

FY25 Thrive Funding Mechanism Recommendation

Compiled by the Working Group of the Title VI Conciliation Agreement

Executive Summary

The Title VI Conciliation Agreement, established in July 2024 following a Title VI complaint regarding Metro Nashville Arts Commission's FY2023-2024 grant decisions, tasked the Working Group with identifying a compliant funding mechanism for Thrive. The FY25 Thrive funding mechanism recommendation addresses the legal and operational challenges identified in the Thrive grant program. After evaluating four potential approaches, the group recommended a "fiscal agent model" to fund individual artists and artist collectives. Under this model, Thrive applicants who are not 501(c)(3) nonprofits must secure a fiscal agent to receive and administer their grant awards. This approach shifts the mechanism out of the delegated purchasing authority used for the past 10 years and stands it up as a grant program, aligned with Metro Arts General Operating grants. This preserves Metro Arts' authority over program design, minimizes disruption for applicants, and aligns with common practices in arts funding. Metro Arts will help facilitate connections between artists and fiscal agents, set a fee cap for fiscal sponsorship, and ensure clarity in roles and responsibilities through standardized agreements. The Arts Commission voted to accept this recommendation at the December 5, 2024 Arts Commission meeting.

Alternative options, such as partnering with a single nonprofit to manage all awards, converting Thrive into a fellowship model, or pursuing legislative changes were also considered but deemed impractical for FY25. Partnering with one organization would require extensive administrative oversight and authorize and could delay implementation, while a fellowship model would shift program goals away from supporting diverse project proposals. Legislative changes to Metro or state procurement and grant laws were ruled out due to the extended timeline required. The fiscal agent model emerged as the most practical immediate solution, balancing compliance with funding laws and effectively supporting Nashville's artistic community.

This is the recommended mechanism for FY25. The Arts Commission may pursue program adjustments or alternative approaches for FY26 and beyond.

Background: Title VI Conciliation Agreement

In October 2023, six community members filed a Title VI complaint with the Metro Human Relations Commission (MHRC), alleging discrimination in the Metro Nashville Arts Commission decisions for the FY2023-2024 grant cycle. A Conciliation and Voluntary Compliance Agreement (“the Agreement”) was reached in July 2024, which outlines several remedies and serves as a full resolution to the Title VI complaint. Parties to the Agreement include the Arts Commission, Metro Legal, MHRC, and the individual complainants.

The Agreement was approved by the Metro Human Relations Commission on July 8, 2024, with 13 Commissioners voting in favor and 1 against.¹ It was approved by the Arts Commission on July 18, 2024, with 9 Commissioners voting in favor and zero against.² Both Commissions authorized their Executive Directors and legal counsel to finalize and sign the Agreement on behalf of the Commissions. Signatures by all parties were received by August 9, 2024, and the Agreement went into effect immediately.

The Agreement called for the formation of a Working Group to “find a legal path to protect the Thrive grants program, or to create a new program with similar goals that complies with existing law” ([page 6](#)). Specifically, the Working Group is tasked with identifying a funding mechanism. All other policy and programmatic responsibilities for Thrive remain under the authority of the Arts Commission and its staff. Members of the Working Group include Dr. Paulette Coleman and Sydnie Davis³ representing Metro Arts, Macy Amos and Tessa Ortiz-Marsh representing Metro Legal, Amanda Deaton-Moyer representing Metro Finance, Ashley Bachelder representing MHRC, and Dr. Megan Jordan representing the artist community.

Background: Thrive Project Funding

In late February 2024, public concerns regarding financial and legal compliance of the Thrive program were raised.⁴ Thrive began in 2014 as a program to provide direct financial support to individual artists outside a traditional nonprofit grant structure. The program treated artists as vendors, utilizing procurement processes that allowed Metro Arts to contract the artist for services (i.e., the artistic work as proposed by the artist-applicant). Over time, and particularly in FY2023-2024, the rapid growth in the number of Thrive applicants and the increased budget brought attention to the program and highlighted vulnerabilities for the continued use of delegated purchasing through the procurement process.

Metro grants and awards must comply with Metro and state laws regarding grants and procurement code, including recipient eligibility, processes, and how funding may be used. Briefly, those which apply to Metro Arts include:

¹ MHRC Commissioners voting in favor: Kosar, Tran, Abolfazli, Pastorek, Teague, Buggs, Galban, Wynn, McKinney, Coleman, Johnson, Traughber, Stringer-Holmes; Commissioners voting against: Burton

² Arts Commissioners voting in favor: Love, Kurtz, Lefkowitz, Hardin, Jester, McCoy, Nichols-Philips, Watts, Brown

³ The Working Group first convened on August 19, 2024. Davis joined the Working Group on October 26, 2024.

⁴ “Compliance” language is used in this summary, instead words like “legal” or “illegal,” which have a negative connotation often referring to individual-level behaviors rather than descriptions about systems.

| Code | Description |
|---|--|
| <p>Metro Code 2.112.040(h)</p> | <p>Chapter 2.112 defines procedure for the Metropolitan Nashville Arts Commission. As defined in the Powers and Duties:</p> <p>The Commission shall have the authority to: award funds appropriated to it by the metropolitan council to deserving nonprofit civic and nonprofit charitable organizations.</p> <p>Criteria for the awarding of such funds shall be established by the Metropolitan Nashville Arts Commission and approved by resolution of the metropolitan council. Once a determination is made by the Metropolitan Nashville Arts Commission that a deserving nonprofit civic or nonprofit charitable organization is to receive funds, a grant contract shall be prepared and signed for each such organization.</p> <p>A nonprofit charitable organization is defined as one in which no part of the net earnings benefit any private shareholder or individual and which provides year-round services benefiting the general welfare of the residents of the municipality. A nonprofit civic organization is defined as a civic organization exempt from taxation pursuant to Section 501(c) of the IRS Code.</p> <p>For purposes of this code section, both nonprofit charitable organizations and nonprofit civic organizations shall be involved in the study, participation in and appreciation of the visual, performing and literary arts for the Metropolitan Nashville and Davidson County area.</p> |
| <p>Tenn. Code Ann. § 7-3-314(d)</p> | <p>Tennessee Code Annotated chapter 7-3-314 defines procedures for financial assistance to nonprofit organizations.</p> <p>(d) Notwithstanding any state law or regulation to the contrary, where counties with a metropolitan form of government establish an arts commission or arts board and appropriate funds to that entity in the annual budget, that entity may distribute money to nonprofit organizations involved in the study, participation in and appreciation of the visual, performing, or literary arts without obtaining additional approval from the legislative body. The arts commission or arts board shall provide an annual report to the legislative body prior to the adoption of the annual budget detailing the grant recipients, the moneys disbursed, and the purpose for which the money was disbursed.</p> |
| <p>Metro Code Chapter 4.12</p> | <p>Metro Procurement code is extensive beyond the scope of this application, but key differences distinguish delegated purchasing process from how Thrive awards have operated and demonstrate why the purchasing process is not appropriate. Key differences include:</p> <ul style="list-style-type: none"> - Purchases are when the government acquires goods, professional services, or construction services in which the Government defines the scope; whereas grants are when funds are provided a recipient to enable the recipient to achieve its own goals and objectives that are consistent with public authority policy. - Metro does not “own” anything nor are services rendered to the Government through the Thrive award process (though, arguably coordinated community goals are achieved). |

In short, local and state law require grants be made to nonprofit 501(c)(3) organizations, and the process for awarding Thrive grants does not align with required processes and objectives for

delegated purchasing. Additional information delegated purchasing authority and the differences between grants and purchasing is included at the end of this document.

New Thrive Funding Mechanism

The Working Group discussed four potential paths forward, summarized below:

1. Partner with one nonprofit organization to administer all Thrive awards
2. Require that Thrive applicants identify a fiscal agent⁵ to administer their award (this is the Working Group's recommendation)
3. Convert Thrive to a fellowship model
4. Change relevant local and/or state law

Option 1: Partner with one nonprofit organization to administer all Thrive awards.

In this scenario, one nonprofit organization (“the organization”) would enter a grant contract between Metro Arts and the organization. The organization would then administer awards as subgrants/subcontracts to Thrive awardees.

Rationale:

1. Identifying one fiscal sponsor to service all the awards would remove this requirement from the applicant and place it within Metro Arts duties. Eliminating this as the artists’ responsibility reduces barriers if the applicant doesn’t have a relationship with an organization to serve as a fiscal agent.
2. Disruption or additional work on the applicant wide would be minimal, if the only concrete change the applicant would see is that a different organization is the entity making the payment.
3. Partnering with one organization would standardize the process both for applicants (i.e., the same expectations and procedure would apply to all applicants) and for operations on the staffing/administrative side (i.e., there would be just one contract to execute).

Tradeoffs

1. Based on the desire for as little disruption on the applicant side as possible, an ideal scenario would be for the organization to just “cut the checks” – essentially serve as a pass through to subcontract to the individual. Such minimal involvement is not viable from a legal compliance perspective. Given this, there are two scenarios the Working Group considered, each with tradeoffs:
 - a. Option 1.1: The organization would have some or all authority over policy and programmatic decisions regarding Thrive. For example, even if Metro Arts were to recommend the criteria, applications, scoring rubric, allocation and funding formula, and monitoring/reporting details, the organization would have authority – and responsibility – over those decisions and their implementation. If this work was delegated to the organization to build out, the timeline would have become unworkable to accomplish for the FY25 year. Additionally, the organization would presumably require an administrative fee to support staff time and financial costs associated with administering an approximately \$1M grant program. Exploratory conversations were had with some nonprofits, none of which wanted to take on this

⁵ We use the term “fiscal agent” in the same sense that “fiscal sponsor” is commonly used in other settings.

level of authority for Thrive under the current conditions. The Working Group does not recommend advancing this recommendation without substantial conversation by the Arts Commission, for the logistical reasons given, as well as the implications for transferring and outsourcing much of the Commission's authority to an external organization.

- b. Option 1.2: The Working Group reviewed other contracts within Metro that might serve as examples. For example, an executed contract from the (former) Mayor's Office of Community Safety that allocated funding to the Community Foundation of Middle Tennessee, who then allocated funding to specific vendors (including individuals and organizations) to provide training and other services for The Village. This is a pass-through contract for services. Metro Arts' need is different, with the end-recipients being grants with differing and individualized terms of agreements (i.e., different proposed projects) and reporting requirements. If one organization were to serve this role, that organization would need to have individualized letters of agreement with each artist, based on different artist proposals. Reporting requirements also distinguish this from a contract for services. One organization could serve this role for all Thrive applicants, but the responsibilities would include more than a simple pass-through. For similar reasons as stated above, preliminary conversations with organizations led the Working Group to not recommend this option, as organizations did not want to take on a larger responsibility than just "cutting the checks" at this time. The Arts Commission may wish to reconsider this option after FY25.

The Working Group is focused on FY25 immediate solution, and is therefore not recommending this option, though it may have merit to explore after FY25. The Commission, Metro Arts leadership, and community stakeholders need to have greater engagement in the process before possible decisions are made that may delegate policy and programmatic authorities for Thrive to an external organization (as in Option 1.1 above), and evaluating how the FY25 cycle goes with multiple fiscal agents (described below) may provide insights for future interests in Option 1.2.

Option 2: Require Thrive applicants to identify a fiscal agent to receive and administer their award.

This is the recommended funding mechanism for FY25. In this option, Thrive applicants who are not a 501(c)(3) organization must identify a 501(c)(3) organization to serve as their fiscal agent. In this arrangement, the grant contract will be between Metro Arts and the fiscal agent organization. The fiscal agent and the artist will have a signed Letter of Agreement (similar to a memorandum of understanding) that outlines roles and responsibilities for each party. Metro Arts will not be a legal party to this Letter of Agreement, but a template Agreement will be provided by Metro Arts and the artist will submit it as an addendum to the application. Thrive applicants that hold 501(c)(3) status do not need a fiscal agent and their grants will be administered in the same manner as Metro Arts General Operating grants.

Rationale:

1. Some Thrive applicants are a 501(c)(3) organization and will not require a fiscal agent (estimated 20% of FY25 applicants).
2. Some applicants may already have relationships with organizations that can serve this role. This allows them to select who they work with to meet this requirement.

3. By going this route, the Arts Commission maintains its full authority over the Thrive criteria, guidelines, funding formulas, and all program aspects.

Proposed features:

1. Metro Arts will identify a pool of willing organizations that agree to serve as fiscal agents. Metro Arts will not match artists and organizations but will facilitate opportunities for connections.
2. The maximum fee a fiscal agent may charge an artist is 10%, however, they are not required nor encouraged to charge the maximum fee. The Arts Commission could choose to set a lower maximum cap.
3. The artist maintains responsibility for developing their project proposal, ensuring the project is carried out as planned, and for completing and submitting reporting as required by Metro Arts. The fiscal agent is responsible for reviewing the application materials to be submitted to Metro Arts, receiving and disbursing the grant funds, and ensuring reporting is submitted timely. Both parties will keep copies of project expenses. Full details of the Letter of Agreement are [available here](#).
4. The total number of fiscal agents will depend on how many Thrive applicants qualify for funding, and how many hold their own nonprofit status already. This model may result in Metro Arts contracts with an estimated 15-40 fiscal agents or nonprofit grantees for FY25.

We recognize that changes in recent years at Metro Arts eliminated former requirements for having a community partner, thereby seeming to be somewhat oppositional to this new requirement. However, the Working Group believes this is the most expeditious method for distributing Thrive funding for this current fiscal year. Fiscal sponsorship is a common approach to funding individuals or groups that do not hold 501©(3) status (see examples with the [Tennessee Arts Commission](#) or [Arts and Business Council of Greater Nashville](#)), so this recommendation aligns with common practices in Tennessee and elsewhere.

Option 3: Convert Thrive to a fellowship model.

The Tennessee Arts Commission awards [\\$5,000 fellowships](#) to individual artists in specific disciplines (in FY26, the Tennessee Arts Commission anticipates awarding 1-3 fellowships in 7 categories). The Metro Arts Commission could consider establishing a fellowship program, however, conventional fellowship programs differ from grant programs. Fellowships typically provide compensation to individuals for their achievements and contributions to a field, compared to an application for a specific project proposal. Fellowships may have more restrictive criteria and competitive eligibility, opposed to Metro Arts goals for increasing access and reducing barriers to receiving funding. Metro Arts may wish to consider establishing a fellowship in the future, but the Working Group does not recommend this approach for the current FY25 as a replacement for the Thrive program.

Option 4: Change relevant local and/or state law.

The Metro Code regarding grants to nonprofits and procurement practices are aligned with Tennessee state law, which would have to change in order for Metro Arts to provide grants to individuals. This was not feasible or probable on the timeline for FY25 Thrive awards. Arts Commissioners, Metro elected officials, the Working Group, and other stakeholders could consider exploring this for future cycles.

Appendix: Grants v. Purchasing

State and local laws prohibit the Arts Commission from making grants to individuals. While delegated authority allows for paying individuals, treating delegated purchasing authority for grants circumvents purchasing procedures and is not appropriate.

Steps in a **purchasing cycle** under Metro guidelines include:

1. Department solicits quotes for a single good or service. The dollar amount indicates how many quotes are needed:
 - a. Up to \$2,499: One written quotation is required
 - b. \$2,500 to \$25,000: A minimum of three written quotations is required
 - c. Above \$25,000: Competitive sealed bids or requests for proposals are required
2. A purchase order is issued that gives permission to utilize the dollars
3. The supplier provides the good or service to Metro
4. Payment is issued when a receipt and proper invoice is submitted for payment
5. The department monitors compliance for the duration of the contract term

Delegated purchasing is a process that allows department heads, upon a signed agreement with the Finance Department, to make purchases without central procurement under certain conditions. Conditions include:

1. Written quotes based on value (\$2,499 or less requires one written quote; \$2,500 to \$25,000 requires three written quotes)
2. Expressly prohibits splitting purchases to stay under the \$25,000 threshold
3. Requires quarterly reports
4. Requires record retention
5. Requires annual training
6. May result in a purchase order or contract depending on the complexity of work

Key differences between grants and purchasing:

| GRANTS | PURCHASING |
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| The public authority is providing funds to a recipient to enable the recipient to achieve its own goals and objectives that are consistent with public authority policy. | Used for the direct benefit of the Government and seeks best value. |
| An award of financial assistance to a recipient to support or stimulate the accomplishment of a specific public purpose, goal, or statute. | Purchases or acquires goods, professional services, or construction services in which the Government defines the scope. |
| The recipient has a level of discretion in how they utilize the funding. | Both the Government and the seller have differing interests which are negotiated to reach contract terms. |
| Funding is directed to the achievement of an outcome with less focus on the terms and conditions on how that outcome is achieved. | Requires strict delivery of prescribed goods and services, with possible penalties to perform and requires adherence to the Procurement Code and Regulations. |

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| <p>Payment of funds are dependent upon the payment terms of the grant contract. Examples include lump sum advance of funds and/or reimbursement of grant expenditures.</p> | <p>Payment of funds are typically provided upon the delivery of the goods and/or services being provided.</p> |
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Example:

We have a public value of nice oil paintings, and think if there were more, the community would be better.

Purchasing:

Purchasing requires us to have a defined scope – and get quotes for the scope. A scope would be defined as a landscape oil painting 36x48 (assuming these are under \$25,000). At least three quotes would be gathered and assessed for best value. When the work was done, it would be properly attributed to the artist but owned by the Metro Government. A Project Manager would be checking in with the artist regularly, because they had entered into a negotiated agreement. The purchase would be tracked and sent on the quarterly report.

Grants:

Granting would require a call to artists to provide a program to meet this community goal. Art (or other) organizations would submit ideas to be ranked and chosen. Based on grant contract, sums would be sent as a reimbursement for supplies, or as otherwise determined in the contract (i.e., an advance, etc.) and according to the grant spending plan. The outcomes would be measured (possibly as part of the closeout/final reimbursement procedure). Metro would not own any work completed but finds value in the community goal being met in alignment with the organization.