



(2)

BPC Policy No. 070

SUBJECT: RECEIPT AND DISTRIBUTION OF PASSES AND TICKETS

PURPOSE: The purpose of this policy is to comply with Fair Political Practices Commission (FPPC) regulations which require that any distribution of tickets or passes by the San Diego Unified Port District (District) to its officials, individuals or organizations, be made pursuant to a written policy duly adopted by the Board of Port Commissioners (Board) which states the public purposes to be accomplished by the District.

This policy, does not cover tickets, passes or other gifts received by officials which are reportable under FPPC Form 700.

POLICY STATEMENT:

1. This Policy shall be posted on the District's website in a prominent fashion.
2. For the purpose of this Policy, the following definitions will apply:
 - a. **Ticket or Pass** means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose ("Event").
 - b. **Official** means any member of the Board, or District employee.
3. The ticket or pass shall not be earmarked by the original source for use by the Official who uses the ticket or pass.
4. The District shall determine in its sole discretion which Official may use the ticket or pass.
5. Distribution of any ticket or pass by the District, to an Official, individual or organization, shall accomplish a public purpose of the District.
6. Tickets or passes may be provided to an Official, individual or organization to support any of the following public purposes:
 - a. A ceremonial role or function on behalf of the District.
 - b. As part of the District's community outreach efforts.

- c. Representing the District at an event to sustain or build relationships with tenants, businesses, or local, regional, state or federal agencies.
 - d. Representing the District at an Event of a non-governmental organization, which will sustain or build relationships with that non-governmental organization in support of the District's Mission, Vision or Strategic Plan.
 - e. The Event will provide educational information that will benefit the District or Official attending the Event.
 - f. The Official's written job duties require the Official to appear at the Event.
 - g. Attendance of an Official of the District at the Event will in some other way support the Mission, Vision or Strategic Plan of the District.
 - h. The Event is being attended in an effort to generate business or trade or similar activity in furtherance of the purposes of the District as described in the San Diego Unified Port District Act.
 - i. Any purpose consistent with the provisions of the San Diego Unified Port District Act.
7. Any ticket or pass distributed pursuant to this Policy shall not be transferred to any other person, except to members of the Official's immediate family solely for their personal use.
8. The distribution of a ticket or pass pursuant to this Policy shall be posted on a form provided by the FPPC, in a prominent fashion on the District's website, within 30 days after the distribution.
9. Specific guidelines for the dissemination of passes or tickets to Events may be established by the Executive Director or designee pursuant to an Administrative Procedure.

RESOLUTION NUMBER AND DATE: 2009-40, dated March 3, 2009

BPC Policy No. 070

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(1)

REFERENCE
COPY

54628

Re Adoption of BPC Policy 070,]
]]
Receipt and Distribution of Passes]
]]
and Tickets]
_____]

RESOLUTION 2009-40

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That Board of Port Commissioners Policy No. 070, Receipt and Distribution of Passes and Tickets, a copy of which shall be placed on file in the office of the District Clerk, is hereby adopted.

ADOPTED this 3rd day of March, 2009.

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3/3/09

(11)

AGENDA ITEM 5

SAN DIEGO UNIFIED PORT DISTRICT

**REFERENCE
COPY**

DATE: March 3, 2009

54628

SUBJECT: RESOLUTION ADOPTING BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 070, ENTITLED "RECEIPT AND DISTRIBUTION OF PASSES AND TICKETS," SETTING FORTH THE REQUIREMENTS FOR THE DISTRIBUTION OF TICKETS AND PASSES BY THE DISTRICT

EXECUTIVE SUMMARY:

The Fair Political Practices Commission (FPPC) has adopted Regulation 18944.1 concerning the distribution of tickets and passes by public agencies such as the District. The regulation became operative on February 7, 2009.

The regulation sets out the framework for the distribution of tickets and passes for admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose, by the District to its officials, individuals, or organizations, and requires the District to adopt a written policy, which must be posted on the District's website.

Further, information regarding the distribution of tickets by the District must also be posted on the District's website on a form (Form 802, which was created by the FPPC) that provides relevant information related to the distribution of the ticket or pass and the public purpose of its use.

BPC Policy No. 070 – Receipt and Distribution of Passes and Tickets, brings the District into compliance with the FPPC regulation and incorporates the basic requirements of FPPC Regulation 18944.1. The Policy also allows the Executive Director to establish an Administrative Procedure that details specific guidelines for the dissemination of passes and tickets by the District.

RECOMMENDATION:

Adopt BPC Policy No. 070, entitled "Receipt and Distribution of Passes and Tickets," setting forth the requirements for the distribution of tickets and passes to events.

FISCAL IMPACT:

No Fiscal Impact.

ACTION TAKEN: 03-3-2009 - Resolution 2009-40

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- Promote the Port's maritime industries to stimulate regional economic vitality.
- Enhance and sustain a dynamic and diverse waterfront.
- Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- Ensure a safe and secure environment for people, property and cargo.
- Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- Develop a high-performing organization through alignment of people, process and systems.
- Strengthen the Port's financial performance.
- Not applicable.

DISCUSSION:

Previous FPPC Regulations permitted an official to use a ticket or pass to an event without disclosing the information as long as the ticket or pass was provided to the official by the official's agency. As a result, little public information was available regarding who attended an event or what the public purpose was in attending the event.

The FPPC has adopted Regulation 18944.1 concerning the distribution of tickets and passes by public agencies such as the District, which became operative on February 7, 2009.

Written Policy Requirement. The regulation sets out the framework for the distribution of passes or tickets, and requires public agencies such as the District to establish a written policy regarding its distribution practice, and to post the policy on its website in a prominent fashion. **BPC Policy No. 070 fulfills this requirement and the District has modified its website in anticipation of this posting requirement.**

Disclosure Information. Information regarding the distribution of tickets by the District must also be posted on the District's website using a form (Form 802, which was created by the FPPC) that provides relevant information, regarding the use of the ticket or pass, how the ticket or passes was obtained by the District, who received the ticket or pass, and the public purpose of its use, so that the public may be informed as to where public resources are being directed.

Port Attorney's Comments:

BPC Policy No. 070 – Receipt and Distribution of Passes and Tickets, brings the District into compliance with the FPPC regulation and incorporates the basic requirements of FPPC Regulation 18944.1. The Policy also allows the Executive Director to establish an Administrative Procedure that details specific guidelines for the dissemination of passes and tickets by the District.

Environmental Review:

This proposed Board action is not subject to CEQA, as amended.

Equal Opportunity Program:

Not applicable.

PREPARED BY: William D. McMinn
Deputy Port Attorney



BPC Policy No. 070

SUBJECT: RECEIPT AND DISTRIBUTION OF PASSES AND TICKETS

PURPOSE: The purpose of this policy is to comply with Fair Political Practices Commission (FPPC) regulations which require that any distribution of tickets or passes by the San Diego Unified Port District (District) to its officials, individuals or organizations, be made pursuant to a written policy duly adopted by the Board of Port Commissioners (Board) which states the public purposes to be accomplished by the District.

This policy, does not cover tickets, passes or other gifts received by officials which are reportable under FPPC Form 700.

POLICY STATEMENT:

1. This Policy shall be posted on the District's website in a prominent fashion.
2. For the purpose of this Policy, the following definitions will apply:
 - a. **Ticket or Pass** means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose ("Event").
 - b. **Official** means any member of the Board, or District employee.
3. The ticket or pass shall not be earmarked by the original source for use by the Official who uses the ticket or pass.
4. The District shall determine in its sole discretion which Official may use the ticket or pass.
5. Distribution of any ticket or pass by the District, to an Official, individual or organization, shall accomplish a public purpose of the District.
6. Tickets or passes may be provided to an Official, individual or organization to support any of the following public purposes:
 - a. A ceremonial role or function on behalf of the District.
 - b. As part of the District's community outreach efforts.

- c. Representing the District at an event to sustain or build relationships with tenants, businesses, or local, regional, state or federal agencies.
 - d. Representing the District at an Event of a non-governmental organization, which will sustain or build relationships with that non-governmental organization in support of the District's Mission, Vision or Strategic Plan.
 - e. The Event will provide educational information that will benefit the District or Official attending the Event.
 - f. The Official's written job duties require the Official to appear at the Event.
 - g. Attendance of an Official of the District at the Event will in some other way support the Mission, Vision or Strategic Plan of the District.
 - h. The Event is being attended in an effort to generate business or trade or similar activity in furtherance of the purposes of the District as described in the San Diego Unified Port District Act.
 - i. Any purpose consistent with the provisions of the San Diego Unified Port District Act.
7. Any ticket or pass distributed pursuant to this Policy shall not be transferred to any other person, except to members of the Official's immediate family solely for their personal use.
8. The distribution of a ticket or pass pursuant to this Policy shall be posted on a form provided by the FPPC, in a prominent fashion on the District's website, within 30 days after the distribution.
9. Specific guidelines for the dissemination of passes or tickets to Events may be established by the Executive Director or designee pursuant to an Administrative Procedure.

(Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations)

§ 18944.1. Gifts: Tickets or Passes to Events.

For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(a) Ticket or pass provided by source other than official's agency. A ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official.

(b) Ticket or pass provided to official by official's agency:

(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (d) below.

(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass:

(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (c) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes:

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form

provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization:

(2) a description of the event;

(3) the date of the event;

(4) the face value of the ticket or pass;

(5) the number of tickets or passes provided to each person;

(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(e) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(f) The provisions of subdivision (b) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.

Note: Authority cited: Section 83112. Government Code. Reference: Section 82028,
Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil 010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 2).

Tickets Provided by Agency Report

A Public Document

TICKETS PROVIDED BY AGENCY REPORT

| | | | |
|---|--------|--|---|
| 1. Agency Name | | Date Stamp | California Form 802 For Official Use Only |
| Division, Department, or Region (if applicable) | | | |
| Street Address | | | |
| Area Code/Phone Number | E-mail | | |
| Agency Contact (name and title) | | <input type="checkbox"/> Amendment (Must explain in Part 5) Date of Original Filing: _____ (month, day, year) | |

2. Event For Which Tickets Were Distributed

Date(s) of Event: ____/____/____ Description of Event: _____
 ____/____/____ Face Value of Ticket: \$ _____

Agency Event Yes No (Identify source of tickets below.)

Name of Outside Source of Ticket(s) Provided to Agency: _____

Number of Tickets Received: _____ Ticket(s) Provided to Agency: Gratuitously Pursuant to Contract

3. Agency Official(s) Receiving Ticket(s) (use a continuation sheet for additional names)

| Name of Official (Last, First) | Number of Tickets | State Whether the Distribution is Income to the Official or Describe the Public Purpose for the Distribution |
|-----------------------------------|-------------------|--|
| | | |
| | | |
| | | |

4. Individual or Organization Receiving Ticket(s) (Provided at the behest of an agency official)

Name of Behesting Agency Official: _____

Name of Individual or Organization: _____ Number of Tickets: _____

Description of Organization: _____

Address of Organization: _____
Number and Street City State Zip Code

Purpose for Distribution. (Describe the public purpose for the distribution to the organization.)

5. Verification

I have determined that the distribution of tickets set forth above is in accordance with the provisions of FPPC Regulation 18944.1

Signature of Agency Head or Designee Print Name Title (month, day, year)

Comment: (Use this space or an attachment for any additional information including amendment explanation.)

Tickets Provided by Agency Report

California **802**
Form

A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944 1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944 1 is available on the FPPC website at www.fppc.ca.gov.) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying and be forwarded to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

Part 5. Verification

The agency head or his or her designee must sign the form.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

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