

**COLLECTED BOARD POLICIES**

**OF THE**

**BI-STATE DEVELOPMENT AGENCY**

**OF THE**

**MISSOURI-ILLINOIS METROPOLITAN DISTRICT**

**Chapter 80 Agency Property (revised 06/24/16)**

<u>Section</u>	<u>Page</u>
Section 80.010 Expressive Activities on Agency Property.....	80-1
Section 80.020 Solicitation of Funds or Sales on Agency Property .....	80-1
Section 80.030 Advertising on Agency Property .....	80-2

**Section 80.010 - Expressive Activities on Agency Property (rev 06/24/16)**

- A. Policy. In order to prevent interference with safe, efficient operation of the Agency as an interstate authority, the Agency intends that all property or facilities owned by the Agency and open to the public, including conveyances (buses, paratransit vans, light rail vehicles, etc.), light rail stations and platforms, transit centers, bus loops, parking lots, airport property, and similar property or facilities of the Agency (hereinafter “Agency Property”, as used in Sections 80.010-80.030) be utilized only for Agency purposes. It is the Agency’s declared intent and purpose not to allow or cause Agency Property to become a public forum for the dissemination, debate and/or discussion of public issues. To that end, no individuals, groups, organizations, or companies are allowed to display or distribute leaflets, handbills, literature or other items or to survey, poll or petition on any Agency Property.
  
- B. Agency Property not open to the public. The President & CEO or his or her designee shall establish management procedures for expressive activities on all Agency Property and facilities not open to the public, including its administrative offices.

**Section 80.020 - Solicitation of Funds or Sales of Products on Agency Property (rev 06/24/16)**

- A. Policy. The Agency prohibits the solicitation of funds or the sale of products or services upon Agency Property open to the public.
  
- B. Permitted Agency activities. Notwithstanding the foregoing, the Agency reserves the exclusive right to sell or to provide, or to authorize the sale or provision,

whether by contract, partnership, sponsorship or other affiliation, of products or services on Agency property pursuant to the Collected Board Policies of the Agency including, but not limited to, Procurement and Contract Administration (50.010), Concessions (50.040) and Economic Development (40.070). Permitted Agency activities may also include Agency-initiated special events, such as musical performances, art dedications and other activities on Agency Property, through contract, partnership, sponsorship or other written affiliation agreement, conducted in an effort to attract, maintain and increase ridership or otherwise promote the operation of the Agency as an interstate authority. Such permitted Agency activities are not intended to create a public forum on Agency Property.

- C. Agency Property not open to the public. The President & CEO or his or her designee shall establish management procedures for solicitations upon Agency Property and facilities not open to the public, including its administrative offices.

### **Section 80.030 Advertising on Agency Property**

- A. Policy. It is the policy of the Agency to enter into advertising contracts with transit advertising service suppliers who will provide advertising services on Agency Property that will generate additional revenue for the ongoing operation of the Agency.
- B. Award. The award of all transit advertising service contracts will follow applicable standard Agency procurement methods and be consistent with all applicable local, state and federal regulations. Authority for the award of transit advertising service contracts shall be in accordance with the authority limitations, based on monetary levels, for procurements set forth in the Board Policy on Purchasing.
- C. Regulation. (Revised 11/21/08; rev 06/24/16)

#### **I. Purpose and Intent**

A. It is the Agency's declared intent and purpose not to allow or cause any of its Property to become a public forum for the dissemination, debate and/or discussion of public issues through the sale of advertising. Rather, in setting these advertising standards, the Agency seeks to fulfill the following goals and objectives, which are of paramount importance to the operation of the Agency's transportation system;

- (1) maximization of revenue generated by advertising;
- (2) maximization of revenue generated by attracting, maintaining and increasing ridership;
- (3) maintaining the safe and orderly operation of the Agency's transportation systems;

(4) maintaining a safe, friendly, welcoming and non-disturbing environment for all Agency customers, including minors who travel on or come in contact with the Agency's systems; and

(5) avoiding the identification of the Agency with advertisements or the viewpoints of advertisers.

B. The Agency reserves the right to suspend, modify or revoke the application of any or all of these guidelines as it deems necessary to comply with legal mandates, to accommodate its primary transportation function, and/or to fulfill other goals and objectives deriving from its mission, objectives, or governing law.

C. At the discretion of the Agency's President & CEO, the Agency may at any time, subject to any contractual obligations, partly or completely ban advertising on Agency Property.

## **II. Advertising Standards and Guidelines (rev 06/24/16)**

### **A. Advertising Policy (rev 06/24/16)**

The Agency intends that its Property shall constitute non-public forums. The Agency does not commit or dedicate any of its Property for use as a forum for communication on public issues; rather, advertising shall be limited as set forth in this policy and may be further limited at the Agency's. Advertising on Agency Property is not open to any and all advertisers. The Agency intends to retain control over the type of advertising that it will allow on its Property. As such, certain forms of paid and unpaid advertising will not be permitted for placement or display on or in Agency Property.

### **B. Limitations on Advertising (rev 06/24/16)**

The Agency shall not display or maintain any advertisement that falls within one or more of the following categories.

1. promotes the sale of tobacco tobacco-related products, vaporizers and e-cigarettes, including advertisements depicting such products;
2. promotes adult book stores, adult video stores, dance clubs featuring nudity or erotic dancing and other similar adult entertainment establishments, adult telephone services, adult Internet sites and escort services;
3. promotes unlawful or illegal goods or services, including material contained therein or referred to therein which appears to promote or encourage, the use or possession of such unlawful or illegal goods or services;

4. promotes unlawful or illegal activities or conduct, including material contained therein or referred to therein which appears to promote or encourage such activities or conduct;
5. appears to be false, misleading or deceptive, including material contained therein which is false, misleading or deceptive;
6. implies or declares an endorsement by the Agency of any goods, service, activities or points of view, including material contained therein or referred to therein which implies or declares any such endorsement, without the prior written authorization of the Agency;
7. appears to be libelous, an invasion of privacy, an infringement of copyrighted material, or otherwise appears unlawful or illegal or likely to subject the Agency to litigation;
8. promotes, supports or contains political speech, meaning speech that (1) pertains to any candidate for public office, (2) pertains to specific ballot question, initiative petition, or referendum, or (3) addresses a disputed political issue or cause;
9. fosters sexual, racial, religious or other offensive stereotypes, including material contained therein or referred to therein which fosters such stereotypes;
10. contains profane language;
11. contains nudity, obscenity, materials indecent or inappropriate as to minors, or materials which otherwise depict sexual activities, conduct, excitement, or sadomasochistic abuse;
12. contains images of graphic violence, including, but not limited to, the depiction of acts of violence or harm to a person or animal and images of human or animal bodies or its parts in a mutilated, dismembered, decomposed and/or disfigured state;
13. contains material that appears (from the viewpoint of a reasonably prudent person) to demean, disparage, ridicule, mock, abuse, display hostility to, or debase the dignity or stature of, any individual or group of individuals or any racial, religious or ethnic group;
14. contains material which is likely to offend, discomfort, or annoy Agency customers, or make them feel unwelcome, unsafe, or uncomfortable;

15. displays any word, phrase, symbol, or character likely to interfere with, mislead, or distract traffic, or conflict with any traffic control device;
16. demeans or disparages an individual or group of individuals. For purposes of determining whether an advertisement contains such material, the Agency will determine whether a reasonably prudent person, knowledgeable of the Agency's ridership and using prevailing community standards, would believe that the advertisement contains material that ridicules or mocks, is abusive or hostile to, or debases the dignity or stature of, an individual or group of individuals.

C. Advertisement of Alcoholic Beverages (rev 06/24/16)

Advertisements related to the sale of alcoholic beverages shall contain a statement, occupying at least 3% of the area of the advertisement, that indicates the legal drinking age and warns of the dangers of alcohol consumption during pregnancy, or in connection with the operation of heavy machinery, or while driving.

D. Additional Limitations for Non-Commercial Advertisers (rev 06/24/16)

1. The Agency will accept advertisements from non-commercial advertisers to promote charitable events or community outreach efforts, so long as the advertiser is a charitable or religious organization with tax exempt status, *i.e.*, 501(c)(3) status or is a government or government-sponsored organization. Advertisements from non-commercial advertisers must likewise comply with the guidelines set forth in Part II.
2. The spaces available on Agency Property are limited in number. In light of the Agency's stated goal of maximizing revenue generated by advertising, priority as to the posting and placement of ads will be given to commercial advertisers over non-commercial advertisers.

E. Disclaimers (rev 06/24/16)

The Agency reserves the right, in all circumstances, to require that an advertisement on or in its Property include attribution to the sponsor of the advertisement and/or a disclaimer indicating that it is not sponsored by, and does not necessarily reflect the views of the Agency.

F. Promotion of Transportation Function (rev 06/24/16)

Notwithstanding any particular limitations set forth above, the Agency has the unqualified right to display, on or in its Property, advertisements and notices that

pertain to the Agency's operations and promotions or that otherwise encourage and promote public use of the Agency's transportation facilities or public or mass transit in general.

G. Right to Modify (rev 06/24/16)

In light of the Agency's stated goals of maximizing its ridership and providing a friendly and welcoming environment for its riders, the Agency reserves the right to modify, change or withdraw existing advertisements based upon complaints or other information.

**III. Administration of Standards and Guidelines** (rev 06/24/16)

A. Advertising Contractor (rev 06/24/16). The Agency may, from time to time, select an "Advertising Contractor" who shall be responsible for the daily administration of a segment or all of the Agency's advertising program, in a manner consistent with the guidelines set forth herein and the terms of its agreement with the Agency. The advertising program shall include, but not be limited to, promotion, solicitation, sales, accounting, billing, collections, and posting of advertising displays on or in all Agency Property.

B. Review by Advertising Contractor (rev 06/24/16). The Agency's Advertising Contractor will review each advertisement submitted for display and installation on Agency Property to determine whether the proposed advertisement falls within, or may fall within, prohibitions or limitations under this Policy. Internet addresses or websites listed on advertisements may be scrutinized and to the extent that such referenced places contain material which is deemed objectionable per the standards set forth herein, the advertisement may be deemed objectionable based on such materials.

C. Review by the Agency (rev 06/24/16). If the Advertising Contractor determines that an advertisement falls within, or may fall within, prohibitions or limitations under this Policy, the following steps will be taken.

- (1) the Advertising Contractor will promptly provide the advertiser with a copy of these standards and written notice of its determination, the reasons for the determination and the option for the advertiser to request a review of the decision before the Agency;
- (2) the Advertising Contractor will provide the Agency with a copy of the written notice to the advertiser and the advertisement at issue;
- (3) upon written request from the advertiser, the Agency will conduct a review within fourteen (14) days of receipt of such a request, to determine whether the advertisement at issue falls within prohibitions or limitations under this Policy;

- (4) within five (5) days of the review conducted by the Agency, it will provide the advertiser and the Advertising Contractor with a written notice of its determination. The Agency's determination will be final.

D. No Rights Created (rev 06/24/16). In setting for the above review process, the Agency does not intend to create any due process rights for advertisers. Rather, the Agency's intent is to establish a review process for the purpose of attempting to ensure the uniform application and enforcement of the stated guidelines and standards.

E. Severability (rev 06/24/16). If prohibition or limitation under this Policy is determined to be invalid as applied to any particular type of Agency Property, the category shall, to the extent permissible, remain applicable to all other types of Agency Property.

F. Amendment (rev 06/24/16). The Agency reserves the right to amend these policies and standards at any time. Any revisions or amendment to this policy will be in writing and supplied to the Advertising Contractor. Any member of the public may obtain a copy of these policies and standards at any time, upon request.

#### **IV. Design and Minimum Advertising Purchases** (rev 06/24/16)

A. Amount (rev 06/24/16). The Agency's Marketing Department, in cooperation with the Advertising Contractor, will establish minimum rates and/or amounts of advertising that must be purchased by an advertiser before an advertisement is accepted.

B. Schedule (rev 06/24/16). The minimum rates and/or amounts of advertising required to be purchased will be made available to any potential advertisers by the Advertising Contractor. A rate card, to be reviewed and approved by the Agency's Marketing Department, will be published for advertising space and production charges offered to the public on, at minimum, an annualized basis. Co-promotional trade programs will be considered on a proposal basis only with a minimum of one-month lead time and are not available to offset revenue guarantees.

C. Revenues (rev 06/24/16). Contracts must include a method of remittance of revenues to the Agency. Revenue from these contracts shall be retained by the Agency and used to offset the need for public subsidy. Revenues pledged to a particular operation shall be accounted for in accordance with regulatory requirements.

In lieu of revenue, the Agency may accept an equivalent value of goods and/or services, including but not limited to capital improvements, information services, advertising, site maintenance, and other benefits.