



## EXECUTIVE ORDER

# ZERO TOLERANCE FOR HUMAN TRAFFICKING IN CITY SERVICE CONTRACTS AND PURCHASING

EO No.

EO 1-56

Effective Date:

Upon Approval

### 1. PREFACE

The City of Houston ("City") spends hundreds of millions of dollars of public funds yearly on goods and services. The City seeks to use best efforts so that taxpayer dollars do not contribute to trafficking in persons.

The City recognizes its purchasing decisions can benefit or protect workers around the world and public safety and morals are served by avoiding expenditures that could be used to commit human rights violations and social and environmental harm. In its role as a market participant, the City seeks to assure the integrity of the procurement process is not undermined by substandard labor practices or purchase of services provided or goods made under exploitative or unsustainable conditions.

Accordingly, the purpose of this Executive Order is to:

- Raise awareness about human trafficking and what corporate citizens can do to assist in the fight against human trafficking.
- Encourage contractors to follow employee recruitment and labor practices that do not violate human trafficking laws.
- Urge contractors to engage subcontractors with employee recruitment and labor practices that do not violate human trafficking laws.
- Educate the public that human trafficking is a violation of state and federal law.
- Affirm that the City will not conduct business with entities that have knowledge of or further human trafficking.
- Declare the City will use its best efforts to conduct business with enterprises that take steps to safeguard against human trafficking.

### 2. SCOPE

This Executive Order applies to all service contracts and purchases of goods or services whether by contract, purchase order, purchasing cards (P-cards), or spot purchases.

### 3. DEFINITIONS

This Executive Order adopts the following terms from the federal Trafficking Victims Protection Act of 2000 codified at 22 U.S.C. §§ 7101-7114 (TVPA), as amended, which as of the date of issuance of this executive order, defines the terms below as follows:

**Abuse or threatened abuse of law or legal process:** The use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

**Coercion:** Threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process.

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**Commercial Sex Act:** Any sex act on account of which anything of value is given to or received by any person.

**Debt Bondage:** The status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

**Involuntary Servitude:** A condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of the legal process.

**Severe Forms of Trafficking in Persons:** Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

**Sex Trafficking:** The recruitment, harboring, transportation, provision, obtaining of a person for the purpose of a commercial sex act.

**Contractor:** Any person or legal entity who receives public funds (e.g. funds or payment from the city) for goods or services rendered to the city.

**Fair Trade:** An innovative, market-based strategy that ensures fair labor practices and environmental sustainability in commodity and craft production. Fair trade's principles include guarantees of a minimum floor price, safe working conditions, sustainable soil and water use practices and funds for community development, as well as prohibitions on child labor, forced labor, and many harmful pesticides and fertilizers.

#### **4. GENERAL PROVISIONS**

4.1. City funds shall not be used to promote human trafficking in any manner.

4.2. The Mayor's Office – Human Trafficking shall make best efforts to:

- 4.2.1. Build awareness of and adherence to this policy through information dissemination and incorporation into relevant City employee training; and
- 4.2.2. Encourage development of internal City procedures to facilitate the purchase of certified fair trade products.
- 4.2.3. Review requests for waivers to this Executive Order from departments. The Special Advisor to the Mayor on Human Trafficking will consider requests for waivers from the requirements of this Executive Order from any City department that submits a written request for waiver and offers documented support showing special circumstances that would justify a waiver. The Special Advisor to the Mayor on Human Trafficking will issue a timely decision either granting or denying the waiver. Depending on the circumstances, the following factors may be considered special circumstances that would justify a waiver:
  - 4.2.3.1. Emergency – The contract is a response to an emergency that endangers public health or safety;



- 4.2.3.2. Essential – No other qualified responsive bidders comply with the requirements of this Executive Order and the contract is for a service or project that is essential to the City or public;
- 4.2.3.3. Sole Source - Purchase of goods or services is available only from a single source and the contract is for a service or project that is essential to the City or public;
- 4.2.3.4. Adverse Impact – Compliance with this Executive Order would cause an unreasonably adverse impact on the City's ability to obtain goods or services, unduly interfere with a department's contracting needs, or is likely to cause an unreasonably adverse financial impact on the City;
- 4.2.3.5. Bulk Purchasing – purchases made using a cooperative purchasing program or pursuant to an interlocal agreement.
- 4.2.3.6. Cooperative Purchasing Program refers to (1) a cooperative purchasing organization that pulls the buying power of more than one organization to leverage volume to reduce cost or (2) an arrangement between two or more governmental entities to combine purchasing power to obtain advantages of volume purchases. Such programs may involve one or more governmental purchasing units purchasing from the same supplier or multiple suppliers.
- 4.2.3.7. Interlocal Agreement means an agreement between one or more governmental entities for performing governmental functions and services.
- 4.2.3.8. Federal Grants – Any contract in which the federal government participates in the form of a grant or loan, or the City acts as a conduit for federal money and compliance with this Executive Order would violate such federal grant requirements or prevent the city from receiving such federal grant funds; or
- 4.2.3.9. General – Other matters where the Special Advisor to the Mayor on Human Trafficking deems it to be in the City's best interest.
- 4.2.4. Develop City employee fair trade procurement resources including lists of approved products, contractors, bid specification language, and best practices;
- 4.2.5. Work with commodity providers, service providers and other contractors to include certified fair trade products on all relevant market basket lists, discount lists and contracts when feasible, allowed by law and fiscally prudent;
- 4.2.6. Work with contractors to develop automatic or streamlined data collection, for evaluating the effectiveness of this Executive Order;
- 4.2.7. Facilitate communication with City departments about fair trade procurement best practices;
- 4.2.8. Facilitate communication with City departments about fair trade procurement best practices
- 4.2.9. Encourage compliance with the Executive Order by City contractors.

4.3. No later than thirty (30) days after the effective date of the Executive Order, the City's Chief Procurement Officer and departments with delegated authority shall make best efforts to:

- 4.3.1. Incorporate the requirements of this Executive Order into all formal competitive procurements issued after the effective date of this Executive Order and resulting contracts for which contract negotiations begin after the effective date of this Executive Order using the language approved by the Legal Department;
  - 4.3.2. Add to the currently published Terms and Conditions for Purchase Orders (<http://purchasing.houstontx.gov>) the language approved by the Legal Department that requires the contractor to comply with this Executive Order.
- 4.4. No later than thirty (30) days after the effective date of the Executive Order, City Departments shall make best efforts to:
- 4.4.1. Ensure that City Department staff that administers or manages contracts are aware of this Executive Order.
  - 4.4.2. Incorporate the requirements of this Executive Order contracts for which contract negotiations begin after the effective date of this Executive Order by using the language approved by the Legal Department;
  - 4.4.3. Encourage contractors that perform work for a department to comply with this Executive Order.
  - 4.4.4. Notify the City's Chief Procurement Officer and Special Advisor to the Mayor on Human Trafficking of any information received by a City department regarding any potential violations of this Executive Order.
  - 4.4.5. Select contractors that can comply with the Executive Order, unless a City department determines that it would be the City's best interest to select a contractor that declines to either comply with this Executive Order or accept the requisite Legal Department approved contract language, in which case the City department shall file a written request for a waiver to the Special Advisor to the Mayor on Human Trafficking documenting any factors listed in Section 4.2.3. of this Executive Order that may justify a waiver.
  - 4.4.6. Unless the Special Advisor to the Mayor on Human Trafficking grants a waiver pursuant to Section 4.2.3 of this Executive Order, all contracts and purchase orders shall include or reference language approved by the Legal Department that requires the contractor to comply with this Executive Order and all applicable program requirements in all contracts for the purchase of goods or services. Sample contract language is included in the Appendix.
- 4.5. Contractors shall make best efforts to:
- 4.5.1. Comply with this Executive Order with respect to all contracts that were entered after the effective date of the Executive Order; and
  - 4.5.2. Notify the City's Chief Procurement Officer, City Attorney, and the Director of any information regarding possible human trafficking or violations of this Executive Order discovered in the performance of providing services or goods to the City.
  - 4.5.3. Pursuant to the terms of the purchase order or Contractor's agreement with the City and to the extent allowed by law, Contractors that have been found to have engaged or promoted—directly or indirectly—human trafficking may be subject to suspension or termination of the relationship with the City if no remedial action is taken in a manner acceptable to the City.



- 4.6. Nothing in this policy shall be construed as requiring a department or contractor to procure fair trade products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price within a reasonable time.

## **5. COMPLIANCE**

The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Contract for all purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of Contract's effective date or issuance of a Purchase Order, whichever occurs first, if at all. Contractors shall notify the City's Chief Procurement Officer, City Attorney, and the Director of any information regarding possible violation of the Contractor or its subcontractors providing services or goods under this Contract or purchase order, if any.