

**PROPOSED SUBSTITUTE TO FILE 15-0712  
(Finance Committee 4-29-15)**

**Sponsored by:** JOHN A. FRITCHEY, County Commissioner

**ARTICLE IV. PROCUREMENT CODE**

**NOW THEREFORE BE IT ORDAINED**, by the Cook County Board of Commissioners that Chapter 34, Article IV, Procurement Code, Division 5. Sweatshop-free procurement, Sec. 34-194 to Sec. 34-196 is hereby enacted as follows:

**Sec. 34-194. Definitions.**

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Abusive forms of child labor* means (1) work performed by a person under the age of 18 when the person does not voluntarily seek the work or the person is threatened by the person's employer with physical, mental or emotional harm for nonperformance; (2) work performed by a person under the age of 18 in violation of laws of applicable jurisdiction governing the minimum age of employment, hours and conditions of work, compulsory education, or occupational health and safety; or (3) the use of a person under the age of 18 for illegal activities, including, but not limited to, the production or trafficking of illicit drugs or for prostitution.

*Contract* means any contract, purchase order or agreement awarded by any officer or agency of the county for purchasing garments, and whose cost is to be paid from funds belonging to or administered by the county.

*Contractor* means any person, partnership, corporation or other entity, which has a contract with the county.

*Subcontractor* means any person, partnership, corporation or other entity that enters into an agreement with a contractor or other subcontractor for any work under a contract or to produce goods to be purchased by the County under a contract, whether directly or through a broker or agent.

*Foreign convict or forced labor* means any form of labor used to produce or manufacture goods prohibited from importation into the United States under 19 U.S. C. § 1307, which includes abusive forms of child labor and slave labor.

*Garment* means any clothing, including uniforms, footwear, and related clothing accessories, such as hats and caps, ties, scarves, ribbons and shoestrings.

*Procurement Living Wage* means, for domestic manufacturers, a living wage as defined in Chapter 34, Article IV, Sec. 34-160 of this code.

*Slave labor* means any form of slavery or practices similar to slavery, such as the sale or trafficking of persons, debt bondage, indentured servitude, serfdom, forced or compulsory labor, or forced or compulsory recruitment of persons, below the age of 18 for use in armed conflict.

*Supply chain* means any manufacturer or distributor of garments.

*Sweatshop labor* means any work performed by any person under terms or conditions that seriously or repeatedly violate the domestic labor, employment or other workplace laws of the jurisdiction within which the work is performed, including without limitation laws concerning: (i) wages and hours of work; (ii) employee benefits, including paid and unpaid time off from work; (iii) health and safety, including without limitation exposure to hazardous or toxic substances, and building and fire safety; (iv) labor, including without limitation collective bargaining rights and individual employment contracts; (v) discipline, nondiscrimination, harassment, or retaliation, including without limitation all laws prohibiting workplace and employment discrimination; (vi) freedom of association; (vii) forced, convict, and child labor, and (ix) all other conditions of work and employment. For purposes of this section, domestic law includes without limitation international labor and human rights standards that are applicable to the jurisdiction within which the work is performed by virtue of international treaty or convention, including without limitation the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work. Sweatshop labor also means any work performed by any person that constitutes Foreign Convict or Forced Labor, or Abusive Forms of Child Labor or Slave Labor.

#### **Sec. 34-195. Sweatshop-free procurement.**

(a) Any solicitation for a contract advertised or otherwise communicated on or after passage of this section, and any contract entered into as a result of such solicitation shall include a specification that Contractors, both prospectively and, thereafter, if awarded the contract, shall:

- (1) Disclose to the county, in bids for the contract and, if awarded the contract, thereafter upon the county's request, in a form prescribed by the chief procurement officer, the prospective contractor's entire supply chain for the performance of the contract; including the name, address and contact information of all Subcontractors in the Supply chain for such contract;
- (2) Complete and submit an affidavit with the response or proposal to the solicitation verifying that neither the Contractor nor any of its Subcontractors, in the performance of the contract, shall (i) use Sweatshop labor, Foreign convict labor, Forced labor, Abusive forms of child labor or Slave labor, or (ii) fail to pay the applicable procurement living wage. (iii) The failure to complete and submit the affidavit shall render the contractor's response or proposal non-responsive.

(b) Before evaluating bids for contracts, the chief procurement officer or any other any officer or agency of the county shall exclude a prospective Contractor if:

- (1) The prospective Contractor has provided insufficient information to establish compliance as set forth herein, despite the prospective contractor having been given notice and opportunity to correct this insufficiency; or
- (2) There is evidence deemed credible in the opinion of the Chief Procurement Officer that the prospective Contractor or a Subcontractor that the prospective contractor has disclosed pursuant to subsection (a)(1): (i) uses Sweatshop labor, Foreign convict labor, Forced labor, Abusive forms of child labor or Slave labor, (ii) fails to pay the applicable Procurement living wage, despite the prospective Contractor having been given notice and opportunity to rebut the credibility of this evidence,

(c) In evaluating bids for contracts, the chief procurement officer or any officer or agency of the county shall in the evaluation of prospective Contractors' bids make a determination that each prospective Contractor is in compliance with this section.

(d) A Contractor's failure to comply with this section or failure to perform in accordance with the affidavit specified in (a)(2) shall constitute an event of default. In the event of default for failure to comply with this section, the chief procurement officer shall notify the contractor of such noncompliance and will, as appropriate: (i) issue the contractor a 30-day opportunity to cure; (ii) terminate the contract for breach and pursue any and all remedies available under law; (iii) terminate the contract and rebid the remaining contract amount; (iv) retain all monies earned under the contract until compliance with this section is achieved; or (v) assess the contractor with a penalty equal to the greater of \$1,000 or 20% of the value of the procured goods.

(e) This section shall not be construed to prohibit the county from prosecuting any person who knowingly makes a false statement of material fact to Cook County pursuant to Sec. 34-175 of this Code.

(f) The chief procurement officer is authorized to adopt rules and regulations for the proper administration and enforcement of this section. Each County officer or agency of the county, when requested by the chief procurement officer, shall cooperate with the chief procurement officer in the implementation, administration and enforcement of this section by providing relevant information that is in the officer or agency's possession and control, and providing any other assistance that it is feasible for the officer or agency to provide.

(g) This section shall not apply to the extent it is preempted by applicable federal or state law or to the extent it conflicts with the terms or conditions of a federal or State of Illinois grant agreement.

#### **Sec. 34-196. Severability.**

If any provision, clause, sentence or paragraph of this division or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect, impair or invalidate any remaining subsection, paragraph, sentence or clause hereof or the application of this Section to any other person or circumstances, and to this end the provisions of this division are declared to be severable.

**Effective Date:** This Ordinance shall be effective 30 days after passage.