



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
18

Meeting Date: **DECEMBER 2, 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 Proposals 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 Proposals (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 new contracts 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 RFPs 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 (See Exhibit A – Stakeholders Meeting Minutes). 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 Executive Staff, Authority General Counsel and Authority Procurement Staff. Unite Here! presented Authority staff with proposed RFP and contract language (See Exhibit B – Unite Here's proposed Worker Retention 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 to the Resolution – 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.

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

EXHIBIT A



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

Worker Retention Stakeholders Meeting
November 10, 2010

Present:

- Thella F. Bowens, President/CEO, SDCRAA
- Jeffrey Woodson, Vice President, Administration, SDCRAA
- Jana Vargas, Director, Procurement, SDCRAA
- Troy Ann Leech, Director, Real Estate Management, SDCRAA
- Bob Silvas, Director, Small Business Development, SDCRAA
- Jim Myhers, Manager, Ground Transportation, SDCRAA
- Mike DeGraffenreid, General Manager, Lindbergh Parking, Inc. (LPI)
- Gil Johnson, President, Procurement Concepts, Inc.
- Mary Woitkoski, Administration, SDCRAA (note taker)

Participants via teleconferencing:

- Bhavesh Patel, Manager, Concession Development Program, SDCRAA
- Mike Anderson, Real Estate Analyst, SDCRAA
- Ann Ferraguto, Principal, AirProjects, Inc.
- Pat Gleason, Principal, PCATpro, LLC
- Victor Torres, Secretary-Treasurer, Teamsters Local 481

Jeffrey Woodson walked the group through introductions and provided background information, including a broad definition of worker retention. Worker retention is a topic the Board has been considering over the past several months. A policy was considered but at this time, staff has received direction from the Board to craft language that could be included in the Request for Proposals (RFPs) for the upcoming concessions, parking and shuttle contracts. The language will be presented for Board consideration in December. The purpose of the stakeholder meeting is to seek balanced perspectives and information from interested parties. Authority staff will incorporate stakeholder feedback into formulating and constructing the language.

Jana Vargas gave an agenda overview and restated the purpose of the meeting, to discuss the provision of contractor worker retention language to be inserted in the RFPs for concessions, shuttle service and parking services. Jana reiterated staff's desire to hear stakeholder ideas, suggestions and any relevant known examples. Jeffrey pointed out that staff is also surveying other airports for examples.

Jana cited the Board's motion for the benefit of all participants. The Board directed 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 RFPs for Board consideration.

Jana gave some additional background information and noted that the Airport is in a unique position as the contracts are going to bid during a major expansion. She then opened the floor for stakeholder feedback.

Bob Silvas (Authority Small Business)

- Surveyed a number of small businesses through the Airport Minority Advisory Council (AMAC) and Airports Council International (ACI)
- Received pretty consistent feedback:
 - Small business look forward to using employees with experience who understand working in an airport environment
 - Small business are concerned with being restricted in who they have to hire

Mike DeGraffenreid (LPI)

- Concerned with having a level playing field when the RFP comes out
- Difficult to be competitive if other bidders pay minimum wage; worker retention could address that
- If not worker retention, would like to see some other language that will level the playing field
- Would like to see employees taken care of even if LPI does not win the contract

Troy Ann Leech (Authority Real Estate)

- Concurs with most of what Bob and Mike shared
- Additional concerns about potential cost

Ann Ferraguto (Concessions consultant)

- Worker retention has been common in the industry for years
 - Usually successor proposers are mandated to interview, but not mandated to hire
- Has seen and heard from concessionaires that they really need and want those existing employees incorporated into their operation
 - Existing employees are badged, cleared, experienced, an incentive for new operators to hire those existing employees
- It is good when everyone is included and it is not restricted to a certain wage
 - Creates a level playing field and opportunities for existing employees
- There are issues with mandatory hiring
 - Based on seniority – where does that leave the rest of the workers?
 - Based on hourly – where does that leave managers who make only \$.85 more an hour?
- How will it work with one prime concessionaire going to multiple concessionaires?
 - Who gets priority over certain employees?
 - Bidding wars over certain employees could erupt

- Prefers everyone be interviewed or a job fair environment
 - Employees can choose to interview with any company where they can use their skill sets
 - Difficult with a mandatory program

Jim Myhers (Authority Ground Transportation)

- Concur with Mike
- Stability is important, especially for long time employees
- Believes any bid winner will take the existing employees
- Thinks it should be mandatory, not just voluntary

Victor Torres (Parking union)

- Retention for 90 days is the right direction
- The wage scale and benefits should be grandfathered.
 - For example, a ten or fifteen year employee's wage rate has increased over time. They should get to carry over their wage rate and vacation accrual.

Pat Gleason (Concessions consultant)

- Agrees with Ann; existing employees are valuable to the employers coming on
- Could burden small businesses if they are required to honor pay rates, vacation, sick time
- Current pay rates and benefits are unknown factors to the bidders
- Seen it be typical of prime concessionaires like Host that employees have a clean slate with the new employer
- Small companies cannot offer the same benefits as a large company like Host
- Everyone should recognize that it will not be the same
- Everyone should interview
- Not all employees will want to work for the new company; they may not like the concept, etc.
- Should not be mandatory for the employees or employer
- It could be argued that vacation accruals, etc. create an unlevel playing field, giving the incumbent an edge

Gil Johnson (Small business owner)

- Even small businesses recognize that we do not have a viable business without the employees. The people allow you to grow the business; business is not viable without good staff.
- Concern with the additional costs associated with having to take on an employee from another company
 - For example, current model consists of a cost sharing with employees for certain benefits; other employers cover 100%
 - What about other benefits an employer may offer – 401(k), defined benefit, etc?
- Not clear on the costs and liabilities
- Concern with not knowing what exists or does not exist

- Would think vacation would be bought out by former company (finance side)
 - On the time side, what if an oncoming employee still wishes to take their four weeks of vacation, even though it's no pay
- Interviews should be the employee interviewing the employer too; a two-way street
- Maybe a solution would be to look at the State of California's sizing distinctions – a different set of rules and regulations for companies with under 50 employees and those with 50 employees and more

Jana shared an example with the group of mandatory worker retention language from the City of Phoenix in a current RFP on the street for the airport's Terminal 4 concessions. Jana and Jeff asked the group to share any examples of RFPs that contain worker retention provisions. In response to parking examples, Victor mentioned that he was unaware of any and that it's the first time he has heard of this situation. Mike noted that the Phoenix example did not address wages at all.

Mike mentioned that it would be a mistake to assume the winning bidder will keep all employees. The new company will still want to instill some type of culture change, etc. He also mentioned that he feels the incumbent would be at a disadvantage – for example, he doesn't have the luxury of adjusting his wages down.

Bhavesh Patel (Authority Real Estate) noted that the Phoenix situation is different than San Diego's situation. Jana clarified that the Phoenix RFP was directed at a specific transition from a large prime concessionaire to a large prime concessionaire at one particular terminal.

Ann noted that the future concessions program will ideally include new and localized concepts that may require special skills/training to implement. Mandatory hiring would make it difficult for proposers to implement such concepts.

Thella Bowens (Authority President/CEO) asked the group if anyone had familiarity with the RFP for large and small operators on the street in Los Angeles where the city has a worker retention policy. That should be looked at since it is similar to the task at hand. Thella also asked if anyone was familiar with any other airports that have transitioned from a prime concessionaire to multiple concessionaires and have worker retention. Pat mentioned San Jose as a possible example. Thella directed the group to contact such airports and learn how they dealt with the employees.

Gil brought up the 90 day aspect of the proposed RFP language. If the employer retains the worker for less than 90 days, what happens? Thella remarked that she does not believe that any ordinance, etc. should not prevent an employer from terminating for cause, if the employer can document that the employee is not performing. The 90 days should give the employee a chance to prove proficient in the work, or give enough time for the new employer to train the employee to be able to do the work. Jeff noted that the policies staff has reviewed typically include the "for cause" language.

Gil also shared concern that the worker retention process may not allow an employer to hire fast enough. In addition, he was concerned with having to hire certain employees. What if he needs an expert of some sort? Jeff and Jana shared that often there is a provision for hiring employees with specialized skills.

Mike reiterated his desire for a "level playing field." A worker retention program or RFP language would address that.

Victor remarked that upon analyzing the economics of the bid, it seems that the incumbent would be at a disadvantage since new bidders would always be able to underbid the incumbent. He commented that the bottom line should always be the question, who will provide the best service? In regard to small businesses, he observed that all bidders are small businesses.

Jana stated that RFPs are evaluated under multiple considerations – it does not just come down to the low bidder.

Ann noted that the LAX RFP language dictates that concessionaires have to retain employees who have been working for the preceding 12 months. Thella noted the importance of that sort of language. For example, what if a current contractor were winding down their operation and at the 11th hour, hired some employees to close out the business at the end of the contract. The language would protect the Airport from that sort of loading and padding. The other employees could always be interviewed, but there would not be a requirement to hire them.

Thella advised the group to think through the language and challenged the group to find a workable solution – a process that has some meaning and is enforceable without being mandatory. Thella shared her desire for the language to pass at the December Board meeting so that the RFP processes are not held up.

Gil shared an additional concern that before an employee leaves the former company, they may get a final review, a merit increase, etc. that could prove even more problematic for the new employer.

Pat restated that existing employees are valuable for many reasons and in the current situation, the current concessions workforce only makes up about half of what will be needed. This employee shortage will add even more value to the existing employees.

Bob inquired about Seattle's move from a prime model to a multiple prime model with worker retention. Ann agreed to find out more about it.

Mike shared that in regards to parking, there is no shortage of employees. People are lining up, asking for jobs and the expansion should not greatly increase the number of parking employee positions.

Jana committed that Mary Woitkoski would send a copy of the minutes to all participants via email for their review. Any additional feedback can be submitted to Jana, Jeff or Mary.

Thella highlighted the short turnaround for this process and noted that this meeting is just the beginning. She promised that staff would put together something and disseminate it to all parties again before it is included in the Board's agenda packet.

EXHIBIT B – UNITE HERE! Proposed Language

RFP Only Worker Retention– Concessions Specific (replace Concessions with “Parking” or other business according to the specific RFP)

As part of this RFP to award Authority concessions contracts. The RFP process potentially results in the award of a new contract to a different concessions operator. A new contract may involve anticipated changes in managerial skills, new technologies, new techniques, new themes or lower costs. Despite changes resulting from the award of a new contract, the changes should not cause the replacement of the workers presently performing services under the contract being replaced. (“Incumbent workers”). Incumbent workers possess valuable knowledge of and experience with Airport schedules, practices and clients. Incumbent workers have received Airport security and safety training, possess Airport badges, and have passed some level of security screening in order to receive their badges. The Authority recognizes the value, experience and knowledge of incumbent workers at the Airport.

The successful airport concessions operator(s) shall provide continued employment for a minimum period of 90 days, unless there is just cause to terminate employment sooner, to employees of the current concessions operator who will be displaced by cessation or curtailment of the current operations and who wish to continue working for the succeeding operator, so long as the succeeding concession is the same type (food, retail, news/gifts and duty-free) as the preceding concession. Each Employee who receives a satisfactory written performance evaluation at the end of the 90-day period will be offered continued employment. If the succeeding operator determines that fewer employees are required than were required by the preceding operator(s), the succeeding operator shall retain employees by seniority within each job classification. For the first six months of operation or until the preceding operator(s) completely ceases operations, whichever is later, the succeeding operator shall maintain a preferential hiring list of employees not retained in the initial staffing of the operation from which the operator shall hire additional employees.

If the incoming Concessionaire determine that fewer employees are required than were required by the previous Concessionaires, the incoming Concessionaires shall retain Employees by seniority within each job classification. During the 90-day trial period or until thirty (30) days after the new concessions program becomes fully, 100% open and operational, whichever is later, the Incoming Concessionaires shall maintain a preferential hiring list of Employees not retained from which the Concessionaires shall hire additional employees.

EXHIBIT B – UNITE HERE! Proposed Language, Continued

Attachment B

Worker Retention Commitment Form

[Insert Name of Company] (“the Company”) agrees to retain for a 90-day trial period those Employees of the current Concessionaires who wish to continue working for the incoming Concessionaires. Employees may not be discharged without cause during the 90-day trial period. Each Employee who receives a satisfactory written performance evaluation at the end of the trial period will be offered continued employment.

If fewer employees are required than were required by the previous Concessionaires, the [Insert Name of Company] shall retain Employees by seniority within each job classification. For the first six months of operation or until the preceding operator(s) completely ceases operations, whichever is later, [Company] shall maintain a preferential hiring list of employees not retained in the initial staffing of the operation from which the operator shall hire additional employees.

[Insert Name of Company]

BY: _____

DATE: _____

EXHIBIT B – UNITE HERE! Proposed Language, Continued

Attachment C Contract Language

Employee Retention

The Operator shall offer continued employment for a minimum period of 90 days, unless there is just cause to terminate employment sooner, to employees of the current concessions operator who have been or will be displaced by cessation or curtailment of the current operations and who wish to continue working for the succeeding operator, so long as the succeeding concession is the same type (food, retail, news/gifts and duty-free) as the preceding concession. Each Employee who receives a satisfactory written performance evaluation at the end of the 90-day period will be offered continued employment. If the Operator determines that fewer employees are required than were required by the preceding operator(s), the Operator shall retain employees by seniority within each job classification. For the first six months of operation or one month after the preceding operator(s) completely ceases operations, whichever is later, the Operator shall maintain a preferential hiring list of employees not retained in the initial staffing of the operation(s) from which the Operator shall hire additional employees. The Authority shall have the right to demand from the Operator documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. An employee claiming violation of this article may report such claimed violation to the Authority, which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the Authority has determined that the Operator has violated this provision, the Authority shall issue a written notice to the Operator that the violation is to be corrected within ten (10) days. In the event that the Operator has not demonstrated to the Authority within such period that it has cured such violation, the Authority may then take one or more of the following actions:

- (a) Impose a fine payable to the Authority in an amount of up to one hundred dollars (\$100) for each violation for each day the violation remains uncured.
- (b) Declare a material breach of this contract and revoke it.
- (c) Debar the Operator from future Authority contracts, leases and permits for three (3) years or until all penalties and restitution have been fully paid, whichever is longer.

EXHIBIT B – UNITE HERE! Proposed Language, Continued

Contract Language

Employee Retention

The Operator shall offer continued employment for a minimum period of 90 days, unless there is just cause to terminate employment sooner, to employees of the current concessions operator who have been or will be displaced by cessation or curtailment of the current operations and who wish to continue working for the succeeding operator, so long as the succeeding concession is the same type (food, retail, news/gifts and duty-free) as the preceding concession. Each Employee who receives a satisfactory written performance evaluation at the end of the 90-day period will be offered continued employment. If the Operator determines that fewer employees are required than were required by the preceding operator(s), the Operator shall retain employees by seniority within each job classification. For the first six months of operation or one month after the preceding operator(s) completely ceases operations, whichever is later, the Operator shall maintain a preferential hiring list of employees not retained in the initial staffing of the operation(s) from which the Operator shall hire additional employees. The Authority shall have the right to demand from the Operator documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. An employee claiming violation of this article may report such claimed violation to the Authority, which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the Authority has determined that the Operator has violated this provision, the Authority shall issue a written notice to the Operator that the violation is to be corrected within ten (10) days. In the event that the Operator has not demonstrated to the Authority within such period that it has cured such violation, the Authority may then take one or more of the following actions:

- (a) Impose a fine payable to the Authority in an amount of up to one hundred dollars (\$100) for each violation for each day the violation remains uncured.
- (b) Declare a material breach of this contract and revoke it.
- (c) Debar the Operator from future Authority contracts, leases and permits for three (3) years or until all penalties and restitution have been fully paid, whichever is longer.

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" LANGUAGE TO BE INCORPORATED INTO THE REQUEST FOR PROPOSALS (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 new contracts to the same or a different contractors, 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 of the San Diego County Regional Airport Authority hereby ADOPTS language to be incorporated into the RFP solicitations for Concessions (retail, food and beverage), Airport Shuttle Services and Parking Services for "Worker Retention for Employees of Contractors and Subcontractors Providing Services at San Diego International Airport", a copy of which is attached as "Attachment A" hereto; and

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 regular meeting this 2nd 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

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 on the terminated contract 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.

DRAFT

ITEM 18



Worker Retention for Employees of Contractors and Subcontractors

December 2, 2010

Prepared by Jana Vargas
Director of Procurement



Worker Retention for Employees of Contractors and Subcontractors

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 (retail, food and beverage), parking and shuttle RFPs for Board consideration.



Contract Award Considerations

- Contract Awards are made after the completion of a competitive solicitation
- Contract Awards are based on multiple evaluation criteria (not low bid)
- Hiring Incumbent Workers adds value based on their experience with Airport schedules, possession of an Airport badge and completion of Airport Security and Safety Training



Stakeholders Meeting 11/10/2010

Refer to Exhibit B – Meeting Minutes

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
*attended via teleconference	



Stakeholders Meeting 11/15/2010

Refer to Exhibit C – Unite Here! Proposed Language

Attendees:

Authority Executive Staff

Authority General Counsel

Authority Procurement Staff

(2) Unite Here! Union Representatives



Highlights of Proposed RFP Language

Based on internal and external stakeholder input

- The successful contractor shall hire or retain incumbent workers who have been employed for the preceding 12 months or longer;
- Incumbent workers shall be retained for a period of ninety (90) days unless there is cause to terminate their employment sooner;
- Incumbent workers shall be employed under the terms and conditions established by the successful contractor or as required by law;
- The successful contractor shall maintain a preferential hiring list of incumbent workers not initially hired; and
- There is an exemption for small businesses that operate with less than ten employees, management positions and specialized skilled positions.

December 1, 2010

Mr. Robert H. Gleason, Chair,
and Members, San Diego County
Regional Airport Authority Board of Directors
P.O. Box 82776
San Diego, California 92138-2776

RE: December 2, 2010 Agenda – Item 18 – Proposed Worker Retention Language

Dear Chairman Gleason and Members of the Board:

The San Diego Regional Chamber of Commerce is very concerned about the proposal before you tomorrow to mandate worker retention for employees of contractors and subcontractors in Request for Proposal (RFP) solicitations for Concessions, Airport Shuttle Services and Parking Services.

While we recognize the value and expertise of incumbent workers, we strongly believe that the choice to retain a worker from a previous concessionaire should be left to the new employer. A mandated worker retention program could lead to all sorts of complications and liabilities, including legal issues with regard to questions of seniority, wages, vacation accruals, and other costs. Further, a new concessionaire's business model may include a new set of concepts that could require certain employees who have special skills.

The Chamber believes that concessionaires are well aware of the importance of hiring a workforce that is knowledgeable of airport operations and security procedures and will take under consideration existing workers to run their businesses efficiently and smoothly. We fully support voluntary worker retention by employers and do not see any need for the proposed mandates which would make it more difficult and more costly for concessionaires to operate their business. Therefore, we urge you to oppose the proposed language.

Sincerely,



Ruben Barrales
President & CEO

RB:av