

Sweatfree Purchasing Guide



Sweatfree Purchasing Guide, Version 1

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Introduction

Welcome to Sweatfree Procurement

Your administration or executive or legislative authority has decided that taxpayer dollars cannot be spent on products made in sweatshop conditions. As a purchaser for a public entity you are responsible for developing the rules of implementation and monitoring contractor compliance. But what do you do? You learn quickly that there is no list of approved “sweatshop-free” products to purchase, nor even a list of companies to avoid. Avoiding sweatshop products seems easier said than done.

WHEREAS ...

“Sweatshops are still present even in American society (Allegheny County)...

“The City does not wish to purchase goods and services that depend on sweatshop conditions that deprive people of their legal rights and dignity (Ashland)...

“Better working conditions consistently promote better quality goods for the City by assuring fewer workplace injuries, reduced absences due to illness or fatigue, fewer disruptions in the workplace, lower turnover of workers (Austin)...

“The state recognizes the rights of its citizens to information and choice with regard to the expenditure of its tax dollars (California)...

“Legitimate providers of apparel and apparel laundering services are placed at a competitive disadvantage when forced to bid for state procurement contracts against businesses that utilize sweatshop labor (Pennsylvania)...

“In its role as a market participant... the State of Maine seeks to protect the interests of Maine citizens and businesses by exercising its state sovereignty to spend ...tax dollars in a manner consistent with their expressed wishes...”

The good news is that you do not need to start from scratch in meeting this challenge. Many of your colleagues in cities, states, counties, towns, and school districts across the country are facing similar challenges to buy only products made in decent conditions. Some public entities have come together as the Sweatfree Purchasing Consortium to share experiences and pool resources and expertise. This Guide to Sweatfree Purchasing Guide is a product of years of cumulative experience to buy sweatfree. It is intended to help you develop and implement policies and rules to achieve compliance with your public entity’s procurement laws and requirements and reach your goal of avoiding sweatshop products.

Our experience tells us that the market can be moved to provide increasingly sweatfree-compliant products and suppliers. This is a worthy challenge. Buying sweatfree is a matter of responsible stewardship of taxpayer dollars. It gives community members confidence that we are using public funds responsibly. It is good for business, helping to level the playing field by eliminating child labor, forced labor, and sweatshop labor as a competitive advantage. As we direct more procurement dollars to workplaces with decent working conditions and wages, it also helps to expand the tax base at home and abroad. Finally, buying sweatfree strengthens and reflects community values, as Americans by and large would want to spend their own money on sweatfree products if they could.

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By meeting the challenge of sweatfree purchasing together we lower the cost of compliance monitoring and enforcement, and more effectively achieve our goals to purchase products made in decent working conditions. We hope this Guide will be useful to you and invite your comments as we continue to learn together.

Definitions

Public entities have their own guidelines for terminology that define different entities with which they do business. For the purposes of this guide, the following definitions apply:

“Contractor,” “Vendor,” or “Bidder” means a company or entity that competes for procurement contracts and/or sells applicable goods or services to the public entity or its employees.

“Factory,” “Production Facility,” or “Subcontractor” means a company or other entity that manufactures or produces the goods or services covered by the policy of the public entity. For apparel products, this is an entity that cuts, sews, finishes, warehouses, launders, or engages in any other process that contributes significantly to the finished product.

“Subcontractor” means a company or other entity that enters into a contract with another Factory or Production Facility to perform some of the production.

“Manufacturer” means a company or other entity that owns the brand name of the goods or services that are sold to the public entity. A Manufacturer is often an intermediary in the supply chain, selling these goods through a Contractor or Vendor, and engaging a Factory or Production Facility to manufacture the goods.

“Worker” means those persons engaged directly in the production of the goods or provision of the services covered by the sweatfree procurement policy of the public entity.

“Independent Monitor” means an organization with expertise in monitoring Factory working conditions that is not owned or controlled in whole or in part by, nor obtains any revenue from, any Contractor or other entity that derives its primary income from the sale of any product or service covered by sweatfree procurement policy. The public entity and/or the Sweatfree Purchasing Consortium may designate and/or contract with an Independent Monitor to carry out monitoring functions.

Assembling a Policy Team

The first step in developing a sweatfree procurement policy is finding the right people for the job. Many public entities have benefitted from assembling a team of individuals with combined expertise in

PORTLAND'S POLICY TEAM

In 2008, the Portland, Oregon, City Council created a nine-member Policy Committee with four members who are advocates for labor rights and just working conditions in the apparel, footwear and textile industry; two members from an organization representing uniform-wearing public employees; one member who is an expert in global economics and supply chains; the City Purchasing Agent or designee and; and the Auditor or designee. The Committee was charged with recommending a code of conduct and sweatfree procurement policy for the City of Portland.

Subsequently, Portland's sweatfree procurement policy established an oversight committee to assist the Bureau of Purchases in the implementation and enforcement of the policy and to report to the City Council on the implementation of the policy including the status of contractors' compliance and any proposed policy changes. Committee members must avoid bidding on city contracts overseen by the committee and must not have a conflict of interest with any part of the policy during their term of service.

Other cities, including Los Angeles, Madison, San Francisco, and Seattle, and the State of Maine have established similar policy teams.

procurement and labor rights. This group will serve in an advisory and voluntary capacity and should be officially appointed and charged with specific responsibilities. It can continue to exist beyond the stage of policy formation to provide oversight and support for policy implementation. Responsibilities can include:

- Drafting a recommended sweatfree procurement policy.
- Assess evidence of Contractor compliance or non-compliance with the sweatfree procurement policy.
- Evaluate industries other than apparel to determine whether procurement of goods, in addition to apparel, should be subject to the sweatfree procurement policy.
- Report to the city council or other legislative body.

Setting Goals

What is your goal? Ultimately the policy goal should be that tax dollars are not spent on products made in sweatshop conditions (i.e., in Factories that do not comply with the public entity's code of conduct). But the policy must be based on the understanding that labor violations are the industry norm and that this goal will be achieved incrementally. Therefore, it should establish a pragmatic approach to encourage marketplace participants to move toward sweatfree Production Facilities. The policy should also recognize that Factories, buyers and other supply chain participants all hold responsibility for labor violations at Production Facilities, and that a concerted cooperative effort addressing both labor practices and business relationships is often necessary to achieve compliance.

Public entities can evaluate their sweatfree procurement policies according to the following benchmarks of progression:

- Contractors know and accurately disclose which Factories will produce the goods under a contract or purchase order.
- Contractors know and accurately report on compliance with the public entity's code of conduct.
- The public entity receives information from an Independent Monitor or the Sweatfree Purchasing Consortium about risks of violations in a certain production region or Factory proposed or already producing under a contract or purchase order.
- Workers and Factory managers know their rights and responsibilities under the public entity's code of conduct.
- Workers can safely and anonymously complain to an Independent Monitor, the Sweatfree Purchasing Consortium, or the public entity that their rights under the law of the site of production and the public entity's code of conduct have been violated and those complaints are investigated by an Independent Monitor.
- Workers, Factory management, an Independent Monitor, local authorities, and other stakeholders work collaboratively to remedy violations.
- Compliant Factories produce orders for the public entity.

Establishing the Policy Framework

Before drafting the sweatfree procurement policy it is helpful to establish the policy framework, which should be based on existing procurement law and the following principles:

SEATTLE'S STATEMENT OF LEGISLATIVE INTENT

The Seattle City Council's first step was a statement of legislative intent, charging a specific agency to develop and implement a sweatfree procurement policy, and establishing the policy framework. The City Council declared:

Existing policy: Taxpayer dollars should be used in responsible ways that comply with existing goals and policies.

Best practices: The City should investigate other governmental jurisdictions for best practices.

Code of Conduct: Bidders must agree to a code of conduct that will apply to the vendor, subcontractors and manufacturing plants that are involved in the manufacturing of the product.

Transparency: Bidders must submit a list of all contractors, subcontractors and manufacturing plants involved in the manufacturing of the product.

Independent monitoring: Vendors must use an independent monitoring agency to verify compliance.

Collaboration with other public entities: The city should seek opportunities to participate in a government consortium that can pool resources for investigation and monitoring of supplier factories and coordinate policy enforcement.

- ☑ Fair and impartial treatment of all Bidders, Vendors, and Contractors.
- ☑ A framework of feasible and meaningful compliance.
- ☑ Supply chain transparency as a tool for compliance.
- ☑ Incentives for complete disclosures of Factories; truthful reporting of non-compliance with labor standards; and no incentives for false statements.
- ☑ Cooperative relations with Contractors to improve labor compliance.
- ☑ Independent investigations to verify compliance.
- ☑ Sanctions as necessary to compel compliance.

In designing a compliance process public entities should recognize that most companies do not comply and cannot certify compliance with the code of conduct given the prevalence of sweatshop conditions at the Factory level. As an alternative to requiring immediate compliance with the code of conduct, public entities should consider requiring Contractors to comply with certain procedural requirements that relate to transparency, monitoring, Worker education, purchasing practices, and remediation of violations. Those procedural requirements should become increasingly rigorous over time and be designed with clear and meaningful benchmarks towards the goal of achieving full labor compliance over a defined and reasonable period of time.

Drafting a Code of Conduct

The core of the sweatfree procurement policy is a code of conduct: a set of human rights and labor rights standards intended to guarantee decent working conditions for Workers who make the products or provide the services public entities buy. Rather than developing new standards, public entities should expect Factories to comply with a code of conduct that reflects and reinforces standards that enjoy international consensus and the will of the people of the nation and region of production.

ILO CORE LABOR STANDARDS

No Forced Labor

C29: Forced Labor

C105: Abolition of Forced Labor

These conventions protect workers from forced or compulsory labor: work or service exacted under the menace of any penalty and for which the workers have not offered themselves voluntarily.

No Child Labor

C138: Minimum Age

C182: Worst Forms of Child Labor

These conventions protect children from slavery and other forms of abusive work, including all work likely to harm their health, safety or morals. They establish a minimum age for employment not less than the age of completion of compulsory schooling and, in any case, not less than 15 years.

Nondiscrimination

C100: Equal Remuneration

C111: Discrimination

These conventions establish the principle that men and women shall receive equal remuneration for work of equal value, and that workers shall receive equality of opportunity and treatment regardless of race, color, sex, religion, political opinion, nationality, social origin or other distinguishing characteristics.

Freedom of Association and the Right to Collective Bargaining

C 87: Freedom of Association and Protection of the Right to Organize

C 98: Right to Organize and Collective Bargaining

These conventions protect the right of all workers to form and join organizations of their own choosing. Employers may not make employment subject to the condition that workers shall not join a union and may not dismiss workers because of participation in union activities.

This means that public entities should expect the applicable Factories to comply with all national and regional legal requirements where they operate. In many garment producing countries labor laws afford Workers strong protections on paper, but are not properly enforced. By requiring compliance with site of production laws and regulations, public entities can use their influence in the marketplace to prompt better enforcement.

Public entities should also expect Factories to comply with the core conventions of the International Labor Organization (ILO), a tripartite United Nations agency that brings together governments, employers, and Workers of its member nations to promote decent working conditions throughout the world. ILO core conventions regarding freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor, and the elimination of discrimination with respect to employment and occupation are universal human rights, fundamental to the rights of human beings at work irrespective of countries' levels of development. All 183 ILO member nations have an obligation to implement and abide by these fundamental labor rights whether or not they have ratified the specific conventions because these rights are part of the ILO charter. All ILO member nations are also committed to promoting the Declaration on Fundamental Principles and Rights at Work, which restates the core conventions as more loosely worded principles.

**WHAT IS A
NON-POVERTY WAGE?**

Several U.S. cities require that workers who make the apparel they buy be paid a non-poverty wage. They define the U.S. non-poverty wage as the poverty threshold for a family of three as determined by the United States Department of Health and Human Services plus an additional 20% which may be payable as health or pension benefits. In order to determine the non-poverty wage in another country the cities multiply the U.S. non-poverty wage with the ratio of that country's Gross Domestic Product (GDP) per capita to the United States' GDP per capita. For example, the Cities of Milwaukee and San Francisco publish up-to-date non-poverty wage rates for countries worldwide.

A non-poverty wage can also be calculated using a country-specific market basket analysis based on the amount of money required to meet the basic needs (housing, energy, nutrition, clothing, healthcare, education, potable water, childcare, transportation, and savings) of an average-sized family of an employee in the manufacturing sector.

Finally, public entities should consider setting standards for wages beyond the legally required minimum wage in the country of production. Studies show that garment Workers worldwide are mostly young women, and often mothers who are the sole providers for their family. Their wages should be sufficient to lift themselves and their children out of poverty. This is rarely the case even when they are paid according to law. The provision of “an adequate living wage” is endorsed in the ILO Constitution and affirmed by the United Nations’ Universal Declaration of Human Rights.

Crafting the Administrative Rules

Defining the Scope and Application

After drafting the code of conduct, specify when and where it is applied: for certain products and services; in certain types of procurement; and to specific points in the supply chain.

SCOPE AND APPLICATION

Allegheny County, Pennsylvania:

Purchases, leases, and rentals of goods or products where the formal procurement process applies (\$30,000 or more).

Austin: Procurement and laundering of apparel in city contracts exceeding \$5,000. Procurement includes contract, purchase, rental, lease, or allowance and voucher programs. The vendor and each proposed supplier or subcontractor must adhere to the City’s Workplace Conditions Code.

Los Angeles: Contracts with a value in excess of \$25,000 and a term in excess of three months. Includes but is not limited to purchases and rentals of garments, uniforms, foot apparel, and related accessories. Contractor must sign the City’s Contractor Code of Conduct.

Madison: Procurement of apparel totaling \$5,000 or more, including purchase, rental, lease, laundering or dry cleaning of apparel, whether by contract, purchase order, or other means; and allowance and voucher programs for city employees to make their own purchases except where a city collective bargaining agreement establishes a clothing allowance or voucher program. Also applies to contracts for the provision of City financial assistance, if \$5,000 or more of will be used for procurement of apparel.

- ☑ **Products and services:** Public entities may wish to phase in the code of conduct over time, beginning with uniforms, other types of apparel, and laundry services, and expanding the policy scope to other products and services that often are made or provided in poor working conditions and purchased in large volumes, such as electronics and food products.
- ☑ **Types of procurement:** The public entity’s code of conduct should apply to as many different types of procurement as possible, including competitive procurement and certain purchasing without competition. It is prudent to set a threshold value for the term of the contract above which the code of conduct applies. Individual public employees who purchase uniforms or other products with vouchers or purchase cards can also be encouraged to apply the code of conduct as a purchasing criterion.
- ☑ **Points in the supply chain:** The public entity’s code of conduct should apply to labor-intensive Factories where Workers are most at risk of sweatshop violations. In the case of apparel and uniforms, these are the “cut and sew” or “readymade garment” Factories where Workers cut the fabric, sew the apparel, apply finishing marks and emblems, launder and package the finished product. If those Factories contract all or part of the production to Subcontractors, public entities should require Contractors to apply the code to those entities as well. However, as a matter of practicality public entities

may wish to exclude parts suppliers, such as fabric, button, thread, or zipper suppliers in the initial stages of implementation. Furthermore, the code should only be binding on the specific Factories that make the goods under contract and only for the duration of the contract, not on other Factories that may produce the same or other goods for the same Contractor.

The code of conduct should be applied in three different phases of procurement, summarized here and explained further in subsequent sections.

First, the code of conduct should be incorporated in the solicitation's technical specifications—the minimum requirements for the product—to ensure all offers conform to the code of conduct. Using the code of conduct as an award criterion, but not as a technical specification, does not guarantee code compliant procurement; in effect, it would mean that code compliance is preferred but not obligatory.

Second, the code of conduct should be incorporated in the supplier evaluation if applicable. Public entities may wish to exclude certain Contractors from consideration on the grounds of severe labor violations. They can also award points based on suppliers' capacity to monitor and achieve compliance with the code of conduct.

Finally, Contractors should be required to take specific steps to ensure code compliance and responsible supply chain management as contract performance conditions that are specified in the original solicitation. Performance conditions should include ongoing self-monitoring and reporting on how Contractors are implementing the requirements and any difficulties they have in fulfilling the conditions.

Public entities should also implement procedures to independently monitor Contractor compliance with performance conditions during contract delivery. Independent investigations are necessary for credible compliance information. When Contractors do not fulfill the performance conditions public entities should seek to improve Contractors' compliance. Sanctions, including termination of contract, should be possible in severe cases.

In certain circumstances public entities may consider exemptions from the sweatfree procurement policy. For example, if there are no compliant Bidders available and the acquisition is essential and time-sensitive, an exemption is prudent to ensure other functions of government are not impeded.

Implementing the Code of Conduct

Here comes the crux of the matter. How do you make the code of conduct count? We suggest a five-step approach to make sure the code of conduct has maximum impact.

Step 1: Advertising

If permitted by law, public entities can conduct a targeted advertising campaign to declare their intent to allocate public funds to purchase goods and services that are produced in safe, fair and humane working conditions. In doing so, public entities can refer to commonly held community values of promoting decent working conditions, responsible stewardship of taxpayer money, and leveling the playing field for Vendor to ensure nobody gains competitive advantage from sweatshop, forced, or child labor. The advertising should also promote the opportunity for Vendors to come forward and present the company's intent and capacity to produce products in a sweatfree environment.

For each bid opportunity that is advertised, the public entity should declare upfront, either in the summary, the purpose, or the bid title that the procurement is for sweatfree products. The bid should encourage Vendors to submit products that they know are made in compliant Factories and by Manufacturers that can effectively monitor and achieve compliance with the public entity's code of conduct.

Step 2: Prequalification

If permitted by law, public entities may require or encourage Vendors to sign an agreement to comply with the public entity's code of conduct prior to submitting a bid, proposal, or quotation. Such an certification of compliance, described in detail below, could be a prequalification for bidding and a necessary condition for further evaluation of the Bidder's capacity and intent to comply with the code. Vendors that are not themselves Manufacturers should obtain the certification of compliance from the relevant Manufacturers to become prequalified for bids, proposals, or quotations.

Step 3: Solicitation of bids, proposals, and quotations

Public entities should not enter into a purchase agreement or execute a contract exceeding the threshold for covered products unless Vendors satisfy the following requirements:

**USING THE CONSORTIUM'S
SUPPLIER DATABASE**

In order to streamline and simplify the certification of compliance process public entities will be able to use the consortium's certification of compliance form. Bidders go to the Consortium's database to certify code of conduct compliance based on the use of certain Factories that will be available for download from the Consortium's database (under construction at the time of this writing). The Consortium will seek independent verification that Factories listed on the certification produce the applicable product. Public entities can then be assured that names and locations of Factories listed on the certification are accurate. The database will also provide links to independent labor compliance reports if available, providing public entities with additional information useful for supplier evaluation and contract management.

- ☑ Unless already prequalified, Vendors must sign a certification of compliance on a form approved by the public entity; the company's own code of conduct is not a valid substitute. Those Vendors that are not themselves Manufacturers should obtain certifications of compliance from the Manufacturers to include with the bid, proposal, or quotation. Signing the certification of compliance is a legally binding commitment to comply with the public entity's code of conduct in specific Production Facilities that have been used or will be used for manufacturing or provision of services in the performance of the contract or purchase order. However, signing the affidavit of compliance does not need to signify compliance with all provisions of the code of conduct at the time of bid, proposal, or quotation. Instead, Vendors should be invited to declare either full or delayed compliance with the code. Those who are not in full compliance at the time of bid, proposal, or quotation should be required to submit a specific list of non-compliances and make a binding commitment to correct those non-compliances. In order to provide incentive for full and frank disclosures of non-compliances public entities may consider scoring declarations of full and delayed compliance equally as long as the Vendor also submits an acceptable

corrective action plan.

- ☑ Vendors must provide the supply chain information necessary for supplier evaluation and code of conduct enforcement. In addition to possible non-compliances with the code of conduct, this includes a list of all Production Facilities and Subcontractors to be used in product manufacturing or service delivery in the performance of the contract or purchase order. This list should specify company names, owners or officers, complete physical addresses, the nature of the business, and the volume of production for the public entity at the Production Facilities and Subcontractors. Public entities should take care to request this information in specific and defined terms to ensure clear communication.
- ☑ If the product is to be manufactured by a third party, Vendors should request manufacturers to provide a legally binding statement committing to purchasing the product under terms, including prices and delivery dates, that support and enable the manufacturing of the product in code-compliant conditions.

- ☑ Finally, Vendors should declare that they understand that making knowingly false statements will be penalized and that they are willing to cooperate with compliance monitoring and remediation activities on request of the public entity or its designated Independent Monitor.

Step 4: Supplier Evaluation

Vendors' capacity to comply and verify compliance with the code of conduct should be an additional award criterion. Public entities can administer a labor compliance questionnaire to obtain information from Vendors regarding labor-related policies and procedures. Criteria for evaluation can include:

- ☑ Capacity and commitment to correct violations. In case Vendors declare delayed compliance with the public entity's code of conduct, do they have an acceptable plan of corrective action which outlines the reasons for non-compliances and specific steps to come into full compliance within a reasonable period of time?
- ☑ Capacity to verify compliance with the code of conduct. Is compliance monitoring conducted by an Independent Monitor, as defined in this guide, or by an independent union that represents Workers in the Production Facility?

**LABOR COMPLIANCE
QUESTIONNAIRE**

The Consortium can administer and analyze a labor compliance questionnaire designed to measure how well Contractors understand the labor standards in the applicable region of production. Contractors provide information about wages, working hours, benefits, and the overtime policy in Factories they propose to use. The Consortium compares this information to standards required by law and the public entities' code of conduct, and provides recommendations to the Contractors and public entities.

- ☑ Labor compliance records. Convictions of grave misconduct concerning labor standards may be grounds for excluding Vendors from consideration. Any such decision should take into consideration the proportionality and materiality to the contract or purchase order. While a minor breach at one supplier site should not be enough to disbar a Vendor, a violation on a high profile issue such as forced labor or child labor may be relevant.
- ☑ Knowledge of relevant labor laws and regulations. Do Vendors demonstrate full grasp of the labor standards requirements to achieve compliance with the public entity's code of conduct?
- ☑ Purchasing practices. Do Vendors utilize purchasing practices that support decent working conditions?

Public entities may also consider other methods to ascertain information about convictions or misconduct of potential Vendors, including questions in the bidding documents about legal convictions, and information supplied by other

relevant bodies, including government bodies, non-governmental organizations, unions, and monitoring organizations.

Step 5: Performance Monitoring

**HOW TO MONITOR FOR
LABOR COMPLIANCE**

The Cities of Los Angeles and San Francisco and the State of Pennsylvania have established contracts with Independent Monitors to map supply chains, investigate complaints of code of conduct violations, and conduct ongoing factory monitoring. Los Angeles and San Francisco report findings on their websites (see resource section).

The Consortium can assist with compliance monitoring by coordinating investigations and remediation activities for members. It can identify risks of labor violations in certain regions and Factories by researching labor rights reports, administering a labor compliance questionnaire to Manufacturers, and conducting spot-check Worker interviews. The Consortium also works with Independent Monitors to conduct full investigations following a risk analysis or substantiated Worker complaint of a labor violation in a Factory that produces goods for at least one member. Results of preliminary investigations and Contractor and Manufacturers responses will be uploaded in the members-only section of the Consortium database. Final reports will be publicly available.

Contractors should be required to take specific steps to ensure code compliance and responsible supply chain management throughout the duration of the contract as a condition for contract continuation and/or renewal. Each contract for a covered product or service should include a clause that requires the Contractor to:

- Comply with the requirements of the sweatfree procurement policy, including the public entity's code of conduct and any approved corrective action plan, and self-monitor compliance.
- Report regularly on compliance monitoring activities and findings, including:
 - Labor compliance indicators specified by the public entity. Public entities should restrict requests for records and information to that required for compliance monitoring to place the minimum burden on the Contractor.
 - An updated list of Production Facilities to be used in the performance of the contract if and when necessary.
 - Any new instance of non-compliance with the code of conduct within thirty days of having knowledge of the non-compliance.
 - A corrective action plan that will remedy the new non-compliance within 120 days or prior to receipt of half the total remaining value of the contract, whichever comes first.
- Provide a copy of the public entity's code of conduct and sweatfree procurement policy to each Production Facility and require each Production Facility to affirm in writing that it will comply with the code of conduct and implement any approved corrective action plan, and inform Workers verbally and in writing of the requirements of the code of conduct and sweatfree procurement policy.
- Cooperate fully in providing reasonable access to the Contractor's and Production Facility's records, persons, or premises if requested by the public entity or its designated Independent Monitor for the purpose of

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providing labor rights education to Workers and managers at Production Facilities or determining whether any product furnished under the contract is manufactured under conditions that violate the public entity's code of conduct. All Factories that produce for the public entity must be available for monitoring and inspection. Refusal should be grounds for contract termination.

- Pay a contract monitoring fee to the Sweatfree Purchasing Consortium. This fee may be equal to one half to two percents of the total amount of the contract. While the first step in performance monitoring is for the Contractor itself to report on its performance, Contractor reporting cannot on its own provide credible assurance of code compliance at the supplier site. Third party independent monitoring paid for by the Consortium is an essential verification and code compliance tool. The monitoring fee is applied to the costs of complaints investigations and ongoing monitoring of Production Facilities; this includes Factory visits, Worker interviews, and remediation activities. Payment of the fee should be made separately by the Contractor within 30 days of the end of each calendar quarter on the amount purchased under a term contract during that quarter.

Thinking outside the Box

**EDUCATING STAFF IN
SAN FRANCISCO**

The City and County of San Francisco conducts training programs for staff of agencies whose uniforms are subject to sweatfree contracting requirements. The purpose of the training is to raise awareness among city stakeholders about reasons for the sweatfree ordinances and how it works. It covers topics from the history of sweatshops in the United States to the history of the San Francisco sweatfree ordinance.

**ART EXHIBITS IN PORTLAND
AND ASHLAND, OREGON**

The City of Portland celebrated its commitment to socially responsible purchasing with a Sweatfree Art Exhibit, featuring paintings of garment workers worldwide from the series “Presente: she is here with us.” The City of Ashland has hosted the same exhibit which has helped to create awareness in the community.

EDUCATING WORKERS

The Consortium can arrange Worker and management education with non-governmental organizations in the region of production. Education and training programs are designed to ensure Workers know their rights and how to complain that their rights are violated, and managers understand their responsibilities to protect Workers’ rights. Public entities can request the Contractor to facilitate the education and training programs. The Consortium notifies applicable public entities if the training program is or is not successfully completed.

Public entities may improve compliance levels by developing procedures and practices outside the traditional procurement system. Here are two examples.

Enhancing Compliance with Education and Training Programs

Compliance failure can be a function of lack of knowledge labor standards and procurement requirements among participants in the entire supply chain, from Workers to the end users. To enhance knowledge and comfort with sweatfree purchasing, public entities can develop education and training programs to ensure all stakeholders understand their rights and responsibilities to achieve and maintain code compliance. For example, public entities may consider:

- ☑ Working with their larger Contractors to provide labor-rights education to Workers and managers in Factories where goods under contract are made. This education component can be a contractual obligation.
- ☑ Educating their Contractors and Vendors on their responsibilities under the public entity’s code of conduct, and providing resources for compliance.
- ☑ Training procurement staff on code of conduct implementation.
- ☑ Communicating with the public—for example, through informational flyers distributed at public meetings or events—to increase their understanding of and commitment to sweatfree procurement.

Addressing Purchasing Practices

Factory monitoring and investigations alone are not sufficient to eliminate sweatshop labor practices from public procurement supply chains if root causes of sweatshops remain. Buyers’ purchasing practices can be one of those root causes: pricing, order volume, turnaround time requirements, and frequent changes in specifications affect a Factory’s ability to pay decent

wages and benefits, maintain restrictions on working hours, and provide job security.

**CONTRACTOR'S
RESPONSIBILITY:
LUCAS COUNTY, OHIO**

Lucas County's sweatfree procurement policy reads: "It shall be the responsibility of Contractors to ensure compliance with the sweatfree code of conduct... Contractors **must also recognize that their and/or their Subcontractors' business and sourcing practices have an impact on working conditions in Production Facilities**" (bold added).

These purchasing practices should be addressed in corrective action plans to ensure there is not an unreasonable burden on Factories to remediate violations for which the Factories' customers are also responsible. In order to correct violations of the public entity's code of conduct, the public entity should work with Contractors to address the following practices:

- Pricing.** Competitive public procurement is valuable in ensuring public funds are prudently spent, but should not result in prices that underwrite or foster sweatshop conditions. Competition and pricing must rest on code of conduct compliance and lawful wages, while aspiring to living wages.

- Production scheduling.** Public entities should ensure that their own and their Contractors' order placement and delivery schedules allow for reasonable production scheduling such that Factories can fulfill orders without compelling excessive or involuntary overtime.

- Business commitments.** Public entities should encourage stable and long-term relations between buyers and suppliers. Factories have more incentive to invest in meeting the public entity's code of conduct if their customers are willing to reward compliance with ongoing business.

- Distribution of production in supplier Factories.** In certain cases, corrective action will be advanced when companies consolidate production into a smaller number of Factories that can be more easily monitored and have greater incentive to comply with the public entity's code of conduct. Public entities should discuss the distribution of production with Contractors as necessary to achieve code compliance.

Appendix 1: On-Line Resources

Core Labor Standards

- ☑ Ratifications of the fundamental ILO conventions, and links to the text of the conventions: <http://www.ilo.org/ilolex/english/docs/declworld.htm>
- ☑ Texts of all ILO conventions:
<http://www.ilo.org/ilolex/english/newratframeE.htm>
- ☑ “Rules of the Game: A Brief Introduction to International Labor Standards,” International Labor Organization, 2005, accessible at <http://www.ilo.org/normes>

Wages

- ☑ United States Department of Health and Human Services poverty guidelines: <http://aspe.hhs.gov/poverty>
- ☑ The CIA World Factbook’s GDP per capita figures for countries worldwide: <http://www.cia.gov/cia/publications/factbook/index.html>
- ☑ International Labor Organization minimum wage database:
<http://www.ilo.org/travaildatabase/servlet/minimumwages>
- ☑ City of Los Angeles procurement living wage schedule:
http://gsd.lacity.org/sms/sup_procurement_living_wage.pdf
- ☑ Non-poverty wages for all countries as determined by the City of Milwaukee:
<http://www.city.milwaukee.gov/ImageLibrary/Groups/doaPurchasing/forms/nonpovertywage.pdf>
- ☑ Non-poverty wages for all countries as determined by the City and County of San Francisco: <http://www.sfgsa.org/index.aspx?page=434>

Policy Samples

- ☑ City of Portland, Oregon:
<http://www.portlandonline.com/omf/index.cfm?c=50342>
- ☑ City of San Francisco, California:
<http://www.sfgsa.org/index.aspx?page=3902>
- ☑ List of all sweatfree procurement policies maintained by SweatFree Communities: <http://www.sweatfree.org/policieslist>

Supply Chain Data, Monitoring and Investigative Reports

- ☑ City of Los Angeles:
http://www.gsd.lacity.org/sms/WRC/WRC_reports.htm
- ☑ State of Maine:
http://www.state.me.us/purchases/reports/cocdata_12_2009.htm
- ☑ City of Milwaukee:
<http://city.milwaukee.gov/ApparelAffidavitforA339.htm>
- ☑ City and County of San Francisco:
<http://www.sfgsa.org/index.aspx?page=134>

Appendix 2: Paying a Little to Solve a Large Problem

The Sweatfree Purchasing Consortium is developing an online supplier database and an industry fee structure to support and fund the Factory data collection, verification, and monitoring activities required to properly implement and enforce sweatfree procurement policies as described in this Guide. Vendors and Manufacturers will pay fees to the Consortium on a voluntary basis in order to gain access to the Consortium database tool to manage proposals and bids. Public authorities should direct companies to the database in order to make the sweatfree procurement process more efficient and effective. In combination with membership dues, which public entities pay to the Consortium, industry fees provide the foundation for a public-private partnership in which all participants pay a little to solve a large problem.

The industry fees take the following forms:

Vendor Registration Fee

Annual Vendor registration fees of \$100 provide companies access to the Consortium database. The registration fee allows Vendors to:

- Search Consortium member bid opportunities and/or receive automatic email notification of such opportunities.
- Access the certification of compliance functionality in order to submit bids, proposals, or quotations.
- Create a log-in, manage its profile, and upload product and Factory data.

Factory Certification Fee

Factory certification fees of \$75 per Factory allow Bidders to download factory and product data from the database and efficiently create a contract-specific certification for submission to the public entity. The Consortium verifies that the Factory location information in the certification is accurate.

Manufacturer Registration Fee

Manufacturers can access the Consortium database for an annual fee of \$500. This access fee allows Manufacturers to input their Factory and product data directly, thus facilitating the use of their products by Vendors. The access fee also allows Manufacturers to:

- Edit Vendor data specific to the Manufacturer.
- Create a log-in and manage its profile.