

Government of the District of Columbia



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MEMORANDUM

TO: Karen Livingston, Chair, ANC 4C
Thomas P. Defranco, Treasurer, ANC 4C
FR: Denise Wiktor, General Counsel
DT: 7/9/2024
RE: Petworth Community Market Grant 2024

The OANC has received a copy of a grant request from ANC 4C for a series of education programs to be held at the Petworth Community Market. I have reviewed the application and the addendum sent to the OANC and have found that most of the request is a permissible expenditure of ANC monies. There are several items on the budget that are not permissible. However, the applicant is free to substitute a permissible expense for those items. Specifically, "\$300.00 for prizes" and "\$315.00 for overhead for unforeseen expenses." Prizes are an impermissible category for an ANC grant expenditure. Unforeseen expenses cannot be properly evaluated as permissible or not permissible simply because they are unknown. Arguably the workbooks could also be viewed as benefiting an individual but because they are integral to the workshop as a supply a differentiation is made. Apologies for not alerting the ANC/applicant sooner. This grant came in just before the BSA passed and a quick review found it would pass under the new standard so it was set aside for a full review.

There are five prongs a grant must meet to be a permissible expense¹ and a 6th requirement of the D.C. Official Code that limits the amount of a grant that can be spent on overhead². They are:

1. **Public Purpose:** ANC grants must be for "public purposes within the Commission area."³ A public purpose is one "that includes a significant benefit for the community and is not done for the primary purpose of benefitting a private entity."⁴ This standard was changed with the Fiscal Year Budget Support Act and the accompanying emergency. In this case, this grant is for education about food, its sources and how it is intertwined with culture. Each session will have sections on meal planning, making a menu and asking a chef. Food and nutrition education are of significant benefit to the community,

¹ See, *Letter to Schanette Grant on Seasoned Settlers and Grants Generally*, April 14, 2022, found at <https://oag.dc.gov/sites/default/files/2022-04/Letter-to-OANC-Re-Seasoned-Settlers-Grant-and-Grants-Generally-.pdf>

² D.C. Official Code 1-309.13(m)(2)(D) "No Commission shall provide a grant for which the grantee estimates that the overhead costs would exceed 15% of the entire grant amount."

³ D.C. Official Code § 1-309.13(l)(1).

⁴ *Id.*

and it is anticipated that it will be ongoing during the time the market is open so there will be a high availability to the residents.

2. **Local Benefit:** A grant must “benefit persons who work or reside in the Commission area.”⁵ This does not mean the grant may only benefit Commission residents; it simply means the grant’s benefits should be focused on those residents.⁶ The fair with its resources and some fun games and events for residents to participate in. There will also be music. The market primarily serves the residents of the ANC so the benefit of the sessions will be to the residents of the ANC
3. **Proposed Project.** A grant must be for a proposed project.⁷ This is a discrete series of events.
4. **Organization.** A grant must be to an “organization,” not an individual or a government entity,⁸ although the organization need not be incorporated.⁹ The grant is to the Petworth Farmers Market which qualifies as an organization as defined by the code.
5. **Non-Duplication.** A grant cannot duplicate any services offered by the D.C. government.¹⁰ The District does not offer programs like this. While it offers some nutrition education materials, it does not offer interactive lessons like this.
6. **Overhead.** Overhead cannot exceed 15% of the grant amount.¹¹ In this case the overhead does not have an expense assigned to it, so it is not permissible in this case.

Conclusion

For the reasons stated above this grant is an acceptable expenditure, with the exception of the two noted categories above, of ANC funds.

⁵ D.C. Official Code § 1-309.13(m)(1).

⁶ See *Letter to Deborah K. Nichols*, Nov. 9, 2006, at 2 n.2 found at [Letter-to-Deborah-Nichols-Re-Whether-an-ANC-may-approve-a-grant-to-commission-plans-and-drawings-.pdf](#) (ANC 4C grant was permissible where the “[b]enefit to other ANCs would be incidental to the benefit conferred on ANC 4C residents,” because a grant’s benefits need not “be exclusive to the ANC that gives the grant funds”); see *Letter to Comm’r Fletcher*, Mar. 15, 2022, at 2, available at <https://oag.dc.gov/sites/default/files/2022-03/ANC-7E-Letter-to-Commissioner-Fletcher-RePublic-Purposes-Within-the-Commission-Area-.pdf> making the same point with respect to the public-purpose requirement).

⁷ D.C. Official Code § 1-309.13(m)(2)(A).

⁸ D.C. Official Code § 1-309.13(m)(1); see also *Letter to Deborah K. Nichols*, Jan. 14, 2010, at 4, available at <https://oag.dc.gov/sites/default/files/2018-02/ANC-January-14-2010-Guidelines-for-Use-of-ANC-Funds.pdf>

⁹ See *Letter to Deborah K. Nichols*, Aug., 4, 2000 at 3, available at <https://oag.dc.gov/sites/default/files/201802/ANC-August-4-2000-Grants-by-ANCs-Public-Purpose-and-Corporate-Status-of-Recipients.pdf> (“The plain meaning of the term ‘organization’ includes unincorporated associations”).

¹⁰ D.C. Official Code § 1-309.13(m)(1).

¹¹ D.C. Official Code §1-309.13(m)(1)(2)(D).