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Policies and Procedures

No. 51

SUBJECT:

Board Approval: 10/30/14

CLAIMS AGAINST THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM, A CALIFORNIA PUBLIC AGENCY, OR ITS SUBSIDIARIES, SAN DIEGO TRANSIT CORPORATION OR SAN DIEGO TROLLEY, INC.

PURPOSE:

Adopt a uniform procedure that requires all complaints or claims against MTS, San Diego Trolley, Inc. (SDTI), and San Diego Transit Corporation (SDTC) to comply with the California Tort Claims Act.

BACKGROUND:

With the recent consolidation of MTS, SDTC, and SDTI, it has become necessary to adopt a uniform claims procedure for all of MTS. Currently, all claims against MTS must be brought in accordance with the California Tort Claims Act (Government Code Section 900, et seq.). The Tort Claims Act defines a public entity as “a county, city, district, public authority, public agency, and any other political subdivision or public corporation” (Government Code § 811.2). Based on the consolidation of the Boards of Directors for MTS, SDTC, and SDTI, the amendment of Public Utilities Code Section 120518(a), which made MTS and SDTC a joint employer, and case law, the Tort Claims Act is applicable to SDTC and SDTI. Requiring all claims against any of the three agencies to be brought under the Act would limit exposure to litigation and allow for a uniform procedure for filing claims.

POLICY:

51.1 Subject Matter

51.1.1 This regulation governs claims for money or damages against MTS, its subsidiaries, including SDTC and SDTI (hereinafter collectively the “Board”), and their current and former officers, directors, and employees.

51.1.2 Claims for Money or Damages. All claims for money or damages against MTS and its subsidiaries, including SDTC and SDTI, shall be



presented to the Board under the provisions of Government Code Section 900, et seq., and shall be governed by this regulation.

51.1.3 Required Presentation of Claim for All Claims Excepted by Government Code Section 905. In accordance with Government Code Section 935, the Board requires the presentation of a claim for all claims for money or damages that are otherwise excepted by Government Code Section 905. Such claims shall be governed by this regulation unless expressly governed by another statute or regulation.

51.1.4 Claims Against Public Employees or Former Public Employees. All claims for money or damages that are required to be presented to the Board under the provisions of Government Code Section 953, et seq. shall be governed by this regulation.

51.2 Written Claim Required to Bring Suit

No suit for money or damages may be brought against the Board on a cause of action for which this regulation requires a claim to be presented until a written claim has been presented in conformity with the provisions of this regulation.

51.3 Time Limitation for Presenting Claim

All claims shall be presented in the manner provided in Section 5 of this regulation and in accordance with the following requirements:

51.3.1 A claim relating to a cause of action for death or injury to person or to personal property shall be presented no later than six months after the accrual of the cause of action.

51.3.2 A claim relating to any other cause of action shall be presented no later than one year after the accrual of the cause of action.

For the purposes of computing the time limits prescribed by this section, the date of the accrual of a cause of action is the date upon which the cause of action accrued within the meaning of the applicable statute of limitations, as defined by Government Code Section 901.

51.4 Late Filing of Claims

The filing of late claims pursuant to this regulation is governed by Government Code Sections 911.4 to 912.2, inclusive.

51.5 Claim Form

Claims under this regulation shall be presented to the Claims Administrator of MTS on a form provided by the Office of General Counsel for MTS.

51.6 Response to Claims

General Counsel for MTS (or his or her designee) shall allow or reject claims within the limitations set forth in Section 10. General Counsel's allowance or rejection of the claim shall have the same effect as allowance or rejection by the Board of Directors of the applicable entity against whom the claim is made.

51.7 Time for Action by General Counsel and Claimant

Time for action by General Counsel. General Counsel shall act upon any claim presented pursuant to this regulation within the time prescribed by Government Code Section 912.4 and in the manner prescribed by Section 912.6 of that Code. The failure or refusal of the General Counsel to act on a claim shall have the effect stipulated in Section 912.4.

Time for Legal Action by Claimant. Any legal action brought by a claimant on a cause of action set forth in a claim presented pursuant to this regulation shall be brought within the time specified in Government Code Section 945.6.

51.8 Reexamination of Rejected Claims

In accordance with Government Code Section 913.2, General Counsel for MTS retains the discretion to reexamine a previously rejected claim within the time prescribed by Government Code Section 945.6 for commencing an action on the claim.

51.9 Agreements Subject to Claims Procedures

In accordance with Government Code Section 930.2, the Board may include claims-presentation requirements in any written agreement to which the Board, or its governing body, or any board, or any employee thereof in an official capacity, is a party.

The agreement must expressly provide that its claims presentation requirements govern in lieu of the claims presentation requirements set forth in Government Code Section 900, et seq. and this regulation.

51.10 Action by General Counsel and Chief Executive Officer on Claims

51.10.1 Unless otherwise provided by this regulation, all claims required to be presented to the Board under the provisions of Government Code

Section 900, et seq., or this regulation, shall be presented to General Counsel. For purposes of Government Code Section 915 only, General Counsel is designated as a Clerk of the Board.

- 51.10.2 Chief Executive Officer (or his or her designee) is authorized to allow, deny, compromise, or settle any claim or action that is filed against the Board, its officers, or employees, provided:
 - 51.10.2.1 The amount to be paid pursuant to such allowance, compromise, or settlement does not exceed fifty thousand dollars (\$50,000);
 - 51.10.2.2 The claim or action is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise, or settle claims or actions within the scope of such policy; and
 - 51.10.2.3 If the matter is in litigation and General Counsel does not represent the Board of Directors of the agency being sued, the counsel retained by the Board of Directors of that agency concurs with the allowance, compromise, or settlement.
- 51.10.3 If the amount to be paid exceeds fifty thousand dollars (\$50,000), the allowance, compromise, or settlement must be approved by the Board of Directors of the applicable agency. In settlements of workers' compensation claims, the fifty thousand dollar (\$50,000) limit shall apply to amounts designated for discretionary payments, and shall not include non-discretionary payments for temporary or permanent disability benefits that are established by the workers' compensation adjudicatory system.

Original Policy approved on 9/9/04.
Amended on 10/30/14.