

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

January 27, 2022

Commissioner Charles H. Wilson
Chairperson, ANC 8B
1808 Morris Road, S.E.
Washington, DC 20020

Re: OANC Authority to Require Equipment Agreements

Dear Commissioner Wilson:

You have advised us that the Office of Advisory Neighborhood Commissions (“OANC”) has begun to require Advisory Neighborhood Commissions (“ANCs”) to sign an agreement before they may acquire equipment (e.g., cell phones) for official ANC use. You asked whether OANC has the authority to require this. It does not.

An ANC’s authority to acquire equipment for official ANC use flows from section 16(l)(1) of the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”),¹ which authorizes each ANC to expend its allocated funds “for the functioning of the Commission office.”² The ANC Act outlines the conditions an ANC must meet to be able to expend funds for this and other purposes, and approval by OANC is not one of them. To spend funds, the ANC must have a treasurer,³ must have a current and accurate statement and bond (or equivalent) on file with the D.C. Auditor,⁴ and must have an operational bank account.⁵ Each expenditure must be approved by the Commission,⁶ and must not be for “partisan political activity, legal expenses other than for Commission representation before an agency, board, or commission of the District government, or travel outside of the Washington metropolitan area.”⁷ Nothing in the ANC Act requires an ANC to sign an equipment agreement with OANC before purchasing equipment for

¹ Effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.13(l)(1)).

² *Id.* § 1-309.13(l)(1).

³ *Id.* § 1-309.13(c).

⁴ *Id.*

⁵ *Id.* § 1-309.13(b).

⁶ *Id.* § 1-309.13(f)(1). The sole exception to this rule is reimbursement for qualifying travel and childcare expenses. *See id.* § 1-309.13(l-1).

⁷ *Id.* § 1-309.13(l)(2). *See id.* § 1-309.13(l)(1) for more specific restrictions (none involving OANC) on training, nominal refreshments, insurance, indemnification, and transportation expenses.

office purposes. Nor does anything in the ANC Act authorize OANC to require such agreements.


Our conclusion here dovetails with a 2017 letter we wrote to OANC.⁸ There, we explained that OANC, as a legislative branch agency, “may exercise significant advisory responsibilities,” but “may not exercise any control over ANC finances.”⁹ That authority rests with the executive branch. For example, as we explained, “the authority to decide whether an ANC may receive a pending quarterly allotment,” and the authority to “implement financial controls over an ANC’s checkbook,” rests with the Office of the Chief Financial Officer (“OCFO”).¹⁰ Just as OANC may not exert authority over ANC finances in other contexts, it may not do so by requiring equipment agreements.

None of this takes these agreements completely off the table. For example, OANC may encourage ANCs to sign these agreements as a way of impressing on Commissioners that, as the ANC Act says, “any equipment purchased by, or on behalf of, a Commission[] is the property of the District, and not the property of any Commissioner or other individual.”¹¹ Moreover, the absence of an equipment agreement could, depending on the particular facts, affect OANC’s view as to whether ANC funds are being spent lawfully, and thus whether it should recommend that OCFO withhold funds from upcoming allotments. Also, if an ANC seeks to make use of existing government resources, and the government agency involved requires an ANC to enter into an agreement for that purpose, nothing prevents OANC from communicating that requirement to the ANC.

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,

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Attorney General for the District of Columbia

By: 
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(AL-22-169)

⁸ Letter to OANC Executive Director Gottlieb Simon, September 26, 2017, *available at* <https://oag.dc.gov/sites/default/files/2019-05/OANC-September-26-17-Financial-Authority.pdf> (last visited January 24, 2022).

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ D.C. Official Code § 1-309.13(r).