

CITY OF PHILADELPHIA
DEPARTMENT OF LABOR

REGULATIONS CONCERNING WAGES AND BENEFITS
FOR AIRPORT SERVICE EMPLOYEES UNDER SECTION 17-107 OF THE CODE

The Department of Labor (“Department”) hereby adopts the following regulations concerning wages and benefits for Airport Service Employees under Section 17-107 of The Philadelphia Code. Changes from regulations of the same name, which became law September 27, 2023, are shown in the document attached hereto, and those September 27, 2023 regulations are rescinded.

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

a. 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.

b. 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 is interpreted to

mean the highest wage for that classification, regardless of the applicability of any referenced Executive Orders.

2. Treatment 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.

3. Definition of “Additional Benefits”

The term “additional benefits” as used in Code Section 17-107(1)(m)(.5) includes, but is not limited to the health and welfare contributions, with or without paid sick leave (as addressed below); paid vacation; and paid holidays.

4. Treatment of Paid Sick Leave under Code Section 17-107(1)(m)(.5)(b)(ii)

A Covered Airport Service Employee may be paid health and welfare benefits with or without paid sick leave as follows:

a. If paid sick leave is provided to a Covered Airport Service Employee, an employer may pay such Covered Airport Service Employee the lower health and welfare rate established in the Wage Determination under Executive Order No. 13706 (or any successor Order), regardless of the direct applicability of the Order.

b. If paid sick leave is not provided to a Covered Airport Service Employee, an employer must pay a Covered Airport Service Employee the higher health and welfare rate.

5. Treatment of Paid Holiday Benefit under Code 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, and §4.176 - §4.177, as it may subsequently be amended.

6. Treatment of Paid Vacation Benefit under Code Section 17-107(1)(m)(.5)(b)

Unless specified otherwise in the applicable Service Contract Act Wage Determination, eligibility for a paid vacation benefit shall be determined consistently with 29 C.F.R. §4.173, as it may subsequently be amended, without regard to the Federal applicability requirements, which the Department interprets to mean that one year is equal to 2080 hours (40 hours per week multiplied by 52 weeks). Accordingly, the vacation benefit required by the applicable Wage Determination may be read as follows, with the Department’s interpretation of hours in parenthesis, for example:

Vacation: 2 weeks (80 hours) paid vacation after 1 year (2080 hours) of service with a contractor or successor, 3 weeks (120 hours) after 8 years (16,640 hours), and 4 weeks (160 hours) after 15 years (31,200 hours). Length of service includes the whole

span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same facility.

7. 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.

8. Calculating Wage and Additional Benefits for Tipped Covered Airport Service Employees.

a. Calculating Wage: Employers are responsible for ensuring tipped Covered Airport Service Employees receive, through wages and tips earned on a daily basis, the wage determined in Section 17-107(1)(m)(.5)(a).

b. Calculating Additional Benefits: Employers must provide each tipped Covered Airport Service Employee the additional benefits, or monetary equivalent of such benefits, pursuant to Code Section 17-107(1)(m)(.5)(b).

Note: The employer must be able to show by records that the employee receives at least the prevailing wage.

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(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

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b. 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 is interpreted to mean the highest wage for that classification, regardless of the applicability of any referenced Executive Orders.

2. Treatment 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.

3. 2-Definition of “Additional Benefits”

The term “additional benefits” as used in Code Section 17-107(1)(m)(.5) includes, but is not limited to the health and welfare contributions, with or without paid sick leave (as addressed below); paid vacation; paid sick days; and paid holidays.

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greater of 8 hours or the number of hours scheduled for that day, or (b) be furnished another day off with pay applicable Wage Determination may be read as follows, with the Department's interpretation of hours in parenthesis, for example:

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7. 5-Treatment of Health and Welfare Additional Benefit Contributions to a Bona Fide Fund, Plan or Program.

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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.

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Note: The employer must be able to show by records that the employee receives at least the prevailing wage.