

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY CITY OF BERKELEY

1.0 STATEMENT OF POLICY

It is the policy of the City of Berkeley to:

- support the Precautionary Principle as resolved by the Council on October 14, 2003 (Resolution No. 62,259-N.S.) and use an approach consistent with the Precautionary Principle as the City's framework for environmentally preferable purchasing, and
- require purchase of products and services that minimize environmental and health impacts, toxics, pollution, and hazards to worker and community safety and to the larger global community to the greatest extent practicable; however

It is not the intent of this policy to require a department, buyer or contractor to take any action that conflicts with local, state or federal requirements or to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.

2.0 PURPOSE

This Policy is adopted in order to meet the goals of a Precautionary Principle Program as stated in the Precautionary Principle Resolution that include, but are not limited to:

- minimizing health risks to City staff and residents,
- minimizing the City's contribution to global climate change,
- improving air quality,
- protecting the quality of ground and surface waters, and
- minimizing the City's consumption of resources.

Further, this Policy is adopted in order to:

- purchase products that include recycled content in order to support strong recycling markets,
- institute practices that reduce waste by increasing product efficiency and effectiveness, use products that are durable and long-lasting, and reduce materials that are landfilled,
- purchase products and institute practices that conserve energy and water, use agricultural fibers and residues, reduce greenhouse gas emissions, use unbleached or chlorine free manufacturing processes, and use recycled wood and wood from sustainably harvested forests,

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

- purchase energy from renewable or green sources in preference to fossil fuels,
- purchase products that are free of mercury and lead and eliminate the use of other persistent bioaccumulative toxic chemicals where possible,
- increase the use and availability of environmentally preferable products, services and distribution systems that protect human health and the environment,
- support emerging and established manufacturers and vendors that reduce environmental and human health impacts in their services and production and distribution systems, and
- create a model for successfully purchasing environmentally preferable products and services that encourages other buyers and consumers in our community to adopt similar goals.

3.0 SPECIFICATIONS

3.1 Source Reduction

- 3.1.1 The City of Berkeley shall institute practices that reduce waste and result in the purchase of fewer products whenever practicable and cost-effective, but without reducing safety or workplace quality.
- 3.1.2 The City of Berkeley shall purchase remanufactured products (i.e. for equipment and vehicles) whenever practicable, but without reducing safety, quality or effectiveness.
- 3.1.3 The City of Berkeley shall require all equipment bought after the adoption of this policy to be specified and delivered so it is compatible with source reduction goals as referred to in this section (3.1), whenever practicable.
- 3.1.4 All buyers shall consider short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of total costs expected during the time a product is owned, including, but not limited to, acquisition, extended warranties, operation, supplies, maintenance, disposal costs and expected lifetime compared to other alternatives.
- 3.1.5 Products that are durable, long lasting, reusable, refillable, recyclable or otherwise create less waste shall be selected whenever possible.
- 3.1.6 The City of Berkeley requires vendors to minimize packaging to the greatest extent practicable.

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

- 3.1.7 Packaging that is reusable, recyclable or compostable shall be selected when suitable uses and programs exist. The City of Berkeley shall not purchase any polystyrene foam food packaging and 50% by volume of the food packaging purchased by the City shall be recyclable or degradable in accordance with the Berkeley Municipal Code Chapter 11.60.
- 3.1.8 Vendors shall be required whenever possible to take back and reuse pallets and packaging materials.
- 3.1.9 Suppliers of electronic equipment shall be required to take back equipment for reuse or environmentally safe recycling when the City of Berkeley discards or replaces such equipment, whenever possible.
- 3.1.10 Rechargeable and recyclable batteries shall be purchased and used whenever possible.
- 3.1.11 All documents shall be printed and copied on both sides to reduce the use and purchase of paper, whenever practical.

3.2 Toxics Reduction and Pollution Prevention

- 3.2.1 No product or service purchased by the City of Berkeley shall contain, emit, or create the following in its use, to the extent practicable:
- carcinogens and reproductive toxins,
 - persistent bioaccumulative toxicants, including lead, mercury, dioxins and furans for example,
 - compounds toxic to humans or aquatic life, corrosive to the skin or eyes, or that are skin sensitizers, and
 - substances that contribute to the production of photochemical smog, tropospheric ozone production, or poor indoor air quality.
- 3.2.2 All cleaning or disinfecting products (i.e. for janitorial or automotive use) shall at a minimum meet Green Seal Standards for environmental preferability and performance, whenever practical.
- 3.2.3 Purchasing products containing persistent, bioaccumulative and toxic chemicals (PBTs) shall be avoided, where alternatives exist. This includes following the guidance of Alameda County's ordinance to minimize/eliminate the use of products that contain or generate PBTs during manufacturing or reuse/disposal such as mercury, lead or dioxin.
- 3.2.4 The use of chlorofluorocarbon-containing refrigerants, solvents and other products known to contribute to the depletion of the ozone layer shall be phased out and new purchases shall not contain them. The City of

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

Berkeley shall not purchase any chlorofluorocarbon-processed food packaging in accordance with the Berkeley Municipal Code Chapter 11.58.

- 3.2.5 When maintaining buildings and landscapes, the City of Berkeley shall manage pest problems through prevention and physical, mechanical and biological controls and use least toxic chemical pesticide products only after safer approaches or products have been determined to be ineffective. The City of Berkeley shall adopt and implement an organic pest management policy and practices, or review and/or revise and further implement the City's Integrated Pest Management (IPM) policy and practices for indoor and outdoor areas using chemical controls only as a last resort and providing on-going education and training to City staff.
- 3.2.6 When maintaining buildings, the City of Berkeley shall use products with the lowest amount of volatile organic compounds (VOCs), highest recycled content, and low or no formaldehyde when purchasing materials such as paint, carpeting, flooring, adhesives, furniture and casework.
- 3.2.7 The City of Berkeley shall reduce or eliminate its use of products that contribute to the formation of dioxins and furans. Purchases shall be consistent with the City's resolution to eliminate anthropogenic sources of dioxin pollution. This includes, but is not limited to:
- Purchasing paper, paper products, and janitorial paper products that are unbleached or that are processed without chlorine or chlorine derivatives, whenever possible, and
 - Prohibiting purchase of products that contain or are packaged in polyvinyl chloride (PVC) such as, but not limited to, office binders, furniture, carpeting/flooring, other building materials and supplies, and medical supplies whenever practicable.
- 3.2.8 The City of Berkeley shall purchase products and equipment with no lead, cadmium or mercury whenever possible. For products that must contain lead or mercury because no suitable alternative exists, the City of Berkeley shall give preference to those products with the lowest quantities of these metals available and to vendors with established lead, cadmium and mercury recovery programs.
- 3.2.9 When replacing vehicles, the City of Berkeley shall lease or purchase only the most fuel-efficient models available that are suitable for each task and through carsharing and carpooling, shall minimize the number of vehicles purchased.
- 3.2.10 To the extent practicable, the City shall use renewably-derived fuels or fuels that are cleaner and less-polluting than gasoline and conventional

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

diesel fuel, including biodiesel, natural gas and electricity.

3.2.11 The purchase of all pentachlorophenol, arsenic and creosote treated wood by the City of Berkeley is prohibited.

3.2.12 The City shall avoid purchasing products containing brominated flame retardants (BFRs) wherever possible. In particular, the BFRs "penta" and "octa" will be targeted for phaseout.

3.3 Recycled Content Products

3.3.1 All products purchased for which the United States Environmental Protection Agency (U.S. EPA) has established minimum recycled content standard guidelines shall contain the highest postconsumer content practicable, but no less than the minimum recycled content standards established by the U.S. EPA Guidelines.

3.3.2 Copiers and printers purchased shall be compatible with the use of recycled content and remanufactured products.

3.3.3 In accordance with California Public Contract Code, Sec. 10409, the City of Berkeley shall purchase re-refined lubricating and industrial oil for use in its vehicles and other equipment, as long as it is consistent with the engine manufacturer's warranty and maintenance requirements.

3.3.4 When specifying asphalt concrete, aggregate base or portland cement concrete for road construction projects, the City of Berkeley shall use recycled, reusable or reground materials when practicable and consistent with accepted engineering practices.

3.3.5 The City of Berkeley shall specify and purchase recycled content transportation products, including signs, cones, parking stops, delineators, and barricades.

3.3.6 A 10% price preference may be given to recycled content products based on the lowest bid or price quoted by the suppliers offering the competing non-recycled content products.

3.3.7 Paper purchases shall be made consistent with the City's resolution stating the City's preference for recycled content and recyclable paper.

3.3.8 All pre-printed recycled content papers intended for distribution that are purchased or produced shall contain a statement that the paper has recycled content. Whenever feasible, the statement should indicate the percentage of postconsumer recycled content it contains.

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

3.4 Energy and Water Savings

- 3.4.1 New and replacement equipment for lighting, heating, ventilation, refrigeration and air conditioning systems, water consuming fixtures and process equipment and all such components shall meet or exceed Federal Energy Management Program (FEMP) recommended levels, whenever practicable.
- 3.4.2 All products purchased by the City of Berkeley and for which the U. S. EPA Energy Star certification is available shall meet Energy Star certification, when practicable. When Energy Star labels are not available, products shall meet or exceed the FEMP recommended levels.
- 3.4.3 When energy is purchased, renewable or green sources are preferred. These include solar power or photovoltaics, wind power, geothermal, and hydroelectric energy sources and do not include fossil fuels (coal, oil or natural gas).
- 3.4.4 Demand water heaters shall be purchased whenever practicable. Where renewable forms of energy are unavailable or not practicable, natural gas shall be used in lieu of electricity for space heating and water heating.
- 3.4.5 Energy Star and power-saving features for copiers, computers, monitors, printers and other office equipment shall be enabled during the initial installation and shall remain enabled unless these features conflict with the manufacturer's recommended operation and maintenance of the equipment.

3.5 Green Building - Construction and Renovations

- 3.5.1 All building and renovations of over 5,000 square feet undertaken by the City of Berkeley shall follow Green Building practices for design, construction, and operation, where applicable, as described in the LEED™ Rating System. All such buildings for which design and construction begins after January 1, 2006 shall meet LEED Silver™ standards. Purchases of products and services shall be made consistent with the City's Green Building Resolution.

3.6 Landscaping

- 3.6.1 All landscape renovations, construction and maintenance by the City of Berkeley, including workers and contractors providing landscaping services for the City of Berkeley, shall employ Bay-Friendly Landscaping or sustainable landscape management techniques for design, construction and maintenance whenever possible, including, but not limited to,

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

integrated pest management, grasscycling, drip irrigation, composting, and procurement and use of mulch and compost that give preference to those produced from regionally generated plant debris and/or food waste programs.

3.6.2 Plants should be selected to minimize waste by choosing species for purchase that are appropriate to the microclimate, species that can grow to their natural size in the space allotted them, and perennials rather than annuals for color. Native and drought-tolerant plants that require no or minimal watering once established are preferred.

3.6.3 Hardscapes and landscape structures constructed of recycled content materials are encouraged. The City of Berkeley shall limit the amount of impervious surfaces in the landscape, wherever practicable. Permeable substitutes, such as permeable asphalt or pavers, are encouraged for walkways, patios and driveways.

3.7 Forest Conservation

3.7.1 To the greatest extent practicable, the City of Berkeley shall not procure wood products such as lumber and paper that originate from forests harvested in an environmentally unsustainable manner. When possible, the City of Berkeley shall give preference to wood and wood products that are certified to be sustainably harvested by a comprehensive, performance-based certification system. The certification system shall include independent third-party audits, with standards equivalent to, or stricter than, those of the Forest Stewardship Council certification.

3.7.2 The City of Berkeley prohibits the purchase and use of virgin redwood for City projects and authorizes the use of previously used or certified sustainably-harvested redwood.

3.8 Agricultural Bio-Based Products

3.8.1 Vehicle and equipment fuels made from non-wood, plant-based contents such as vegetable oils are encouraged whenever practicable.

3.8.2 Paper, paper products and construction products made from non-wood, plant-based contents such as agricultural crops and residues are to be purchased and used whenever practicable.

4.0 PRIORITIES

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

- 4.1 The health and safety of people who live and work in Berkeley is of utmost importance and takes precedence over all other City policies. All policies and practices shall be protective of the health of children, the elderly and other vulnerable populations, and the greater global community.
- 4.2 The City of Berkeley has made significant investments in developing a successful recycling system and recognizes that recycled content products are essential to the continuing viability of that recycling system and for the foundation of an environmentally sound production system. Therefore, to the greatest extent practicable, recycled content shall be included in products that also meet other environmental specifications, such as chlorine free or bio-based.
- 4.3 Nothing contained in this policy shall be construed as requiring a department, buyer or contractor to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.
- 4.4 Nothing contained in this policy shall be construed as requiring the City of Berkeley, department, buyer or contractor to take any action that conflicts with local, state or federal requirements.

5.0 IMPLEMENTATION

- 5.1 The General Services Manager shall implement this policy in coordination with other appropriate City of Berkeley personnel.
- 5.2 Implementation of this policy will be phased based on available resources and City priorities.
- 5.3 The Office of Energy and Sustainable Development (ESD) shall advise the General Services Manager regarding environmentally preferable products that comply with this policy. Recommendations will include input of applicable environmental staff. Whenever possible, the City will use existing eco-labels and standards to make purchasing decisions.
- 5.4 Successful bidders shall certify in writing that the environmental attributes claimed in formal competitive bids are accurate. In compliance with State law, vendors shall be required to specify the minimum or actual percentage of recovered and postconsumer material in their products, even when such percentages are zero.
- 5.5 Buyers shall include businesses certified by the Bay Area Green Business Program in requests for products and services. Preference for local businesses shall be in accordance with the City's Local Business Preference Program to promote businesses in Berkeley that provide

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

environmentally preferable products and services.

- 5.6 Vendors, contractors and grantees shall comply with applicable sections of this policy for products and services provided to the City of Berkeley, where practicable. In particular, vendors, contractors and grantees providing written materials to the City shall do so on recycled content paper meeting minimum standards of the U.S. EPA Guidelines and labeled as such and vendors, contractors and grantees shall be prohibited from using pentachlorophenol, arsenic, and creosote treated wood.
- 5.7 If the buyer making the selection from competitive bids or the requesting department seek to purchase products that do not meet the environmentally preferable purchasing criteria in this Policy, the buyer or the department shall provide a written justification to the General Services Manager for why compliance is not practicable, e.g., the product is not technically practical, economically feasible, or available within the timeframe required. The General Services Manager shall be the authority to approve all contracts that do not require City Council authority or items covered under contracts executed prior to the effective date of this Policy.
- 5.8 If a vendor that is under contract to the City of Berkeley is no longer able to provide a product that meets the City's environmentally preferable specifications, it shall notify the General Services Manager and provide written justification for why compliance is not practical. Prior written consent from the General Services Manager, or authorized City representative, shall be required before substituting any alternative product to any City employee.
- 5.9 The Department of Information Technology shall be responsible for setting duplexing as the default on each workstation for all capable printers. This includes printing from network connected or stand-alone personal computer printers that are capable of duplexing.
- 5.10 Training of buyers and other relevant city staff, vendors, contractors and grantees shall include instruction on the requirements of this Environmentally Preferable Purchasing Policy.

6.0 PROGRAM EVALUATION

- 6.1 The General Services Manager shall evaluate the success of this Policy's implementation by providing a bi-annual report to the City Council. The report shall relate progress in meeting the goals and objectives of this Policy and note any barriers encountered, recommendations for resolution, and/or description of assistance needed to continuously improve staff's ability to meet this Policy's objectives for the procurement of environmentally preferable products and services.

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

7.0 DEFINITIONS

- 7.1 “Agricultural Bio-Based Products” means commercial or industrial products (other than food or feed) that utilize agricultural crops or residues but does not include products made from forestry materials.
- 7.2 “Bay Area Green Business Program” is a partnership of governments and businesses that certifies the environmental performance of government agencies and businesses.
- 7.3 “Bay-Friendly Landscaping” means working with the natural ecosystems of the San Francisco Bay Area to foster soil health, to reduce runoff and pollution, prevent and reuse plant waste, and conserve water and other natural resources. Bay-Friendly Landscaping practices are described in the *Bay-Friendly Landscape Guidelines*, by the Alameda County Waste Management Authority & Recycling Board.
- 7.4 “Buyer” means personnel authorized to purchase or contract for purchases on behalf of the City of Berkeley or its subdivisions.
- 7.5 “Chlorine free” means products manufactured or processed without chlorine or chlorine derivatives.
- 7.6 “Contractor” means any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor or other entity that has a contract with the City of Berkeley or serves in a subcontracting capacity with an entity having a contract with the City of Berkeley for the provision of goods or services.
- 7.7 “Dioxins and furans” are a group of chemical compounds that are classified as persistent, bioaccumulative, and toxic (PBT) by the Environmental Protection Agency.
- 7.8 “Energy Star” means the U.S. EPA’s energy efficiency product labeling program.
- 7.9 “Energy-Efficient Product” means a product that is in the upper 25% of energy efficiency for all similar products, or that is at least 10% more efficient than the minimum level that meets Federal standards.
- 7.10 “Federal Energy Management Program” (FEMP) is a program of the Department of Energy that issues a series of Product Energy Efficiency Recommendations that identify recommended efficiency levels for energy-using products.

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

- 7.11 The “Forest Stewardship Council” is a global organization that certifies responsible, on-the-ground forest management according to rigorous standards for sustainably harvested forests developed by a broad variety of stakeholder groups.
- 7.12 “Green Seal” is an independent, non-profit environmental labeling organization. Green Seal standards for products and services meet the U.S. EPA’s criteria for third-party certifiers. The Green Seal is a registered certification mark that may appear only on certified products.
- 7.13 “Integrated Pest Management (IPM)” is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Least toxic pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.
- 7.14 “LEED™ Rating System” means the Leadership in Energy & Environmental Design system developed by the U.S. Green Building Council designed for rating new and existing commercial, institutional, and high-rise residential buildings.
- 7.15 “Organic Pest Management” prohibits the use and application of toxic chemical pesticides and strives to prevent pest problems through the application of natural, organic horticultural and maintenance practices. All pest control products shall be in keeping with, but not limited to, those products on the approved list of California Certified Organic Foods (CCOF).
- 7.16 “Persistent Bioaccumulative Toxins” (PBTs) are chemicals and/or pollutants that remain in the environment for a long time (persist) without breaking down, accumulate in the environment and build up in the tissues of humans, fish, and animals (bioaccumulative), and are toxic (causing cancer and other health problems) to living organisms, including humans.
- 7.17 "Postconsumer Material" means a finished material which would normally be disposed of as a solid waste, having reached its intended end-use and completed its life cycle as a consumer item, and does not include manufacturing or converting wastes.
- 7.18 “Practical” and “Practicable” mean whenever possible and compatible with local, state and federal law, without reducing safety, quality, or effectiveness and where the product or service is available at a reasonable cost in a reasonable period of time. For energy and water

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

consuming devices, a reasonable cost shall mean that the product has a life-cycle cost that is reasonably similar to the life-cycle costs of other similar products.

- 7.19 “Preconsumer Material” means material or by-products generated after manufacture of a product is completed but before the product reaches the end-use consumer. Preconsumer material does not include mill and manufacturing trim, scrap, or broke which is generated at a manufacturing site and commonly reused on-site in the same or another manufacturing process.
- 7.20 “Recovered Material” means fragments of products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes preconsumer and postconsumer material but does not include excess resources of the manufacturing process.
- 7.21 “Recycled Content” means the percentage of recovered material, including preconsumer and postconsumer materials, in a product.
- 7.22 “Recycled Content Standard” means the minimum level of recovered material and/or postconsumer material necessary for products to qualify as “recycled products.”
- 7.23 “Recycled Product” means a product that meets the City of Berkeley recycled content policy objectives for postconsumer and recovered material.
- 7.24 “Remanufactured Product” means any product diverted from the supply of discarded materials by refurbishing and marketing said product without substantial change to its original form.
- 7.25 “Reused Product” means any product designed to be used many times for the same or other purposes without additional processing except for specific requirements such as cleaning, painting or minor repairs.
- 7.26 “Source Reduction” refers to products that result in a net reduction in the generation of waste compared to their previous or alternate version and includes durable, reusable and remanufactured products; products with no, or reduced, toxic constituents; and products marketed with no, or reduced, packaging.
- 7.27 “U.S. EPA Guidelines” means the Comprehensive Procurement Guidelines established by the U.S. Environmental Protection Agency for federal agency purchases as of May 2002 and any subsequent versions adopted.

ENVIRONMENTALLY PREFERABLE PURCHASING POLICY

8.0 EFFECTIVE DATES

8.1 This policy shall take effect on [November 17, 2004].

ATTACHMENT:

Matrix of Existing Environmental Purchasing-Related Ordinances and Resolution
The matrix will be revised pending City review.

1. Precautionary Principle, Resolution No. 62,259-N.S.
2. Polystyrene Foam Food Packaging BMC 11.60, Ordinance 5888
3. CFC-Processed Food Packaging, BMC 11.58, Ordinance 5867
4. Integrated Pest Management Policy, Resolution No. 54,319-N.S.
5. Eliminate Anthropogenic Sources of Dioxin Pollution, Resolution No. 60,196-N.S.
6. Preference for Purchasing Recycled and Recyclable Paper, Resolution 55,327
7. Policies and Practices Requiring the Use of the US Green Building Council's LEED™ Green Building Rating System Standards for City Owned and Operated Projects, Resolution No. 62,284-N.S.
8. Local Business Preference Program for Purchases of Supplies and Non-Professional Services, Resolution No. 51,813-N.S.

G:\housing\council items\10 19 04 Atch.I EPP policy081604ks