

Appendix D



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Verité Review of the City of Vancouver's draft Ethical Purchasing Policy and Supplier Code of Conduct

This report presents the Verité's review of the City of Vancouver's draft Ethical Purchasing Policy (EPP) and Supplier Code of Conduct (SCC).

The City of Vancouver, through consultant Tim Reeve of Tim Reeve & Associates, has requested that Verité outline the strengths and weaknesses, and recommendations for next steps, with regard to the draft EPP and SCC.

Our review of the draft EPP and SCC has focused on:

1. Coverage of key issues within the draft Policy, and
2. Assessment of the likelihood of success from the implementation approach outlined within the draft Policy.

We recognize that the City of Vancouver is at the initial stages of implementing an Ethical Purchasing Policy, has a relatively small purchasing program, and relatively few resources to devote to supplier compliance. The documents we reviewed are useful first steps, and offer much on which to build a supplier compliance program that is appropriate for the City's scale.

Overview

Our review primarily assessed the content and effectiveness of the EPP and SCC against established international labor standards and typical implementation procedures. We did not undertake a comparison of these policies to other Municipal Sourcing Programs.

To this end, Verité finds the draft Supplier Code of Conduct:

- Covers all key labor issues
- Is somewhat less specific than several corporate Codes of Conduct in its identification of key aspects of labor rights. However we do not believe that the issues not specifically identified will have a significant deleterious effect on the ability of the City to implement an effective policy.
- Is reliant on the definition of a strong implementation program to achieve effectiveness.

Verité finds the draft Ethical Purchasing Policy to be:

- Essentially complete in its coverage of key implementation issues;
- Able to achieve effective implementation of the SCC if implemented in accordance with more specific assessment, monitoring and remediation plans and programs.

Detailed Comments on the SCC

1. Strengths of the proposed SCC:
 - a. The Supplier Code of Conduct covers all relevant ILO Core Conventions, and does so in a manner essentially consistent with best practice Codes of Conduct from the private sector.
 - b. The SCC appears reasonably to balance the need to cover key labor compliance issues in detail with the need for a limit to the number of specific issues it covers.
 - c. This SCC is a strong foundation for ethical purchasing, but in and of itself is inadequate to ensuring that City purchasing will be in accordance with the City's values. It is essential that this SCC be tied to strong implementation through the Ethical Purchasing Policy and related programs.
 - d. Though lacking in some specificity (examples below), the proposed SCC should, in Verité's view, allow the City to effectively identify and address the most salient issues that arise during sourcing, and particularly sourcing in overseas developing markets.
2. Recommendations for refinements and/or additional language
 - a. **Forced Labor**
 - i. Verité recommends the inclusion of explicit language protecting workers from excessive or inequitable job placement fees. The system of such fees is often a source of abuse directly, and fees frequently make workers vulnerable to abuse, particularly in the case of foreign contract laborers. (This problem is the subject of an extensive Verité research program focused on Southeast Asia, the final report to which will be released in early 2005.) All or a portion of language like that included in Gap Inc.'s Code of Vendor Conduct may be appropriate: "If the factory recruits foreign contract workers, the factory pays agency recruitment commissions and does not require any worker to remain in employment for any period of time against his or her will."
 - b. **Freedom Of Association**
 - i. **Discrimination for organizing:** Verité has found that an additional statement in Codes of Conduct explicitly prohibiting discrimination against workers for organizing activities can be a useful addition to a more general commitment to freedom of association. An example is found in the Ethical Trading Initiative Base Code ("Workers representatives are not discriminated against and have access to carry out their representative functions in the workplace.")
 - ii. **Parallel means**
 1. The City SPP importantly addresses parallel means as an alternative to representation by independent trade unions where legal or practical constraints make that impossible. A more specific articulation of the City's intended approach to parallel means will be a productive area for further refinement.

2. Parallel means is a controversial issue, and one on which there is disagreement among several key players in the labour rights field. To the extent that City suppliers source in China, they are unlikely to be in compliance with the Code.
3. The language that the City has adopted (“the supplier shall not hinder the development of parallel means for independent, free association and bargaining”) understates the complexity of decision that each supplier faces with regard to this issue. How does one give it its due, then? There are practical considerations, such as worker unease with parallel means; as well as philosophical or policy disagreements over the role that suppliers can play in facilitating alternative worker representation arrangements. Furthermore, there is disagreement among worker and trade union communities about the legitimacy of alternative arrangements, including those that can be termed ‘parallel means.’
4. Without further refinement of the City’s approach to parallel means, the City will find it difficult to assess supplier compliance with this important condition.

c. Wages

- i. Verité recommends the addition of an explicit requirement to ensure that wages and hours are outlined to workers clearly and in language understandable by workers, incorporating provisions for workers who are illiterate. (The Gap, Inc. Code of Vendor Conduct refers to the factory’s responsibility to provide “an understandable wage statement” which includes days worked, wage or piece rate earned per day, hours of overtime with each specified rate, bonuses, allowances, etc.)
- ii. The draft SPP does not include an explicit requirement that wages be paid by suppliers without regard to race, gender or other discriminatory factors. Verité recommends the addition of such a condition to the existing useful language requiring factories not to discriminate in selection of employees.

Detailed Comments on the EPP

1. Strengths of the proposed EPP
 - a. The Ethical Purchasing Policy reflects coverage of all relevant issues that should enable thorough implementation of the Supplier Code of Conduct.
 - b. The EPP outlines Guiding Principles (Sections 2.1 and 2.2) which will enable thorough implementation, if tied to specific activities.
 - c. The EPP specifically and importantly incorporates a recognition of the difference in credibility and effectiveness among the various approaches to monitoring of labor and environmental practices. (Section 2.2: Credible verification) Ignoring these differences has led some NGO and trade union observers to question the efficacy and credibility of certain existing labor rights certification schemes.
 - d. The City’s commitment to collaboration is a useful recognition of one necessity to creating a successful relationship with suppliers.
2. Recommendations for refinements and/or additional language

- a. The most important aspect of the City's commitment is rigorous implementation. The draft EPP does not include detailed implementation plans, without which it is difficult to assess any structural obstacles to the effective enactment of the SCC and EPP. Each aspect of the code must be accompanied by specific steps by which performance against the code is measured. At this point those steps are not in all cases clearly identified.
- b. Detailed implementation of monitoring outlined under **Section 2.1** will be one key the success of the EPP program.
 - i. *The City of Vancouver will rely on a combination of approved external independent certifications, supplier disclosures and certifications, public disclosure of information as to sources of supplies, to ensure suppliers and their sub-contractors comply with the EPP.* This section requires refinement. It is admirable in its recognition of the usefulness (and implicitly of the limitations) of external independent certifications. Principles or guidelines for the use of these various types of verification could provide a useful input to development of a monitoring scheme. (Verité provides training of this type for staff responsible for internal compliance programs.)
 - ii. *be flexible and use sound business practices in applying the Policy, recognizing reasonable exceptions may sometimes exist and will require case-by-case basis evaluation, so long as purpose and spirit of the policy is always upheld.* Training is required for City of Vancouver staff who are responsible for the implementation of the SCC and EPP to the extent that it relies on 'purpose and spirit'. This training or education should be incorporated into future implementation plans.
 - iii. *work with suppliers and their sub-contractors who do not fully comply with the policy to assist them to improve their workplace practices.* The City of Vancouver should consider developing a formal system that clearly articulates how violations of varying severity are addressed. Many brands disaggregate so-called 'zero-tolerance' violations (eg, child labor) from violations that are considered to be less severe, but which still require corrective action. Such a system would include time frames during which suppliers would be required to address violations in order to avoid further sanction.
- c. Section 3.7: This paragraph would be enhanced by addition of a timeframe during which the Manager of Materials Management will request corrective action.
- d. Section 3.8: This section could be clarified. It seems to imply that verification of compliance (rather than verification of records which substantiate compliance) is the responsibility of the supplier and would be undertaken at the supplier's expense. The question of whether the brand or supplier pays for social compliance is a lingering source of controversy.
- e. Section 3.9:
 - i. Further refinement of this section could usefully result in a "scorecard" for suppliers, an approach that an increasing number of brands are adopting.
 - ii. Long-term incentives to facilitate good performance on social compliance among suppliers would be incorporated into the supplier scorecard.

- iii. The City will have varying degrees of leverage over its suppliers, dependent in large measure on the length, scale and consistency of its relationship. Verité has noted a trend among forward-looking companies to use this leverage to improve social compliance among key suppliers. One approach to enhancing this leverage is to provide long-term contracts for key, high-performing suppliers, contingent on continued good social compliance.

Recommendations for Implementation Program Development

In this section Verité presents a general recommended approach to next steps, based on our reading of the draft SCC and EPP and our knowledge of corporate supply chains.

- a. First: Communication of the SCC and EPP to suppliers.
- b. Second: Definition of a monitoring scheme
 - i. Refinement of the approach outlined in Sections 2.1 and 3.
 - ii. Establishment of scheme for external monitoring, where appropriate, and communication of that scheme to suppliers.
 - iii. The monitoring scheme should be risk-adjusted, based on issues considered to be priorities by the City. Verité recommends that supply chain monitoring rely on a sampling oriented country-risk approach, where vulnerability to key, priority labor risks are addressed through monitoring. For a program at the scale of the City of Vancouver's, this might mean a targeted exploration of a small number of relatively high priority risks (e.g., child labor, or unpaid overtime in China).
- c. Third: Remedial action
 - i. Definition of approach to resolution of labor violations among suppliers. (Sections 2.1, 3.6 and 3.7)
 - ii. Development of a program that identifies which issues can be addressed through engagement by the City with its suppliers.
- d. Fourth: Engagement
 - i. Refinement of remedial program, such that long-term engagement with key suppliers results in 'ownership' of social compliance by the suppliers.
 - ii. Gradual expansion of 'supplier ownership' program to the broad range of suppliers in the City's supply base.
- e. Fifth: Continued but decreased direct monitoring
 - i. Program planning based on the expectation that through supplier ownership external monitoring can be reduced over time, though likely not eliminated.
 - ii. Development by the City of a long-term supplier ownership scheme that engages and supports key suppliers in taking responsibility for social compliance and credible reporting.
 - iii. Continued external monitoring as part of an on-going verification process that while spot-checking supplier compliance levels continues to result in tangible rewards (e.g. reduced monitoring requirements or increased business) or negative consequences (e.g. increased reporting requirements) for positive or poor performance at the factory level.