

DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL

OIG Project No. 17-I-02EBO

September 2017



Office of the Deputy Mayor for Planning and Economic Development

Review of the H Street N.E. Starburst Revitalization Grant (H Street Grant)



Guiding Principles

*Workforce Engagement * Stakeholders Engagement * Process-oriented * Innovation
* Accountability * Professionalism * Objectivity and Independence * Communication * Collaboration
* Diversity * Measurement * Continuous Improvement*

Mission

Our mission is to independently audit, inspect, and investigate matters pertaining to the District of Columbia government in order to:

- prevent and detect corruption, mismanagement, waste, fraud, and abuse;
- promote economy, efficiency, effectiveness, and accountability;
- inform stakeholders about issues relating to District programs and operations; and
- recommend and track the implementation of corrective actions.

Vision

Our vision is to be a world class Office of the Inspector General that is customer-focused, and sets the standard for oversight excellence!

Core Values

Excellence * Integrity * Respect * Creativity * Ownership
* Transparency * Empowerment * Courage * Passion
* Leadership



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



September 19, 2017

Brian Kenner
Deputy Mayor for Planning and Economic Development
Office of the Deputy Mayor for Planning and Economic
Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004

Dear Deputy Mayor Kenner:

This letter serves as our final report entitled the *Review of the H Street N.E. Starburst Revitalization Grant (H Street Grant)* (OIG Project No. 17-I-02EBO). My Office performed this review as a part of our ongoing efforts to proactively address fraud, waste, abuse, and mismanagement risks related to grants issued by the District of Columbia. This report aggregates the results of the OIG's review of the subject grant and the subsequent constructive exchanges that have occurred between the Office of the Inspector General (OIG) and the Office of the Deputy Mayor for Planning and Economic Development (DMPED) staff.


On July 28, 2017, we provided DMPED with our observations and included seven recommendations designed to strengthen grant management and oversight (Attachment A). On August 11, 2017, you responded to our observations and recommendations, to include actions underway that appear to meet the intent of our recommendations (Attachment B). Also, in your letter, you requested the removal of "the suggestion of a possible violation unless [the OIG] . . . found evidence of a specific violation" as it relates to the disbursement of grant funds.

Because of your request, the OIG's General Counsel contacted both your General Counsel and Deputy General Counsel and provided the OIG's analysis of the applicable D.C. Code sections regarding applicability to the H Street Grant disbursements. On September 1, 2017, we provided you a letter that included the OIG's analysis of DMPED's concerns and a summary of the constructive dialogue that has occurred between our two Offices regarding this issue (Attachment C). We requested DMPED provide any supplemental information related to its concerns and/or an amendment to its August 11, 2017, response. To date, we have received no additional supplemental information from DMPED. As such, we consider our initial observations to stand.

Deputy Mayor Kenner
Review of the H Street N.E. Starburst
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We appreciate the cooperation and courtesies extended to our staff during this review. If you have any questions concerning this report, please contact me or Edward Farley, Assistant Inspector General for Inspections and Evaluations, at (202) 727-2540.

Sincerely,


Daniel W. Lucas
Inspector General

DWL/mnw

Enclosure

cc: See Distribution List

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Attachment A – OIG’s Observations and Recommendations to DMPED

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



July 28, 2017

Brian Kenner
Deputy Mayor for Planning and Economic Development
Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004

Dear Deputy Mayor Kenner:

This letter is to inform you of the results of our review of the H Street N.E. Starburst Revitalization Grant (H Street grant) (OIG Project No. 17-I-02EB0). The objectives of this review were to: 1) examine the grant application and award process and grantee’s compliance with grant agreement requirements; 2) identify any grant oversight weaknesses that could increase the potential for fraud, waste, and abuse; and 3) where applicable, make recommendations for improving grant program effectiveness and administration to ensure that grant fund expenditures achieve the desired results.

This letter summarizes our observations and suggested improvements to strengthen your office’s grant program administration and oversight. These observations and suggested improvements resulted from our review of H Street grant activities in fiscal years (FYs) 2016 and 2017.

BACKGROUND

On August 30, 2016, Office of the Deputy Mayor for Planning and Economic Development (DMPED) authorized a \$500,000 grant from the H Street Retail Priority Area Grant Fund¹ to H Street Main Street, Inc. (HSMS). The period of performance specified in the grant agreement began on August 30, 2016, and ended on September 30, 2016. According to the Scope of Work, HSMS was expected “to establish and implement a plan that will organize and coordinate marketing and other promotion efforts in the tri-corridors of Bladensburg Rd, Benning Rd, and H Street; to provide technical assistance to corridor businesses; and to repair, maintain and activate the Starburst Plaza and combat crime, drug usage, and loitering in this area.” Technical assistance was to include one-on-one consultations with small business owners on matters such as accounting, bookkeeping, marketing strategy, advertising, visual merchandising, and website creation. The Request for Applications (RFA) listed various programmatic activities funded by the grant, such as “a farmers market, flea market, retail pop-ups including holiday shops, public art, and family-oriented events with outdoor movies and live entertainment[.]”

¹ D.C. Code § 1-325.172(a) states that “[t]here is established as a nonlapsing fund outside the General Fund of the District of Columbia a fund designated as the H Street Retail Priority Area Grant Fund. The Chief Financial Officer shall pay upon April 8, 2011, an amount not to exceed \$5 million annually, but not to exceed \$25 million in the aggregate, of the H Street Real Property Tax Increment Revenue and the H Street Sales Tax Increment Revenue into the H Street Retail Priority Area Grant Fund.”

Brian Kenner, Office of the Deputy Mayor for Planning and
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OBSERVATIONS

There are numerous areas that the OIG team believes DMPED must improve within its grant administration and oversight processes. Specifically, we observed:

- lack of coordination and undefined roles among: 1) the business development and strategy team; and 2) the administrative grants team;
- DMPED communications with the grantee prior to the issuance of the RFA regarding RFA details, which could create the appearance of favoritism, collusion, or a lack of full, open, and fair competition;
- lack of policies and procedures regarding grant fund distribution and advancement, and grant funding disbursement practices that may have violated D.C. Code;
- lack of consensus and policies regarding grant monitoring procedures, specifically, if they differ depending on whether all funding is provided at the beginning of the performance period or released in stages during the performance period, which could result in inconsistent oversight and higher risk to the District;
- failure to vet the grantee's supporting invoices, expense reports, and other documentation to detect inaccuracies, misstatements, or inappropriate spending;
- failure to issue a close-out or grant amendment, resulting in funds being expended outside of the grant's stated period of performance;
- lack of adherence to, or knowledge of, DMPED policies and procedures (e.g., multiple irregularities observed with respect to the grant application process, including not closely following required deadlines nor adhering to information required by forms and templates); and
- the need for a central repository of grant award information that could help District grantors and oversight entities prevent and detect instances where grantees aim to defraud the District by receiving duplicative grants.

RECOMMENDATIONS

To strengthen its grant administration and oversight, DMPED should:

1. Establish a written plan and/or internal job tool defining grant monitoring roles between: a) the business development and strategy team; and b) the administrative grants team, to ensure that all grant-related monitoring duties are clearly assigned.
2. Ensure DMPED employees understand and acknowledge that they may not communicate to potential grantees information about planned RFAs that is not publicly available, to ensure

Brian Kenner, Office of the Deputy Mayor for Planning and
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that RFAs are developed independently and without improper consultation with a potential grantee.

3. Establish and implement written policies and procedures with respect to grant fund disbursement that comply with current D.C. Code provisions.
4. Consistently conduct and document oversight of grantees' performance regardless of when grant funds are disbursed to the grantee, to include timely, critical evaluations of supporting invoices, expense reports, other deliverables, and general performance measures. Grant monitoring personnel should have duties that are separate from the grant's program/fiscal management, technical assistance, and any other function related directly to grant administration, and monitoring personnel should document their observations and prepare written reports to communicate findings and concerns.
5. Review all active DMPED grants, and institute an automatic notification system to ensure that grant close-outs and amendments are timely executed, when needed.
6. Train employees on existing policies and procedures to ensure that irregularities with respect to grant forms and templates are reduced or eliminated.
7. Coordinate with the Office of Partnerships and Grant Services (OPGS) to create a searchable repository of grant award information that would help District entities prevent and detect duplicative grant spending.

Please provide a written response to this letter by August 11, 2017. Upon a future reevaluation of DMPED, we will assess whether all of the conditions cited in this letter have been addressed.

If you need additional information, please call me at (202) 727-2540.

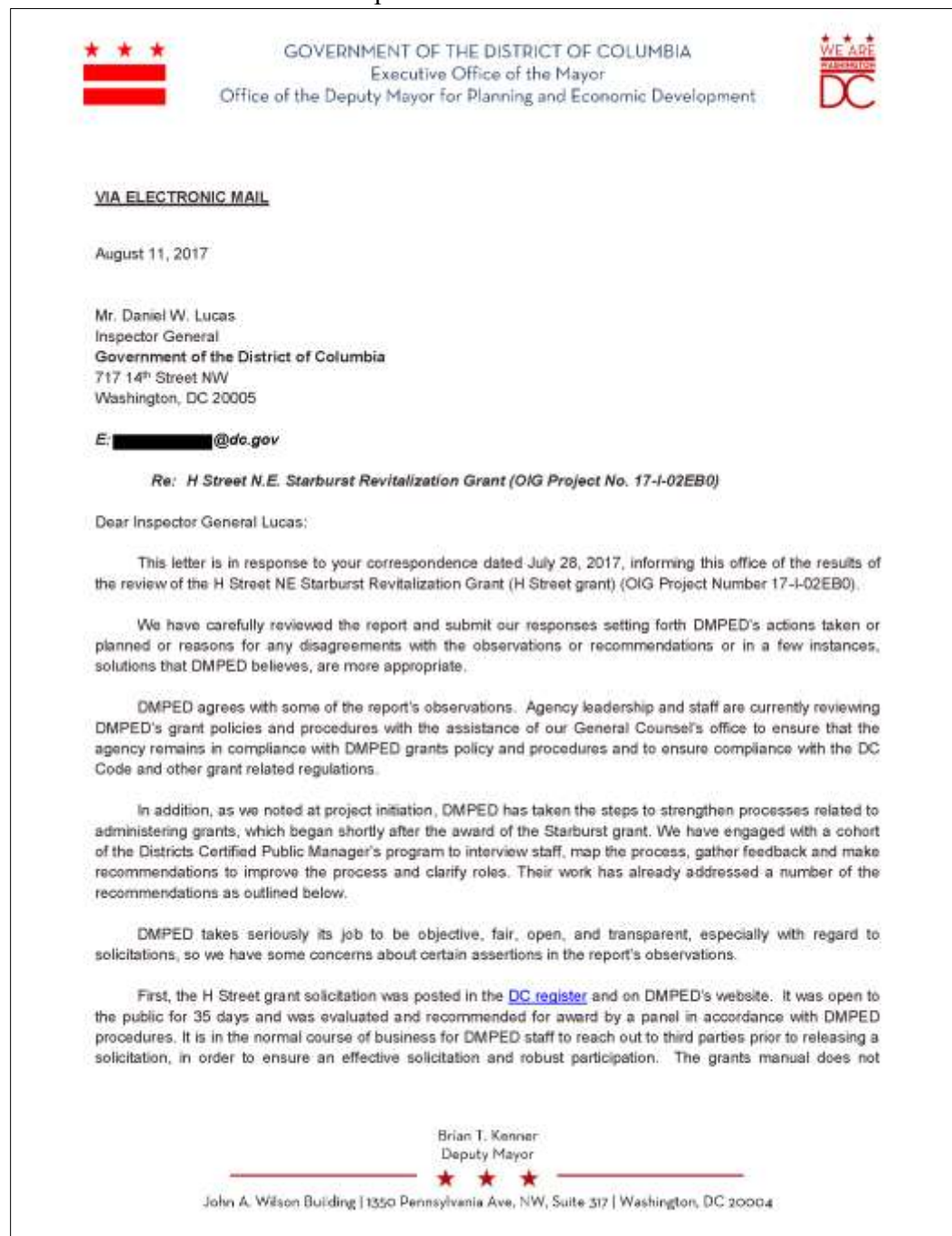
Sincerely,


Daniel W. Lucas
Inspector General

DWL/ef

cc: Rashad M. Young, City Administrator, District of Columbia (via email)
The Honorable Phil Mendelson, Chairman, Council of the District of Columbia (via email)
The Honorable Kenyan McDuffie, Chairperson, Committee on Business and Economic
Development, Council of the District of Columbia (via email)
The Honorable Kathleen Patterson, District of Columbia Auditor, Office of the D.C. Auditor
Attention: Cathy Patten (via email)

Attachment B – DMPED’s Response to OIG Observations and Recommendations



Mr. Daniel W. Lucas
August 11, 2017
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prohibit this communication and no non-public information is shared about the proposed solicitation and was not for this solicitation.

Second, DMPED has reviewed the H Street grant documentation and believes the disbursement of the grant funds did not violate the D.C. Code. We ask you to remove the suggestion of a possible violation unless you have found evidence of a specific violation.

Finally, DMPED reviews all submitted invoices and expense reports for the Grantee's expenditure of disbursed grant funds to ensure compliance with the grant agreement.

We submit the following responses to the report's recommendations:

1. Establish a written plan and/or internal job tool-defining grant monitoring roles between: a) the business development and strategy team; and b) the administrative grants team, to ensure that all grant-related monitoring duties are clearly assigned.

DMPED's Response: As noted above, the agency has taken the steps to strengthen processes related to administering grants, which began shortly after the award of the Starburst grant.

2. Ensure DMPED employees understand and acknowledge that they may not communicate to potential grantees information about planned RFAs that is not publicly available, to ensure that RFAs are developed independently and without improper consultation with a potential grantee.

DMPED's Response: It is in the normal course of business for DMPED staff to reach out to third parties prior to releasing a solicitation, in order to ensure an effective solicitation and robust participation. The grants manual does not prohibit this communication and no non-public information is shared about the proposed solicitation and was not for this solicitation.

Additionally, DMPED is currently developing an agency Grant Manager's Technical Representative training module to ensure proper education of the responsibilities for monitoring, documenting, reviewing and approving grant activities. The training will advise of prohibited activities.

3. Establish and implement written policies and procedures with respect to grant fund disbursement that comply with current D.C. Code provisions.

DMPED's Response: The agency is working with our General Counsel's office to ensure compliance with this recommendation. Additionally, we continue to increase our frequency of internal coordination by conducting staff trainings and updating existing policies and procedures.

4. Consistently conduct and document oversight of grantees' performance regardless of when grant funds are disbursed to the grantee, to include timely, critical evaluations of supporting invoices, expense reports, other deliverables, and general performance measures. Grant monitoring personnel should have duties that are separate from the grant's program/fiscal management, technical assistance, and any other function related directly to grant administration, and monitoring personnel should document their observations and prepare written reports to communicate findings and concerns.

DMPED's Response: DMPED is currently developing an agency Grant Manager's Technical Representative training module to ensure proper education of the responsibilities for monitoring, documenting, reviewing and approving grant activities. We contend that consistency and clarity with



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respect to the agency's grant policies and procedures and other District grant related procedures is essential to achieving full compliance and implementation of best practices.

5. Review all active DMPED grants, and institute an automatic notification system to ensure that grant closeouts and amendments are timely executed, when needed.

DMPED's Response: DMPED will send notifications to grantees regarding the closeout requirement. Closeout reports will be due within 120 days of the grant expiration date. Currently, the agency is executing timing grant amendments in most cases. The agency will continue to monitor grant amendment execution for improvement.

6. Train employees on existing policies and procedures to ensure that irregularities with respect to grant forms and templates are reduced or eliminated.

DMPED's Response: We continue to increase our internal coordination by conducting increased frequency of staff training and updating the agency's existing policies and procedures. We have also implemented the use of standardized templates to ensure that all required information is being collected in accordance with the established rules and regulations.

7. Coordinate with the Office of Partnerships and Grant Services (OPGS) to create a searchable repository of grant award information that would help District entities prevent and detect duplicative grant spending.

DMPED's Response: The agency has identified a central location for our grant awards and this information can be shared with agencies. We also have a liaison working with the Office of the City Administrator and OPGS to develop a District-wide grants system to coordinate grant awards among agencies.

Thank you again for your review and recommendations. DMPED is committed to ensuring continued improvement of our grants programs and compliance with the established policies and procedures. We continuously seek to ensure the best and most effective use of District funds to help with our mission of growing jobs, affordable housing, and tax revenues in the city.

Sincerely,



Brian T. Kenner
Deputy Mayor

BTK/jm

Cc: The Honorable Kenyan McDuffie, Chairperson, Committee on Business and Economic Development,
Council of the District of Columbia (via email)
The Honorable Phil Mendelson, Chairman, Council of the District of Columbia (via email)
The Honorable Kathleen Patterson, District of Columbia Auditor, Office of the D.C.
Auditor Attention: Cathy Patten (via email)
Rashad M. Young, City Administrator, District of Columbia (via email)



Attachment C – OIG’s Analysis Provided to DMPED

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



September 1, 2017

Brian Kenner
Deputy Mayor for Planning and Economic Development
Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004

Dear Deputy Mayor Kenner:

Thank you for your August 11, 2017, letter sent in response to the Office of the Inspector General’s (OIG) review of the H Street N.E. Starburst Revitalization Grant (H Street Grant) (OIG Project No. 17-I-02EBO). In your letter, you noted several disagreements with the OIG’s observations. This letter provides the OIG’s analysis of DMPED’s disagreements and memorializes constructive dialogue that has occurred between our two Offices since August 11, 2017.

First, I would like to point out what the OIG believes is an inaccurate statement. Your letter states that the H Street Grant solicitation “was open to the public for 35 days....” The H Street Grant’s “Request for Applications (RFA)” provided by your office shows a “release date” of April 1, 2016, and a submission deadline of April 22, 2016, which is a period of 22 days.¹ The OIG is not aware of an extension to the submission deadline that would have created a 35-day open period to the public.

Second, I will address a request communicated in your letter. On page two you wrote:

DMPED has reviewed the H Street grant documentation and believes the disbursement of the grant funds did not violate the D.C. Code. We ask that you remove the suggestion of a possible violation unless you have found evidence of a specific violation.

The OIG believes that D.C. Code §§ 1-325.173(d)(1) and 2-1217.73b(b)(4)(A) did not permit a lump sum disbursement of the H Street Grant funding.² The D.C. Council enacted emergency legislation effective July 20, 2016 – the Fiscal Year 2017 Budget Support Emergency Act of 2016 (Act).³ Title II, Subtitle N of the Act, referred to as the “Retail Priority Area Emergency Amendment Act of 2016,” amended the H Street, N.E., Retail Priority Area Incentive Act of 2010, Section 4 (codified at D.C. Code § 1-325.173(d)) and the Retail Incentive Act of 2004, Section 4b(b) (codified at D.C. Code § 2-1217.73b(b)) by adding a subsection that states: “[a] grant made available under this section shall be divided into thirds or fourths and disbursed accordingly in allotments to a grantee.”

¹ The DMPED-OAG Grants Manual requires that the deadline for submitting applications be “at least thirty (30) days after RFA release[.] This period may be shortened by DMPED policy or rule as evidenced in a Justification Memorandum signed by the Deputy Mayor[.]”

² H Street Main St., Inc. received the entirety of the grant award, \$500,000, in September 2016.

³ The D.C. Council enacted A21-0463 following approval by the Mayor.

Letter to Deputy Mayor Brian Kenner
Response to DMPED's Letter Concerning
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On August 22 and 23, 2017, the OIG's General Counsel communicated with both your General Counsel and Deputy General Counsel, and provided the above analysis of the aforementioned D.C. Code sections regarding applicability to the H Street Grant. To date, DMPED maintains that the H Street Grant is not subject to the disbursement requirements, as noted in an August 23, 2017, email reply:

[b]oth of these provisions were adopted as part of the Fiscal Year 2017 Budget Support Act of 2016 (D.C. Law 21-160), which was effective as of October 8, 2016.... [T]he subject grant was awarded prior (emphasis in the original) to the effective date of provisions addressing the timing of disbursement. Accordingly, the grant is not subject to these disbursement requirements.

We disagree with DMPED's position and note that the Fiscal Year 2017 Budget Support Emergency Act of 2016 (A21-0463) was effective July 20, 2016, and expired on October 18, 2016. There was no need for temporary legislation because the permanent legislation, (i.e., the Fiscal Year 2017 Budget Support Act of 2016 (L21-0160)) was enacted effective October 8, 2016. As such, there was no gap between the emergency legislation (A21-0463) and the permanent law (L21-0160). A21-0463 was effective on an emergency basis from July 20, 2016 – October 18, 2016. The permanent law (L21-0160) was effective from October 8, 2016.

Accordingly, DMPED's \$500,000 grant award in September 2016 to H Street Main St., Inc. should have been disbursed in allotments as set forth in D.C. Code §§ 1-325.173(d)(1) and 2-1217.73b(b)(4)(A) because A21-0463 amended these D.C. Code sections on an emergency basis effective July 20, 2016 through October 18, 2016, as set forth above. These D.C. Code provisions as amended did not permit lump-sum disbursement of the grant award in September 2016.

In closing, our letters dated July 28, 2017, and September 1, 2017, will be combined with all responses provided by DMPED into a single document and posted publically on the OIG's website. If you would like to provide additional information on either of these points or amend/clarify your initial response to my Office's review of the H Street Grant, kindly submit your response by September 8, 2017. Absent supplemental information from DMPED, I will consider our observations initially communicated to you on July 28, 2017, to stand.

Thank you in advance for your cooperation.

Sincerely,



Daniel W. Lucas
Inspector General

DWL/ef

cc: See Distribution List

Letter to Deputy Mayor Brian Kenner
Response to DMPED's Letter Concerning
OIG Project No. 17-I-02EBO
September 1, 2017
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Attention: Cathy Patten (via email)