CITY OF SAN DIEGO, CALIFORNIA

COUNCIL POLICY

CURRENT

SUBJECT: TRANSIENT OCCUPANCY TAX
POLICY NO.: 100-03
EFFECTIVE DATE: September 12, 2005

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 Cit y 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-relate d facilities; and supporting the City's cultural amenities and natural attractions.

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 con ventions that generate Transient Occupancy Tax and other revenues.

3. Application 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) Economic Development and Tourism Support subcategories. The Citywide Economic Development application process is administered by the Financial Management Department. 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 Economic Development and Tourism Support 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 Economic Development and Tourism Support application process is administered by the Community and Economic Development Department.

The Arts, Culture, and Community Festivals category contains three subcategories: 1) Organizational Support Program; 2) Festivals and Celebrations Program; and 3) Neighborhood Arts Program. The Commission for Arts and Culture administers these application processes. The Organizational Support Program subcategory provides annual, ongoing, general operating support for nonprofit, tax exempt arts and culture organizations with an emphasis on the delivery of programs and services that impact San Diego's quality of life and tourism. The Festivals and Celebrations Program provides project support to community-based festivals, parades, and other celebrations, with an emphasis on projects which promote neighborhood pride and community reinvestment. The Neighborhood Arts Program funds projects that make arts and culture activities more available and accessible in San Diego neighborhoods and encourage people of diverse backgrounds and ages to share their heritage and culture.

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 may only submit one TOT application to the City. An organization cannot apply for, or receive funding from, more than one category or subcategory of TOT. Applicant organizations must determine which one TOT category or subcategory best matches their program. City administrative staff can assist organizations in making that determination. All organizations must comply with the requirements and conditions outlined in Attachment B.

If necessary, 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 that will identify organizations funded by Citywide Economic Development 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. A report on compliance issues for organizations funded within the Arts, Culture, and Community Festivals category or the Economic Development and Tourism Support subcategory will be presented to the respective review panels, if necessary.

4. Funding for debt service requirements/annual lease payments related to capital improvements of visitor-related facilities.
Funding is provided for debt service for projects that contribute to a balance of community cultural, recreational, and promotional programs, designed to enhance the well-being of the community and promote the City as a world-class visitor destination. Funding may include, but is not limited to the following:

   a. Balboa Park/Mission Bay Park Improvements
   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.

d. PETCO Park
Funding will be provided for annual debt payments and other expenses related to PETCO Park.
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
General Requirements and Conditions

HISTORY:
"Funding of Private Organization for Operational Expenses or Sponsorship of Special Events"
Adopted by Resolution R-183022 03/09/1965
Amended by Resolution R-191654 09/21/1967
Amended by Resolution R-211279 08/08/1974
Amended by Resolution R-218061 04/05/1977
Amended by Resolution R-220777 05/01/1978
Amended by Resolution R-222451 12/19/1978
Amended by Resolution R-254157 05/11/1981
Amended by Resolution R-272990 03/06/1989
Retitled to "Transient Occupancy Tax" with inclusion of Policies 100-04, 100-11 and 100-13 by Resolution R-279227 01/06/1992
Amended by Resolution R-280380 07/21/1992
Amended by Resolution R-284044 06/06/1994
Amended by Resolution R-284698 10/03/1994
Amended by Resolution R-286076 07/17/1995
Amended by Resolution R-286991 03/04/1996
Amended by Resolution R-289773 02/24/1998
Amended by Resolution R-289774 02/24/1998
Amended by Resolution R-300814 09/12/2005

ATTACHMENT A 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 may only submit one TOT application to the City. An organization cannot apply for, or receive funding from, more than one category or subcategory of TOT. Applicant organizations must determine which one TOT category or subcategory best matches their program. City administrative staff can assist organizations in making that determination.

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. 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 alcoholic beverages. In addition, 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. Organizations receiving waivers may use City funds for travel, meals, or lodging within the following parameters:

   a. Travel – when use of public air carrier transport is required in order to perform the contractual scope of services to the City, City funds may be applied toward the equivalent of coach airfare only. City funds may not be applied toward any upgrades.

   b. Meals – when provision of meals is required in order to perform the contractual scope of services to the City, City funds may be applied toward a maximum of $50 per day per person for meals (excluding sales tax and a maximum 15% gratuity, which are also eligible expenses). This daily maximum is further limited by meal, as follows: $10, $15, and $25 are the maximum City funds that can be applied toward breakfast, lunch, and dinner, respectively, per person. If alcoholic beverages are consumed with meals, they may not be paid for with City funds. In the event that meals are provided to individuals who are not members of the funded organization within the scope of a business development meeting, documentation containing the purpose of the meeting, the benefit to the City, and a list of attendees must be provided to the City in order for City funding to be utilized.

   c. Lodging – when out-of-town lodging is required in order to perform the contractual scope of services to the City, City funds may be applied toward the equivalent of the cost of a standard room in a business class hotel, or toward the conference rates of the host hotel when attending a conference.

   d. Sponsorships – the City acknowledges the business requirement of event sponsorships by promotional organizations in order to market San Diego as a convention destination in a highly competitive market, and to attract businesses to the region. The primary objective of a funded organization's participation in such events is to gain exposure for San Diego and secure access to important decision makers representing prominent convention groups and businesses. Financial sponsorship of such events is an acceptable application of City funds. If alcoholic beverages are consumed during event sponsorships, they may not be paid for with City funds.

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, if applicable.

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 procedural guide.

D. Evaluation of Requests

1. All requests for support by private nonprofit organizations will be referred to the appropriate 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 Economic Development and Economic Development and Tourism Support. 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. Performance Reporting

Performance reporting shall be required of all funding recipients. Organizations receiving funding shall provide the Contract Administrator, each year, a Final Performance Report detailing the organization's progress towards meeting the goals and objectives outlined in the contract's scope of services. The Contract Administrator may require additional documentation to substantiate the information. The report shall also include a Statement of Compliance signed by the executive director or other chief executive officer of the organization, certifying that the organization has complied with the terms of the City's agreements. This information must be submitted within ninety (90) days of the end of that fiscal year.

G. Financial Disclosure

1. Any organization receiving $500,000 or more of TOT funding, when that funding represents more than 10 percent of the organization's annual budget, must include in their applications salary and wage ranges for each of their job classifications, including actual executive salaries and benefits packages applicable for the contract period, during the annual budget process each fiscal year. Organizations receiving less than $500,000 may voluntarily comply with these disclosure requirements.

2. Financial disclosure information shall be required of all funding recipients receiving $10,000 or more in City funds. 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 in the amount of $10,000 or more 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 City funded final budget approved through the application process and compared with the budgeted amounts.

   b) A statement of revenues and expenditures and a balance sheet of all funds received by the organization.

3. If City funding is $75,000 or greater, audited financial statements, including items a and b 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) and submitted to the Contract Administrator within one hundred-fifty (150) days of the end of that fiscal year. The Contract Administrator may grant extensions of up to thirty (30) days to these deadlines when deemed necessary, upon written request by the funded organization.

4. 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. City shall periodically monitor records of contracting organizations.

H. 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, at the discretion of the Contract Administrator.

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.