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FAQs About New York City’s Labor Peace Agreement Requirements for Human Services Contracts

New York City has begun requiring human services contractors to agree to a set of requirements related to labor peace agreements (LPAs). The requirements are contained in a rider to new or renewal human services contracts (the LPA Rider), an LPA Certification form, and an LPA Attestation form. The requirements, which the City started implementing in November 2021, are extremely vague, and there may be serious financial consequences for failing to comply. This FAQs document attempts to explain what we do and do not know about this requirement.

1. What is an LPA?

There is no one standard definition of a labor peace agreement. The definition that New York City is using for human services contractors requires the contractor to enter into an agreement with any union or other labor organization that “seeks to represent” employees working under the human services contract. In the agreement, the contractor, the union and its members must agree not to do anything to interrupt the delivery of the services provided under the human services contract.¹ In exchange, the union will likely demand concessions from the contractor to make it easier for the union to organize some or all of the contractor’s workers.

Before beginning negotiations or signing such a labor peace agreement, it is highly advisable to consult with a labor relations attorney. Federal labor relations law places constraints on an employer’s ability to favor or oppose a union organizing effort or to negotiate with a labor union that does not represent a majority of employees in an appropriate bargaining unit.

2. Which unions does a human services contractor have to negotiate with?

New York City is requiring human services contractors to enter into good faith negotiations with any “labor organization that seeks to represent”

Serious questions have been raised about whether the LPA Rider is legal. The underlying law is extremely vague and was rushed through the City Council with little opportunity for input from affected human services providers. The City Council’s explicit goal was to regulate labor relations, which is usually the purview of the federal government. The law sweeps extremely broadly, covering all human services contracts instead of a specific type of service where uninterrupted delivery is of paramount importance. Questions regarding potential legal action may be directed to the Human Services Council at info@humanservicescouncil.org

¹ Under NYC Admin. Code 6-145, the agreement must “require[] that the covered employer and the labor organization and its members agree to the uninterrupted delivery of services to be rendered pursuant to the city service contract and to refrain from actions intended to or having the effect of interrupting such services.”

employees performing work under the human services contract.² The City has not provided a definition of “seeks to represent.” We do not know whether the City will require human services contractors to negotiate with a union even if none of the contractors’ employees have expressed interest in working with the union. There also is no guidance about what a contractor must do if several different unions are competing to represent the same workers at the same time; under federal labor law, an employer cannot favor one union over another.

3. *Once we sign a contract with the LPA Rider, do we have to start negotiating with a union right away?*

No. A human services contractor that has signed a contract containing the LPA Rider only has to negotiate with a union that has notified the contractor that it “seeks to represent” some or all of the employees performing work under the contract. While it is unclear what would constitute notification, it is clear that a human services contractor that has not been contacted at all by a union or other labor organization can simply state in the LPA Attestation that it is not aware of a union seeking to represent any of the workers.

4. *What are the potential consequences if the City claims that a human services contractor has violated the LPA Rider?*

If the City believes a contractor has violated the LPA Rider, it must provide the contractor with notice of the violation. The City can terminate the contract if the contractor does not cure the violation within 30 days of receiving notice. The City can then retain another contractor and require the original contractor to pay any difference in cost. The City can also charge the original contractor an unspecified administrative fee. After two separate findings of noncompliance with the LPA Rider within a six-year period, the City can debar the contractor from contracting with the City for five years.

5. *How does the LPA Rider affect subcontractors on a human services contract?*

A human services contractor that has signed the LPA Rider must also require its subcontractors to comply with the LPA Rider. There does not seem to be an exemption if the subcontract is for a very small amount of money.

6. *Which workers are not covered by the LPA Rider and LPA Attestation?*

The LPA Rider and LPA Attestation only cover workers who directly render human services in performance of the human services contract. The LPA Rider and Attestation do not cover building services workers whose employment primarily consists of caring or maintaining a building or property.

7. *How can we comply with the LPA Rider and fill out the LPA Attestation if some or all of our employees are already covered by a collective bargaining agreement?*

If any of the contractor’s employees carrying out the contract services are already covered by a collective bargaining agreement, the LPA Rider and LPA Attestation form allow the contractor to attest that there is a LPA in place already with respect to those workers. According to the LPA Rider, this is the

² NYC Admin. Code 6-145.

case even if the collective bargaining agreement does not bar the union from interrupting the delivery of contracted services.³ It is unclear what will happen when the collective bargaining agreement is renegotiated, though. It is possible that the City will require all new collective bargaining agreements to include an agreement that the union will not strike or take other action to interrupt the provision of contracted human services, even if the union has no interest in including such a clause in the collective bargaining agreement.

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³ Section 4.E of the Nov. 17, 2021 version of the rider states: “Notwithstanding any other provision of this rider, where a class of a contractor’s covered employees are covered by a collective bargaining agreement with a labor organization, such contractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization’s signature on any attestation with respect to such class of covered employees.”