

"NO SWEAT" PROCUREMENT POLICY
FOR THE LOS ANGELES UNIFIED SCHOOL DISTRICT

PRESENTED TO THE
AUDIT, BUSINESS AND TECHNOLOGY COMMITTEE
March 16, 2004

BUSINESS SERVICES DIVISION

I. INTRODUCTION

This is to provide an update on the implementation of the Board motion to enact a "No Sweat" Procurement Policy, last reported to the Board on May 27, 2003, and to provide a status on the implementation of the follow-up motion to provide a Mechanism to Enforce "No Sweat" Procurement Policy, passed by the Board in September 2003.

II. UPDATE ON "NO SWEAT" PROCUREMENT POLICY MOTION

The Board of Education adopted the "No Sweat" Procurement Policy Motion in January 2003, which directed staff to review and revise its procurement policies to ensure that District contractors and subcontractors do not employ child labor or sweatshop labor. In response, staff conducted extensive research into exploitive labor and proposed an implementation strategy that incorporated the industry practice of vendor certification of compliance and enforcement through cooperative agreements with various local, state and federal investigative agencies. Since the last report to the Board in May 2003, staff has:

- A. Amended the Contractor and Consultant's Code of Conduct to include a "no sweat" provision.
- B. Developed a District "No Sweat" Policy document.
- C. Revised contract and formal bid templates to broaden the scope of current child/slave labor clause to address all-inclusive sweatshop labor. The new bid format was initiated on July 1, 2003.
- D. Developed a formal certification form within the District's bid template requiring vendors' signatures to certify adherence to the District's policy.
- E. Worked with the Office of the Inspector General (OIG) to enlarge the scope of the current toll-free hotline established by the OIG to accept notification and complaints regarding violation of the "No Sweat" policy.
- F. Inspected a sampling of local uniform suppliers contracted by the District to monitor compliance with the "No Sweat" policy.
- G. Reviewed recently adopted state law to ensure that District policies are in line with state policies.

III. STATUS OF MECHANISM TO ENFORCE "NO SWEAT"
PROCUREMENT MOTION

To enhance the scope of the policy, the Board passed the Mechanism to Enforce "No Sweat" Procurement motion in September 2003. This Motion directed District staff to (1) identify and develop additional "No Sweat" monitoring/enforcement mechanisms, including issuing Requests for Proposals (RFP) to contract with an independent monitoring and enforcement firm and (2) create a process for evaluating and implementing a non-poverty wage standard (domestic and international), including potential costs to the District of adopting a non-poverty wage standard.

A. Monitoring and Enforcement Mechanisms

Staff has researched the feasibility of third party monitoring and enforcement of compliance with the District's No Sweat policy and issued a Request for Information (RFI) to three firms to identify the annual cost implications of using an independent third party monitoring/enforcement service.

Firms responding to the RFI varied in how they charged for their services. Some firms charged a flat fee for a specific level of service as described by the scope of the RFI, whereas other firms charged per each inspection. Based on the RFI responses, staff has determined that costs for these services will range from \$100,000 to \$300,000 annually.

B. Wage Standard Adopted by Other Agencies

Research included evaluating wage standards of other agencies and those recommended by non-governmental organizations. The following table lists the wage standards adopted by other agencies:

Agency	Wage Standard	Applicability
City of Milwaukee	Non-Poverty Wage Ordinance	Procurement of apparel
City of New York	Non-Poverty Wage Ordinance	Procurement of apparel and textiles
Occidental College	Living Wage Code of Conduct	Garment contractors
UCLA	Living Wage Code of Conduct	Trademark licensees
County of Los Angeles	Living Wage Ordinance	Proposition A (services that could be performed by County employees but are more economically feasible performed by contractors) and cafeteria services contracts
City of Los Angeles	Living Wage Ordinance	Contracts of at least 3 months and over \$25,000

The State of California recently passed Senate Bill 578, which amends Section 6108 of the Public Contract Code. The bill imposes a Sweatfree Code of Conduct on contractors and applies to every contract entered into by any state agency for the procurement of laundering of apparel, garment or corresponding accessories, or the procurement of equipment, materials or supplies, other than related to a public works contract. However, Governor Davis rejected the mandate for a non-poverty or living wage standard.

The non-poverty wage standard utilized by the cities of Milwaukee and New York are based on the "non-poverty wage plus health benefits" standard formulated by UNITE (Union of Needletrades, Industrial and Textile Employees), which is as follows:

"Contractors and subcontractors shall ensure that workers are paid a non-poverty wage, meaning for domestic manufacturers, a base hourly wage adjusted annually to the amount required to produce, for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guideline for a family of 3 plus an additional 20 percent of the wage level paid either as hourly wages or health benefits. In order to apply the non-poverty wage to production that occurs outside of the United States, the agency may establish a nationwide wage and benefit level which is comparable to the non-poverty wage for domestic manufacturers as defined above, adjusted to reflect the country's level of economic development by using a factor such as the relative national standard of living index."

C. Potential Costs of Implementing a Non-Poverty Wage Standard

In addition, staff contacted several agencies regarding estimated cost increases in relation to the implementation of "no sweat" policies. The few who responded were not prepared or required to make a statement on the financial impact or had not experienced price increases thus far.

IV. RECOMMENDATIONS

A. Third-Party Monitoring/Enforcement

In light of the District's current fiscal condition, however, staff will not request additional funds but will attempt to obtain funding and/or contract with an independent third party monitoring/enforcement service by pursuing the following:

1. Research and potentially apply for grants to offset costs.
2. Explore the possibilities for a consortium with other local agencies and school districts to allow for cost sharing for monitoring/enforcement services.
3. Continue to research the development of state laws on sweat free policies and the feasibility of

obtaining reimbursement from the state.

In addition, in lieu of RFPs and a third party monitoring program at this time, this requirement will be handled by utilizing existing resources and leveraging current procedures in place. Staff will do the following:

1. Conduct target sampling for those contracts in industries with high probability of utilization of sweatshop labor. Staff will sample two contractors per commodity area to evaluate compliance with the "No Sweat" policy utilizing our current contract audit clause authority.
2. Monitor non-governmental and other agencies' sweatshop databases to compare if non-compliant vendors exist in the District's vendor database.
3. Conduct site visits to local contractors' facilities, where appropriate.
4. Develop and complete Memorandums of Understanding (MOU) with various local, state and federal investigative agencies to exchange relevant information (e.g., forward complaints received in the OIG to appropriate agency).
5. Leverage OIG hotline for handling complaints of sweatshop violations from District employees, suppliers, and the public.

B. Non-Poverty Wage Standard

Staff recommends adopting the definition of non-poverty wages as provided by UNITE, which utilizes guidelines provided by the Department of Health and Human Services to determine non-poverty wage levels in the U.S. The UNITE model does not provide specific guidelines for determining non-poverty wages outside of the U.S. but states that an agency may establish comparable wages in other countries based on objective economic data. Staff recommends adopting the World Bank's Gross National Income Per Capita Purchasing Power Parity figures to determine comparable wages in other countries.

C. Financial Impact Strategy

Staff recommends a strategy to analyze the financial impact of implementing the "No Sweat" policy. This includes establishing baseline data for specific commodities and tracking data to determine any financial impact. The focus will be on Stores Warehouse items, since an accurate history of pricing exists and data captured on these items can be easily tracked. Staff will work with Budget Services with analyzing trends and determining impact, if any. Staff will report back to the Board with the findings at a later date.

V. CONCLUSION

Staff will continue to monitor changes in state law. Although the current laws are applicable to state agencies, there are a few issues in the code that will

be researched further, such as the \$1,000 penalty that may be assessed to contractors for violating the code. Staff may consider incorporating similar language for liquidated damages.

In addition, staff will continue to research "No Sweat" policies and best practices of non-governmental organizations and other agencies. Those best practices found to be cost-neutral which will help the District advance its commitment to this policy will be considered for adoption, where appropriate.

Lastly, the District's "No Sweat" policy is on par with, if not more comprehensive than, sweat free policies of other agencies. The sweat free policies of the UC campuses and Occidental College, for example, are applicable to apparel only. The District has taken a step further by applying the "No Sweat" policy to procurements of all products and services.