Commission Meeting

New scenarios with new priority variables:

- Thrive
- Organizations with budgets under \$500,000
- Organization that have received less than \$500,000 from Metro Arts in the last 25 years

August 17, 2023 - Commission Meeting



Allocation	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Thrive Project % Funded	100%	75%	75%	50%	100%
For Independent Artists	\$ 1,045,530.00	\$ 784,148.00	\$ 784,148.00	\$ 522,765.00	\$ 1,045,530.00
For Small Organizations	\$ 705,235.00	\$ 528,926.00	\$ 528,926.00	\$ 352,617.00	\$ 705,235.00
Thrive Total Allocation	\$ 1,750,765.00	\$ 1,313,073.00	\$ 1,313,073.00	\$ 875,382.00	\$ 1,750,765.00
GenOp Total Allocation Remaining	\$ 2,949,235.00	\$ 3,386,927.00	\$ 3,386,927.00	\$ 3,824,618.00	\$ 2,949,235.00
GenOp Distribution Micro (budget under \$25k)	max 60% annual budget	max 75% annual budget	max 75% annual budget	average 37% annual budget	10k grant
GenOp Distribution Small (\$25k-\$100k)	max 40% annual budget	max 50% annual budget	max 50% annual budget	average 16% annual budget	25k grant
GenOp Distribution Medium (\$100-\$500k)	max 18% annual budget	max 25% annual budget	max 22.5% annual budget	average 9.6% annual budget	50k grant
GenOp Distribution Mid-Sized (\$500k-\$3M)	average 7% annual budget	average 8.6% annual budget	average 9.5% annual budget	average 9.7% annual budget	60k grant
GenOp Distribution Large (\$3M-\$20M)	average 0.7% annual budget	average 0.9% annual budget	orgs \$3M-\$5M average 2.8% annual budget	average 1.9% annual budget	50k grant
GenOp Distribution Large (\$20M-\$51M)	average 0.7% annual budget	average 0.9% annual budget	orgs >\$5M not funded	average 1.9% annual budget	20k grant
4 Organizations (mid-size and above) who have received less than \$500k from Metro Arts	\$ 182,625.00	\$ 224,496.00	\$ 303,253.00	N/A	70k grant
GenOp Total	\$ 2,960,238.00	\$ 3,371,526.00	\$ 3,385,123.00	\$ 3,384,161.00	\$ 2,935,000.00
GenOp Distribution (for micro/small/med orgs)	52%	49%	55%	16%	54%
(FY23=24%)	at \$1,544,909	at \$1,663,291	at \$1,872,931	at \$537,048	at \$1,59500



August 17, 2023 - Commission Meeting

Failed, 6-8

Passed, 8-6

Allocation	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Thrive Project % Funded	100%	75%	75%	50%	100%
For Independent Artists	\$ 1,045,530.00	\$ 784,148.00	\$ 784,148.00	\$ 522,765.00	\$ 1,045,530.00
For Small Organizations	\$ 705,235.00	\$ 528,926.00	\$ 528,926.00	\$ 352,617.00	\$ 705,235.00
Thrive Total Allocation	\$ 1,750,765.00	\$ 1,313,073.00	\$ 1,313,073.00	\$ 875,382.00	\$ 1,750,765.00
GenOp Total Allocation Remaining	\$ 2,949,235.00	\$ 3,386,927.00	\$ 3,386,927.00	\$ 3,824,618.00	\$ 2,949,235.00
GenOp Distribution Micro (budget under \$25k)	max 60% annual budget	max 75% annual budget	max 75% annual budget	average 37% annual budget	10k grant
GenOp Distribution Small (\$25k-\$100k)	max 40% annual budget	max 50% annual budget	max 50% annual budget	average 16% annual budget	25k grant
GenOp Distribution Medium (\$100-\$500k)	max 18% annual budget	max 25% annual budget	max 22.5% annual budget	average 9.6% annual budget	50k grant
GenOp Distribution Mid-Sized (\$500k-\$3M)	average 7% annual budget	average 8.6% annual budget	average 9.5% annual budget	average 9.7% annual budget	50k grant
GenOp Distribution Large (\$3M-\$20M)	average 0.7% annual budget	average 0.9% annual budget	orgs \$3M-\$5M average 2.8% annual budget	average 1.9% annual budget	50k grant
GenOp Distribution Large (\$20M-\$51M)	average 0.7% annual budget	average 0.9% annual budget	orgs >\$5M not funded	average 1.9% annual budget	20k grant
4 Organizations (mid-size and above) who have received less than \$500k from Metro Arts	\$ 182,625.00	\$ 224,496.00	\$ 303,253.00	N/A	70k grant
GenOp Total	\$ 2,960,838.00	\$ 3,371,526.00	\$ 3,385,123.00	\$ 3,384,161.00	\$ 2,935,000.00
GenOp Distribution (for micro/small/med orgs) (FY23=24%)	52% at \$1,544,009	49% at \$1,663,291	55% at \$1,872,931	16% at \$537,048	54% at \$1,59500

August 17, 2023 - Commission Meeting



Commissioner	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
Angelico, Ellen	Yea	Nay
Bell, Darek	Nay	Yea
Brewer, Dexter	Nay	Yea
Bucy, Sheri	Yea	Nay
Byrd, Marianne	Nay	Yea
Cheek, William	Nay	Yea
Edward, Clarence	Yea	Nay
Kurtz, Janet	Nay	Yea
Love, Leah	Yea	Nay
McCoy, Carol	Nay	Yea
Perez, Diana	Yea	Nay
Polycarpou, Paul	Nay	Yea
Powell, Matia	Yea	Nay
Schmidt, Jim	Nay	Yea
West, Campbell	Absent	
Total	6 yea; 8 nay	8 yea; 6 nay



December 2022, July 2023, August 2023

Commissioner	December 2022 (equitable funding formula)	July 2023, Scenario A (most equitable)	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
Angelico, Ellen	Yea	Yea	Yea	Nay
Bell, Darek	N/A	Absent	Nay	Yea
Brewer, Dexter	Yea	Absent	Nay	Yea
Bucy, Sheri	Yea	Yea	Yea	Nay
Byrd, Marianne	Abstain	Yea	Nay	Yea
Cheek, William	Nay	Nay	Nay	Yea
Edward, Clarence	Yea	Yea	Yea	Nay
Haynes, Clay	Yea	N/A		
Kurtz, Janet	N/A	Nay	Nay	Yea
Love, Leah	N/A	Yea	Yea	Nay
McCoy, Carol	N/A	Abstain	Nay	Yea
Perez, Diana	Yea	Yea	Yea	Nay
Polycarpou, Paul	Yea	Yea	Nay	Yea
Powell, Matia	Yea	Yea	Yea	Nay
Schmidt, Jim	Abstain	Absent	Nay	Yea
West, Campbell	Yea	Nay	Absent	
Total	9 yea; 1 nay; 2 abstentions	8 yea; 3 nay; 1 abstention	6 yea; 8 nay	8 yea; 6 nay



Consistently voted *for* equitable scenarios

Commissioner	December 2022 (equitable funding formula)	July 2023, Scenario A (most equitable)	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
→ Angelico, Ellen	Yea	Yea	Yea	Nay
Bell, Darek	N/A	Absent	Nay	Yea
Brewer, Dexter	Yea	Absent	Nay	Yea
→ Bucy, Sheri	Yea	Yea	Yea	Nay
Byrd, Marianne	Abstain	Yea	Nay	Yea
Cheek, William	Nay	Nay	Nay	Yea
→ Edward, Clarence	Yea	Yea	Yea	Nay
Haynes, Clay	Yea	N/A		
Kurtz, Janet	N/A	Nay	Nay	Yea
→ Love, Leah	N/A	Yea	Yea	Nay
McCoy, Carol	N/A	Abstain	Nay	Yea
→ Perez, Diana	Yea	Yea	Yea	Nay
Polycarpou, Paul	Yea	Yea	Nay	Yea
→ Powell, Matia	Yea	Yea	Yea	Nay
Schmidt, Jim	Abstain	Absent	Nay	Yea
West, Campbell	Yea	Nay	Absent	
Total	9 yea; 1 nay; 2 abstentions	8 yea; 3 nay; 1 abstention	6 yea; 8 nay	8 yea; 6 nay



Consistently voted *against* equitable scenarios

Commissioner	December 2022 (equitable funding formula)	July 2023, Scenario A (most equitable)	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
Angelico, Ellen	Yea	Yea	Yea	Nay
Bell, Darek	N/A	Absent	Nay	Yea
Brewer, Dexter	Yea	Absent	Nay	Yea
Bucy, Sheri	Yea	Yea	Yea	Nay
Byrd, Marianne	Abstain	Yea	Nay	Yea
→ Cheek, William	Nay	Nay	Nay	Yea
Edward, Clarence	Yea	Yea	Yea	Nay
Haynes, Clay	Yea	N/A		
Kurtz, Janet	N/A	Nay	Nay	Yea
Love, Leah	N/A	Yea	Yea	Nay
McCoy, Carol	N/A	Abstain	Nay	Yea
Perez, Diana	Yea	Yea	Yea	Nay
Polycarpou, Paul	Yea	Yea	Nay	Yea
Powell, Matia	Yea	Yea	Yea	Nay
Schmidt, Jim	Abstain	Absent	Nay	Yea
West, Campbell	Yea	Nay	Absent	
Total	9 yea; 1 nay; 2 abstentions	8 yea; 3 nay; 1 abstention	6 yea; 8 nay	8 yea; 6 nay



Voted *for* then *against* equitable scenarios

Commissioner	December 2022 (equitable funding formula)	July 2023, Scenario A (most equitable)	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
Angelico, Ellen	Yea	Yea	Yea	Nay
Bell, Darek	N/A	Absent	Nay	Yea
Brewer, Dexter	Yea	Absent	Nay	Yea
Bucy, Sheri	Yea	Yea	Yea	Nay
→ Byrd, Marianne	Abstain	Yea	Nay	Yea
Cheek, William	Nay	Nay	Nay	Yea
Edward, Clarence	Yea	Yea	Yea	Nay
Haynes, Clay	Yea	N/A		
Kurtz, Janet	N/A	Nay	Nay	Yea
Love, Leah	N/A	Yea	Yea	Nay
McCoy, Carol	N/A	Abstain	Nay	Yea
Perez, Diana	Yea	Yea	Yea	Nay
→ Polycarpou, Paul	Yea	Yea	Nay	Yea
Powell, Matia	Yea	Yea	Yea	Nay
Schmidt, Jim	Abstain	Absent	Nay	Yea
West, Campbell	Yea	Nay	Absent	
Total	9 yea; 1 nay; 2 abstentions	8 yea; 3 nay; 1 abstention	6 yea; 8 nay	8 yea; 6 nay



Other voting pattern (absent, abstain)

Commissioner	December 2022 (equitable funding formula)	July 2023, Scenario A (most equitable)	August 2023, Scenario 1 (most equitable)	August 2023, Scenario 4 (least equitable)
Angelico, Ellen	Yea	Yea	Yea	Nay
→ Bell, Darek	N/A	Absent	Nay	Yea
→ Brewer, Dexter	Yea	Absent	Nay	Yea
Bucy, Sheri	Yea	Yea	Yea	Nay
Byrd, Marianne	Abstain	Yea	Nay	Yea
Cheek, William	Nay	Nay	Nay	Yea
Edward, Clarence	Yea	Yea	Yea	Nay
Haynes, Clay	Yea	N/A		
→ Kurtz, Janet	N/A	Nay	Nay	Yea
Love, Leah	N/A	Yea	Yea	Nay
→ McCoy, Carol	N/A	Abstain	Nay	Yea
Perez, Diana	Yea	Yea	Yea	Nay
Polycarpou, Paul	Yea	Yea	Nay	Yea
Powell, Matia	Yea	Yea	Yea	Nay
→ Schmidt, Jim	Abstain	Absent	Nay	Yea
→ West, Campbell	Yea	Nay	Absent	
Total	9 yea; 1 nay; 2 abstentions	8 yea; 3 nay; 1 abstention	6 yea; 8 nay	8 yea; 6 nay



Quotes about the Voting Records

- Consistently voted *for* equitable distributions
- Consistently voted *against* equitable distributions
- Changed vote from July to August
- Other



“I voted for Scenario A because we’ve been talking about this for a long time and sometimes you have to do what you say you’re going to do. We’ve been talking about how we need to focus on giving more funding to small orgs. It’s been an ongoing conversation for the last 3 years. Some people may say it was sprung up, but it’s not.”

Commissioner Powell

Consistently voted *for* equitable distributions



“I’m the only one on the board who is an arts representative. For me, it was a personal thing. If I wasn’t on the board, I’d have been an artist applying for a grant as a small org. I resonate with that. I’ve done that work in the city.”

Commissioner Edward

Consistently voted *for* equitable distributions



“I was really pushing towards a more equitable distribution of Metro funds to go to Thrive artists and small organizations, and bigger cuts to legacy organizations... I sat back and I listened to all the organizations... everyone made a good point, but in my heart of hearts, I knew I should stick with the little guy... Each time I voted, I voted for wanting to make Thrive participants get 100% of their money.”

Commissioner Bucy

Consistently voted *for* equitable distributions



“Because it was the most equitable scenario. I’ve been concerned that the funds were not being equitably distributed. It was going to have a positive impact... That day when we voted, we had a lot of people from the public speak. Making comments, that made it clear why we were there and why we needed to choose the more equitable scenario. It was very explicit what the community was needing.”

Commissioner Perez

Consistently voted *for* equitable distributions

“[In July] I was not comfortable that we were spending taxpayer money in a way that we could reliably measure and funding art in a way that taxpayers are comfortable paying for.... With an organization, there’s a board and there’s a paid staff. With an individual artist there’s none of those checks and balances... I’m not sure I ever saw a list of who the recipients were and what their projects were, and who approved the projects, and who is supervising the grants. If you received \$10,000, who is following up with you to see what did you do? Did you go to Kroger and shop? Or did you put on the arts production that you supposedly were going to do with the money?”

[By August] we had heard about specific impacts from some of the organizations and what it would mean to cut funding. It had become more personal because I was hearing from, you know, a friend on the Opera Board. And I wasn’t the only Commissioner hearing... the mid-size organizations, it made a meaningful impact.”

Commissioner Cheek

Consistently voted *against* equitable distributions



“I had completely bought into the concept and Arts had a commitment to DEI and we wanted to support the small institutions and the most under-represented in the past. That is what we voted for. When we had to reconsider everything, and were not allowed to take DEI and BIPOC issues into consideration as part of that process, I felt we absolutely had to go back and honor the promise that Daniel [Singh] made to those community members, many of whom were with the larger organizations. And make sure they got at least the same amount of money that they got the previous year.”

Commissioner Byrd

Voted for equitable distribution in July and against in August



“Primarily the discussions I heard at the August meeting led me to think we are way too quick doing this, and we are going to hurt other people in the arts along the way... Some of those orgs made plans for what we decided then. It was even on the website that no organization would be given less than they were in 2023. I couldn't in good conscious think that we could just say ‘no we didn't say that.’ That was my primary thought process... It was the timing that ultimately got me. I want to be sure you hear me. I did not change my mind to say this doesn't count. I put my mind on hold.”

Commissioner Polycarpou

Voted *for* equitable distribution in July and *against* in August



“If the goal was to offer more funding to Thrive, there were other scenarios that accomplished that same goal, while still looking at the arts community overall. Scenario 4 gave Thrive grants a five-times increase, which is a phenomenal amount. Most companies only go with 3-6% increase in funding increases for any department.”

Commissioner Kurtz

Other voting patterns (Absent or Abstain in July, No vote in August)



“Scenario 4 still gave something to everyone. And still honored what we said we were going to do, the commitments that were made way before my time... In my mind, trying to spread it to as many organizations possible would be the best for the Nashville community as a whole.”

Commissioner Bell

Other voting patterns (Absent or Abstain in July, No vote in August)



“In the end, we decided we would keep our promise to not injure or defund those organizations. They pointed to the promises, and that was contrary to the July vote. We were saying all along that we were going to move in this direction, but we were not going to do it this way.”

Commissioner Brewer

Other voting patterns (Absent or Abstain in July, No vote in August)



“I thought it was more balanced and lived up to some promises that were made to organizations across the city. It greatly increased the amount to Thrive by three or four times the amount of funding and it went to three or four times the number of artists... I thought we need to look at a more phased in and incremental scenario that would move toward funding Thrive and hold harmless others for a year and give them time to budget and deal with incoming cuts... I still believe it will increase equity in a real way.”

Commissioner Schmidt

Other voting patterns (Absent or Abstain in July, No vote in August)



“Jim [Schmidt] was the former chair, he said, I don’t know why we’re pitting the arts agencies against each other. We have more money than we’ve ever had before, so we will be able to fund a lot of the new Thrive people... I was listening to him and thinking that made sense.”

Commissioner McCoy



Stated factors for inequitable votes

Cap Allocation

- “Should the Total Ask Amount be unavailable, a percentage will be assigned to all orgs that allows for the maximum grant amount, first honoring that all organizations receive a grant greater than or equal to the previous year, and secondly, honoring small and medium organization full asks. *All award allocations will be made based on Metro Arts funding availability.”

Thrive increase

- Increase in Thrive recipients, but not funding per individual
 - FY23: \$178,600 (22 artists)
 - FY24: \$875,382 (101 artists)



July 20, 2023 Vote - Funding Scenario A	
Category	Proposed Grant Amount
Thrive	100% of FY24 formula (\$20,000 max)
Micro (org budget <\$25k)	80% of FY24 formula (75% annual budget)
Small (org budget \$25k-\$100k)	80% of FY24 formula (50% annual budget)
Medium (org budget \$100k-\$500k)	75% of FY24 formula (25% of annual budget)
Midsize (org budget \$500k-\$3M)	55% of FY23 grant amount
Large (org budget \$3M+)	40% of FY23 grant amount
% of funds to micro/small/medium organizations = 54%	
Total FY24 Grants	

August 17, 2023 Revote - Funding Scenario 4	
Category	Proposed Grant Amount
Thrive	50% of FY24 formula (\$20,000 max)
Micro (org budget <\$25k)	Average of 37% of annual budget
Small (org budget \$25k-\$100k)	Average of 16% of annual budget
Medium (org budget \$100k-\$500k)	Average of 9.6% of annual budget
Midsize (org budget \$500k-\$3M)	Average of 9.7% of annual budget
Large (org budget \$3M+)	Average of 1.9% of annual budget
% of funds to micro/small/medium organizations = 16%	
Total FY24 Grants	



Analysis of Metro Legal's Involvement



Analysis of Metro Legal's Involvement

- Not clear how higher education setting is applied to Metro Arts
- Advice is not uniformly applied across Metro departments
- No sufficient answers provided as to how arts organizations are adversely impacted under the Equal Protection Clause
- Questionable justification for a closed Executive Session meeting
- Role of Metro Legal was poorly articulate and potentially overstepped
 - Arts Commission is the authorizing body; Metro Legal is an advisor



Analysis of Metro Legal's Involvement

Appearance that the legal memo and Executive Session were instigated and used by at least one Commissioner who did not support the outcome of the July vote to then advocate for a revote.

“So yes, they eliminated the offensive words [BIPOC impact and white impact], but the underlying analysis involved race probably. I can’t imagine they went back and redid it. But by then, I think that some commissioners were looking at this differently. It became, what is our funding doing to arts in Nashville, and less so about the philosophical shift toward funding individual artists. That question became less relevant in some people’s minds in the second vote, because we were looking at the actual impact of funding to arts organizations.”

Commissioner Cheek



Analysis of Metro Legal's Involvement

In other words, the legal intervention provided the opportunity for a re-do

“I remember sitting there and having my heart pounding in my chest, but when you ask someone to revote on something, they are not going to make the same decision as before. They are going to go back and look, and review the information, and that’s what happened. To completely reconsider.”

Commissioner Byrd



Recap

So far we've covered:

- How Commissioners understood the legal advice, including several of whom explicitly said race was not the reason they voted as they did
- A breakdown of Commissioner votes & their reasons
- Our outstanding questions about the legal advice
- Analysis that the advice offered an opportunity for a “redo”

Now:

- Our legal analysis



Melody Fowler-Green
Yezbak Law Offices
MHRC Legal Counsel



Other Sections in the Title VI Report

- FY2023-2024 Budget
- Disparities Study
- Conflict of Interest
 - Commissioner appointments
 - Commissioner COIs and recusals
 - Shortcomings of the policy
 - Legal versus illegal conflicts of interest
- Other contributing factors



Recommendations

1. MHRC staff requests that the Commission move to convene a public hearing in this case.
2. The Title VI complainants be awarded the initial grant amounts as voted on in July 2023.
3. That a funding model be established by the Arts Commission and approved by the Metro
4. Council to ensure that future allocations of taxpayer funds will be distributed equitably.
5. That Metro Legal produce a detailed procedure guide to be distributed to all Boards and Commissions detailing the authority and the various roles that Metro Legal occupies in the operation of the city and Boards and Commissions. In addition, special emphasis should be placed on conflicts and potential conflicts and their resolutions that arise between Legal and Boards and Commissions.



Title VI Process

- ~~Filing of a complaint (September 29, 2023)~~
- ~~Review of content~~
- ~~Staff conference with complainant (October 23, 2023)~~
- ~~Service of complaint to responded (October 10, 2023)*~~
- ~~Mediation~~
- Probable cause determination
- Conciliation
- Public hearing

“The hearing is to be held before three Commissioners serving as Hearing Commissioners.”