

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

December 3, 2019

Kim Varzi
ANC 4C07
822 Allison St., N.W.
Washington, D.C. 20011

Re: After-the-Fact Grant

Commissioner Varzi:

You asked whether your Advisory Neighborhood Commission (“ANC”) could approve a grant in what, to our understanding, is an unusual situation. An organization planning an event requested grant funding from your ANC to pay certain costs of the event. They submitted this request before the event was scheduled to take place, as the law requires, but for various reasons, your ANC did not vote on the grant request before the date of the event. Your question is whether the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”)¹ allows your ANC to approve this grant request after the fact, effectively reimbursing the applicant for expenses it has already incurred. We conclude that it does not.

The ANC Act requires that organizations seek grant funding for upcoming events, not for events that have already happened. Under section 16(m) of the ANC Act (D.C. Official Code § 1-309.13(m)), anyone applying for ANC grant funding must seek funding for a *proposed* – *i.e.*, future – event. The application must describe “the proposed project for which the grant is requested,” identify the “expected public benefits” of the project,” and divulge the “expected overhead costs the grantees will incur in carrying out the grant.”²

Similarly, the language and structure of the ANC Act precludes your ANC from approving the grant you describe now that the proposed project to be funded by the grant has already taken place. When an ANC considers a grant application after the fact, it is, in effect, no longer considering an application for a proposed project; it is considering an application for a completed project. An organization that was previously asking for support for a proposed project is now, in essence, asking to be reimbursed for a project that has already taken place, contrary to the framework the Act establishes for grant applications. Moreover, under the Act, anyone receiving

¹ Effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 *et seq.*).

² D.C. Official Code § 1-309.13(m)(2)(A), (B), and (D).

ANC grant funds must be able to show that they have used those funds in a manner “consistent with the grant application,” and they must be able to produce “receipts that support the expenditures.”³ Applied here, the applicant would need to be able to show that, in keeping with the grant application, all of the money granted by your ANC was used to pay for equipment rental, water barrier rental, and a sound system (the expenses the applicant identified in the grant application).⁴ But now that the event has passed, the applicant could not make this showing because any equipment or water barrier has already been rented, and any sound system has already been acquired and used in the event. As a result, the ANC’s grant funds would instead be directed to a broader purpose. They would reimburse the organization as a whole for money it has previously spent on these items, and the organization could then direct those funds to purposes different from those described in the grant application. That is not the grant framework the ANC Act contemplates.

If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or Brian K. Flowers, Deputy Attorney General, Legal Counsel Division, at 724-5524.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

By: 

JOSHUA TURNER
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³ *Id.* § 1-309.13(m)(3).

⁴ This letter does not assess whether using grant funds to pay these expenses would have been permissible in the first instance.