

DATE ISSUED: November 10, 2004

REPORT NO. 04-236

ATTENTION: Honorable Mayor and City Council
Docket of November 15, 2004

SUBJECT: Ninety (90) day financial disclosure extensions for 21 Special Promotional
Programs-funded organizations

SUMMARY

Issue: Should the Mayor and City Council approve a ninety (90) day extension for the indicated organizations for submittal of financial disclosure documents as required by Council Policy 100-03, *Transient Occupancy Tax*, Attachment B: General Requirements and Conditions, Section F.1.?

Manager's Recommendation: Approve a ninety (90) day extension for the indicated organizations for submittal of financial disclosure documents as required by Council Policy 100-03, *Transient Occupancy Tax*, Attachment B: General Requirements and Conditions, Section F.1.

Other Recommendations: None.

Fiscal Impact: None.

BACKGROUND

The Financial Management Department, Economic Development Division, and the Commission for Arts and Culture are Contract Administrators for the various categories of Special Promotional Programs, responsible for ensuring all contractors adhere to Council Policy 100-03. One of the requirements of the Council Policy is that organizations provide financial disclosure to the contract administrator annually. Council Policy 100-03, *Transient Occupancy Tax*, Attachment B: General Requirements and Conditions, Section F.1. states:

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.

In addition, subsection c) reads:

...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).

This year, many organizations with Fiscal Year 2004 contracts that meet the audited financial statement requirement have requested extensions to the September 30, 2004 deadline. Only City Council has the authority to grant these extensions.

DISCUSSION

The 21 organizations that have requested deadline extensions for the submission of audited financial statements are:

Citywide Economic Development

Accessible San Diego
San Diego Convention and Visitors Bureau
San Diego Hall of Champions
San Diego World Trade Center

Economic Development and Tourism Support

ACCION San Diego
Travelers Aid Society of San Diego

Organizational Support Program

Athenaeum Music and Arts Library
California Ballet Association
La Jolla Music Society
Malashock Dance and Company
Museum of Contemporary Art San Diego
San Diego Art Institute
San Diego Center for Jewish Culture
San Diego Chamber Orchestra
San Diego Historical Society
San Diego Model Railroad Museum
San Diego Museum of Art
San Diego Opera Association

San Diego Symphony Association
San Diego Youth Symphony

Festivals and Celebrations

Adams Avenue Business Association

These organizations are unable to meet the 90 day requirement due, in part, to the recent passage of the Sarbanes-Oxley Act of 2002 which has placed an increased burden on the accounting firms that provide their audits. As a result, non-profit organizations, many of which often pay a reduced fee for auditing services, may not receive priority attention from their accountants if the accountants also provide services to for-profit corporations.

Should the extension be granted for the 21 requested organizations, and an organization fail to provide audited financial statements within 180 days of the end of the fiscal year, the contract administrators are authorized to use Council Policy 100-03, Attachment B: General Requirements and Conditions, Section G.1., which states:

Failure to comply with the City's terms and conditions could result in the suspension of any current remaining funding or possible future funding.

Granting this extension will allow the contract administrators to properly execute their duties and the organizations to remain in compliance with Council Policy 100-03.

Because these requirements are likely to remain onerous for contracted organizations, staff will be returning to the Committee on Rules, Finance and Intergovernmental Affairs soon with proposals for appropriate modifications to the financial disclosure requirements, as part of a comprehensive review of Council Policy 100-03.

For information only, there are also a number of organizations funded below \$35,000, that are not required to provide financial statements audited by a Certified Public Accountant, yet have not submitted their financial statements within the 90 days required by Council Policy 100-03. Although organizations like these have not historically been identified by the Audit Division, the groups are out of compliance with Council Policy 100-03. Because these organizations do not appear to have a compelling reason to grant an extension request, the Contract Administrators are not requesting extensions from the City Council. These groups are:

Organizational Support Program

Center for World Music
City Ballet
SD Mini Concerts
Spreckles Organ Society
WorldBeat Cultural Center

Festivals and Celebrations

AFC Dixieland Jazz Society
Cambodian Buddhist Society
Hillcrest Association
Linda Vista Multicultural Fair, Inc.
North Park Community Association
Rancho Bernardo Chamber of Commerce
Rancho Peñasquitos Town Council

The Contract Administrators will continue to work with these organizations to obtain the required financial statements and bring them back into compliance with the Council Policy. Because these organizations are out of compliance, any current funding may be suspended and recommendations for future funding may be impacted.

CONCLUSION

The Manager recommends approval of extensions for the 21 referenced organizations as they are generally in compliance with Council Policy. In addition, the Council Policy allows the contract administrators to suspend further funding for the organization should they fail to return to compliance. This provides assurance that the City will be able to fairly administer the contracts, while allowing flexibility for organizations as they continue to pursue the completion of their annual audits.

Respectfully submitted,

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Financial Management Director

APPROVED: Patricia T. Frazier
Deputy City Manager

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