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To: All Public Ports

From: Lee Reaves
Chief Examiner

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 Ports Districts of the State of Washington.

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 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)

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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 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 Business

(This is the classic type of promotional hosting which was at issue in O'Connell v. Port of Seattle, 65 Wn. 2d 801, 399 P.2d 623 (1965), 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 statues 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 business even where the private business 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 goodwill in those situations and that general goodwill 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 business, 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 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.

D. Hosting U.S. Governmental 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.

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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.

H. Hosting Spouses of Officials, Etc.

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

PROMOTIONAL HOSTING FROM ADVANCE TRAVEL REVOLVING FUND

RCW 42.24.120 authorizes advances for travel expenses to officers and employees of municipal corporations and other political subdivisions. The question has arisen whether payments for promotional hosting on behalf of a port district may be made from money advanced from an Advance Travel Expense Revolving Fund.

The Attorney General's Office has issued an informal opinion to the State Auditor's Office, dated September 29, 1969, concerning this question, a portion of which we quote:

"Noting that Chapter 74, Laws of 1969, authorizes advance payments of only 'travel expenses,' the answer depends upon (a) the extent to which promotional hosting expenditures in any given case constitute 'travel expenses,' and (b) the extent to which advances of such travel expenses may be authorized by the port commission itself, in its regulations. In my opinion, if a port district officer or employee, who is traveling on business of the port district, has been authorized to expend funds for promotional hosting, in the course of and incident to such travel, then such expenditures constitute a part of his 'travel expenses' and may be legitimately advanced under appropriate regulations of the port commission."

To summarize, if a port district official or employee is authorized by the port district commissioners to make expenditures for promotional hosting and if such promotional hosting is done while in travel status, then the cost of such promotional hosting may be paid with monies advanced from the Advance Travel Expense Revolving Fund.


