

Government of the District of Columbia



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MEMORANDUM

TO: ANC 1B
FR: Denise Wiktor, General Counsel
DT: 03/07/2025
RE: Vermont Avenue Gardens grant request

The OANC received a copy of a modest grant from Vermont Ave Gardens for their spring planting. I have reviewed the application sent to the OANC and have found that the request is a **permissible** expenditure by an ANC. In reviewing the budget there are a couple of things that ANC money should not be used on, one is t-shirts for volunteers because those amount to gifts to individuals. While food is no longer prohibited for ANC expenditures, I would recommend avoiding spending ANC money on food.¹ The applicant is asking for \$500 in a \$3400. There are plenty of other categories this could be used on.

There are five prongs a grant must meet to be a permissible expense² and a 6th requirement of the D.C. Official Code that limits the amount of a grant that can be spent on overhead³. They are:

1. **Public Purpose:** ANC grants must be for “public purposes within the Commission area.”⁴ 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.”⁵ This standard was changed with the Fiscal Year Budget Support Act and the accompanying emergency.⁶ The planting area is totally within ANC 1B. It is well established that public plantings within the ANC area to beautify the area serve a public purpose. This will be available to all residents of the ANC to enjoy as well as members of the public who are in the area.

¹ The OANC is currently drafting grant review guidelines for grants that contain a food component.

² 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>

³ D.C. Official Code 1-309.13(m)(2)(D) provides that “[n]o Commission shall provide a grant for which the grantee estimates that the overhead costs would exceed 15% of the entire grant amount.”

⁴ D.C. Official Code § 1-309.13(l)(1).

⁵ *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.

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

2. **Local Benefit:** A grant must “benefit persons who work or reside in the Commission area.”⁷ This does not mean the grant may only benefit Commission residents; it simply
3. means the grant’s benefits should be focused on those residents.⁸ The primary beneficiary of this beautification is the residents and businesses of ANC 1B.
4. **Proposed Project.** A grant must be for a proposed project.⁹ This means that it must be for a specific undertaking, not for general support of an organization. It also means that a grant cannot reimburse an organization for expenses connected to an existing or completed project. **This is a discrete single event.**
5. **Organization.** A grant must be to an “organization,” not an individual or a government entity,¹⁰ although the organization need not be incorporated.¹¹ Vermont Avenue Gardens is an organization as defined by the D.C. Code. It is unclear whether they are an unincorporated organization using the African American Civil War Memorial as a fiscal agent or are a project of the African American Civil War Memorial. Either way they meet the definition of organization for purposes of ANC grants.
6. **Non-Duplication.** A grant cannot duplicate any services offered by the D.C. government.¹² This is not a service provided by the D.C. Government.
7. **Overhead.** Overhead cannot exceed 15% of the grant amount.¹³ 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 if used as outlined above.

⁷ *Id.*

⁸ 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).

⁹ D.C. Official Code § 1-309.13(m)(2)(A).

¹⁰ 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>

¹¹ 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”).

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

¹³ D.C. Official Code §1-309.13(m)(1)(2)(D).