

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
PATRICK MULLIGAN, DIRECTOR



SWEATFREE PROCUREMENT ADVISORY GROUP
Minutes from the October 28, 2022 Meeting

MEMBERS PRESENT: Conchita Lozano-Batista (Chair), Coyote Codornices Marin (Vice-Chair), Jason Oringer, Joyce Kimotsuki, Julie Fisher

MEMBERS EXCUSED: John Logan

CITY STAFF PRESENT: Patrick Mulligan (OLSE), Hallie Albert (OLSE), Shawn Peeters (OCA), Sailaja Kurella (OCA)

CALL TO ORDER/INTRODUCTIONS

**1. RESOLUTION TO HOLD MEETING VIA TELECONFERENCE
AND VIRTUAL MEETING STATUS**

Adopted unanimously.

2. ADOPTION OF AGENDA

Agenda for the October 28, 2022, meeting was discussed, but in adding and adopting the Teleconference Resolution a separate motion to adopt the Agenda was inadvertently not made.

3. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There was no public comment.

4. APPROVAL OF MINUTES

Change to the minutes was approved unanimously to clarify that Jason Oringer would reach out to Supervisor Mar "after the temperature check is completed." Motion to approve minutes from the September 8, 2022 meeting, as amended, was adopted unanimously.

5. CONTRACT RECOMMENDATION UPDATE

In response to an invitation Shawn Peeters, OCA, sent out to suppliers, Frank Skubal, owner of Banner Uniform Company, attended the meeting. Skubal introduced himself, explaining that his company provides uniforms to City employees, including those in the Fire Department and Library. Skubal further explained his San Francisco company will be directly impacted by the proposed change to the ordinance, to allow for a third-party beneficiary right. Skubal believes the change will be onerous on distributors because they would be responsible in ensuring manufacturing subcontractors comply and believes they may not want to contract with the City anymore because this could expose his business to liability and suppliers will not want to provide goods because of the onerous compliance is not justified by the small amount of textiles contracted for. Skubal believes the changes could be less heavy handed and more collaborative.

Coyote Marin inquired whether Skubal can contract with manufacturers to shift the liability to the manufacturers. Skubal said Banner does not have contracts with the manufacturers or their third-party

contractors and if he contracts with San Francisco, he is on the hook to find the product. A brand may sub-contract with a manufacturer, but distributors do not tend to do the same. Marin and Skubal discussed the potential for shifting the liability to manufacturers.

Conchita Lozano-Batista asked Skubal if he had any specific concerns about the changes. Skubal said the language in the proposed contract changes, as he understands it, means if someone in the supply chain does not comply with the law, a worker can come up the chain and sue him. Lozano-Batista confirmed that it is true a worker could sue as a third-party beneficiary for a violation of the contract with the proposed language and discussed some of the remediation work that could be done prior to any litigation being filed.

Jason Oringer said he does not believe the change creates any new liability since there is already authority under the ordinance to hold violators accountable. Rather it is to drive the ability for workers to ensure compliance and remediate similarly to how WRC investigations lead to remediation. Skubal responded that suppliers will not see it that way and it would be better if workers could have recourse without access to courts so suppliers are not scared off by the liability.

Lozano-Batista spoke about the City having the authority to address violations, which is done through the WRC contract, so the likelihood that a court case would happen in San Francisco is low. It is more about having a mechanism for hearing worker grievances. Skubal asked whether any of the manufacturers have heard about the proposed changes and offered to run it by them.

Marin explained that one issue the changes were designed to resolve is making the living wage rates (which are often higher than the minimum wage rates of the country) apply to the workers at the factory making products for the City. Marin said that the group wants workers to recover from wage theft. He asked Skubal if a cap on liability would be preferred? Skubal said it was worth looking into, but he believes that even with the addition of the third-party beneficiary right, it would still be difficult to ensure a living wage rate.

A discussion ensued about the 12X requirements. Sailaja Kurella clarified that 12X does not apply to sub-contractors. There was further discussion about 12U only applying to contracts for \$25,000 or more.

Marin said since the group is opening the law to changes, they could clean up the definition of “Director” to clarify whether it means the OCA or OLSE Director. Kurella said it means the OCA Director. There was discussion about a “floor” for requiring 12-U-I forms, such as \$250,000. The group agreed to table further discussion about changes to the contract until the next meeting, after they have had a chance to review Skubal’s feedback.

6. OCA UPDATE

Peeters reviewed the PO Releases and collection of 12-U-I forms. Kurella explained how OCA collects the 12-U-I forms at the PO level. If there is individual order made on a contract a PO is attached to the underlying contract and is therefore subject to 12-U reporting. Marin asked whether it is possible to ask for 12-U-I forms in a more collective way rather than piecemeal per PO. Kurella said it would be preferable and OCA needs to look at the requirements of the ordinance to see if it is possible.

6. POTENTIAL ITEMS FOR FUTURE AGENDAS

Review feedback and discuss next steps.
Recruitment for the group members.