

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: 9/12/2024
RE: Grant Application from Petworth Peanuts for Costume Exchange event.

The OANC has received a copy of a grant request from Petworth Peanuts to support their 2024 costume exchange and outdoor movie. I have reviewed the application, budget and other materials sent to the OANC and have found that the request is a **permissible** expenditure as outlined below. This is provided that the monies be used for permissible purposes. There are sufficient permissible expenses for the grant amount. These include the movie package, posters, the entertainers and the games. The food and giveaways are not permissible expenses under the D.C. Code and Federal procurement law. The movie rights are a grey area, and I do not need to reach that determination since there are sufficient expenses without it to meet the grant amount requested.

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.⁵

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.* This precludes payment to individuals whether it be for services or as a stipend or honorarium. It also precludes handouts to volunteers such as t-shirts and the purchase of items non-transient nature that will remain in the possession of an individual after an event such as tables and chairs or tents. Rental of such items is permissible. The ANC may purchase items that they retain and use or loan out to the community,

⁵ This precludes payment to individuals whether it be for services or as a stipend or honorarium. It also precludes the purchase of non-transient nature that will remain in the possession of an individual after an event such as tables and chairs or tents. Rental of out to the community,

2. **Local Benefit:** A grant must “benefit persons who work or reside in the Commission area.”⁶ This does not mean the grant may only benefit Commission residents; it simply means the grant’s benefits should be focused on those residents.⁷ In this case, since the attendees will be drawn from the ANC this provision is met.
3. **Proposed Project.** A grant must be for a proposed project.⁸ This is a discrete single event.
4. **Organization.** A grant must be to an “organization,” not an individual or a government entity,⁹ although the organization need not be incorporated.¹⁰
5. **Non-Duplication.** A grant cannot duplicate any services offered by the D.C. government.¹¹ This event is not duplicated by the D.C. Government
6. **Overhead.** Overhead cannot exceed 15% of the grant amount.¹² None of the grant monies will be used for overhead as the Code defines it.

Conclusion

For the reasons stated above this grant is a **permissible** expenditure of ANC funds.

⁶ D.C. Official Code § 1-309.13(m)(1).

⁷ 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).

⁸ D.C. Official Code § 1-309.13(m)(2)(A).

⁹ 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>

¹⁰ 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”).

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

¹² D.C. Official Code §1-309.13(m)(1)(2)(D).