



CITY OF DENTON
Hotel Occupancy Tax Program Guidelines
PROGRAM YEAR 2021

I. PURPOSE

To actively promote Denton as a tourist destination.

Tourist is an individual who travels from the individual's residence to a different municipality, county, state or country for pleasure, education, or culture. Texas Tax Code 351.101 (5)

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 and throughout the program or contract period.
- 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, religion, age, pregnancy, national origin, or sexual orientation or gender identity, citizenship, familial status, disability or veteran status.
- G. If previously funded, applicant must have successfully fulfilled all prior contract or program requirements.

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 nine statutorily provided categories that apply to the City of Denton for expenditures of local hotel occupancy tax revenues. These nine 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, contains an intersection of Interstate 35E and 35W and at least two public universities 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.

Municipality shall determine HOT revenue by hotel activity attributed to the sports events held at field for five years after the date of the enhancements. Municipality may not use HOT revenue for the enhancement of the facility/field in a total that exceeds the amount of the HOT revenue attributable to the enhancement. The municipality shall also reimburse from its general fund any of the expenditures in excess of the amount of HOT revenue attributable to the enhancements of the facility/field.

Athletics staff will compile attendance, revenue, and team data, as well as calculate estimated economic impact for each major tournament held throughout the year. Additionally, staff will collect and compile the estimated hotel revenue and hotel tax attributable to any events held at complexes which have been improved with HOT funds money within the last five years.

- H. Signage – Funding of signage directing the public to sights and attractions that are frequently visited by hotel guests. Must comply with all signage regulations.
- I. Transportation - Transporting of tourist from hotels to nearby tourism venues using transportation systems which may be owned and operated by the municipality or privately owned and operated but

partially financed by the municipality and does not serve the public.

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 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 section 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 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 ($\$100,000 \times 50\%$) 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 section 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 section 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

- A. Section 351.103 (c) of the Tax Code imposes two category restrictions to the city of Denton.
 - 1. The Art category expenses in a fiscal year cannot exceed 15% of the HOT revenue.
 - 2. The Historical category expenses in a fiscal year cannot exceed 15% of the HOT revenue.
- B. City of Denton Resolution 2013-021 requires at least 2.4% of the 15% in Art expenses be allocated to the Public Art Committee.
- C. 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:

- 1. Funding to individuals;
- 2. Reduction of deficits from, or expenditures related to, activities of previous or future fiscal, calendar, or program years;
- 3. Capital improvements, except for those funded by the City through bonds or are historical restoration or preservation projects;
- 4. Contracted auditing, accounting, or bookkeeping fees;
- 5. Landscaping;
- 6. 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
- 7. 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, contracted 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, any quarterly payment will be adjusted accordingly. Payments will be disbursed to recipients by the 25th of the next month following the quarter end. Payment will not be released until the recipients' quarterly reports are completed and approved by the Finance Department.

On a case-by-case basis, a recipient can receive funding in a manner that is different from the standard practice of four quarterly payments.

Internal recipients' approved budgets will be available on the first day of the city's fiscal year pending completion of the prior quarter and/or end of year obligations. If during the program year, the city finds that revenue receipts will not meet the estimated budget, internal recipients will be required to reduce their expenditures as necessary during the fiscal year.

The quarterly reports should include the following:

1. Complete financial report (including signature) provided by the City's Finance Department.
2. Copies of all HOT paid invoices OR a listing of all invoices including check number/payment type, vendor name, budget category, expenditure descriptions and amount paid. If a list of invoices is provided, an audit may be performed at any time by the Finance Department to determine program eligibility.
3. Copies of all HOT invoices related to social media marketing such as but not limited to Facebook, Twitter, and Instagram. Invoices shall include metrics and/or performance results of paid activity. If a listing of invoices is provided (see #2 above) copies of these invoices must be provided each quarter.
4. Front and back copies of all cleared HOT checks written for the above invoices OR full monthly bank statements illustrating the cleared checks, card/debit, ACH payments.

- D. Provide the Finance Department 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.

H. Recipients must explore local business for products and services when expending HOT funds.

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 sixty days written notice.

Internal recipients will operate within the City's fiscal year that will commence on October 1 and terminate on September 30 of the program year. All Hotel Occupancy Tax funds must be expended in accordance with the City's annual end of year procedures memorandum. The procedural deadlines could have dates prior to the end of the HOT program year. HOT funds expended after the end of year deadlines will be deducted from the internal recipient's next program year's approved HOT budget. If the internal recipient does not have budgeted HOT funds for the next program year, one of its department funds will be allocated the expenses.

VIII. COMMITTEE AND APPLICATION OVERVIEW

The Hotel Occupancy Tax and Sponsorship 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: Director of Finance, Treasury Manager, an Assistant City Attorney, and Senior Treasury Analyst. 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, proof 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, marketing examples, itemized income and expense reports for the requested event and a notice of events/schedules for which the hotel funds will be spent.
- C. An annual application deadline will be established based on the HOT and Sponsorship Committee's annual meeting schedule. This is a fixed deadline, without acceptance of applications after the set date.
- D. All applications will be reviewed by staff for completeness and adherence to hotel occupancy tax state laws and program eligibility.
- E. Applications are presented to the Hotel Occupancy Tax and Sponsorship 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.
- F. An additional Hotel Occupancy Tax and Sponsorship Committee meeting is tentatively scheduled for recipient presentations, if needed.

G. The Hotel Occupancy Tax and Sponsorship Committee approves or declines all or part of the requests for funding.

H. Staff prepares letters and contracts for the awarded recipient's signature.

I. HOT contracts will be approved annually by the City Council at a regularly scheduled meeting during the first quarter of the city's fiscal year.