

DEPARTMENT OF PUBLIC WORKS MANAGEMENT MANUAL

**Personnel
Directive**

Subject: ACCEPTANCE OF SUBPOENAS
AND SUMMONSES

ADOPTED BY THE BOARD OF PUBLIC WORKS, CITY OF LOS ANGELES

June 20, 2007

PERSONNEL DIRECTIVE NO. 25

BACKGROUND

To avoid possible confusion in accepting the service of subpoenas and summonses naming the City of Los Angeles or its employees, a uniform procedure, is hereby established for the Department of Public Works.

I. Definitions of Types of Instruments

The instrument being served must be examined to determine whether it is a subpoena or a summons.

A. A subpoena is an order:

1. for a person to either appear in court to testify, or to swear to a deposition in a court or in an attorney's office, or
2. for records to be produced at court (subpoena duces tecum), or to be produced at a deposition.

B. A Summons is notice that a claim is being brought against a person or entity, informing him/her of his/her right to defend against the complaint by filing a responsive pleading in court within a certain number of days.

II. Determination of City Involvement

The responsible administrative supervisor shall determine, by inspecting the subpoena or the summons being served, if the City is involved in the matter or if the matter concerns an employee as a private citizen only. If there is doubt whether the City has an interest in the matter, the responsible administrative supervisor shall contact the City Attorney, Civil Liability Division, (213) 978-7000, and confer with a Deputy City Attorney. In all cases involving employee relations matters, OMES needs to be informed about each procedural step taken by the Bureau.

The provisions of the following procedure shall be followed when accepting subpoenas and summons:

PROCEDURE

I. City Business Only

A. Acceptance of Subpoenas

Subpoenas relating to matters in which the City is involved, shall be accepted by City employees. However, do not accept a subpoena, which names another person. EXCEPTION: In the case of a member of the Board of Public Works, named in his/her official capacity, the Executive Officer of the Board may accept service of a subpoena.

1. When the subpoena is for an employee, and involves City business, the process server shall be directed to the employee so named. The City Attorney must be informed so that a defense can be prepared, if necessary. The responsible administrative supervisor shall immediately notify the Bureau Director and contact the City Attorney, Civil Liability Division, (213) 978-7000, and confer with a Deputy City Attorney.
2. When the subpoena is for records, the process server shall be directed to the custodian of records of the Bureau or OMES, depending who maintains those records. The responsible administrative supervisor shall immediately notify the Bureau Director, OMES and contact the City Attorney, Civil Liability Division, (213) 978-7000, and confer with a Deputy City Attorney.
 - a. The receipt for the witness fee and/or document fee for the subpoena of records shall be signed by the custodian of the records.
 - b. Copies, not originals, of all records subpoenaed shall be delivered to the court. If the court wishes to verify the copy against the original, it may direct that the original also be delivered. However, after such verification, only the copy, not the original shall be left.
 - c. The statement, "I hereby certify, under penalty of perjury that this is a true and correct copy of the original document on file," signed by the custodian of records shall be typed on or affixed to the first page of the document copy.
 - d. If no specific individual is named on the subpoena, the records may be delivered by anyone. However, such person should be the custodian of records who can testify to the foundation of the records and state that all pertinent records are being delivered.

3. Witness and/or Document Fees

- a. Civil Cases. When witness fees are applicable, they shall be collected at the time of service. When document fees are applicable, they shall be collected at the time of delivery of the document. Since witness fees and document fees change periodically the now current fees will not be specified in the body of this procedure. Refer to the most recent version of Admin. Code Section 12.40 for applicable fees.
- b. Criminal Cases. Witness fees/document fees cannot be demanded in criminal actions, but persons accepting such subpoenas shall inquire if they have been designated to receive fees.
- c. Witness fees and/or document fees shall be promptly deposited with the Cashier, Office of Accounting, along with a copy of the subpoena or a memorandum prepared by the responsible administrative supervisor, specifying the relevant particulars. The Office of Accounting will then deposit the receipts with the City Treasurer.
- d. An expert witness fee (a fee higher than the regular fee) may be in order in certain circumstances. When the individual reports acceptance of the subpoena to the Deputy City Attorney, through the responsible administrative supervisor, he/she shall ask if an expert witness fee should be demanded when he/she actually gives his testimony or deposition. The fee shall be turned in to the Cashier, Office of Accounting, as such time in court is considered City business. The procedure specified in I., A., 3., c., above, shall be followed in making the deposit.
- e. The employee traveling to the court or place of deposition shall arrange transportation as follows:
 - (1) If available, use City vehicle (if a licensed operator).
 - (2) If on the list of departmental employees authorized for mileage, use the vehicle covered by such authority. The employee shall be reimbursed for the miles driven. He/she include the trip on his/her request for mileage payment.
 - (3) Use public transportation. The employee shall be reimbursed for such expenditure from his/her bureau's petty cash fund.

NOTE: The employee shall be reimbursed for parking fees from his Bureau's petty cash fund.

4. A register of all subpoenas accepted shall be maintained by each Bureau, so that a permanent record will be available. These registers shall consist of copies of the subpoenas or of memoranda, prepared by the responsible administrative supervisors, specifying the relevant particulars. It is recommended that these registers be located in the Administrative Services Division or similar Office in each Bureau.

B. Acceptance of Summonses

Summonses relating to matters in which the City is involved shall be accepted by City employees. NOTE: A summons to be served on a member of the Board of Public Works, in his/her official capacity, may be accepted by the Executive Officer of the Board.

1. When the summons is for an employee, and involves City business, the process server shall be directed to the employee so named. It is preferable that the person named on the summons accept the service personally, if possible. The Bureau Director and City Attorney must be informed so that a defense can be prepared, if necessary. The responsible administrative supervisor shall immediately contact the City Attorney, Civil Liability Division, (213) 978-7000, and confer with a Deputy City Attorney.
 - a. Summonses can be accepted by a person other than the one named on the summons. If the person named on the summons is not available, the responsible administrative supervisor shall accept the service, immediately contact the City Attorney, Civil Liability Division, (213) 978-7000 and confer with a Deputy City Attorney. The named person involved shall also be notified of acceptance of the service by the responsible administrative supervisor. Service is not complete until a copy of the summons and complaint is mailed to the person to be served at the place where the copy of the summons and complaint was first left. The service of the summons is considered complete and effective ten days after such mailing.
 - b. A possible alternative method of service provides for service of summons and complaint by mail. Such service may be effective if mailed to the person to be served. Since certain steps must be taken by the person purportedly served before service is binding, he/she shall, through the responsible administrative supervisor, immediately contact the City Attorney, Civil Liability Division, (213) 978-7000, and confer with a Deputy City Attorney.
2. In accordance with Los Angeles Administrative Code Section 11.38, the appointing authority submits a written request to the City Attorney asking for defense of the named employee and the City of Los Angeles in the action. Therefore, after acceptance, the Bureau Director shall submit a written request to the City Attorney for representation.
3. Process servers attempting to serve summons on the City of Los Angeles or one of its agencies shall be directed to the Office of the City Clerk, Room 395, City Hall. Only the City Clerk is empowered to accept such service, and is responsible for informing the City Attorney in such instances.
4. A register of all summonses accepted shall be maintained by each Bureau, so that a permanent record will be available. These registers shall consist of copies of the summonses or of memoranda prepared by the responsible administrative supervisors, specifying the relevant particulars. It is recommended that these registers be located in the Administrative Services Division or similar Office in each Bureau.

II. Non City Business

A. Acceptance of Subpoenas

The responsible administrative supervisor shall direct the process server to the employee named so that personal service can be made. Only the named employee can accept service.

B. Acceptance of Summonses

The responsible administrative supervisor shall:

1. Direct the process server to the employee named for personal service; or
2. If the process server insists, accept service of the summons and have it delivered, through supervision, to the employee.
 - a. Service is not complete until a copy of the summons and complaint is mailed to the person to be served at the place where the copy of the summons and complaint was first left. The service of the summons is considered complete and effective ten days after such mailing.
 - b. A register of all summonses so accepted should be maintained by each Bureau, so that a permanent record will be available. These registers should consist of copies of the summonses or of memoranda, prepared by the responsible administrative supervisors, specifying the relevant particulars. It is recommended that these registers be located in the Administrative Services Division or similar office in each bureau.

Supersedes Personnel Directive No. 25, revised 2/1/1993