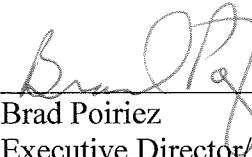


GOVERNING BOARD POLICY
Mojave Desert Air Quality Management District

Policy No: 11-01
Amended: January 23, 2017



Robert Lovingood
Governing Board Chair



Brad Poiriez
Executive Director/APCO

SUBJECT: TICKET AND/OR PASSES RECEIPT AND DISTRIBUTION

POLICY:

It is the policy of the Governing Board of the Mojave Desert Air Quality Management District (District) to ensure that all tickets and/or passes provided to the District with a face value greater than or equal to \$50.00 are distributed in furtherance of governmental and/or public purposes as required pursuant to 2 Cal Code of Regulations §18944.1.

AMPLIFICATION OF POLICY:

A. General

In 2008, the Fair Political Practices Commission (“FPPC”) adopted regulations that describe the circumstances under which the receipt of tickets and passes by a public official would need to be disclosed by a public agency as well as the circumstances where they would be distributed to public officials and not trigger disclosure requirements for the purposes of the public official’s Statement of Economic Interest (“Form 700”). Pursuant to this regulation, the receipt of these tickets and/or passes are not gifts to public officials when the District distributes the tickets and/or passes in accordance with a duly adopted written policy under 2 Cal. Cal. Code Regulations 18944.1(b)(2). The FPPC has clearly stated that it recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of tickets and/or passes serves a legitimate public purpose of the agency provided that the determination is consistent with state law.

Pursuant to Health & Safety Code §40702, the District has the power to do such acts as are necessary and proper to execute the powers and duties granted to, and imposed upon the District by Division 26 of the California Health & Safety Code and other statutory provisions. From time to time, the District receives “tickets or passes” from third party sources, both public and private. Tickets or passes are defined as admission to a facility, event, show or performance for

entertainment, amusement, recreational or similar purpose (2 Cal. Code Reg. 18944.1). The District has determined that the receipt of such tickets or passes are public resources when the value of each ticket or pass is greater than or equal to \$50.00.

Tickets and passes with a face value of less than \$50.00 each shall be considered gifts to the receiving public official and may trigger disclosure requirement on the public official's Form 700. For guidance regarding reporting requirements for gifts of tickets or passes persons are encouraged to consult either the FPPC's website or District Counsel.

B. Limitations

1. This policy shall only apply to the District's distribution of tickets and/or passes to, or at the behest of, a public official for which no consideration of equal or greater value is provided by the public official. Consideration of equal or greater value shall be presumed if the tickets and/or passes are distributed pursuant to this policy.
2. Unless exempted otherwise under state law, any ticket and/or pass received or directed for use by a District official not in conformance with this policy remains subject to separate disclosure requirements and the annual gift limit.
3. This policy does not apply to political or nonprofit fundraisers which are governed by separate regulations promulgated by the FPPC.
4. Tickets and/or passes to events that primarily provide informational material and are provided to assist District officials in the performance of his or her official duties is also not generally subject to this policy. If an event becomes more entertainment oriented, this policy as well as District Counsel or Special Counsel to the Governing Board should be consulted.

C. Official Duties; Ceremonial Roles

Tickets and/or passes provided to District officials as part of their official duties or provided so that the District official may perform a ceremonial role or function on behalf of the District shall not be subject to the policy regardless of face value. These tickets and/or passes are exempt from any disclosure or reporting requirements.

D. Public Purpose

The District may accomplish one or more public purposes of the District through the distribution of tickets and/or passes to, or at the behest of, a District official. Such public purposes include, but are not limited to, the following purposes which may be served by District officials attending events using tickets and/or passes distributed by the District:

1. Promotion of air pollution prevention measures, air quality education, and air quality regulations by the District, both regionally and statewide.

2. Marketing promotions highlighting the achievements of public agencies, local residents, nonprofits, community groups and businesses in the areas of air pollution prevention, air quality education and air quality regulation.
3. Promotion and marketing of District facilities and resources available for public use.
4. Promotion of District recognition, visibility, and /or profile on a local, state, national or international scale.
5. Promotion of District issues and interests at events sponsored by other governmental agencies and government related industry groups, and nonprofit organizations.
6. Promotion of open government by District official appearances, participation and/or availability at business or community events.
7. Sponsorship agreements involving private events where the District specifically seeks to enhance the District's reputation, both locally and regionally by serving as hosts providing the necessary opportunities to meet and greet visitors, dignitaries, and residents.
8. All written contracts where the District, as a form of consideration, has required that a certain number of tickets and/or passes be made available for its use.
9. Employment retention programs.
10. Charitable 501(c)(3) fundraiser for the purpose of networking with other community or civic leaders.
11. Spouses of District officials in order to accompany him or her to any event listed above.
12. Any purpose similar to the above included in any District contract.

E. Return of Tickets.

Any public official or any member of the public official's immediate family may return any ticket unused to the District for redistribution pursuant to this policy. Government Code section 82029 has defined immediate family to mean spouse and dependent children. For no reason, may the public official or a member of his or her immediate family sell or further transfer any ticket and/or pass provided under this policy.

F. Air Pollution Control Officer/Executive Director.

The Governing Board delegates the authority to distribute any tickets and/or passes in accordance with this policy to the Air Pollution Control Officer/Executive Director (“APCO”) or his or her designee. In such case, where the APCO desires to obtain a ticket or pass, the Governing Board authorizes the Chairperson to exercise the District’s sole discretion in determining whether the APCO’s use or behest of tickets and/or passes is in accordance to the terms of this policy.

G. Solicitation of Donated Tickets and/or Passes.

The APCO may authorize District staff to approach companies or organizations to request donation of tickets and/or passes to facilitate the achievement of the governmental and public purposes described herein.

H. Transfer Prohibition.

The transfer by any public official of any tickets and/or passes distributed pursuant to this policy to any other person, except to members of the public official’s immediate family for their personal use, is prohibited.

I. Website Posting.

This policy shall be posted on the District’s website in a prominent fashion. In addition, any distribution of tickets or passes pursuant to this policy with a face value exceeding \$50.00 per ticket or pass shall be posted on the District’s website in a prominent fashion within 30 days after the ticket distribution and shall include all the information as required under Section 18944.1. Any such posting shall use FPPC Form 802 (copy attached) or such alternative form as may be approved or amended from time to time. These forms shall be posted for four (4) years and any copies may be removed at the District’s discretion anytime thereafter. The original Form 802 must be retained by the filing officer for a period of not less than seven (7) years.

Revision History:

Adopted: 01/24/2011
Last review: 01/26/15