



# Memorandum

**TO:** HONORABLE MAYOR,  
CITY COUNCIL AND AGENCY  
BOARD

**FROM:** Debra Figone  
Harry S. Mavrogenes

**SUBJECT: POLICY FOR DISTRIBUTION  
OF TICKETS OR PASSES TO  
CITY/AGENCY OFFICIALS**

**DATE:** September 18, 2009

## RECOMMENDATION

It is recommended that:

- (a) The City Council adopt a resolution approving revisions to Council Policy 9-11, currently entitled "Distribution of Arena Tickets," to broaden its application to distribution of any tickets or passes by the City to City/Agency officials and employees.
- (b) The Redevelopment Agency Board adopt a resolution approving Revised Council Policy 9-11 as it applies to Agency officials and employees.

## BACKGROUND

In 1993, in anticipation of the opening of San Jose Arena, the City Council adopted Council Policy 9-11 entitled "Distribution of Arena Tickets." Under this Policy, the City designated to the Arena Authority administrative oversight and responsibility of a comprehensive Arena ticket distribution program. As the program administrator, the Arena Authority was charged with the distribution of tickets to the City suite, 16 tickets in the Arena Club seating area and related parking passes for all Arena events. The Policy provides that the tickets be used only for the following municipal purposes:

1. Ceremonial occasions.
2. Official welcoming of visiting dignitaries.
3. Economic development outreach.
4. Recognition for direct involvement in City-related projects/programs.

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To the extent that tickets are not reserved for any of the above municipal purposes, the Policy states that the Arena Authority should sell the tickets at a price not to exceed their face value. The Policy also requires a quarterly report to the City Council on who used the tickets and for what purposes.

On February 7, 2009, the Fair Political Practices Commission (FPPC) adopted new regulations (FPPC Regulations 18944.1) relating to the distribution of tickets to public officials became effective. As a result, all City officials (elected, appointed or designated employees of the City of San Jose or the Redevelopment Agency of the City of San Jose) receiving complimentary tickets from the City or Agency are now required to report their acceptance of tickets per FPPC guidelines.

While the previous version of Council Policy 9-11 complied with the new FPPC regulations for Pavilion events, there are other instances in which the City or Agency distributes tickets or passes to its officials and employees that now require an expanded ticket policy. Council Policy 9-11 is therefore proposed to be revised to broaden its application to the distribution of tickets or passes to other events.

**ANALYSIS**

The new FPPC regulations (Regulations 18944.1) establish that tickets and free admissions received by public officials whether from an outside source and through the official's agency, or directly from the official's agency, are considered gifts to the official unless use of the ticket/admission furthers a specific governmental or public purpose. The specifics of these rules are discussed in this memo. The most significant changes will require revising and broadening the existing Arena Ticket Distribution Policy to:

1. Apply to other City distributed tickets and passes.
2. Add significant disclosure and reporting requirements to City officials receiving tickets.
3. Place limitations on ticket transfers.

**Types of Tickets and Passes Affected**

The new State regulations address tickets or passes received by a City or Agency official that provide admission to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose. Therefore it would apply to concerts, shows, sporting events and parties, but would not, in general, apply to seminars, political events or press conferences. For reference, the new regulations apply to tickets that are obtained by the City or Redevelopment Agency through one of the following means:

1. Controlled by the City as owner or sponsor of a facility or event, such as the City's Arena Authority box and club seats at HP Pavilion at San Jose.

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2. Received by the City or Agency from a third party who does not earmark the use of the ticket for a specific official; and the use of the ticket is in the sole discretion of the City or Redevelopment Agency; example of which is the Rock and Roll Marathon VIP Party.
3. Tickets that are purchased by the City or Agency, or received pursuant to a sponsorship or similar contract e.g. Zero One, Cirque du Soliel, Tour of California, DaVinci Exhibit Opening Event, and the San Jose Jazz Festival.

“City Official” refers to every City or Redevelopment Agency officer, or designated employee (i.e., employees obligated to file an Annual Statement of Economic Interests (Form 700) under the City’s Code of Ethics).

The proposed policy would NOT apply to tickets received directly by a City Official from a third party. Nor would it apply to tickets given to the City or Agency if the donor designated who is to use the ticket. In both of these circumstances, the ticket would be considered a gift and must be disclosed as such on the annual Form 700.

**New Reporting & Ticket Transfer Requirements**

In order for tickets to be accepted by a City or Agency official or employee and not be considered a gift, the FPPC Regulation requires the following:

1. The City must have a written policy, posted on the City’s web-site in a prominent fashion, which specifies the governmental or public purpose to be accomplished by the distribution of the ticket. See revised Policy 9-11 attached.
2. The use of the ticket by each official must be reported on the City’s web-site within 30 days of the distribution of the ticket using the attached FPPC Form.
3. The policy must provide a provision prohibiting the transfer of the ticket to anyone other than a member of the official’s immediate family for personal use. The current policy 9-11 does not allow transfer of a ticket to anyone, and therefore is more restrictive than the FPPC regulations. Staff is not proposing to change the current restriction.

**Other Significant Policy 9-11 Changes**

Quarterly Reporting – Currently, the Arena Authority provides an information memorandum to the City Council on the distribution of tickets to the City’s suite and club seats on a quarterly basis. The new policy requires officials to disclose the receipt of these tickets on an FPPC form on the City’s web-site within 30 days.

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Reporting Additional Ticket Use – The current Policy 9-11 allows each ticket recipient to be offered one additional ticket for his or her immediate family member. The distribution of tickets is reported quarterly in an information memorandum to Council as described above. With the new policy, any City or Agency official who receives a ticket for an immediate family member must disclose that ticket as a gift on their annual Form 700.

Residual Use – The current Policy 9-11 allows, to the extent that the Pavilion Club seats are not reserved for any event, the City to sell the 16 club seats and parking passes at a price not to exceed their face value. The new policy permits the City to maximize revenue potential from the sale of the tickets and parking passes.

**Implementation**

Arena Tickets: As a result of this FPPC action, any City Officials receiving complimentary tickets through the Arena Authority's Arena Ticket Distribution Program will be required to submit their names and FPPC Form to the City Clerk within 30 days of receipt of the tickets. As of August 1, 2009, the Arena Authority staff has been including a description of the new reporting requirements and enclosing the proper filing forms and instructions for completing the forms along with event tickets.

Non-Arena Tickets: Council Appointees, Departments, and Council Offices involved in the distribution of non Arena City tickets governed by the new regulations as described above will need to designate a ticket administrator responsible for implementing this Policy. The Administrator will oversee the distribution of tickets and submittal of forms in compliance with this Policy and will take all steps necessary to ensure the ticket recipients are aware of, and comply with, this Policy.

The Ticket Administrator will establish procedures for the distribution of tickets in accordance with this Policy. At a minimum, the Ticket Administrator will:

1. Manage the receipt, distribution and accounting for all tickets or passes subject to this Policy.
2. Ensure tickets or passes distributed by the City or Redevelopment Agency under this policy serve one of the four public purposes as defined in the Policy.
3. Ensure tickets distributed pursuant to this Policy are disclosed on the FPPC Form 802.
4. Sign each disclosure form verifying that the distribution of tickets is in accordance with the provisions of FPPC Regulations Section 118944.
5. No later than 15 calendar days from the distribution of the ticket or pass, submit Form 802 to the City Clerk.

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The City Clerk will post the completed FPPC Form 802 on the City website no later than 30 calendar days from the distribution of the ticket or pass, subject to budget appropriations.

**Interim Procedures**

The forms are currently forwarded to the Office of the City Clerk, who is serving as the Filing Officer. The forms are not being posted to the City's web-site due to lack of resources. The forms are available for inspection upon request. The City Clerk's Office is conducting a pilot to evaluate the resource needs to post the forms on-line in the future.

As mentioned above, the FPPC regulations became effective on February 7, 2009. This means that any City or Agency official who received tickets to an event from the City or Agency on or after that date must either disclose that ticket as a gift on their annual Form 700, or report it on the Form 802 within 30 days of attendance at the event. It should be noted that the Form 802 alternative is only applicable to Arena events at this time because the City had a policy setting forth the public purpose of a ticket distribution program in effect on February 7, 2009. Since the current policy did not cover any other events, tickets to those events should be considered gifts from the City or Agency, as the case may be, and should be disclosed under the Form 700. Approval of this policy will allow the use of Form 802 to disclose other non-Arena tickets covered under this policy.

**PUBLIC OUTREACH**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

This action does not meet any of the above listed criteria.

**COORDINATION**

The memorandum has been coordinated with the Office of the City Clerk, the Attorney's Office and the Arena Authority.

If you have questions about these new regulations, please contact Patty Deignan, Chief Deputy City Attorney at 535-1201. For questions about the revised policy, please contact Ed Shikada, Chief Deputy City Manager at 535-8190.

HONORABLE MAYOR, CITY COUNCIL AND AGENCY BOARD

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**CEQA**

Not a project.



DEBRA FIGONE  
City Manager



HARRY S. MAVROGENES  
Executive Director

Attachments

*City of San José, California*

**COUNCIL POLICY**

<b>TITLE:</b>  DISTRIBUTION OF TICKETS OR PASSES TO CITY/AGENCY OFFICIALS	<b>PAGE</b>  1 of 5	<b>POLICY NUMBER</b>  9-11
<b>EFFECTIVE DATE</b> Sept 2, 1993, Item 9.g.	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>		

**BACKGROUND**

In 1993, in anticipation of the opening of San Jose Arena, the City Council adopted Council Policy 9-11 entitled "Distribution of Arena Tickets." Under this Policy, the City designated to the Arena Authority administrative oversight and responsibility of a comprehensive Arena ticket distribution program. As the program administrator, the Arena Authority was charged with the distribution of tickets to the City suite, 16 tickets in the Arena Club seating area and related parking passes for all Arena events.

On December 11, 2008, the Fair Political Practices Commission (FPPC) adopted new regulations (FPPC Regulations 18944.1) relating to the distribution of tickets to public officials. As a result, all City officials (elected, appointed or designated employees of the City of San Jose or the Redevelopment Agency of the City of San Jose) receiving complimentary tickets are now required to report their acceptance of tickets per FPPC guidelines.

While the previous version of Council Policy 9-11 complied with the new FPPC regulations for Pavilion events, there are other instances in which the City or Agency distributes tickets or passes to its officials and employees that now require an expanded ticket policy. Council Policy 9-11 is therefore revised to broaden its applications to the distribution of tickets or passes to other events.

**PURPOSE**

To establish a comprehensive policy relating to the distribution of complimentary tickets by the City or Redevelopment Agency to all City or Redevelopment Agency officials and designated employees established by the State of California's Fair Political Practices Commission (FPPC).

<b>TITLE</b> <b>DISTRIBUTION OF TICKETS OR PASSES TO CITY/AGENCY OFFICIALS</b>	<b>PAGE</b> 2 of 5	<b>POLICY NUMBER</b> 9-11
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### **Application of Policy**

As used in this Policy, the term "Ticket" shall mean: tickets or passes that provide admission to a facility or event for entertainment, amusement, recreation or similar purposes, and are obtained by the City through one of the following means:

1. Controlled by the City or Redevelopment Agency as owner or sponsor of a facility or event.
2. Received by the City or Redevelopment Agency from a third party who does not earmark the use of the ticket for a specific official; and the use of the ticket is in the sole discretion of the City.
3. Purchased by the City or Redevelopment Agency, or received pursuant to a sponsorship or similar contract.

This Policy does not apply to:

1. Tickets provided to an Official by sources other than the City.
2. Tickets for which the Official pays the City the value of the ticket.

### **POLICY**

The City of San Jose and its Redevelopment Agency may distribute complimentary tickets to appropriate recipients, including City officials, for the purpose of participating in:

1. Ceremonial occasions.
2. Official welcoming of visiting dignitaries.
3. Economic development outreach.
4. Recognition for direct involvement in City or Agency related projects/programs.

### **Residual Use**

To the extent that the Club seats are not reserved for any event, the Arena Authority shall sell the tickets and parking passes with the goal of maximizing revenue potential. The revenue shall be used to support the Arena Authority activities in order to enable reduced support from the City General Fund.

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### **Ticket Transfer Limitations**

Tickets received by City Officials under this Policy are for the purpose of having that Official participate in the event. No person who receives a ticket pursuant to the Policy shall transfer the ticket to anyone.

Each ticket recipient may be offered one additional ticket for her or his immediate family member. Any City or Agency official who receives a ticket for an immediate family member must disclose that ticket as a gift on their annual Form 700.

### **Disclosure and Reporting Requirements**

The Ticket Distribution Policy set forth above shall be posted on the City website. For each event in which tickets are distributed to public officials, the names of the public official ticket recipients shall be posted on the City website within thirty (30) days following the ticketed event. Such posting shall be taken from FPPC Form 802 or another alternate Form that FPPC may designate (see attached).

### **Ticket Administrator**

1. Each Council Appointee and Department Head (subject to approval by the City Manager) will designate a ticket administrator responsible for implementing this Policy. The Administrator will oversee the distribution of tickets in compliance with this Policy and will take all steps necessary to ensure the ticket recipients are aware of, and comply with, this Policy.
2. Elected City Officials. For tickets or passes acquired by the City for use by an elected City official, the office of the elected City official shall be responsible for reporting the distribution of the tickets or passes as provided below.
3. The Ticket Administrator will establish procedures for the distribution of tickets in accordance with this Policy. At a minimum, the Ticket Administrator will:
  - a. Manage the receipt, distribution and accounting for all tickets or passes subject to this Policy.
  - b. Ensure tickets or passes distributed by the City under this policy serves one of the four public purposes as defined above.

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- c. Ensure tickets distributed pursuant to this Policy are disclosed on the FPPC Form (see attached). The disclosure form shall include the following information:
    - i. The name(s) of the recipient of the tickets.
    - ii. A description of the event for which tickets were distributed
    - iii. The face value of the Ticket. If the tickets or passes do not have a face value stated or state something to the effect of "complimentary" or "promotional," the Ticket Administrator will determine the value of the tickets or passes based on the reasonable cost for attendance at such an Event.
    - iv. The number of tickets provided to each person
    - v. A description of the public purpose furthered by the Ticket distribution
  - d. Sign each disclosure form verifying that the distribution of tickets is in accordance with the provisions of FPPC Regulations Section 118944.
  - e. No later than fifteen (15) calendar days from the distribution of the ticket or pass, submit Form 802 to the City Clerk.
4. The City Clerk shall post the completed FPPC Form 802 on the City website no later than thirty (30) calendar days from the distribution of the ticket or pass, subject to budget appropriations.

### **Arena Ticket Procedures**

The Arena Authority shall develop procedures for the use of the City Box and the Club Seats. At a minimum, the procedures shall include:

1. Use of the Box shall require designation of a "Responsible Party" from the City or one of its subsidiary agencies who shall be required to supervise the use of the Box and ensure that the use does not result in charges to the City or the Arena Authority.
2. Recipients of tickets for the Box can bring additional guests at the cost of a club seat ticket to the extent space in the City Box permits.
3. Procedures with regard to the purchase of food and merchandise from the City Box.

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4. Procedures to ensure compliance with the Fair Political Practices Commission limitation of gifts to state and county officials.

## DEFINITIONS

“City Official” shall mean every officer, agent and employee of the City or its Redevelopment Agency who is obligated to file an Annual Statement of Economic Interests (Form 700) pursuant to State law and the City’s Conflict of Interest Code.

“FPPC” shall mean the California Fair Political Practices Commission.

“Immediate family” shall mean and refer to the spouse and dependent children.

“Ticket or Pass” shall mean admission to a facility, event, show or performance for an entertainment, amusement, recreational, or similar purpose (defined in FPPC regulation 18944.1.).

“Arena Tickets” shall mean the tickets owned by the City pursuant to the Management Agreement with the San Jose Arena Management LLC, including the use of the City’s suite (16 seats), and the use of 16 seats in the “club seating” area of the Arena, with associated parking passes.



# Tickets Provided by Agency Report

California  
Form **802**

## A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational, or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

### Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944.1 is available on the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

### Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

### Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

### Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

### Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

### Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

### Part 5. Verification

The agency head or his or her designee must sign the form.

### Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

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