

Sweatfree Toolkit: How Your Community Can Help End Sweatshops

Sweatfree Policy Toolkit



Students representing activist groups at colleges and universities from around Connecticut hold a press conference to urge the State to adopt a sweatfree policy. The proposed policy would cover purchasing and licensing by the state and public universities.



Chie Abad, a former Saipan sweatshop worker, rallies in support of a sweatfree purchasing policy for San Francisco. Photo: Global Exchange.

Core Elements of a Sweatfree Procurement Policy

Introduction

An institutional sweatfree procurement policy is, in large part, a movement-building tool, supporting a solidarity strategy between organized consumers and organized workers. The higher the standards in the policy, and the stronger the enforcement mechanisms, the better the tool it is. Better policies can contribute to stronger movements, while stronger movements make the policies more effective, ultimately creating more humane working conditions, higher wages, and more power for workers to influence workplace policies.

In order to win the best possible policies we need strong local campaigns based on grassroots organizing, education, and coalition building. But we also need to be aware of other sweatfree campaigns, other policies, advances made in one place, challenges in another. If one place breaks new ground, we should try to hold that up as a model elsewhere while being aware of different local political realities and the need for local flexibility.

This outline of core elements in sweatfree policies represents the latest local innovations and the best thinking to date on how to craft an effective policy. It is informed by many local campaigns, and similar efforts by allied organizations.¹ Please treat it as a working document. If you are able to win higher standards or better enforcement tools, we want to know so that standards everywhere can spiral up.

Purpose

The “whereas clauses” that express a legislative body’s “findings” and purpose in the beginning of a sweatfree purchasing law are not without significance. They can become important in a court case when determining whether or not the implementation of the law has gone beyond its original purpose.

Claim the Public’s Right to Know About Working Conditions

This is the basis for requiring public reporting and public disclosure of factory locations, key to policy enforcement. If it is established that the public has a right to know, it is difficult for companies to argue, as they often try, that this information is proprietary.

Act as a Market Participant

The procuring institution is acting as a regular consumer, a market participant, not as a regulator. State and local governments are not allowed to regulate in the area of labor relations and labor standards; this is an area preserved for the federal government and regulated through the National Labor Relations Act and the Fair Labor Standards Act. However, under the market participant exemption in the Interstate Commerce Clause, state and local governments have as wide discretion as private consumers in setting conditions for purchasing.

Claim Self-Interest

States and local governments also are not allowed to regulate commerce beyond their own borders, another area preserved for the federal government under the foreign commerce clause of the Constitution. If the standards established in a sweatfree purchasing policy are higher than those required by local law or treaty obligations (e.g. requiring compliance with non-poverty wages rather than the legal minimum wage), a court could rule that the law violates the foreign commerce clause. This was the ruling of the First Circuit Court of Appeals when it struck down a Massachusetts law that barred companies doing business in Burma from receiving state contracts. However, the court also recognized that states are allowed to impose limits on public purchasing if those limits serve a legitimate local interest and also act as a market participant.

There are several ways of claiming that a sweatfree purchasing policy serves a legitimate local interest. For example, you can legitimately claim that avoiding sweatshop abusers helps to even the playing field for local law-abiding suppliers by creating conditions of fair competition, or that sweatfree purchasing reflects the expressed interests of local citizens who do not wish for their tax dollars to subsidize sweatshop and abusive child labor.

While the Supreme Court upheld the First Circuit ruling against Massachusetts' Burma law, it did so on very narrow grounds. According to analysts David Naftzger: "Clearly, the Supreme Court could have issued a sweeping opinion against Massachusetts based on broad preemption doctrine that would have prevented states from imposing sanctions on firms doing business in certain rogue nations. Rather, the Court ruled, in a narrow ruling based on the Constitution's Supremacy clause, that Congress had preempted the Massachusetts statute when it adopted federal sanctions on Burma. ... Because the Court's decision rests on a single preemptive act of Congress rather than broader constitutional grounds, state sanctions were not ruled to be unconstitutional per se ("A Future for State Legislatures in 'Foreign Affairs?' Supreme Court Leaves More Questions than Answers with Ruling Against 'Massachusetts Burma Law,'" National Conference of State Legislatures, September, 2000).

Scope

Ideally, the scope of products covered by the policy is comprehensive because everything an institution buys may originate in a sweatshop. Practically speaking, however, most politicians want to see evidence of problems before committing administrative and financial resources. Garments, textiles, and footwear are a good place to start, along with a commitment of gradual expansion based on research and evidence gathered by the responsible administrator. The sweatfree purchasing laws of California and Los Angeles are good examples of policies with comprehensive scope, implemented incrementally. The policy should also apply to both manufacturing (cutting and sewing in the case of garments) and laundering operations.

In order to avoid federal preemption issues (see above), you may want to set procurement conditions exclusively for facilities and workers that manufacture or launder products procured by your institution. Some courts, though not all of them, have held that procurement conditions must be related to the supplier's performance of its contractual obligations to the procuring entity. If you want to target the supplier as a whole – all of its operations and all of its workers – you might argue that the procuring entity (state, city, or school for example) and its tax payers have a valid moral and public interest in not dealing with sweatshop suppliers, whether or not the sweatshop conditions affect the supplier's contractual obligations to the procuring institution.

Standards – Code of Conduct

The following standards are very basic. Perfect enforcement would make no worker rich, but it would ensure a measure of dignity and respect at the workplace, and enable workers and their families to escape the most abject poverty. If you think you can win higher standards we encourage you to fight for them. The institution should encourage suppliers to exceed these standards.

Fundamental International Labor Organization Standards

The United Nation's International Labor Organization has identified eight conventions as fundamental to the rights of human beings at work, irrespective of countries' levels of development. The conventions cover the areas of:

- Freedom of association and the right to collective bargaining;
- The elimination of forced and compulsory labor;
- The abolition of child labor, and;
- The elimination of discrimination in the workplace.

According to the ILO, these measures "set the basis for social justice in the workplace and provide a framework to ensure that people fairly share in the wealth that they have helped generate."

Applicable Local Laws

These are the laws of the country where the manufacturing or laundering of the product takes place. They include wage, working hour, non-wage benefits, health, labor, environmental and safety laws, legal guarantees of freedom of association, child labor laws, regulations on home-based work, building and fire codes, and laws relating to discrimination in hiring, promotion or compensation on the basis of race, disability, national origin, gender, sexual orientation or affiliation with any political, nongovernmental or civic group.

Non-Poverty Wage

In most countries, the legal minimum wage is a poverty wage that does not allow workers to pay for the cost of food, shelter, clothing, medicine, and other basic needs. Our public institutions should not be complicit with the impoverishment of the workers that make products they buy, but should expect that companies pay a more dignified wage. Because wages amount to such a small

fraction of the total retail price, even doubling workers' wages would result in a very small price increase. According to research conducted by the Worker Rights Consortium for the City of Los Angeles, a non-poverty wage requirement could increase procurement costs by 0.8% to 2.2%.

We recommend the following formula for a “non-poverty wage” in the U.S.: the level of wages required for a full-time worker to produce an annual income equal to or greater than the United States Department of Health and Human Services' most recent poverty guideline for a family of three plus an additional 20% of the wage level paid either as hourly wages or health benefits. Outside the United States, a non-poverty wage is a comparable nationwide wage and benefit level, adjusted to reflect that country's level of economic development using a factor such as the relative national standard of living index in order to raise a family of three out of poverty.

You can also calculate a higher U.S. living wage level using the Universal Living Wage formula (see: www.universallivingwage.org), which is based on fair market rent guidelines developed by the Department of Housing and Urban Development (www.hud.gov). To calculate living wages for other countries, see www.dol.gov/ilab/media/reports/oica/wagestudy.

The Cities of Milwaukee and Los Angeles, and the Los Angeles Unified School District have adopted the non-poverty wage standard.

Right to Organize and Collective Bargaining

Workers' right to freely form and join unions for the promotion and defense of their workplace interests is a basic human right. It is the basis of democratic representation and governance. Workers need to be able to influence workplace policies that impact their lives. An independent worker organization offers workers the best chance that they will have an effective voice in determining their wages and working conditions.

Furthermore, organized workers play a vital monitoring role, letting us know if employers are shifting back toward sweatshop strategies. Consumers and anti-sweatshop organizations can then bring pressure to bear on those employers to get them back on the sweatfree track.

Finally, organized workers are a vital force for expanding the share of total production that is sweatfree. They do this in two basic ways: first, by organizing more unions in their sector, and so, helping more workers to increase their economic power; and second, by providing a critical part of the political base that will encourage their governments to pursue more worker-friendly economic and social policies.

No Termination Without Just Cause

When workers try to organize a union to gain protection and power to improve working conditions, the sweatshop employer's most common anti-union tactic is firing union supporters. This sends a chilling message to coworkers: keep quiet or you will lose your job. Employers may also threaten to close a factory and shift production to some other country if workers organize a union, a tactic called “cut-and-run.” By including “no termination without just cause” provisions in the sweatfree purchasing policy an institution signals that it will not do business with companies that suppress workers' right to organize by terminating union supporters.

Based on model policy developed by the UNITE union and adopted in New Jersey and Milwaukee.

Additional Union-Friendly Procurement Provisions

The following provisions have not yet been included in sweatfree purchasing laws. Courts may invalidate the provisions if they think local or state governments are trying to regulate labor relations. This is an area of law reserved for the federal government and preempted by the federal National Labor Relations Act. However, federal preemption law is unsettled. You may want to assess your strength and the local political environment to determine if you want to include these provisions in your sweatfree purchasing policy. Because of the legal uncertainties we have not included the provisions in the SweatFree Communities sample purchasing policy.

Union-Made

The best way to support workers' right to organize and join unions is to direct the public's purchasing power toward suppliers where workers have acted on this right and won a legitimate democratic union. Buying from union suppliers expands the market for union made goods and creates incentives for non-union companies to not oppose union organizing attempts by their workers. If you include a requirement that all purchased goods must be union-made (and have the union label), it is also important to develop implementation mechanisms that can distinguish between genuinely democratic unions that represent workers and

unions that are controlled by the company or the state. Initially the union-made requirement may shift purchasing dollars to North American companies since democratic unions are rare in the developing world. However, over time it may also create an incentive for companies to source production from unionized workplaces outside North America.

Union Neutrality and Card Check

These are two concepts that are slightly different but work together. “Union neutrality” means that the employer formally agrees to remain neutral in a union organizing drive, to advocate neither for nor against the union. The employer cannot hold captive audience meetings, fire anyone for union activity, or threaten that the plant will close if the workers unionize. Neutrality could also include additional provisions that make it easier for unions to organize, such as providing union organizers with access to the facility to speak with workers or a worker contact list so that they can visit workers away from work to discuss the union.

“Card check” is a procedure for union recognition where the employer formally agrees to recognize the union when a majority of the workers sign union authorization cards, either during

a set or open-ended period of time. By contrast, if workers are required to use an election to decide whether or not to recognize a union, employers often take advantage of the election period to harass and intimidate workers. Therefore, workers have much greater organizing success with the card check method combined with a union neutrality agreement than they do with an election.

Labor Peace Agreements

Typically done on construction projects, a labor peace agreement commits the employer and union to have “labor peace:” the union agrees not to picket or interfere with construction, and the employer generally agrees to neutrality and card check recognition. Courts have upheld these types of agreements in case-by-case circumstances to avoid labor disruption on a particular construction project where the government has a proprietary interest (e.g., the government owns the land or has lent funds for the project). This provision would be new for apparel procurement laws. As a purchaser of apparel goods, the government clearly has a proprietary interest. Since all procurement should be eligible for labor peace, this would be the most comprehensive approach. A more limited approach would be to single out specific cases where the government has a vital interest in getting its products without labor disruption (e.g., fire turnout gear for firefighters).

Alternatively, labor peace could cover apparel procurement services only, such as laundry services, where there is a danger of labor disruption to an ongoing service. The extent of labor peace coverage should be determined in part by the specific political situation in the jurisdiction. In any case, to preserve the proprietary, and not regulatory, nature of this provision, it may be important to give the procurement agency the ability to decide on a case by case basis which products should be governed by labor peace.

Organic and Fair Trade Preference

Most consumers concerned with sweatshop labor practices in the garment industry also care about cotton farm workers and would support purchasing policies that minimize cotton workers’ exposure to dangerous pesticides. Conventionally grown cotton is one of the most intensely sprayed crops in the world, accounting for more than 10% of pesticides and almost 25% of insecticides used worldwide. These synthetic materials may poison farm workers, drift into neighboring communities, contaminate ground and surface water, and kill beneficial insects and microorganisms. The Environmental Protection Agency considers seven of the top 15 pesticides used on cotton in 2000 in the United States to be “possible,” “likely,” “probable,” or “known” human carcinogens.

Organic cotton, on the other hand, is grown with methods and materials that have a low impact on the environment, such as beneficial insects, crop rotation, and precision tillage. Organic production reduces the use of toxic pesticides, insecticides, and fertilizers. When a company is “certified organic” it means that an independent organization has verified that the company meets or exceeds defined organic standards. Organic cotton is grown in 12 countries, but represents less than 0.1% of global cotton production.

At the time of writing, some forward-looking sweatfree campaigns are combining sweatfree and organic purchasing provisions; the City of Vancouver is the first in North America to adopt both concepts.

Consider a provision such as: “This body shall procure certified organic food and apparel when available and feasible.” Organic is defined in Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990. The Act was amended 2004. For more information, contact the Organic Consumers Association: www.organicconsumers.org.

You may also consider a fair trade preference for agricultural products that are fair trade certified (currently coffee, tea, cocoa, and fruit). Fair trade certification guarantees fair prices for family farmers and fair wages for farm workers, environmentally friendly production practices, and International Labor Organization standards regarding child and forced labor, freedom of association, collective bargaining, and anti-discrimination. For more information, contact TransFair USA: www.transfairusa.org. The standards for all fair trade certified products can be found at the Fairtrade Labelling Organization website: www.fairtrade.net

Compliance Tools

Contractor and Subcontractor Responsibility

Bidders should be required to sign an affidavit affirming that they and their subcontractors will comply with the standards established in the Code of Conduct.

Public Disclosure of Factory Locations and Wage Rates

Bidders should also be required to publicly disclose the names and addresses of factories where the products they propose to sell to the institution are made, and the wages paid to the workers making those products.

Most corporations hide their factories behind walls of secrecy. Tearing down those walls by requiring government suppliers to report the names and locations of factories where the products they sell to the institution are made should be the first requirement of a sweatfree purchasing policy. Without public disclosure independent groups cannot verify factory conditions, and workers' grievances will most likely not come to the attention of the institution. In short, the policy is unenforceable. On the other hand, when companies do make factory names and locations publicly available, workers can register complaints and independent human rights organizations can investigate conditions, report any problems, and help to correct violations. Similarly, public disclosure of wage rates ensures transparency and is an important step towards holding companies accountable for the wages they pay and making sure that those wages are at least non-poverty wages.

Companies may complain that names and addresses of factories is "proprietary information" and that disclosure would put them at a disadvantage by exposing "trade secrets" to their competition. They may offer to provide such information to the institution on a confidential basis only. However, the larger companies often source from the same factories as their competition; they already know where their competitors produce. According to the Worker Rights Consortium (WRC), companies required to disclose factory locations to comply with university codes of conduct resisted this idea at first; however, after nearly five years of disclosure to the WRC, companies have not yet alleged any deleterious impact on their competitive ability.

For further information about the wage disclosure requirement, contact United Students Against Sweatshops: www.usasnet.org

Regular Public Reports from the Contractor

By requiring suppliers to provide annual reports on their progress in achieving and maintaining compliance with the sweatfree purchasing policy, the institution signals that code compliance is always a process, and that working conditions can and should always improve. A public reporting requirement promotes manufacturer responsibility and transparency.

Reports should include information on internal monitoring programs and their results, external audits if available, problems discovered, and corrective action plans.

Based on model policy developed by the Maquila Solidarity Network.

Certified Payroll

Companies are responsible for complying with wage standards, and for providing verifiable wage reports. By requiring a certified payroll, institutions can make sure that the employer maintains verifiable records for each worker documenting the number of hours worked in a pay period, the pay rate, the deductions, and the actual pay. By requiring workers to receive an itemized wage statement, institutions help empower workers themselves to report violations of wage standards.

Based on recommendation by the Pittsburgh Antisweatshop Community Alliance.

Membership in Independent Investigative and Monitoring Organization

Effective implementation of a sweatfree purchasing policy requires verification of factory conditions by an independent monitor.

Because it is not practical or cost-effective for institutions to themselves monitor and investigate the factories that make the products they purchase, some institutions may wish to contract individually with an independent auditor. However, a more cost effective and ultimately more effective approach is for institutions to work with an organization that can monitor and conduct investigations of factories on a collective basis for a consortium of institutions that purchase products from the same facilities.

While a number of different multi-stake holder organizations can help companies verify code compliance and assist in the implementation of a sweatfree purchasing policy, only one organization currently provides this service for public institutions. The Worker Rights Consortium (WRC) was created to assist colleges and universities with the enforcement of their manufacturing codes of conduct. The WRC has resolved to work with non-university public institutions on an experimental basis, with the goal of creating a consortium of governmental institutions that pool resources and collectively influence company behavior, similar to the college and university effort.

According to the WRC, affiliates receive: “accurate, thorough, timely and impartial assessments of conditions in factories that produce [for the institution], with specific reference to whether the factories are in compliance with the [institutions’] codes of conduct.” Because the WRC operates independently of the apparel industry, the WRC has better access to and trust of workers and is able to obtain information other monitors cannot obtain. Independence enhances the credibility of WRC reports. When problems are identified, the WRC works with the institution and the supplier to eliminate violations and improve conditions. The WRC provides companies an opportunity to address problems prior to issuing a public report. In many cases this means that WRC can report on company actions to address the problems at the same time as they report on the violations, avoiding embarrassment for the company.

Based on WRC documents and provisions in the City of Los Angeles and State of California sweatfree purchasing policies.

Advisory Working Group Consisting of Administrators, Activist Groups, and Labor Organizations

This group supports the administrators responsible for implementation and enforcement by monitoring contracts, educating administrators, networking with other local and national anti-sweatshop efforts, and receiving and assessing evidence of supplier non-compliance from workers, labor unions, governments, non-governmental organizations, or human rights organizations. Given the experimental nature of sweatfree procurement, it is difficult to anticipate all situations that will arise. An advisory working group provides resources to resolve unforeseen issues of implementation and enforcement. The State of New Jersey, for example, has established an “Apparel Procurement Board” to receive complaints and recommend investigations. The Board includes representatives of uniformed unions of employees of the State and state agencies that employ uniformed personnel.

The responsible administrators may also want to establish working relationships with other institutions that have adopted sweat-free purchasing policies in order to share information about suppliers. The City of Los Angeles is exploring the possibility of developing a consortium of public institutions to allow for cost sharing of monitoring and enforcement activities by an independent monitor. The consortium would be modeled on those formed by colleges and universities that fund monitoring and enforcement by an independent auditor through an annual fee.

Based on policy developed by the City of Los Angeles and local practices implemented by the Milwaukee Clean Clothes Campaign and the Bangor Clean Clothes Campaign.

Enforcement Mechanisms

These mechanisms enable you to have a direct impact on particular factories. Without enforcement a policy becomes a feel-good measure, undesirable to advocates and most legislators alike.

Independent Monitoring

Companies must ensure access to an independent third party monitor when violations are discovered. Companies must also cover the costs of investigations, unless it is covered by the institution’s membership-fee in a monitoring organization. The institution should specify monitor qualifications and methodology, including:

- No relationship with companies being monitored beyond the monitoring work itself.
- Use of local non-governmental organizations and human rights groups for worker interviews.

- Knowledge of local language and culture, financial auditing practices, health and safety standards, international labor conventions, and local laws and regulations.
- Unannounced visits to the production facility.
- Confidential and thorough worker interviews in their local language conducted at the production facility without supervisors present, and off-site, such as in workers' homes or in local gathering places.

Based on practice suggested by Bangor Clean Clothes Campaign and implemented by the State of Maine.

Process of Remediation

The first goal of a sweatfree purchasing policy should always be achieving and maintaining compliance with the Code of Conduct, ensuring that working conditions improve and workers maintain good jobs. When receiving a credible allegation of a violation of the Code of Conduct, the institution and supplier should consult for the purpose of agreeing to a remediation plan and correct the violation. Termination of the relationship should be a last-resort if the supplier or its subcontractor is unwilling or unable to remedy the situation.

The steps of remediation should include:

- A violation notice from the institution to the supplier, describing the violation and the requirements for responding to the notice.
- Information from the supplier with evidence that the violation did not occur, or a detailed plan for corrective action. Corrective action includes all steps necessary to correct violations, including, but not limited to, paying back wages to workers who made products supplied to the institution, reinstating any worker who has been unlawfully dismissed, and worker rights education for managers and workers.
- An independent audit, followed by a public report, verifying that the violation did or did not occur, and, if it did, that corrective action has or has not been effective.

Based on model policy developed by the Maquila Solidarity Network and State of Maine practices.

Sanctions

If a supplier knew or should have known about Code of Conduct violations, fails to respond in a timely fashion to notices of violations, refuses or fails to cooperate with an independent audit, or refuses or fails to take corrective action in a timely manner, an institution should be able to impose any of the following sanctions:

- Terminate the contract without notice and without liability for unpaid amounts that would otherwise have been payable.
- Assess a penalty.
- Bar the supplier from the bidder's list for a specified period of time.

Based on model policy developed by Maquila Solidarity Network

¹ Contact the UNITE HERE union ([Eric Dirnbach, edirnbach@uniteunion.org](mailto:edirnbach@uniteunion.org)), United Students Against Sweatshops (www.usasnet.org), Maquila Solidarity Network (www.maquilasolidarity.org), and No More Sweatshops (see: "Not with their sweat, Not with our dollars: Ending Public Subsidies of Sweatshop Abuses" by Tom Hayden. For a copy, write to abolishsweatshops@yahoo.com).

Sample Code of Conduct and Sweatfree Purchasing Policy for U.S. Institutions

I. Purpose

The _____ finds that:

- A. The _____ spends _____ in public funds on garments, uniforms, materials, and other equipment, materials, and supplies provided or laundered by provided or laundered by private vendors and manufacturers.
- B. The _____ recognizes a public interest in avoiding subsidies to vendors and contractors who maintain sweat shop working conditions, including below-subsistence wages; excessively long working hours; unhealthy and unsafe working environments; child, indentured, and prison labor; disregard for local and international labor laws and work place regulations; disregard for fundamental women's rights; and repression of workers' rights to assemble and bargain collectively.
- C. The _____ has an interest in providing incentives for responsible bidders who provide products that are not made in sweatshop conditions.
- D. *[Add any or all of these points if applicable to the local context]*
 - a. _____ of workers are employed in sweatshop conditions in _____.
 - b. Sweatshops threaten the jobs and wages of all workers whose companies may relocate for cheaper wages.
 - c. Sweatshops threaten local businesses that are at a disadvantage when competing against manufacturers that profit by providing substandard wages and working conditions.
- E. The _____ recognizes the rights of its citizens to information about working conditions and choice with regard to the expenditure of its tax money.
- F. As a participant in the marketplace, _____ seeks to protect the interests of local citizens, workers and businesses by exercising its sovereignty to establish a "sweat-free" procurement policy and code of conduct that ensures that items of apparel, garments and corresponding accessories, and other equipment, materials, and supplies procured by _____, its agencies, or its employees through contracts, purchase orders, or uniform allowances or voucher programs, be produced in workplaces free of sweatshop conditions.

II. Scope

This policy applies to the procurement or laundering of apparel, garments or corresponding accessories, and the procurement of equipment, materials, and other supplies for _____. Procurement includes contract, purchase, rental, lease, or allowance and voucher programs.

III. Definitions

- A. "Production" means the manufacture (including cutting and assembly by weaving, sewing, knitting or felting), finishing, warehouse distribution and laundering (where applicable) of apparel and other products.
- B. A "non-poverty wage" in the U.S. is the level of wages required for a full-time worker to produce an annual income equal to or greater than the United States Department of Health and Human Services' most recent poverty guideline for a family of three plus an additional 20% of the wage level paid either as hourly wages or health benefits. Outside the United States, a non-poverty wage is a comparable nationwide wage and benefit level, adjusted to reflect that country's level of economic development using a factor such as the relative national standard of living index in order to raise a family of three out of poverty or the World Bank's Gross National Income per capita Purchasing Power Index.

- C. “Responsible manufacturer” means an establishment engaged in production that demonstrates all of the following:
- a. Compliance with all applicable local laws and workplace regulations, including those regarding wages and benefits, workplace health and safety, environmental safety, and freedom of association, and the fundamental conventions of the International Labor Organization, including those regarding forced and child labor and freedom of association.
 - b. Wages that meet the higher standard of (a) the legal minimum wage; (b) the prevailing wage in the industry in the country of production; or (c) a non-poverty wage as defined in Section III B.
 - c. Maintenance of verifiable wage and hour records for each production worker, documenting the number of hours worked in a pay period, the pay rate, the deductions, and the actual pay. Itemized wage statement with this information provided to workers.
 - d. Required working hours for hourly and quota-based production employees - the lesser of (a) 48 hours per week or (b) the limits on regular hours allowed by the law of the country of manufacture. At least one day off in every seven-day period, as well as holidays and vacations. All overtime hours worked voluntarily.
 - e. No discrimination in employment - including in hiring, salary, benefits, advancement, discipline, termination or retirement - on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.
 - f. No sexual, psychological, or verbal harassment or abuse. No corporal punishment.
 - g. No forced use of contraceptives or forced pregnancy tests.
 - h. No termination of employees without just cause. Existence of a mediation or grievance process to resolve workplace disputes. For production in the U.S., such disputes are limited to those not regulated by the National Labor Relations Board.
 - i. Respect for employees’ rights to freedom of association and collective bargaining. No harassment, intimidation or retaliation against employees for exercising these rights.

IV. Requirements – Contractor Affidavits, Public Reports

_____ shall procure goods covered by this policy to contractors that act as or contract with responsible manufacturers as defined in Section IIIC.

For every bid and contract for production of goods covered by this policy, each bidder or contractor must submit affidavits that include the information set forth in Sections IVBa., b., c., d., and e. to the contracting agency. To ensure public access and confidence, this information shall be accessible to the public through the contracting agency’s Website as soon as possible, but in no case less than 14 days before a decision is made to award a contract to a particular bidder. The information shall include:

The names, addresses, and phone numbers of each facility involved in the production of goods covered by this policy.

The names, business addresses, and phone numbers of the principal officers of each facility involved in the production of goods covered by this policy.

The base hourly wage of non-supervisory production employees, percent of wage level paid as health benefit, other benefits, regular deductions from paychecks, normal working hours per day and week, actual working hours per day and week over the last three months, and overtime policy.

A sworn statement that each of the proposed production facilities, including any subcontractors, is a responsible manufacturer as defined in Section IIIC.

Any other information deemed necessary by the _____ and/or its designee, including the contracting agency, for the administration and enforcement of this policy.

If any information provided by the contractor or subcontractor pursuant to this section changes during the specified time period of the contract, the contractor shall submit or cause to be submitted to the _____ and/or its designee, including the con-

tracting agency, affidavits with the updated information. In addition, the contractor shall submit or cause to be submitted annual public reports documenting internal working condition monitoring programs and their results, external audits if available, problems discovered, and corrective action plans.

V. Verification and Compliance

It shall be the responsibility of contractors to ensure compliance with the standards of responsible manufacturers in their own production facilities and in those of their suppliers, including all subcontractors.

In order to facilitate compliance with the Sweatfree Code of Conduct, _____ shall contract with a competent nonprofit independent monitoring organization that is neither funded nor controlled, in whole or in part, by a corporation that is engaged in the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies. Refusal of an entity to permit independent monitoring shall result in disqualification for bidding.

_____ shall also explore mechanisms employed by other governmental entities to ensure that businesses that contract with this _____ are in compliance with this section and any regulations or requirements promulgated in conformance with this section. The mechanisms explored shall include, but not be limited to:

Establishing working relationships with other public agencies that have enacted sweatfree procurement laws, and advocacy groups, labor organizations and other appropriate entities to share information regarding manufacturers, vendors, and suppliers.

Developing a sweatfree consortium with other states, cities, school boards, or public entities that allows for cost sharing of monitoring and enforcement activities by a nonprofit independent monitor.

The _____ will establish a Sweatfree Procurement Advisory Working Group to address implementation and enforcement issues. The Sweatfree Procurement Advisory Working Group shall consist of advocates for garment workers and other workers experiencing sweatshop working conditions, uniformed unions of employees of the _____, representatives of agencies that employ uniformed personnel, administrators responsible for implementing this law, and other interested parties. The purpose of the Sweatfree Procurement Advisory Working Group shall be to:

Receive and assess evidence of bidders' and contractors' non-compliance with the Sweatfree Code of Conduct from workers, labor unions, governments, non-government organizations, and human rights advocates

Provide advice on bidding guidelines, dissemination of information to workers, and collaboration with other public entities.

Evaluate industries engaged in manufacture and sale of goods other than apparel and garments to determine whether procurement of goods, in addition to apparel and garments, should be subject to this Chapter.

Evaluate the implementation and enforcement of this Chapter.

VI. Violations and Enforcement

Remediation. Upon determination of a violation of the standards of a responsible manufacturer at a production facility of a contractor or its supplier, including all subcontractors, the contracting agency and the contractor shall consult for the purpose of agreeing to a remediation plan. The intention is for the situation to be corrected in order to comply with the standards of a responsible manufacturer. The steps of remediation include:

A notice of violation from _____ to the supplier, describing the violation and the requirements for responding to the notice.

Information from the contractor with evidence that the violation did not occur, or a detailed plan for corrective action. Corrective action includes all steps necessary to correct violations, including, but not limited to, paying back wages to workers who made products supplied to the institution, reinstating any worker who has been unlawfully dismissed, and worker rights education for managers and workers.

An independent audit, at the expense of the contractor or its supplier, followed by a public report, verifying that the violation did or did not occur, and, if it did, that corrective action has or has not been effective.

Sanctions. Sanctions will be used as a last-resort if the contractor knowingly provides misinformation under Section IVB, or if the contractor, one of its suppliers, including subcontractors, refuses to remedy a violation in a timely manner. Sanctions can

include termination of a contract without notice and without liability for unpaid amounts that otherwise would have been payable, a financial penalty, or removal of the contractor from the bidder's list for a period of _____.

VII. Severability

If any section, subsection, sentence, clause, phrase or other portion of this policy is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Enforcing Your Sweatfree Policy:

How to Get Your School, City, Town, or State to Affiliate with the Worker Rights Consortium

In 2004, the City of Los Angeles became the first city in the United States to allocate funding for independent monitoring of their supplier factories. Now the door is open for your institution to join with other public entities so that factories, that supply the same entities, can be collectively monitored. Collective monitoring ensures that we have the maximum impact at the minimum cost.



On March 18, 2005, students at Michigan State University rally to urge the school to join the WRC.

While a number of different multi-stake holder organizations can help companies verify code of conduct compliance, only one organization currently provides this service for public institutions. The Worker Rights Consortium (WRC) was created to assist colleges and universities with the enforcement of their manufacturing codes of conduct. In response to demand from numerous youth anti-sweatshop organizations for help with enforcement of their schools' sweatfree purchasing policies, the WRC in 2004 created an affiliation category for individual secondary schools. At the time of writing, the WRC has also resolved to work with states, cities, towns, and school districts on an experimental basis, with the goal of creating a consortium of governmental institutions that pool resources and leverage like the colleges and universities have done.

Requirements

Requirements for affiliation with the WRC are the same as those for colleges and universities, namely:

- Adopt a manufacturing code of conduct and incorporate it in applicable vendor contracts. At a minimum the code of conduct should provide basic protections for workers in the fol-

lowing areas: wages, hours of work and overtime compensation, freedom of association, workplace health and safety, women's rights, child labor and forced labor, harassment and abuse in the workplace, non-discrimination, and compliance with local law. The WRC model code of conduct is available on their website: www.workersrights.org. See also the SweatFree Communities sample code and policy in this organizing guide or at: www.sweatfree.org.

- Ask vendors to provide the WRC with a regularly updated list of the names and locations of all factories involved in the production of the products to be monitored.
- Pay annual affiliation fees. The fee for an individual secondary school is \$500. Fees for other public entities will be determined on a case by case basis.

In order to affiliate with the WRC, a secondary school's principal, or other official designated by the school, sends a letter to the WRC stating their decision to affiliate and affirming the three obligations of affiliation. Each school should also designate a contact person from the administration to serve as the main liaison with the WRC. School districts and local governments interested in working with the WRC should contact the WRC to discuss the details of collaboration.

WRC Principles and Methodology

Public institutions and the WRC are partners in code of conduct enforcement based on a shared commitment to certain principles and methodology, including:

- Public disclosure of factory locations.
- Public disclosure of results of factory investigations, with an emphasis on positive change when appropriate.
- Emphasis on continuous improvement rather than blanket certification of companies or factories as "sweatfree."
- Emphasis on remediation of code violations; contracts with vendors and factories should not be severed except as a last resort.
- Complaint-driven investigations conducted by the WRC should complement companies' own compliance programs.

Working Together to Improve Working Conditions

When a public institution affiliates with the WRC, supplying



the requisite factory disclosure information, the WRC will spot-check factories and evaluate the supply chain to identify the most serious labor problems. The WRC does not seek to monitor a large number of factories, preferring to concentrate its resources on particularly problematic facilities in order to increase effectiveness and improve conditions.

In order to identify problems, the WRC works with a network of labor rights experts and worker-allied organizations around the world to educate workers about their rights under codes of conduct, and receive and evaluate complaints submitted by workers or a local non-governmental organization. If WRC staff determines that a complaint appears to be valid, the WRC assembles an assessment team of both local and international experts to conduct an investigation of factory conditions. A key feature of the investigation is in-depth worker interviews, conducted away from the factory in workers' homes or other locations where they feel comfortable speaking candidly about conditions in the factory.

Based on the evidence, the assessment team determines that the code of conduct has or has not been violated, specifies the exact nature of the violations if any, and recommends remedial action if necessary. The team publishes a report of its findings, which is sent to the public institutions and posted on the WRC website. The WRC then works with workers, factory management, suppliers, and public institutions to ensure that violations are corrected. This process can take anywhere from six months to two years and requires WRC staff to regularly monitor the factory. Public institutions should support the process of remediation by communicating to suppliers and companies that they expect them to comply with WRC recommendations.

For more information contact WRC Outreach Coordinator Nancy Steffan at (202) 387-4884 or nancy@workersrights.org.

Sweatfree Purchasing and Trade Rules: Implications for State and Local Governments

Until recently, we could assume that the system of government purchasing was a matter of national or local prerogative, maybe contested in legislatures, but not questioned as an issue of sovereign right of democratically elected governments to determine. However, the U.S. is the prime mover in the initiative to subject government purchasing to trade rules designed to open lucrative government procurement markets to transnational corporations. While these rules address legitimate concerns about corruption and lack of transparency in decision-making, they also would require that:

- Government purchasing is "non-discriminatory;" that is, that like goods are treated in a like manner, no matter who made them or in what human rights or working conditions.
- Foreign companies are treated at least as well as domestic ones, even if a local government wants to promote local business for economic development reasons.
- Companies from every country receive the best treatment that other countries get, no matter their human rights records.
- Supplier qualifications are limited to those necessary to ensure product quality, and do not include issues related to methods of production.

In short, if it had to abide by trade rules for government procurement, a government could not easily apply purchasing criteria other than cost and performance.

So, do the trade rules on government purchasing bind state and local governments?

First, as a general principle, sub-national governments are only covered in the procurement deals if they voluntarily offer their government procurement markets in particular trade agreements. The United States Trade Representative office (USTR) usually asks each state for their consent, before binding them to the trade rules. Even though USTR only consults with the Governor's office, anti-sweatshop activists can insert themselves in this process either by getting the ear of the Governor, or by demanding that the Governor only consents to the trade rules following a decision by the Legislature.

Second, the procurement rules in trade agreements thus far do not apply to U.S. cities, school districts, counties, or other public entities. By contrast, the Central America Free Trade Agreement's government procurement rules do cover Central American cities and other public institutions; however, this agreement has not been ratified by Congress at the time of writing and may never take effect.

Third, NAFTA's Chapter on Government Procurement only applies to federal government entities. The World Trade Organization's Government Procurement Agreement only cov-

ers 26 mostly wealthy countries, and does not apply to production taking place in most developing countries. Thirty-seven states have committed to the rules of this WTO agreement, and only 21 states would be bound by the government procurement rules of CAFTA if Congress ratifies it. Some states are also bound by government procurement rules in bilateral trade agreements, including agreements with Chile, Singapore, and Australia.

Fourth, the procurement thresholds in the trade agreements are generally very high, excluding all but the most lucrative contracts.

Fifth, no trade agreement automatically invalidates a local or state law. While it is very likely that the USTR will continue to push aggressively to expand the scope of the procurement rules in the trade agreements, a state or local sweatfree procurement measure can only be invalidated if it is successfully challenged as a "non-tariff barrier to trade" in a WTO or regional trade tribunal. This is a very long and complicated process, and potentially costly – in political terms – for the challenging party.

Imagine if a foreign country or corporation tried to tell your city or state that it would have to accept sweatshop products despite the democratically adopted sweatfree purchasing law. Can you hear the outcry of dismay from all corners of your community and from members of all political stripes concerned not just with human rights and worker abuse, but also with this threat to local sovereignty? Such a challenge could galvanize a much stronger movement against unfair trade rules.

Local activists should continue demanding products made with dignity. The more towns, cities, and states across the U.S. adopt sweatfree purchasing policies, the more likely it is that government purchasing will remain an area of national and local sovereignty, subject to democratic decision-making, and not to trade rules authored by transnational corporations.

To learn more about government procurement rules in the trade agreements, and to work together with other groups to stop unfair trade deals, contact Public Citizen's Global Trade Watch: gtwinfo@citizen.org or 202-454-5193.