

Conference Call for Procurement Officials on Implementation of Sweatfree Procurement Policies

August 21, 2007

Convened by SweatFree Communities

Present:

Bjorn Claeson, SweatFree Communities

Liana Foxvog, SweatFree Communities

Curtis Topper, Deputy Secretary for Procurement, State of Pennsylvania

Marc Monforte, Acting Deputy Branch Director of Procurement, Los Angeles Unified School District

Mark Walsh, Purchasing Office, City of Austin, Texas

Rick Fudge, Purchasing Office, City of Austin, Texas

Urcha Dunbar-Crespo, Purchasing Office, City of Austin, Texas

Jack Jackson, Department of Industrial Relations, State of California

Jeff Baer, Director of Purchasing, City of Portland, Oregon

Henry Oyekanmi, City of Berkeley, California

Carmen Herrera, Contract Compliance Officer of Labor Standards Enforcement, City and County of San Francisco, California

Diego Calvera, Department of General Services, City of Los Angeles, California

Cheryl Oliva, City of Milwaukee (joined late)

Nancy Steffan, Worker Rights Consortium

Resources

Survey:

We are in the process of finalizing our web survey of procurement officials on current sweatfree procurement practices and will release the results soon. Many participants on this call have taken the survey. We would like to invite those on the call who have not taken the survey to take it by Friday, August 24, as we will close the survey after this week.

Here is the online survey:

<http://www.surveymonkey.com/s.aspx?sm=82kka5IN9OI2pOGD%2flh4%2fA%3d%3d>

State and Local Government Sweatfree Consortium:

www.sweatfree.org/sweatfreeconsortium

Sweatfree procurement policies that have been adopted:

<http://www.sweatfree.org/policieslist>

Sweatfree procurement policies with factory disclosure requirement:

<http://www.sweatfree.org/disclosurepolicies.shtm>

State of Maine vendors' factory disclosure records:

<http://www.maine.gov/purchases/reports/cocdata.htm>

City of Milwaukee vendors' affidavits, including factory disclosures:

<http://www.ci.mil.wi.us/display/router.asp?docid=339>

Background

Bjorn Claeson:

SweatFree Communities is a non-profit non-governmental organization that promotes sweatfree procurement. We work with community-based sweatfree campaigns across the country. For example, we have worked with the group in Austin that advocated for a sweatfree procurement ordinance recently. We are working with the group in Portland, Oregon, which is currently advocating for a sweatfree procurement policy there. We've also worked with groups

in Pennsylvania, San Francisco, and other places.

The sweatfree movement is about a decade old. Over 180 states, cities, counties, and school districts have adopted some type of sweatfree procurement policy. But most of these entities do not go beyond vendor self-certification to ensure that the products are actually sweatshop-free. The bidder signs an affidavit that to the best of their knowledge the products they propose to sell are made in decent conditions but the purchasing entity does not investigate further.

More recently there have stronger efforts to make sure that sweatfree policies are implemented and enforced effectively. One way is by creating a State and Local Government Sweatfree Consortium to pool resources for independent monitoring and investigations of common supplier factories and to help vendors make the necessary changes to comply with sweatfree standards.

Today's discussion is the first discussion among procurement officials nationally on implementation of sweatfree procurement policies. Until this time, practices and tools have mostly been developed independently. Reinventing the wheel is not the most efficient use of time and resources. The goal of the Consortium initiative and of today's conversation is to develop uniform standards and implementation practices and guidelines for "best practices." Uniform standards will also help vendors who will be compliant everywhere if they are compliant in one place.

Affidavits and Disclosures

Marc Monforte, Los Angeles Unified School District:

The school district has a self-certification policy. Most agencies do some visitations when the supplier is local but there is no budget for out-of-state site visits. Some travel bonds are available, but certainly not sufficient. Putting the onus on the contractor to fund independent monitoring would provide the needed money, even though the contractor would pass it back to the purchasing entity in product price. It would be helpful to have a joint organization to coordinate policy enforcement.

Carmen Herrera, City and County of San Francisco:

The San Francisco Sweatfree Ordinance has stringent disclosure requirements, but it has been difficult to get compliant uniform vendors to provide all the required information. Some of the disclosure requirements in San Francisco include dollar amount paid to each subcontractor, locations of the all subcontractor facilities, wage rates and other areas.

In addition, the City and County of San Francisco requires uniform bidders to have a retail store located within the city or county, limiting the pool of available bidders.

Furthermore, San Francisco Sweatfree Ordinance currently does not allow for the most compliant bidder to receive a contract when there are no fully compliant bidders. To date, uniform bidders have not been fully compliant with all the required disclosure information. As a result, the City is planning to amend the ordinance so that it can be workable and so that there will be a method to award a uniform contract to the most compliant bidder when there is no fully compliant bidder. Vendors have been reluctant to disclose how much they pay subcontractors and how much workers are paid; some vendors have also objected to disclose international factory locations. Some vendors have provided first tier subcontracts and others have not. For example, one bidder provided 17 first tier subcontractors as required by the Ordinance but did not comply with the type of garment that the City department asked for so the bidder could not be awarded the contract. Whereas, a second bidder refused to fill out the requirement form but had the uniform garment.

The City and County of San Francisco is unique in that we have the Office of Labor Standards Enforcement who enforces labor laws in addition to the Office of Contracts Administration/Purchasing processing contracts.

Curtis Topper, State of Pennsylvania:

The State sweatfree policy is governed by Executive Order of the Governor. Vendors must meet the disclosure requirements at the time they are certified for the bid. If Pennsylvania finds out that a vendor has misrepresented itself, the vendor risks not being awarded the contract. The procurement department in Pennsylvania is excited to get the Consortium off the ground because they are not in a place to verify vendor information.

Jack Jackson, State of California:

The process operates mostly on a self-certification basis. Occasionally there has been a vendor who has balked at signing the contract; only those who sign are considered for a bid. Procurement is handled by many agencies within the State so it is difficult to be aware of all the practices, and there is limited control from above. Much of the procurement is done from approved vendor lists. Can use an identified vendor or can request vendors on the approved list for bids. The list is mostly aimed at other goals of state procurement, and Jackson has been trying to add sweatfree requirements to the focus. There have been no complaints alleging vendor code of conduct violations; however lack of complaints does not necessarily mean that there are no compliance issues. The issue is how to identify noncompliance.

Bjorn Claeson, State of Maine:

State of Maine procurement officials regrettably were not available for this call, but Bjorn has been part of various committees and working groups in the State of Maine Division of Purchases over a number of years. The State's language currently reads that it "may not accept a bid for the sale of goods unless prior to the close of the bidding deadline, the bidder has filed with the agent an affidavit stating that it will comply with the code of conduct, has furnished the code of conduct to each supplier at point of assembly, and will furnish name and location of each supplier."

Maine's disclosure is available on the web:

<http://www.maine.gov/purchases/reports/cocdata.htm>

Cheryl Oliva, City of Milwaukee:

The City of Milwaukee has had problems with vendors who refuse to submit affidavits, thus disqualifying them from receiving an award; no bids received from any bidders who comply with the ordinance; limited competition especially when local retailers must be present due to labor contracts; and the length of time required to submit proper affidavits, analyze them and award a bid.

[Note: City of Milwaukee affidavits with disclosure are available online. In addition to locations of production facilities, affidavits include information on base hourly wage and percentage of wage level paid as health benefits are available. See <http://www.ci.mil.wi.us/display/router.asp?docid=339>]

Bjorn Claeson:

Maine and Milwaukee are having the same problem that everyone else on the call is having: they do not have a way to verify the disclosure information that vendors provide. If winning bidders in Maine and Milwaukee are fully compliant with the sweatfree procurement ordinance in the sense that they provide the required affidavits and disclosures, we still cannot independently verify whether or not subcontractors comply with code of conduct.

Carmen Herrera, San Francisco

Comparing Milwaukee and State of Maine Ordinances with San Francisco, the principle difference is that San Francisco has an enforcement mechanism so that vendors may be less willing to disclose if there is a possibility their supplier factories may be investigated. In San Francisco, the Office of Labor Standards Enforcement is responsible for enforcing labor standards of the ordinance. The independent monitor will monitor and inspect suppliers outside of the Bay Area. For vendors/suppliers within the Bay Area, Carmen, OLSE will be responsible for those investigations.

Bjorn suggested that proper enforcement will lead to a fairer playing field for all so hopefully vendors will be willing to comply as they know they will all get equal treatment. Carmen mentioned that the goal should not be to penalize everybody but to bring all vendors and subcontractors into compliance.

Collective Procurement

Mark Walsh, City of Austin:

There is a budget limitation for proper enforcement. Can the Consortium consider a vehicle for collective procurement? This would create market muscle. Could collectively purchase from those vendors who are willing to comply.

Curtis Topper, State of Pennsylvania:

This is exactly what the interim steering committee of the Consortium is considering. They are looking at NASPO (National Association of State Procurement Officials) and other options as possible vehicles for collective procurement. The goal is to contract both for goods and for the monitoring services in a collective fashion, setting up contracts that states, municipalities, and other government jurisdictions buy into. Topper will pitch this at the NASPO meeting in a couple of months. The interim steering committee of the Consortium hasn't yet decided which cooperative purchasing entity is the right one to use and how to set that up. We are all on the same track here, and it is better to work together on this than independently.

Prescreened Approved Vendor List

Nancy Steffan, Worker Rights Consortium:

The first step to a list is for cities and states to create a market for vendors that are willing to meet the sweatfree labor standards. It could be hard for an individual city or state to compel the changes from vendors. Several people have mentioned that the goal is to compel vendors to go through a process of change to comply. Vendors may not be sure that it is worth their while to make these changes; but by working together we can show vendors that there is a market for compliance.

There needs to be a way of verifying compliance with labor standards. Because sweatshop abuses are so widespread in the garment industry, there won't be any vendors up front that fully meet the all the standards. So the key is to assess the potential vendors and work with an organization that can go to the vendors and factories to help them come into compliance over time. It will be a process but it will be a totally feasible process if there is a set of cities and states that are committed to being a market for sweatfree goods and bringing vendors up to the standards.

Question about universities having a list of approved vendors...

Universities have concentrated on applying sweatfree standards to their licensed products. With university licensing, the Worker Rights Consortium has recommended an approach similar to what the State and Local Government Sweatfree Consortium is discussing, and there is a process underway to create such a list. Licensees will agree to buy apparel from prescreened factories. So there is an effort but there isn't a list yet.

So far Universities have felt they have more leverage with the companies that they license their logos to, at least depending on the logo and the school's sports team, than with companies that provide employee uniforms.

Questions which would be helpful to address in greater depth in future meetings

- How to get vendors to disclose subcontractor information, such as how much vendors pay each subcontractor, how much workers wages are, and locations of the subcontractor facilities that make the products?

- What to do in the case when no vendor is 100% compliant? How should an ordinance be worded to ensure that the most compliant bidder qualifies for a bid when none of the bidders is fully compliant?
- How to best approach NASPO, US Communities, and/or NIGP on a common platform? How will the details of cooperative purchasing work?
- How exactly will we develop a list of compliant vendors?
- How to best adapt sweatfree procurement practices to San Francisco's situation where the city and county are required to use a local retail store for uniforms which limits the number of vendors that can bid?

Next steps

In general, there was interest to have future meetings on specific topics. It was suggested to send questions for the call in advance.

Bjorn will suggest times for a next meeting.