



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT**

Item No.

1

Meeting Date: **DECEMBER 20, 2010**

Subject:

Board Discussion And Approval Of Contractual Language Regarding Worker Retention For Employees Of Contractors And Subcontractors To Be Included In The Request For Proposal Solicitations For Concessions (Retail, Food And Beverage), Airport Shuttle Services And Parking Services.

Recommendation:

Adopt Resolution No. 2010-0142, approving contractual language regarding Worker Retention for Employees of Contractors and Subcontractors providing services at San Diego International Airport to be incorporated into the Request for Proposal (RFP) solicitations for Concessions (retail, food and beverage), Airport Shuttle Services and Parking Services.

Background/Justification:

In the near future the Authority will be soliciting responses for the Airport's concessions program (retail, food and beverage), shuttle services and parking services. Contract awards are made after the completion of a competitive solicitation which will result in the award of a new contract to the same or a different contractor(s) based on multiple evaluation criteria. New contracts may involve changes in managerial skills, technology, techniques, themes or lower costs. These changes, however, do not necessarily require replacement of workers and employees ("Incumbent Workers") currently performing services under the terminating contract.

On November 4, 2010, a Board motion was approved directing staff to work with affected employees and representatives to draft language requiring that worker retention for 90 days be included in future concessions, parking and shuttle RFP's for Board consideration.

On Wednesday, November 10, 2010, a meeting was held with major stakeholders. Group representatives invited and attending (either in person or via teleconference) are identified in the matrix below.

INVITED	ATTENDED
Small Business Representative – Current Subtenant	Yes
Concessions Representative – Consultants	Yes
Parking Representative – Current Contractor	Yes
Union Representative – Unite Here! (concessions)	No
Union Representative – Teamsters Local 481 (parking/shuttles)	Yes
Authority Small Business Development Staff	Yes
Authority Real Estate Staff	Yes
Authority Ground Transportation Staff	Yes
Authority Procurement Staff	Yes
Authority Administration Division Staff	Yes

The meeting was well attended and the discussion was extremely informative. Minutes from the meeting were distributed to all stakeholders on Friday, November 12, 2010. Representatives from Unite Here!, the labor organization representing the concessions employees were unable to attend the stakeholders meeting, thus a subsequent meeting was held on Monday, November 15, 2010. The meeting included representatives of Unite Here!, Authority Administration Staff, Authority General Counsel and Authority Procurement Staff. Unite Here! presented Authority staff with proposed RFP and contract language.

All of the stakeholders recognized the value and knowledge of incumbent workers. Incumbent workers have experience with Airport schedules, possess Airport badges and have received security and safety training. The perspectives presented by the different stakeholders varied greatly. The goal of staff was to draft language that is fair to employees, prospective employers and the Authority (See Attachment A – Proposed Worker Retention Language). Highlights of the proposed language include the following requirements:

- 1) The successful contractor shall hire or retain incumbent workers who have been employed for the preceding twelve months or longer by the terminated contractor;
- 2) Incumbent workers shall be retained for a period of ninety (90) days unless there is cause to terminate their employment sooner;
- 3) Incumbent workers shall be employed under the terms and conditions established by the successful contractor or as required by law;
- 4) The successful contractor shall maintain a preferential hiring list of incumbent workers not initially hired and,
- 5) There is an exemption for small businesses that operate with less than ten employees, management positions and specialized skilled positions.

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On December 2, 2010 the Board continued with active discussion regarding the proposed contractual language for contractor worker retention to be included in the RFPs for applicable concessions and services. A motion to approve the proposed language failed, however, the Board agreed to continue the discussion of this item at a December 20, 2010 Special Board Meeting.

In an effort to encompass alternative views presented by Board members at the December 2, 2010 Board Meeting, additional modifications to the contractual language in Attachment A are being proposed and are reflected in Attachment B (See Attachment B – Proposed Worker Retention Language Reflecting Board Discussion). Highlights from Attachment B that differ from the Attachment A are as follows:

- Requires proposers to submit a written plan that meets minimum requirements for worker retention of incumbent employees, in order to be considered responsive to the RFP solicitation.
- Establishes additional considerations in the form of bonus points during the evaluation process for any proposals that exceed the minimum standards.

Fiscal Impact:

Additional costs identified include a potential increase in the costs proposed by the successful contractors for the affected service contracts and additional administrative costs related to compliance monitoring during the transition process. At this time, additional costs of the anticipated administrative duties have not been determined.

Environmental Review:

A. CEQA Review: This Board action, as an administrative action, is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act ("CEQA"), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.

B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable

Prepared by:

JANA VARGAS
DIRECTOR, PROCUREMENT

Attachment A – Authority proposed RFP Language

Worker Retention for Employees of Contractors and Subcontractors

The San Diego County Regional Airport Authority ("Authority") is utilizing a competitive solicitation process in the award of this [as applicable: service or concession] contract at San Diego International Airport ("Airport"). The use of this competitive solicitation process will result in the award of a new contract to the same or a different contractor. When this process is completed and a new contract is in place, it may result in changes in the management, supervising team, managerial skills, technologies, techniques, themes and costs. These changes, however, do not necessarily require replacement of the workers and employees ("Incumbent Workers") currently performing services under the terminating contract.

Incumbent Workers possess valuable knowledge, skills and experience concerning the performance of the [as applicable: service or concession] contract being awarded, having provided the same services under the terminating contract. Incumbent Workers have received Airport security and safety training. They possess Airport badges, having passed some level of security screening in order to receive their badges. The Authority recognizes the experience, skills, benefits and knowledge of Incumbent Workers as a valuable and important asset. Additionally, Worker Retention provides continued employment opportunities for Incumbent Workers who wish to continue working for the contractor providing services under the new contract for [as applicable: food, beverage, retail, news/gifts, parking, or airport shuttle services] .

Worker Retention is applicable to this competitive solicitation process and contract. The successful contractor shall hire or retain Incumbent Workers who have been employed for the preceding twelve (12) months or longer by the terminated contractor. Incumbent Workers shall be retained for a period of ninety (90) days, unless there is cause to terminate their employment sooner. During the ninety (90) day period, Incumbent Workers shall be employed under the terms and conditions established by the successful contractor or as required by law. The use of the term "contractor" applies to subcontractors where applicable.

Where pooling of Incumbent Workers by job classification occurs, the successful contractor shall interview and hire from such pools for the first six (6) months of operations at the Airport or until the terminated contractor completely ceases operations at the Airport, whichever is later. The successful contractor shall maintain a preferential hiring list of Incumbent Workers not initially hired. When all of the Incumbent Workers within a job classification pool have received a ninety (90) day employment offer or the pooling period as defined above has expired, the successful contractor shall be released from the obligation to hire from the job classification pools. In the event vacancies cannot be filled from the Incumbent Worker pool, the successful contractor may petition the Authority stating the reason for its inability to hire from the pool and asking for a waiver of this requirement.

The following are exemptions from Worker Retention:

1. Small businesses that operate with less than ten (10) employees.
2. Management positions.
3. Positions requiring a specialized skill or license not available from the pool of Incumbent Workers.

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Attachment B: Proposed Worker Retention Language Reflecting Board Discussions

The San Diego County Regional Airport Authority ("Authority") is utilizing a competitive solicitation process in the award of this [as applicable: service or concession] contract at San Diego International Airport ("Airport"). The use of this competitive solicitation process will result in the award of a new contract to the same or a different contractor. When this process is completed and a new contract is in place, it may result in changes in the management, supervising team, managerial skills, technologies, techniques, themes and costs. These changes, however, do not necessarily require replacement of the workers and employees ("Incumbent Workers") currently performing services under the terminating contract.

Incumbent Workers possess valuable knowledge, skills and experience concerning the performance of the [as applicable: service or concession] contract being awarded, having provided the same services under the terminating contract. Incumbent Workers have received Airport security and safety training. They possess Airport badges, having passed some level of security screening in order to receive badges. The Authority recognizes the experience, skills, benefits and knowledge of Incumbent Workers as a valuable and important asset. Additionally, Worker Retention provides continued employment opportunities for Incumbent Workers who wish to continue working for the contractor providing services under the new contract for [as applicable: food, beverage, retail, news/gifts, parking, or airport shuttle services]. Given the recognized advantages of retaining Incumbent Workers, the Authority encourages providing all qualified Incumbent Workers an opportunity to be rehired and compete for retention of these jobs.

Worker Retention is applicable to this competitive solicitation process and contract. A responsive proposal to this solicitation contains a written program that, at a minimum, includes the following components:

- The hiring or retention of Incumbent Workers who have been employed for the preceding twelve (12) months or longer by the terminated contractor, with Incumbent Workers retained for a period of ninety (90) days, unless there is cause to terminate their employment sooner;
- Employment of the Incumbent Workers during the ninety (90) day period under the terms and conditions established by the successful contractor or as required by law or other applicable agreement;
- Application of the term "contractor" to subcontractors where applicable;
- Where pooling of Incumbent Workers by job classification occurs, interviewing and hiring by the successful contractor from such pools for the first six (6) months of operations at the Airport or until the terminated contractor completely ceases operations at the Airport, whichever is later;
- Maintenance by the successful contractor of a preferential hiring list of Incumbent Workers not initially hired; and
- Release from the obligation to hire from the job classification pools when all of the Incumbent Workers within a job classification pool have received a ninety (90) day employment offer or the pooling period as defined above has expired.

Any proposal that does not meet these minimum worker retention standards will be considered non-responsive. The Authority will establish additional consideration during the evaluation process (in the form of bonus points) for any proposals that exceed these standards.

The following are exemptions from Worker Retention:

1. Small businesses that operate with less than ten (10) employees.
2. Management positions.
3. Positions requiring a specialized skill or license not available from the pool of Incumbent Workers.

RESOLUTION NO. 2010-0142

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY APPROVING CONTRACTUAL LANGUAGE REGARDING "WORKER RETENTION FOR EMPLOYEES OF CONTRACTORS AND SUBCONTRACTORS PROVIDING SERVICES AT SAN DIEGO INTERNATIONAL AIRPORT" TO BE INCORPORATED INTO THE REQUEST FOR PROPOSAL (RFP) SOLICITATIONS FOR CONCESSIONS (RETAIL, FOOD AND BEVERAGE), AIRPORT SHUTTLE SERVICES AND PARKING SERVICES.

WHEREAS, the San Diego County Regional Airport Authority ("Authority") recognizes that retaining existing service workers for concessions (retail, food and beverage), airport shuttle services and parking services creates a work environment that promotes job security among contractors' employees and maintains the Authority's interest in continuous operations of services at San Diego International Airport ("Airport") using experience and trained workers; and

WHEREAS, the Authority utilizes a competitive solicitation process to award service contracts which results in the award of a new contract to the same or a different contractor, and

WHEREAS, the award of a new service contract does not necessarily include the need to replace all of the existing workforce providing Airport services under that contract; and

WHEREAS, the requirement of worker retention for specified employees of contractors and subcontractors providing certain Airport services recognizes that:

- Incumbent workers provide invaluable knowledge and experience acquired on-the-job with regard to the specific work they perform at the Airport;
- Replacing experienced existing workers who are already trained and knowledgeable to perform their jobs decreases efficiency and results in a disservice to the Authority, the community and the traveling public;
- Retaining existing employees reduces the likelihood of labor disputes and labor disruptions;

- Retaining existing incumbent employees promotes security and safety through the continued use of already screened and trained employees with a history of demonstrated trustworthiness.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves contractual language regarding "Worker Retention for Employees of Contractors and Subcontractors Providing Services at San Diego International Airport", to be incorporated into the RFP solicitations for Concessions (retail, food and beverage), Airport Shuttle Services and Parking Services.

BE IT FURTHER RESOLVED that the Board FINDS that this action is not a "project" as defined by the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21065; and further is not a "development" as defined by California Coastal Act, Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a special meeting this 20th day of December, 2010, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL