

MANAGEMENT MEMO

	NUMBER: MM 06-13
SUBJECT: STATE AGENCY OBLIGATIONS UNDER THE SWEAT FREE CODE OF CONDUCT	DATE ISSUED: AUGUST 31, 2006
REFERENCES: Public Contract Code section 6108	EXPIRES: Until Rescinded ISSUING AGENCY: DEPARTMENT OF GENERAL SERVICES

Purpose This Management Memo serves to emphasize to State agencies and departments their responsibilities and obligations under Public Contract Code section 6108.

Policy Statement Public Contract Code section 6108 requires every contractor for a contract for the procurement of, or the laundering of, apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, to certify that no items have been laundered or procured by prohibited types of labor. It also requires contractors to cooperate fully when access to records or employees are requested by authorized officials.

Contractors in violation of Public Contract Code section 6108 may be subject to having the contract voided or being subject to the imposition of a penalty which is the greater of one thousand dollars (\$1,000.00) or an amount equaling 20 percent of the value of the materials produced in violation of the statute. Further, the contractor could be removed from the bidder's list for a period of 360 days.

The following is a summary of the pertinent portions of the Sweat Free Code of Conduct. We recommend departments become familiar with the complete version of the Code, which can be found on the Department of Industrial Relations website at <http://www.dir.ca.gov/sweatfreecode.htm>.

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**Policy
Statement
(continued)**

Sweat Free Code of Conduct Requires that Contractors:

- Be in compliance with all appropriate laws of their state concerning wages, workplace safety, rights to association and assembly and nondiscrimination standards and federal laws.
- Be in compliance with all appropriate laws of their state and federal laws.
- Ensure that their subcontractors' locations for manufacture or assembly outside the United States comply with the appropriate laws of the countries where the facilities are located.
- Shall maintain a policy of not terminating any employee except for just cause and comply with all appropriate labor laws.
- Ensure that workers are paid, at a minimum, wages and benefits in compliance with all applicable local, state and national laws, including overtime laws and regulations. Further, contractors should be aware that the abusive use or exploitation of child labor is prohibited in accordance with [national] relevant laws; and that there is no forced labor of any kind.
- Ensure that the work environment is safe and healthy and, at a minimum, in compliance with relevant local, state and national laws.
- Ensure that no discrimination occurs in the hiring, salary, benefits, performance evaluation, discipline, promotion, retirement or dismissal on the basis of age, sex, pregnancy, maternity leave status, marital status, race, nationality, country of origin, ethnic origin, disability, sexual orientation, gender identity, religion, or political opinion.
- Ensure that no worker is subjected to any physical, sexual, psychological, or verbal harassment or abuse, including corporal punishment, under any circumstance including, but not limited to retaliation for exercising his or her right to free speech and assembly.
- Ensure that no worker is subjected to the use of contraceptives or required to take pregnancy tests, or be exposed to chemicals, including glues and solvents that endanger reproductive health.

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Policy Statement (continued)

- Provide the contracting agency or department with a list of the names and addresses of each subcontractor to be utilized in the performance of the contract, and a list of each manufacturing or other facility or operation of the contractor or subcontractor for the performance of the contract.
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Application to Agencies Not Subject to DGS Authority

Although all Constitutional Officers, the University of California, the California State University, the Lottery Commission, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Compensation Insurance Fund, and other independent State entities are exempt from this Management Memo, they are subject to the provisions of Public Contract Code section 6108, and are encouraged to take all necessary actions to comply with the intent of this Management Memo.

This Management Memo does not apply to purchases by local government entities.

Investigating Violations of the Sweat Free Code

A State agency or department is required to investigate any complaint against a contractor for violation of Public Contract Code section 6108. Whenever the agency or department has reason to believe that the contractor has failed to comply with the requirements of the section, the agency or department shall refer the matter for investigation to the head of the agency or department and, as the head of the agency or department determines appropriate, shall refer the matter for investigation to either the Director of the Department of Industrial Relations or the Department of Justice. The referral should be made to:

Department of Industrial Relations
Division of Labor Standards Enforcement
Deputy Chief
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102
(415) 703-4810

or

**Investigating
Violations of
the Sweat
Free Code
(continued)** California Attorney General's Office
Civil Rights Enforcement Division
1300 I Street
Sacramento, California 95814
(916) 445-9555

Signature Original memo signed by Ron Joseph, Director

Ron Joseph
Director