

Code of Ethics for Port Authority Vendors

SERVING IN THE PUBLIC INTEREST



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Introduction

The Port Authority of New York and New Jersey has long been committed to getting the job done with unyielding honesty and integrity — to earning and maintaining the public trust. Our commitment extends to doing business only with those vendors — suppliers, contractors, and professional services firms — that operate lawfully, and in accordance with applicable regulations.

But it is important to go further.

When they work with us, vendors are also working in the public service. And just as we require legal and ethical compliance from ourselves — we require the same from the vendors we team up with.

To that end, we have prepared this Code of Ethics for Port Authority Vendors (“Code”). The Code is publicly available, so that everyone can see the standards we are holding our vendors to. The Code requires vendors to comply rigorously with all legal obligations — and to behave ethically and with integrity (as set out in this Code) when they are engaged in activities on our behalf.

Vendors should review this Code carefully. Vendors will be required to certify in writing that they will adhere to this Code when they work with us. This is an important commitment. And the Port Authority’s Office of Inspector General, a law-enforcement agency, will be conducting appropriate investigations — to ensure that vendors keep the commitments they have made.

Definitions and Scope

Vendor means any entity, other than a government agency, that has entered into a written agreement with the Port Authority to supply goods or services. Examples of “vendors” include construction, engineering, or design firms; companies that provide security; or entities that sell computers or heavy equipment to the Port Authority.

“Vendor” does not include an entity that enters into a written agreement with the Port Authority that is principally focused on the use of real property; such agreements include leases, easements, and space permits. Such entities are subject to a Code of Ethics for Port Authority Lessees, which will be issued during 2018.

In the Port Authority’s discretion, this Code may be applied to entities that are not “vendors” within the formal definition set out above. For example, two major construction firms may form a joint venture, with the joint venture entering into a contract with the Port Authority. In that case, the construction firms are not “vendors,” because, strictly speaking, they have not themselves directly contracted with the Port Authority. Nonetheless, the Port Authority may determine, before the contract with the joint venture is signed, to require each of the two major construction firms to agree to adhere to the requirements of this Code.

Vendor’s Employees means those officers, employees, directors, or agents of a Vendor participating in work on behalf of the Port Authority or supervising such work.

Port Authority means The Port Authority of New York and New Jersey and any of its subsidiaries.

Port Authority Employees are officers or employees of the Port Authority. “Port Authority Employees” also includes any member of the Port Authority’s Board of Commissioners or any member of the Board of Directors of a Port Authority subsidiary.

The requirements of this Code must be complied with in connection with any work being performed on behalf of the Port Authority. In addition, Vendors and Vendors’ Employees must comply with the requirements of this Code whenever they are on property owned, used, or controlled by the Port Authority.

An entity that is seeking to participate in the Port Authority’s procurement process is subject to a further set of rigorous ethical obligations. These are available on the Port Authority’s website, including in the Guide to Procurement. This Code is not intended to define the ethical rules that govern the procurement process.

Our Standards

In connection with the work they are doing for the Port Authority, Vendors and Vendors' Employees must follow the law. In addition, they must rigorously adhere to the requirements of this Code, as set out below.

Honest And Accurate Reporting

All records created or compiled by a Vendor and provided to the Port Authority must be accurate and complete, to the best of the Vendor's knowledge. Such records should contain no misrepresentations or material omissions.

This obligation applies to a wide range of records, including invoices or bills; reports of test results; or a description of the means by which an entity is meeting goals as to minority and women's participation in public projects.

If a Vendor cannot say for certain that a set of records is accurate and complete, it must explain why that is the case when the records are provided to the Port Authority.

If a Vendor determines that a set of records previously provided to the Port Authority was not, in fact, accurate and complete, the Vendor must immediately explain why — and correct the records if requested to do so by the Port Authority.

Books And Records

A Vendor must maintain its books and records related to Port Authority matters in an organized and accessible fashion.

The Port Authority must be able to conduct a comprehensive and prompt audit as to whether the Vendor has properly performed its obligations, in compliance with the law and this Code.

MWBE/DBE Obligations

Vendors must always provide honest and accurate reports as to compliance with Minority and Women-owned Business Enterprise and Disadvantaged Business Enterprise obligations and commitments, and it is intolerable if they do not. An intentional false statement or misrepresentation as to MWBE/DBE compliance can be a serious crime — and is a violation of this Code. Investigations of MWBE/DBE fraud will be pursued vigorously by the Port Authority's Office of Inspector General.

Gifts

The Port Authority imposes a strict, bright-line gifts policy — a Zero Tolerance Policy. Put simply, Vendors and Vendors' Employees may not offer gifts or give gifts to Port Authority Employees.

This no-gifts policy applies regardless of what may or may not be intended by a gift.

This policy is strict and unforgiving. It is designed to avoid even the appearance of any impropriety, and to safeguard against the potential that Vendors or Port Authority Employees might abuse their positions to the detriment of the public.

What is a gift? A gift is anything of value. This includes money. This includes discounts. This includes an offer of employment. This includes a meal, or entertainment, or transportation.

There are some limited exceptions to the no-gifts policy.

It is generally permissible to publicly present a modest award, plaque, or small ceremonial item to mark a special achievement.

It is generally permissible to occasionally offer an item of nominal or trivial value — such as a cup of coffee on the job, a company baseball hat, cookies and a card on a birthday, or a copy of a paperback book that has come up in conversation.

It is generally permissible to offer Port Authority Employees items that are broadly and widely available to the general public — for example, if all members of the public are offered a certain discount, Port Authority Employees can be offered that same discount.

And, finally, at a business meeting being held for a bona fide purpose, nominal refreshments can generally be offered to Port Authority Employees — drinks (so long as they are nonalcoholic) and modest snacks.

In addition to the Port Authority's zero-tolerance policy, criminal laws impose tough penalties on anyone who engages in extortion, bribery, or the paying of kickbacks. The Port Authority's Office of Inspector General has a long record of aggressively investigating these sorts of allegations — and of working with prosecutors to seek appropriate penalties, including prison sentences and fines.

Fair Employment Practices

In connection with work they are performing on behalf of the Port Authority, Vendors and Vendors' Employees must not:

- ▶ Discriminate based on any legally protected characteristic, including age, disability, ethnicity, gender, genetic information, marital status, national origin, political affiliation, pregnancy, race, religion, sexual orientation, gender identity, veteran status, military status, or union membership.
- ▶ Engage in sexual harassment.
- ▶ Charge workers recruitment fees or knowingly employ workers through an agency charging workers such fees — though it is permissible to make use of a hiring agency that itself charges fees, so long as they are not passed on to workers.
- ▶ Fail to promptly pay wages and benefits.

Confidential Information

A Vendor sometimes gains access to information that is related to the business or operations of the Port Authority — and that is not public. This is “confidential information.”

Vendors and Vendors' Employees must never use confidential information to benefit themselves, or for any purposes other than advancing the Port Authority's interests.

Confidential information must not be shared with anyone, including Port Authority Employees or other Vendors' Employees, except in three circumstances:

- ▶ First, confidential information may be shared in an emergency, at the direction of a public safety official acting to protect or preserve life or property.
- ▶ Second, confidential information may be shared to the extent that doing so is explicitly permitted by an authorized Port Authority Employee.
- ▶ Third, confidential information may be shared to the extent required by law — a duly-issued subpoena, for example, may call for confidential information. If Port Authority confidential information is potentially to be provided in response to a legal requirement, the Port Authority should, to the extent doing so is lawful, be provided with ample notice and an opportunity to be heard, so that the Port Authority may determine how to proceed.

In addition, some confidential information that relates to security and operations of Port Authority facilities may also be “Protected Information,” as that term is defined in the Port Authority Information Security Handbook (“Handbook”). **Vendors and Vendors’ Employees are responsible for following the dictates of the Handbook.**

Federal and state law, including securities laws and trade secrets laws, impose strict limits on the ability of anyone to make use of confidential information. These limits are enforced in a number of ways, including by means of criminal punishments. Vendors and Vendors’ Employees are responsible for understanding and following federal and state laws with respect to the use and disclosure of confidential information.

Intellectual Property

In connection with promotional or marketing materials, a Vendor or Vendor’s Employee cannot use the Port Authority’s name or logo, or any images of Port Authority Employees or property.

Should a vendor seek to make use of such materials, explicit permission must first be obtained from the Manager of the Integrity, Compliance and Contract Review section of the Port Authority’s Procurement Department. An email detailing the request should be sent to procurement_compliance@panynj.gov.

Port Authority Information Technology

LIMITED USE

Port Authority information technology (“IT”) must be used only in furtherance of the work Vendors are doing for the Port Authority, and for no other purpose.

Port Authority IT — computers, for example — must not be used for:

- ▶ Checking personal email accounts;
- ▶ Idle surfing of the web;
- ▶ Political or fundraising activity;
- ▶ Accessing websites that depict violence or pornography; or
- ▶ Any illegal purpose.

LIMITED ACCESS

Vendors and Vendors’ Employees may not attempt to access portions of the Port Authority’s digital records or computer network that are not directly related to the business purposes for which access was granted in the first place.

RESPONSIBLE USE

Without explicit and specific permission from an authorized Port Authority Employee:

- ▶ Passwords provided to a Vendor's Employee may not be shared;
- ▶ No device may be plugged into or connected to a Port Authority computer network;
- ▶ No data may be removed from the Port Authority's computer network; and
- ▶ No data may be removed from Port Authority property.

PRIVACY

Without providing notice that it is doing so, the Port Authority reserves the right to inspect, monitor, and/or log all activities conducted using Port Authority information technology.

No Vendor or Vendor's Employee should have any expectation of privacy when using Port Authority computing resources.

Employment Of Former Port Authority Employees

Before offering employment to a person that the Vendor knows or should know has been employed by the Port Authority during the previous five years, Vendors must receive written confirmation from the General Counsel of the Port Authority that the Vendor's employment of the former Employee would not violate that former Employee's ethical obligations.

In the absence of such written confirmation, the Vendor may not employ the former Port Authority Employee or compensate him or her in any way.

For the purpose of the above, "employment" includes any full-time or part-time work undertaken for the benefit of the Vendor, or under the direction or control of the Vendor.

Duty To Report Misconduct And To Cooperate

Vendors and Vendors' Employees are required to immediately report to the Port Authority any information they acquire concerning a violation, or any potential violation, of this Code.

How to report?

In the case of concerns that violence may be imminent, immediately call 911.

In all other cases, concerns should be raised by promptly calling or e-mailing the Port Authority's Office of Inspector General. **Reports can be made anonymously.**

Contact information for making reports to the Port Authority is set out on the final page of this Code.

Questions as to how the Code applies in a particular circumstance should be directed in the first instance to the Port Authority's Office of Inspector General.

No Retaliation

To facilitate reporting, this Code strictly forbids all Vendors and Vendors' Employees from taking any retaliatory action.

What is "retaliatory action"?

It is any adverse action taken by, or at the direction or request of, a Vendor or a Vendor's Employee for making a truthful report with respect to a violation or potential violation of this Code or the law.

"Adverse action" has a broad meaning. It includes any material alteration to existing terms, conditions, and privileges of employment, such as dismissal, demotion, suspension, compulsory leave, disciplinary action, creation of a hostile work environment, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit, reduction in compensation, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee.

Vendors and Vendors' Employees must actively cooperate in any investigations or audits conducted by the Port Authority.

Vendors' Duties

Duty With Respect To Employee Violations Of This Code

If a Vendor's Employee violates this Code, he or she must be firmly disciplined. **A Vendor's Employee who has violated this Code must immediately be prevented from participating in any further work on behalf of the Port Authority, unless and until the Port Authority issues a contrary directive.** If one of its Employees has violated this Code, a Vendor must immediately contact the Port Authority Office of Inspector General, to describe in detail both the underlying violation and the proposed discipline.

Duty With Respect To An Effective Compliance Program

Vendors are required to implement an effective compliance program, sufficiently rigorous to ensure compliance with this Code and the law.

The Port Authority will not prescribe the details of how a compliance program should function. Different circumstances may call for different programs.

Upon request by the Port Authority's Office of Inspector General, a Vendor must provide a written description of the compliance program that it is relying on in connection with its work for the Port Authority. The Office of Inspector General will assess the Vendor's program, with due regard to the size of the relevant Port Authority project and any integrity risks that are specific to the industry in which the Vendor is operating. The Port Authority reserves the right to request changes in a Vendor's compliance program to assure that it is sufficiently rigorous.

Duty To Certify

Vendors must certify in writing that they will comply with every aspect of this Code.

The certification — called a Compliance Certification — must be a part of the governing contract between the Vendor and the Port Authority. The Compliance Certification, once executed, will be a material and integral part of the contract. The Port Authority will be actively relying on the certification.

A Vendor's Compliance Certification must be executed, and provided to the Port Authority, before it begins work on a Port Authority project and before it receives payment in connection with a Port Authority project.

All Compliance Certifications must be retained by the Vendor, unless and until the Port Authority indicates that the Certifications may be disposed of.

Penalties

Violations of the law or of this Code may subject a Vendor or a Vendor's Employees to civil or criminal penalties.

In addition, in the case of violation of any provision of the law or this Code, the Port Authority may pursue any available remedy, including, but not limited to, determining that a Vendor is in material breach of its contract and/or that, in the future, the Port Authority will have no further commercial dealings with the Vendor.

To make a report:

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