




Office of the City Manager

**45b**

ACTION CALENDAR

April 29, 2014

To: Honorable Mayor and Members of the City Council  
From:  Christine Daniel, City Manager  
Submitted by: Robert Hicks, Director, Finance  
Subject: Enforcement of Ordinance No. 7,099-N.S. Sweatshop – Free Procurement Ordinance

RECOMMENDATION

Direct the City Manager to return to Council with an ordinance to lower the current established threshold of \$25,000 to \$1,000 for the Sweatshop-Free Procurement Ordinance No. 7,099-N.S. effective July 1, 2014.

FISCAL IMPACTS OF RECOMMENDATION

There will be additional costs to vendors, which might be passed back to the City in the form of cost increases.

There will be less competition, since vendor selection will be limited to those that are able to implement the Ordinance, and it could possibly harm small businesses that cannot compete.

City staff will have to spend additional time researching to ensure that vendors can and are willing to sign an affidavit that it is in compliance with the Ordinance.

CURRENT SITUATION AND ITS EFFECTS

During FY 2013, the City of Berkeley spent a total of \$227,455 on apparel. The total spend was procured through nine vendors. The distribution of these vendors are as follows: the City spent over \$25,000 with one (1) vendor, spent over \$10,000 with three (3) vendors, and under \$10,000 with five(5) vendors. The types of purchases the City made during the fiscal year were T-shirts for Camps, Polo shirts, T-shirts, work clothes, Police uniforms, and rental and laundry of uniforms.

Rental and laundry makes up the largest outlay of the total spend for the fiscal year and it constituted approximately 70.39% of the total annual expenditure. The vendor that the City procured these services from is Aramark Uniform Services. Aramark Uniform Services is the City's primary vendor for the rental of uniforms, towels and floor mats. Aramark Uniform Services signed a Sweatshop-Free Procurement Ordinance Affidavit.

## BACKGROUND

On July 7, 2009, The Berkeley City Council passed Ordinance No. 7,099-N.S. called “Sweatshop-Free Procurement Ordinance”. The Ordinance was added to the Berkeley Municipal Code in Chapter 13.97. The purpose of this Chapter is for the City of Berkeley to seek to protect the interests of local residents, workers and businesses by exercising its sovereignty to establish a Sweatshop –Free Procurement policy and code of conduct that ensures that items of apparel, garments and corresponding accessories, procured by the City of Berkeley or its agencies, through contracts or purchase orders, be produced in workplaces free of sweatshop conditions; end taxpayer support for sweatshops; protect the basic labor rights and human rights of workers who product apparel for the City of Berkeley; level the playing field for ethical vendors; and, begin the creation of a Sweatshop-Free Procurement policy consistent with federal law and United States trade obligations.

## ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

## RATIONALE FOR RECOMMENDATION

Staff is comfortable reducing the threshold from \$25,000 to \$1,000 since there has been continuous out-reach to all the vendors that the city purchases apparel from. All vendors that the city purchased from during the last fiscal year have been informed and notified about the ordinance and its requirements (a copy of the ordinance was attached to the communication). The primary objective is for these vendors to understand the requirements of the ordinance and get certified. The city’s objective is to purchase from vendors who have been certified, even if the threshold has not been reached.

The following will be impacted by lowering the threshold established by the Sweatshop Free Procurement Ordinance to \$1,000: Vendors, the City and City Staff.

### 1) Impacts on Vendors:

- a) Delayed lead times to purchase products.
- b) Burden for smaller vendors to track the finishing manufacturing plant and have it certified for small dollar purchases.
- c) Burden for smaller vendors to compete based on economy of scale.
- d) There will be additional requirements for smaller businesses to get contracts with the City, which might mean added cost of doing business with the City.
- e) Possible additional expense to hire an attorney to read, understand and confirm that the business is in compliance with the Ordinance through their affidavit.

2) Impacts on the City:

- a) Increase prices
- b) Delays in supplying products, as this adds another step to the process, and the City must wait for a vendor to send the affidavit that it complies with the Ordinance.

3) Impacts on City Staff:

Adding more steps to the procurement process will have some impacts on the General Services Division when sourcing for products this Ordinance covers. Staff will have to spend additional time finding a vendor that is in compliance already or that is willing to provide an affidavit to comply.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered lowering the threshold to zero (0) but is not recommending this action because of the inflexibility and requirement that the purchasing of any amount will have on the purchasing process. For instance; if a department wants to buy five (5) T-shirts from a local vendor down the street on Shattuck for \$60, that purchase cannot be done without the vendor certification. The \$60 purchase will trigger an affidavit from the vendor before it can be purchased. This seems very cumbersome and ineffectual. It will inhibit efficiency and effective purchasing. In addition, during an emergency in which time is of the essence, this will have an impact on procurement.

CONTACT PERSON

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