

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., NW.

WASHINGTON, D. C. 20001

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IN REPLY REFER TO:

August 4, 2000

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

Re: Grants by ANCs - Public Purpose and Corporate Status of Recipients

Dear Ms. Nichols:

This responds to your memorandum of July 26, 2000 to Annette Elseth, Assistant Corporation Counsel, wherein you request advice as to the propriety of two Advisory Neighborhood Commissions (ANCs) issuing grants as described in your memorandum and attachments.

The first grant application was submitted to ANC 1A. It is a request from the Park Morton Resident Council, Inc. for a grant in the amount of \$3,200. The grant application reflects that the Park Morton Resident Council, Inc. is a non-profit organization with membership limited to the residents of the public housing complex of Park Morton, which is located in ANC 1A. The funds would be used to provide stipends to 5 young adults (ages 16-25) from the Park Morton community who are participating in the Landscaping Employment/Entrepreneurship Program (LEEP) during late July and August 2000. The LEEP program is described as providing productive employment, community service, and training to young adults who are, or have been engaged in criminal or delinquent behavior. LEEP would pay these five young adults to work 20 hours a week at cleaning, maintaining, and landscaping public areas and providing community service work to neighborhoods in ANC 1A. Your memorandum also advises that Park Morton Resident Council, Inc. lost its corporate status as of September 10, 1990.

The second grant application was submitted to ANC 4C by the Assembly of Petworth in partnership with the Public Safety Cooperative, Court Services and Offender Services, and Lutheran Social Services for the Petworth-LEEP 2 Project. The application seeks \$1,000. The project is identical to the program in ANC 1A, in that 5 young adults from ANC 4C would be hired for 20 hours a week. The application describes the program as including trash pick up on sidewalks, maintenance of curb plant boxes, and landscaping projects that include shrub trimming and beautification of public land, including parks, of sites located in ANC 4C. The application states that ANC 4C will benefit from the grant by the trash clean up and beautification projects, and the engaging of young adults who normally are a disruptive force in the community.

You seek advice with regard to the following:

1. Whether these grants comply with the public purpose requirement of ANC law, *i.e.*, whether the grants would provide a public benefit because only a select population would be eligible to participate and only 5 persons would be selected to participate in each ANC.
2. Whether there is a duplication of services provided by other District agencies.
3. Whether the corporate status of Park Morton Resident Council, Inc. has any significance on the approval or disapproval of the request.

The law governing grants by ANCs is found in section 16 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. Code § 1-264 and provides as follows:

(1)(1)...Expenditures may be in the form of grants by the Commission for public purposes within the Commission area pursuant to subsection (m) of this section....

\* \* \*

(m)(I) A grant may not be awarded unless the grant is awarded pursuant to a vote of the Commission at a public meeting following the public presentation of the grant request. A Commission may approve grants only to organizations that are public in nature and benefit persons who reside or work within the Commission area. The services provided by the grantee organization must not be duplicative of any that are already performed by the District government.

(2) 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;
- (B) A statement of expected public benefits; and
- (C) The total cost of the proposed project, including other sources of funding, if any.

(3) Within 60 days following the issuance of a grant, the grant recipient shall forward to the Commission a statement as to the use of the funds consistent with the grant application, complete with receipts which support the expenditures.

After having reviewed the grant applications provided and the law, I conclude as follows:

1. It appears that the public purpose requirement of the law would be met by these grants. The grant applications make it clear that even though only 5 persons would be granted employment in each ANC, the work that these persons would be performing would benefit the community as a whole, or a significant portion thereof, because it would include picking up trash, landscaping, and beautification of public space within the ANC area. Therefore, there is a public benefit in addition to the 5 persons hired to perform the work.

2. I am unable to advise as to whether the services provided by the grantees are duplicative of any that are already performed by the District government because I have not been provided with information regarding any District program(s). I recommend that ANCs IA and 4C contact the Department of Public Works and the Department of Parks and Recreation to determine if any District programs provide any of the services that would be provided by the grantees.

3. Section 16(m) provides that a "Commission may approve grants only to organizations that are public in nature and benefit persons who reside or work within the Commission area". A plain reading of the statute does not require that an organization be incorporated to be eligible for a grant from an ANC. If the intent of the statute had been that grantees be incorporated, the term "corporation" could have easily been used, rather than the term "organization". The plain meaning of the term "organization" includes unincorporated associations. In the case of the Park Morton Resident Council, Inc., therefore, the failure to maintain corporate status is not fatal to the grant request.<sup>1</sup>

I also note that there is a reference in the ANC IA grant application to the participation of the Court Services and Offender Supervision Agency and the Metropolitan Police Department. Although your memorandum does not request advice regarding their participation, it is clear that an ANC may not make a grant to another District government agency because of limitations on the reprogramming of appropriations. Therefore, the ANC should clarify the role of the other District agencies prior to consideration of the grant request.

If you have any further questions with regard to these issues, please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division at 724-5537 or me at 724-5493.

Sincerely,



Darryl G. Gorman  
Senior Deputy Corporation Counsel  
Legal Counsel Division

DGG/abe  
(AL-OO-425)

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<sup>1</sup> The language of the statute is ambiguous as to whether the final phrase, "that are public in nature and benefit persons who reside or work within the Commission area", modifies the word "organization" or the word "grant". The legislative history does not elaborate upon the meaning of this new language. I conclude, based on the pre-existing language that prevented grants to individuals and that required that grants provide a benefit that is public in nature and benefit persons who reside or work in the Commission area, that the phrase modifies the word "grant" and that the awkward reference to an organization is an attempt to retain the ban on grants to individuals. A contrary interpretation, where the organization must be public in nature, would prohibit grants to private groups, which were previously permissible, and would not require that the specific grant at issue benefit the ANC community, only that the organization to whom the grant is made benefit the community. There is no indication that the Council intended to make such a change by **re-writing** the section.