

RESOLUTION NO. 2779

A RESOLUTION of the Port Commission of the Port of Seattle, governing promotional hosting expenditures, and repealing Resolution No. 2615, dealing with the same subject matter.

WHEREAS, by Port Commission Resolution No. 2615, dated January 27, 1976 the Port Commission adopted rules and regulations governing promotional hosting expenditures by Port employees and agents, as required by RCW 53.36.140, and

WHEREAS, the office of the Washington State Auditor with assistance of the Office of Attorney General, has provided guidelines in Bulletin No. 428, dated September 21, 1979 for Promotional Hosting Expenditures, which are included as an exhibit to this Resolution.

NOW, THEREFORE BE IT RESOLVED that:

1. The Executive Director shall annually submit as part of the Port's budget an appropriate category of proposed expenditures covering promotional hosting (RCW 53.36.120). Expenditures proposed for promotional hosting shall be limited as provided in RCW 53.36.130.
2. Expenditures for promotional hosting shall be governed as follows:
 - a. Members of the Port Commission, the Executive Director and other exempt positions in the Executive Department, all department Directors and assistant Department Directors are specifically authorized to make expenditures for promotional hosting, subject to the specific and general provisions hereinafter set forth. In addition, the Executive Director or his designee may authorize other port staff to make promotional hosting expenditures, as changing conditions dictate.
 - b. Normally promotional hosting expenditures should be made by employees from their own funds, and reimbursement sought on vouchers submitted with travel and other business expenses made by the employee. Large expenditures for Port of Seattle Nights and/or significant promotional hosting expenditures which are charged in the name of the Port of Seattle may be direct billed to the Port of Seattle providing the department director responsible for the function approves the Request for Payment. Reimbursement for promotional hosting expenditures shall show the name of the business relationship of each person hosted;

and shall, in general terms, identify the purpose of such hosting. All payments and reimbursement shall be identified and supported on vouchers supplied by the Port Auditor.

- c. The approved objects of promotional hosting shall be to afford the Port district official or employee an opportunity to:
- (1) Sell an individual or an organization on the use or continued use or increased use of Port services, facilities and properties;
 - (2) Persuade individuals or an organization to donate, supply or sell to the Port on the best available terms properties, facilities, services, and information needed by the Port to achieve a betterment or improvement of the Port's existing operations, facilities, and services;
 - (3) Persuade individuals or an organization to purchase, lease, or contract from or with the Port on terms most favorable to the Port in order that the Port may enter into transactions for the development, improvement or use of its properties and facilities in a manner most suitable to serve the best interests of the Port District;
 - (4) Persuade individuals or an organization to assist the Port in fostering the increased use of its services and facilities by improving transportation schedules, adding to existing transportation services and facilities (e.g., additional airline flights, steamship calls, etc.), adjusting rates, improving navigation, and generally increasing and improving the scope and efficiency of Port operations so as to contribute to the growth of the Port's business.
- d. As provided in RCW 53.36.140, Port Commissioners shall not personally make promotional hosting expenditures, or seek reimbursement for such expenditures, except where the Port Commission has approved specific authorization of such expenditures.
- e. All beneficiaries of promotional hosting expenditures by the Port shall be reasonably capable of influencing or controlling

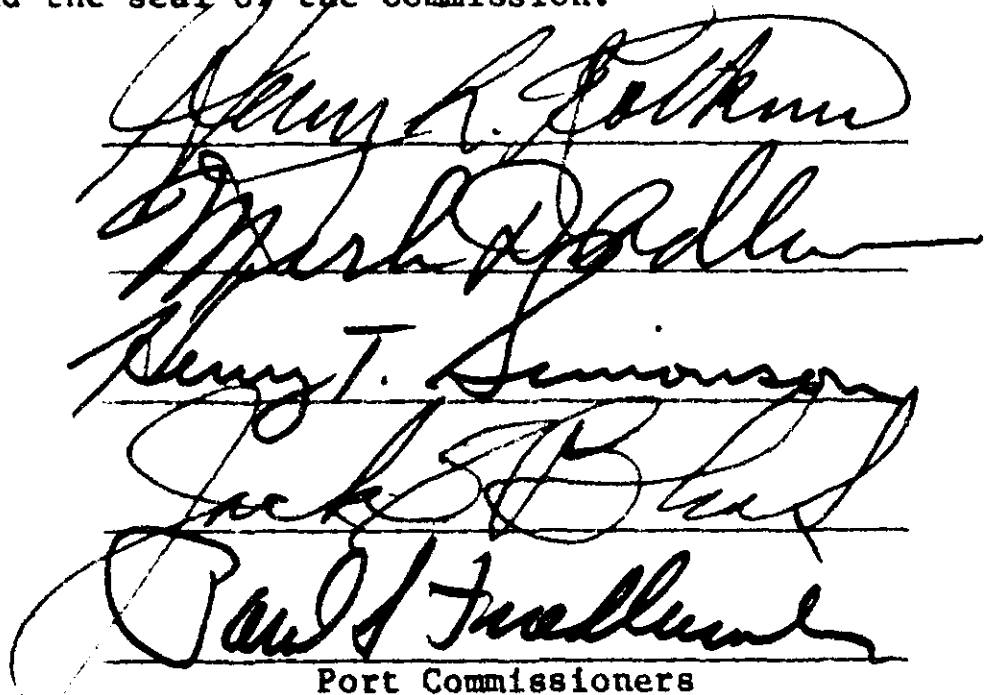
decisions with respect to the subject matters hereinabove mentioned, and the amount of each expenditure shall be reasonable and appropriate in relation to the particular purpose of the pertinent promotional hosting.

- f. All expenditures for promotional hosting shall be in accordance with the Promotional Hosting Guidelines attached hereto as Exhibit A.
- g. No reimbursement or other expenditure shall be made pursuant to this Resolution:
 - (1) For political purposes; that is, attempting to influence the passage or defeat of any legislation by the legislature of the State of Washington, or the adoption or rejection of any rule, standard, rate of other legislative enactment of any agency of the State of Washington;
 - (2) For purposes not reasonably related in nature and amount to acquiring additional business or otherwise increasing and improving the scope and efficiency of Port operations;
 - (3) For the promotion of transactions prohibited under the conflict of interest statute, Chapter 42.23 RCW; or
 - (4) For the obtaining of a benefit for the Port from an individual or an organization which is already legally, contractually, or otherwise obligated to furnish that benefit to the Port.

3. A copy of this Resolution including exhibit A shall be circulated among all Port Commissioners and employees authorized to make expenditures for promotional hosting.

4. Resolution No. 2615 is hereby repealed by this resolution.

ADOPTED by the Port Commission of the Port of Seattle this 27th day of November, 1979 and duly authenticated in open session by the signatures of the Commissioners voting and the seal of the Commission.


Port Commissioners

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To: All Public Ports

From: Chief Examiner, Division of Municipal Corporations

Subject: Promotional Hosting Guidelines

This bulletin has been prepared with the assistance of the Office of Attorney General and is designed to provide guidelines for the expenditure of public funds pursuant to Article VIII, Section 8, of the State Constitution, RCW 53.36.120, .130, .140 and .150 and Account No. 8081 of the prescribed Uniform System of Accounts for public ports.

DEFINITION

"Hosting" is defined in these guidelines to mean and include furnishing customary meals, refreshments, lodging, transportation, or any combination of those items in connection with:

- (a) Business meetings,
- (b) Social gatherings,
- (c) Ceremonies honoring persons or events,

relating to the authorized business promotional activities of a port. "Hosting" may also include reasonable, customary and incidental entertainment, and souvenirs of nominal value, incident to such events.

SPECIFIC LEGAL REQUIREMENTS

1. Expenditures for promotional hosting shall be pursuant to specific budget items as approved by the port commission. (RCW 53.36.120)
2. Funds for promotional hosting expenditures shall be expended only from gross operating revenues. See RCW 53.36.130 for limits and exception.
3. Port commissions shall adopt, in writing, rules and regulations governing promotional hosting expenditures by port employees or agents. Such rules shall identify officials and agents authorized to make such expenditures and the approved objectives of such spending. All payments and reimbursements shall be identified and supported on vouchers approved by the port auditor. (RCW 53.36.140)

BASIC STANDARD

The basic standard for promotional hosting at public expense is that the promotional hosting is calculated to result in the public purpose, declared by the Washington State Constitution, of promoting industrial development

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or trade within the district. Exceptions will be taken to any hosting when its possible influence on industrial development or trade promotion is so indirect or tenuous that the hosting expenditure appears to be hosting for the sake of hosting.

GENERAL GUIDELINES

A. Hosting Private Businessmen

(This is the classic type of promotional hosting which was at issue in O'Connell v. Port of Seattle and which was undoubtedly the main type of hosting contemplated by the Legislature and the people when they adopted Article VIII, Section 8, of the State Constitution and the statutes implementing that constitutional provision.) Undoubtedly, the legislative intent was to put ports on something of an equal footing with private businesses, in the relationship of ports with private businesses -- that is, to permit ports to serve food and drink in meetings and contacts with private businessmen even where the private businessmen had no contractual obligation to give the port anything in return, on the theory that the meals and refreshments would help create an atmosphere of good will in those situations and that general good will would in the future enhance and promote trade and industrial development. In general, the Auditor will not question the expenditure of port district funds for hosting private businessmen, in accordance with the basic standard, when properly accounted for.

B. Hosting of Union Officials

It is recognized that union officials represent a substantial segment of port employees and that the productivity of those employees has a direct influence on a port's ability to secure and retain trade, but whether union officials are in a position to influence industrial development or trade promotion is a question of fact. Port districts should be prepared to show that the activities of a particular union or union official are sufficiently connected to trade promotion or industrial development in the port to justify such hosting. The Auditor will look to the activities of a particular union or union official and will consider the hosting of such union official justified if there is sufficient evidence to show that the particular union is directly involved in current or proposed port activities.

C. Hosting Foreign Government Officials

When the officials of a port district reasonably believe that promotional hosting of an official of a foreign government will tend to promote trade and industrial development between the nation and the port, reasonable expenditures of port funds for that purpose will be recognized. Exception will be taken if the hosting violates the basic standard or violates the laws of the foreign nation in question.

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D. Hosting U.S. Government Officials

Port district officials must be especially cautious in hosting U.S. Government officials. In many cases there are statutes or regulations which would prohibit or limit their acceptance of gifts or gratuities. Consistent with federal law, port districts are permitted to host federal government officials whose work may directly affect the port district's trade or industrial development activities. Generally no audit exception will be taken to hosting which is properly incident to ceremonies honoring either foreign or U.S. Government officials where such hosting is consistent with the role of the port in promoting commerce. Exception will be taken to the hosting of officials whose work does not relate directly to industrial development or trade promotion unless the port's records reflect a particular reason why the hosting in question would clearly tend to promote industrial development or trade promotion in the district and is otherwise proper.

E. Promotional Hosting of Government Officials of Other States

The standard will be the same as in paragraph D, Hosting U.S. Government Officials.

F. Promotional Hosting of Washington State and Local Government Officials and Employees (Other than Port District Officials and Employees)

Generally, state and local officials in Washington who do business with the port district will be expected to seek reimbursement from their own employing agencies for meals and lodging which are lawfully reimbursable. In particular cases, the Auditor will consider evidence that the use of promotional hosting funds for food, drink or lodging for state or local government officials was an appropriate hosting expenditure in connection with meetings relating to trade or commerce; for example, where uniform travel regulations would prevent the hosted official or employee from being reimbursed by his or her own agency, or when particular expenditures are inseparable as a practical matter from otherwise proper promotional hosting activities.

G. Hosting Officers and Employees of Other Port Districts

As to ports located outside Washington, the analysis applied to officials of other states and counties would be applicable here. As to officials of port districts within the state, hosting will be governed by the same rules as hosting other Washington state officials and employees described in paragraph F. Generally, hosting of a port's own officers and employees will not be regarded as permissible "hosting". To the extent that a port district officer or employee may be lawfully required or authorized to attend a port district function, whether promotional or otherwise, the necessary expenses of such officer or employee are reimbursable at port expense under RCW 53.08.175. However, it is possible that unreimbursable costs may be incurred by the district on account of the attendance of one or more of its officers or employees at such events, which are inseparable from the overall cost of the event. In such cases, those costs are payable to the same extent as for other local government officials described earlier in this bulletin.

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H. Hosting Spouses of Businessmen, Officials, Etc.

There will be times when the spouse of a shipper, ship captain, businessman or official to be hosted will be present. In such a circumstance it would be proper to host the spouse also.