

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE SECTIONS 2.04.500 THROUGH 2.04.580)
TO ESTABLISH METRO'S SUSTAINABLE)
PROCUREMENT PROGRAM)
ORDINANCE NO. 10-1247
Introduced by Chief Operating Officer
Michael Jordan with the concurrence of
Acting Council President Carlotta Collette.

WHEREAS, Metro Code Sections 2.04.500 through 2.04.580 establish Metro's Recycled Product Procurement Program; and

WHEREAS, the Procurement Officer and Sustainability Program have proposed certain revisions to Metro Code Sections 2.04.500 through 2.04.580 to align Metro's procurement practices with its sustainability goals; and

WHEREAS, the proposed revisions are entitled Metro's Sustainable Procurement Program and are attached as Exhibit A; and

WHEREAS, the Metro Council finds that Metro's Sustainable Procurement Program furthers Metro's sustainable operations objectives; and

WHEREAS, the Metro Council directs the Chief Operating Officer to establish Sustainable Procurement Administrative Rules within 90 days of the adoption of this ordinance; and

WHEREAS, Metro's Sustainable Procurement Program applies to all purchases made by Metro; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Amendment. Metro Code Sections 2.04.500 through 2.04.580, "Metro Recycled Product Procurement Program" are repealed and replaced with "Metro's Sustainable Procurement Program" and language in the form attached hereto as Exhibit A.

ADOPTED by the Metro Council this 28 day of OCTOBER 2010.



Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

METRO'S SUSTAINABLE PROCUREMENT PROGRAM

2.04.500 Purpose and Intent

Metro's Sustainable Procurement Program is created to achieve the following:

- (a) Ensure that Metro's procurement activities meet the Sustainability goals established by the Metro Council.

- (b) Ensure that Metro's procurement activities support the definition of Sustainability adopted by the Metro Council.

- (c) Support a sustainable environment, economy, and community by:
 - (1) Reducing the environmental impact of Metro government operations and setting the standard for sustainable public purchasing in the region;
 - (2) Supporting businesses and markets located in the Portland Metro region; and
 - (3) Ensuring equitable inclusion of diverse members of our community in our Sustainable Procurement efforts.

Metro's Sustainable Procurement Program applies to all purchases made by Metro.

2.04.510 Definitions

As used in Section 2.04.500 through the end of this chapter:

- (a) "Certified Organic" means the item has been grown according to strict uniform standards that are verified by independent state or private organizations.

- (b) "Contractor" means any person, group of persons, consultant, designing architect, association, partnership, corporation, or other business entity that has a contract with Metro (including suppliers) or serves in a subcontracting capacity with an entity having a contract with Metro for the provision of goods or services.

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(c) "Designated Products" means Recovered and Sustainable Products designated in Metro's Sustainable Procurement Administrative Rules.

(d) "Ecolabel" means a label that identifies overall environmental preference of a product or service within a specific product/service category based on Life Cycle Cost Assessment considerations and that is awarded Third Party Certification.

(e) "Fair Trade" means a trading partnership, based on dialogue, transparency and respect, which seeks greater equity and contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers.

(f) "Green Building Practices" means a whole-systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition, and renovation, and includes Third Party Certification.

(g) "Habitat Friendly" means development practices that reduce the impact of development on natural resources, look beyond the building envelope and focus on land development and site design that mimic nature's processes, and conserve the natural systems and hydrologic functions of a site.

(h) "Least Toxic" means that no additives that are chemicals of high concern to human or environmental health may constitute part of the product except at levels consistent with background levels in the environment.

(i) "Life Cycle Cost Assessment" means the comprehensive accounting of the total cost of ownership, including the initial costs, energy and operational costs, longevity and efficacy of service, and disposal costs.

(j) "Locally Available" means grown, manufactured, or assembled within 400 miles of the Metro Region or sold from a vendor located within 400 miles of the Metro Region.

(k) "Minimum Recovered Content Standards" means standards established by Metro's Sustainable Procurement Administrative Rules specifying the minimum level of

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Recovered Material necessary for designated products to qualify as Recovered and Sustainable Products.

(l) "Post-Consumer Material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-Consumer Material is a part of the broader category of Recovered Material.

(m) "Practicable" means satisfactory in performance and available at a fair and reasonable price.

(n) "Pre-Consumer Material" means material or waste remaining after manufacture of a product.

(o) "Product Stewardship" means whoever designs, produces, sells, or uses a product takes responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle.

(p) "Recovered Material" means waste material and by-products which have been recovered or diverted from solid waste and includes both Post-Consumer Material and manufacturing or Pre-Consumer Material.

(q) "Recovered Product" means a product manufactured using Recovered Material and meeting the Minimum Recovered Content Standards established by Metro's Sustainable Procurement Administrative Rules.

(r) "Recycled Paper" means paper meeting the Minimum Recovered Content Standards established by Metro's Sustainable Procurement Administrative Rules.

(s) "Supplier Diversity" means a Sustainable Business Practice that encourages the use of previously underutilized vendors as suppliers.

(t) "Sustainability" means using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.

(u) "Sustainable Procurement" means purchasing materials, products, and services in a manner that

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integrates fiscal responsibility, social equity, and community and environmental stewardship.

(v) "Sustainable Products" means products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider Life Cycle Cost Assessment.

(w) "Third Party Certification" means an independent, objective assessment of a service or product completed by someone other than the service provider or product manufacturer.

2.04.520 Metro's Sustainable Procurement Administrative Rules

The Chief Operating Officer shall establish Sustainable Procurement Administrative Rules consistent with this Section to implement the Sustainable Procurement Program. The Sustainable Procurement Administrative Rules shall include:

(a) Guidance on maintaining or referencing lists of preferred Recovered and Sustainable Products as Designated Products.

(b) Guidance for procurement of goods that meet the Sustainability goals established by the Metro Council and that include, without limitation, and where available and Practicable, the following attributes:

- (1) Third Party Certification;
- (2) Product Stewardship;
- (3) Green Building Practices;
- (4) Least Toxic;
- (5) Waste Prevention and Reduction;
- (6) Recovered Material;
- (7) Habitat Friendly;
- (8) Certified Organic;

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- (9) Greenhouse Gas Reduction;
- (10) Locally Available;
- (11) Supplier Diversity;
- (12) Fair Trade; and
- (13) Life Cycle Cost Assessment.

(c) A Minimum Recovered Content Standard for Recycled Paper and Recovered Products.

(d) A schedule and process for implementation of the Sustainable Procurement Program and Administrative Rules.

(e) A schedule for reporting to the Metro Council on the status and performance of the Sustainable Procurement Program and Administrative Rules and the minimum requirements for the report, including the setting of goals to illustrate progress.

(f) A process for assigning Department personnel to evaluate whether it is Practicable to use a particular Recovered or Sustainable Product.

(g) A process for collecting data to evaluate the status and performance of the Sustainable Procurement Program and Administrative Rules.

(h) Direction to the Procurement Officer for revising procurement procedures to comply with the Sustainable Procurement Program and Administrative Rules.

(i) A plan for implementing the joint purchase of Recovered and Sustainable Products and Materials, within Metro and with other public agencies, to reduce the price of these goods.

2.04.530 Metro's Sustainable Procurement Program Responsibilities

(a) The Chief Operating Officer shall support and implement Metro's Sustainable Procurement Program and Administrative Rules.

(b) The Procurement Officer shall:

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- (1) Ensure that procurement procedures are revised for consistency with the Sustainable Procurement Program and Administrative Rules.
- (2) Provide Departments with information to facilitate their evaluation and procurement of Recovered and Sustainable Products.
- (3) Inform and advise Departments of their responsibilities under the Sustainable Procurement Program and Administrative Rules; provide training on and ensure compliance with the same.
- (4) Provide information to the Chief Operating Officer to assist with creating and revising Sustainable Procurement Administrative Rules to achieve Metro's Sustainability goals.
- (5) Ensure that Recovered and Sustainable Products are designated whenever Practicable.
- (6) Revise existing procurement standards and specifications to eliminate, where Practicable, discrimination against the procurement of Sustainable Products.
- (7) Transmit Sustainable Procurement Program and Administrative Rules to each Department.
- (8) Establish a strong connection between Metro's Sustainable Procurement Program and Metro's ESB, MBE, and WBE Program.
- (9) Ensure that all invitations to bid or requests for proposal comply with the Sustainable Procurement Program and Administrative Rules.
- (10) Ensure that when considering bids and proposals submitted by Contractors, Metro evaluates compliance with the Sustainable Procurement Program and Administrative Rules.
- (11) Develop a system for tracking Metro's compliance with its Sustainable Procurement Program and Administrative Rules.

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(12) Assist the Chief Operating Officer in compiling the report required in Section 2.04.5xx.

(c) Department Directors shall ensure that their departments comply with the Sustainable Procurement Program and Administrative Rules.

2.04.540 Report to Metro Council

Each year the Chief Operating Office shall submit a report to the Metro Council that details the status and performance of the Sustainable Procurement Program and Administrative Rules.

STAFF REPORT

FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.04 IN ORDER TO ESTABLISH A SUSTAINABLE PROCUREMENT CODE

Date: September 24, 2010 Prepared by: Darin Matthews, Procurement Officer, 797-1626
Molly Chidsey, Sustainability Coordinator, 797-1690

BACKGROUND

Metro Code 2.04.500 to 2.04.580 sets forth the agency's policies on the purchase of recycled, recyclable and reusable products and materials. These policies were established by the Metro Council in order to encourage the use of such products throughout the agency, comply with state purchasing statutes (ORS 279A, ORS 279B) regarding the purchasing of recycled products, and serve as an example to other public and private agencies.

To bring Metro's procurement efforts in line with adopted sustainability goals, a project team led by Metro's procurement officer and sustainability coordinator updated this section of the Code with the assistance of the Office of the Metro Attorney. The objective was to create a sustainable procurement code that would direct Metro to create a sustainable procurement program and policies which support Metro's sustainability goals, is relevant to all of Metro's internal operations, contains measurable goals, and is viable long-term.

The Metro Council previously passed legislation (Resolution 02-3146B) that encouraged the purchase of wood products from sustainable sources. This will be incorporated into the new procurement policy through the use of third party certifications.

Agency Collaboration

The project team was comprised of employees from throughout the agency, including Sustainability Center, Finance & Regulatory Services, Oregon Zoo, Parks & Environmental Services, Oregon Convention Center, Human Resources, and Office of Metro Attorney. This core team took the lead in developing a sustainable procurement strategy that was consistent with Metro's goals and priorities.

Additionally, subject matter experts from throughout the agency were engaged to offer input on their respective program areas. This dialogue was essential in helping the project team shape a strategy that worked for the day to day business needs of Metro's various programs.

Stakeholder groups that were also given the opportunity to review and offer feedback into the project included: Environmental Action Team, Green Team, Department Purchasing Coordinators, and Senior Leadership Team.

Review of Best Practices

The project team reviewed the sustainable procurement policies, codes, and strategies of several organizations. These included Multnomah County, City of Portland, King County, City of Seattle, Greater London Authority, City of Berkeley, and Environmental Protection Agency. Each of these policies was reviewed and the team determined which elements would best fit into Metro's procurement code.

Establish Definitions and Terminology

The current section of Metro Code (2.04.500 to 2.04.580) that deals with sustainable procurement includes practices and terminology that goes beyond buying recycled products. New definitions and terminology were added to reflect the product attributes that are available in the market that would support Metro's sustainability goals through procurement.

The new definitions include: Certified Organic, Compostable, Ecolabel, Green Building Practices, Habitat Friendly, Locally Available, Product Stewardship, Supplier Diversity, and Third Party Certification. Clearly establishing these terms will assist the agency in carrying out the sustainable procurement policy. The committee feels that these definitions best represent current best practices in sustainable procurement in the public sector.

While there is no universally accepted definition of "locally available", the project team elected to use the 400 mile radius, as that is considered to be a day-goods-distance, or available for delivery within one day. Other organizations have used the 150 mile range to define locally available food. For example, Evergreen State College in Washington uses the definition "the Pacific Northwest, focused on 150 mile range from campus." In order to promote the use of local businesses, many Metro purchases will be made from Portland area suppliers. However, in other cases it may be practical to purchase from a supplier outside of the metropolitan area, and therefore the 400 mile range would offer more latitude.

Third party certifications that Metro will rely on in determining which sustainable products are viable include but are not limited to: Forest Stewardship Council (wood products), Green Seal (cleaning products), EPEAT (computer hardware), LEED (building practices), Salmon Safe (urban watersheds), and Energy Star (electronic equipment).

One of the new definitions is life cycle cost, which refers to the consideration of cost over the life of a product (5 years for example) and not just the initial purchase price. As part of the Metro sustainable procurement policy, the project team intends to stress its importance as a procurement tool when buying goods or services. Agency programs should consider the use of life cycle costing when appropriate, as less expensive products may be more costly over time and therefore less sustainable.

Role of Procurement Office

In implementing the new Code, the committee feels that roles and responsibilities need to be clearly defined. Therefore, the proposed Code changes charge the Metro procurement officer with the following responsibilities:

- Revise agency procurement standards and procedures;
- Provide information to all departments on sustainable products;
- Provide training to all agency programs and departments;
- Provide information to the chief operating officer that help achieve agency goals;
- Ensure Metro purchases sustainable products whenever practical;
- Establish link to agency MWESB program;
- Develop checklists to assist Metro departments with compliance;
- Assist COO with annual reporting to the Metro Council.

Accountability of Department Directors

The sustainable procurement team also believes that Metro department directors should play a key role in carrying out this policy. The following responsibilities have been established for directors:

- Require contractors and suppliers to use sustainable products and practices to the maximum extent practical;

- Collaborate with the Metro procurement office in providing training and support throughout the agency;
- Designate staff to analyze compliance with sustainable procurement code in the procurement and contracting process;
- Provide information to the procurement office on the performance of sustainable products.

Tracking and Reporting

The procurement office will monitor and track sustainable purchases for Metro, and report on an annual basis to the Metro Council. In addition to dollars spent on sustainable goods and equipment, tracking in select commodity areas (i.e. copy paper) will be beneficial. Procurement will work with the Office of Sustainability in order to normalize the data by business practices. An example of this could include paper use per MRC employee.

Fair Labor Practices

The project team believes that a key area of sustainability is the provision of local family wage jobs that support and strengthen our local economy. Therefore, the inclusion of employee compensation as part of the selection criteria should be a standard in Metro RFP's for services. This was done recently for the operation agreements for Metro South and Central and proved to be successful. Simultaneous to the sustainable procurement policy, Metro is also working at strengthening its contracting program for minority, women and emerging small business. These recommendations also include the consideration of wages and benefits in the awarding of agency contracts.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Metro Code 2.04.500 through 2.04.580, ORS 279A.100
3. **Anticipated Effects** Increased purchase of sustainable products and materials; establishment of roles and responsibilities for Metro procurement office and other departments.
4. **Budget Impacts** The purchase of sustainable products will have a minor budgetary impact, but staff resources will be needed to implement the program. Additionally, it is common that the acquisition cost (initial purchase price) of a product may be higher, even if it is a better value over time.

RECOMMENDED ACTION

Metro Council approves the proposed revisions to Metro Code 2.04 in order to establish a sustainable procurement code.