

**SWEATFREE PROCUREMENT ADVISORY GROUP  
PROGRESS REPORT**

**To the Office of Contract Administration  
and the Office of Labor Standards Enforcement**

**April 11, 2011**

Table of Contents

*Executive Summary*.....3

*Introduction*..... 3

*Development of a Point System to Evaluate Bids*.....4

*Evaluating Compliance and Encouraging Improvement after Award of Contracts* .....4

*Further Amendments to Expand the Scope of the Ordinance in 2010*.....4

*Status of Contracts that have been Issued under the new Sweatfree Compliance Rating System*.....5

*Activities of the Worker Rights Consortium*.....6

*Work on Development of a Local Preferences Ordinance*.....9

*CCSF's Involvement with Sweatfree Communities*.....9

*Technical Support to Other Communities*.....10

*Training for City Departments*.....10

*Future Plans of the Advisory Group*.....10

*Recommendations*.....11

*Sweatfree Procurement Advisory Group Members*..... 11

**Progress Report of the  
Sweatfree Procurement Advisory Group  
San Francisco, California  
April 11, 2011**

**Executive Summary**

This report by the Sweatfree Procurement Advisory Group, (referred to hereafter as the Advisory Group) is presented to the Director of the Office of Contract Administration (OCA) and the Office of Labor Standards Enforcement (OLSE), with a copy to the Mayor and the Board of Supervisors. Consistent with the requirements of the Sweatfree Contracting Ordinance (referred to hereafter as “the Ordinance”), this report summarizes the Ordinance as well as the mandate and activities of the Advisory Group. It also identifies the challenges the Advisory Group has faced regarding the City’s implementation and enforcement of the Ordinance. It also describes recent amendments to the Ordinance that give the City authority to award a contract to the most compliant bidder if there are no fully compliant bidders, and provides incentives for contractors to improve their compliance once a contract has been awarded. In addition, this report includes the Advisory Group’s recommendations for improving the City’s procurement processes when applying the Ordinance’s provisions as well as enforcement of the Ordinance to with respect to existing contracts. One such recommendation that the Advisory Group has made is for the City to explore ways to apply the Ordinance to computer hardware. Finally, this report summarizes activities and progress to draft legislation that would give procurement preferences and other incentives to the garment and other manufacturers that offer products made in San Francisco.

**Introduction**

The Advisory Group was established shortly after the Ordinance, San Francisco Administrative Code Chapter 12U, was passed in 2005. The Advisory Group is mandated to:

- Oversee the implementation, administration and enforcement of the Ordinance;
- Evaluate the industries engaged in the manufacturing and sale of goods to the City in order to determine if other goods should be targeted for enforcement under this Sweatfree law;
- Submit an annual report to the Directors of OCA and OLSE that contains recommendations on the administration, implementation and enforcement of the Ordinance;

- Determine how the City and County of San Francisco can maximize its purchase of goods produced in San Francisco;
- Examine how the City may provide preferences and/or incentives to garment industry manufacturers located in San Francisco that are in compliance with the Ordinance.

The prior report was issued on January 17, 2008. This report covers all activities since then.

### **Development of a Point System to Evaluate Bids**

In late 2007, the Ordinance was amended to allow the City to establish a process to evaluate bids and award contracts to vendors that were partially compliant (i.e., not yet fully compliant). Since San Francisco was one of the first jurisdictions in the nation to adopt a Sweatfree procurement policy, many vendors and their suppliers were having trouble getting all of the information requested by the City to document compliance with the Ordinance. The amendment was followed in 2008 by development of new procedures for evaluating bids. This new Sweatfree Compliance Rating System (including requirements for contract compliance plans) enables OCA to give preference to bidders that are most compliant with the Ordinance. Prior to adoption of the amendment and subsequent rating system, every bid that was evaluated failed in some way. Consequently, all of the vendors received waivers. There was no legal way for the City to reward bidders that were more compliant than others.

As noted above, a point system was developed to evaluate bids in order to determine the extent to which bidders were compliant with the requirements of the Sweatfree Ordinance. Here's how it works: If the lowest bid is found to be less than 100% compliant, then the evaluation score that is generated through the review of the bid submission is used to compare relative compliance. The bid with the highest Sweatfree Score within 15% of the lowest priced, most responsive and responsible bid, by aggregate or group of items that meet performance standards, is determined to be the lowest-priced bid. Since such an award would be considered to be not fully compliant, a compliance plan would need to be developed and included as part of the award.

### **Evaluating Compliance and Encouraging Improvement after Award of Contracts**

On March 11, 2009, the Advisory Group recommended to OCA standards by which a Compliance Plan is drafted; These standards were drafted shortly thereafter, incorporating comments addressing concerns from OLSE and members of the Advisory Group. The development of a Compliance Plan is the final element in the award of a contract under comparative or relative compliance.

### **Further Amendment to Expand the Scope of the Ordinance in 2010**

In January 2010, at the recommendation of the Advisory Group, the Ordinance was expanded again. The Board of Supervisors adopted and the Mayor approved an amendment to expand its scope to include textiles, with an effective date of February 11, 2010. Originally, the Ordinance covered only "apparel, garments and corresponding materials, supplies or equipment". The amended Ordinance now covers "all items of

cloth that are produced by weaving, knitting, felting sewing, or similar production processes”. This product category includes, but is not limited to cloth, sheets, pillows, pillow cases, towels, blankets, comforters, bath mats, mattress covers, table linens, cloth napkins, cleaning cloths, draperies, upholstery, rugs, and entrance mats. Carpeting was specifically excluded because there is less evidence of sweatshop violations in the carpet manufacturing industry than in the manufacturing of rugs and other sewn textiles. In addition, carpeting is procured differently (mostly through service agreements). The Advisory Group agreed to investigate carpeting for future inclusion under the Ordinance.

**Status of Contracts that have been Issued under the new Sweatfree Compliance Rating System**

Three indefinite quantity term contracts have been awarded using the new comparative compliance evaluation system, with awards to five firms. These contracts include:

- No. 81172 - Inmate Clothing (approximate amount \$540,839.74/year)
- No. 81919 - Safety Industrial Garments (approximate amount \$217,000/year)
- No. 81164 - Law Enforcement Uniform Accessories (approximate amount \$126,918/year)

<b>Term Contract</b>	<b>Description</b>	<b>Vendor(s)</b>
81172	Inmate Clothing	Robinson Textiles and Uniforms Mfg.
81919	Safety Industrial Garments	Airgas and Mallory
81164	Law Enforcement Uniform Accessories	Galls

Three additional term contracts will be bid out in the next two months with Sweatfree contracting compliance as one of the requirements. As a result of this rating system, the City has been getting more information from bidders about factory location and manufacturing plant activities than it had received during the first couple years of the Ordinance. This may be a direct result of the rating system, which incentivizes vendors to provide as much information as possible. It may also be influenced by the fact that several large cities and states are now asking for this information; consequently, vendors may be doing a better job at documenting factory location and manufacturing practices of their suppliers.

The five firms that were awarded term contracts were given 18 months to report progress towards full compliance with the Sweatfree Contracting Ordinance in a Compliance Plan that was agreed to by OCA and the vendor. The Compliance Plan identifies areas that the vendor can improve. The information they report will be put through the same evaluation as their bids may be verified with assistance from OLSE or WRC as resources allow. At the one year mark, if the vendors are found to have slipped or regressed with regards to Sweatfree Compliance, the Purchaser will bring this to their attention and the vendors will have three months to improve their compliance. No later than 18 months into the contract, the Purchaser must issue a finding on the vendor’s progress towards achieving full compliance. If the Purchaser finds that progress toward full compliance has not been made, the term contract will be put out to bid. If, on the other hand, the Purchaser finds that progress has been made towards full compliance, the Ordinance allows the Purchaser

to extend the contract up to one more year, for a contract total of 3 years. Currently, the first five contracts are being re-evaluated for improved compliance of factory locations.

### **Activities of the Worker Rights Consortium**

In 2008, the City approved a two-year \$100,000 service agreement with the Worker Rights Consortium (WRC) to provide technical support including consultation, monitoring and reporting relating to contracts that fall under the Ordinance. Since no Sweatfree compliant contracts were in place until 2009 and few funds were expended, the WRC contract was extended in FY 2009 and has been extended again for two additional years in FY 2010 by mutual agreement of the Mayor's Office and the Board of Supervisors. The \$50,000 that was previously approved was reduced to \$47,500 per year due to the City's budgetary constraints in the FY 2010. Due to the increased number of covered contracts and commensurate investigative activity this year, the current funds will be used and the monitoring contract has been extended.

In May 2010, the Worker Rights Consortium, Inc. (WRC), per OLSE's approval, conducted its first factory inspection on behalf of the City and County of San Francisco. This factory, Productora Clinimex Industrial, located in Aguascalientes, Mexico, manufactures coverall protective garments for Kimberly Clark Co, which supplies them to Airgas of Sacramento, CA. Airgas is one of the vendors of these products under the City's Safety Industrial Garment Contract No. 81989, which has an estimated dollar value approximately is \$94,500. A report on this inspection, *Workers Rights Consortium Factory Assessment of Productora Clinimex Industrial (Mexico): Findings and Recommendations*, November 19, 2010, will be available on the OLSE website at <http://www.sfgsa.org/index.aspx?page=434>.

The WRC interviewed 20 workers (10% of the workforce) and 10 managers of the factory. It also interviewed Union representatives as well as local officials of government employment services and arbitration board. In addition, WRC reviewed factory's payroll, accident and financial records.

The WRC found that Productora Clinimex Industrial was not in compliance a number of sections of the City's Sweatfree Contracting Ordinance. The findings are summarized briefly below. The WRC investigators brought these findings to the attention of Productora Clinimex Industrial, and found the company receptive to the findings. The company agreed to make a range changes to the factory's operations to come into compliance with the Ordinance.

### **Worker Rights Consortium - Findings and Company Agreements**

#### **1) Freedom of Association**

**Findings:** Workers at the factory were not aware that they had a union contract. The existing contract was created without worker participation and contained an "exclusion clause" that prohibited workers from joining an independent union. This type of

“protectionist” union contract has been used historically in Mexico to undercut workers ability to form active unions.

***Factory Agreements:***

- Post the union contract at the factory.
- Not enforce the exclusion clause if workers want to form a new union.
- Issue statement to workers stating that they have the right to choose their own union and that factory will not fire them for joining a new union.
- Remove the exclusion clause from the union contract by the end of this year.

**2) Workers Health Coverage Benefits**

***Findings:*** Mexican law requires employers to enroll employees in the national healthcare plan, but many of the workers were unable to access health services locally. In addition, the factory’s in-house medical clinic was not performing the services required by Mexican law.

***Factory Agreements:***

- Resolve the administrative barriers that have prevented many workers from obtaining local health care.
- Bring the factory’s health clinic into compliance with Mexican law.

**3) Wages and Hours**

***Findings:*** The WRC investigators found factory managers forced workers to work overtime, and if workers refused, they were harassed and were not permitted to take time off.

***Factory Agreements:***

- Allow workers to work overtime voluntarily and provide workers with a document stating that employees have the right to accept or refuse overtime.
- Give workers a form to sign when they choose to work overtime stating that they are working willingly.

**4) Non-Poverty Wage**

***Findings:*** The factory was paying only 1/3 of the non-poverty wage of \$3.24/hr that OLSE calculated for Mexico. The WRC recommends that relevant parties convene to discuss next steps and develop a plan of action on wage issue.

***Factory Agreements:***

- Review SF’s non-poverty wage standard with its buyers and investors.

## 5) Harassment and Abuse

**Findings:** Employees reported that some supervisors yelled at and insulted them. The WRC also found that workers who did not meet production goals had a red sad face placed above their station, while workers who were meeting factory's goals were given a green happy face. Workers interviewed described this system as demeaning and humiliating. The WRC considered this system a form of harassment, and a practice that is not common in the industry.

### **Factory Agreements:**

- Eliminate the system of happy and sad faces towards workers
- Provide training to supervisors to better treat and be respectful to its employees

## 6) Occupational Safety and Health

### **Findings:**

a. Production Equipment and Ergonomics: WRC found no needle guards in sewing machines, sewing machine foot pedals in poor condition, and problems in ergonomics, including workers working on the floor, and office chairs rather than chairs designed for sewing machine chairs.

b. Plant Hygiene & Safety Assessment: No assessment of health & safety conditions in the factory had been done, as is required by the Mexican Federal Safety Regulation.

c. Health & Safety Committee: Pursuant to Mexican Federal Safety regulation, the factory is supposed to have a Health & Safety Committee that includes managers & workers. The factory only had a committee of managers, which was created prior to the WRC's inspection.

d. Fire Safety: The factory lacked smoke detectors, sprinklers & water hydrants/extinguishers, and the factory had unprotected electrical panels, as well as unanchored gas lines.

h. Warehouse: The WRC found boxes stacked too high that posed a safety threat.

i. Accommodations for Pregnant Women: The factory required pregnant workers to stand for their entire work shifts, which violates Mexican Federal Labor law.

### **Factory Agreements:**

- Conduct analysis of Mexican regulations regarding safety equipment and begin to replace equipment. The less expensive equipment would be replaced by the fall and the more expensive equipment would be replaced by the middle of next year.
- Develop an assessment of health and safety issues at the factory
- Include workers in the Health and Safety Committee rather than just managers.
- Replace smoke detectors and other equipment.

- Train staff in fire prevention and emergency evacuation.
- Bring electrical system in compliance with Mexican regulations.
- Repair the factory's gas installations according to Mexican legal requirements by December 2010.
- Limit the stacking of boxes to the maximum heights allowed with Mexican law.
- Immediately accommodate these pregnant workers with appropriate chairs.

The WRC is currently in the process of conducting a second factory investigation. The Advisory Group has not yet been apprised of the specifics of this investigation.

### **Work on Development of a Local Preferences Ordinance**

In 2006-7, the Advisory Group worked to identify Sweatfree-covered items that might be provided by local manufacturers. The Advisory Group examined local preference ordinances in several other jurisdictions, most of which simply provide a simple percentage price advantage or confer points in a responsible contractor questionnaire. Former Advisory Group member Alex Tom, convened meetings and solicited information from various city departments regarding demographics of the garment industry in San Francisco. While the garment industry had shrunk in recent years, it was determined that there were still some firms with significant capacity that might be turned to City work. The consensus of the Advisory Group Subcommittee working on this at that time was that local manufacturers need some capacity-building assistance, equipment grants and/or training in order to enter this market in a sustainable way. The garment industry is not one of the industries targeted by the City for such assistance at that time. The Advisory Group is interested in participating in future discussions about ways that local preferences can be effectively applied to encourage local manufacturers. This can be a factor in selecting industries for expansion of the ordinance.

### **CCSF's Involvement with Sweatfree Communities**

In 2007, OLSE and the Mayor's Office assisted Sweatfree Communities in the formation of the Sweatfree Purchasing Interim Steering Committee. Sweatfree Communities is a non profit organization who assists community groups and public entities with the formation of sweatfree policies. For the last four years, OLSE and Purchasing has represented San Francisco and participated in monthly national conference calls with other cities, counties and state governments who have adopted sweatfree ordinances and policies. In addition, OLSE and Purchasing has provided technical support and advice to the Sweatfree Purchasing Interim Steering Committee of Sweatfree Communities.

Earlier this year, the Sweatfree Purchasing Interim Steering Committee formalized its status as a nonprofit organization called the Sweatfree Purchasing Consortium, <http://buysweatfree.org>. The City and County of San Francisco is a current member of the Sweatfree Purchasing Consortium.

### **Technical Support to Other Communities**

OLSE, Purchasing and members of the Advisory Group have provided technical advice to other communities that were in the process of adopting or implementing Sweatfree purchasing policies or ordinances such as the Berkeley, CA; Portland, OR; Milwaukee,

WI; Seattle, WA; Los Angeles, CA; San Antonio and Austin, TX; Tucson, AZ and the State of New York.

For example, individual members of the Advisory Group provided testimony and answered questions when the Berkeley City Council took up a proposal for a Sweatfree Contracting Ordinance in a committee meeting in June 2009. Berkeley has since passed its ordinance and joined the Sweatfree Purchasing Consortium. Representatives of the Portland, OR purchasing department attended an Advisory Group meeting and stated that they adopted a Sweatfree ordinance modeled after San Francisco's amended ordinance, including a point system for evaluating bids.

In 2009, the Advisory Group provided background information on our local preference work to Sweatfree proponents in Massachusetts, to inform the development of local preference language in their sweatfree bill.

### **Training for City Departments**

In 2010, OLSE developed a Sweatfree Training PowerPoint presentation designed to educate City departments, city vendors, and community organizations. OLSE and Purchasing have provided Sweatfree Training for MTA, Muni, and Parking and Traffic that addresses the problems associated with buying products made with sweatshop labor, and describes the provisions of the Sweatfree Contracting Ordinance as well as its bid evaluation and enforcement procedures.

### **Future Plans of the Advisory Group**

Over the next year, the Advisory Group is planning to:

- continue to meet bi-monthly to oversee the implementation of the City's Sweatfree Procurement Ordinance. We are most interested in evaluating the effectiveness of the City's Sweatfree Compliance Rating System as well as its education, outreach, monitoring and enforcement activities to improve vendor disclosure about their manufacturing practices and overall compliance with the Ordinance. We are planning to develop criteria for assessing the overall success of the Ordinance in securing compliant contractors.
- conduct outreach to other City agencies – such as the Sheriff's Department, Fire Department, Public Health, etc., as well as to local apparel manufacturing businesses and other vendors that may offer goods that would be subject to the Ordinance's requirements.
- continue to investigate practical opportunities to address potential sweatshop violations (including health and safety concerns such as exposure to highly toxic chemicals) associated with the manufacture of garments and textiles and make further recommendations to the Board of Supervisors about ways to expand the scope and effectiveness of the ordinance (e.g., to include other types of garments such as molded items as well as other product categories, if practical to do so)

- plan an event in 2011 commemorating the 100<sup>th</sup> Anniversary of the Triangle Shirtwaist Factory fire, which took the lives of 146 workers, mostly young immigrant women, in conjunction with other organizations across the nation.
- recruit a new member to fill one Advisory Group vacancy.
- encourage other entities within the City (such as the SF Unified School District and Public health care facilities) as well as jurisdictions outside San Francisco to endorse Sweatfree procurement policies and practices.

### **Recommendations**

The Advisory Group recommends that:

- The City and County of San Francisco continue funding the monitoring activities of the Worker Rights Consortium because its investigations have identified sweatshop violations by manufacturers that supply products purchased on City contracts and have caused at least one such factory to improve its health, safety and labor practices.
- San Francisco continue its membership and participation in the Sweatfree Purchasing Consortium as a way to share important information about sweatfree policies and implementation strategies with other municipalities across the US.
- The Office of Contract Administration keep the Advisory Group better apprised of the status of contracts undergoing review under the Ordinance and its related activities.
- The City convene a local preferences working group to develop a policy promoting the procurement of locally-manufactured goods including, but not limited to, garments and textiles; while the Advisory Group is interested in participating in this policy development activity, it recommends that the policy address a broader group of products than those covered under the Sweatfree Procurement Ordinance.

### **Sweatfree Procurement Advisory Group Members**

The Sweatfree Procurement Advisory Group can have as many as 11 members, five each appointed by the Mayor and the Board of Supervisors, and the remaining member appointed by the Controller's Office.

The Advisory Group currently has 10 members:

Alicia Culver, Chair – Green Purchasing Institute – Public Goods/Services

Conrad MacKerron, Vice-Chair – As You Sow – Public

Julienne Fisher, Renounce War Projects – Public

Manish Goyal – Mayor's Office - Public Goods/Services

Nancy Kirshner-Rodriguez – Mayor Office - Public

Dr. John Logan – San Francisco State University – Human Rights

Riddhi Mehta – Unite Here Local 2 – Labor

Eleonor Morton – Attorney – Human Rights

Jason Oringer – SEIU Workers United – Labor

Peg Stevenson – CCSF Controller’s Office – Finance, financial auditing/accounting  
Board of Supervisor Vacancy – Public

Currently, the Advisory Group has one vacancy due to a member moving out of the SF Bay Area.

Since the issuance of the last Advisory Group report, several members stepped down to pursue other endeavors, and we extend our deepest appreciation for their hard work:

- Valerie Orth, former Chair, Global Exchange – Human Rights
- Alex Tom, former Vice-Chair, Chinese Progressive Association - Labor
- Sarah Leiber Church, Progressive Jewish Alliance – Human Rights
- Jamie Crook, Attorney - Public
- Tom Hayden, Attorney/No More Sweatshops - Public
- Chris Honigsberg, Attorney - Public
- Laura Juran, Labor Attorney - Public
- Henny Lee, CCSF General Services Agency – Public Goods/Services
- Galen Leung - CCSF Purchaser’s Office – Public Goods/Services
- Abigail Levine – Progressive Jewish Alliance - Human Rights
- Christian Martinez, Attorney – Public
- Marily Mondejar, Filipina Womens Network - Public
- Virginia Villegas, Labor Attorney - Public
- Dale Jiajun Wen, International Forum on Globalization Fellow - Public
- Angela L. Williams, Commission on Status of Women - Public
- Monique Zmuda, CCSF Deputy Controller – Finance, Financial Auditing/  
accounting