

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics

October 31, 2016

Angie M. Gates
Lawrence N. Cooper, Esquire
Office of Cable Television, Film, Music and Entertainment
1899 9th Street, N.E.
Washington, D.C. 20018

Dear Director Gates and Mr. Cooper:

This responds to your October 24, 2016 memorandum, attached hereto as Exhibit A, in which you request an advisory opinion from the Board of Ethics and Government Accountability (“Ethics Board”) as to whether certain activities by the Office of Cable Television, Film, Music and Entertainment (“OCTFME”) violate the Code of Conduct.¹ Specifically, you have requested whether OCTFME would violate the Code of Conduct by:

- (1) Creating, producing, broadcasting, distributing, and/or streaming media aimed at educating District residents on statehood and the Advisory Ballot Referendum on behalf of the D.C. Statehood Commission (“DC SC”), the Executive Office of the Mayor (“EOM”), the D.C. Council (“Council”), or Congresswoman Eleanor Holmes Norton;
- (2) Broadcasting, distributing, and/or streaming media created by others that is aimed at educating District residents on statehood and the Advisory Ballot Referendum on behalf of the DC SC, EOM, the Council, or Congresswoman Norton; and
- (3) Creating and producing media aimed at educating District residents on statehood and the Advisory Ballot Referendum using the slogan “Create the State” and simultaneously advocating for the right to vote.

While your request is addressed to the Ethics Board, I view it as invoking my authority as the Director of Government Ethics under section 219(a) of the Ethics Act.²

¹ Your memorandum also requests advice from the Office of Campaign Finance (“OCF”) and the Board of Elections (“BOE”) “on expenditures” related to these same activities.

² Section 219(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19(a)). The section provides that “[u]pon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.”

As a preliminary matter, the Code of Conduct is only applicable to employees of the District of Columbia and not to District agencies.³ Accordingly, I view your request as relating to the employees of OCTFME, as opposed to the agency itself. Based on the information in your memorandum, I conclude that the activities outlined in it would not violate the Local Hatch Act,⁴ section 1801 of the Merit Personnel Act,⁵ or 6B DCMR § 1808, all of which are elements of the Code of Conduct.⁶ I also conclude that the activities would not violate any other relevant provision of the Code of Conduct.

Background

OCTFME formed as a result of the merger of two offices, the Office of Cable Television and the Office of Motion Picture and Television Development. As a result of that merger, OCTFME is statutorily charged with, among other things, “[p]roducing content for the government and educational channels and managing those channels and producing video content for District government agencies and residents”⁷ In fact, a 2005 Mayor’s Order specifically designated OCTFME as “the primary agency to produce programming for District government agencies” with the first right of refusal.⁸ To that end, OCTFME has created media content in support of the District’s initiatives. And, in fact, it has already broadcasted statehood related content.⁹

In anticipation that DC SC, EOM, the Council, Congresswoman Norton, and other District agencies will request that OCTFME create and broadcast media related to statehood and the Advisory Referendum on their behalf, OCTFME has requested the instant advisory opinion. The Advisory Referendum, which is attached hereto as Exhibit B, provides as follows:

To ask the voters on November 8, 2016, through an advisory referendum, whether the Council should petition Congress to enact a statehood admission act to admit the State of New Columbia to the Union. Advising the Council to approve this proposal would establish that the citizens of the District of Columbia (“District”):

³ The Board of Ethics and Government Accountability is statutorily authorized to enforce the Code of Conduct as to “all employees and public officials serving the District of Columbia, its instrumentalities, subordinate and independent agencies, the Council of the District of Columbia, boards and commissions, and Advisory Neighborhood Commissions” Section 201a of the Ethics Act (D.C. Official Code § 1-1162.01 a); *see also* section 202(a)(1) (D.C. Official Code § 1-1162.02(a)(1)).

⁴ The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01 *et seq.*).

⁵ Section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01) (“Section 618.01”).

⁶ Respectively, *see* section 101(7)(B), (E), and (E-i) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(B), (E), and (E-i)).

⁷ Office of Cable Television, Film, Music, and Entertainment Act of 2015, effective October 22, 2015 (D.C. Law 21-36, § 2072(d); D.C. Official Code § 34-1252.01 (a)(2)).

⁸ Section 3(A) and (B) of Mayor’s Order 2005-162 (dated October 25, 2005).

⁹ *See* Exhibit A at 2.

(1) agree that the District should be admitted to the Union as the State of New Columbia;

(2) approve of a Constitution of the State of New Columbia to be adopted by the Council;

(3) approve the State of New Columbia's boundaries, as adopted by the New Columbia Statehood Commission on June 28, 2016; and

(4) agree that the State of New Columbia shall guarantee an elected representative form of government.

It concludes by asking voters to vote yes or no as to the following question: "Shall the voters of the District of Columbia advise the Council to approve or reject this proposal?"

The Local Hatch Act

The Local Hatch Act limits the political activities of District government employees. With few exceptions, the Local Hatch Act is applicable to District employees, who are defined as "[a]ny individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia."¹⁰ It regulates political activity, which is defined as "any activity that is regulated by the District *directed toward the success or failure* of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum."¹¹

I previously issued an advisory opinion regarding whether certain District employees could engage in statehood related activities leading up to an advisory referendum without violating the Code of Conduct.¹² In that opinion, I concluded that an Advisory Referendum regarding statehood is nonbinding and "functions essentially as nothing more than a public survey or opinion poll . . ."¹³ Moreover, the "considerations of 'success or failure' [which are necessary components of political activity] . . . are absent."¹⁴ Similarly, activities regarding statehood

¹⁰ D.C. Official Code § 1-1171.01(3)(A).

¹¹ D.C. Official Code § 1-1171.01(8)(A) (emphasis added). *See also* Report of the Committee on Government Operations and the Environment on Bill 18-460, the Prohibition on Government Employee Engagement in Political Activity Act of 2010, at 5-6 (Council of the District of Columbia, November 16, 2010) (discussing definitions in bill) ("Political activity means conduct whose goal is the success or failure of a partisan candidate or political group, ballot initiative, or referendum.").

¹² Response to Request for Opinion Regarding Statehood Related Activities, 1009-010 (June 14, 2016) (available at <http://www.bega-dc.gov/sites/default/files/documents/6.14.16%20Advisory%20Opinion%20Re%20Statehood%20Related%20Activities.pdf>).

¹³ *Id.* at 4-5.

¹⁴ *Id.*

described in your memorandum do not fit the statutory definition of political activity, as they are neither aimed at the success or failure of a ballot initiative or referendum. The activities proposed by OCTFME, therefore, do not violate the Local Hatch Act.

Section 618.01 of the Merit Personnel Act

Section 618.01(a) of the Merit Personnel Act provides as follows:

Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.¹⁵

I have previously advised that “individuals . . . may engage in the statehood-related activities outlined in [the requester’s] memorandum without violating section 618.01(a), **as long as they do so by using funds and other District government resources that are authorized for that purpose.**”¹⁶ In that same vein, OCTFME employees may engage in the Advisory Referendum and statehood-related activities outlined in your memorandum without violating section 618.01(a), as long as they do so by using funds and other District government resources that are authorized for that purpose.

With regard to the activities proposed in your memorandum, the first and second questions can easily be answered in the affirmative. More specifically, OCTFME employees may create and produce media aimed at educating District residents on statehood and the Advisory Ballot Referendum and they may broadcast, distribute and/or stream the same (irrespective of whether created by OCTFME), if done on behalf of the DC SC, EOM, the Council, Congresswoman Norton, or another District agency whose activities directly support the Mayor’s Statehood agenda. The D.C. Code, as well as Mayor’s Order 2005-162, contemplates OCTFME as the entity principally responsible for creating media on behalf of the aforementioned groups, including, but not limited to, media related to the Advisory Referendum and statehood. Based upon that authority, the conduct contemplated in the first and second questions of your memorandum are permitted.

The third question, however, requests whether OCTFME employees can create the aforementioned media that include a “Create the State” slogan on its own. OCTFME employees are statutorily required to produce content for the government and educational channels.¹⁷ This language does not limit OCTFME’s ability to generate its own content. In fact, the statutory language explicitly contemplates that OCTFME will create content on its own. Similarly, the

¹⁵ For an in depth discussion regarding Section 618.01 and statehood related activities, *see id.* at 2-4.

¹⁶ *Id.* at 4 (emphasis added).

¹⁷ D.C. Official Code § 34-1252.01(a)(2).

statute does not limit the type of content that OCTFME can produce. Nevertheless, and as is the case above, OCTFME employees must create content by using funds and other District government resources that are authorized for that purpose in order to avoid violating section 618.01(a). Accordingly, the conduct described in the third question does not violate section 618.01(a), so long as the funds and resources used are authorized for that purpose and the content created does not run afoul of its own policies regarding content creation.¹⁸

Please note, however, that the Office of Campaign Finance (“OCF”) may take a different view with respect to permissible expenditures in this area. It is OCF, and not this Office, that has authority to opine on the prohibition concerning expenditures of government resources for “campaign related activities” and to define what constitutes such activities.

In sum, the activities proposed in the memorandum do not violate Section 618.01(a) of the Merit Personnel Act.

6B DCMR § 1808

A District government employee “has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.”¹⁹ Further, given the wide-ranging nature of the activities described in the memorandum, the definition of “government property” is equally as broad, covering everything from paperclips to intangible property interests.²⁰

Therefore, considerations very similar to those discussed above in the context of CMPA section 618.01(a) lead me to the same conclusion of permissibility regarding participation in the activities described in your memorandum, when viewing the activities (along with associated resources) in light of 6B DCMR § 1808.

Because this advisory opinion is provided to you pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), be advised that the opinion must be published in the *D.C. Register* within 30 days of its issuance, but your identity will not be disclosed unless you consent to such

¹⁸ See Exhibit A at 2 (“OCTFME’s programming policy provides ‘ . . . persons advocating any cause, viewpoint or policy, proposed or otherwise, will not be eligible to appear on DCC, DCN or DKN, except in a program or series where the formal allows for . . . all sides of an issue to be heard on an equal basis and within the same format.’”)

¹⁹ 6B DCMR § 1808.1. The term “authorized purposes” is defined by 6B DCMR § 1808.2(b) as meaning “those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.”

²⁰ See 6B DCMR § 1808.2(a) (defining “government property” as including “any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.”).

disclosure in writing.²¹ We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,



DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

Attachments:

- (1) October 24, 2016 memorandum
- (2) Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016

#1566-001

²¹ See section 219(b) (D.C. Official Code § 1-1162.19(b)). Also, in terms of the safe harbor against enforcement of a violation of the Code of Conduct afforded by section 219(d) (D.C. Official Code § 1-1162.19(d)), be advised that this opinion is limited in scope to the statehood-related activities outlined in your memorandum and is intended to operate prospectively from October 24, 2016.

EXHIBIT A

Government of the District of Columbia
**OFFICE OF CABLE TELEVISION
FILM, MUSIC AND ENTERTAINMENT**



To: Office of Campaign Finance
Board of Elections
Board of Ethics and Government Accountability

From: Angie M. Gates, Director
Lawrence. N. Cooper, General Counsel

Date: October 24, 2016

RE: Request for Expedited Formal Advisory Opinion from BEGA on Activities Related to Advisory Ballot Referendum and Expedited Interpretive Opinion from OCF and BOE on Activities Related to Advisory Ballot Referendum

The Office of Cable Television, Film, Music and Entertainment (OCTFME) requests guidance regarding involvement in certain District of Columbia Statehood campaigning to affirm compliance with law. Specifically seeking guidance on Hatch Act and ethics laws from BEGA and advice on expenditures from OCF and BOE.

Background:

OCTFME was formed as a result of the merger of two former District agencies, the Office of Cable Television, and the Office of Motion Picture and Television Development. One of the OCTFME's statutory responsibilities involves producing content for and managing the District's public educational and governmental (PEG) cable channels. Program content and information regarding the Mayor and the Mayor's initiatives as well content in the public interest of District residents is broadcast on the District of Columbia Network (DCN). Live DC Council proceedings and other matters related to the DC Council members are broadcast on the District of Columbia Council Channel (DCC). Educational programming and content of interest to younger District residents is broadcast on the District Knowledge Network (DKN). In addition to the linear local cable channels, OCTFME also engages residents with distribution of program content and information via its website and several social media platforms, including YouTube, FaceBook, Twitter and Instagram.

Also as part of its statutory public service responsibilities, and pursuant to Mayoral Order 2005-162¹, OCTFME produces a range of content for other District agencies including public service announcements (PSAs) and other video presentations that highlight or support various District initiatives; or that help inform District residents of various agency and District-wide services. Because statehood has continued to be a major initiative at all levels of District government and affects all District residents, OCTFME has previously broadcast statehood

¹ District agencies are required to provide OCTFME with the right of first refusal for any cable programming or messaging needs. We have attached a copy of the 2005 Mayoral Order for your convenience.



related content for the purpose of informing residents on what statehood means for them. In light of the Advisory Ballot Referendum on statehood, the agency anticipates additional requests for the creation of content to support the District's statehood initiative. These requests may come from the Statehood Commission or its members, District agencies under the Mayor's Office, as well as Congresswoman Eleanor Holmes Norton. Generally, content that is produced by OCTFME is broadcast on its channels, streamed via the internet on the agency website, and could be promoted and further distributed as links via social media.

OCTFME's programming policies expressly prohibit broadcasts of any political programming, except under narrow circumstances.² Furthermore, the programming policy is clear that all PEG channel programming is established based on direction from the Office of the Mayor and the Council of the District of Columbia. Accordingly, as a prime media communications outlet for the District government, OCTFME broadcasts and distributes content that supports initiatives important to the Mayor (and by extension the Mayor's agencies) or the Council, unless prohibited from doing so by law.

Recently, your offices issued opinions in response to a Memorandum dated June 3, 2016 from Beverly Perry, Senior Advisor to the Mayor (Office of Federal and Regional Affairs) and Betsy Cavendish, General Counsel (Executive Office of the Mayor).³ The opinions addressed whether certain statehood-related activities described in the June 3rd Memorandum would violate the DC Hatch Act, ethics laws or election expenditures laws. BEGA's opinion found that "...statehood-related activities leading up to the advisory referendum in November, as well as participation in the vote itself, are not forms of political activity as defined in the Local Hatch Act and are, therefore, permissible."⁴ The OCF interpretive opinion similarly concluded "it does not appear that any activities that the New Columbia Statehood Commission intends to undertake in connection with an Advisory Ballot Referendum are within the scope of the applicable provisions of the District of Columbia Campaign Finance Act."⁵

While activities of EOM administration officials for several agencies were specifically referenced in the June 3rd Memorandum as being critical to the statehood efforts, and OCTFME was not listed as one of these agencies, we found no restrictions in the advisory

² The OCTFME programming policy states that declared candidates for any elective public office and persons advocating any cause, viewpoint or policy, proposed or otherwise, will not be eligible to appear on DCC, DCN or DKN, except in a program or series where the format allows for all candidates or sides of an issue to be heard on an equal basis and within the same format. Candidates for public office may appear on a bona fide news program; a news documentary, if the appearance of the candidate is incidental to presentation of the subject matter; or in coverage of official City meetings such as City Council, Commissions, or Committees. OCTFME must make every effort to ensure that an authorized appearance by any qualified political candidate on DCC, DCN or DKN will abide by these restrictions, and will tailor such appearances so as to minimize the fact of their candidacy.

³ The Board of Ethics and Government Accountability released its Opinion on June 14, 2016; The Office of Campaign Finance released its Opinion on June 17, 2016.

⁴ Response to Request for Opinion Regarding Statehood Related Activities, 1009-010 Op. BEGA 6 (2016).

⁵ Response to Request for Interpretive Opinion Regarding Activities Relating To An Advisory Ballot Referendum, Interpretive Opinion 2016-01 (2016).

opinion or interpretive opinion that would exclude OCTFME's statehood-related efforts in support of EOM from the scope of the opinions.

Questions:

We seek confirmation that OCTFME would not be in violation of the Hatch Act, ethics laws or election expenditures laws, if it were to engage in the following:

- A. Creation and production of program content and information aimed at educating DC residents on statehood and the Advisory Ballot Referendum, and the broadcast, distribution and/or streaming of such content across each of OCTFME's media platforms (including, but not limited to DCC, DKN, DCN, the agency webpage, YouTube, FaceBook, Twitter and Instagram) on behalf of, or at the request of the DC Statehood Commission, Executive Office of the Mayor, DC Council or Congresswoman Eleanor Holmes Norton.
- B. Broadcast, distribution and/or streaming of program content and information (not created by OCTFME) aimed at educating DC residents on statehood and the Advisory Ballot Referendum across each of OCTFME's media platforms (including, but not limited to DCC, DKN, DCN, the agency webpage, YouTube, FaceBook, Twitter and Instagram) on behalf of, or at the request of the DC Statehood Commission, Executive Office of the Mayor, DC Council or Congresswoman Eleanor Holmes Norton.
- C. Creation and production of content and information aimed at educating DC residents on statehood and the Advisory Ballot Referendum using the slogan "Create the State" and simultaneously advocating for the right to vote without use of any messages to "vote for" the Advisory Ballot Referendum.

We believe that OCTFME would not be in violation of the Hatch Act, ethics laws or election expenditures laws by supporting the District's statehood initiative or using its resources to support, discuss, or disseminate program content or information regarding DC statehood and the Advisory Ballot Referendum in accordance with the June 3rd Memorandum. OCTFME's channels, website and social media accounts are dedicated media platforms for District of Columbia governmental communications and are critical resources in implementing the New Columbia Statehood Commission's statehood activities and efforts. In accordance with your prior advisory and interpretive opinions, OCTFME's proposed activities in educating residents about or supporting statehood and the Advisory Ballot Referendum should not constitute prohibited political activities under the Hatch Act or ethics laws, nor violate any provisions of the DC Campaign Finance Act.

cc: Beverly Perry, Senior Advisor to the Mayor, Office of Federal and Regional Affairs
Betsy Cavendish, General Counsel, Executive Office of the Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2005-162
October 24, 2005

**SUBJECT: Policy for the Production of Video Programming
by District Government Agencies**

ORIGINATING AGENCY: Office of Cable Television and Telecommunications

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422 (11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22 (11) (2001), and pursuant to section 202 (8) of the Cable Television Communications Act of 1981, as amended, D.C. Law 4-142, D.C. Official Code § 34-1252.02(8) (2004 Supp.), it is hereby **ORDERED**:

1. **PURPOSE:**

The purpose of this Order is to establish a policy regarding the production of video programming ("programming") by District of Columbia government agencies that are subject to the administrative authority of the Mayor (hereafter "agency" or "agencies").

2. **RATIONALE**

A. The District of Columbia Office of Cable Television and Telecommunications ("OCTT") is responsible for the coordination, management and oversight of District government television channels and the programming that appears on those channels. As a part of OCTT's duties, it produces programming and provides coverage of events and proceedings that concern the District government and community. OCTT provides coverage of hearings and proceedings before the Council of the District of Columbia, events organized by the Mayor and executive branch government agencies, and other events that take place within the District of Columbia. Additionally, OCTT produces original programming for the purpose of providing information to District residents.

B. This Order establishes the responsibilities of District agencies regarding the creation of audio-visual information. Specifically, this Order establishes parameters designed to ensure that these agencies' messages are consistent with the communications of the Mayor and District government and that the District government's resources are used in the most efficient manner possible.

C. Additionally, this Order sets forth the procedures to be used regarding the production of programming on behalf of District government agencies.

3

AUTHORITY OF THE OFFICE OF CABLE TELEVISION AND TELECOMMUNICATIONS:

A. Pursuant to D.C. Official Code § 34-1252.02(8) (2004 Supp.), OCTT is designated as the primary agency to produce programming for District government agencies. OCTT's Executive Director shall have the authority to coordinate and manage all video programming produced in accord with this Order. Except as otherwise provided by this Order, the production of all video programming for District agencies shall be obtained from OCTT.

B. District agencies are prohibited from contracting to produce programming with any person or entity that is not an agency of the District government (i.e., "third-party programming") without first affording OCTT an opportunity to produce the requested programming pursuant to the specifications of the agency's "Justification for Commercial Vendor," as provided in Paragraph 4 of this Order.

C. This Order shall apply to all District government departments, agencies and offices subject to the administrative authority of the Mayor (collectively, "agency" or "agencies").

4. **RESPONSIBILITIES OF DISTRICT AGENCIES:**

A. Each agency shall follow written rules and procedures to be established and published by OCTT regarding the production of programming to be distributed to the general public.

B. All agencies shall coordinate with OCTT on all programming projects and activities.

C. In advance of any project, agencies shall submit related plans to OCTT within a reasonable period of time for review. Proposal information shall include the project's topic, timeframe for completing project, length of the program, preferred format, preferred program features and whether the contracting agency proposes that an entity other than a District government agency produce the programming.

D. The contracting agency shall enter into a memorandum of understanding (MOU) with OCTT to provide for the transfer of intra-District funds and to set the specific terms and specifications for the project.

E. The contracting agency shall authorize OCTT to cablecast any programming that OCTT produces.

F. If an agency seeks to procure programming from a commercial vendor or other organization other than OCTT:

(i) The agency shall provide OCTT a "Justification for Commercial Vendor," wherein the agency shall set forth the proposed costs of the project, detailed specifications for the project, and the reasons that the project is to be produced by the requested contractor rather than by OCTT.

(ii) OCTT shall have a right of first refusal to produce the proposed programming. The agency shall allow OCTT a reasonable time in which to determine whether it can produce the requested programming pursuant to the specifications of the agency's Justification for Commercial Vendor. OCTT may elect to produce the proposed programming for the agency, provided that OCTT is capable of satisfying each of the material specifications set forth in the agency's Justification for Commercial Vendor.

(iii) Should OCTT elect not to invoke this right of first refusal regarding a particular proposed project, OCTT shall notify the involved agency of that decision within a reasonable time.

(iv) Any third-party programming contract shall comply with applicable law and any procurement requirements.

G. In the event that OCTT exercises its right of first refusal, or fails to respond to the agency's third-party programming proposal within a reasonable time, the agency may seek review in the Office of the Deputy Mayor for that agency's cluster. The Deputy Mayor may refer the agency's request for review to the Office of the City Administrator. The decision of the Deputy Mayor or the City Administrator (as the case may be) will be final and binding on both OCTT and the agency.

5. **RESPONSIBILITIES OF THE OFFICE OF CABLE TELEVISION AND TELECOMMUNICATIONS:**

A. OCTT shall reasonably cooperate with all agencies regarding the production of government programming projects.

B. If OCTT produces an agency programming project, it shall provide management services for that project, including assistance and supervision to successfully administer the project.

C. OCTT shall complete programming projects on a timely basis and in accord with the specifications of the contracting agency.

D. In the event that OCTT decides to exercise its right of first refusal to produce requested programming from a commercial vendor, it will do so pursuant to the terms set forth in Sections 4 (F) and (G) of this Agreement.

6. **MEMORANDUM OF UNDERSTANDING (MOU):**

A. In the event OCTT agrees to produce programming for a requesting agency, it shall enter into a related MOU with the agency.

B. Any MOU between OCTT and a District government agency to produce programming shall include:

- i. A description of the programming to be produced, including the theme, length and any other specifications.
- ii. The dollar amount of the MOU.
- iii. The specific responsibilities of OCTT and of the contracting agency.
- iv. The responsibility of the involved agency to pay OCTT via an intra-District MOU.
- v. OCTT and the government agency's right to terminate the MOU.
- vi. Any other information that is relevant to the project and that supports the successful completion of such programming.

7. **EXCEPTIONS:**

In accordance with the District's rules regarding donations (*see* Mayor's Memorandum 2002-1), this Order shall not apply to programming to be produced for an agency by an outside organization as a donation to the District government or the agency.

8. **APPLICABILITY:**

This Order shall apply to all District government departments, agencies and offices under the administrative authority of the Mayor.

9. **PROCEDURES:**

The Executive Director of OCTT shall develop procedures, as necessary, for the implementation of this Order.

10. **DEFINITIONS:**

"Programming" means any audio-visual production including, but not necessarily limited to, television shows, public service announcements, features, commercials and training videos meant to be distributed via a broadcast, cablecast or otherwise shown to the general public. The term does not include bona fide news programs or similar live events.

"Cablecast" means the act of distributing audio-video programs over a cable television system.

"News program" means a bona fide newscast, news interview, news documentary, press conference, or on-the-spot coverage of news events.

11. **EFFECTIVE DATE:** This Order shall be effective immediately.


ANTHONY A. WILLIAMS
MAYOR

ATTEST: 
PATRICIA ELWOOD
INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

EXHIBIT B

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

The proposed Advisory Referendum will be presented to the voters at the General Election to be conducted on Tuesday, November 8, 2016.

ADVISORY REFERENDUM B

SHORT TITLE

“Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016”

SUMMARY STATEMENT

To ask the voters on November 8, 2016, through an advisory referendum, whether the Council should petition Congress to enact a statehood admission act to admit the State of New Columbia to the Union. Advising the Council to approve this proposal would establish that the citizens of the District of Columbia (“District”):

- (1) agree that the District should be admitted to the Union as the State of New Columbia;
- (2) approve of a Constitution of the State of New Columbia to be adopted by the Council;
- (3) approve the State of New Columbia’s boundaries, as adopted by the New Columbia Statehood Commission on June 28m 2016; and
- (4) agree that the State of New Columbia shall guarantee an elected representative form of government.

Shall the voters of the District of Columbia advise the Council to approve or reject this proposal?

YES, to approve ____

NO, to reject ____