

(ITEM) RESPONSE TO RESOLUTION 0304R-036 BY DIRECTOR BLEWETT REGARDING THE USE OF ONLY CERTIFIED RESPONSIBLE APPAREL CONTRACTORS AND ACTION ON RELATED AMENDMENTS TO SECTION 12(C) OF MPS ADMINISTRATIVE POLICY 3.09 – PURCHASING AND BIDDING REQUIREMENTS

This item initiated by a Board Member

BACKGROUND

At its meeting on February 23, 2004, the Board referred the following Resolution 0304R-036 by Director Blewett to the Committee on Finance/Personnel:

WHEREAS, The Milwaukee Public Schools does not want to support companies that compete by exploiting their workforce; and

WHEREAS, Sweatshop conditions in apparel and other industries threaten the jobs and working conditions of all workers; and

WHEREAS, According to MPS Administrative Policy 3.09, Purchasing and Bidding Requirements, Section 11c, Working Conditions — Garment and Apparel Industry, “The Vendor and its suppliers shall be in compliance with all U.S. and Wisconsin wage and hour laws and health and safety regulations pertaining to garment and apparel manufactures. The policy set forth herein shall apply to the manufacture and distribution of items of apparel, such as clothing, headwear, footwear, linen and fabrics, as well as any other industry designated by the Milwaukee Board of School Directors as vulnerable to sweatshop conditions”; and

WHEREAS, Pressure from institutional purchasers such as school districts is one of the most effective ways to combat sweatshop production; and

WHEREAS, The City of Milwaukee has adopted an ordinance requiring apparel to be obtained only from responsible vendors and manufacturers who provide safe, non-discriminatory work environments and who compensate their employees with non-poverty wages; and

WHEREAS, The City of Milwaukee ordinance requires contractors for items of apparel to submit affidavits verifying them as responsible manufacturers; and

WHEREAS, The Milwaukee Public Schools strives to implement all administrative policies in a fiscally responsible manner; now, therefore, be it

RESOLVED, That the Board direct the Administration to develop an administrative procedure which requires affidavits to certify apparel contractors who are both socially responsible and have responsible employment practices; and be it

FURTHER RESOLVED, That the Administration develop a plan, for implementation no later than the FY05 school year, which identifies and promotes the use of such certified domestic and international apparel vendors; and be it

FURTHER RESOLVED, The Board’s Committee on Legislation, Rules and Policies work with the Wisconsin Association of School Boards to promote the purchase of apparel only from certified responsible contractors.

The Administration responded to Board Resolution 0304R-036 at the August 2004 meeting of the Committee on Finance/Personnel. At the meeting, the Committee directed the Administration to bring back to the Board within 3 months an administrative policy similar to that currently being recommended, but with the addition of the following requirements:

- a. disclosure of factory names, locations, and wages;
- b. certification that vendors uphold the rights of workers to organize in unions;
- c. the application of the policy to all district clothing purchases;
- d. implementation of an MPS account code for all clothing purchases throughout the district; and
- e. the creation of a system for public complaints and challenges to the veracity of suppliers' assertions to be filed with the district for review by the Administration in consultation with the City Attorney.

ADMINISTRATION'S ANALYSIS

1. This item seeks approval of amendments to Administrative Policy 3.09 regulating MPS requirements for contracting with, and purchasing from, clothing and apparel manufacturers.
2. The Administration held a meeting attended by Milwaukee Board Director Balistreri; the Board Clerk; representatives of the Milwaukee Clean Clothes Campaign, the Wisconsin Fair Trade Campaign, the AFL/CIO, the MTEA, and UNITE Midwest; and the MPS Administration.
3. An agreement was reached to model the MPS sweatshop policy after the City of Milwaukee's ordinance addressing the same issue. The final draft, as shown in the Administration's recommendation, was accepted by the above parties and approved by the City Attorney.

STRATEGIC PLAN COMPATIBILITY STATEMENT

4. This recommendation supports the MPS Strategic Plan by promoting fiscal responsibility and informed decision making concerning the allocation of District resources.

STATUTE, ADMINISTRATIVE POLICY OR BOARD RULE STATEMENT

5. The Administration's recommendation is to replace section 12(c) of Administrative Policy 3.09, Purchasing and Bidding Requirements, with the policy shown in the below recommendation. The current section 12(c), which would be replaced, reads:
(c) Working Condition — Garment and Apparel Industry
The Vendor and its suppliers shall be in compliance with all U.S. and Wisconsin wage and hour laws and health and safety regulations pertaining to garment and apparel manufacturers. The policy set forth herein shall apply to the manufacture and distribution of items of apparel, such as clothing, headwear, footwear, linen and fabrics, as well as any other industry designated by the Milwaukee Board of School Directors as vulnerable to sweatshop conditions.

FISCAL IMPACT STATEMENT

6. Action on this item does not authorize expenditures. The costs for maintaining a file of compliance statements would be absorbed by the Purchasing Division. Due process hearings could result in additional costs associated with recruiting and retaining qualified hearing panel members and with attorneys' fees. It is not possible to quantify those costs at this time, as the parameters and rules for such hearings have not been developed.

IMPLEMENTATION AND ASSESSMENT PLAN

7. Upon approval by the Board, the Purchasing Division would:
 - a. replace section 12(c) in Administrative Policy 3.09 with the recommended proposed policy;
 - b. require vendors receiving awards to sign the Affidavit of Compliance Statement;

- c. maintain a file of Compliance Statements; and
- d. include a notice in future MPS RFPs and bids, informing vendors of the requirement to sign an affidavit.

ADMINISTRATIONS' RECOMMENDATION

The Administration recommends that the Board approve the amendment of section 12(c) in Administrative Policy 3.09, Purchasing and Bidding Requirements, as follows:

Administrative Policy 3.09

PURCHASING AND BIDDING REQUIREMENTS

(12) SUPPLEMENTAL CONTRACT CONDITIONS

(c) Working Condition – Garment and Apparel Industry

The Vendor and its suppliers shall be in compliance with all U.S. and Wisconsin wage and hour laws and health and safety regulations pertaining to garment and apparel manufacturers. The policy set forth herein shall apply to the manufacture and distribution of items of apparel, such as clothing, headwear, footwear, linen and fabrics, as well as any other industry designated by the Milwaukee Board of School Directors as vulnerable to sweatshop conditions.

(c) WORKING CONDITION — GARMENT AND APPAREL INDUSTRY

1. PURPOSE

The Milwaukee Board of School Directors wishes to purchase items of apparel from responsible manufacturers. Toward that end, the following definitions will apply to this section.

2. DEFINITIONS

a. "Apparel" means all items of clothing and cloth produced by weaving, knitting, and felting, and shall include uniforms, coveralls, footwear, linens, and entrance mats.

b. "Manufacture" means to process, fabricate, assemble, treat, or package.

c. "Non-poverty wage" means the following for:

(i) 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 three plus an additional twenty percent of the wage level paid either as hourly wages or health benefits.

(ii) Outside the United States. A nationwide wage and benefit level which is comparable to the non-poverty wage for domestic manufacturers as defined in sub. 1 after being adjusted to reflect the country's level of economic development by using a factor such as the relative national standard of living index in order to raise a family of three out of poverty. In addition, workers shall not be subject to disciplinary wage deductions.

d. "Responsible manufacturer" means an entity engaged in manufacturing that can demonstrate all of the following:

(i) compliance with all applicable local and international labor laws and workplace regulations regarding wages and benefits and workplace health and safety, as well as with the fundamental conventions of the international labor organization, including those regarding forced and child labor and freedom of association;

(ii) payment to its employees of non-poverty wages as defined in subparagraph 12(c)2c(i) for domestic manufacturers and subparagraph 12(c)2c(ii) for manufacturers located outside the United States;

(iii) termination of its employees only with just cause; and

(iv) establishment of a mechanism for the resolution of workplace disputes.

3. REQUIREMENTS

a. Application

(i) All MPS contracts involving the purchase of items of apparel totaling \$5,000 or more shall be awarded by the MPS Purchasing Division.

(ii) All MPS contracts involving the purchase of items of apparel totaling \$5,000 or more shall be awarded to the lowest responsible contractor.

b. Affidavits

(i) No contract for the purchase of items of apparel totaling \$5,000 or more shall be awarded unless the lowest responsible contractor first submits to the MPS Procurement Manager a signed affidavit

which includes the following information for the specified time period of the contract:

(1) the names and addresses of the companies and facilities in which the items of apparel have been or will be manufactured;

(2) the names and addresses of all owners of the facilities in which the items of apparel have been or will be manufactured;

(3) the base hourly wage and percentage of wage level paid as health benefits for persons working at the facilities in which the items of apparel have been or will be manufactured; and

(4) a statement by the contractor that the facilities identified pursuant to this paragraph are operated by a responsible manufacturer as defined in sub. 12(c)2d.

(ii) Contractor shall procure and submit affidavits from all subcontractors employed by the contractor during the period of the contract.

(iii) In the event that information provided by the contractor or subcontractor pursuant to this paragraph changes during the period of the contract, the contractor shall submit to the MPS Procurement

Manager affidavits relating to the updated information.

(iv) The MPS Procurement Manager shall maintain and make available for public inspection any affidavit submitted pursuant to this paragraph.

4. CONTRACT BID SPECIFICATIONS

The MPS Procurement Division shall add a digest of the provisions of this section to all bid specifications involving apparel purchases.

5. SPECIFICATION FOR APPAREL CONTRACTS

No contract for the purchase of items of apparel covered under this section shall be entered into unless the contract contains a stipulation stating that the contractor agrees to provide only items of apparel manufactured by responsible manufacturers, and the contractor agrees to include an equivalent stipulation in all subcontracts.

6. MONITORING AND ENFORCEMENT

a. Responsibility

The MPS Procurement Division shall review the affidavits submitted by apparel contractors, receive and investigate complaints relating to compliance with this section, and impose appropriate sanctions upon any contractor who provides false information or fails to comply with the provisions of this section.

b. Notice

The MPS Procurement Division shall, in a timely manner, provide on its website a notice and related documentation regarding the following:

(i) the issuance of invitations to bid and the awarding of contracts relating to items of apparel covered by this section; and

(ii) the receipt of affidavits submitted pursuant to sub. 12(c)3b.

c. Sanctions

Any contractor or subcontractor engaged in an MPS apparel contract found by the Procurement Manager to have submitted false, misleading, or fraudulent information, or to have otherwise failed to comply with the provisions of this section, may be subject to any of the following sanctions:

(i) withholding of payments;

- (ii) termination, suspension, or cancellation of the contract in whole or in part;
- (iii) after a due-process hearing, denial of the right to bid on future MPS contracts by the contractor, subcontractor, partner, agent, or by any corporation of which contractor is a member, for a period of one year after the first violation is found, and for a period of 3 years after a second violation is found.

7. WAIVER

The requirements of this section may be waived in writing by the MPS Procurement Manager if any of the following are true:

- a. all bidders to a contract are deemed ineligible under this section;
- b. the contract is necessary in order to respond to an emergency which endangers the public health and safety; and no contractor who complies with the requirements of this section is immediately capable of responding to the emergency.

8. APPEALS

An apparel contractor who objects to any decision or action by the Procurement Manager relative to specifications and recommendations for purchasing items of apparel, may appeal the decision to the Committee on Finance/Personnel of the Milwaukee Board of School Directors.

MPS Affidavit of Compliance

Procurement of Items of Apparel from Responsible Manufacturers

BID/RFP NUMBER: DATE:

This Affidavit of Compliance will be the contractor's sworn statement that facilities identified on this form are operated by responsible manufacturers as defined in the Milwaukee Public Schools (MPS) Administrative Policy 3.09, Section 12(c)2d. This policy also requires that:

Contractors shall procure and submit affidavits from subcontractors employed by the contractor during the specified time period of the contract.

In the event information provided by the contractor or subcontractor pursuant to this paragraph changes during the specified time period of the contract, the contractor shall submit to the MPS Procurement Manager affidavits relating to the updated information.

A. Below, provide the names and addresses of the companies and facilities in which the items of apparel have been or will be manufactured (attach additional sheet if necessary).

NAME OF MANUFACTURER/

CONTRACTOR/SUBCONTRACTOR ADDRESS CITY STATE ZIP

B. Below, provide the names and addresses of all owners of the facilities in which the items of apparel have been or will be manufactured (attach additional sheet if necessary)

NAME OF MANUFACTURER/

CONTRACTOR/SUBCONTRACTOR ADDRESS CITY STATE ZIP

C. Below, provide the base hourly wage and the percentage of wage level paid as health benefits for persons working at the facilities in which the items of apparel have been or will be manufactured.

BASE HOURLY WAGE: \$ PERCENTAGE OF WAGE PAID AS HEALTH BENEFIT

In accordance with the requirements of the Milwaukee Board of School Directors, I have completed this

Affidavit of Compliance form in good faith, and have made no willingly false or misleading statements. Further, I have disclosed the names and locations of all facilities used in the manufacture of items of apparel I sell to MPS. I have also included Affidavits of Compliance from all subcontractors employed during the specified time period of the contract. I understand any false statement on the Affidavits of Compliance could result in any of the following:

1. Withholding of payments
2. Termination, suspension, or cancellation of the contract in whole or in part
3. After a due process hearing, denial of the right to bid on future MPS contracts by the contractor, subcontractor, partner, agent, or by any corporation of which contractor is a

member, for a period of one year after the first violation is found, and for a period of three years after a second violation is found.

I hereby state I will comply with MPS Administrative Policy 3.09 Section 11(c).

AUTHORIZED SIGNATURE

TITLE