

**Exhibit A - Revised
Minutes 12/16/10
COMMITTEE ON SWEATFREE PURCHASES**

Action:

Clarify MGO 4.25, sec. (2), application of \$5000 threshold to all City procurement

Problem:

Requiring compliance with the sweatfree ordinance for all bids, contracts or orders \$5000 and up may not be feasible, practical or even meaningful to the intent of the ordinance.

Context:

1. Many bids and contracts that meet this threshold may consist of numerous items, some of which may or may not be apparel items, where the total cost of apparel items may not amount to \$5000. The portion of the contract that is considered apparel may also consist of several different types of apparel or footwear made by several different manufacturers.
2. Furthermore, the ordinance does not specify the term in which to apply the threshold (e.g. total \$5000 per year.)
3. Example:

MPD contract value: \$200,000+	Annual
Total no. of items:	255
No. of apparel/footwear items:	167
No. of manufacturers of apparel/footwear items:	45
No. of bidder disclosure statements that bidders would have to complete on behalf of manufacturers and subcontractors	45+

4. The ordinance does not specify how bidder disclosure statements will be submitted by bidders, i.e., for each item, for each manufacturer and all subcontractors in the supply chain, etc. Strict application of the ordinance would require all bidders to complete bidder disclosure statements for each item in the contract or order, regardless of total

dollar value of that specific item, such that bidders will have to submit forms for even those items that may cost \$1.00.

Proposal:

1. Clarify the ordinance to apply the \$5000 threshold to each brand/manufacturer for any item or items, where the total annual dollar value amounts to \$5000 or more.

2. **Proposed Language: Amend MGO 4.25(2)**

(2) Applicability – Apparel. This ordinance shall apply to all City procurement of apparel when both of the following circumstances are met:

(a) when \$5,000 or more in apparel from a specific manufacturer (as identified by brand name or manufacturer name) is purchased from a vendor/contractor; and

(b) the total of \$5,000 is reached in a single purchase, or more than one purchase from the same vendor within the calendar year.

(c) For purposes of this ordinance, “procurement” shall include the 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 that specifies another method of purchase or identifies purchasing criteria in conflict with this ordinance, in which case the terms of the collective bargaining agreement shall control. This ordinance shall also apply to contracts for the provision of City financial assistance, if \$5,000 or more of will be used for procurement of apparel under the circumstances in (2)(a) and (b) above.

Notes:

- 1. need to make sure that there is a common understanding in the industry of what is meant by “manufacturer” or “brand name,” and use the correct terminology.*
- 2. would this be \$5,000 of the same item – must it be \$5,000 of the same T-shirt or could be it \$5,000 total of Russell brand products? (combo of t-shirts, polo shirts and sweatshirts, etc.)*
- 3. It might be impossible to enforce a per-brand applicability across multiple contractors. For example, if the city purchases Russell brand apparel from 4 different vendors, when we’ve reached \$5,000 in Russell items we have to contact all 4 vendors and send each a notice, collect affidavits from all 4 vendors, when*

individually none of them might be subject to the ordinance. None of them would have completed paperwork up front because we didn't know we were going to spend \$5,000 in Russell products. I think this would complicate enforcement, so I'm proposing that you apply the \$5,000 threshold per brand AND per vendor.

4. *With this new emphasis on brand/manufacture, the next questions are:*
 - (a) *who signs the affidavit – vendor or the brand/manufacture?*
 - (b) *how can we enforce against the brand/mfr. when our legal relationship is with the vendor? We still have to hold the vendor responsible. Will there be any benefit to transferring responsibility to the mfr?*
 - (c) *how much info do you want about the brand/manufacture? The brand/mfr. might still have numerous suppliers in their supply chain, how far down do you want to drill? The ord. currently goes to the bottom.*

Discussion:

1. Careful consideration must be given to measuring the impact of this change in terms of how much of the City's total apparel purchases will still be covered, so as not to reduce the application of the ordinance to only a minimum number of contracts or to a smaller percentage of annual total purchases. Purchasing staff estimates that the ordinance will still apply to the larger contract purchases that account for approximately 80% of the total annual apparel expenditure.
2. As the City moves toward an Enterprise Resource Planning system (ERP) that will have built-in capability to capture total annual spend by commodity, Purchasing staff will have the necessary data to aggregate specific commodity requirements that are common across agencies and leverage the purchasing volume appropriately. This will provide more potential to identify even those small dollar purchases made using purchasing cards or limited purchase orders that otherwise are not currently being tracked.