

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**OFFICE OF THE ATTORNEY GENERAL**



**Legal Counsel Division**

July 12, 2007

Deborah K. Nichols  
District of Columbia Auditor  
717 14<sup>th</sup> Street, N.W.  
Suite 900  
Washington, D.C. 20005

Re: Whether an ANC can issue a grant for a completed project?

Dear Ms. Nichols:

This letter responds to an email request from your office dated June 12, 2007 for guidance concerning the issuance of an Advisory Neighborhood Commission (“ANC”) grant for a completed project. According to the email, a grant was awarded to an organization in an amount insufficient to cover the cost of an approved project because of an unanticipated cost overage. The cost overage resulted because the organization allegedly was not afforded a sales tax waiver despite its tax exempt status. The ANC would now like to reimburse the grantee organization for the additional \$104 spent above the grant amount. Your office wishes to know whether it is proper for an ANC to issue a grant, in this case the amount of the overage, for a project that has been completed.

The statutory provisions controlling ANC expenditures can be found at sections 16(*l*)(1) and (m)(1) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000, D.C. Law 13-135, D.C. Official Code §§ 1-309.13(*l*)(1) and (m)(1) (2006 Repl.) (collectively, the “ANC Act”). These provisions permit an ANC to expend funds in two ways: either as a direct expenditure, *see* D.C. Official Code § 1-309.13(*l*)(1), or as a grant to a public organization, *see* D.C. Official Code § 1-309.13(m)(1).

Before an ANC can award grant funds, an organization must submit a grant request form, which is then presented at a public ANC meeting and voted upon by the Commission. *See* D.C. Official

Code § 1-309.13(m)(1) (2006 Repl.). The provisions of the ANC Act that control the grant application process state, in pertinent part that: “An applicant for a grant must submit an application in writing to the Commission. The application shall contain: (A) A description of the *proposed* project for which the grant is requested. . .” D.C. Official Code § 1-309.13(m)(2)-(m)(2)(A) (2006 Repl.) (emphasis added). Given that a description of the proposed project is necessary to complete a grant application, any requesting organization that has already completed its project would be unable to accurately meet the grant application requirements.

Moreover, the inclusion of the word “proposed” in the statute suggests an intent that grants be given prospectively, not to compensate past expenditures for completed projects – an interpretation further supported by the requirement that grantees must confirm to the ANC within 60 days that grant funds have been utilized appropriately. D.C. Official Code § 1-309.13 (m)(3) (2006 Repl.). Thus, as a general matter, it would be improper for an ANC to issue a grant to compensate an organization for past expenditures on a completed project. <sup>1</sup>

Nonetheless, these facts are somewhat different than the situation in which an ANC attempts simply to issue an after-the-fact grant. Here, the grant request initially submitted to and approved by the ANC was based upon a miscalculation of the grantee organization’s tax exempt status. Under these circumstances, it would not be improper for the organization to submit an amended grant request that accurately reflects its expenses, especially if the ANC intended from the beginning to cover the entire cost of the project. In that case, the amended application would not be considered a new, separate grant request, but part of the initial one. If such an amended application were to be presented at an ANC meeting and approved by the Commission, it would not be inappropriate for the ANC to then issue supplemental funds as part of the original grant in the amount of the overage. <sup>2</sup>

I hope that this information has been helpful to you.

Sincerely,

LINDA SINGER  
Attorney General

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<sup>1</sup> To conclude otherwise would, for instance, permit a requesting organization to apply for an ANC grant for a long-since completed and paid-for project even when years have passed and ANC support was never contemplated in the first instance.

<sup>2</sup> The letter of inquiry sent by your office specifically states that an individual member of the grantee organization wishes to be reimbursed for excess payments made out of his personal funds. Such a grant would be improper if it came directly from the ANC to that individual. Instead, as noted above, the Commission may approve an amended grant to the organization, and the organization may distribute the funds as necessary.

/s/

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LS/dps

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