



**CITY OF DENTON**  
***Hotel Occupancy Tax Program***  
**2018**

***I. PURPOSE***

To actively promote Denton as a tourist destination.

***II. ELIGIBILITY***

- A. Must be based in the City of Denton. Must present, perform, exhibit, conduct workshops or provide services and other activities that promote tourism and the hotel and convention industry.
- B. Must be a governmental entity or a non-profit Texas corporation, federally tax-exempt under the Internal Revenue Code.
- C. Must demonstrate corporate good standing with the state of Texas at time of application.
- D. Must have a history of continuous, stable programming prior to the application date.
- E. Must have an active governing body.
- F. Must have programming, administrative practices and board membership that does not discriminate on the basis of race, color, national origin, sex, or handicap.
- G. If previously funded, applicant must have successfully fulfilled all prior contracts.

***III. USE OF HOTEL FUNDS***

There is a two-part test that every expenditure of local hotel occupancy tax must pass to be valid. First, the revenue derived from the tax authorized by Tax Code 351.101(a) shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

The second part of the test is that all expenditures must clearly fit into one of the eight statutorily provided categories for expenditures of local hotel occupancy tax revenues. These six categories are as follows:

- A. Convention & Visitor Information Centers - Funding the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both.
- B. Conventions - Funding the furnishings of facilities, personnel, and materials for the registration of convention delegates or registrants.
- C. Advertising - Funding for advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity.
- D. Arts - Funding for the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.
- E. Historical - Funding for historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums 1) at or in the immediate vicinity of convention center facilities or visitor information centers, or 2) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates.
- F. Sporting Events - Funding for a municipality located in a county with a population of 1,000,000 or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.
- G. Sports Facility/Fields - Funding the enhancement or upgrading of existing sports facilities or sports fields (baseball, softball, soccer and flag football). The municipality must own the sporting facility, meet specific population criteria and the field/facility must have been used a combined total of more than 10 times for district, state, regional, or national sports tournament in the preceding calendar year. ***Does not apply to the City of Denton.***
- H. Transportation - Funding transportation systems for tourists. A municipality of any size may cover the costs for transporting tourists from hotels to nearby tourism venues. The transportation system must be owned by and operated by the city, or financed in part by the city.

#### **IV. ADDITIONAL USES OF HOTEL FUNDS**

Expenditures listed below are allowable for organizations, to the extent that such expenditures are used exclusively to attract tourists and convention delegates or registrants to the municipality or its vicinity as governed by the State Tax Code 351.101 (a). These special allowance expenditures may not be used for the benefit of local businesses or individuals, and the benefit to tourism may not be indirect or incidental, but must be direct or purposeful.

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

For Example: Organization A has a total operating budget of \$500,000 which consists of \$250,000 for administrative expenses, \$100,000 for advertising, and \$150,000 for stages, lighting, and artists. Under this example, 50% (\$250,000/\$500,000) is their eligible proportion for administrative expenses, only if at least 50% is devoted to the event and promotes tourism and the hotel and convention industry.

Therefore, assuming the committee approves a \$100,000 budget from Hotel Occupancy Tax Funds, \$50,000 (\$100,000 X 50%) of this budget may be spent for administrative expenses.

The following expenses may be incurred, but may not exceed the eligible proportion, as authorized under 351.101 (e): salaries, supplies, equipment, fixed assets, utilities, event insurance, communications, technology, office space, janitorial maintenance & supplies, non-local printed matter such as newsletters, applications, and entry forms, etc.

*Requests for administrative expenses, including the purchase of fixed assets and equipment, must be provided in detail to the committee for consideration during the application process.*

- B. Promotion Expenses - Expenditures for food and beverages for meetings and special events and promotional items may be funded if the focus of that event or meeting directly promotes and services expenditures authorized under Section 351.101 (a). If a municipality or other public or private entity that conducts an activity authorized under section 351.101 (a) conducts other activities that are not authorized under 351.101 (a), the portion of the total costs of the entity for which local occupancy tax revenue may be used may not exceed the portion of those costs actually incurred in conducting the authorized activities.

Each entity that is ultimately funded by the tax shall, before making such expenditure, specify in a list each scheduled activity, program, or event that 1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and 2) is directly enhancing and promoting tourism and the convention and hotel industry.

*The listing of meetings and special events (and purpose) where expenses for food, beverages, or promotional items will be incurred must be provided in detail to the committee for consideration during the application process.*

## **V. LIMITATIONS OF HOTEL FUNDS**

Recipients are responsible for assuring compliance with all statutory, and other legal requirements applicable to receipt, use, expenditure and accounting of hotel tax revenues. No provision, restrictions, or lack thereof, in these guidelines shall excuse the failure of a recipient to comply with all such requirements.

Hotel funds may not be used for the following:

- A. Funding to individuals;
- B. Reduction of deficits from, or expenditures related to, activities of previous or future fiscal, calendar, or program years;
- C. Capital improvements, except for those funded by the City through bonds or are historical restoration or preservation projects;

- D. Contracted auditing, accounting, or bookkeeping fees;
- E. Landscaping;
- F. Travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner; or
- G. Advertising materials that will be distributed inside the city limits of Denton.

## **VI. *RECIPIENT REQUIREMENTS***

- A. In all publications (e.g., flyers, programs, brochures, press releases, advertisements, annual reports and all other mailing pieces), recipient shall acknowledge in some meaningful way that their organization is funded in part by the City of Denton. Such acknowledgement might take the form of inclusion on a donors list for particular events. Recipients are advised that usage of the official City logo is restricted by policy (505.02) and ordinance. Any use of the City logo must be coordinated with and approved by the appropriate City representatives, to ensure compliance with these standards. Written authorization must be obtained from the City Manager or their designee.
- B. An organization with whom a municipality contracts to conduct an activity authorized by section 351.101 (a) shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the organization and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

All financial records and any other records relating to the contracts shall be subject to the requirements of the Public Information Act. Organizations must maintain and account for revenue provided from the tax authorized by section 351.101 (a) within one of the two forms of accounting listed below:

- 1. Maintain hotel occupancy tax funds in a separate checking account established for that sole purpose and may not commingle with any other money or in any other bank account or
  - 2. Maintain segregated fund accounting, whereby the accounting of HOT revenues and expenditures may not be commingled with any other revenues and expenditures. The funds may be maintained in the same bank account. However, if the HOT funds are invested in an interest bearing account then a separate account must be established for that sole purpose and may not commingle with any other money. All interest earned on the invested account will be considered restricted Hotel Occupancy Tax funds.
- C. Payments to approved recipients will be made quarterly. The quarterly payments will be equal to 25% of the fixed contract amount unless the annual base revenue is less than originally estimated for the fiscal year. In this case, the fourth quarter payment will be adjusted accordingly. Payments will be disbursed to recipients by the 25<sup>th</sup> of the next month following the quarter end. Payment will not be made until the recipients' quarterly reports are completed and approved by the Finance Department.

If during the program year the city finds that revenue receipts will not meet the estimated budget, fourth quarter allocations will be reduced for contracted recipients. Internal recipients will be required to reduce their expenditures as necessary during the last quarter of the fiscal year.

The quarterly reports should include the following:

1. Complete financial report.
  2. Copies of all HOT paid invoices OR listing of invoices including check number, vendor names, budget category, expenditure description and amount paid. (If a listing of invoices is provided, an audit may be performed on randomly requested invoices to determine program eligibility.
  3. Front and back copies of all cleared HOT checks written for above invoices OR bank statements.
- D. Provide the Finance Department advance notice of local Board of Directors meeting schedule.
- E. Return any unused or ineligible monies to the City of Denton at the end of each contract period.
- F. Each required organization must have insurance coverage prior to the event. A copy must be filed with the Finance Department at least one week prior to the event.
- G. New applicants must attend a training session in the Finance Department prior to the beginning of the program year.

## ***VII. CONTRACT TERM***

The program period will commence on January 1 of the program year and terminate at midnight on December 31 of the same year. However, the contract period will commence on January 1 of the program year and terminate at midnight on January 31 of the following year. A thirty-day grace period is provided which allows recipients to finalize their reporting of expenditures. Either party may terminate the contract by virtue of sixty days written notice.

Intra-city organizations that receive program funds will operate on a fiscal year that will commence on October 1 and terminate at midnight on September 30 of the program year. All Hotel Occupancy Tax expenditures must be completely incurred before the midnight deadline.

## ***VIII. COMMITTEE AND APPLICATION OVERVIEW***

The Hotel Occupancy Tax Committee is a sub-committee of the City Council. The Council will determine membership of the sub-committee. The following city staff serves as liaisons: the Assistant City Manager, Director of Finance, Assistant Director of Finance, Deputy City Attorney, and Treasury Services Specialist. The application process is summarized below.

- A. Applications are distributed to all current and past recipients and to other organizations requesting Hotel Occupancy Tax funding.
- B. All applications must include: a proposed budget which details the plan for expending all monies requested, financial statements from at least two previous years, letter of determination certifying tax-exempt status under the Internal Revenue Code, current W-9, poof of current status as a non-profit Texas corporation, a list of local Board of Directors, Officers, or Governing Body and schedule of meetings, constitutions and/or by-laws, a list of all prior year donations made by the organization, and a notice of events/schedules for which the hotel funds will be spent. If an organization is a current recipient during the application phase, the submission of the tax-exempt status letter and constitution and/or by-laws are required only if changes occurred since the last contract period. All applicants must provide a current W-9.
- C. All applications will be reviewed by staff for completeness and adherence to hotel occupancy tax state laws and program eligibility.

- D. Applications are presented to the Hotel Occupancy Tax Committee for review. Any application that is late will be forwarded to the committee for review, but the committee has the discretion to reduce or deny funding of the requesting organization.
- E. An additional Hotel Occupancy Tax Committee meeting is tentatively scheduled for recipient presentations, if needed.
- F. The Hotel Occupancy Tax Committee approves or declines all or part of the requests for funding.
- G. Staff prepares letters and contracts for the awarded recipient's signature.
- H. The contracts will be approved by the City Council at a regularly scheduled meeting in October.