

**Martin Luther King Cultural Center, Inc.**

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**January 1, 2007 - December 31, 2007**

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## **Comptroller's Summary**

### ***Background***

The Martin Luther King Cultural Center (MLK) is a community based not-for-profit organization aimed at serving the needs of the Beacon community and its surrounding areas. Additional information is available on the website [www.mlkculturalcenter.org](http://www.mlkculturalcenter.org).

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

The audit of the Martin Luther King Cultural Center, Inc. (MLK) was conducted for the period of January 1, 2007 through December 31, 2007. The Accountants' Compilation Report for 2007 reported expenses totaling \$259,100.00 and revenue totaling \$271,383.00 for the year ended December 31, 2007. Dutchess County funding for 2007 amounted to \$152,711.00 and was provided by the following departments:

- The Health Department provided funding through the United Way of Dutchess County totaling \$20,000.00.
- The Office For the Aging had two contracts totaling \$34,999.00.
- The Department of Planning and Development had two contracts totaling \$32,000.00
- The Department of Social Services provided funding through the United Way of Dutchess County totaling \$3,000.00 and additional funding through the Dutchess County Workforce Investment Board totaling \$23,812.00.
- The Youth Bureau had three contracts with the agency totaling \$38,900.00.

The audit included review of:

- Accounting processes, oversight and internal controls;
- Cash handling, banking and credit cards;
- Contract claims and expense review;
- Tax and Report Filings, 1099 and W-9 processes.

Contract detail is attached as Addendum I.

### ***Summary of Findings***

The agency's accounting processes were limited due to the lack of fiscal structure and oversight. Specifically, the agency did not exhibit a board that exercised the Duty of Care responsibilities which requires "directors to be familiar with the organization's finances and activities and participate regularly in its governance"<sup>1</sup>, did not have checks and balances including a separation of duties for key accounting functions, and did not maintain complete and accurate accounting records. The Executive Director in most

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<sup>1</sup> Defined in Responsibilities of Directors and Officers of Not-for-Profit Corporations from the New York State Attorney General. This document along with Internal Controls and Financial Accountability for Non-Profit Boards were provided to the agency.

cases acted solely as respondent for the board, the accounting, and program functions. Salaries and expenses were over claimed by \$5,782.89 and these funds should be returned to Dutchess County. In addition, three individuals including the Executive Director received payments that were not listed on their W-2s nor formally authorized in Board minutes. Errors were noted on the various tax filings.

Dutchess County Comptroller reported identical findings in the Audit Report for January 1, 2001 through December 31, 2002, issued September 2003. Improvement was not observed for key areas and fiscal and accounting processes have deteriorated further.

## ***Detailed Findings***

### **Accounting Processes, Oversight and Internal Controls**

The Agency's accounting processes and internal controls for daily operations were reviewed. Both financial and administrative internal controls are the responsibility of Directors and Officers as well as Agency Management. An effective accounting system is dependent upon (1) accounting and financial records which are properly designed and effectively operated and (2) duties which are segregated and properly overseen.

#### **Findings:**

- There is a lack of documented fiscal processes including internal controls and oversight.
- The monthly financial statements were manually produced by the agency's financial secretary and did not provide consistent balances from month to month.
- While it was stated by the agency, the financial secretary had sole responsibility to record transactions, prepare financial documents and reconcile financial records, all responses and information received was via the Executive Director.
- Board minutes were not available for all months and were incomplete in evidencing authorization of fiscal transactions including authorization of the agency's annual budget.
- Attempts to receive board comment resulted in one board member's response. This individual stated he did not regularly attend monthly board meetings.
- The Executive Director acted as liaison for the board, for the agency and for the fiscal secretary.

#### **Recommendations:**

- The agency must implement and document fiscal processes.
- Accurate monthly income and expense statements and general ledgers should be generated from the agency's financial software.
- The Executive Director should not be the sole respondent for fiscal and program activity.
- Summary reports should be presented to the board and review evidenced in the board minutes. Discrepancies should be identified and corrected. The agency's

budget must be formally adopted and attached to the respective board minutes showing approval. Key fiscal transactions must be recorded in the board minutes.

- The Board of Directors must become actively involved with the organization's finances and activities, participate regularly in its governance, providing adequate internal controls and oversight.
- Additional oversight and a separation of duties should be implemented to provide proper internal control.

### Cash Handling and Banking

Bank accounts, selected canceled checks, selected deposits and bank reconciliations were reviewed. Monies received from Dutchess County were deposited timely. According to the Executive Director, the bank reconciliations are prepared by the Board's Financial Secretary, all expenses are approved by the Executive Director and invoices are reviewed and checks are prepared by the Financial Secretary.

#### **Findings:**

- Review of bank reconciliations was not evidenced. At the time of our review, we noted the agency uses M & T Bank and Citizens Bank but the account reconciliations still list Premier National Bank and Charter One, which were the agency's prior banking institutions.
- A written policy was not available to document and formalize expenditure processes.
- A board member signed checks without corresponding board approval noted in the board minutes.

#### **Recommendations:**

- Bank reconciliations should be reviewed and initialed by a Board Member other than the Financial Secretary. Bank reconciliations should reflect the current institution names for proper identification.
- A written policy must be documented and implemented, including adequate separation of duties and oversight to control expenditures.
- Changes to authorized check signors should be made by motion of the board and recorded in the minutes.

### Credit Cards

The Agency had one credit card, which is used by the Executive Director. In addition, there is one account with a local service station for gasoline purchases.

#### **Findings:**

- A written policy was not available to document and formalize credit card use.
- The Executive Director's credit card transactions and gasoline expenditures were not evidenced by board review.

**Recommendations:**

- A written policy must be documented and implemented, including adequate separation of duties and oversight to control credit card expenditures.
- Oversight and review of the Executive Director’s credit card transactions and agency gasoline expenditures must be evidenced.

**Contract Claims and Expense Review**

A review of the claims made to the various contracts was conducted for verification to a sample of originating documentation. In addition, all salary allocations claimed were compiled for verification to W-2 payments.

**Findings:**

- Disallowances totaling \$5,782.89 were noted as follows:
  - Allocations for salaries claimed were duplicated resulting in \$5,149.14 over claimed
  - Undocumented expenditures to the Health Department Obesity funding totaling \$633.75.
- Operating procedures were not documented and allocation methodologies for program expenditure allocations were not in place.
- The Office for the Aging had two contracts. One was a fee for service contract and the other was a personnel expense reimbursement contract. We could not determine if expenditures claimed were duplicated.
- Claims for the Summer TANF funding received from the WIB included three checks which were dated 10/13/07. The contract term was June 1, 2007 to September 30, 2007. Checks were issued to three employees and the amounts were omitted from each individual’s 2007 W2. Based on the check information: \$500.00 was paid to the Job Coach for June Recruiting, \$1,898.00 was paid to the Program Director for June Recruiting, and \$3,538.00 was paid to the Executive Director for Financial Management. Timesheets were not available to support these claims.

**Recommendations:**

- The over claim of \$5,782.89 must be repaid as follows:

○ Health Department through the United Way	\$3,188.37
○ Youth Bureau	2,349.63
○ Social Services through the WIB	<u>244.89</u>
	Total <u>\$5,782.89</u>
- Operating policies and procedures must be developed, implemented and documented including allocation methodologies for expenditures claimed to multiple funding sources.
- Funding requests should clearly detail all costs to ensure expenditures are not duplicated when claimed.
- All costs must be clearly documented and paid in accordance with federal and state regulations.

## Tax and Report Filings, 1099 and W-9 Processes

### IRS Form 990 Information Return

The above report was filed for tax year 2007. Section V-A should “List each person who was a current officer, director, trustee or key employee of the organization...at any time during the year even if they did not receive any compensation from the organization.”

#### **Finding:**

- Only the Financial Secretary was listed in section V-A on the agency’s copy of the filed form.

#### **Recommendation:**

- IRS Form 990 for tax year 2007 should be amended and re-filed to include all officers, directors, trustees and key employees as required by IRS regulations.

### IRS Form 1099-Miscellaneous Income

The IRS requires Form 1099-Miscellaneous Income Statements be issued to individuals/businesses that receive payment of \$600.00 or more in a calendar year for services provided.

#### **Finding:**

- One vendor was paid a total of \$3,000.00 for grant writing services. An IRS Form 1099-MISC was not issued.

#### **Recommendation:**

- IRS Form 1099 MISC should be issued per IRS Regulations.

### IRS Form W-2, Wage and Tax Statement

The IRS requires Form W-2, Wage and Tax Statement be issued to each employee for the amount earned in a calendar year.

#### **Finding:**

In addition to the understatement of the W-2s, payroll taxes were not withheld from the three payments nor reported to the IRS quarterly via IRS Form 941, as is required by IRS regulations. NYS Withholdings and NYS-45-MN also had withholding taxes under reported for these three people.

#### **Recommendation:**

The 2007 IRS Form 941’s, NYS-45-MN and Form W-2 should be amended to include the three payments noted with the appropriate copies of the amended forms being distributed to the IRS, NYS Department of Taxation and respective employees. The payroll taxes in question should be remitted to the IRS and NYS to withhold the additional payroll taxes due.

*Note: While copies of some amended tax forms were received in November 2008, errors were noted on the forms and the Executive Director was not re-issued a corrected W2. The agency should review corrections with their Tax Professionals.*

IRS Form W-9, Request for Taxpayer ID

The IRS requires Form W-9 be obtained from all employees and contractors that are not exempt.

**Finding:**

- The W-9 forms were not on file for several employees and contractors.

**Recommendation:**

- A policy should be established requiring Form W-9 be obtained from all employees and any non-exempt contractors prior to making any payments.



Russell J. Liebler, Auditor

  
Diane Jablonski, Comptroller

## ***Addendum I – Contract Detail***

### **DC Health Department with United Way of Dutchess County Contract #07-0143-12/07-HD**

This Health Department contract with the United Way of Dutchess County provided \$20,000.00 to MLK for The Theater Project which is a Tobacco Prevention and Cessation Program. The term of this contract was January 1, 2007 to December 31, 2007. Funding was provided by the Children’s Health Initiative through the Children’s Services Council with the United Way administering contract funding. Contract claims from MLK to United Way were reviewed. United Way paid \$19,999.91 to MLK with MLK claims summarized as follows:

<b>Expenses</b>	<b>Budget</b>	<b>Claimed</b>
<b>Personnel</b>	\$9,198.81	\$9,198.81
<b>Fringe</b>	1,000.00	1,000.00
<b>Other than Personal Services</b>	7,801.19	7,801.19
<b>Administration</b>	<u>2,000.00</u>	<u>2,000.00</u>
<b>Total</b>	<b><u>\$20,000.00</u></b>	<b><u>\$20,000.00</u></b>

### **Dutchess County Office for the Aging Contract # 03-0306-12/03-OA-A5**

The contract was written for \$19,999.00 for the period January 1, 2007 to December 31, 2007 to provide for transportation to the Beacon Senior Service Center & meals to home bound elderly. The agency provided 239 meals and the transportation of 157 individuals. The amount claimed and paid to the Agency was \$16,794.00.

<b>Meals</b>	\$41.00 per meal	239 meals served	\$ 9,799.00
<b>Transports</b>	\$35.00 per transport	157 transports	5,495.00
<b>Admin</b>	\$125.00 per month	12 months	<u>1,500.00</u>
<b>Total</b>			<b><u>\$16,794.00</u></b>

### **Contract #06-0067-12/06-OA-A1**

This contract was written for \$15,000.00 for the period January 1, 2007 to December 31, 2007 to provide for transportation to senior citizens in the City of Beacon for activities of daily living such as doctor appointments, shopping, meetings and visiting friends. The full amount of the contract was claimed and paid for salaries for a driver and dispatcher.

**Dutchess County Department of Planning and Development**  
**Contract # 06-0246-2/07-PL**

This Planning Department contract was written for \$15,000.00 to provide educational, recreational and cultural activities for school aged youth through an after school/summer program. Funding was provided by HUD under the Housing & Community Development Act of 1974. The contract period was from March 1, 2006 through February 28, 2007. The full amount of the contract was claimed and paid for salaries. A total of \$2,147.03 was paid for the audit period.

**Contract #07-0302-2/08-PL**

This Planning Department contract was written for \$17,000.00 to provide educational, recreational and cultural activities for school aged youth through an after school/summer program. Funding was provided by HUD under the Housing & Community Development Act of 1974. The contract period was from March 1, 2007 thru February 29, 2008. The full amount of the contract was claimed and paid for salaries and fringe. A total of \$11,808.00 was paid for salaries and \$1,404.00 for fringe during the audit period.

**Dutchess County Department of Social Services with the United Way**  
**Contract # 05-0367-12/05-SS-A2**

This contract provided \$3,000.00 for the period January 1, 2007 to December 31, 2007 to provide support to the Children's Service Council's (CSC) efforts to write grant proposals and to obtain services for the CSC projects. Funding was provided through United Way via a direct agreement with the Agencies of which MLK was a participant. An amount of \$2,250.00 was claimed and paid to MLK by the United Way.

**Dutchess County Department of Social Services with WIB**  
**Contract #07-0216-12/07-SS**

This contract provided \$23,587.00 for a TANF summer youth employment program. The contract period was from June, 1 2007 thru September 30, 2007. The program served 11 local youth with \$20,432.60 being claimed and paid to the agency as follows:

<b>Expenses</b>	<b>Budget</b>	<b>Claimed &amp; Paid</b>
<b>Youth Stipends</b>	\$19,300.00	\$11,982.78
<b>Program Expenses</b>	3,535.00	4,911.82
<b>Administration</b>	750.00	3,538.00
<b>Total</b>	<b><u>\$23,585.00</u></b>	<b><u>\$20,432.60</u></b>

**Dutchess County Youth Bureau**  
**Contract # 05-0072-12/05-YB-A2**

The contract was written for \$15,000.00 for the period January 1, 2007 to December 31, 2007 to provide an after school/summer educational, social, recreation and cultural outlet for up to 50 youth. The full amount of the contract was claimed and paid to the agency.

<b>Expenses</b>	<b>Budget</b>	<b>Claimed</b>
<b>Personnel</b>	\$11,000.00	\$11,000.00
<b>Fringe</b>	1,540.00	1,540.00
<b>Other than Personal Services</b>	<u>2,460.00</u>	<u>2,460.00</u>
<b>Total</b>	<b><u>\$15,000.00</u></b>	<b><u>\$15,000.00</u></b>

**Contract #05-0223-12/05-YB-A2**

This contract was written for \$15,000.00 for the period January 1, 2007 to December 31, 2007 to subsidize a partnership between schools and local businesses to provide jobs to community teenagers. The full amount of the contract was claimed and paid to the agency as follows:

<b>Expenses</b>	<b>Budget</b>	<b>Claimed</b>
<b>Personnel &amp; Fringe</b>	\$9,900.00	\$9,841.09
<b>Other than Personal Services</b>	<u>00.00</u>	<u>58.91</u>
<b>Total</b>	<b><u>\$9,900.00</u></b>	<b><u>\$9,900.00</u></b>

**Contract #07-0128-12/07-YB**

This contract was written for \$14,000.00 for the period January 1, 2007 to December 31, 2007 to provide a Youth Gang Prevention Initiative program. The full amount of the contract was claimed and paid to the agency as follows:

<b>Expenses</b>	<b>Budget</b>	<b>Claimed</b>
<b>Personnel</b>	\$11,970.00	\$12,467.27
<b>Fringe</b>	630.00	1,532.74
<b>Other than Personal Services</b>	<u>1,400.00</u>	<u>00.00</u>
<b>Total</b>	<b><u>\$14,000.00</u></b>	<b><u>\$14,000.01</u></b>