

(R-95-499)

RESOLUTION NUMBER R- 284698

ADOPTED ON OCT 03 1994

RESOLUTION AMENDING COUNCIL POLICY NO. 100-03
REGARDING TRANSIENT OCCUPANCY TAX.

BE IT RESOLVED, by the Council of The City of San Diego,
that Council Policy No. 100-03 entitled, "TRANSIENT OCCUPANCY
TAX," be and it is hereby amended as set forth in the Council
Policy filed in the office of the City Clerk as Document
No. RR- 284698

BE IT FURTHER RESOLVED, that the City Clerk is hereby
instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By Cristie C. McGuire
Cristie C. McGuire
Deputy City Attorney

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09/20/94
Or.Dept:Mgr.
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COUNCIL POLICY - TRANSIENT OCCUPANCY TAX Policy # 100-03

On June 6 , 1994, the City Council adopted Ordinance No. O-18078 N.S. increasing the Transient Occupancy Tax from 9% to 10.5% effective August 1, 1994. The ordinance specifically provides that the additional 1.5% tax is to be allocated to the General Fund of the City for general government purposes as the City Council so designates.

PURPOSE

It is the intent of the City Council to maintain the City of San Diego as a competitive tourist market and to support those programs which enhance and promote the City as a cultural, tourist, recreational and convention destination.

The purpose of this policy is to:

1. provide funding for promoting the City of San Diego, including the planning, construction, maintenance and operation of tourist-related cultural, recreational and convention facilities;
2. provide guidance to the City Manager in the preparation of the annual budget submitted to City Council. The allocations in this policy provide for Transient Occupancy Tax allocations for Fiscal Years 1995-98, when the rate is increased to 10.5%, effective 8/1/94. These guidelines will be re-evaluated after Fiscal Year 1998;
3. provide a set of uniform guidelines, conditions, and criteria governing the application for, and granting of, funds to private organizations for the purpose of supporting their ongoing operational expenses and/or their sponsorship of special events;
4. provide financial support for improvements to Balboa Park and Mission Bay Park consistent with adopted master plans;
5. provide funding for annual lease payments for debt issued for the City's share of trolley extension costs as matching funds to qualify for State and Federal funding required to implement extension of the San Diego Trolley as called for in the Regional Transportation Plan;
6. provide for limitations on future Transient Occupancy Tax rate increases levied by the City of San Diego;

7. provide financial support to programs outlined within this policy for Fiscal Years 1995-98;
8. ensure a local revenue source to be used to finance and promote the City's museum arts and cultural organizations;
9. ensure a local revenue source to be used to finance and promote economic development in San Diego.
10. provide financial support to the expansion of the Convention Center, and the construction of the Entertainment and Sports Center.

HISTORY OF TOT RATES

Ordinance Number	Effective Date	TOT Rate
O-9033	06/09/64	4%
O-9767	04/01/68	5%
O-11077	06/05/73	6%
O-16286	01/01/85	7%
O-17108	08/01/88	8%
O-17154	06/01/89	9%
O-18078	08/01/94	10.5%

UTILIZATION OF REVENUES

1. Four cents must be used for promotion of the City;
2. One cent may be expended for any purpose;
3. Five and one-half cents is deposited in the General Fund for general government purposes.

POLICY

1. Transient Occupancy Tax Future Increases

The City Council shall limit the Transient Occupancy Tax at 10.5% for four years (until July 1, 1998).

After 1998, the City Council shall limit future increases in the Transient Occupancy Tax to a rate that is no greater than the average rate, excluding the highest and lowest rate cities, at that time, of the 15 following major cities:

Atlanta, Boston, Chicago, Denver, Honolulu, Houston, Las Vegas, Los Angeles, Miami Beach, New Orleans, New York City, San Francisco, Santa Fe, Seattle, and Washington D.C.

The City Council shall limit any tax increases if the hotel occupancy rates in the City of San Diego are less than 70% for

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two consecutive calendar years.

2. Each year, the City Council shall consider, in the course of the budget adoption, the allocation of funds for those programs which enhance and promote the City as a cultural, tourist and convention destination. A guideline for the allocation of such funds for Fiscal Year 1995 through Fiscal Year 1998 is displayed on Attachment B.
3. **Funding of Private Organizations for Operational Expenses or Sponsorship of Special Events**

Any package of community services includes elements which cannot be provided through governmental channels either because of a lack of resources or because government may not have the necessary expertise to provide the service. Such services, if they are to be offered, must be provided by private organizations with private funding. In areas where the public interest is sufficiently broad, local government can improve its level of service to the community by assisting such efforts financially. Some guidelines are needed to assist the City Council in receiving and acting upon requests for funding by private organizations.

This policy applies to City funding of community programs or events operated by private organizations to which the City contributes in the form of City support services or allocations from the General Fund or Transient Occupancy Tax (TOT) Fund. Applicants for funding must comply with the requirements and conditions in Attachment A.

4. Conditions precedent to the receipt of funds as outlined in Attachment B have been adopted for certain programs and are detailed in the following:
 - 4a. **Allocation of Transient Occupancy Tax Funds to the Balboa Park/Mission Bay Park Improvements**

The allocation amount, per this Policy, shall be those funds equivalent to all revenue generated by one cent of TOT, except for Fiscal Year 1995 which will be \$500,000 less. The one cent will be net of the additional revenue generated by the CONVIS Supplemental Marketing Program and expansion of the Convention Center. Per Resolution No. R-271992, the City Council approved the first phase of debt financing of \$45,000,000 over a 30-year period for capital improvements to Balboa Park/Mission Bay Park. Per this authorization, annual lease payments average \$3,245,000 per year as of July 1, 1994.

- 4b. **Allocation of Transient Occupancy Tax Funds to the Extension of the San Diego Trolley**

Per Ordinance No. O-16947, the City Council approved the issuance of \$31.2 million in lease revenue bonds to fund the Bayside Light Rail Transit project. Per Ordinance No. O-17942, the City Council approved the issuance of \$19.5 million in lease revenue bonds to fund the Old Town Light Rail project. Per authorizations of the City Council for the issuance of debt as the City's share of Trolley cost, an annual allocation equivalent to annual lease payments is required. Trolley allocations are based on the debt service requirements for both the Bayside and Old Town Trolley bond issuances. The Fiscal Year 1995 allocation will be \$4,340,000; Fiscal Year 1996 \$4,060,000; Fiscal Year 1997 \$4,067,552; and Fiscal Year 1998 \$4,076,552.

Each Fiscal Year, the City Council shall consider in the course of the budget review, the allocation of funds for the extension of the San Diego Trolley in accordance with the Regional Transportation Plan.

4c. Allocation of Transient Occupancy Tax Funds to the San Diego Chamber of Commerce

The Fiscal Year 1995 allocation of \$452,193 reflects the Fiscal Year 1994 funding level plus \$22,610 to restore prior cuts; Fiscal Years 1996-98 will be increased 4% annually over the Fiscal Year 1995 funding level.

4d. Allocation of Transient Occupancy Tax Funds to the Major Events Revolving Fund

The allocation amount, per this Policy, shall be at least \$250,000 per year for the purpose of bidding for and funding major events.

The Fiscal Years 1995-97 allocations to the Major Events Revolving Fund shall be \$250,000 annually; Fiscal Year 1998 shall be \$375,000.

4e. Allocation of Transient Occupancy Tax Funds to the Convention and Visitors Bureau

CONVIS reflects the allocation of \$7.1 million in Fiscal Year 1995 to restore loss of funding from the Port District; an increase over Fiscal Year 1994 funding of \$5,443,852. Funds will be allocated in 13 equal payments. The last payment (13th payment) shall be made if actual revenues, net of additional revenue generated by the CONVIS Supplemental Marketing Program and the expanded Convention Center, meet budget projections and marketing revenues meet projections.

Subsequent year's budget allocations will be determined as a percentage of total Transient Occupancy Tax revenues, net of

additional revenue generated from the CONVIS Marketing Plan and the Convention Center Expansion, using 12.5% as the distribution formula. A four-year contract with CONVIS for services is proposed.

Every two to five years, CONVIS will submit to a performance audit which will be conducted by a contractor selected by the City and financed with Transient Occupancy Tax funds other than those allocated to CONVIS.

4f. Allocation of Transient Occupancy Tax Funds to the CONVIS Supplemental Marketing Program

There is a new allocation to CONVIS of \$2.0 million per year in Fiscal Year 1995 through Fiscal Year 1997 for a Supplemental Marketing Program. This program is projected to generate increased tourism and additional Transient Occupancy Tax revenues of \$1.0 million in Fiscal Year 1995, \$2.2 million in Fiscal Year 1996, \$3.4 million in Fiscal Year 1997 and \$2.5 million in Fiscal Year 1998.

The Marketing Plan will be submitted to the City Manager for review and will contain performance measures and return-on-investment projections. A three-year contract with CONVIS to conduct a Supplemental Marketing Program is proposed.

4g. Allocation of Transient Occupancy Tax Funds to Economic Development Corporation

The Fiscal Year 1995 allocation will be a base of \$570,453 plus \$100,000; Fiscal Years 1996-98 will be increased by 4% annually over the Fiscal Year 1995 base of \$570,453.

4h. Allocation of Transient Occupancy Tax Funds to Holiday Bowl

The Fiscal Year 1995 allocation of \$275,000 reflects an increase from Fiscal Year 1994 funding of \$257,500; Fiscal Years 1996-98 will be increased by 4% annually over the Fiscal Year 1995 funding level.

4i. Allocation of Transient Occupancy Tax Funds to Arts and Museums (including Arts and Culture administration)

Fiscal Year 1995 reflects an allocation of \$5,033,614, an increase from Fiscal Year 1994 funding of \$4,695,905; an incremental increase to achieve a funding level equivalent to one cent Transient Occupancy Tax revenue beginning in Fiscal Year 1996. The allocation includes funding for Arts and Culture Administration. ~~Funds will be allocated to each organization within this category in 13 equal payments. Funds will be allocated to each organization within this category in~~

an amount equivalent to 12 out of 13 equal payments. These funds may be reimbursed throughout the fiscal year in accordance with the reimbursement procedures established by the Commission of Arts and Culture. The last payment (13th payment) shall be made only if actual revenues, net of additional revenue generated by the CONVIS Supplemental Marketing Program and the expanded Convention Center, meet budget projections.

The amount of Transient Occupancy Tax funds allocated to the Art in Public Places Fund, per Municipal Code, shall be an amount of money equivalent to 1% of the Capital Outlay Fund.

4j. Allocation of Transient Occupancy Tax Funds to Civic Events and Promotional Programs

Programs from private organizations not specifically identified within this policy shall be subject to the annual application process for Civic Events and Promotional Programs.

The Fiscal Years 1995-98 allocations for this category will be \$435,050.

4k. Allocation of Transient Occupancy Tax Funds to Other Programs

The Fiscal Year 1995 allocation will be \$465,918; Fiscal Years 1996-1998 will be \$440,918. Specific allocations will be recommended in the annual budget.

4l. Allocation of Transient Occupancy Tax Funds to the Convention Center Complex (CCC)

CCC includes the existing Convention Center, the proposed Convention Center Expansion, and the proposed Entertainment and Sports Center. Beginning in Fiscal Year 1996, the equivalent of all Transient Occupancy Tax revenue generated by hotels on Navy Field (currently the Marriott and the Hyatt) will be allocated for the CCC.

4m. Allocation of Transient Occupancy Tax Funds to the Convention Center Operation, the Convention Center Expansion, and the new Entertainment and Sports Center

This new program is intended to receive the balance of funds available for the CCC for the purpose of contributing to the operations of the Convention Center and to the financing (directly or with the issuance of debt) of the construction of the proposed Convention Center Expansion and the new Entertainment and Sports Center.

The contribution to the Convention Center operations will be determined annually by the City Council. In addition to the

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annual contribution of \$4.5 million from the Port District, it is proposed that funds be allocated for the City's contribution to the Convention Center Expansion, and the Entertainment and Sports Center. The City Council will determine the amounts of these allocations annually. Payments related to the construction of the Convention Center Expansion and Sports Center will be allocated in 13 equal payments. The last payment annually (13th payment) shall be made if actual revenues, net of additional revenue generated by the CONVIS Supplemental Marketing Program and the expanded Convention Center, meet budget projections.

The City Council will make every effort to ensure that the Convention Center Corporation and the operator of the Entertainment and Sports Center will coordinate the booking of major conventions and maximize the use of the Sports Center to the benefit of the overall City.

5. Allocation of Transient Occupancy Tax Funds for the Safety and Maintenance of Tourist-Related Facilities

This program provides funding for a portion of the costs incurred by General Fund departments in providing security and maintenance for tourist-related facilities.

The Fiscal Year 1995 allocation shall be \$7,056,448; Fiscal Year 1996 will represent a 4% increase over Fiscal Year 1995; Fiscal Year 1997 will remain at the Fiscal Year 1996 level; Fiscal Year 1998 will represent an 8% increase over Fiscal Year 1997.

6. Allocation of Transient Occupancy Tax Funds for Additional Police Officers

On May 24, 1993, the City Council approved the Public Safety Ordinance (O-17914). This Ordinance provides policy direction for the funding of additional police officers for public safety. A portion of the funding was identified from funds equivalent to revenues generated by one cent of TOT.

7. Allocation of Transient Occupancy Tax Funds to the General Fund

Transient Occupancy Tax funds equivalent to revenue generated from two cents (net of the additional revenue generated by the CONVIS Supplemental Marketing Plan and the expansion of the Convention Center) shall remain in the General Fund.

8. Allocation of Transient Occupancy Tax Fund to the Housing Trust Fund

An annual allocation, per Municipal Code, from revenues

collected by the City under Section 35.0103 may be deposited in the Housing Trust fund, at the direction of the City Council.

The adoption of this policy is not intended to be and shall not constitute an irrevocable commitment by the Council to allocate monies for this purpose. Such a commitment may be made only at the time the annual budget ordinances are adopted.

Attachment A

General Requirements and Conditions

Attachment B

Proposed Transient Occupancy Tax (T.O.T.) Distribution

HISTORY:

"Funding of Private Organization for Operational Expenses or Sponsorship of Special Events"

Adopted by Resolution R-183022 03/09/65
Amended by Resolution R-191654 09/21/67
Amended by Resolution R-211279 08/08/74
Amended by Resolution R-218061 04/05/77
Amended by Resolution R-220777 05/01/78
Amended by Resolution R-222451 12/19/78
Amended by Resolution R-254157 05/11/81
Amended by Resolution R-272990 03/06/89
Retitled to "Transient Occupancy Tax" with
inclusion of Policies 100-04, 100-11 and
100-13 by Resolution R-279227 01/06/92
Amended by Resolution R-280380 07/21/92
Amended by Resolution R-284044 06/06/94

Attachment A

General Requirements and Conditions

A. General

1. City funding support for private organization operational expenses and for special events will be established so as to contribute to a balance of community cultural, recreational, and promotional programs designed to enhance the well-being of the community.
2. The functions or services to be provided by a private organization must be of such nature that the interests of the City are better served by an agreement with a private organization than by the performance of the services or functions by the City.
3. Programs or special events supported by the City must be open to the public and be free of charge. Donations, however, are not prohibited.
4. It is the policy of the City to encourage similar organizations to operate in a coordinated and cooperative manner. If the City funds an "umbrella" organization for federated support of similar activities, then the City will not independently fund other organizations which should properly be part of the "umbrella" organization.
5. The City will only provide funding support to a legally constituted nonprofit corporation, which completely directs and controls its own affairs through its own officers or members. Support for special events also must be directed to a sponsoring nonprofit corporation. It is the policy of the City to fund local community organizations only. A representative of the City designated by the City Manager shall act as the liaison with the corporation and shall be permitted to attend meetings of the board of directors of such an organization.
6. An organization may only submit one application either to the Arts and Museum or Civic Events and Promotional Programs for funding for the program that best meets the organization's goals and objectives.
76. The City will not provide funding support to a private organization for the conduct of any religious or political activity.

87. The City will only provide funding support to a private organization that, in the conduct of its activities and affairs, adheres to the objectives of the City's Affirmative Action Program. The organization must not discriminate against any person because of sex, race, color, creed, national origin, physical handicaps, or age.
98. The City Council retains the prerogative to waive any policy or requirement herein contained. The Council may also impose such other conditions on City support to private organizations as it deems appropriate.

B. Funding

1. Expenses must be both incurred and paid by an organization before the City will release funding to the organization, except as otherwise may be provided.
2. Expenses must be incurred during the City's fiscal year (July 1-June 30) for which the program is funded, except as otherwise may be provided.
3. City funds may not be used for travel, meals, lodging or entertainment expenses.
4. City funds shall be used only to assist an organization in its annual operating program or in its sponsorship of special events. City funding shall not be used for capital or equipment outlay, for the purchase of awards, trophies, gifts, or uniforms, nor for the build-up of reserves.
5. Except as otherwise may be provided, funding for an operating program shall be conditioned on an organization matching every City funded dollar with at least three dollars from sources other than the City. Funding for a special event shall be conditioned on an organization matching every City funded dollar with at least one dollar from sources other than the City. Any support services provided by the City shall be considered as City funds. Donated services or products shall not be considered as matching funds.
6. Funding for private organization operation expenses and for sponsorship of special events may be allocated from the City's General Fund or from Transient Occupancy Tax Funds 10223 or 10224, except that, in order to qualify for 10223 funding, the organization's activities or the special event must be promotional in nature. "Promotion" is defined as a program designed to favorably publicize the City of San Diego; such publicity having as its

principal audience persons residing outside the San Diego metropolitan area.

7. It is the Council's policy to not fund sports, athletic, or neighborhood events, unless they are of national or international significance, are held in San Diego, and are considered to have substantial promotional value to the City.
8. It is the Council's policy to not subsidize participation in events held outside the City of San Diego, by individuals, groups or teams, unless there is some unusual, compelling reason why substantial promotional value will accrue to the City because of such participation.

C. Request for Funds

1. It is the City's intent to provide advance notification of the annual application process to a wide distribution of potential organizations that may be eligible for funding. Requests by private organizations shall be submitted by the third Monday in December of each year for the fiscal year to follow and shall be supported by appropriate documentation prescribed by the City Manager and promulgated in a procedural guide.
2. One-time special events requests must be accompanied by the same documentation outlined in paragraph C.1. above, except that financial data may be confined to the special event. A disclosure of the full-year fiscal status of the sponsoring organization will not normally be required.
3. If an organization (through a waiver of A.3.) charges fees for admission to or participation in an event, the organization's request for funding must include a disclosure of all such fees.
4. Initial requests for funding must be accompanied by documents which evidence the existence of the organization as a legal entity in good standing. Such documents shall be determined by the City Manager and outlined in a procedural guide.

D. Evaluation of Requests

All requests for support by private organizations shall be referred to the City Manager for analysis and subsequent recommendations to the City Council. All requests shall be

reviewed and evaluated in the light of the criteria of this Council Policy.

E. Agreements

1. No expenditure may be made out of any appropriation until a written agreement setting out the terms and obligations of the parties has been consummated. The agreement shall specify in detail the services or functions to be performed, the nature of the payment or reimbursement schedule, and the financial reporting requirements.
2. All agreements shall provide that the City may withhold funds from the contracting organization and terminate its entire obligation upon notice to the organization if the organization violates any of the terms and conditions of the agreement, or for other good cause shown not related to a violation of the terms and conditions of the agreement. The City Manager shall thereafter advise the City Council of the notification of termination made to the organization.
3. Compliance with the terms and conditions of agreements shall be determined by the City Manager.

F. Financial Disclosure

1. Financial disclosure information shall be required of all funding recipients. Organizations receiving "operational expense" funding shall provide the Contract Administrator, each year, copies of true, accurate and complete financial disclosure documentation evidencing the financial status of the organization's last complete fiscal year within ninety (90) days of the end of that fiscal year. Organizations receiving "event" funding shall provide the Contract Administrator, within ninety (90) days following the event, copies of true, accurate and complete financial disclosure information with respect to all funds expended and received by the event. Such documents shall include the following:
 - a. A statement of the expenditure of City funds by programs to be identified in the same expenditure classifications as contained in the final budget and compared with budgeted amounts.
 - b. A statement of compliance with the terms of the City's agreement.
 - c. A statement of revenues and expenditures and a

balance sheet of all funds received by the organization.

- d. If City funding is \$20,000 or greater, audited financial statements must be prepared by an independent Certified Public Accountant.
2. An organization receiving funding support shall permit the City to inspect all books and records at any time and to perform or require audits the City reasonably desires.