

RESOLUTION NUMBER R- 289773

ADOPTED ON FEB 24 1998

WHEREAS, the Mayor and Councilmember Mathis appointed two working groups to review the Civic Events and Promotional Programs (CEPP) application process and the Transient Occupancy Tax (TOT) policy, Council Policy 100-03; and

WHEREAS, the CEPP Working Group presented their recommendations which are outlined in City Manager Report No. 97-175 to the Natural Resources and Culture (NR&C) Committee on October 1, 1997; and

WHEREAS, the TOT Policy Working Group presented their final recommendations which are described in City Manager Reports No. 97-188 and 98-13 to the NR&C Committee on January 21, 1998; and

WHEREAS, the NR&C Committee unanimously approved the recommendations of the two working groups and determined that the office of the Executive Director for the Commission for Arts and Culture should serve as the City's single point of contact for TOT application questions; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the policy recommendations and application procedures approved by the Natural Resources and Culture Committee on January 21, 1998 for the Transient Occupancy Tax Policy are hereby approved.

BE IT FURTHER RESOLVED, that the City Manager is directed to continue to work on developing the final revisions to Council Policy 100-03 based on these recommendations and

bring the final revised policy and recommended funding allocations forward for City Council review concurrent with the Fiscal Year 1999 Proposed Budget in May 1998.

APPROVED: CASEY GWINN, City Attorney

By Stuart H. Swett
Stuart H. Swett.
Deputy City Attorney

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02/17/98
Or.Dept:Fin.Mgmt.
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**CITY OF SAN DIEGO
COUNCIL POLICY**

SUBJECT:
TRANSIENT OCCUPANCY TAX

POLICY NUMBER:
100-03

EFFECTIVE DATE:
February 24, 1998

BACKGROUND:

History of TOT Rates

| ORDINANCE NUMBER | EFFECTIVE DATE | TOT RATE |
|------------------|-----------------|----------|
| O-9033 | June 9, 1964 | 4% |
| O-9767 | April 1, 1968 | 5% |
| O-11077 | June 5, 1973 | 6% |
| O-16286 | January 1, 1985 | 7% |
| O-17108 | August 1, 1988 | 8% |
| O-17154 | June 1, 1989 | 9% |
| O-18078 | August 1, 1994 | 10.5% |

On June 6, 1994, the City Council adopted Ordinance No. O-18078 N.S. increasing the Transient Occupancy Tax (TOT) rate 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 for general government purposes as the City Council so designates.

On February 24, 1998, the City Council adopted Resolution Numbers R-289773 and R-289774, outlining recommendations to enhance and streamline application requirements and clarify category definitions for the TOT policy. Consequently, recommendations detailed in City Manager Reports 97-175, 97-188, and 98-13 have been utilized in the development of this revised Council Policy on TOT.

MISSION STATEMENT:

The purpose of Transient Occupancy Tax (TOT) is to advance the City's economic health by promoting the City of San Diego as a visitor destination in the national and international marketplace; supporting programs that increase hotel occupancy and attract industry, resulting in the generation of TOT and other revenue; developing, enhancing, and maintaining visitor-related facilities; and supporting the City's cultural amenities and natural attractions.

DOCUMENT NO. 100-289773
FILED FEB 24 1998
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

PURPOSE:

Consistent with the Mission Statement, the purpose of this policy is to:

1. Provide funding for the promotion of tourism and support of cultural programs and visitor-related facilities.
2. Provide guidance to the City Manager in the preparation of the annual budget submittal to the Mayor and City Council.
3. Provide a set of uniform guidelines, conditions, and criteria governing the application for, and granting of, funds to private non-profit organizations for the purpose of supporting their ongoing operational expenses and/or their sponsorship of special events.
4. Provide continuing financial support to those projects where financial commitments of the City are in place, as part of the debt service requirements associated with capital improvements of visitor-related facilities.
5. Provide limitations on future Transient Occupancy Tax rate increases levied by the City of San Diego.

UTILIZATION OF REVENUES:

As stated in Municipal Code Sections 35.0128 – 35.0133:

1. Four cents must be used solely for the purpose of promoting the City.
2. One cent can be used for any purpose the City Council may direct.
3. Five and one-half cents is deposited in the General Fund for general government purposes as the City Council may provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

POLICY:

1. Increases to the TOT Rate

Future increases to TOT shall be limited 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, San Francisco, Santa Fe, Seattle, 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 two consecutive calendar years.

2. Funding of Private Non-Profit Organizations for Operational Expenses or Sponsorship of Special Events

In order to assist the City Council in receiving and acting upon requests for funding by private non-profit organizations, general TOT application processes have been established and are reflected on Attachment A.

Eligible programs fall into one of the following major categories:

- **ECONOMIC DEVELOPMENT**
To promote the City as a visitor destination and advance the City's economy by increasing tourism and attracting industry.
- **SAFETY AND MAINTENANCE OF VISITOR-RELATED FACILITIES**
To provide supplemental funding for public safety and the maintenance of visitor-related facilities.
- **CAPITAL IMPROVEMENTS**
To provide funding for the renovation, construction and expansion of visitor-related facilities and projects.
- **ARTS, CULTURE, AND COMMUNITY FESTIVALS**
To enhance the economy and contribute to San Diego's reputation as a cultural destination by nurturing and maintaining art and culture institutions of national and international reputation; by supporting programs and projects that provide access to excellence in culture and the arts for residents and visitors; and by funding programs and events which enrich the lives of the people of San Diego and build healthy, vital neighborhoods.
- **MAJOR EVENTS**
To provide funding for the attraction and production of major events and conventions that generate Transient Occupancy Tax and other revenues.

3. Single Point of Contact

The Executive Director of the Commission for Arts and Culture will coordinate the outreach efforts and conduct the review of the pre-application forms submitted by prospective applicants. At this stage in the process, a determination will be made as to which subcategory is most appropriate and contact information for that application process will be provided.

4. Application/Appeal Processes

- Applications are required for organizations requesting funding within the 1) Economic Development and 2) Arts, Culture, and Community Festivals categories. The Economic Development category includes the 1) Citywide and 2) Sub-regional subcategories. The Citywide Economic Development application process is administered by the Financial Management Department.

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This funding category supports programs that promote the City as a visitor destination and advance the City's economy by increasing tourism and attracting industry on a citywide basis. The Sub-regional Economic Development subcategory provides funding for non-profit, tax-exempt organizations to produce regionally significant programs, services and events that promote tourism, attract business, and create employment. The Sub-regional application process is administered by the Economic Development and Community Services Department.

- The Arts, Culture, and Community Festivals category is made up of the 1) Festivals and Celebrations and 2) Organizational Support subcategories. These application processes are administered by the Commission for Arts and Culture. Festivals and Celebrations funds provide support to community-based festivals, parades, and other celebrations, with an emphasis on projects which promote neighborhood pride and community reinvestment. The Organizational Support subcategory provides funding for general operating support for non-profit, tax-exempt, arts and culture organizations with an emphasis on delivery of programs and services that impact San Diego's quality of life and tourism, and can be in the form of ongoing support throughout the year or for a specific program or event.
 - Recommended funding levels for all categories and specific program funding for Citywide Economic Development, Safety and Maintenance of Visitor-Related Facilities, Capital Improvements, and Major Events will be made by the Office of the City Manager.
 - All funding recommendations are provided to the City Council for consideration and final approval as part of the annual budget process.
 - Organizations considered for Transient Occupancy Tax funding may only apply for funding of one program in one subcategory and must comply with the requirements and conditions outlined in Attachment B.
 - Prior to the beginning of the application process for each fiscal year, an informational report shall be presented annually to the Natural Resources & Culture (NR&C) Committee. This report will identify organizations that were not in compliance with their contractual agreement with the City in the past fiscal year. Appeals to the NR&C Committee can be made by any organization regarding compliance issues, and potential impacts on future allocations.
5. Funding for debt service requirements/annual lease payments related to capital improvements of visitor-related facilities.

Funding may include, but is not limited to the following:

- a. Balboa Park/Mission Bay Park Improvements

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Financial support will be provided for improvements to Balboa Park and Mission Bay Park consistent with adopted master plans (refer to Resolution No. R-271992).

b. Funding for the Extension of the San Diego Trolley

Funding will be provided 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 (refer to Ordinance Numbers O-16947 and O-17942).

c. Convention Center Complex

Funding will be provided for annual debt payments and other expenses related to the expansion of the Convention Center onto the adjacent surface parking lot.

The adoption of this policy is not intended to be and shall not constitute an irrevocable commitment by the City 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

TOT Application Processes Flowchart

Attachment B

General Requirements and Conditions

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

Amended by Resolution R-284698 10/03/94

Amended by Resolution R-286076 07/17/95

Amended by Resolution R-286991 03/04/96

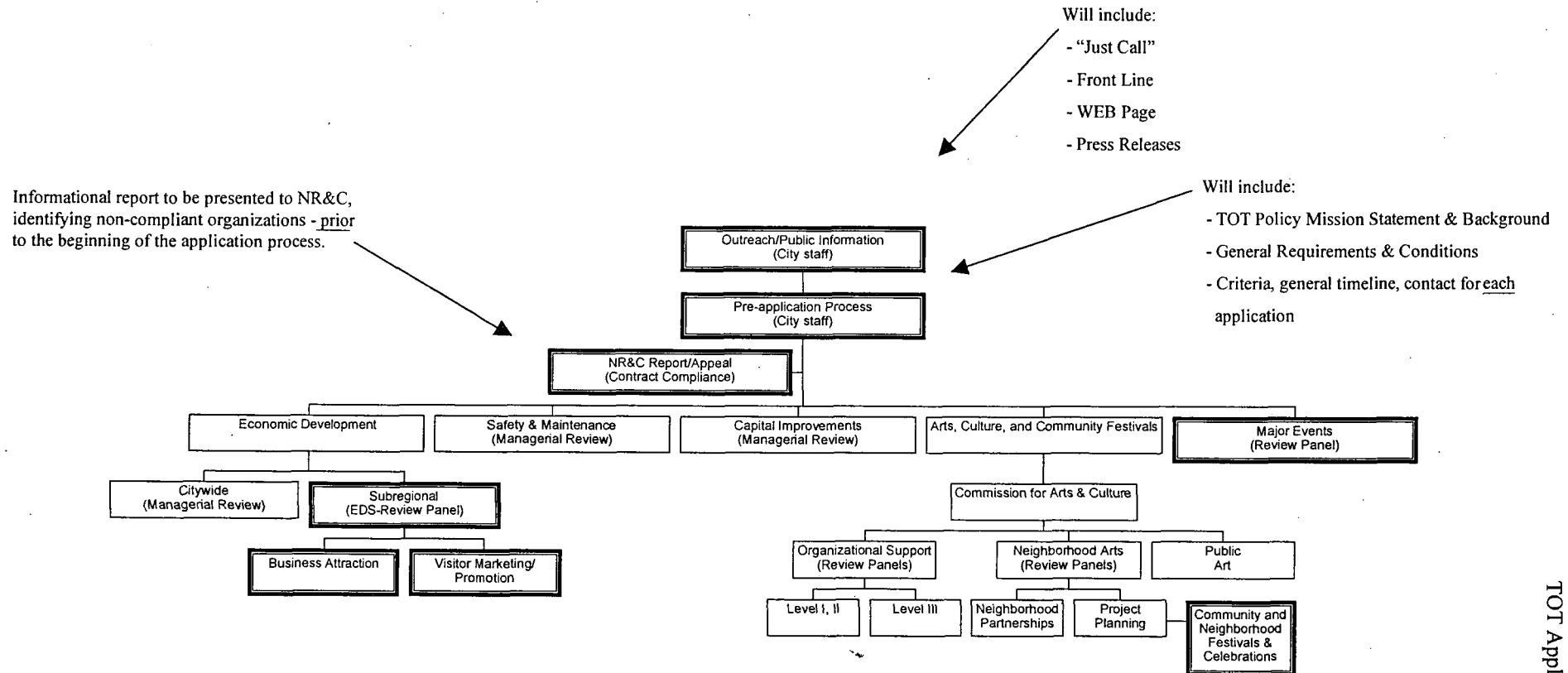
Amended by Resolution R-289773 02/24/98

Amended by Resolution R-289774 02/24/98

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TOT Application Processes*

(Boxes outlined in bold indicate a new process strategy)



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**All processes should include a review of prior year performance and fiscal responsibility.*

Note: Shaded boxes identify a new or modified review process.

Attachment B
General Requirements and Conditions

A. General

1. City funding support for private nonprofit 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 nonprofit organization must be of such nature that the interests of the City are better served by an agreement with a private nonprofit 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.
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 completely directing and in complete control of its own affairs through its own officers or members. Support for special events must also be directed to a sponsoring nonprofit corporation. The majority of the activities of the applicant organization must take place within the San Diego City limits and/or benefit City residents. A representative of the City designated by the City Manager shall conduct liaison with the corporation and shall be permitted to attend meetings of the board of directors of such organizations, as deemed appropriate by the City Manager.
6. Organizations cannot apply for both Organizational Support and Community Festivals funding within the Arts, Culture, and Community Festivals category. For any other categories of funding, an organization should direct its application for funding to the program that best meets the organization's goals and objectives.
7. The City will not provide funding support to a private nonprofit organization for the conduct of any religious or political activity.
8. The City will only provide funding support to a private nonprofit organization that, in the conduct of its activities and affairs, adheres to the City's Equal Opportunity Contracting Program. The organization must not discriminate against any person because of sex, race, color, creed, national origin, physical handicaps, age, or sexual orientation.
9. 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 nonprofit 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, except as otherwise may be provided. (Waivers to this provision will be considered for expenditures within the Economic Development Program categories.)
4. City funds will be used only to assist an organization in its annual operating program or in its sponsorship of special events. City funding will not be used for capital or equipment outlay, for the purchase of awards, trophies, gifts, or uniforms, nor for the buildup of reserves.
5. Matching fund requirements will be determined by the appropriate application process as called for in the specific funding guidelines within each funding category.
6. Organizations requesting funds should possess, at a minimum, a three- year track record of operations. Annual requests for funding may be for one-time events or projects, though applicant organizations must have a three-year history.

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 nonprofit organizations shall be supported by appropriate documentation and in accordance with the submission schedule as prescribed by the City Manager and promulgated in a procedural guide. Late submissions will not be accepted.
2. One-time special event 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 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, additionally, be accompanied by documents that evidence the existence of the organization as a legal entity in good standing. Such documents shall be determined by the City Manager and promulgated in a

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procedural guide.

D. Evaluation of Requests

1. All requests for support by private nonprofit organizations will be referred to the review panel for each funding subcategory application process for analysis and subsequent recommendations to the Mayor and City Council. These subcategories include Festivals and Celebrations, Organizational Support, Citywide and Sub-regional Economic Development. All requests will 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 will 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 will provide that the City may withhold funds from the contracting organizations and terminate its entire obligation upon notice to the organization if the organization violates any of the terms of the agreement, or for other good cause shown not related to a violation of the terms 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 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.

All organizations receiving funding shall submit the following documents:

- a) A statement of the expenditure of City funds by program to be identified in the same expenditure classifications as contained in the final budget and compared with the 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.

If City funding is \$35,000 or greater, audited financial statements, including items a, b, and c above, must be prepared in accordance with generally accepted accounting principles (GAAP) and audited by an independent Certified Public Accountant, in accordance with generally accepted auditing standards (GAAS).

2. An organization receiving funding support will permit the City to inspect all books and records at any time and to perform or require audits the City reasonably desires.

G. Compliance with General Requirements and Conditions

1. Failure to comply with the City's terms and conditions could result in the suspension of any current remaining funding or possible future funding.
2. All organizations must be in good standing at the time of application for future funding. Non-compliance with any terms and conditions could result in the disqualification of funding requests for future fiscal years, until such time as organization comes into full compliance.