



San Diego Unified Port District

Document No. 60576

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Office of the District Clerk

## BPC Policy No. 640

**SUBJECT:** CLAIMS

**PURPOSE:** To establish a policy governing adjustment and settlement of claims.

**POLICY STATEMENT:**

1. The Executive Director and the Port Attorney shall be responsible for establishing administrative procedures for the processing, adjustment, and final settlement of claims either against or on behalf of the District.
2. Claims against the District shall be:
  - a. Acted upon only after they have been filed with the District Clerk in accordance with California Government Code Section 910 et seq.
  - b. Where claims are legally sufficient and validated upon investigation, said claims will be resolved on an administrative level consistent with State law and the authority vested in the Executive Director and Port Attorney, in an amount not to exceed Fifty Thousand Dollars (\$50,000) for any one claim.
  - c. Where claims are legally sufficient and validated upon investigation, said claims may be resolved on an administrative level consistent with State law and the authority vested in the Executive Director and Port Attorney, if they are in concurrence, amounts over Fifty Thousand Dollars (\$50,000) to One Hundred Thousand Dollars (\$100,000) for any one claim.
  - d. In the event claims over One Hundred Thousand Dollars (\$100,000) arise, said claim will be placed on the Closed Session agenda of the Board of Port Commissioners for any necessary discussion and/or direction.
  - e. Written notice of the rejection or resolution of claim shall be provided to the claimant as required by law.
3. Claims by the District.
  - a. Whenever any District property is damaged or injured, an investigation and a written report of the findings shall be made to the Executive Director and reviewed by the Port Attorney.
  - b. The Executive Director and Port Attorney shall take appropriate steps to collect such claims.
  - c. The Executive Director or Port Attorney may waive or compromise the District's claims or potential claims for amounts over Fifty

Thousand Dollars (\$50,000) for any one claim, and grant the appropriate releases, hold harmless and indemnities as required.

- d. The Executive Director and Port Attorney when in concurrence, may waive or compromise the District's claims or potential claims in amounts over Fifty Thousand Dollars (\$50,000) to One Hundred Thousand Dollars (\$100,000) or less, for any one claim, and grant the appropriate releases, hold harmless and indemnities as required.
- e. Offers to compromise such claims for less than the full amount of the claim shall be presented to the Board for action together with the recommendation of the Executive Director and Port Attorney.

4. Technology Services Agreements

- a. Authorization for limitation of liability and/or indemnification for information technology services (ITS) relating to the District's, use and licensing of software products, hosted applications, data and hardware, domain names, content and utilization of maintenance services.
- b. The Executive Director or Port Attorney may authorize ITS agreements for One Hundred Seventy Five Thousand Dollars (\$175,000) or less that contain limitation of liability provisions and/or indemnity provisions for vendors as outlined below:
  - i) limitation of liability for special, indirect, incidental, or consequential damages; lost profits; lost data; lost revenue; or business interruption, or
  - ii.) indemnity for claims, actions or demands relating to, breach of user agreements; violation of laws by employees or third parties given access to ITS; injury to persons or damage to tangible property resulting from grossly negligent acts, malicious acts or omissions of employees using ITS; infringement of patent, copyright, trademark or other intellectual property rights of third parties, or
  - iii.) such other limitations of liability, hold harmless agreements, releases and indemnities as are common or customary for ITS agreements.

RESOLUTION NUMBER AND DATE: Resolution 2013-100, dated June 11, 2013 (Supersedes BPC Policy 640, Resolution 2008-145, dated August 5, 2008; Resolution 68-298, dated December 3, 1968; and Resolution 63-185, dated July 11, 1963)