

CITY OF PHILADELPHIA
DEPARTMENT OF LABOR

REGULATIONS CONCERNING WAGES AND BENEFITS
FOR AIRPORT SERVICE EMPLOYEES UNDER SECTION 10-107 OF THE CODE

The Department of Labor hereby adopts the following regulations concerning wages and benefits for Airport Service Employees under Section 10-107 of The Philadelphia Code.

1. Definition of “Prevailing Wage” for Airport Service Employees Under the Code.

Under Section 17-107(1)(m)(.5) of the Code, the “prevailing wage” for Covered Airport Service Employees is defined as:

(.a) the greater of:

(i) the wage paid to the majority (more than fifty percent (50%)) of workers in the classification of security officer (Guard I) at similar locations in the City of Philadelphia, or, if the same wage is not paid to a majority of those employed in that classification, the average of the wages paid, weighted by the total employed in the classification at similar locations; provided that the Director is authorized to determine a reasonable approximation of the foregoing; or

(ii) the wage determined by the Secretary of Labor under the Service Contract Act, 41 U.S.C. §§ 351 et seq. for the classification of Guard I for Philadelphia County; or

(iii) the wage set forth in § 17-1305(1);

and

(.b) the greater of:

(i) the additional benefits, or the monetary equivalent of such benefits, provided to the majority (more than fifty percent (50%)) of workers in the classification of security officer (Guard I) at similar locations in the City of Philadelphia; or

(ii) the additional benefits, or the monetary equivalent of such benefits, determined by the Secretary of Labor for the job classification of Guard I for Philadelphia County under the Service Contract Act, 41 U.S.C. §§ 351 et seq.

2. Definition of “Additional Benefits”

The term “additional benefits” as used in Section 17-107(1)(m)(.5) includes health and welfare contributions, paid vacation, paid sick days and paid holidays.

3. Treatment of Paid Holiday Benefit under Section 17-107(1)(m)(5)(b).

Unless specified otherwise in the applicable Service Contract Act wage determination, eligibility for a paid holiday benefit shall be determined consistently with 29 C.F.R. §4.174, as it may subsequently be amended, which the Department interprets to mean that if a full-time Covered Airport Service Employee is required to work on the day designated as a holiday, that Covered Airport Service Employee must either (a) be paid, in addition to the amount to which such employee ordinarily would be entitled for that day's work, the cash equivalent of a full-day's pay for the greater of 8 hours or the number of hours scheduled for that day, or (b) be furnished another day off with pay.

4. Definition of Employers of Covered Airport Service Employees.

The determination of whether an employer must pay the prevailing wage to a Covered Airport Service Employee is not dependent in any way on whether the employer meets the definition of a covered contractor under the Service Contract Act.

5. Treatment of Health and Welfare Additional Benefit Contributions to a Bona Fide Fund, Plan or Program.

Consistent with the treatment of fringe benefits contributions under the federal Service Contract Act, as set forth in 29 C.F.R. §§4.170 - 4.171, an employer may meet its obligations under Section 17-107 of the Code to pay Covered Airport Service Employees "additional benefits," including health and welfare benefits such as pension, retirement and health insurance benefits, by paying the specified contributions to an independent trustee or other third person pursuant to an existing "bona fide" fund, plan, or program on behalf of Covered Airport Service Employees generally. The requirements for such a fund, plan or program to be "bona fide" are as set forth in 29 C.F.R. §4.171(a).

The employer may choose which "additional benefits" to provide in this manner and, notwithstanding anything to the contrary contained in the Service Contract Act or any guidance issued thereunder, the employer shall be credited for those contributions, whether or not the "bona fide" fund, plan, or program requires a Covered Airport Service Employee to make contributions toward establishing or maintaining eligibility for the fringe benefit, whether or not such employee chooses to make such contributions, and whether or not such employee actually receives benefits from the "bona fide" fund, plan, or program. An employer shall not be credited, however, for any such contributions made by the employee. Any deduction of such a contribution from wages of the employee, whether through payroll deduction or otherwise, requires the employee's concurrence, which may be evidenced by a collective bargaining agreement or other agreement with the employee's collective bargaining representative. Nothing in Section 17-107 requires such fund, plan, or program to establish or alter any eligibility requirement or substantive benefit level for any Covered Airport Service Employee.