

Government of the District of Columbia



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MEMORANDUM

TO: ANC 4B
FR: Denise Wiktor, General Counsel
DT: 3/20/2025
RE: Mutual Aid Grant

Dawn Dickerson asked me to review a grant request from Ward 4 Mutual Aid that she received as part of a QFR submission. The application had not been previously submitted to the OANC by the ANC or the applicant although we recently had become aware of it. The D.C. Official Code requires applications to be submitted to the OANC.¹ I have reviewed the application, budget and receipts sent to the OANC and have found that the request is an **impermissible** expenditure of ANC monies primarily because the grant expenses inured a private benefit to the recipients.

This review was made a little more complicated by the fact that the ANC had previously asked the OAG about a hypothetical mutual aid grant. The OAG in that advice letter noted that “[i]t would thus be lawful as long as it did not run afoul of any other requirements in the ANC Act or other law.”² The letter specifically mentioned needing to meet the public purpose requirement.³ This grant fails to meet the public purpose requirement and the local benefit requirement. There is no dispute that this was a valuable service, but all valuable services do not meet the requirements of the ANC law.

There are five prongs a grant must meet to be a permissible expense⁴ and a 6th requirement of the D.C. Official Code that limits the amount of a grant that can be spent on overhead⁵. They are:

1. **Public Purpose:** ANC grants must be for “public purposes within the Commission area.”⁶ A public purpose is one “that includes a significant benefit for the community

¹D.C. Official Code 1-309.13(m)(2) “An applicant for a grant shall submit an application in writing to the Commission and to the OANC.”

² See, *Letter to Commissioner Israel re Proposed ANC 4D Grants*, July 19, 2022 at 3, found at <https://oag.dc.gov/legal-advice-ancs/anc-4d-letter-commissioner-israel-re-proposed-anc>

³ *Id.*

⁴ 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>

⁵ 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.”

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

and is not done for the primary purpose of benefitting a private entity.”⁷ This standard was changed with the Fiscal Year 2025 Budget Support Act and the accompanying Emergency Act. It requires that there both be a substantial benefit to ANC 4B and it not be for the primary purpose of benefitting a private entity.

Substantial Benefit.

In reviewing the grant application and the resolution, this grant was to Ward 4 Mutual Aid. While there was a focus on ANC 4B neither the application nor the resolution indicated if ANC 4B residents were expected to be a significant recipient of the goods distributed. The distribution location was in ANC 4D, two SMDs away from ANC 4B. While not required to be within the ANC, “geography matters. The further removed an event or activity is from an ANC’s boundaries, the more of a question there may be as to whether an expenditure for the activity is aimed specifically at benefiting that ANC area.”⁸ The project distributed 180 coats and 150 bags with socks and gloves.

It is unclear if 180 or 330 people were served. There were 20,315 residents in ANC 4B according to the 2020 Census figure on the Office of Planning website.⁹ If you assume there were 330 people *and* they were all ANC 4B residents that is 1.6% of the population of the ANC. The OANC has not traditionally used numbers alone to determine substantial benefit but it is a factor in determining substantial benefit to the Community.

Private Benefit

The receipts were for baby wipes, coats, hats, gloves, thermal underwear and shoes. All items to be used by individuals. The OANC has not allowed clothing and cleanliness products to be purchased for individuals with ANC money except during the pandemic emergency when the law temporarily and specifically allowed such expenditures. This includes festival t-shirts used to identify individuals because the benefit is to the individual not the community.

⁷ *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.

⁸ See, Letter to Commissioner Fletcher re Public Purposes Within the Commission Area, March 15, 2022, Found at <https://oag.dc.gov/sites/default/files/2022-03/ANC-7E-Letter-to-Commissioner-Fletcher-Re-Public-Purposes-Within-the-Commission-Area-.pdf>

⁹ https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fplanning.dc.gov%2Fsites%2Fdefault%2Ffiles%2Fdc%2Fsites%2Fop%2Fpage_content%2Fattachments%2F2023%2520Advisory%2520Neighborhood%2520Commissions%2520by%25202020%2520Census%2520Population.xlsx&wdOrigin=BROWSELINK

2. **Local Benefit:** A grant must “benefit persons who work or reside in the Commission area.”¹⁰ This does not mean the grant may only benefit Commission residents; it simply means the grant’s benefits should be focused on those residents.¹¹ There is no way to tell from the grant close out report what, if any, local benefit there was from this expenditure.
3. **Proposed Project.** A grant must be for a proposed project.¹² 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 was a discrete single event.**
4. **Organization.** A grant must be to an “organization,” not an individual or a government entity,¹³ although the organization need not be incorporated.¹⁴ Ward 4 Mutual Aid is an organization as defined by the D.C. Code.
5. **Non-Duplication.** A grant cannot duplicate any services offered by the D.C. government.¹⁵
6. **Overhead.** Overhead cannot exceed 15% of the grant amount.¹⁶ None of the grant monies will be used for overhead as the Code defines it.

Conclusion

For the reasons stated above this grant is an **impermissible** expenditure of ANC funds if used as outlined above.

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

¹¹ 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).

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

¹³ 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>

¹⁴ 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”).

¹⁵ D.C. Official Code § 1-309.13(m)(1).

¹⁶ D.C. Official Code §1-309.13(m)(1)(2)(D).