

**Torres Rojas, Genara**

FOI#13597

**From:** ritu1107nj@aol.com  
**Sent:** Thursday, November 29, 2012 6:42 PM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: Joseph  
Last Name: Dominiczak  
Company: Railway Independent Transit Union  
Mailing Address 1: 50 Lake drive  
Mailing Address 2:  
City: Randolph  
State: NJ  
Zip Code: 07869  
Email Address: [ritu1107nj@aol.com](mailto:ritu1107nj@aol.com)  
Phone: 973-484-7640  
Required copies of the records: Yes

List of specific record(s):

The Contract between the Port Authority and Kawasaki Rail Car to repair 54 railcars that were damaged by Superstorm Sandy. Also all corespondence between the Port Authority and Kawasaki Rail Car regarding this contract.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy  
FOI Administrator

December 21, 2012

Mr. Joseph Dominiczak  
Railway Independent Transit Union  
50 Lake Drive  
Randolph, NJ 07869

Re: Freedom of Information Reference No. 13599

Dear Mr. Dominiczak:

This is a response to your November 29, 2012 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of the contract between the Port Authority and Kawasaki Rail Car to repair 54 railcars that were damaged by Superstorm Sandy.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13599-C.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy  
FOI Administrator

No change or addition to the terms of this purchase order shall be valid unless in writing and signed by the party to be charged; acceptance by the vendor is limited to the terms contained in this purchase order; and the agreement between the parties formed by this purchase order and the acceptance of the vendor may not be supplemented by course of dealing or usage of trade or by course of performance. Send invoice to your Specific Contract Administrator.

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 PO Number/Date  
 4500063653 / 11/21/2012

**PORT AUTHORITY TRANS-HUDSON CORPORATION**  
 2 Montgomery Street, 3rd Floor, Jersey City NJ 07302



**PURCHASE ORDER**

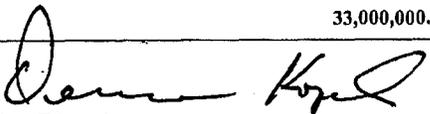
**Vendor No.** 126834  
**KAWASAKI RAIL CAR, INC.**  
 29 WELLS AVENUE, BUILDING 4  
 YONKERS NY 10701  
**Telephone#** (914) 376-4700-1  
**Fax#** (914) 376-4779  
**Your person responsible** MAURICE ANDRIANI

**Our fax number**  
 201-395-3425  
**Deliver to Address:**  
 Path  
 Foot of Cape May Road  
 Harrison NJ 07029  
 Deliver to this address unless a different address is shown below.

Notice: Unless otherwise provided, complete shipment of all items must be made in one delivery. Payments will not be made on partial deliveries unless authorized in advance by the party to be charged and discount will be taken on total order. Ship no goods C.O.D. or transportation charges collect, unless otherwise specified.

Payt. terms: Net 30 Days			
Quantity	Description	Unit Price	Total
	KAWASAKI RAIL CAR TO INSPECT, DIAGNOSIS, REPAIR OR REPLACE COMPONENTS ON PATH PA-5 RAILCARS DAMAGED BY THE HURRICANE. VENDOR TO NOTIFY TOM ROWBOTTOM OR HIS DESIGNATED REPRESENTATIVE OF THE RESULTS AND ESTIMATED COST BEFORE PROCEEDING  YOUR CONTRACT REPRESENTATIVE IS TOM ROWBOTTOM@ 973-350-3913  Repair PA-5 RailcarS  <b>The item covers the following services:</b> Repair PA-5 Railcars  <b>Freight Terms FOB Delivery Point, Freight Incl.</b> <div style="text-align: right;"><b>Contact person/Telephone</b></div> Dennis Kopik/201-395-3431		33,000,000.00
<b>Total Delivered Price In USD</b>			<b>33,000,000.00</b>

Sales to the Port Authority, as an instrumentality of the states of New York and New Jersey, are exempt from taxation, in those two states, and from federal taxation, including excise taxes. Certificate of Registry for tax-free transactions under Chapter 32 of the Internal Revenue Code No. 13-730079K. The vendor therefore certifies that there are no such taxes included in the prices shown hereon. The vendor shall retain a copy of the purchase order to substantiate the exempt sales.

  
**For Director,**  
**Procurement Department**

## TERMS AND CONDITIONS

1. To be valid, this purchase order must be signed by the Director of Procurement of the Port Authority (PA), or her designee.
2. Unless otherwise provided, complete shipment of all items must be in one delivery, FOB delivery point, freight included. Payment will not be made on partial deliveries unless authorized in advance by the party to be charged and the discount, if any, will be taken on the total order.
3. Standard PA payment terms are net 30 days, unless otherwise stated.
4. Sales to the PA and to Port Authority Trans-Hudson (PATH) are currently exempt from New York and New Jersey State and local taxes and generally from federal taxation. The seller certifies that there are no federal, state, municipal or any other sales taxes included in the prices shown hereon.
5. Unless the phrase "No substitute" is indicated, bidder may offer alternate manufacturer/brands, which shall be subject to Port Authority Approval. Please indicate details of product being offered with bid.
6. If the vendor fails to perform in accordance with the terms of this purchase order, the PA may obtain the goods or services from another contractor and charge the seller the difference in price, if any, plus a reletting cost of \$100, plus any other damages to the PA.
7. The vendor may subcontract the services including using a supplier for the furnishing of materials required hereunder, to such persons or entities as the Manager, Purchasing Services may from time to time expressly approve in writing. All further subcontracting shall also be subject to such approval.
8. Upon request, vendors are encouraged to extend the terms and conditions of this agreement with the PA to other government and quasi-government entities by separate agreement.
9. If the vendor's office set forth herein is not located in the states of New York or New Jersey, this agreement shall be construed in accordance with the laws of the State of New York, not including conflict of law provisions.
10. All notices in connection with this agreement shall be sent by the vendor to the Port Authority of NY & NJ, Manager, Purchasing Services Division, 2 Montgomery Street, 3rd Floor, Jersey City, NJ 07302.
11. The vendor shall not issue nor permit to be issued any press release, advertisement, or literature of any kind, which refers to the Port Authority or to the fact that goods have been, are being or will be provided to it and/or that services have been, are being or will be performed for it in connection with this Agreement, unless the vendor first obtains the written approval of the Port Authority. Such approval may be withheld if for any reason the Port Authority believes that the publication of such information would be harmful to the public interest or is in any way undesirable.

**EXHIBIT**  
**FEMA STANDARD TERMS AND CONDITIONS ADDENDUM**  
**FOR CONTRACTS AND GRANTS**

If any purchase made under this Contract is funded in whole or in part by Federal Emergency Management Agency ("FEMA") grants, Contractor shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedures set forth in Title 44 of the Code of Federal Regulations, Part 13 ("44 CFR 13").

In addition, Contractor agrees to the following specific provisions:

1. Pursuant to 44 CFR 13.36(i)(1), the Port Authority is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Contractor's compliance with the terms of this Contract, including but not limited to those remedies set forth at 44 CFR 13.43.

2. Pursuant to 44 CFR 13.36(i)(2), the Port Authority may terminate the Contract for cause or convenience in accordance with the procedures set forth in the Contract and those provided by 44 CFR 13.44.

3. Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Contractor shall comply with the following federal laws:

- a. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor ("DOL") regulations (41 CFR Ch. 60);
- b. Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
- c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
- d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
- e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
- f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

4. Pursuant to 44 CFR 13.36(i)(7), Contractor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.

5. Pursuant to 44 CFR 13.36(i)(8), Contractor agrees to the following provisions regarding patents:

- a. All rights to inventions and/or discoveries that arise or are developed, in the course of or under this Agreement, shall belong to the Port Authority and be disposed of in accordance with the Port Authority policy. The Port Authority, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

6. Pursuant to 44 CFR 13.36(i)(9), Contractor agrees to the following provisions, regarding copyrights:

- a. If this Agreement results in any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:

- (1) The copyright in any work developed under a grant or contract; and
- (2) Any rights of copyright to which a grantee or a contractor purchases ownership with grant support.

7. Pursuant to 44 CFR 13.36(i)(10), Contractor shall maintain any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract. At any time during normal business hours and as often as the Port Authority deems necessary, Contractor shall permit the Port Authority, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions.

8. Pursuant to 44 CFR 13.36(i)(11), Contractor shall retain all required records for three years after FEMA or the Port Authority makes final payments and all other pending matters are closed. In addition, Contractor shall comply with record retention requirements set forth in 44 CFR 13.42.