

City of Berkeley

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COUNCIL ACTION
September 14, 1999

To: Honorable Mayor and
Members of the City Council

From: Ann-Marie Hogan, City Auditor

Subject: Management Study of the Black Repertory Group

RECOMMENDATION:

That Council request the City Manager to ensure that the City is effectively monitoring its theater lease agreement with the Black Repertory Group (BRG) and that future funding of BRG be contingent on evidence of substantial implementation of recommendations noted in the Management Study (performance audit) report. We further recommend that Council request the City Manager to report back on the status of the implementation of the recommendations by March 31, 2000.

BACKGROUND:

The Black Repertory Group (BRG) cultural arts center theater is owned by the City. BRG manages and operates the Cultural Arts Center under a \$1.00 per year sublease from the City. BRG's primary mission has been to educate black youth in theatrical arts and to provide an opportunity for young people to perform as actors and actresses.

For 34 years, BRG has served the South Berkeley Community. BRG's ten-year sublease with the City was up for a 25-year renewal, at BRG's discretion, on May 31, 1998. In April 1998, BRG submitted a proposal to purchase the building for \$1.00 and to significantly expand its operations.

The City and BRG agreed to a one-year extension of the sublease to allow for greater analysis and discussion of BRG's proposal. Consequently, the City Manager asked the City Auditor to perform a management study of BRG. On July 21, 1998, the City Council approved a recommendation to extend the sublease agreement with BRG until August 30, 1999.

The City Auditor was requested to evaluate two areas: 1) the administrative and

financial capacity of BRG to maintain current service levels, and 2) BRG's ability to prepare for operating an expanded community cultural arts center.

The auditors began work on the BRG Management Study in Fall of 1998. On February 3, 1999, the auditors met with BRG's board to discuss the interim findings (deficiencies) and recommendations developed to date. They are included in the report. Two weeks later, the auditors were told by BRG's staff to stop testwork immediately and the auditors' access to BRG's books and records was terminated. Subsequently, on March 15, BRG withdrew its request to purchase the building and, instead, exercised its option to renew the lease agreement for the next 25 years.

In performing this study, we sent survey forms to neighbors and past participants of BRG. The sample of neighbors selected was determined by a random sampling of the Berkeley reverse directory. Sample surveys sent to past participants were based on information provided by BRG. Surveys were also sent to BRG board members. The board members did not return the survey forms. Other methodologies used in performing this study were inquiries, observations, interviews, inspection of documents, and direct testing of data.

Our study finds that:

1. The City failed to adequately monitor BRG's compliance with the terms of the lease.
2. There are significant unanswered questions about whether BRG can maintain current service levels.
3. There are several specific BRG board policies and staff practices, which we believe, if not addressed, will ultimately prevent this organization from being able to realize its future vision.

Review of board policies revealed that recently adopted BRG by-laws suggest a sense of ownership, rather than stewardship, of publicly funded assets.

Deficiencies in current board and management practices, in areas of record keeping, personnel policies, and management, contributed to a lack of accountability to the community, to the City, and to the board itself about BRG operations.

Nonprofit corporations are held to high standards of documentation and disclosure in cases of "related party transactions" in order to assure that tax exempt status is maintained and that public funds are used for public benefit. Employment of management's immediate family and undocumented payments to board members and employees are major findings of this report, which are at variance with these standards.

These deficiencies in BRG's board structure, policies, and practices are significant, but they can be corrected if management and the City so require. It is important that the City enforce compliance with the lease and that BRG implement the major recommendations of our report as a condition of receiving future City funds.

FINANCIAL IMPLICATIONS:

Replacement cost of the theater is estimated to be over \$3 million. The estimated cost to the City to assign one staff person to monitor the lease is over \$20,000 annually.

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Approved by:

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