Office of the Executive Director

September 7, 2007

WHISTLEBLOWER PROTECTION

I. Definitions

For purposes of this Administrative Instruction, the following terms shall have the indicated meaning:

A. “Adverse personnel action” shall include any material alteration to existing terms, conditions and privileges of employment including, without limitation, dismissal, demotion, suspension, compulsory leave, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee.

B. “Remedial action” means an appropriate action to restore the employee to his or her former status, which may include one or more of the following:

1. reinstatement or redeployment of the employee to a position the same as or comparable to the position the employee held or would have held if not for the adverse personnel action; or, as appropriate, to an equivalent position;

2. reinstatement of full seniority rights;

3. payment of lost compensation which includes both wages and benefits; and

4. other remedial measures necessary to effectuate a “make whole” remedy that addresses the effects of the adverse personnel action.

C. “Inspector General” shall mean the Inspector General of the Port Authority.
D. “Officer” shall mean the following officers of the Port Authority: the Executive Director, Chief Financial Officer, Comptroller, General Counsel, Secretary and the Treasurer.

E. “Public body” means:

1. the United States Congress, any State legislature, or any popularly-elected local governmental body, or any member or employee thereof;

2. any federal, State or local judiciary, or any member or employee thereof, or any grand or petit jury;

3. any federal, State, or local regulatory, administrative or public agency or authority, or instrumentality thereof;

4. any federal, State or local law enforcement agency, prosecutorial office, or police or peace officer;

5. any federal, State or local department of an executive branch of government; or

6. any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs.

II. Instruction

A. No officer or employee of the Port Authority shall take an adverse personnel action with respect to another officer or employee solely as a result of, or in retaliation for, his or her: (i) making a truthful report of information concerning conduct which he or she knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement, gross waste of funds or abuse of authority by another Port Authority officer or employee, which concerns his or her office or employment, or by persons dealing with the Port Authority, (collectively, “misconduct”) to the Inspector General; (ii) objection to, and/or refusal to participate in misconduct; or (iii) cooperation with an investigation by a public body, including provision of information or testimony with respect to misconduct. If a reporting officer or employee wishes to disclose his or her identity, the officer or employee may do so. Confidentiality of the officer or employee submitting the report or complaint will be maintained to the fullest extent possible, consistent with the need to conduct an adequate investigation. In the course of any investigation, the Inspector General or his designee may find it necessary to share information with others on a “need to know” basis.
B. An officer or employee of the Port Authority who believes that another officer or employee has taken an adverse personnel action in violation of paragraph II.A. of this Instruction may report such action to the Inspector General in accordance with the procedures established by the Office of the Inspector General.

C. Upon receipt of a report made pursuant to paragraph II.B. of this Instruction, the Inspector General shall conduct an inquiry to determine whether adverse personnel action has been taken in violation of paragraph II.A. herein.

D. Within fifteen days after receipt of an allegation of a prohibited adverse personnel action, the Inspector General shall provide a written acknowledgement to the officer or employee making the allegation at the last known address reflected in official Port Authority records or any other address expressly provided in writing to the Inspector General by the officer or employee that the allegation has been received. Such notice shall include the name of the person in the Office of Inspector General who shall serve as a contact with the officer or employee making the allegation.

E. Upon the completion of an investigation initiated under this Instruction, the Inspector General shall provide a written summary of the final determination to the officer or employee who complained of the retaliatory adverse personnel action. The summary shall include the Inspector General’s recommendations, if any, for remedial action, or shall state the Inspector General has determined to dismiss the complaint and terminate the investigation. The Inspector General shall report any final determination to dismiss a complaint and terminate an investigation to the Audit Committee. The Audit Committee will, as warranted, take such action as is deemed appropriate.

F. Upon a determination that adverse personnel action has been taken, the Inspector General shall without undue delay report his or her findings and, if appropriate, recommendations to (i) the Audit Committee; and (ii) the Executive Director. The Executive Director shall, without undue delay (i) determine whether to take remedial action, and (ii) report such determination on remedial action to the Audit Committee in writing, with a copy sent to the Inspector General. The Audit Committee will, as warranted, take such action as is deemed appropriate.

G. A Port Authority officer or employee found to have violated this Instruction may be disciplined in the manner provided in the rules and regulations of the Port Authority.
H. Nothing in this Instruction shall be construed to limit the rights of any Port Authority officer or employee with regard to any administrative procedure or judicial review.

I. The Inspector General shall conduct ongoing educational efforts to inform Port Authority officers and employees of their rights and responsibilities as set forth under this Instruction. The Port Authority shall conspicuously display, and annually publish for all officers and employees, written or electronic notices of such rights and responsibilities and enforcement procedures.

J. Not later than April thirtieth of each year, the Inspector General shall prepare and forward to the Executive Director and the Audit Committee a report on the complaints governed by this Instruction during the preceding fiscal year. The report shall include, but not be limited to, the number of complaints received pursuant to this Instruction, and the disposition of such complaints. Each report delivered pursuant to this paragraph II.J. shall be maintained in accordance with the requirements of the Port Authority’s document retention Instruction.