

Government of the District of Columbia



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MEMORANDUM

TO: Dawn Dickerson, Program Manager
FR: Denise Wiktor, General Counsel
DT: November 6, 2023
RE: ANC 1B checks 2061 and 2062 for Sponsorships

You asked for my opinion on whether ANC 1B's sponsorships meet the "public purpose" requirement for an ANC grant or direct expenditure. The sponsorships will give the ANC some visibility at an event and perhaps a table. This would include events where payment for a table or amenity is not required. The OANC finds there is no functional difference between a grant and a sponsorship and that sponsorships must go through the same processes as grants. If it is a direct expenditure by an ANC, the public benefit of that expenditure must be clearly articulated.

ANCs are allowed to expend monies for two purposes, "for public purposes within the Commission area or for the functioning of the Commission office..."¹ The D.C. Official Code outlines the types of expenses the ANC may incur as part of its operations.² These sections of the D.C. Official Code parallel the Home Rule Act which authorizes each ANC to "employ staff and expend, for public purposes within its neighborhood commission area, public funds and other funds donated to it."³

"[W]hen an ANC wanted to expend its funds not for the maintenance of its own office but for public purposes in the neighborhood area, the law offered it two ways to do that. The ANC could issue a grant, which would be subject to section 16(m) of the ANC Act, or it could expend its funds directly."⁴

¹ D.C. Official Code 1-309.13(l)(1)

² Id.

³ 1-207.38(c)(2)

⁴ OAG *Letter to Commissioner Mulhall* found at: <https://oag.dc.gov/sites/default/files/2022-08/ANC-2B09-Letter-to-Commissioner-Mulhall-Re-Proposed-ANC-Expenditures-.pdf>

Sponsorships do not support the functioning of the ANC office or qualify for any listed allowed expenses for Commissioners carrying out their official duties. Therefore, it must be for a public purpose⁵ which is defined as “a purpose that benefits the community⁶ as a whole and is not done for the primary purpose of benefitting a private entity⁷” and “which benefits or potentially benefits a significant number of persons who either reside or work within the Commission area.”⁸

Direct expenditures by an ANC must conform to the requirements of all expenditures which are: 1. that be voted upon by the Commission⁹ in an open meeting (or be a specified expense in the annual budget,¹⁰ 2. that the purpose of the expenditure is clearly stated, 3. a receipt for the expenditure is submitted with the quarterly financial report¹¹ and 4. that it is an allowable expenditure by an ANC as outlined in the D.C. Official Code. If the underlying event would not be an allowable expenditure, sponsoring such an event is also not allowable.¹² For example, ANCs are not permitted to “solicit . . . funds unless specifically authorized to do so by the Council,”¹³ therefore, ANC grants may not be used in support of fundraisers without similar statutory authorization.

The expense itself, not just the event, must meet the public purpose test. An expense that assists an event in taking place meets the public purpose test if it is an otherwise allowable expense (food is not an allowable expense, for example). An expense covering tables and chairs for Commissioners at a public event for them to meet with the public meets the public purpose test if all other organizations were required to pay for tables and chairs. Tables and chairs made available for anyone from the public to use would also be a permissible expense. An expense to have a logo on a program does not meet the public benefit test since the community as a whole receives no benefit. ***Depending on the circulation*** of a program or newsletter, an ANC logo with meeting times and places and perhaps the ANC website ***may*** be an allowable expense as a notice required under D.C. Official Code 1-309.11(c).

ANC 1B has established an application for Sponsorships. The guidelines for the application set out the amount the ANC is willing to give out based on the size of the event and the types of

⁵ “Sponsorships and community activities must follow the ordinary rules for public-purpose expenditures” by an ANC.” *Letter to ANC and ODCA Re ANC Financial Matters* September 9, 2022, found at:

<https://oag.dc.gov/sites/default/files/2022-09/Letter-to-OANC-and-ODCA-Re-ANC-Financial-Matters-.pdf>

⁶ “Community” means “those residents who reside within a Commission area”. D.C. Official Code § 1-309.01(2)(c)(2B)

⁷ D.C. Official Code § 1-309.13(l)(1)

⁸ Letter to Deborah K. Nichols, Jan. 14, 2010, at 4, available at <https://oag.dc.gov/sites/default/files/2018-02/ANCJanuary-14-2010-Guidelines-for-Use-of-ANC-Funds.pdf>

⁹ D.C. Official Code §§ 1-309.13(f)(1) and 1-309.13(g)

¹⁰ D.C. Official Code § 1-309.10(n)

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

¹² D.C. Official Code § 1-309.13(l)(1); 1-309.10(l) See also *ANC 2B09: Letter to Commissioner Mulhall RE Proposed ANC Expenditures* found at <https://oag.dc.gov/legal-advice-ancs/anc-2b09-letter-commissioner-mulhall-re-proposed> “expenditures must not involve any purpose prohibited by section 16(l)(2) of the ANC Act, and must not violate any restriction in federal appropriations law.”

¹³ D.C. Official Code § 1-309.10(l)

events that are allowed. It also outlines the type of expenditures that are prohibited. These requirements are similar to traditional grant requirements.

The sponsorship application deviates from a grant application in question 15. Question 15 asks for a “[s]tatement of Benefit (Detailed description of what ANC 1B and community will get in return for the sponsorship, i.e. (*sic*) table, logo in program, social media recognition, etc. 150 words or less.”

As noted above the benefit must meet the public purpose requirement which is that it benefits the community as a whole. A benefit specifically to ANC 1B is not a benefit to the community as a whole. Recognition of the ANC via logo placement or social media recognition is a benefit to the ANC specifically and not the community as a whole. A benefit to the ANC specifically and not the community as a whole is not a public purpose as defined by the D.C. Official Code.

Another way the application deviates from a traditional grant or direct expenditure request is that there is no indication as to what the money will be spent on, leaving open the question of whether the money was spent in accordance with D.C. Law. For this reason, the OANC recommends using the newly released grant application form which will assist in identifying permissible uses and outlines the required documentation needed from the recipient of ANC funds. This form is a similarly helpful guide for ANC direct expenditures which also require a public purpose and recipient documentation.

Check 2061

This expenditure was made to the Vermont Avenue Garden Party. On the flyer included with the sponsorship application, it stated that the event was “to help us clean, plant, and mulch the flower beds along Vermont Ave.” The application notes that these beds stretch for a ¼ mile between Florida Ave and 11th Streets NW. The event also included the triangle bed surrounded by Florida, Vermont, and V Streets N.W. Volunteers come out and are given free t-shirts. Breakfast, lunch, and door prizes are provided by local businesses. The application noted that ANC 1B “will be warmly recognized as a major sponsor of the gardens in our social media, nearby posters & flyers to residents.” The OANC would note that the parameters of the event are entirely within ANC 1B.

A beautification event is generally an event that meets the public purpose requirement of the D.C. Code if the money is spent on permissible items. The food, T-shirts, and door prizes would be impermissible uses of ANC monies. Food is an impermissible use of appropriated dollars under Federal law¹⁴. The t-shirts and door prizes are a direct benefit to an individual, not the community. The logo placement and ANC acknowledgment in social media are impermissible expenses in that there is no public benefit. Flowers, mulch, and other items that directly support the beautification are permissible.

¹⁴ See, e.g., 1 Gov’t Accountability Office (“GAO”), *Principles of Fed. Appropriations Law (“Principles”)* 4-100 (3d ed. 2004) All three volumes are found at [The Red Book | U.S. GAO](#)

Receipts for this event were not submitted as required and it is pending disapproval. If the ANC submits receipts in the amount of the check for permissible expenses, then the deficiencies can be cured.

Check 2061

The supporting documents for check 2061 are a sponsorship application for the Purpose Party and a flyer. It is unclear from the combination of the application and flyer if it is for a specific project or an ongoing one. The flyer states that there is a community table at 14th and U on the first and last Thursday of the month. The application states that:

ANC 1B Commissioners and community members will be given space for a table, tent, and speaking opportunity at the Purpose Party event in (*sic*) every last Thursday of the month. The anc can also provide a banner in support and with the purpose party to fly at all events. We can also make plans for programming and ANC 1B will have the opportunity to engage the community and further bridge the gap between neighbors and elected officials. (Capitalizations as in original)

The application specifically lists the dates of 04/27/2023-05/25/2023-06-29-2023. Check 2062 was cashed on July 6, 2023.

The April 6, 2023, ANC minutes state:

“Committee recommends that Commission approve the sponsorship request at the amount of \$500.00 to be distributed over the course of a 4-month period for the purchase of hygiene products. (4 in favor, 0 against, 0 abstaining)”

There are no receipts submitted in support of this expenditure as required by the D.C. Official Code.¹⁵

There are similar issues with the check 2062 sponsorship application as there were with the check 2061 application. If the grant were for a table, banner, etc., was a similar payment required by any other participating organization? The flyer references a single “community table.”

The emergency legislation that allowed the purchase of personal hygiene products expired in 2021¹⁶.

For the lack of authorization to buy personal hygiene products and lack of receipts, this expenditure is disallowed. Even if a receipt were submitted, the deficiency cannot be cured due to the inappropriate nature of the expense.

¹⁵ D.C. Official Code §1-309.13(j)(1)

¹⁶ See *Corona Virus Support Emergency Act of 2020* and the *Corona Virus Support Temporary Act of 2020*

