

Government of the District of Columbia



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MEMORANDUM

TO: Dave Wethington, Chair ANC 6A
Roberta Shapiro, Treasurer ANC 6A
FR: Denise Wiktor, General Counsel
DT: 2/25/2025
RE: Guerilla Gardens grant check 2123 4th Qtr. 2024

The OANC received a copy of a grant from I have reviewed the application sent to the OANC and have found that the request is an **impermissible** expenditure of ANC monies because the primary beneficiary was a private property owner contrary to statutory requirements.

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 In this case the plantings were done on privately owned property and the primary beneficiary of the planting was the property owner not the public. There was a transitory benefit to the youth who participated in the project but a long-term property value benefit to the landowner. It is not permissible to expend ANC monies for the benefit of a private property owner.⁵
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

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) 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.”

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 See, *Letter to Frederika Shaw*, September 30, 2011 found at <https://oag.dc.gov/sites/default/files/2022-07/Letter-to-ODCA-Re-Use-of-ANC-Funds-for-Vermin-Control-Activity-on-Embassy-Property-.Pdf>

⁶ *Id.*

means the grant's benefits should be focused on those residents.⁷ The benefit is primarily to the property owner thought there is a benefit to residents in that they can enjoy the flowers in the spring.

3. **Proposed Project.** A grant must be for a proposed project.⁸ 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.**
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 Guerilla Gardens 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.¹¹ There is no D.C. Government service that plants flowers on private property.
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 an **impermissible** expenditure of ANC funds if used as outlined above.

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).

⁸D.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).