

**City of Milwaukee
Department of Administration
Business Operations Division - Procurement Services**

Milwaukee Code of Ordinances, Chapter 310-18.9

**Purchase of Milwaukee-Made, Milwaukee County-Made
and American-Made Goods Legislation**

2014 Progress Report

Presented to the Finance & Personnel Committee on May 7th, 2014

Background

Milwaukee Code of Ordinances, *Chapter 310-18.9, Purchase of Milwaukee-Made, Milwaukee County-Made and American-Made Goods*, was adopted in the Fall of 2012 and effective on February 12, 2013 to increase local, Milwaukee County, and U.S. based business participation in the award of various city commodity contracts. The ordinance requires that the city purchase Milwaukee made, Milwaukee County made, or American made goods provided that the purchase does not increase the cost of the good by more than 12%.

According to Chapter 310-18.9 the definition of a “Milwaukee-Made Good, Milwaukee County-Made Good, or American-Made good” is as follows:

- *Milwaukee Made Good* – means an article that is manufactured, mined, or produced in the City of Milwaukee and whose components made in Milwaukee exceed 50% of the total cost of the components.
- *Milwaukee County Made Good* – means an article that is manufactured, mined or produced in the County of Milwaukee and whose components made in Milwaukee County exceed 50% of the total cost of all components.
- *American Made Good* – means an article that is manufactured, mined or produced in the United States and whose domestic components exceed 50% of the total cost of all components.
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The legislation applies to all commodity purchases over \$30,000, except for those that are considered to be a raw material, including salt, gravel, petroleum, or any product derived from petroleum, or a chemical, including liquid oxygen, fluoride, or anhydrous ammonia. These types of purchases were excluded from the legislation in an effort to minimize the overall fiscal impact of applying the 12% bid preference to the cost of large ticket commodities such as rock salt, fuel, and chemical related contracts which range from \$500K to \$14.0 million dollars based on multiple year contract awards. It also important to point out that the requirements of the legislation may be waived if any of the following conditions apply:

- The good is not produced in the United States in a sufficient and reasonably available quantity and of a satisfactory quality.
- The purchase is necessary in order to respond to an emergency which endangers the public health and safety and no other contractor who complies with the requirements of this section is immediately capable of responding to the emergency.
- It is impossible or impracticable to draw specifications satisfactorily to permit competitive bidding, items can be furnished from only one source, or items constitute a special adaptation for a special purpose, pursuant to s. 16-05-3 of the charter.
- It would be in the best interests of the city to procure the goods pursuant to a cooperative purchasing arrangement with the state or other governmental entity.

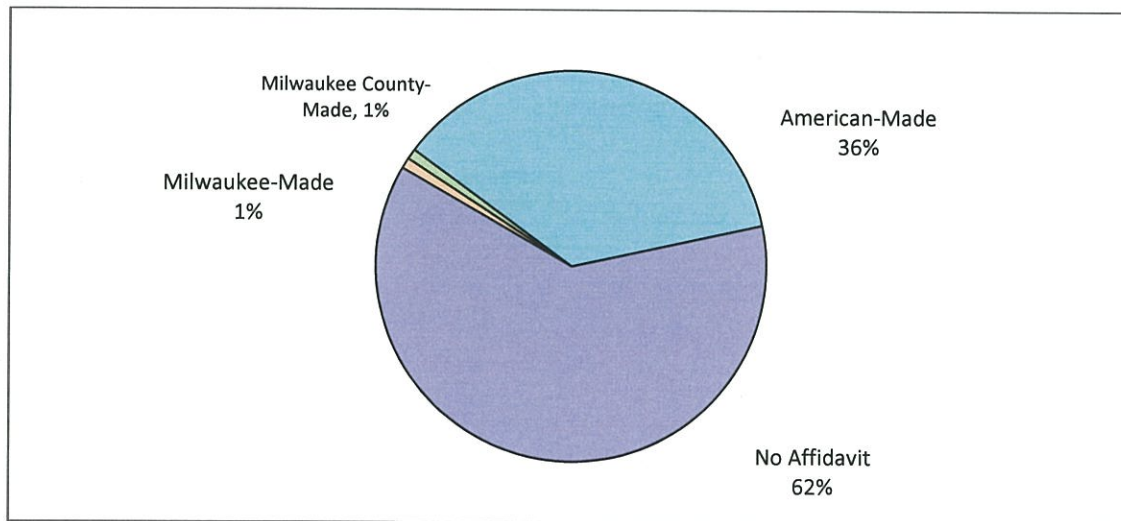
In regard to contract awards, contracts are to be awarded to the lowest compliant and responsible bidder based on the 12% bid preference if the bidder submits a notarized Affidavit of Compliance (See Attachment 1: *Affidavit of Compliance – City of Milwaukee, Milwaukee County, or American-Made Goods*) affirming that their product(s) meet the definitions set forth in the ordinance. Additionally, the 12% bid preference is 3-tiered such that a bidder seeking to qualify for the *Buy Milwaukee* bid preference would receive the benefit of the 12% bid preference first, then the *Buy Milwaukee County bidder*, and lastly the *Buy America bidder* if three vendors in each category seek to qualify for the 12% bid preference for the same bid/contract award.

Contracting Activity

Since February 2013, the legislation has been applied to thirty-seven (37) bids, including bids for a variety of commodities purchased for the Department of Public Works (DPW), Milwaukee Water Works and the Police and Fire Departments. During that time period, the Business Operations Division (BOD) – Procurement Services Section issued approximately 100 bids, so 37% of all bids were eligible for award based on the legislation. Concerning formal commodity related bids whereby the legislation would apply, 68 bids were issued, and therefore over 50% of the commodity purchases were eligible for the award based on the 12% bid preference. From a departmental impact perspective, over 80% of the total number of bids that included the legislation was DPW and/or Water Works bids (See Appendix 1: Quantity of Affidavits Received by Bid).

In total, forty four (44) bidders submitted Affidavits of Compliance. Of those, forty-two (42) bidders claimed American-made products, one (1) bidder claimed City of Milwaukee-made products, and one bidder claimed Milwaukee County-made products. Chart 1: *Percentage of Affidavits Received* below summarizes the total percentage of affidavits by type based on the total number of bids received from February 2013 thru February 2014.

Chart 1: Percentage of Affidavits Received



Contract Awards

Only three bids were awarded to bidders based on the 12% bid incentive. All three bids were awarded to bidders that provide American-made goods. Table 1 below identifies the contracts that were awarded to bidders providing American-made goods.

Table 1: Contracts Awarded to American-Made Bidders

Bid Descrip	Date of Award	Contract Award Amount	Lowest American-Made Bidder	Bid Amount (A)	Lowest Non-Milw/Milw-County/Amer Made Bidder	Bid Amount (B)	\$ Difference (A-B)	% Difference (A-B) /B)
12097 – Item #1 - Window Partitions	6/5/2013	\$10,654.00*	Adamson Industries Havervill, MA	\$7,686	Defender Supply Aubrey, TX	\$7,406	\$280	3.8%
12097 - Item #2 - Rear ABS Seat	6/5/2013	\$23,671.67**	General Fire Equipment Milwaukee, WI	\$10,277	Ray O'Herron Co. Danville, IL	\$10,245	\$32	0.3%
12176 – Group #1 - Xerographic Paper	5/17/2013	\$831,451.50	Midland Paper Flambeau River, WI	\$570,982	Unisource New Berlin, WI	\$517,837	\$53,145	10.3%

*This amount also includes the award of line item #4, for which Adamson Industries was already the lowest bidder.

**This amount also includes the award of line item #3 and #5, for which General Fire Equipment was already the lowest bidder.

Based on the price difference between the lowest American-Made bidder and the lowest non-qualifying bidder for the contracts referenced above, the total fiscal impact of the Buy Milwaukee-Made, Buy Milwaukee County-Made, Buy America-Made ordinance through February 2014 is approximately \$53,000.

Jobs Created and Retained

It is important to point out that bidders seeking to qualify for the 12% bid preference are asked to provide estimates on the number of jobs that will be created or retained as a result of a contract award. For the three contract awards listed in Table 1 above, none of the bidders estimated any jobs would be created or retained specifically due to the contract award. However, they will be asked to report on any job growth and retention data prior to the end of the contract term.

Conclusion

Although only 3 contracts were awarded based on the new ordinance, there does appear to be a fair amount of interest in the legislation by the vendor community. In several instances, all of the bidders' submitted American Made product affidavits for some commodity purchases such as direct-bury aluminum poles and refuse packers. There were also several instances, whereby the lowest American-made bidder sought to qualify for the 12% bid preference but was the low bidder overall. This was the case for both the backhoe/loader and ballasts bids.

In these cases, the legislation was not utilized to award the contracts because they were already the low bidder or the only bidder although there was expressed interest by bidders seeking to take advantage of the 12 % bid incentive.

Lastly, it is important to point out that the City's Buy Milwaukee-Made, Milwaukee County Made, America-Made ordinance includes a sunset provision of July 1st, 2014. To date, given the short life of the new policy, there have been no administrative challenges with applying the legislation and the Business Operations Division – Procurement Services Section will continue to evaluate and report on the operational and fiscal impacts of the program to ensure that policymakers are equipped and informed to make a decision regarding the future of this policy initiative. Furthermore, it is important to note that the City has made great strides to implement policies to support local and US based companies as a result of adopting the Buy Milwaukee Made, Milwaukee County Made, and U.S. Made ordinance in 2012, in addition to adopting existing legislation that seeks to ensure fair and equitable practices for both international and domestic manufacturers by requiring them to provide safe, non-discriminatory work environments and to compensate their employees with non-poverty wages.



**AFFIDAVIT OF COMPLIANCE
CITY OF MILWAUKEE, MILWAUKEE COUNTY, OR AMERICAN-MADE GOODS**

IMPORTANT: This form must be submitted with your bid.

Bid #: _____
Company: _____
Address: _____
City: _____ State: _____ Zip: _____

Location of Manufacturing Facility:
City: _____ State: _____

This affidavit of compliance is the bidder's sworn statement that the goods to be supplied meet the criteria of a City of Milwaukee-Made, Milwaukee County-Made, or American-Made Good, as set forth in the Milwaukee Code of Ordinances 310-18.9, as follows:

- *City of Milwaukee-made Good* - means an article that is manufactured, mined or produced in the City of Milwaukee, and the cost of components made in Milwaukee used in the production of the good exceeds 50% of the total cost of all the components.
- *Milwaukee County-made Good* - means an article that is manufactured, mined or produced in Milwaukee County, and the cost of the components made in Milwaukee County used in the production of the good exceeds 50% of the total cost of all the components.
- *American-made Good* - means an article that is manufactured, mined or produced in the United States, and the cost of domestic components used in the production of the good exceeds 50% of the total cost of all the components.
- *Component* - means an article, material or supply incorporated directly into an end product

If the multiple groups are being bid, all items in each group must be City of Milwaukee-made or Milwaukee County-made or American-made to qualify.

NOTE: Any bidder proposing to supply goods under Ordinance 310-18.9 shall not also receive the benefit of the bid award provided under the Local Business Enterprise program in Section 365-7-1.

I hereby declare the goods to be supplied comply with Milwaukee Code of Ordinances 310-18.9 because the goods to be supplied are:
(Please check only one):

City of Milwaukee-made goods Milwaukee County-made goods American-made goods

I understand and agree that if awarded a contract, I will provide periodic information to Procurement Services which will include, but may not be limited to, the estimated number of jobs created and retained.

I understand that any person, firm or corporation who is found to have submitted any false, misleading or fraudulent information or who fails to comply with the provisions of this section may be subject to the sanctions provided in Section 310-17-3-f.

Signature: _____
Printed Name: _____ Date: _____

Subscribed to before me on this _____ day of _____, in the year _____, at _____ County, _____ State.

NOTARY PUBLIC SIGNATURE: _____

PRINTED NAME: _____

My commission expires: _____

(SEAL)

Current Job Information

	Full Time	Part Time
Current number of employees:		
If awarded a contract, our company anticipates the following number of jobs will be <i>created</i>		
If awarded a contract our company anticipates the following number of jobs will be <i>retained</i>		

Authorized
Signature: _____
Printed Name: _____ Date: _____

Appendix 1: Quantity of Affidavits Received by Bid

Bid #	User Department	Description	Date of Award	Milwaukee-Made	Milwaukee County-Made	American-Made	No Affidavit
12097	Police	Windows, Gun Rack, Weapon System - Item #1 - Window Partitions	6/5/2013	0	0	3	2
12097	Police	Windows, Gun Rack, Weapon System - Item #2 - Rear ABS Seat	6/5/2013	0	0	3	2
12176	City-Wide	Copy Paper	5/17/2013	0	0	1	2
12415	DPW – Traffic & Electrical Services	Ballasts	6/3/2013	1	0	0	2
12344	DPW – Traffic & Electrical Services	Aluminum Castings	5/15/2013	0	0	1	1
12352	Water	Precast Concrete Items	5/17/2013	0	1	0	0
12354	Water	Masonry Cement	6/5/2013	0	0	0	3
12368	DPW – Traffic & Electrical Services	Eagle Traffic Signal Equipment	4/17/2013	0	0	0	1
12436	DPW – Traffic & Electrical Services	Aluminum Poles	7/9/2013	0	0	4	3
12511	Water	Stainless Steel Repair Clamps	8/21/2013	0	0	0	1
12577	Fire Department	SCBA Air Cylinders	9/3/2013	0	0	0	2
12617	DPW-Infra-Services-Buildings	Generators	8/15/2013	0	0	0	3
12630	DPW – Traffic & Electrical Services	Poles, Aluminum, Direct Bury	8/6/2013	0	0	4	0
12650	DPW – Traffic & Electrical Services	Light Fixtures	12/19/2013	0	0	3	2
12664	Fire Department	Smoke Detectors	10/17/2013	0	0	1	5
12679	DPW – Traffic & Electrical Services	Cable, Power, Single Conductor	9/10/2013	0	0	2	1
12699	DPW-Operations-Central Garage	Heavy Duty Truck Parts	10/4/2013	0	0	0	1
12707	DPW-Fleet	Auto & Truck Filters	9/20/2013	0	0	1	5
12719	DPW – Traffic & Electrical Services	Traffic Type Poles	12/6/2013	0	0	1	0

12763	Fire Department	Southcombe Firemaster 4" Gloves	2/28/2014	0	0	0	2
12764	DPW-Fleet	Backhoe/Loader	10/29/2013	0	0	1	3
12777	Fire Department	Thermal Printer Paper	11/21/2013	0	0	1	7
12791	DPW-Fleet	Truck, Refuse Packer	12/19/2013	0	0	5	0
12792	Water	Valve and Service Box Parts	12/5/2013	0	0	1	0
12808	DPW-Operations-Central Garage	Truck Chassis & Dump Body	12/5/2013	0	0	0	4
12832	DPW-Operations-Central Garage	Platform Body	11/25/2013	0	0	0	4
12834	DPW-Operations-Central Garage	Dump Body	11/22/2013	0	0	0	2
12846	DPW-Operations-Central Garage	Sealant Melter	3/31/2014	0	0	0	1
12851	DPW-Operations-Central Garage	Skid-Steer Loader	12/19/2013	0	0	0	1
12924	DPW-Forestry	Tree Harvesting Supplies	12/18/2013	0	0	0	1
12925	DPW – Traffic & Electrical Services	Cable, Street Lighting	1/23/2014	0	0	2	1
12938	DPW Central Garage	Plow and Spreader Parts	1/24/2014	0	0	0	1
12960	DPW Infrastructure - Streets & Bridges	Kor-Seal Gaskets	2/25/2014	0	0	0	3
12973	Water	Gate & Tapping Valves	3/7/2014	0	0	3	1
13005	DPW – Traffic & Electrical Services	Street Name Sign Blanks	4/1/2014	0	0	1	3
13045	DPW-Operations-Central Garage	Roll Off Containers	3/19/2014	0	0	1	1
13055	DPW – Traffic & Electrical Services	Cable, Traffic Signal	4/23/2014	0	0	3	0
Total				1	1	42	71