



Rashi Kesarwani
Councilmember District 1

REVISED AGENDA MATERIAL

Meeting Date: January 21, 2025

Item Number: 29

Item Description: **Establish Rules and Limits When Community-Based Organizations Receive City Funding Without Procurement to Promote Transparency, Fairness, and Stewardship of Public Funds**

Submitted by: Rashi Kesarwani

This revised material adds a resolution to the referral to convey its importance and urgency to the new council body. It also adds Mayor Ishii as a co-sponsor.



Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR

January 21, 2025

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Mayor Adena Ishii (Co-Sponsor)

SUBJECT: Establish Rules and Limits When Community-Based Organizations Receive City Funding Without Procurement to Promote Transparency, Fairness, and Stewardship of Public Funds

RECOMMENDATION

Approve the resolution and refer to the City Manager to establish an open and transparent process for community-based organizations seeking a grant of emergency funds outside of the City's existing request for proposal (RFP) or other procurement processes. The process to be established should include the following components:

- **Annual Funding Limit.** Establish a maximum amount of \$25,000 annually to be granted to a Berkeley-based non-profit or public organization, and a grand total of \$225,000 annually to up to nine community-based organizations operating in Berkeley.
- **“Declaration of Need” Form Available on a City Webpage.** A Declaration of Need application form should be made available on a dedicated City webpage to ensure all community-based organizations have an equal opportunity to learn about the availability of funds, including the deadline for submitting the completed form.
- **Declaration of Need Form Should Require Documentation of Financial Need and Non-Profit Status (When Appropriate).** The Declaration of Need form should be short to reduce the burden on community-based organizations but should include at a minimum a request to explain the purpose/need for the funds and document the organization's financial need. In addition, the City should verify that the organization is a registered non-profit organization (if applicable).¹

¹ Generally, these awards should be granted to registered non-profit organizations; however, there are instances in which the Berkeley Unified School District or other similar publicly-funded

- **Selection Process.** The City Manager shall establish a process for selecting qualifying community-based organizations, including establishing a scoring criteria and submitting recommendations to Council as part of the annual budget development process.
- **Financial Reporting Requirement for Selected Community-Based Organizations.** For organizations selected to receive emergency funding of up to \$25,000, the City shall enter into a contract that requests documentation at six months and 12 months to ensure that funds were used for the purpose for which they were requested. This financial reporting requirement should apply as soon as practicable to FY2024-25 budget allocations, and continue for future budget years.

CURRENT SITUATION AND ITS EFFECTS

Historically, Community-Based Organizations In the Know Have Approached a Member(s) of the Council to Sponsor a Budget Referral for an Award of Funds . . .

Historically, organizations seeking one-time assistance for such needs as capital improvements to facilities, staffing support, and funding of special programs have appealed directly to individual Councilmembers. These requests have been considered by Council in the form of budget referrals during the annual June budget process and mid-year budget adjustment, with organizations receiving awards totaling as much as \$4.5 million in FY 2023-24. This process is not transparent to all organizations who may be in need of financial assistance, and therefore privileges certain organizations above others who may be equally or more deserving of financial support.

. . . However, Awarding Funds Without an Open and Transparent Procurement Does Not Treat All Organizations Fairly. Smaller and newer Berkeley-based non-profit organizations may not be familiar with the City's budgeting process and the practice of Council budget referrals.

Procurement Via a Request for Proposal or Other Competitive Process Is Considered a Best Practice in Government Contracting.² The benefit of issuing a request for proposal (RFP) is that an open and transparent process treats all organizations fairly. The RFP clearly indicates the criteria by which organizations will be assessed. A scoring panel comprised of individuals without ties to any organization rates each RFP response based on the standard criteria. This process ensures that all organizations have an equal opportunity to receive funds and that all organizations are considered fairly. An RFP process ensures that public funding is awarded based on merit, rather than personal relationships or other subjective criteria. Further, an RFP process ensures that public funds are awarded to high-performing organizations.

organizations may receive funding. Only organizations that are registered non-profits (through the California Attorney General's Office) or are largely publicly-funded are eligible to receive funding.

² International City/County Management Association, 2008.

https://icma.org/sites/default/files/302081_RFP_bestpractices-1.pdf

BACKGROUND

Over the last five fiscal years, nearly \$8.8 million has been allocated to 25 different community-based organizations.³ Cumulative year-over-year allocations to individual organizations range from \$10,000 to as much as \$5,050,000. The breakdown of funds allocated through a non-competitive process by fiscal year is noted in Exhibit 1 below.

Exhibit 1: Over Last Five Fiscal Years, City Has Awarded \$8.8 Million Without Procurement Process

Fiscal Year	Numbers of Community-Based Organizations Funded Per Year ⁴	Amount Allocated
2021-22	4	\$245,000
2022-23	12	\$2,542,000
2023-24	11	\$4,516,000
2024-25	15	\$1,133,665
2025-26	7	\$349,665
TOTAL	49	\$8,786,330

Source: City of Berkeley data, with analysis conducted by the Office of Councilmember Kesarwani

The City Already Has Request for Proposal (RFP) Processes Totaling \$15.5 Million Annually for Community Agencies. The City's Health, Housing and Community Services Department issues an RFP for community funding every four years. These funds support a variety of programs and services, including childcare and youth services; housing and community facilities rehabilitation; services for people with disabilities; employment support; health care; homelessness services; as well as legal and senior services. The funding is primarily made up of a variety of local funds (89 percent), various federal funds (11 percent), and to a lesser extent state funding (less than 1 percent) to approximately 35-40 community-based organizations.

Two Additional Request for Proposal (RFP) Processes Have Been Established Recently at the Request of Councilmember Kesarwani to Meet Unmet Needs.

Councilmember Kesarwani has introduced items requesting the creation of an RFP process to (1) support arts and cultural organizations in need of one-time capital funds, and (2) provide funding to augment services provided by food insecurity providers. In both cases, the intent is to ensure that all qualified organizations have a fair opportunity to seek funds, thereby ensuring that public funds are awarded to the most qualified organization(s). In October 2019, Councilmember Kesarwani's Council item, "Referral to the Civic Arts Commission to develop a grant program available for arts and cultural

³ The total of 49 shown in Exhibit 1 is due to the same organizations receiving multiple awards.

⁴ While the number of allocations to agencies between FY 2022 - 2026 total 49, only 25 different agencies received the funds. Several of the same agencies received funding several years in a row.

organizations to support retaining and improving creative spaces for artists” was approved unanimously on consent, resulting in an annual allocation of \$300,000 to administer and fund an annual Capital Projects Grant Program.⁵ Today, the Capital Projects Grant program is listed among the several other grant opportunities for artists, festivals and organizations on the City of Berkeley website, giving all arts organizations an equal opportunity to seek support.⁶ In June 2024, Councilmember Kesarwani’s Council item, “Referral for Development of Request for Proposal (RFP) to Support Berkeley-Based Non-Profit Food Assistance Providers Serving Food Insecure Households” was approved unanimously on consent.⁷ This referral recommended that the City develop and fund an RFP process to support Berkeley-based non-profit food assistance providers to address capacity needs such as expanding services, purchasing equipment, and hiring staff. In August 2024, the City of Berkeley posted notice of a Berkeley-based Food Assistance RFP and funds were awarded.⁸

RATIONALE FOR RECOMMENDATION

This referral seeks to ensure that the City’s financial resources are more broadly accessible to all community-based organizations while achieving greater transparency in funding allocations. It will also provide greater predictability of the fiscal impacts on the City’s budget.

FISCAL IMPACT

The fiscal impacts of this referral are minimal outside of staff time to develop a well-defined process for addressing the allocation of emergency funds to community-based organizations.

CONTACT

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

ATTACHMENT

⁵ See: Referral Response: Grant Program for Retaining and Improving Creative Spaces, March 21, 2023 Berkeley City Council meeting: <https://berkeleyca.gov/sites/default/files/documents/2023-03-21%20Item%2018%20Grant%20Program%20for%20Retaining%20and%20Improving%20Creative%20Spaces.pdf>

⁶ City of Berkeley’s Civic Arts Grants webpage: <https://berkeleyca.gov/community-recreation/civic-arts/civic-arts-grants>

⁷ Annotated Agenda for the June 25, 2024 Berkeley City Council meeting: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-06-25%20Annotated%20Agenda%20-%20Council.pdf>, page 23

⁸ City of Berkeley: Request for Proposals (RFP) Specification No. 25-11675-C for Berkeley-based Food Assistance Proposals: https://berkeleyca.gov/sites/default/files/documents/25-11675-C%20-%20Berkeley%20Based%20Food%20Assistance_0.pdf

Resolution No ##,###-N.S. ESTABLISHING RULES AND LIMITS FOR COMMUNITY-BASED ORGANIZATIONS RECEIVING CITY FUNDING OUTSIDE PROCUREMENT TO PROMOTE TRANSPARENCY, FAIRNESS, AND ACCOUNTABILITY

RESOLUTION NO. ##,###-N.S.

ESTABLISHING RULES AND LIMITS FOR COMMUNITY-BASED ORGANIZATIONS RECEIVING CITY FUNDING OUTSIDE PROCUREMENT TO PROMOTE TRANSPARENCY, FAIRNESS, AND ACCOUNTABILITY

WHEREAS, the use of a Request for Proposal (RFP) or other open and transparent procurement process is widely recognized as a government best practice that aligns with principles of good governance; and

WHEREAS, the City of Berkeley has allocated \$8.8 million over the past five fiscal years to community-based organizations outside of a procurement process, with individual awards ranging from \$10,000 to \$5,050,000; and

WHEREAS, some community-based organizations have historically bypassed established procurement processes by directly appealing to Councilmembers for a grant of public funds; and

WHEREAS, the City of Berkeley currently administers a number of transparent and competitive RFP processes for community-based organizations, one of which totals \$15.5 million annually to fund vital services such as youth programs, housing rehabilitation, disability services, employment support, healthcare, homelessness services, legal assistance, and senior care; and

THEREFORE, BE IT RESOLVED, that the City of Berkeley will establish an open and transparent process for community-based organizations seeking emergency funding outside the RFP or other standard procurement mechanisms; and

BE IT FURTHER RESOLVED, that the City of Berkeley will cap emergency funding allocations at a maximum of \$25,000 annually per Berkeley-based nonprofit or public organization, with a total budget of \$225,000 annually for up to nine community-based organizations serving Berkeley residents; and

BE IT FURTHER RESOLVED, that any budget referrals for Berkeley-based nonprofit or public organizations exceeding \$25,000 must be accompanied by a formal Request for Proposal (RFP) process to ensure fair and equal access for all Berkeley organizations providing similar services; and

BE IT FURTHER RESOLVED, that the City shall create and maintain a dedicated webpage hosting a "Declaration of Need" application form to ensure equitable access to information about emergency funding opportunities, including submission deadlines; and

BE IT FURTHER RESOLVED, that the "Declaration of Need" form shall be concise to minimize the administrative burden on applicants but must include a clear explanation of the purpose and justification for the emergency funding request; and

BE IT FURTHER RESOLVED, that funding will only be allocated to organizations that are registered nonprofits and have filed an Internal Revenue Service Form 990, or equivalent financial documentation, to demonstrate accountability; and

BE IT FURTHER RESOLVED, that all organizations receiving emergency funding must submit progress documentation at six months and a final report at 12 months to verify that funds were used for their stated purposes; and

BE IT FURTHER RESOLVED, that these requirements shall apply retroactively to any undisbursed funds previously approved in FY 2024-25 and to all future grants and allocations beginning in January 2025, ensuring the responsible stewardship of public funds and adherence to principles of fairness, equity, transparency, and accountability.

