

To: Bryan City Secretary
From: Councilmembers Southerland and Peña



Subject: Agenda Item Titled: City of Bryan Hotel Occupancy Tax Fund Project/Event Grant Application Policy for Non-CVB Funded Events

Please place the following item on the Bryan City Council Regular Agenda for the last regularly scheduled meeting of April 2015:

Discussion, consideration, and possible action to:

Direct the City Manager or his designee to establish and publish written guidelines that apply universally to events requesting funds from the City of Bryan in regards to financial support from the City Hotel Occupancy Tax (HOT) Fund that are not processed through the BCS Convention and Visitors Bureau (CVB). There are stringent requirements in the Tax Code (attached) regulating the use of HOT funds. A copy of the applicable sections of the Tax Code shall be included in any event (government sponsored or not). No entity shall be exempt from the process except for those controlled by the CVB. The applicant must present reasonable evidence that the event will directly promote tourism AND impact the hotel/convention business in the City of Bryan. Revenue from the municipal hotel occupancy tax may be used only to promote tourism (meaning the guidance or management of tourists) AND the convention and hotel industry. The uses are limited to that specified in the Texas Tax Code, Section 351.101, "Use of Tax Revenue".

The City manager or his designee, in writing, will review the application and make recommendations to the Bryan City Council regarding approval or denial of the request and give additional comments as to the size of the financial funding request based on the calculated estimated economic impact relevant to the request, as well as taking into consideration the need for local community economic impact relevant to the community calendar. The City of Bryan city council will make the final decision on funding the event and amount of funding.

A. General Rules Governing the Application

1. The applicant must present reasonable evidence that the event will directly promote tourism AND impact the hotel/convention business in City of Bryan and provide documentation of the same.
2. For any applicant applying for HOT funds to advertise an event, the funds must focus on targeting visitors outside a 50 mile radius of the City of Bryan.
3. After the application process is complete, the applicant shall be expected to present documentation to the City Manager or his designee to evaluate application items such as visitor attendance of the event, hotel selection, and overnight stays directly attributed to the event. If initial estimates upon which the event funding was predicated were not met, the applicant shall reimburse to the City the HOT Funds not earned and/or any remaining balance.

B. Monitoring and Funding:

1. The funding shall be reimbursed to the city provided the organization or event did not meet the requirements of said contract.
2. The City of Bryan Auditor's office shall conduct at least one random audit of anyone receiving HOT Funds to ensure correct use of HOT Funds and a closing audit after final reports are presented to the city.
3. Funds will only be dispensed after they have been earned and verified as correctly spent.

C. The Post-Event Process:

1. The Post Event Analysis must include all of the items outlined in the application, including samples of advertisements produced with the use of HOT funds. If the Post Event Analysis and the final accounting of room nights are not received by the due date, the City of Bryan reserves the right to reject any future application by the organization and to request reimbursement of partial or all HOT Funding.
2. The event shall monitor and report the number of out-of-town guests who stay in City of Bryan lodging properties in relation to their event. The stated room nights generated will be subject to an audit by the City of Bryan. Room nights generated in hotel/motels outside the City of Bryan do not fulfill the requirements of the state law and will not be credited to the event.

Presentations: Councilmembers Peña, and Southerland

This agenda item placement is in accordance with the Bryan City Charter (j) (1) a. 2. Also the Texas Attorney General Opinion Number DM-228 (1993) states no policy can preclude a councilmember from placing an item on the agenda for public discussion.

Any changes to this agenda item must be approved in writing by both under signs prior to posting to the agenda.



Date: 4/20/2015
Rafael Peña, Councilmember, District 2, rpena@bryantx.gov, 979-402-9164



Date: 4/20/2015
Mike Southerland, Councilmember, District 4, msoutherland@bryantx.gov, 979-229-7805

Enclosure:

Texas Tax Code, Title 3. Local Taxation, Subtitle D. Local Hotel Occupancy Taxes, Chapter 351. Municipal Hotel Occupancy Taxes, Subchapter B. Use and Allocation of Revenue, Sec. 351.101. USE OF TAX REVENUE

Enclosure: Sec. 351.101. USE OF TAX REVENUE

TAX CODE

TITLE 3. LOCAL TAXATION

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE.

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its

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vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 75,000 but not more than 95,000 and is located in a county that has a population of less than 200,000 but more than 160,000;

(iii) has a population of at least 36,000 but not more than 39,000 and is located in a county that has a population of 100,000 or less that is not adjacent to a county with a population of more than two million;

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 70,000 but less than 90,000 and no part of which is located in a county with a population greater than 150,000;

(vi) is located in a county that:

(a) is adjacent to the Texas-Mexico border;

(b) has a population of at least 500,000; and

(c) does not have a municipality with a population greater than 500,000;

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(vii) has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less; or

Text of subparagraph as added by Acts 2013, 83rd Leg., R.S., Ch. 541, Sec. 1

(viii) has a population of at least 7,500 and is located in a county that borders the Pecos River and that has a population of not more than 15,000;

Text of subparagraph as added by Acts 2013, 83rd Leg., R.S., Ch. 546, Sec. 1

(viii) is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments;

(8) for a municipality with a population of at least 70,000 but less than 90,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;

(9) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

(10) the construction of a recreational venue in the immediate vicinity of area hotels, if:

(A) the municipality:

(i) is a general-law municipality;

(ii) has a population of not more than 900;

and

(iii) does not impose an ad valorem tax;

(B) not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue;

(C) a majority of the hotels in the municipality

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request the municipality to construct the recreational venue;

(D) the recreational venue will be used primarily by hotel guests; and

(E) the municipality will pay for maintenance of the recreational venue from the municipality's general fund;

(11) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality:

(A) has a population of at least 90,000 but less than 120,000; and

(B) is located in two counties, at least one of which contains the headwaters of the San Gabriel River; and

(12) for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by Section [334.001\(4\)](#), Local Government Code, that is related to the promotion of tourism.

(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for

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that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

(d) A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

(e) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(f) Municipal hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(g) Nothing in this section shall prohibit any private

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entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section [351.101\(a\)\(4\)](#). A subgrantee shall:

- (1) at least annually make periodic reports to the governing body of its expenditures from the tax authorized by this chapter; and
- (2) make records of these expenditures available for review to the governing body or other person.