

State of Delaware Office of Auditor of Accounts

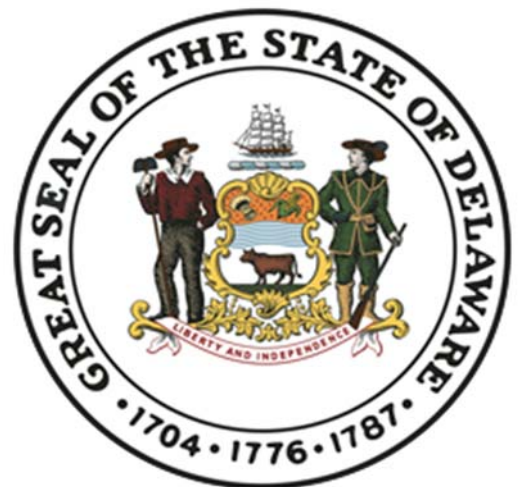
Wilmington City Council Discretionary Fund

**For the Period
January 2017 through June 2017**

Special Investigation



R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts





State of Delaware
Office of Auditor of Accounts
R. Thomas Wagner, Jr., CFE, CGFM, CICA
At a Glance

Working Hard to Protect YOUR Tax Dollars

Why We Did This Investigation

The Office of Auditor of Accounts (AOA) received a request to examine the Wilmington City Council's discretionary fund from Hanifa Shabazz, Council President, on August 28, 2017.

Ms. Shabazz requested that we perform procedures to determine whether a 2017 grant to the Police Athletic League of Wilmington was in accordance with City Code requirements.

This was the only grant over \$5,000 during the period January 1, 2017 to June 30, 2017.

This investigation was performed in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Investigations*.

For further information on this release, please contact:

R. Thomas Wagner, Jr.
CFE, CGFM, CICA
(302) 739-5055

What We Found

Disbursements from the Wilmington City Council's discretionary fund are subject to various City Code sections. The City of Wilmington's Code related to conflicts of interest and political activities includes restrictions on the exercise of official authority, representing another's interest before the city, and post-employment restrictions. These provisions are deemed so vital to public trust that Wilmington's Code includes criminal sanctions to any person who knowingly and willingly violates these provisions.

As a result of this investigation, we determined that the 2017 grant to the Police Athletic League of Wilmington, subsequently disbursed to Student Disabilities Advocate, Inc. (SDA), was not in accordance with Wilmington's City Code related to conflicts of interest, post-employment restrictions, and other grant requirements due to the following:

- The former Council President, in his capacity as SDA's founder, reinstated SDA as a registered non-profit organization on October 13, 2016, which was one month after his unsuccessful bid for Wilmington Mayor.
- The former Council President "earmarked" the remaining balance of the discretionary fund for SDA less than two months before his City Council term ended.
- The current Council President did not perform procedures or inquiries to ensure conflicts of interest did not exist.
- SDA did not comply with the reporting requirement to provide the number of advocacy cases on a monthly basis.
- The Council President approved the processing of a second grant to SDA in July 2017 despite having knowledge that the former Council President was the program manager. However, as of January 18, 2018, this grant was not disbursed.

The conduct of elected officials, including Council members, must hold the respect and confidence of the people. Council members must be good stewards of the taxpayer's assets, uphold the laws of the City, and follow its rules. Due to the findings in this report, we recommend that Council and the City of Wilmington consider performing a review of all funds granted since 2014, when City Council increased the discretionary fund.

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Abbreviations

AOA	Auditor of Accounts
PALW	Police Athletic League of Wilmington
SDA	Student Disabilities Advocates, Inc.

Background and Scope of Investigation

On August 28, 2017, the Wilmington City Council (Council) President, Hanifa Shabazz, formally requested that the Office of Auditor of Accounts (AOA) examine the Council's discretionary fund. Ms. Shabazz explained that she wanted AOA to examine only the discretionary fund disbursements initiated after she took office as Council President in January 2017. Further, Ms. Shabazz stated that she wanted the scope of our review to include only one grant to the Police Athletic League of Wilmington (PALW).

According to its staff, the Council controls an annual discretionary fund of \$432,000. Each council member is given \$10,000 to grant to organizations and to award to individuals for scholarships. The president controls the remaining \$312,000. All grants over \$5,000 are subject to the Wilmington City Code of Ordinances (City Code) Section 2-368, *Allocation of Grants*.

Beginning Fiscal Year 2014, the discretionary fund was increased by \$250,000. City Council increased this fund during Theopolis (Theo) Gregory's tenure as Council President "to fund youth initiatives and other special projects of interest to the Council." According to media reports at the time, it was a contentious line item addition and resulted in a veto by then-Mayor Dennis P. Williams. However, Council overrode the veto and the discretionary fund was increased. The Council President controlled these additional funds.

Since all grants over \$5,000 are subject to the full City Code requirements for discretionary grants, AOA determined that the scope of the investigation would include all Council discretionary fund disbursements over \$5,000 between January 1, 2017 and June 30, 2017. According to the records provided by the Council and the City of Wilmington's (the City) Department of Finance, the grant to the PALW was the only grant over \$5,000 during the period. This grant for \$40,000 in total was distributed in two equal installments, which were distributed in January and March 2017. The grant was intended to fund a pilot program for Student Disabilities Advocate, Inc. (SDA), a non-profit founded by the former Council President Theo Gregory. According to the grant award, the grant's primary purpose is to "educate and assist both parents and students in the inner City regarding the rights and entitlements of students with learning disabilities and students that are homeless."

Wilmington City Code of Ordinances

The sections of the City Code we identified as part of this investigation are listed below in Figure 1. This criteria will be referenced in further detail throughout the report. Additionally, the full text of each section can be found in Appendix A.

Figure 1: Relevant City Code sections

Wilmington City Code Section 2-340 – Prohibitions relating to conflicts of interest and political activities

- (a) Restrictions on exercise of official authority
- (b) Restrictions on representing another's interest before the city
- (d) Postemployment restrictions

Wilmington City Code Section 2-368 – Allocation of grants

Wilmington City Code Section 2-685 – Review of City Contracts

- (a) Authority to audit
- (b) Right to audit

See Appendix A for the complete Code sections.

As part of the grant funds disbursement process, the Council President reviews and approves the City Council Member Budget Appropriations Form and the Wilmington City Council Grant Application. These forms are available at Appendices C and D, respectively. The applicable provisions of the City Code sections are included on the Council Member Budget Appropriations Form.

Two excerpts from the City Council Member Budget Appropriations Form and the Wilmington City Council Grant Award document are pictured below in Figures 2 and 3. The complete documents are available at Appendices D and E, respectively.

Figure 2: City Council Member Budget Appropriations Form

My signature below certifies the following:

- The recipient is a non-profit organization
- I, nor any member of my immediate family, is any way affiliated with the recipient in a paid or volunteer capacity
- There are no known conflict of interest
- The appropriation is not contingent upon any expressed or implied actions by myself or the recipient
- Funds given to religious institutions are for secular purposes only



Signature of Council President

Figure 3: Requirements per Wilmington City Council Grant Award Document

Grant Requirements:

- Must document performance and outcome measures for program
- Must provide quarterly report identifying how program/activity met goals and objectives as outlined in request for fund attached document
- Must provide midterm (by 3/31/17) and final detailed financial report (by 6/30/17) to City Council on program with supporting statistics on overall program results inclusive of a budget justifying all expenditures to [REDACTED]@wilmingtonde.gov as well as any other reports that could be requested
 - i. Report must track number of advocacy cases (monthly basis)
 - ii. Report must identify performance measures to determine success measures of the program
- Funds are to be used for the purpose of this grant only
- Any unused funds at the end of the grant period must be returned to the City and or you must have prior authorization to use any remaining funds beyond the allotted grant time frame
- If any of the above requirements are not adhered to, the organization will be ineligible for future grants, and could potentially default the remaining year grant funds
- Must adhere to Ordinance # 02-014 pertaining to any grant applicant seeking funding from the City and to Ordinance #06-034 pertaining to City auditing process
- Must be current on all debts obligations to the City of Wilmington
- Must have a valid City of Wilmington Business License

Procedures and Results

Table 1 below summarizes the results of our review of the documentation maintained by the Council for compliance with the City Code, City Council Member Budget Appropriations Form, and the Wilmington City Council Grant Award document. Detailed results of each item are described below the table.

Table 1: Summary of Results

	Criteria	Criteria Met?		
		Yes	No	Partially
1	The recipient is a non-profit organization.	X		
2	I [Council President], nor any member of my immediate family, [am not in] any way affiliated with the recipient in a paid or volunteer capacity.	X		
3	There are no known conflict [sic] of interest. The appropriation is not contingent upon any expressed or implied actions by myself [Council President] or the recipient.		X	
4	Funds given to religious organizations are for secular purposes only.	X		
5	[The grantee] must document performance and outcome measures for [the] program [and] must provide quarterly report[s] identifying how [the] program/activity met goals and objectives as outlined in [the] request for [funding]. [The grantee] must provide midterm (by 3/31/17) and final detailed financial report (by 6/30/17) to City Council on [the] program with supporting statistics on [the] overall program results inclusive of a budget justifying all expenditures to [the designated Council representative], as well as any other reports that could be requested. i. Report must track number of advocacy cases (monthly basis). ii. Report must identify performance measures to determine success measures of the program.			X
6	Funds are to be used for the purpose of this grant only. Any unused funds at the end of the grant period must be returned to the City and or [sic] you must have prior authorization to use any remaining funds beyond the allotted grant time frame.	X		
7	If any of the above requirements [Criteria #5 and 6] are not adhered to, the organization will be ineligible for future grants, and could potentially default the remaining year grant funds.		X	
8	[The grantee] must adhere to Ordinance #02-014 pertaining to any grant applicant seeking funding from the City and to Ordinance #06-034 pertaining to [the] City auditing process [this code addresses the granting City Department and City Auditor's authority to audit all City contracts and right to audit, regardless of monetary size].		X	
9	[The grantee] must be current on all debts obligations [sic] to the City of Wilmington [and] must have a valid City of Wilmington Business License.	X		

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Criteria #1 - meets criteria

The recipient is a non-profit organization.

The grant disbursements were made to the PALW. The PALW is a 501(c)(3) organization.

Criteria #2 - meets criteria

I [Council President], nor any member of my immediate family, [am not in] any way affiliated with the recipient in a paid or volunteer capacity.

We found no evidence that the Council President, Hanifa Shabazz, is affiliated with the recipient in a paid or volunteer capacity.

Criteria #3 – does not meet criteria

There are no known conflict [sic] of interest. The appropriation is not contingent upon any expressed or implied actions by myself [Council President] or the recipient.

2-340 (a) *Restrictions on exercise of official authority.*

In evaluating this City code section, we considered the following:

- Theo Gregory applied for SDA's reinstatement with the State of Delaware Division of Corporations on October 13, 2016, while he was still serving as Council President. He signed the State of Delaware Certificate for Revival of Charter as the non-profit corporation's "Authorized Officer."
- On November 10, 2016, the former Council President emailed the then Council President-elect, Hanifa Shabazz, and Council Chief Financial Officer & Policy Advisory from a personal email account to notify them that their emails to Council members "... did not make it clear that 40,000 ... is earmarked for SDA." That amount was substantially all that remained of Council's discretionary fund at that time.
- PALW formally applied for grant monies on behalf of SDA in a letter dated January 4, 2017, the day after the current Council President was sworn into office and Theo Gregory was relieved of his Councilman position and duties.
- The former Council President's daughter was elected as SDA Board President on March 7, 2017, according to the board meeting minutes for that date.

2-340(b) *Restrictions on representing another's interest before the city.*

In evaluating this City code section, we considered the following:

- As stated above, the former Council President reinstated SDA during his term of office.
- As noted above, the former Council President designated substantially all of the remaining balance of Council's discretionary fund as "earmarked" for SDA two months before his City Council term ended.
- Council staff sent the "draft grant application for the Student Disabilities Advocate Program" as an email attachment on December 29, 2016, to the then Council President-elect and former Council President, who was still in office.¹

¹ The attachment was not provided to us.

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- Theo Gregory called SDA's first board meeting to order on February 7, 2017, acting in his capacity of authorized officer of the non-profit corporation. This was approximately one month after the PALW submitted its grant request on behalf of SDA.
- The former Council President acknowledged that he was the program manager of SDA during the grant period in an email to Council, which included the current Council President, on June 8, 2017. According to the budget included in the grant request from the PALW, \$20,000 was requested to fund the program manager's salary.

2-340(d) Postemployment restrictions.

In evaluating this City code section, we evaluated the following:

- The former Council President, by his own admission, served as SDA's Program Manager in the months immediately following his term of office in Council. The City Code restricts former elected officials from representing or assisting any private enterprise on any matter involving the city for a two-year period.
- As stated above, the PALW grant on behalf of SDA was dated the day after the former Council President left office.

In addition, we interviewed the current Council President, Hanifa Shabazz, to determine how she confirmed this criteria before the grant was awarded. She shared the following:

- She was aware of the former Council President's involvement in SDA.
- She knew he was using SDA as a vehicle for providing services, but she did not know the roles and responsibilities of the individuals.
- Regarding the grant requirements on the City Council Member Budget Appropriations Form, which cover conflicts of interest in addition to the administrative requirements, she stated that she delegates all of those requirements to staff, and she does not perform any activities or inquiries prior to approving grants.

Further, we noted that the current Council President approved the processing of another grant to SDA on July 14, 2017, approximately one month after the former Council President acknowledged via email that he was SDA's program manager. The approval was emailed a few hours before a local newspaper released a story regarding the discretionary fund. Per interviews conducted with Council on January 18, 2018, this disbursement was not completed.

Criteria #4 - meets criteria

Funds given to religious institutions are for secular purposes only.

The PALW is not a religious organization.

Criteria #5 – partially meets criteria

[The grantee] must document performance and outcome measures for [the] program [and] must provide quarterly report[s] identifying how [the] program/activity met goals and objectives as outlined in [the] request for [funding]. [The grantee] must provide midterm (by 3/31/17) and final detailed financial report (by 6/30/17) to City Council on [the] program with supporting statistics on [the] overall program results inclusive of a budget justifying all expenditures to [the designated Council representative], as well as any other reports that could be requested.

- Report must track number of advocacy cases (monthly basis).*
- Report must identify performance measures to determine success measures of the program.*

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Our review of the City's grant documentation found the following:

- PALW submitted the quarterly reports on behalf of SDA prior to March 31, 2017 and June 30, 2017 as required.
- The midterm report listed four advocacy cases to date, but did not provide the number of advocacy cases per month, as required.
- The final report did not provide any information regarding the number of advocacy cases.
- The two reports do not explicitly state what performance measures determine success; however, there is much detail regarding the status of various marketing activities.

Criteria #6 – meets criteria

Funds are to be used for the purpose of this grant only. Any unused funds at the end of the grant period must be returned to the City and or [sic] you must have prior authorization to use any remaining funds beyond the allotted grant time frame.

In evaluating this criteria, we considered the following:

- The final report submitted by PALW provided spending in broad categories, which appear appropriate for the activities described in the grant application.
- On June 27, 2017, the Executive Director of PALW, who is the named applicant on the grant application, requested the continued use of the remaining available funds of \$10,432 to fund SDA's payroll through July 22, 2017.

Criteria #7 – does not meet criteria

If any of the above requirements [Criteria #5-6] are not adhered to, the organization will be ineligible for future grants, and could potentially default the remaining year grant funds.

Our review of the City's documentation found the following:

- SDA did not meet all reporting requirements. See Criteria #5.

Criteria #8 – does not meet criteria

[The grantee] must adhere to Ordinance #02-014² pertaining to any grant applicant seeking funding from the City and to Ordinance #06-034³ pertaining to [the] City auditing process [this code addresses the granting City Department and City Auditor's authority to audit all City contracts and right to audit, regardless of monetary size].

Our procedures performed resulted in the following:

- See Criteria #5-6 for results of procedures related to #2-368(5) through (7), (formerly Ordinance #02-014).
- See Criteria #9 below for results of procedures related to Ordinance #2-368(2), (formerly Ordinance #02-014).
- We contacted the former Council President to discuss the Council's discretionary fund and SDA's grant award and notified him that we were authorized by Council to conduct these procedures. Our phone calls and emails were not returned.

² This was revised; it is currently included in Ordinance #2-368, *Allocation of Grants*. See Appendix A.

³ This was revised; it is currently included in Ordinance #2-685, *Review of City Contracts*. See Appendix A.

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- We contacted the PALW to discuss the \$40,000 in funding received from Council and notified the PALW that we were authorized by Council to conduct these procedures. Our phone calls and emails were not returned.

Criteria #9 – meets criteria

[The grantee] must be current on all debts obligations [sic] to the City of Wilmington [and] must have a valid City of Wilmington Business License.

The City's staff confirmed the status of PALW before the grant was awarded.

Conclusion

The conduct of the City's elected officials, including Council members, must hold the respect and confidence of the people. Council members must be good stewards of the taxpayer's assets, uphold the laws of the City, and follow its rules.

Disbursements from the Council's discretionary funds are subject to various City Code sections. The City Code's prohibition related to conflicts of interest and political activities include restrictions on the exercise of official authority, representing another's interest before the city, and post-employment restrictions. These provisions are deemed so vital to public trust that the City's Code includes criminal sanctions to any person who knowingly and willingly violates those provisions.

We acknowledge Council's mission to support programs that will address the needs of Wilmington's residents. Due to the findings in this report, we recommend that Council and the City consider performing a review of all dollars granted since 2014, when the discretionary fund was increased.

Appendix A: City of Wilmington Code of Ordinances

Section 2-340 – Prohibitions relating to conflicts of interest and political activities

(a) Restrictions on exercise of official authority

(1) No city employee, officer or honorary city official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

(b) Restrictions on representing another's interest before the city

(1) No city employee, officer or honorary city official may represent or otherwise assist any private enterprise with respect to any matter before the city agency with which the employee, officer or official is associated by employment or appointment.

(d) Postemployment restrictions

No person who has served as a city employee, city officer or honorary city official shall represent or otherwise assist any private enterprise on any matter involving the city, for a period of two years after termination of his employment or elected or appointed status with the city, if he gave an opinion, conducted an investigation, or otherwise was directly and materially responsible for such matter in the course of his official duties as a city employee, officer or honorary official.

Section 2-368 – Allocation of grants

Any grant applicant seeking funding from the city in an amount that exceeds \$5,000.00 must agree to the following:

- (1) To submit a letter of request outlining the intended uses of the funds.
- (2) To submit adequate proof, as determined by the director of finance, that there are no delinquent fees, taxes or other monies that are owed to the city. No grant funds shall be disbursed by the city to any grantee until all delinquent fees, taxes or other monies owed to the city by such grantee have been paid in full, unless the applicant has a payment agreement with the city. No applicant shall be eligible for a grant who is delinquent in payments under a current payment agreement with the finance department's revenue enforcement division.
- (3) To identify a contact person of the applicant who can answer questions regarding information submitted on the application.
- (4) To submit to the city auditor any budget or financial statements (audited when available) and all required attachments thereto.

- (5) To return to the city any grant funds remaining as a direct result of the termination of all or part of the program/activity for which the city funding has been provided.
- (6) Not to dispose of any surplus funds without the prior written approval of the city department providing the grant program.
- (7) To submit to the city auditor and the department overseeing the grant program a brief quarterly report identifying how the program/activity met its goals and objectives and to provide a financial accounting of the grant program funds. Such reports must be submitted during the grant program and at the conclusion when all funds have been expended.
- (8) Grantee shall acknowledge, via signature, its understanding of and intent to comply with the provisions of this section.
- (9) Failure to comply with the provisions of this section may result in revocation of the grant.

Wilmington City Code Section 2-685 – Review of city contracts

(a) Authority to audit.

- (1) The city auditor and the director of the city department administering any city contract for goods or services to be provided to the city (“city contract”) shall have the right to audit any such contract and all books, documents and records related thereto.
- (2) The contractor or vendor in each city contract shall maintain all of its books, documents and records relating to the specific contract during the contract period and for three years after the date of final payment.
- (3) The books, documents and records of the city contractor or vendor in connection with each such city contract shall be made available to the city auditor, the city solicitor and the director of the city department administering each such contract within ten days after written request from the city auditor for the same.

(b) Right to audit.

The city auditor shall have the right to audit any contract for goods or services to be provided to the city, regardless of its monetary size or purpose.

Appendix B: PALW Grant Request



January 4, 2017

President Hanifa Shabazz
City County Building
Wilmington, DE 19802

Dear Ms. Shabazz

Please accept this as the Police Athletic League's nonprofit grant request for the pilot program Student Disabilities Advocate (SDA). This pilot enhances the League's mission and purpose of providing developmental and educational opportunities for children in the City of Wilmington.

In accordance with the City Council's nonprofit grant requirement, I note as follows:

Program, Purpose, Mission and Objective

The general objective of Student Disabilities Advocate is to enhance the plight of special needs and homeless students, particularly those who are in urban centers. Student Disabilities Advocate is established to provide counseling, advocating and educating of parents and students in public schools with respect to their rights, and the school's obligations, to ensure that the students are successful in their educational pursuits. The law states that special needs students are entitled to a free and appropriate public education (FAPE). Furthermore, students with disabilities enjoy protections against discriminatory practices relating to educational access and opportunities (Section 504, Rehabilitation Act of 1973). Homeless students are entitled to supports and accommodations (McKinney-Vento Act).

Program Measures January 2017 — June 2017

The measures and goals of SDA for January 2017 — June 2017 are as follows:

- a. Engage in aggressive education and marketing events and activities to teach parents about their children's rights relating to special needs (IDEA); discrimination relating to education access and opportunities (Section 504) and the rights of homeless students (McKinney-Vento Act).
- b. This will be accomplished as follows:
 - 1 Generate appropriately 1500 — 3000 brochures for distribution
 - 2 Create and maintain website,
 - 3 Establish a social media blog,



4 Facebook and

5 Channel 28, 5 appearances.

Additionally, visits, presentations, meetings, activities and events will occur as follows:

- a. At city youth centers, and their leaders, 5 appearances,
- b. At Religious institutions, and their leaders, 5 appearances,
- c. Gatherings at churches, 5 appearances,
- d. Meetings with School Superintendents, all in New Castle County,
- e. Attending PTA Meetings, 5 appearances, and
- f. Others.

Program Services

SDA addresses the needs of special needs students and homeless students in public education consisting of:

- 1 One on one counseling with students and parents with respect to specific issues or concerns with the school,
- 2 Attending any and all meetings, conferences and hearings to address the issues or concerns relating to education on a case by case basis,
- 3 Advocating for and against policies and practices on behalf of special needs and homeless students and their parents,
- 4 Educating the community with respect to special needs and homeless laws, regulations, policies and practices and
- 5 Advocate on behalf of students with respect to their rights and the school's obligations.

Note: The above services will be provided based on staff capacity and persons requesting representation.

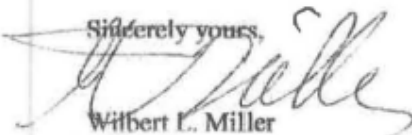


BUDGET - PILOT
January - June 2017

Rent	In-kind	2,000.00
Utilities	In-kind	500.00
Telephone	In-kind	300.00
Staff Aide(PT)	In-kind	4,000.00
Total In-kind		6,800.00
STAFF		
Administrative Assistant/Outreach/Advocate Trainee		15,000.00
Program Manager/ Advocate		20,000.00
OTHER		
Marketing/Social Media		2,000.00
Brochures		1,000.00
TV 28 /		1,000.00
Miscellaneous		1,000.00
Total		40,000.00

Thanks for this consideration for a \$40,000 Grant. We patiently await your response.
Should you need additional information please contact me.

Sincerely yours,


Wilbert L. Miller
Executive Director

Appendix C: Wilmington City Council Grant Application



WILMINGTON CITY COUNCIL GRANT APPLICATION

ORGANIZATION NAME:	Police Athletic League of Wilmington
ORGANIZATION ADDRESS:	3707 N. Market Street
ADDRESS CONTINUED:	Wilmington, DE 19802
PRIMARY CONTACT PERSON:	Mr. Wilbert Miller
JOB TITLE/CONTACT PERSON:	President
TELEPHONE NUMBER:	
DATE:	
See Attached Grant Letter Request	
EIN#	
BL#	

DESCRIPTION OF GRANT:

AMOUNT:	\$40,000 (disbursed in 2 installments of \$20,000)
DURATION OF FUNDS:	One-time grant
DURATION OF PROGRAM:	1/5/17-6/30/17
STUDENT DISABILITIES EDUCATIONAL ADVOCACY PILOT PROGRAM:	Provide direct services to the local community of the City of Wilmington through an educational support and advocacy that will benefit the children and families of Wilmington for students with disabilities and homeless students in the inner City

Police Athletic League of Wilmington accepts the grant funds that have been awarded for a Student Disabilities Educational Advocacy Pilot Program by Wilmington City Council. I certify that I have read, understand, agree, and accept the City of Wilmington grant guidelines established in City Ordinances: # 02-014, # 06-034. I acknowledge that the City of Wilmington will not be held liable for any activities associated with the grant funds. I understand that Wilmington City Council will administer these funds.

Name & Job Title Authorized Grantee (Written): WILBERT L. MILLER

Authorized Grantee (Signature): Wilbert L. Miller

Date: 1-12-2017

Wilmington City Council Hanifa Shabazz:

☒ Request Approved

☐ Request Denied

Amount Authorized

\$20,000

Date:

City Council Authorizing Signature: Hanifa Shabazz

Appendix D: City Council Member Budget Appropriations Form



CITY OF WILMINGTON CITY COUNCIL MEMBER BUDGET APPROPRIATIONS FORM

Date of Request: 01/18/17

I, Council President **Shabazz**, hereby request appropriation of \$20,000 from my City Council budget to be allocated to the following recipient in accordance with the prescribed guidelines:

Recipient Name: Police Athletic League of Wilmington (PAL)

Recipient Address: 3707 N. Market Street
Wilmington, DE 19802

Recipient Telephone Number:

Federal Tax ID #: _____

Contact Name and Telephone Number (if different than above):

Mr. Miller

The purpose of this appropriation is as follows:

SDA Grant - 1st Installment

The vendor Police Athletic League of Wilmington (PAL) must adhere to City grant requirements per City Code Ord# Sub#1 to Ord# 02-014 pertaining funding exceeding \$5,000, as well as that grants can be audited by City Auditor. **Vendor must show proof of use of funds**

My signature below certifies the following:

- The recipient is a non-profit organization
- I, nor any member of my immediate family, is any way affiliated with the recipient in a paid or volunteer capacity
- There are no known conflict of interest
- The appropriation is not contingent upon any expressed or implied actions by myself or the recipient
- Funds given to religious institutions are for secular purposes only

Signature of Council President

Appendix E: Wilmington City Council Grant Award



WILMINGTON CITY COUNCIL GRANT AWARD

Purpose:

To provide one-time grant funding for financial assistance to support an educational student disability/homeless advocacy pilot program in the local community of the City of Wilmington. The primary purpose is to educate and assist both parents and students in the inner City regarding the rights and entitlements of students with learning disabilities and students that are homeless. The grant funds will provide inner City students with a public advocate on their behalf for homeless students and students with disabilities, which is a void that is lacking in the inner City communities.

Grant Recipient:

- Police Athletic League of Wilmington, Inc., 3707 N. Market Street, Wilmington, DE 19802

Grant Award Amount:

\$40,000 (2 installments of \$20,000: 1st Disbursement 1/17/17, and 2nd Disbursement 3/17/17)

Grant Requirements:

- Must document performance and outcome measures for program
- Must provide quarterly report identifying how program/activity met goals and objectives as outlined in request for fund attached document
- Must provide midterm (by 3/31/17) and final detailed financial report (by 6/30/17) to City Council on program with supporting statistics on overall program results inclusive of a budget justifying all expenditures to [REDACTED]@wilmingtonde.gov as well as any other reports that could be requested
 - i. Report must track number of advocacy cases (monthly basis)
 - ii. Report must identify performance measures to determine success measures of the program
- Funds are to be used for the purpose of this grant only
- Any unused funds at the end of the grant period must be returned to the City and or you must have prior authorization to use any remaining funds beyond the allotted grant time frame
- If any of the above requirements are not adhered to, the organization will be ineligible for future grants, and could potentially default the remaining year grant funds
- Must adhere to Ordinance # 02-014 pertaining to any grant applicant seeking funding from the City and to Ordinance #06-034 pertaining to City auditing process
- Must be current on all debts obligations to the City of Wilmington
- Must have a valid City of Wilmington Business License

Administering of Grant Funds

Wilmington City Council will administer the grant funding. A check will be disbursed contingent upon signing of the grant application, verification current on all debts to the City of Wilmington, valid City of Wilmington business license, and upon approval by the President of Wilmington City Council. All documentation must be sent directly to the following address: Louis L. Redding City County Building

800 N. French Street, 9th Floor- Wilmington City Council

Attn: [REDACTED]
Wilmington, DE 19801
[REDACTED]@wilmingtonde.gov

1/11/2017

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Appendix F: Wilmington City Council's Response



City of Wilmington

Hanifa Shabazz
City Council President

Louis L. Redding City/County Building
800 N. French Street
Wilmington, Delaware 19801-3537

phone (302) 576-2140
fax (302) 571-4071
www.WilmingtonDE.gov

May 21, 2018

R. Thomas Wagner, Jr., CFE, CGFM, CICA
Auditor of Accounts of the State of Delaware
401 Federal Street – The Townsend Building
Dover, Delaware 19901

RE: Wilmington City Council

Dear Auditor Wagner,

Thank you for sharing with us the draft audit prepared by your office pertaining to the Wilmington City Council Discretionary Fund. In accordance with the past practice of your office, City Council wishes to submit this letter in response to your findings and your audit report, to be included along with the final iteration of your report for public distribution. Please allow me to offer the clarifications and additional context as detailed in the pages that follow.

With that report in final form, I wanted to comment on some specific items reflected in the draft report, the issue of conflict of interest in particular, which we believe warrant additional clarification and context. More broadly, I would also like to share some perspectives, and to reflect on the lessons I, and we, have learned about this process – as well as the improvements we have already made in the interim which will avoid similar outcomes in the future.

Background

On August 28, 2017, I wrote a letter to your office to request an audit of grant awards over \$5,000 issued by the Wilmington City Council during my term in office. The only grant that fit that criterion was funding allocated to the Police Athletic League of Wilmington to support the youth-centered services of the pilot program of Student Disabilities Advocate, Inc.

The purpose of Community Support Funds

The purpose of Council's Community Support Funds has been to support organizations of community benefit and importance. Historically, Council has supported cultural festivals and parades, granted scholarships to youth and adults pursuing their dream of a higher education, funded extended operating hours in community centers, and supported organizations that fill service gaps and provide vital support to our youth.

The grant funding for the Student Disabilities Advocate, Inc., pilot program was one means through which we could provide critical and much-needed support to some of our most disadvantaged youth in local schools. Our youth are confronted with aging schools, high suspension rates, underpaid educators and underfunded programs, and the disparate opportunities and experiences across the five traditional school districts that serve Wilmington. Programs like SDA help fill a critical service gap, notably in addressing the acute disparities facing our youth with differing abilities or other obstacles that can make learning and thriving in an educational environment more difficult.

'Earmarking' of funds

On several occasions in the report, it is mentioned that now-former Council President Gregory, prior to the conclusion of his term, sent an email "earmarking" – or, as referenced subsequently in the audit report, "designating" – discretionary funding for the pilot program of SDA. These references put forth the impression, and accept the premise, that he had authorization and authority to dictate the allocation of funding – both the amount and the recipient – that would be disbursed following the conclusion of his term.

This is not an accurate or complete portrayal. On January 3, 2018, at the moment when I was administered the oath of office, I was fully vested with the powers of this office, and at that moment, Mr. Gregory was relieved of his duties. Any requests for funding submitted after that moment in time, and any allocations awarded after that time, were subject to my authority and discretion. I evaluated the application based upon the merits of the program, and based on my review, there appeared to be no conflict of interest.

Mr. Gregory sent an email prior to the end of his term asserting the nature of a funding allocation he wished to take place after the conclusion of his term. However, he clearly would have no authority over such an action at that time. Further, "earmarking" is not an official action or process associated with the awarding of discretionary funds.

'A second grant to SDA'

The report also includes a mention that the Council President "approved the processing of a second grant to SDA" in July 2017, and notes that "as of January 18, 2018, this grant was not disbursed." This is inaccurate; this matter unfolded as follows:

- On June 8, 2017, we received an application for a grant to Student Disabilities Advocate, Inc.
- In an email to staff on July 14, 2017, I approved the **commencement** of our internal review process to ensure qualifications of the grant were met.
- I subsequently halted the process pending new internal controls and legislation I was pursuing in collaboration with my colleagues on City Council.
- Once new internal controls were in place and legislation further regulating this process had been passed on October 5, 2017, the request was considered in accordance with the more robust process we had established.
- In accordance with this process, I proposed for Council's consideration a grant to SDA on October 30, 2017.
- On November 1, 2017, prior to Council voting on a resolution related to this proposed grant, Mr. Gregory withdrew the grant application.

No known conflict of interest

Over the course of reviewing both grant applications, there never appeared to be, to me, the existence of a conflict of interest.

Further concerns and future funding

I was disappointed and concerned to learn in the audit report that the Police Athletic League of Wilmington, as well as Mr. Gregory on behalf of SDA, both failed to participate in this special investigation, despite numerous attempts by the Office of the Auditor of Accounts to contact them in reference to this matter. Moving forward, I will construe this lack of participation as a likely violation of the City Code provisions related to requirements imposed upon grant recipients, and to consider this lack of cooperation as resulting in disqualification from consideration for future grant funding.

Actions already taken

Shortly after requesting this audit to be conducted, we identified several key opportunities to enhance the process through which we support entities like the pilot program of SDA, and we took concrete actions to bolster the transparency and internal controls associated with Community Support Funds. Our team also conducted thorough research and outreach to officials both in Wilmington and in other cities that manage similar funding programs, and we have adopted a number of measures in place in cities like New York, NY and Richmond, VA.

The steps we have taken include:

- Instituting a formal grant application process and review period for grants of \$5,000 or more – the first iteration of which took place in late 2017
- Establishing a grant review panel including participation by the City Auditor
- Creating a policy and procedures manual for Council members and staff to follow in conjunction with Community Support Funds
- Introducing and passing legislation to further regulate the awarding of funding from all three elected offices in Wilmington – the Office of the Mayor, City Council and the City Treasurer – which has resulted in a formal process for review and approval of large grants. This process has already been utilized for several grant awards from City Council
 - Now, this legislation mandates that grants of **\$5,000 or more** be approved by resolution of City Council prior to disbursement
 - Grants of **under \$5,000** require notification to the City Council Finance Committee on a regular basis
- Requiring from grant applicants additional information about the intended purpose of funding, as well as a more robust statement about affiliations and potential conflicts of interest
- Reducing the amount of proposed funding in the Fiscal Year 2019 budget, and reallocating some funds to specific line items created to reflect greater transparency about causes and projects that Council seeks to support
- Aligning grant award proposals from City Council with the priorities in the adopted City Council Strategic Planning Process report, in an effort to better focus allocations of Community Support Funds on the issues that Council has collectively identified as being those we must prioritize
- Enhancing communication channels among Council Members to ensure greater transparency and coordination regarding causes we support individually and collectively
- Making data on grant funding publicly and conveniently available on Council's website – www.WilmingtonCityCouncil.com
- Announcing plans to create an annual report to highlight the impact of Council's Community Support Funds, and the important efforts of the organizations we support

The steps that I have outlined above represent a fairly revolutionary set of reforms for this long-standing practice – with greater levels of transparency, accountability and collaboration than ever before. As with any process that has been in place for a period of time, there is tremendous merit in careful analysis and consideration – and we found value in researching best practices in this arena and in effectuating the changes outlined here.

Moving forward

As I have detailed in the preceding pages, City Council's Community Support Fund process has been significantly revamped and enhanced since the time at which I requested this audit. Today's process is markedly different from the long-standing practice I inherited as Council President, and moving forward the principles of transparency, accountability and collaboration are paramount.

State of Delaware City of Wilmington Discretionary Fund Special Investigation

I appreciate the efforts of the team that produced this audit, and certainly welcome further scrutiny. Following the recommendation of this audit to perform a review of past dollars allocated dating back to Fiscal Year 2014, I have drafted a formal letter of request to City Auditor Terence Williams to work in tandem with the Audit Review Committee to conduct just such a review, pertaining to grants of an identical size - \$5,000 or more – from Fiscal Year 2014 through the beginning of the current Session of City Council.

I can say with confidence today that I – and we, as a team and institution – have learned from this experience. We worked diligently to identify gaps and flaws in the old process, and rapidly to make concrete changes.

And moving forward, I plan to work with my colleagues to continue to evaluate this process. Council has never endeavored to serve as a grant-making entity, though regrettably some of the acute social and community needs in Wilmington's various neighborhoods demand the sort of support that can be extended through Community Support Funds. I believe my colleagues would share the emphatic ambition that we might work holistically to alleviate the conditions that make this sort of financial support to community organizations so necessary.

I look forward to that day – and in the interim, to continuing to ensure that the new measures and safeguards we have put into place ensure that this process moves smoothly and allows us to focus on what is most important – moving Wilmington forward.

Thank you for your attention to this matter, and for your support of our efforts.

Respectfully,

A handwritten signature in blue ink, appearing to read "Hanifa Shabazz", written in a cursive style.

Dr. Hanifa Shabazz
President, Wilmington City Council