

No. 08-07-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending Part 9, Article 903 of the Administrative Code, §5-903.02, to restrict County purchases of goods or products made in sweatshop conditions in the course of the formal procurement process.

WHEREAS, Allegheny County Council has historically encouraged principles of fair employment; and

WHEREAS, County Council recognizes that the concept of fair employment should be encouraged and applied throughout the County's own policies and procedures, where appropriate; and

WHEREAS, sweatshops are still present even in American society, with 36% of all respondents to a survey conducted in 1999 among Chicago's immigrant and low-income communities indicating that they work under conditions that meet the United States Department of Labor's definition of a sweatshop; and

WHEREAS, that same survey found that 35% of the respondents worked with hazardous chemicals, open flames, dangerous equipment, or in conditions of extreme heat or cold, with 30% not being permitted to take a paid or unpaid sick day without risk of being fired, and with 8% working in facilities in which the exits were kept locked during the work day; and

WHEREAS, during the course of the recent negotiation of an intergovernmental cooperation agreement between the County and City of Pittsburgh regarding purchasing functions, it was noted that the City has a prohibition on purchasing goods made under sweatshop conditions but the County does not; and

WHEREAS, it is the considered opinion of County Council that it is desirable for the County to establish a policy formally restricting the purchase of goods made in sweatshops and that, in order to ease the burden of administering combined City and County purchasing functions, it is desirable for the City and County sweatshop rules to be uniform;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1.

Subsection A of Article 903, §5-903.02 of the Administrative Code is amended as follows:

§ 5-903.02. Purchases over \$30,000.

A. Except as provided below, all contracts or purchases in excess of \$30,000 shall be in writing after being published at least one time, not less than seven days prior to the date fixed for opening of bids. The successful bidder shall be the lowest responsible responsive bidder meeting specifications, with full consideration of cost, quality and performance. In the event that the County receives two completely identical responsive responsible bids, the award shall be made in accordance with the Purchasing Manual.

1. The term "lowest responsible responsive bidder" shall not include any bidder who has obtained any goods or products offered for sale, lease, rental or consignment to the County which were made under sweatshop conditions, as defined under this Section.
 - a. Goods and products are not made in sweatshop conditions if all of the following conditions apply in the manufacturing facility in which the goods were made:
 1. Wages and Benefits. The manufacturer or employer must pay wages which enable its workers to meet their basic needs for food, shelter, clothing and medical care. The manufacturer or employer also must provide all benefits required by law in their country and must compensate workers for overtime. Vendors and their subcontractors shall ensure that workers work overtime hours only voluntarily.
 2. Hours of Work. Workers must not be required to work more than forty-eight (48) hours per week, or less if the law of the country in which the manufacturer or employer is located sets a shorter work week.
 3. Worker's Rights. Workers must have the right to speak about and/or protest conditions in the factories in which they work without fear of retaliation and must have the right to form and join unions of their own choosing without fear of retaliation.
 4. Health and Safety. The manufacturer or employer must provide a safe and healthy working environment.
 5. Treatment of Workers. No worker may be subjected to physical, sexual or verbal harassment. No worker may be discriminated against in employment in any way on the basis of sex, race, religion, age, disability, sexual orientation, national origin, political opinion or social or ethnic origin.

6. Child Labor. The manufacturer or employer must not employ any individual younger than the legal age for children to work in the country in which the facility is located, and, regardless of legal age, must not employ any individual younger than the age of fifteen (15).
 7. Forced Labor. The manufacturer or employer must not use forced labor (including, but not limited to, prison labor, indentured labor, or bonded labor) of any kind.
 8. Legal Compliance. Vendors and subcontractors shall comply with all applicable local laws and workplace regulations in force in the jurisdiction in which their facilities are located, including those regarding wages and benefits, workplace health and safety, environmental safety and freedom of association.
- b. For the purposes of this section, a manufacturing facility shall be deemed to be a factory, shop, or any other location, whether indoors or not, in which goods or products are either manufactured from raw materials or assembled from component parts manufactured at another location.
 - c. The requirements of this section shall be satisfied by the execution of a signed statement by the vendor, in a form prescribed by the Chief Purchasing Officer and submitted with any bid packet tendered to the County, that the vendor is unaware of any circumstance or fact that lead it to believe that any of the conditions proscribed in §5-903.02.A.1.a. exist in any of the facilities involved in its manufacturing process. The signed statements required by this subsection shall be retained by the Division of Purchasing and supplies for a period of at least five years.

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SECTION 2.

No earlier than one year after the date of final approval of this Ordinance, the Allegheny County Controller shall conduct an audit of the performance of the Allegheny County Division of Purchasing and Supplies in complying with the provisions of §5-903.02.A.1. Such audit shall, at a minimum, include a review of the Division of Purchasing and Supplies' protocols for requiring and processing signed statements, qualification of lowest responsible responsive bidders, and record retention. The Controller shall issue a final report of the results of this audit and any corrective action recommendations to the Chief Purchasing Officer, the Allegheny County Council, the Allegheny County Chief Executive, and the Allegheny County Manager no later than two years after the date of final approval of this Ordinance.

SECTION 3.

The remaining provisions of §5-903.02 shall continue in full force and effect, and nothing contained herein shall be read to alter those provisions in any fashion.

SECTION 4. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 5. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

SPONSORED BY COUNCIL MEMBERS ROBINSON, BURN, CLEARY, FITZGERALD, DEFAZIO, FINNERTY, MARTONI, LESTITIAN, MACEY, AND FRAZIER-

Enacted in Council, this 6th of March, 2007,

Council Agenda No. 2379-06.

Rich Fitzgerald
President of Council

Attest: _____
John Mascio
Chief Clerk of Council

Chief Executive Office March 15, 2007.

Approved: _____
Dan Onorato
Chief Executive

Attest: _____
Donna Beltz
Executive's Secretary