



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Draft SWEATFREE PURCHASES, COMMITTEE ON

Thursday, November 11, 2010

5:00 PM

210 Martin Luther King Jr Blvd
Room 406 (City-County Building)

CALL TO ORDER / ROLL CALL

Chair Bottari called the meeting to order at 5:05 p.m.

Present: 4 -

Satya V. Rhodes-Conway; Jonathan D. Rosenblum; Mary E. Bottari and Carol Bracewell

Absent: 1 -

Daniel Cox

APPROVAL OF MINUTES

None

PUBLIC COMMENT

None

DISCLOSURES AND RECUSALS

None

1. 18877 Standing update on Sweatfree Purchasing Consortium activities - Purchasing

McGuire shared Bjorn Claeson's recommendation for the committee, as it is looking at any changes to the ordinance, to coordinate with different agencies, who are either in the process of developing their own policies (i.e., NY and WI) or are considering changes to existing laws (i.e., Austin, TX) or who prefer a policy rather than an ordinance to retain some fluidity learning from best practices and models (Seattle), to develop a formal/model policy that would be useful long term to minimize differences and streamline the process for vendors from city to city.

No formal action was taken on this item.

2. [20519](#) Continuing discussion of general impressions and comments and opinions from Vendor Forum on 11/9/10

Bidder Disclosure Form. Mary stated that when pressed on the question about problems with filling out the Bidder Disclosure form, vendors did not offer any significant complaints, except for the difficulty of having to certify information that is actually being provided by manufacturers. Bracewell stated that while the information requested might be clear, getting the information is another question.

Certification of compliance with labor laws. Vendors raised a concern about how the ordinance is written requiring vendors/factories to certify compliance with labor laws in the country where they are domiciled or with OSHA, etc. whichever is higher. Committee felt that this was a valid point but will consider changing it if other items in the ordinance will be revised.

Disclosure of factory locations and Fair Wage. Vendors made the case about segregating sections of the factory designated for fair wage earners, a practice which they consider competitive and confidential information. Bracewell questioned whether WI State law was more likely to protect intellectual property and trade secrets than the City. Whitehead stated that unless the information can be considered trade secret or copyrighted, the City will not be able to keep it confidential. It seemed helpful to vendors that the information is not posted online like it is for the City of Milwaukee. Committee can discuss whether City should post online or not. Rhodes-Conway commented that manufacturers' assumption about being competitively disadvantaged from disclosing information has been disproved by Walmart, who has totally reigned in its supply chains. Committee will take no action on this item.

Fee structure. Legitimate issue about whether fees will be required for all bidders or only those that will get the contract.

Competitor's complaints. Concern about how the City would deal with complaints from competitors who try to undermine the award of the contract. Rosenblum offered that the nature of the industry is such that to the extent that something concrete is known about a specific factory that is non-compliant makes them susceptible to being badmouthed, even within the reality that virtually every factory is always out of compliance.

Penalties. Penalties specified in the ordinance are quite extensive, although they have not really been applied.

No formal action was taken.

3. [20520](#)

Discussion of provisions of Madison General Ordinance (MGO)4.25 and consideration of recommendations for possible ordinance amendments.

SHORTLIST of issues for immediate consideration for drafting, concrete action and inclusion in annual report.

a. **Clarify \$5,000 threshold – Bottari/Bracewell**

Given the intention and spirit of the ordinance, only concern is to define it so that it does not end up applying to only 1% of the total applicable purchases. What kind of flow do we want to capture - everything? Purchasing staff estimates that this clarification of the ordinance will still apply to the larger contract purchases that account for approximately 80% of the total annual apparel volume.

Staff recommendation: apply the \$5000 threshold to total annual purchases for specific brands/manufacturers that total \$5000 or more. Currently, Purchasing staff is able to estimate total dollar volume of a given purchase. Under the Enterprise Resource Planning system (ERP) that is currently being developed, Purchasing anticipates that it will be able to capture more accurate total annual spend by commodity and aggregate requirements across different agencies to leverage the volume appropriately.

b. **Sliding Scale of Compliance – Bottari/Bracewell**

Ordinance has black and white requirements that call for strict compliance but does not acknowledge the desire to change the industry. We currently have a partial compliance system in place that needs to be more transparent especially for vendors.

San Francisco uses a point system that awards more points for more information revealed.

Seattle allows for a compliance plan that provides for a contract to be awarded with a condition that the awarded vendor will continue to make a concerted effort to provide the information that is lacking. Portland has a delayed compliance plan which allows for vendors who are initially non-compliant to work towards becoming more compliant in (6 months) or risk contract termination.

The desire would be to develop a similar framework that provides a timeline for vendors to be compliant and a policy that is more heavily weighted towards the disclosure of the actual (cut and sew) factory locations, thereby moving towards the goal of monitoring as well as one that provides more weight for the majority of the dollar value of the contract as opposed to the number of items, recognizing that it is the intent of the council to not allow a compliant bidder to be no more than 10 - 15% higher.

Vendors who will outright refuse to provide the information will not get the bid. The contract will be awarded conditional upon the willingness of the vendor to either disclose its factory locations or continue to collect and provide the information to the City within a set timeframe after bid is awarded.

c. **Define Apparel more clearly. – Bracewell**

As stated in the ordinance, it refers to textiles, not holsters. What about armor vests, rental and laundry of sheets and linens, etc?

d. Amend requirement for compliance with labor laws, OSHA, etc. - Rosenblum

Concurs with the validity of this concern raised by vendors and added that any law that on its face would be unenforceable relegates it to absurdity. Further consultation with other monitoring organizations also reveal comments about such a rule being a mistake.

e. Consideration of staff time for administration of ordinance - Whitehead
When the ordinance was passed, there was no additional staffing provided for administration and enforcement. Staff is currently spending a fair amount of time for meetings and calls as well as trying to figure out how to practically apply the ordinance. It would be helpful if the committee would try to make the work as simple as possible for staff to administer. For example, we need to ensure that the information we are asking for (in affidavit) is either meaningful or relevant and easily discernible by staff. With regards to the affidavit, committee will hold off on amending the form and will make a recommendation and defer to the SPC to develop a model policy, form and a standardized way of gathering information from suppliers. Committee can amend the ordinance to adopt such model, as necessary in the future.

f. Revise requirement for quarterly submission of disclosure statements by vendors. This requirement is not consistent with the goal to make it easier for Staff to administer the ordinance. -McGuire

g. Anticipate SPC's actions by providing for the flexibility to adopt SPC's form or reporting method when available and if deemed acceptable by the Committee. – Rhodes-Conway

h. Committee should focus on the first two items above as the issues that rise to the level of needing immediate action. Include a tag-along list of other items to be deferred for later discussion, clarification or revision, keeping in mind that one of the goals is to create a policy that would be easier for staff to administer. Proposed language to address these shortlist issues needs to be written down for the committee to consider. Consult with City Attorney Staff for drafting of language for ordinance revisions. Bracewell to consult with SPC for context and language for sliding scale proposal. Goal is to circulate any draft language before thanksgiving. Entire committee should prepare by reading the ordinance. List all items on next agenda for full disclosure.

No formal action was taken.

4. 20521 Standing agenda item - Workplan
Interpretation and Implementation of Ordinance: \$5,000 threshold. Committee will discuss the interpretation and application of the \$5,000 threshold with regard to the relevant implications for actual purchasing processes and vendor submissions of Bidder Disclosure Statements. The Committee will discuss the merits of applying the \$5,000 threshold to each of the following options:

\$5,000 per contract, per purchase order or per purchase
\$5,000 total purchase/contract volume for each line item
\$5,000 total purchase/contract volume for each manufacturer

Refer to item 3a above.

No formal action was taken.

5. 20016 Dates and agenda for future meetings

Possible dates, December 14, 15 and 16.

No formal action was taken.

6. 19185 Announcements

None

ADJOURNMENT

A motion was made by Rhodes-Conway, seconded by Bracewell to adjourn at 6:05 p.m. The motion passed by voice vote/other.