

A Freedom of Information request has been submitted.

Request date: 05/04/2016

Requested by: Juan Ramos

Business: 703-417-8641

Address: 1 Aviation circle
Washington D.C., DC, Zip: 20001-6000

Contact: Phone: 703-417-8641
Email: juan.ramos@mwaa.com

Records seeking: All records and Policies regarding Labor Peace agreements with airports JFK, Newark, LaGuardia. any agreements concerning providing minimum wages and benefits to concession workers like healthcare in agreement o any no strike clause. What the minimum living wage is at all airports for concession workers, and what is your policy for cost of living procedures for these workers.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY RECORD REQUEST FORM

Action by (print/type name):

, Freedom of Information Administrator

Signature:

Date:

On behalf of the Secretary of the Port Authority, as Records Access Officer and Custodian of Government Records of the Port Authority.

- The requested records are being made available.

- Any responsive records that may exist are currently in storage or archived, and a diligent search is being conducted. The Port Authority will respond by .

- A diligent search has been conducted, and no records responsive to your request have been located.

- The requested records that have been located are not being made available, as they are exempt from disclosure for the following specific reasons:

- Some requested records that have been located are being made available. The remainder are exempt from disclosure for the following specific reasons:

- The request does not reasonably describe or identify specific records; therefore, the Port Authority is unable to search for and locate responsive records. Please consider submitting a new request that describes or identifies the specific records requested with particularity and detail.

- Other:

This form is promulgated by the Port Authority pursuant to the Port Authority Public Records Access Policy and is intended to be construed consistent with the New York Freedom of Information Law and the New Jersey Open Public Records Act. It is intended to facilitate requests for Port Authority public records and does not constitute legal advice.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

May 26, 2016

Mr. Juan Ramos
1 Aviation Circle
Washington, DC 20001-6000

Re: Public Records Access No. 16911

Dear Mr. Ramos:

This is in response to your May 4, 2016 request, which has been processed under the Port Authority's Public Records Access Policy, copy enclosed, for copies of "All records and Policies regarding Labor Peace agreements with airports JFK, Newark, LaGuardia. any agreements concerning providing minimum wages and benefits to concession workers like healthcare in agreement o any no strike clause. What the minimum living wage is at all airports for concession workers, and what is your policy for cost of living procedures for these workers."

Material responsive to your request can be found on the Port Authority's website at <http://corpinfo.panynj.gov/documents/16911-O/>. Paper copies of the available records are available upon request.

Please refer to the above Public Records Access reference number in any future correspondence relating to your request.

Very truly yours,



Danny Ng
FOI Administrator

Enclosure

*4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 3642 F: 212 435 7555*

MINIMUM WAGE POLICY AND GUIDELINES FOR NON-TRADE LABOR SERVICE CONTRACTS – ALL FACILITIES

The wage and benefit provisions in what has come to be known as “non-trade labor service contracts” have been a topic of discussion with the Board from time to time over the years to ensure that these provisions continue to reflect Port Authority contracting policy, including the payment of fair wages and benefits under contracts procured by the Port Authority. In the 1980’s, as the Port Authority outsourced various services, and to achieve a consistent cost effective approach to these contracts, the Port Authority established minimum average wage requirements for contractors’ employees performing under certain Port Authority contracts, including non-trade labor service contracts. The most recent manifestation of this dialogue resulted in the Board’s adoption of the September 20, 2007 wage and benefits policy for certain non-trade labor service contracts, to provide benchmarks for the inclusion of affordable health care in such contracts.

It has been reported that governmental entities, including airports, which have adopted wage standards with minimum compensation levels for non-trade labor service contracts have reduced employee turnover and increased employee performance. The public interest is further served when non-trade labor service contracts provide a stable workforce to perform such services through workers who have been at the particular facilities for substantial periods of time and have acquired valuable skills and knowledge of the facility environment and its particular needs. This is particularly true at the Port Authority’s major airport facilities when as many airport workers as possible have been screened to meet federal security requirements and are familiar with, and accustomed to complying with, airport security procedures. Airport workers who are more familiar with security requirements are more likely to be vested in and knowledgeable of the security processes and thus are better able to respond to airport emergencies. Overall, the benefits for such wage standards include the promotion of higher levels of safety and security in the working environment as well as enhanced quality of service for the traveling public.

In order to further the Port Authority’s commitment to fair wages and benefits for non-trade labor service contract workers at Port Authority’s facilities and to enhance safety, security and quality of customer service at those facilities, it was recommended that a policy be established providing for non-trade labor service contractors doing businesses at all Port Authority facilities to pay their workers an appropriate minimum wage. It was also recommended that the Executive Director be authorized to establish minimum wage guidelines to implement such policy at Port Authority facilities, with such guidelines to generally include (i) the types of non-trade labor services to be covered; (ii) the hourly wage paid to the lowest paid workers in such covered categories, with a goal of implementing an increase in the pay for low wage covered workers (those making \$8 to \$9 an hour or lower) by at least \$1 per hour as soon as practicable in 2014 and an increase to \$10.10 per hour in 2015; (iii) an appropriate cost of living increase for the established wage levels; (iv) a plan for the development of enhanced wages and benefits, including health benefits for covered workers and (v) a paid holiday for Martin Luther King, Jr. Day for workers in covered categories.

In order to achieve compliance with the policy and the guidelines to be established at Port Authority facilities including the airports, it was also recommended that the Executive Director be authorized to amend applicable facility rules, regulations, tariffs or like mechanisms, and to include appropriate provisions in new or amended agreements, permits and contracts requiring

that such non-trade labor service contractors, as a condition for doing business at Port Authority facilities, pay their covered workers, the minimum wage levels set forth in the policy and guidelines.

In that there is a need to immediately implement a minimum wage policy to provide an appropriate level of compensation for non-trade labor service contract workers in positions impacting passenger safety, security and well being at the major airports operated by the Port Authority, it was recommended that the Executive Director initially move forward with the implementation of this policy at LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport.

Pursuant to the foregoing report, the Board adopted the following resolution, with Commissioners Bagger, Lipper, Lynford, Moerdler, Pocino, Rechler, Rosado, Schuber and Steiner voting in favor. General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

RESOLVED, that it is the policy of The Port Authority of New York and New Jersey that non-trade labor service contract workers of those entities doing business at Port Authority facilities receive an appropriate minimum wage; and it is further

RESOLVED, that the Executive Director is authorized to establish guidelines to implement such policy; and it is further,

RESOLVED, that the form of all documents in connection with the foregoing, as deemed appropriate by the General Counsel, shall be subject to the approval of the General Counsel or his authorized representative.

Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport

Summary:

The Port Authority of New York and New Jersey has adopted a Minimum Wage Policy for workers performing under Non-Trade Labor Service Contracts (“Policy”) at all Port Authority facilities. The Policy furthers the Port Authority’s commitment to fair wages and benefits for service workers at Port Authority facilities and by these Rules is being implemented in the first instance at LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport (“Airports”) to enhance safety, security and quality of service at those facilities. As set forth below, the Policy will apply to employees of all entities doing business at the Airports, in the defined “Covered Services”(see Addendum), including employees of lessees, permittees and contractors and will be required to flow down to the respective subcontractors and sublessees of those entities.

Compensation:

Effective July 31, 2014, wages for workers performing Covered Services shall be increased \$1.00 per hour for all such workers earning \$9.00 per hour or less. Effective February 1, 2015, the wage for workers performing Covered Services shall be increased to \$10.10 per hour.

The wage levels established under these rules will be reviewed by the Port Authority on an annual basis and adjusted, as appropriate, by input from affected stakeholders/contractors.

Additionally, once the wage level of \$10.10 per hour is established, beginning February 1, 2016, for all Covered Services, such level shall be increased thereafter by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics and rounded to the nearest multiple of \$0.05.

Applicability:

These rules shall apply to lessees, permittees, contractors, as well as the subcontractors and sublessees of those entities (“Contractors”), including, as of April 1, 2015, Concession Services, who provide the Covered Services at the Airports listed in the attached Addendum to these rules.

In all events, Covered Services shall include services provided by non-trade employees whose work requires that they obtain access to the Airfield Operations Area (AOA) whether such AOA access is obtained by the issuance of a badge or an escort.

Exclusions:

The Policy implemented by these rules will not apply in instances where other applicable laws or regulations provide minimum rates for employees falling within the Policy and rules, as demonstrated by the employer.

Tipped Employees:

A Contractor seeking to demonstrate compliance for employees, who receive tips, shall have the burden of proving that the employee received compensation (including tips) in amounts equal to the minimum wage levels set forth in these rules.

The federal government and certain states allow an employer to count all or part of an employee's tips towards its minimum wage obligations and some states set a maximum "tip credit" toward the minimum wage. For purposes of these rules, only if a Contractor/Employer takes advantage of the applicable "tip credit" for federal, state or local minimum wage compliance, will the Covered Service worker's receipt of tips be considered in determining whether the Contractor/employer is compliant with the Port Authority Minimum Wage Policy.

Contractors/Employers who seek to take advantage of the payment of "tips" or a "tip credit" towards compliance with the Minimum Wage Policy and these Rules, will be required to certify that they are in compliance with the applicable (federal, state or local) minimum wage requirements governing the receipt of a credit for tips for their Covered Service workers.

"Tipped Employees" are those who engage in occupations in which tips are customarily and regularly received from patrons.

Martin Luther King, Jr. Day:

All Contractors subject to the Policy and these rules shall provide its workers performing Covered Services a paid holiday for Martin Luther King, Jr. Day.

Implementation:

These rules are applicable to all existing employees of Contractors providing Covered Services at the Airports. Once these rules become effective, the Port Authority will take appropriate steps to implement these rules, including, but not limited to, the inclusion of appropriate provisions in new or amended agreements, permits contracts and consents, as a condition for such Contractors doing business at Port Authority facilities. In the future, all agreements entered into between the Port Authority and those Contractors, including leases, permits, contracts and consents shall contain a clause which states that the Contractor has reviewed the Policy and rules and that it will comply with the Policy and rules, as amended by the Port Authority from time to time. Additionally, Contractors shall be required to include such a clause in its subleases and subcontracts.

The Port Authority acknowledges that there may be circumstances, which warrant an exception to the rules, which exception may be granted by the Port Authority, for good cause, at its sole and absolute discretion.

Wages and Benefits:

In accordance with the Policy, the Port Authority is currently developing a plan for enhanced wages and benefits, including health benefits for workers performing Covered Services. The Port Authority's existing policy for wages and benefits for certain Port Authority non-trade labor service contracts, which, as implemented, provides benchmarks for the inclusion of affordable health care, is being examined as a point of reference for such plan.

Certification:

By April 30, 2015, and, at least, on an annual basis thereafter, a responsible officer of each Contractor providing Covered Services shall deliver to the Port Authority a statement certifying, in a form to be approved by the Port Authority, that it is in compliance with the Policy and rules. The Port Authority reserves the right to audit such compliance at any time.

Amendments to Rules:

The Port Authority reserves the right to amend these rules, from time to time, including amendments to extend the implementation of the Policy to other Port Authority facilities, as well as amendments for the inclusion of appropriate benefits, such as health benefits, for employees performing Covered Services.

ADDENDUM – COVERED SERVICES

Passenger Related Security Services

- Escorts
- Catering Security
- Passenger Aircraft Security
- Fireguards
- Terminal Security
- Traffic Security

Cargo Related and Ramp Services

- Cargo Screening (including Guards) and Warehouse Security
- Baggage and Cargo Handling
- Load Control and Ramp Communication
- Aircraft Mechanics and Fueling of Aircraft
- Provision of water, cooling/heating, power
- Equipment and toilet services to Aircraft
- Passenger Aircraft Servicing
- Cabin Equipment Maintenance
- Guiding Aircraft in and out of Gates
- Gateside Aircraft Maintenance
- Ramp area cleaning

In-Terminal and Passenger Handling Services

- Baggage handling
- Skycap
- Wheelchair attendant
- Ticketing agent
- Customer Service Representatives
- Queue Managers
- ID Checkers
- Porter Service for Baggage
- Passenger and Employee Shuttle Drivers

Cleaning Services

- Building Cleaning
- Aircraft and Cabin cleaning
- Plane washers

Concession Services

- Food Service (including, food and beverage service, wait service, bussing, cashiers)
- Retail Service (including news/gifts and duty-free)
- Cleaning for concession services
- Security for concession services
- Airport Lounge Services (Food, Retail, Cleaning and Security Services)

ALL AIRPORTS – LABOR HARMONY POLICY

The Port Authority is a public agency committed to the public's best interest. That interest is served by promoting labor harmony at the Port Authority's airport facilities, inasmuch as strikes, picketing, or boycotts may disrupt the efficient operation of such facilities.

In addition, the public interest is further served when concession services are provided by employees who have worked at the airport for substantial periods of time and have acquired valuable skills and knowledge of the airport environment and its particular needs. Moreover, the best interest of the public is promoted when as many airport workers as possible have been screened to meet federal security requirements and are familiar with, and accustomed to complying with, airport security procedures. Retention of experienced employees during transitions between entities operating the same type of airport concessions makes it likely that these capabilities will remain in place.

To achieve the desired objective of reducing and/or eliminating labor-related disruptions, it was recommended that a policy be established whereby any entity operating an airport food, retail, news/gifts or duty-free concession under a future agreement must demonstrate compliance with a "labor harmony" clause to be included in future agreements. Such compliance shall be demonstrated through the entity's provision to the Port Authority of a signed "labor peace agreement." For purposes of this policy, a "labor peace agreement" shall mean an enforceable agreement with a labor organization (as defined by 29 U.S.C. §152(5)) that seeks to represent the entity's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference.

In addition, the policy would provide that future agreements with entities seeking to operate any food, retail, news/gifts or duty-free concession at any Port Authority airport shall contain provisions specifying that employees of the current operating entity will be offered continued employment for a minimum period of 90 days after the transfer of concession rights, unless there is just cause to terminate employment sooner, so long as the succeeding concession is of the same type as the preceding concession.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Bauer, Blakeman, Chasanoff, Coscia, Mack, Pocino, Sartor, Silverman and Steiner voting in favor; none against:

RESOLVED, that it is the policy of The Port Authority of New York and New Jersey that: (1) any entity operating any food, retail, news/gifts or duty-free concession at any of the Port Authority's airports under a future agreement must demonstrate compliance with a "labor harmony" clause to be included in the future agreements with the Port Authority, providing for compliance to be demonstrated through the entity's provision to the Port Authority of a signed "labor peace agreement"; and (2) future agreements with entities seeking to operate any food, retail, news/gifts or duty-free concession at Port Authority airports shall contain provisions specifying that employees of the current operating entity will be offered continued employment for a minimum period of 90 days after the transfer of concession rights, unless there is just cause to terminate employment sooner, so long

as the succeeding concession is of the same type as the preceding concession; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to take such other actions from time to time as are necessary and appropriate to effectuate the foregoing policy; and it is further

RESOLVED, that the form of all such agreements shall be subject to approval as to form by General Counsel or his authorized representative.

27. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent Agreement, the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall promptly give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all threatened or existing labor-related disruptions directed against the Sublessee at the Terminal, or against its operations thereat, pursuant to this Consent Agreement and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent Agreement which (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem reasonable under the circumstances including, without limitation, revocation of this Consent Agreement on five (5) days' written notice to the Lessee and the Sublessee.

(b) Labor peace agreement. To assure that labor harmony is maintained at the Airport, the Sublessee agrees that it shall deliver to the Port Authority one of the following: (1) evidence that the Sublessee has entered into a signed "labor peace agreement" with a labor organization that seeks to represent the Sublessee's employees that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Sublessee's operations, (2) written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(5)) is seeking to represent the employees of the Sublessee at the Airport as of the date of such notification, or (3) written notification from an officer of the Sublessee on the Sublessee's letterhead that a labor organization seeking to represent the employees of the Sublessee after negotiations have been unable to agree upon the terms of a "labor peace agreement" that otherwise complies with clause (1) above, and that the Sublessee has extended a written offer to such labor organization to enter into binding mediation to reach such agreement. The labor peace agreement provided in (1), or the notification provided in either (2) or (3) of the preceding sentence, shall be delivered to the Port Authority no later than ninety (90) days after the execution of this agreement. If after the expiration of such ninety (90) day period, the Sublessee has not provided such labor peace agreement or either such notification, then the Port Authority shall have the right to take such actions as the Port Authority may deem reasonable under the circumstances including, without limitation, revocation of this Consent Agreement on five (5) days' written notice to the Lessee and Sublessee, it being understood, that nothing in this subsection shall limit the Port Authority's rights to take any actions it deems reasonable under the circumstances to ensure labor harmony as provided in

27. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent Agreement, the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall promptly give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all threatened or existing labor-related disruptions directed against the Sublessee at the Terminal, or against its operations thereat, pursuant to this Consent Agreement and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent Agreement which (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem reasonable under the circumstances including, without limitation, revocation of this Consent Agreement on five (5) days' written notice to the Lessee and the Sublessee.

(b) Labor peace agreement. To assure that labor harmony is maintained at the Airport, the Sublessee agrees that it shall deliver to the Port Authority one of the following: (1) evidence that the Sublessee has entered into a signed "labor peace agreement" with a labor organization that seeks to represent the Sublessee's employees that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Sublessee's operations, (2) written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(5)) is seeking to represent the employees of the Sublessee at the Airport as of the date of such notification, or (3) written notification from an officer of the Sublessee on the Sublessee's letterhead that a labor organization seeking to represent the employees of the Sublessee after negotiations have been unable to agree upon the terms of a "labor peace agreement" that otherwise complies with clause (1) above, and that the Sublessee has extended a written offer to such labor organization to enter into binding mediation to reach such agreement. The labor peace agreement provided in (1), or the notification provided in either (2) or (3) of the preceding sentence, shall be delivered to the Port Authority no later than ninety (90) days after the execution of this agreement. If after the expiration of such ninety (90) day period, the Sublessee has not provided such labor peace agreement or either such notification, then the Port Authority shall have the right to take such actions as the Port Authority may deem reasonable under the circumstances including, without limitation, revocation of this Consent Agreement on five (5) days' written notice to the Lessee and Sublessee, it being understood, that nothing in this subsection shall limit the Port Authority's rights to take any actions it deems reasonable under the circumstances to ensure labor harmony as provided in

~~Authority may designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.~~

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee/sublessee, the term Concessionaire shall mean the Lessee or Sublessee, as the case may be, herein.

Initialed:

For the Port Authority

For the Sublessee

For the Airline

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

 (the "Company") has complied with board Resolution "All Airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:



BY: _____

PRINT NAME: _____

DATE: _____

FOR THE UNION:

[Insert Name of Labor Organization]

BY: _____

PRINT NAME: _____

DATE: _____

Initialed:

For the Port Authority

For the Sublessee

For the Airline

Letter in lieu of Exhibit X

[NOTE: THIS SHOULD BE PREPARED ON COMPANY'S LETTERHEAD]

The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003
Attn: Director of Aviation

To Whom It May Concern:

Reference is made to a permit ("Permit"), dated --/--/----, between The Port Authority of New York and New Jersey (Port Authority) and this company ("Permittee") for concession space at _____ for _____ Airport ("Airport"). This letter is being provided in connection with Company Name – Agreement No. and is accurate as of the date of the Permittee's execution of Company Name – Agreement No.

The undersigned is an officer of the Permittee and certifies to the Port Authority under penalty of perjury as follows. There is no labor organization (as defined by 29 U.S.C. Section 152(5) that seeks to represent the Permittee's employees at the Airport. Accordingly, the Permittee has not, and is not obligated to, enter into a labor peace agreement as contemplated by Exhibit X to the Permit and by the resolution of the Port Authority's Board of Commissioners, entitled "All Airports – Labor Harmony Policy", passed October 18, 2007.

Very truly yours,

Signature

Print Name

Title