

RESOLUTION 2013-170

RESOLUTION AMENDING BPC (BOARD OF PORT COMMISSIONERS) POLICY NO. 110 TO:

- A) AUTHORIZE THE PORT AUDITOR TO ENTER INTO SERVICE PROVIDER AGREEMENTS FOR AUDITING SERVICES WHICH DO NOT EXCEED \$175,000**
- B) REQUIRE EXECUTIVE DIRECTOR AUTHORIZATION TO ISSUE UNILATERAL CHANGE ORDERS**
- C) AMEND SECTION IV - GRANT FUNDED AGREEMENTS FOR BOARD ACCEPTANCE OF GRANT AWARDS**
- D) RESCIND BPC POLICY NO. 109 - BOARD APPROVAL OF GRANT AWARDS**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, Section 37 of the Port Act requires that the California Public Contract Code (CPC) apply to public projects of the District; and

WHEREAS, the District adopted the Uniform Public Construction Cost Accounting Act (Accounting Act) procedures of the CPC to apply to public projects of the District; and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 incorporating the provisions of the Accounting Act to govern the processing and administration of public projects; and

WHEREAS, BPC Policy No. 110 establishes a procedure for the administration of contracts, agreements and the purchasing of supplies, materials, equipment and establishing a policy governing the processing and administration of contracts; and

WHEREAS, a Port Auditor was recently appointed by the BPC and currently BPC Policy No. 110 does not provide authority for the Port Auditor to enter into service provider agreement; and

WHEREAS, adding provisions for grant funding to BPC Policy No. 110 will provide consistency to staff authority for agreements; and

WHEREAS, staff and the Office of the Port Attorney are recommending changes to: BPC Policy No. 110, Section II – Service and Consulting Agreements to authorize the Port Auditor to enter into service provider agreements for auditing services which do not exceed \$175,000; BPC Policy No. 110 Section I G 5 to require Executive Director authorization for issuance of unilateral change orders; BPC Policy No. 110, Section IV – Grant Funded Project Agreements to include the acceptance of grant awards and accompanying agreements; and rescinding BPC Policy No. 109; and

WHEREAS, the proposed changes will facilitate more efficient and effective management of contracts, service agreements and the procurement of supplies; and

WHEREAS, the amendments to Section II are as follows:

Section II. Service and Consulting Agreements

H. Notwithstanding the foregoing, authority is delegated to the Port Auditor to negotiate and enter into agreements for outside auditing services or auditing consultant services, in amounts of \$175,000 or less, without Board action or solicitation of written responses. The Port Auditor shall interview or otherwise determine those firms or individuals best qualified.

I. For agreements for outside auditing services or consultants for auditing in an amount in excess of \$175,000, the Port Auditor shall solicit written responses from those having expressed interest in providing auditing services and interview or otherwise determine those firms or individuals best qualified and that firm or individual shall be presented to the Board for consideration or approval.

J. Port Auditor or authorized designee may execute any amendments without Board action for negotiated agreements or Board-approved agreements as long as the amendment value does not exceed 10% more than the original agreement value.

WHEREAS, the amendments to Section I G are as follows:

Section I G Contracts for Public Projects

5. Executive Director authorization is required to issue a unilateral change order.
6. The Executive Director may, at his discretion, bring any change order before the Board for action.

WHEREAS, the amendments to Section IV are as follows:

Section IV. Grant Funded Project Agreements

IV. Grant Funded Project Agreements

Grant applications shall be submitted by staff to funding agencies in support of proposed or approved District projects, programs or activities consistent with the District's strategic plan.

- A. Grant awards that do not require Board approval shall be accepted by the Executor Director or designee, and the Board shall be notified via memorandum.
- B. Grant awards shall be presented to the Board for its consideration, acceptance and authorization to enter into an agreement under any of the following circumstances:
 - 1. If the grant award is for more than \$175,000 or shall obligate the District to provide resources of more than \$175,000;
 - 2. If the grant award restricts the District's use of tidelands for more than five years; or
 - 3. If the original grant award/agreement went to the Board for acceptance, any modifications and/or amendments to the original award/agreement shall be presented to the Board for approval.
- C. Grant-funded projects shall adhere to applicable requirements specific within the grant program.
- D. Where a specific granting agency has limitations that are more stringent than BPC Policy No. 110, the granting agency requirements for approval will be followed.

Although there may be differences between granting agency requirements, many federal and state grant funding requirements have also increased their limits to \$175,000. When a specific granting agency has limitations that are more stringent than BPC Policy No. 110, the granting agency requirements for approval will be followed; and

WHEREAS, incorporating the amendments to BPC Policy No. 110, Section IV incorporates the provisions of BPC Policy No. 109 into BPC Policy No. 110, therefore BPC Policy No. 109 should be rescinded.

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

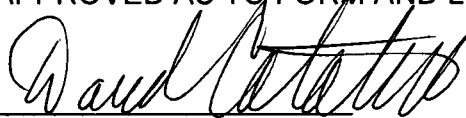
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That BPC (Board of Port Commissioners) Policy No. 110, Procedure for the Administration of Contracts, Agreements, the Purchasing of Supplies, Materials and Equipment and grants, as amended, a copy of which is on file in the Office of the District Clerk, is hereby adopted.

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

That BPC Policy No. 109 – Board Approval of Grant Awards is hereby rescinded.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "David A. Roberts", written over a horizontal line.

PORT ATTORNEY

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PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of October, 2013, by the following vote:

AYES: Castellanos, Malcolm, Merrifield, Nelson, Smith, Valderrama

NAYS: None.

EXCUSED: Moore

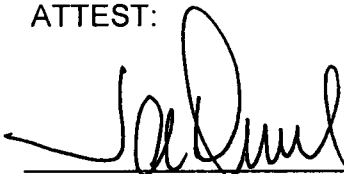
ABSENT: None.

ABSTAIN: None.



Ann Y. Moore, Chair
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)