

COUNCIL OF THE COUNTY OF MAUI
POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE

April 5, 2013

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on February 25, 2013, and March 11, 2013, makes reference to the following:

1. County Communication 09-120, from the Director of Housing and Human Concerns, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, PERTAINING TO THE MAUI COUNTY GRANTS PROGRAM". The purposes of the proposed bill are to limit the role of the County's Grants Review Committee to advising the Mayor on requests for Community Partnership, Youth Center, Youth Program, and Culture and the Arts Grants; establish that advice to the Mayor on requests for Real Property Grants shall be provided by the agency that administers the property; and incorporate other adjustments to the County grants procedures.
2. Miscellaneous Communication dated May 26, 2011, from the County Clerk, reporting that on May 24, 2011, the Council referred to your Committee the matter relating to County grants and disbursements, including amendments to Chapter 3.36, Maui County Code, relating to the Maui County Grants Program; and correspondence from the Chair of the Budget and Finance Committee dated May 6, 2011, relating to the General Budget Provisions.
3. Miscellaneous Communication dated May 25, 2012, from the County Clerk, reporting that on May 24, 2012, the Council referred to your Committee the matter relating to a needs capacity and duplication of services study for all County grantees.

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Your Committee notes that this matter was considered by the Council's Public Services Committee in the 2009-2011 Council term, and by the Council's Policy Committee in the 2011-2013 Council term.

At the request of the Chair of your Committee, the Budget Director transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, RELATING TO THE MAUI COUNTY GRANTS PROGRAM", approved as to form and legality, incorporating revisions to enable greater consistency and ensure fairness in grants management, including eliminating the Grants Review Committee and shifting the review of grants and loans to the Administration. Additionally, the revised proposed bill clarifies application procedures and reporting requirements for all grantees.

Your Committee expressed concerns about the amount of County funds granted to nonprofit organizations each year. At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill to limit grants of County funds in any fiscal year to 5 per cent of the County's General Fund for that fiscal year. However, your Committee noted that expenditure of funds for services like park maintenance, animal control, or transportation could be considered grants and, therefore, subject to the 5 per cent cap. Your Committee decided research was needed to better distinguish between expenditures of fees for service and grants of County funds. Therefore, your Committee agreed to further revise the proposed bill without a cap on grants of County funds until the matter could be researched further.

Your Committee discussed the importance of granting County funds to nonprofit organizations that provide critical services to the most needy members of the community. Your Committee was satisfied the revised proposed bill establishes a uniform procedure for the administration of grants, ensuring consistency and fairness.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White voted "aye".

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

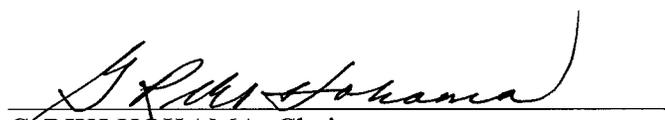
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Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Bill _____ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, RELATING TO THE MAUI COUNTY GRANTS PROGRAM", be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

pia:cr:13020aa:kmh

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING
CHAPTER 3.36, MAUI COUNTY CODE, RELATING
TO THE MAUI COUNTY GRANTS PROGRAM

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 3.36.010, Maui County Code, is amended to
read as follows:

"3.36.010 Definitions. As used in this chapter,
unless the context otherwise requires:

"Agency" means any department, [board, commission,]
agency, or other establishment of the [county] County
government, but shall not include the council.

["Committee" means the Maui County grants review
committee.]

"Grant" means an appropriation, [or] allocation, or
disbursement of [public] County funds or [personal]
County real property to a recipient for a [specified]
public purpose[, or an agreement by the county to
authorize a concession of real property for less than
fair market value].

"[Grant-loan] Loan" means a [grant] loan of funds to
a recipient for a specified purpose, conditioned upon
repayment of the [grant] loan of funds, [based upon the
recipient's ability to pay.] including the County's
ability to post a lien on the recipient's assets.

"Nepotism" means appointing persons to positions on
a basis of their blood or marital relationship to the
appointing authority, rather than on merit or ability.

"Recipient" means a [person, association, or
corporation] qualified applicant under Section 3.36.040
which receives a grant from the County."

SECTION 2. Section 3.36.020, Maui County Code, is repealed.

["3.36.020 Maui County grants review committee. A.
The Maui County grants review committee is hereby
established.

B. The committee shall be comprised of nine
members, each of whom shall be nominated by the mayor and
confirmed by the council. Section 13-2 of the revised

charter of the County of Maui shall apply to the committee in the same manner as said provisions apply to boards and commissions recognized by the revised charter.

C. The mayor shall provide adequate administrative support to the committee.

D. The committee] **Review.** A. An agency accepting applications for a grant or loan shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, relating to the following:

1. Conditions for grants;
2. Procedures and a timetable for the submission of requests;
3. The analysis required of requests;
4. Procedures and standards for monitoring and evaluating grants.

[E. The committee may adopt such other rules as are necessary to meet its responsibilities under this chapter."]

SECTION 3. Section 3.36.030, Maui County Code, is amended to read as follows:

"3.36.030 Soliciting [requests.] applications. When an appropriation is available for allocation, other than to a recipient identified in the annual budget or amendments thereto, the [committee] agency shall [advertise] post on the County website and publish in the local newspaper the availability of the appropriation, and shall solicit [requests.] applications."

SECTION 4. Section 3.36.040, Maui County Code, is amended to read as follows:

"3.36.040 Qualifying standards for applicants. An applicant [making a request] for a grant or loan shall meet all of the following standards:

A. Be a profit organization incorporated under the laws of the State of Hawaii, or a nonprofit organization determined to be exempt from federal income tax by the Internal Revenue Service;

B. In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;

C. Have bylaws or policies which describe the manner in which business is conducted. Such bylaws or policies shall include provisions relating to nepotism and management of potential conflict-of-interest situations;

D. Be licensed and accredited in accordance with applicable requirements of federal, state, and [county] County governments, as necessary."

SECTION 5. Section 3.36.050, Maui County Code, is amended to read as follows:

"3.36.050 Conditions for grants or loans. An applicant [making a request] for a grant or loan shall agree to comply with the following conditions before receiving benefits under such grant:

A. Allow the [committee, the mayor or his designate, the] agency, the mayor, or the committees of the council and its staff, and the independent auditor of the County full access to records, reports, files, and other related documents in order that the program, management, and fiscal practices of the recipients may be monitored and evaluated to assure the proper and effective expenditure of public funds as necessary; and

B. Comply with such other requirements as the [committee] agency or the council may prescribe to ensure adherence by the recipient with federal, state, and [county] County laws."

SECTION 6. Section 3.36.060, Maui County Code, is repealed.

["3.36.060 Submissions of requests. Every request for a social grant shall be submitted in writing to the committee, in accordance with rules promulgated by the committee."]

SECTION 7. Section 3.36.070, Maui County Code, is amended to read as follows:

"3.36.070 [Review by committee.] Applications. [The committee shall make written findings and recommendations which] An applicant for County funds shall complete an application which shall be reviewed and verified by agency personnel. Each application shall include, but not be limited to:

A. The public purposes to be served;
B. The objectives intended to be achieved;
C. The activities and services to be performed;
D. The reasonableness of personnel classification and compensation plans, if the [request] application includes funding for personnel service costs;

E. The probable efficiency and effectiveness of the proposed grant in achieving the intended objectives, compared with other alternatives;

- F. The target group to be affected;
- G. Measures by which the effectiveness of the grant or loan is to be evaluated;
- H. The analysis and justification for the recommended grant or loan."

SECTION 8. Section 3.36.080, Maui County Code, is repealed.

["3.36.080 Allocation of appropriations. The committee shall transmit to the mayor one or more written recommendations for allocations of part or all of any appropriation intended for allocation under this chapter among the applicants making requests. In its recommendations, the committee shall adhere to the following policies:

A. Requests for programs offering human services shall be given first consideration over other requests.

B. Requests to continue existing programs shall be given first consideration over requests to initiate new programs."]

SECTION 9. Section 3.36.090, Maui County Code, is amended to read as follows:

"3.36.090 Grants of real property. The [committee] agency shall transmit to the council any [request] application for a grant of real property, including concessions at less than fair market value, and its recommendations with respect to the [request.] application. The council may authorize the grant by resolution."

SECTION 10. Section 3.36.100, Maui County Code, is amended to read as follows:

"3.36.100 Contracts. A. An appropriation for a grant or loan shall not be expended unless a contract is entered into between the County[,] and the recipient.

B. Each contract shall specify that the County shall not be held liable for any claims or damages resulting from the acts of the recipient[.] and require adequate insurance coverage naming the County as an additional insured.

[C. Every contract with a recipient shall be based on a request solicited in accordance with the rules adopted by the committee.]"

SECTION 11. Section 3.36.110, Maui County Code, is amended to read as follows:

"3.36.110 Reports by recipients. A. Recipients of a [Grant of Public Funds.] grant or loan.

1. All recipients of [public funds] a grant or loan shall keep detailed, separate financial records relating to funds received from the [county.] County. Audits of such financial records shall be performed as required in the rules and regulations adopted by the [committee,] County, provided, however, that any nonprofit organization with an annual budget of [~~\$5,000~~] \$25,000 or less may have their records audited by the department of finance.

2. Within three weeks after the end of each quarter of the fiscal year, each recipient of a grant [of public funds] or loan shall transmit to the [committee] agency a report containing the following information for the quarter and for the fiscal year to date:

- a. Program status summary;
- b. Program data summary;
- c. Summary of participant characteristics;
- d. Financial status report of the County funds used; and
- e. Narrative report.

3. Reports by each recipient of a grant [of public funds] or loan shall continue through the fiscal quarter in which the moneys to be received from the [county] County are completely expended[.] or, in the case of a loan, until all funds have been repaid.

B. Recipients of a [Grant of Real Property.] grant of real property.

1. Within three weeks after the end of the fiscal year, each recipient of a grant of real property shall transmit to the [committee] agency a report containing the following information [specified in subsection A2 of this section.] for the quarter and for the fiscal year to date:

- a. Program status summary;
- b. Program data summary;
- c. Summary of participant characteristics;
- d. Changes in real property tax assessment for the real property;

- e. Earnings from the grant of real property; and
- f. Narrative report."

SECTION 12. Section 3.36.120, Maui County Code, is amended to read as follows:

"3.36.120 Monitoring and evaluation. A. The [committee] agency shall monitor every grant to ensure compliance with this chapter.

B. Within eight weeks after the end of the fiscal year, the [committee] agency shall transmit to the mayor and council an evaluation of every grant which was [requested or ongoing] appropriated during the fiscal year. The report shall contain a summary of whether each grant attained the intended results in the manner contemplated."

SECTION 13. Section 3.36.130, Maui County Code, is amended to read as follows:

"3.36.130 Noncompliance. Any recipient who withholds or omits any material facts, or deliberately misrepresents such facts to the [committee, the] council, the mayor, or any agency, shall be in violation of this chapter. If the [committee] agency finds that a recipient has violated this chapter or the terms of its contract, the [committee] agency shall inform the mayor who shall inform the council in writing and, upon council concurrence, the recipient shall be prohibited from applying for any grant for five years following such [finding.] finding, return all funds or real property granted to the recipient, and be subject to debarment proceedings."

SECTION 14. Section 3.36.140, Maui County Code, is amended to read as follows:

"3.36.140 Delegation by mayor. The mayor may delegate [his] the mayor's duties under this chapter to the extent allowed by law."

SECTION 15. Section 3.36.150, Maui County Code, is amended to read as follows:

"3.36.150 [Council unaffected.] Applicability. All grants of County funds and County real property are subject to this chapter. Nothing in this chapter shall restrict the council from [making] appropriating grants for public purposes, except for noncompliance under section 3.36.130, provided that sections [3.36.100] 3.36.070 to 3.36.140 shall apply."

SECTION 16. Section 3.36.160, Maui County Code, is repealed.

["3.36.160 Types of grant applications. The committee shall review all applications for grants for programs relating to human services, community youth groups, and culture and the arts."]

SECTION 17. Section 3.36.170, Maui County Code, is amended to read as follows:

"3.36.170 [Grant-loans.] Loans. A. Council may authorize [grant-loans] loans by requiring, as a condition of the [grant] loans of funds, repayment of the [grant-loan based on the recipient's ability to pay.] loan, including the County's ability to post a lien on the recipient's assets.

B. Every [request] application for a [grant-loan] loan shall include, but not be limited to, the information required by section 3.36.070.

C. All [grant-loans] loans must comply with sections 3.35.050, 3.36.070, and 3.36.100 to 3.36.140.

D. At the [request] application of the recipient, [grant-loan] loan repayment terms may be revised, deferred, or waived, in part or in whole by a resolution of the council."

SECTION 18. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 19. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



GARY K. MURAI
Deputy Corporation Counsel

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