



Commission on Labor

CONSENT CALENDAR
July 25, 2017

To: Honorable Mayor and Members of the City Council
 From: Commission on Labor
 Submitted by: Libby Sayre, Chairperson, Commission on Labor
 Subject: Amending the Sweatshop-Free Procurement Ordinance, B.M.C. 13.97

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapters 13.97.020 and 13.97.030 to reduce the current purchasing threshold of \$1,000 to \$0 for the Sweatshop-Free Procurement Ordinance No. 7,099-N.S.

FISCAL IMPACTS OF RECOMMENDATION

Negligible.

CURRENT SITUATION AND ITS EFFECTS

At the Commission on Labor's regular meeting of November 16, 2016, the Commission approved the following:

M/S/C (Fillingim/Sayre) to lower the procurement threshold from \$1,000 to \$0 and to authorize L. Sayre and J. Fillingim to prepare the council report and resolution.

Ayes: Fillingim, Kessler, Sayre

Noes: None

Absent: Almanza-Gomez

Leave of Absence: W. Bloom; S. Frankel

Currently, the City may purchase sweatshop-manufactured items provided aggregate purchases from any vendor are less than \$1,000. The Commission recommends that this \$1,000 be reduced to zero, so that all goods purchased by the City are actually sweatshop free, consistent with the purpose of the ordinance. The current system of aggregating all purchases from a given vendor to reach the \$1,000 defeats the purpose of the ordinance. It allows, for instance, for a City department to place several t-shirt orders with a sweatshop provider, provided the total per fiscal year remains below \$1,000. The point of the ordinance is to eliminate the use of sweatshop providers, which is, in fact, easily done.

The rationale for maintaining the \$1,000 threshold, rather than a zero-dollar threshold, as stated by the City Manager in an October 7, 2014 memo to the Mayor and Members

of the City Council, can be briefly summarized as follows: added cost to vendors potentially passed on to the City; delays in supplying products, due to added extra steps; Less competition, potentially driving up costs; possible added burden to small businesses that “can’t compete”; delayed lead time; and, added time for City staff.

This rationale, last put forward in October or 2014, is not supported by facts. Further, since 2014 the availability of sweatshop-free apparel has increased along with the public’s awareness of the dangers of sweatshop employment and safety practices.

There is increasing public perception of the benefit of sweatshop-free apparel, in part as the result of incidents such as the April 24, 2013, collapse of the Rana Plaza factory building in Bangladesh, which killed hundreds of people and injured thousands more, and the 2012 fire in a factory operated by Tazreen Fashions just outside Bangladesh’s capital of Dhaka. Fires have also been common in Pakistan, India and China, according to 2012 report by the International Labor Rights Forum. As a consequence, many vendors are ready, willing and able to provide sweatshop-free apparel.

There are sweatshop-ordinances in effect across the U.S., and the results are now clear. Prices do not go up significantly. Academic research and apparel industry sources show that labor costs represent a very small part—typically 1-3%—of the retail price paid by consumers. Consistent with these estimates, the City of Los Angeles estimated a low 0.7 – 2.3% increase in the cost of goods made by workers paid a “procurement living wage.” Two of the leading states in sweatfree procurement, Pennsylvania and Maine, report “very little difference” between the prices they used to pay before the sweatfree requirements and prices they now pay.

Although estimates of the percentage of labor costs in clothing's retail price "vary by product and location of production," World Bank senior economist Zahid Hussain wrote in 2010, "it is clear from published academic research that labor costs typically constitute 1-3 percent for a garment produced in the developing world. Hence, large increases in labor costs do not require correspondingly large increases in retail price." The Worker Rights Consortium, a group monitoring sweatshop conditions, came to a similar conclusion in 2005.

A useful summary of the actual experiences of states and municipalities with sweatshop free ordinances can be found at the International Labor Rights Forum website, <http://www.sweatfree.org/cost>.

Sweatshop free apparel is readily available from local vendors, including small vendors. See, for example, Berkeley’s Alliance Graphics, (unionbug.com), which not only sells non-sweatshop apparel, but union-made and union-printed apparel and competitive prices. In point of fact, any business that prints t-shirts and other apparel can order non-sweatshop products to imprint or embroider. Non-sweatshop apparel costs

pennies more than sweatshop apparel and does not require additional lead time to order.

For more information about the true impact of sweatshop labor and sweatshop-free ordinances, please see the following:

<http://mrzine.monthlyreview.org/2013/wilson120913.html>

<http://www.ecowatch.com/whos-really-paying-for-our-cheap-clothes-1882033894.html>

<https://cleanclothes.org/resources/publications>

<http://www.laborrights.org/publications>

<http://www.greenamerica.org/programs/sweatshops/whattoknow.cfm>

<http://www.globalexchange.org/fairtrade/sweatfree/faq>

<https://www.theguardian.com/commentisfree/2013/apr/29/bangladesh-factory-tragedy-sweatshop-economics>

BACKGROUND

On July 7, 2009 the Berkeley City Council passed Ordinance No. 7,099-N.S. referred to as the “Sweatshop-Free Procurement Ordinance,” which was added to the Berkeley Municipal Code as Chapter 13.97. The purpose is to protect the interests of local residents, workers, and businesses by establishing a sweatshop-free procurement policy and code of conduct that ensures that items of apparel procured by the City—or its agents through contracts or purchase orders—be produced in workplaces free of sweatshop conditions. The City further seeks to end taxpayer support for sweatshops, to protect the basic labor and human rights of workers who produce apparel for the City, and further to level the playing field for ethical vendors. Finally, the City intends to create a sweatshop-free procurement policy consistent with federal law and U.S. trade obligations.

On July 6, 2011 the threshold was lowered to \$10,000, effective July 1, 2013. On October 21, 2014 Ordinance No. 7,378-N.S. was adopted, lowering the sweatshop free procurement threshold to vendors “...who bids or proposes to provide apparel to the City of Berkeley, in an amount greater than \$1,000 per fiscal year.”

ENVIRONMENTAL SUSTAINABILITY

Sweatshop operations are frequently established in areas where environmental safeguards are weak or absent; globalization allows global capital to move freely to these areas. This, along with employee exploitation (such as low minimum wages, wage and hour violations, and child labor) and lack of safety regulations and enforcement, are reasons that sweatshop apparel cost are low.

RATIONALE FOR RECOMMENDATION

It is time to stop the City of Berkeley from supporting sweatshops. The cost of ethical procurement is negligible, and any minimal increase in staff time, if any, is a small price

to pay to ensure basic worker and human rights. This final reduction in the threshold amount will finish the job begun in 2009 with the passage of the original ordinance.

ALTERNATIVE ACTIONS CONSIDERED

Alternative strategies were pursued in 2009, 2011, and 2014 with a phased-in approach to sweatshop-free apparel procurement. Public awareness of the negative effects of sweatshops and the increasing availability of sweatshop-free apparel make this the time to reduce the threshold amount to \$0.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Delfina Geiken, Commission Secretary, (510) 981-7551

Attachments:

- 1: Ordinance – track changes
- 2: Ordinance – clean copy

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.97 SWEATSHOP FREE
PROCUREMENT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 13.97, sections 13.97.020 and 13.97.030 are amended to read as follows:

Chapter 13.97

SWEATSHOP-FREE PROCUREMENT

Section 13.97.020 Applicability and prohibition on contracting with vendors of sweatshop products.

A. This Chapter applies only to the Procurement of Apparel by the City of Berkeley pursuant to any contract that totals more than \$~~1,0000~~ in any given fiscal year.

B. The City of Berkeley shall not procure Apparel from a Vendor if that Vendor violates any requirement enumerated in this Chapter. (Ord. 7378-NS § 1, 2014; Ord. 7099-NS § 1 (part), 2009)

Section 13.97.030 Definitions.

A. "Apparel" means clothes, shoes, and garments and accessories thereto.

B. "City Manager" means the City Manager of the City of Berkeley or his or her designee, which may include an independent monitor.

C. "Procure" or "Procurement" means acquiring through contract, purchase, rental, lease, or in any other manner for use by the City of Berkeley or its employees.

D. "Production Facility" (or "Facilities") means the facility that manufactures (including cutting and assembly by weaving, sewing, knitting or felting) the finished Apparel, including, when the context requires, the owners and managers thereof.

E. "Vendor" means a person or entity with whom the City of Berkeley has a current procurement relationship, or who bids or proposes to provide apparel to the City of Berkeley, in an amount greater than \$~~1,0000~~ per fiscal year.

F. "Worker" means those workers engaged in the production of the Apparel covered by this Chapter. (Ord. 7378-NS § 2, 2014; Ord. 7099-NS § 1 (part), 2009)

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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