

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: February XX, 2020
TO: The Honorable Nury Martinez Chair
The Honorable Paul Koretz, Vice-Chair
The Honorable Paul Krekorian, Member
The Honorable Gilbert Cedillo, Member
The Honorable Mitch O'Farrell, Member
Energy, Climate Change and Environmental Justice Committee

FROM: Enrique C. Zaldivar, Director and General Manager
LA Sanitation and the Environment

**SUBJECT: RESPONSE TO COUNCIL MOTION 19-0518: ENVIRONMENTALLY
PREFERABLE PURCHASING (EPP) PROGRAM / POLICY REVIEW**

Recommendations for Council action:

In response to the Los Angeles City Council Motion 19-0518 (CF 19-0518/Motion), The City of Los Angeles, Bureau of Sanitation (LASAN) is hereby recommending the Los Angeles City Council to:

1. Adopt the EPP Program Report in Appendix X, which is an analysis of the City's EPP Program as implemented under Ordinance No. 180751, and include the 17-18 Fiscal Year EPP report;
2. Request the City Attorney prepare an ordinance amending the current EPP Ordinance consistent with whatever other recommendations come out of the committee.
3. Direct LASAN to confer with the City Attorney, within thirty days, regarding any changes to the City's Charter, Rules and Codes that are necessary to implement a product/commodity evaluation system that weighs EPP attributes and assigns them value;
4. Direct the General Services Department's Supply Services Division, within sixty days of adoption of the EPP Ordinance, to cooperate with LASAN regarding integration of the EPP Officer's EPP, waste prevention and product specification development, review and approval duties and process into Supply Services' bidding and contracting processes;
5. Direct LASAN to work with the City's Chief Procurement Officer, the controller's office, and all major departments that execute service contracts, to discuss integration of extended producer responsibility clauses in service contracts, and report back on their progress every six months until a formal EPR mechanism is incorporated into all service contracts, whether through contract clauses, the City Attorney and/or contract administration reviews, etc.;
6. to report back to City Council within six months of adoption of the EPP Ordinance, regarding progress on items 2 and 3;

7. Direct LASAN to execute a contract for on-call EPP/EPR consulting services within six months of adoption of the Ordinance, in an amount not to exceed \$150,000;
8. Direct LASAN continue to educate City employees, vendors and residents about EPP/EPR.

TRANSMITTALS

FISCAL IMPACT

None.

SPECIFICS OF MOTION 19-0518: ENVIRONMENTALLY PREFERABLE PURCHASING (EPP) PROGRAM / POLICY REVIEW

I therefore move that the Los Angeles Bureau of Sanitation and the Environment (LASAN), with assistance from the General Services Department (GSD), the Chief Procurement Officer (CPO), the City Attorney's office and the Chief Legislative Analyst (CLA), review the current EPP ordinance and report back within 60 days with recommendations to strengthen the policy, including but not limited to evaluation of the following options: *Establishing a baseline of minimum purchased EPP products procured by each City Department to 20% by 2020, 50% by 2028, 75% by 2035 and 100% by 2050. * Reimplementing an unambiguous mandate to ensure that City Departments procure an EPP version of the product as long as it is deemed readily available, meets necessary performance standards, and remains within an acceptable price range. *Ensuring existing City facility bans such as the 2008 EPS food service product ban are enforced through procurement. *Incorporating multiple environmental attributes as part of the scoring criteria for goods procurement, considering the implementation of a greenhouse gas performance standard, such as in the Buy Clean California Act, as one of the environmental attributes. * Incorporating EPP as a bidding criteria into Citywide service contracts that include applicable EPP products. *Incorporating Extended Producer Responsibility (EPR) as a bidding criteria into all Citywide service contracts, including criteria such as product packaging minimization, take-back programs for difficult-to-manage or recycle products such as mattresses and carpeting, or hazardous materials such as light bulbs and motor oil. *Establishing an independent internal review process for both service contracts and procurement bids prior to their release to ensure they include both EPP and EPR elements, including instances of product substitution. *Ensuring the ordinance provides a mechanism for automatic updates as new EPP applicable products, specifications, attributes and certifications become available.

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BUREAU OF SANITATION
BOARD REPORT NO. XX
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CD: ALL

SUBJECT: ANALYSIS OF ENVIRONMENTALLY PREFERABLE PRODUCTS ORDINANCE
AND PURCHASING PROGRAM AND ANNUAL REPORT, FY 14-15 AND FY 15-16

DISCUSSION

Background

The City' "Recycled Products Purchasing Program" was established through Ordinance 168313 in 1992 and amended by Ordinance 170485 in 1995. The latter was adopted to add a clear "default" mandate for the purchase of recycled-content products in fourteen commodity/product categories. That was followed by Ordinance 180751 in 2009, which expanded from "buy recycled" to the broader category of "environmentally preferable purchasing (EPP)". This Ordinance references 18 commodity/product categories.

Annual Review

This document is intended to meet the requirements of "Sec. 10.32.11, Annual Review" of the Ordinance.

EPP Reporting History

Sanitation was informally assigned responsibility for the EPP program and reporting in 2008, and has submitted an annual EPP report to the City Council on a "receive and file" basis since then. Previously-submitted reports provided a summary of information received from individual City departments and a few selected vendors. The reports were limited in scope because the City's financial and materials management systems (FMS/SMS) in use during those years were not able to generate more comprehensive reports. The most significant shortcoming of those reports was that City departments were allowed to determine *which* products to include in their reports, with office products being the most common, rather than reporting on all products listed in the Ordinance (even if only to report "not applicable"). And information about products used by all departments, such as copy paper, janitorial supplies and office supplies, etc., could be obtained directly from the vendors, so the Departmental reports were duplicative in that regard.

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Annual Environmentally Preferable Purchasing (EPP) Report

Attachment 2

Department/Bureau: LA Sanitation (LA SAN)

Preparer: Fay

Fiscal Year: 2013-14

1. Please list the Department's total dollar amount spent on EPP products, in addition to the total amount spent for the same vendor and product category.

Vendor	Product Category	EPP Purchase Amount (\$)	Total Purchase Amount (\$)	% EPP
Office Depot	Office Supplies - General	\$41,335.81	\$157,869.42	26%
Liberty Paper	Office Supplies - Paper	\$25,870.56	\$25,870.56	100%
Rasix Computer Center Inc.	Office Supplies - toner	\$16,636.39	\$19,067.20	87%
Unisource	Custodial Supplies	\$6,529.69	\$17,243.07	38%
DD Office Products	Paper Supply/Copier	\$6,507.81	\$6,507.81	100%
Rayvern Lighting Supply Inc	Electrical	\$2,409.57	\$2,409.57	100%
WW Grainger	Tools, Parts	\$2,601.44	\$117,381.98	2%
Printing Technology Inc	Office Supplies - toner	\$3,062.78	\$3,062.78	100%
(DCT) Uline	Gift Store - bags	\$226.00	\$292.63	77%
(DCT) Buddha Board	Gift Store - resale item	\$225.00	\$225.00	100%
(LAG) Ponton	Field parts	\$160.16	\$12,418.50	1%
(LAG) Royal Wholesale	Field parts	\$15,271.59	\$18,885.98	81%
(WESD) Authentic Promotions	Promotional Items	\$2,256.30	\$4,727.88	48%
(SRCRD) CHESTER GREEN LLC	Reusable Bags	\$26,487.00	\$26,487.00	100%
(SRCRD) Bagspeak inc	Reusable Bags	\$970.10	\$970.10	100%

Annual Environmentally Preferable Purchasing (EPP) Report

Attachment 2

Department/Bureau: Zoo Department

Preparer:

Fiscal Year: 2013-14

1. Please list the Department's total dollar amount spent on EPP products, in addition to the total amount spent for the same vendor and product category.

Vendor	Product Category	EPP Purchase Amount (\$)	Total Purchase Amount (\$)	% EPP
Abaxis	Diagnostic Equipment and Supplies	\$2,202.08	\$2,600.37	85%
Associated of Los Angeles	Construction Supplies - General	\$129.22	\$129.22	100%
Avid Identification Systems	Identification Equipment and Supplies	\$613.13	\$852.67	72%
Battery Specialties	Batteries	\$45.45	\$45.45	100%
BCP Veterinary Pharmacy	Pharmaceuticals	\$3,528.00	\$3,668.84	96%

AB 939 Report

GSD's Supply Services issues an annual (calendar year) report, compiled manually to the best of this author's knowledge, that tallies expenditures for recycled-content products (the previous FMS/SMS system cannot extract this information). This report is in turn submitted by LA Sanitation to CalRecycle (California Department of Resources Recycling and Recovery), per requirements of AB 939.

Note: Sanitation worked with the General Services Department to insert EPP reporting functions into the FMS/SMS system that "went live" in 2017, but an EPP report has not yet been generated by that system, so the efficacy is unknown (and very dependent upon product information input by end user

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departments). For this reason, Sanitation requested FY 14-15 and 15-16 EPP reports from dozens of vendors that had not been asked to report previously.

Applicable Products and Commodities

Ordinance 180751 lists fourteen products/commodities that were first included in Ordinance 168313 and an additional four that were added under its auspices. However, as noted in Sec. 10.32.4. (a):Applicable Products (Ordinance 180751): "This Article specifically applies, but is not limited to (emphasis added), the purchase of the following products:"

	Product/Commodity
1	Paper, which include, but are not limited to, fine grades of paper, corrugated boxes, newsprint, tissue, toweling
2	Compost and co-compost products
3	Glass
4	Lubricating oil
5	Plastic
6	Solvents and paint, including water-based paint
7	Tires
8	Building insulation
9	Concrete and cement (containing fly ash)
10	Automobile parts
11	Rubber
12	Asphalt
13	Batteries
14	Aggregate rock
	Products/Commodities Added Under Ordinance 180751
	Product/Commodity
15	Remanufactured, recyclable or recycled toner cartridges
16	Antifreeze/coolant
17	Processed and crushed miscellaneous base materials
18	Movable/portable walls

The usefulness of the above list is limited because some items are commodities (rubber, plastic, glass), but specific PRODUCTS are not listed for these, such as dock bumpsters (rubber), parking stops (plastic) and windows and awards (glass).

Environmentally Preferable Attributes

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The following is a list of environmentally-preferable product attributes discussed in the Ordinance, many of which are applicable to products and materials *not* listed in the Ordinance. For example, “low mercury” and “energy-efficient” are applicable to LED lighting and appliances/electronics (lighting and electronics are not specifically addressed in the ordinance), while “bio-based” and “low toxicity” primarily pertain to cleaning products (also not addressed). Sanitation generated the following abbreviations to facilitate and standardize future reporting.

Note: Attributes with asterisks are a) not currently considered to be environmentally beneficial, or b) do not conform with state definitions issued after the Ordinance’s adoption, c) are often misinterpreted and/or used for “green-washing,” or d) are vague. “Biodegradable” is one example of greenwashing.

Attribute	Abbreviation*	Definition / Example
Bio-based (BIOB)*	BIOB	A product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials (including plant, animal and marine materials) or forestry materials.
Biodegradable (BIOD)*	BIOD	Materials that can decompose, usually by bacteria or sunlight, into basic components. Most organic materials (paper, grass clippings, food scraps), under the right conditions, are biodegradable.
Carcinogen-free (NCARC)	NCARC	A carcinogen is a substance or agent that can cause cancer.
Chlorofluorocarbon-free	CHLOR-free	Chlorofluorocarbon (CFC) is a fluorocarbon with chlorine; formerly used as a refrigerant and as a propellant in aerosol cans; the chlorine in CFCs causes depletion of atmospheric ozone.
Compostable	COMP	Products that are comprised of cellulose containing materials that can be broken down into compost when subjected to biological degradation. Examples include compostable tableware and flatware, brush, leaves, tree trimmings.
Durable (versus one-time use/ disposable items)	DUR	Goods that can be used more than once and withstand long use, wear, and decay.
Easily recycled	EREC	Whether the product is recyclable and therefore can be kept out of a landfill.

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Energy efficient	EEFF	A product in the upper 25 percent of efficiency for all similar products, or products labeled "Energy Star" or designated as such by the United States Department of Energy's Federal Energy Management Program (FEMP).
Heavy-metal free	NHMET	Metallic elements with high atomic weights, e.g. mercury, chromium, cadmium, arsenic, and lead, which can negatively affect people's health at low concentrations and tend to accumulate in the food chain.
Attribute	Abbreviation	Definition / Example
Less hazardous*	LHAZ	An environmentally-friendlier safer, alternative to hazardous solvents or materials based on the following indicators: global warming potential, ozone-depletion potential, volatile organic content, flammability/reactivity and toxicity/ carcinogenicity.
Fly ash cement	FC	The component of coal that results from the combustion of coal, and is the finely divided mineral residue which is typically collected from boiler stack gases by electrostatic precipitator or mechanical collection devices.
Low toxicity	LTOX	A decrease in the amount of toxic chemicals used in making a product. Example: water-based paint instead of lead paint, an alcohol-based thermometer instead of mercury-based thermometer.
Low volatile organic compounds*	LVOC	Products with a low amount of organic compounds. Example: paint, aerosol sprays, solvents.
Mercury-free	NMERC	Mercury is a heavy metal that can negatively affect people's health at low concentrations and tend to accumulate in the food chain.
Minimized virgin material use	MinMat	A mined or harvested raw material to be used in manufacturing. Products should minimize the usage of virgin materials in their production.
PBT (bio-accumulative toxics)-free	PBTF	A toxic chemical that is stable and builds up in the environment for a long period of time, particularly in food chains, is not readily destroyed, and builds up or accumulates in body tissue. Relatively small releases of PBT chemicals can pose human and environmental health

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		threats.
Rapidly renewable materials (made of)*	RRMAT	Materials made from plants that are typically harvested within a ten-year cycle.
Recyclable	RCYB	A material that still has useful physical or chemical properties after serving its original purpose and can, therefore, be reused, reconditioned or remanufactured into additional products.
Recycled content	RC	That portion of a material by mass that originates in either pre- or post- consumer waste streams. It includes products and packages that contain reused, reconditioned or remanufactured materials as well as recycled raw material.
Attribute	Abbreviation	Definition / Example
Reduced packaging (minimized)	RePACK	Examples include motor oil sold in 55-gallon drums versus 1-gallon bottles, and concentrated cleaners to which the end user adds water (so the package doesn't contain water).
Reduces greenhouse gases (GHGs)	RGHG	Naturally occurring/human-made compounds that absorb thermal radiation from the sun, heat the atmosphere and further warming the Earth's surface (the greenhouse effect). Note: GHGs are generated during the manufacture, transportation and use of a product.
Refurbished	ReFURB	The process of restoring a product by cleaning, repairing, recovering, and reusing the item for its original intended use.
Re-refined motor oil	ROIL	Re-refined oil is oil from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Various additives are mixed into the re-refined oil, which, per the American Petroleum Institute (API), is therefore usually of very high quality - even higher than virgin oil.
Re-usable	ReUSB	To use repeatedly in the same form (glass bottle, cloth diapers).
Safer disposal	SDISP	A product that can be more safely disposed at the end of its life cycle when compared to similar products.
Upgradeable or scaleable	UPGRB	The ability to improve or replace products for increased usefulness (add-on components; upgrades)
Water efficient	WATEF	Products whose production has become increasingly water-use efficient as demonstrated by data collected over a period of time, including those meeting EPA's "WaterSense" standards; products that consume less water

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		during use compared to similar products. Note: Water-efficiency can also pertain to the product's use, not just its manufacture.
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New EPP Reporting Requirements for Fiscal Year 14-15

The structure and scope of the City's annual EPP report was significantly revised by LASAN for FY14-15 to:

- Facilitate comparison of City's product specifications to those of the US EPA Comprehensive Procurement Guideline (CPG) for recycled-content; the US EPA's Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing, the State of California (its State Agency Buy Recycled Campaign – SABRC), and other similar entities, for recycled content and other EPP attributes;
- Facilitate development of a City EPP specifications library;
- Help establish an EPP baseline and track the City's EPP progress.
- Capture data for all 18 categories.

For the first time, the majority of the City's vendors and all City departments, including the proprietaries, were required to provide the following basic information about all 18 products and commodities listed in the Ordinance (180751):

- Amount of total and post-consumer recycled-content;
- Third-party product certifications, if any (such as Green Seal, Energy Star, Forest Stewardship Council);
- Specifications (portions of) pertaining to EPP attributes, such as unbleached paper towels, VOC-free cleaning products or paints; and
- Waste reduction/prevention specifications, such as reduced, reusable or returnable packaging

All City departments were also required to report on any of the 18 products that were used/consumed under the auspices of service contracts they executed (or their service vendors could submit the reports). One example would be a report pertaining to a construction contract for paving parking lots with asphalt, since asphalt is listed in the Ordinance. Departments were not asked to report on products obtained through annual contracts executed by the Supply Services Division of GSD, such as copy paper and cleaning products.

All departments were also required to report on their usage/testing of new EPP products, if any, and waste prevention measures they implemented.

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Non-EPP Rationale Required

The most significant change from previous reporting is the requirement that City departments that develop specifications and/or execute their own contracts, are now required to provide a rationale as to why they did not specify EPP-versions of products listed in the Ordinance. Rerefined motor oil is illustrative: the GSD-executed contract for vehicle oils includes rerefined oil and other recycled products such as anti-freeze. This oil is used in the GSD and LA Sanitation fleets, including heavy-duty vehicles. The proprietary departments apparently do not utilize rerefined oil and have not provided a rationale for doing so. Thirty-year old myths about rerefined oil damaging engines and invalidating warranties still endure.

Product Purchases Made Through Service Contracts

Many of the City's contracted service providers purchase/use/consume/utilize significant amounts of products that are listed in the Ordinance, such as construction companies that use concrete and asphalt, and firms that print paper ballots and parking tickets. As these services are provided through City issued contracts, the contracts *should* abide by the requirements of the EPP Program, per the Ordinance:

Sec. 10.32.9. Contractors.

"When not otherwise provided for in contract specification, persons contracting with the City for the **provision of services** (emphasis added), shall be permitted and encouraged by the terms and conditions of their contract with the City **to utilize, to the maximum extent feasible and consistent with performance standards, materials, supplies, and equipment containing Recycled Materials or other Environmentally Preferable Products** (emphasis added). This requirement shall not apply to contracts which are funded in whole or in part by a grant or with grant or loan funds. This requirement shall apply to those contractors providing materials, supplies, and finished products to the City but not to those using materials incidental to their contractual obligations."

The SMS/FMS system launched in 2017 does not capture EPP data from service contracts. LA Sanitation requested this capability, but the request was denied.

Departments submitting EPP Reports					
Name	Division	14-15	15-16	16-17	17-18
Aging		Yes	No	Yes	No
Airports, Los Angeles World		Yes	Yes	Yes	Yes
Animal Services		No	Yes	No	No
Building and Safety		Yes	Yes	No	No

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Chief Legislative Analyst		No	No	No	No
City Administrative Officer		No	No	No	No
City Attorney		No	Yes	No	No
City Clerk		Yes	Yes	Yes	No
City Controller		No	No	No	Yes
Convention & Tourism Development		Yes	Yes	Yes	Yes
Name	Division	14-15	15-16	16-17	17-18
Cultural Affairs Department		Yes	Yes	No	No
Disability, Department on		No	No	Yes	No
Emergency Management Department		No	Yes	Yes	No
Ethics Commission, City		Yes	Yes	Yes	No
Finance, Office of		No	Yes	Yes	No
Fire Department, Los Angeles City		No	Yes	No	No
Fire and Police Pensions, Department of		No	Yes	Yes	No
General Services, Department of		Yes	Yes	Yes	Yes
Harbor Department		Yes	Yes	Yes	Yes
Housing + Community Investment Department, Los Angeles		Yes	Yes	Yes	No
Information Technology Agency		Yes	Yes	Yes	Yes
Library Department		No	No	No	No
LA City Employees' Retirement System (LACERS)		Yes	Yes	No	No
Mayor, City of Los Angeles		No	Yes	No	No
Neighborhood Empowerment, Department of		No	No	No	Yes
Personnel Department		No	Yes	Yes	Yes
Planning Department, City		No	Yes	No	Yes
Police Department, Los Angeles		No	No	Yes	No
Public Works, Contract Administration		Yes	No	Yes	No
Public Works, Engineering		No	Yes	Yes	Yes
Public Works, Sanitation	Terminal Island Water Reclamation Plant	Yes	Yes	No	Yes
	DC Tillman and LA/ Glendale Water Reclamation Plants	Yes	No	No	No
	Hyperion Water Reclamation	Yes	Yes	Yes	Yes

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	Plant				
	WCSD	Yes	No	Yes	No
	WESD	No	Yes	No	No
	ICSD	No	Yes	No	No
Public Works, Sanitation	Regulatory Affairs	Yes	No	No	No
Name	Division	14-15	15-16	16-17	17-18
	IWMD	No	No	No	No
	SRPCD	No	No	No	No
	SRCRD	No	Yes	No	No
	SRSSD	No	No	No	No
	FMD	No	No	No	No
	Administration	No	Yes	No	No
	Environmental Management Division	Yes	Yes	Yes	Yes
	Executive Division	No	No	No	No
	ISCD	Yes	No	Yes	No
Public Works, Street Services		Yes	Yes	Yes	Yes
Public Works, Street Lighting		Yes	Yes	Yes	Yes
Recreation & Parks, Department of		Yes	No	No	No
Transportation, Department of		No	No	No	No
Water and Power, Department of		Yes	Yes	Yes	Yes
Zoo, Los Angeles		Yes	Yes	Yes	Yes

Summary Analysis of the City's EPP Program: It is "Happenstance"

After revamping the scope for the annual EPP reports and conducting more detailed research into some products (see the following discussion of copy paper), Sanitation determined that EPP purchases and activities are often more happenstance than deliberate, and that the most fundamental element– the systematic review and/or revision of product specifications to increase EPP purchases– is not taking place.

The Importance of Specifications: Copy Paper "Equivalent to" Bid Example

For the most part, the City awards contracts to the lowest qualified bidder. In 2012, the City issued a bid for copy paper "equivalent to" Domtar's Husky brand in the standard array of sizes/colors, using a spreadsheet similar to this:

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Item Description (equivalent to Domtar's Husky brand)	30% Recycle Content Yes / No	Upcharge for 50% Recycle Content	Upcharge for 100% Recycle Content	Estimated Yearly Usage (Cartons)
Recycled Copy Paper, letter, 20# Inside/Desktop Delivery	Yes	30%	60%	28,390
Recycled Copy Paper, letter, 20# Dock Delivery	Yes	30%	60%	14,195
Recycled Copy Paper, letter, 20# Truckload Delivery	Yes	30%	60%	4,732

However, the City's bid did not reference or list the following Husky-brand's EPP attributes (found on the manufacturer's -Domtar's) website, nor did it note that Husky is manufactured in the US and Canada:

- *SFI® Certified Sourcing*
- *Elemental chlorine-free (ECF)*
- Acid-free
- 92 brightness
- Good opacity

Copy Paper Contract Awarded for Indonesian Paper Without the Husky-Brand Attributes

The copy paper contract was awarded to Liberty Paper, which was classified as a "local business" because it is headquartered in Los Angeles, even though it is a wholesaler/distributor, and none of the copy paper it supplied to the City was locally or even domestically manufactured. (See the "Local Business" discussion below.) For the next several years, Liberty supplied Indonesian-made paper exclusively. The paper had no third-party certifications, and its labels/cartons did not describe the bleaching processes, or whether the paper was acid-free, as the Husky-brand paper is. In short, the contract was awarded for a product may not have complied with the City's own "equivalent" specifications.

In late 2014, Sanitation began researching the City's copy paper (Exceedo brand) because the country of manufacture wasn't listed on the ream wrappers or cartons. It was determined that Exceedo is manufactured at the Tjiwi Kimia mill in Mojokerto, Indonesia (8,700 miles from Los Angeles), which is owned by Asia Pulp and Paper (APP).

Comparison with State's Copy Paper Bid

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Below is a chart comparing the City's copy paper bid to the County's and State's. The product attributes shaded in green were *specified* in the respective bids.

Entity	Brand Received	Source / Miles Shipped	Specifications			Price (compared to City's)
			Recycled content	Brightness*	Specifications	
State of CA	Georgia Pacific (GP)	US; maximum miles from FL or NH mill is 2,166	30%	90	<ul style="list-style-type: none"> Requires one of these sustainability certs: FSC Chain of Custody; SFI Chain of Custody; or SABRC. The paper manufacturing process shall not use chlorine or any chlorine compounds.** 	Higher
Los Angeles County	Husky	US or Canada; maximum 2,664 miles	30%	92	SFI® Certified Sourcing; elemental chlorine-free (ECF); acid-free.	Lower
City	Exceedo	Indonesia: 8,700 miles	30%		Equivalent to Husky brand	

*Brightness is an aesthetic choice unrelated to paper performance; higher numbers indicate a brighter paper (greater contrast). Because much copy paper is typically used for internal purposes, a lower level is acceptable, usually less expensive, and is easier on readers' eyes.

**The State specified paper made without chlorine or chlorine compounds because of the environmental and human health impacts associated with those chemicals.

Indonesian Copy Paper: Risk to City's Reputation (Green Peace Protests)

The purchase of Indonesian-sourced paper represented a significant risk to the City's reputation.

As recently as 2011, per the Los Angeles Times, Green Peace protested at Mattel's El Segundo headquarters because Barbie packaging contained some material manufactured by APP, allegedly derived from Indonesian rain forests. Asia Pulp & Paper has been accused of illegal logging, displacing indigenous populations and encroaching on endangered species habitats in Indonesia. A Green Peace report identified other businesses that were using APP-sourced products, including Kimberly Clark,

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McDonald's, Nestle, Unilever, Burger King, Hasbro, LEGO, Disney, Dunkin Donuts, KFC, Walmart, and Hewlett Packard.

In 2011, Office Depot, Wal-Mart and Staples ceased purchasing APP products throughout their supply chains due to APP's continued poor environmental practices (and, it can be assumed, the potential harm to their brands).

US Trade/Environmental/Labor Protests Against APP

In January 2015, the U.S. Department of Commerce began investigating accusations from unions (the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union [USW] (PA); and paper companies [Domtar Corporation SC]; Finch Paper LLC (Y; Packaging Corporation of America IL; and P.H. Glatfelter Company PA) that Indonesia, China, Australia, Brazil and Portugal were "dumping" uncoated paper, including copy paper, into the US market. The Steelworkers President said that since 2011, eight US mills manufacturing that type of paper had closed as a result of unfair trade practices.

International Protests Against APP

The Environmental Paper Network International (EPNI), a global collaboration of 145 non-governmental organizations (NGOs) from 6 continents, has lobbied against paper products associated with loss of biodiversity or forests and exploitation of indigenous populations, and specifically lobbied the European paper industry, banks and European Export Credit Agencies to halt purchases of APP paper products.

Liberty Paper Next Supplied the City With Australian, German and More Indonesian Paper

Liberty stopped supplying the Exceedo-brand paper in late 2015, in anticipation (per Liberty) of US trade sanctions against Indonesia, and then began supplying different brands of Australian-made paper, followed by a German brand and then another Indonesian-made paper. The Australian and German papers were labeled as 30% post-consumer content and both were third-party certified, but the Indonesian paper's wrapper and carton provided no information about recycled content. These papers were shipped between 5,777 to 8,000 miles, so the associated transportation greenhouse gas (GHG) emissions conflict with the Ordinance:

Sec. 10.32.2. Policy and Practices.

It is the policy of the City of Los Angeles to:

- (a) Specify and purchase environmentally preferable products and services where criteria have been established by governmental or other widely recognized and respected third-party authorities....

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The following environmental attributes should be considered in making a determination of whether a product is environmentally preferable:

22. Whether the product reduces greenhouse gas emissions:

Approval to Substitute Brands (or County of Origin) Not Required in City's Contract

The City's copy paper bid and resulting contract did not require the vendor to advise the City of, or obtain prior approval for, changes in paper brands, even if the country of origin also changed. This practice is not advisable for several reasons.

Recommendation: It would be advisable to have a City Attorney determine whether City bids and contracts a) may request information about products' countries of origin; b) ban purchases from some countries (and on what basis); and c) require domestic manufacture or domestically-sourced materials. Vitally important is this consideration: c) whether it would be legal and advisable for the City reserve the right to approve or disapprove "equivalent" product substitutions, that are proposed by a vendor during the course of a contract, based upon the proposed substitute *brand* and/or a product's *country of origin*.

A more detailed discussion of this follows in the Specifications and the "Or Equal" Clause" Issue: LAVA Example section.

Local Business Preference – Ordinance 181910

Sec. 10.47. Findings and Purpose.

Pursuant to City Charter Section 371, the City Council hereby adopts a Local Business Preference Program and makes the following findings. The City has a proprietary interest in leveraging, to the greatest extent possible, the millions of dollars it spends yearly contracting with private firms for **goods, equipment and services** to and for the benefit of the City and its residents (emphasis added).

Although Section 10.47 above references "goods, equipment and services," the Ordinance does not set forth any requirements for such (such as product feedstock sourcing or manufacturing location) for the entity that is identified as a local business. The Ordinance instead focuses on the number of employees:

Sec. 10.47.2. Qualified Local Business.

A Local Business for purposes of this Article must satisfy all of the following criteria, as certified by the DAA.

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- A. The business occupies work space within the County. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the County.
- B. The business must submit proof to the City demonstrating that the business is in compliance with all applicable laws relating to licensing and is not delinquent on any Los Angeles City or Los Angeles County taxes.
- C. The business must submit proof to the City demonstrating one of the following:
 - (1) The business must demonstrate that at least 50 of full-time employees of the business perform work within the boundaries of the County at least 60 percent of their total, regular hours worked on an annual basis, or;
 - (2) The business must demonstrate that at least half of the fulltime employees of the business work within the boundaries of the County at minimum of 60 percent of their total, regular hours worked on an annual basis; or
 - (3) The business must demonstrate that it is headquartered in the County. For purposes of this Article, the term "headquartered" shall mean that the business physically conducts and manages all of its operations from a location in the County.

Ironically, there are "goods, equipment and services" stipulations for subcontractors of the local businesses, but suppliers/dealers are put on equal footing with assemblers and manufacturers:

Subcontractors
Sec. 10.47.8. Additional Requirements.

The preferences authorized under this Article shall be subject to the following additional requirements:

(1) The preferences awarded for services shall be applied only if the services are provided directly by the Local Business or Local Subcontractor using employees whose exclusive, primary working location is in Los Angeles County;

(2) The preferences awarded for equipment, goods or materials shall be applied only if the Local Business or the Local Subcontractor substantially acts as the supplier or Dealer (emphasis added), or substantially designs, manufactures or assembles the equipment, goods or materials, at a business location in Los Angeles County. As used in this Section, "substantially" means not less than two thirds of the work performed

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under the Contract must be performed, respectively, by the Local Business or Local Subcontractor;..”

Magnitude of the Local Business Preference

Sec. 10.47.4. Local Business Preference.

Awarding Authorities shall grant an eight percent Local Business Preference to Local Businesses for Contracts involving consideration in excess of \$150,000.00.

Sec. 10.47.5. Application of the Preference to Bids And Proposals.

The Local Business Preference shall be applied to Bids and Proposals in the Following Manner: When applying the Local Business Preference to a Bid, the Awarding Authority shall apply the preference to the Bid price solely for Bid evaluation purposes such that the total price bid by a Local Business shall be reduced by eight percent of the amount bid by that Local Business, and the reduced Bid amount shall be deemed the amount bid by that bidder. The Contract price shall in all events be the amount Bid by the successful bidder awarded the Contract.

The City’s 2012 contract with Liberty Paper was capped at \$12,000,000. Assuming that was the value (amount) of the City’s original bid, the 8 percent preference would have reduced Liberty’s bid by \$960,000, to \$11,040,000. A report summarizing all contracts awarded to vendors receiving the local business preference was requested by LASAN but not provided by Supply Services. This request was repeated in late 2019 with the same results.

Comparison: Local Jobs

Liberty Paper, a wholesaler/distributor that is headquartered in Los Angeles, has 15 employees (per govtribe.com).

Office Depot/Office Max distributes only copy paper that is manufactured in North America and has 115 employees in its 11 stores in Los Angeles. Because it is headquartered in Florida, it is ineligible for the Local Business Preference.

Local jobs are of course important, but should *wholesalers/distributors* be given the same preference as *assemblers* or *manufacturers*? Should the location of company headquarters rather than the number of local employees be deemed more important? Should the source of product feedstock be considered,

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especially for recycled-content products? The City may wish to further refine the local business preference as it pertains to goods and equipment.

City Switches to Domestic Paper

In late 2016, after “lobbying” by LA Sanitation and with the support of City Council District 5, Supply Services did not exercise its remaining one-year renewal option with Liberty Paper and instead opted to piggyback onto Los Angeles County’s contract with Spicers Paper, a provider of domestic copy paper. Supply Services reported that the County’s price was lower than what the City was paying to Liberty Paper:

Copy Paper: Letter size, white, 30% post-consumer recycled content, 92 brightness, 20 lb./Price/Carton		
	2012	2016
City (Liberty)	\$29.10	\$30.16 (proposed increase)
City/County (Spicers)		\$29.43 (City’s contract base price)

Better Collaboration With Proprietary Departments is Needed

Although LADWP and LAWA were piggybacking onto the City’s copy paper contract with Liberty Paper, both report they were not advised by Supply Services that the final renewal option with Liberty would not be exercised, nor that the City would be joining Los Angeles County’s contract.

Note: The Harbor Department always includes a “survivability” clause when piggybacking, so it can continue to use that contract even if the contract “holder” - the City, in this case- cancels the contract or does not exercise a contract extension option.

Specifications and the “Or Equal” Clause” Issue: LAWA Example

As discussed above, the City issued a bid for copy paper “equivalent to” Domtar’s Husky brand, but the bid did not actually list the following brand attributes (92 brightness; SFI® Certified Sourcing; elemental chlorine-free (ECF); acid-free). Along the same lines, LAWA reports that its “or equal” bid language has resulted in purchases of products that were not the top choice based on environmental attributes.

Per a former LAWA employee, several years ago LAWA issued a bid for paper towels and required (specified) a sustainability certification. The low bidder did not cite any certification, so the bid was rejected. The rejected bidder then immediately resubmitted the same bid, but this time with a sustainability certification that could not be found through an Internet search. When LAWA requested additional information, the bidder submitted what LAWA described as an “ambiguous informational photocopy.”

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Per LAWA, a City Attorney did not want to challenge the legitimacy of the bidder's sustainability certification, so that bidder received the contract over other well-known U.S. manufacturers that had fully complied with LAWA's specifications, including the certification, and whose certifications are well-known and respected.

The LAWA example demonstrates the need for updating the list of what should be widely-known and respected certifications contained in the EPP Ordinance, as well as the need and authority to reject others that are not well-known. This endeavor is much simpler than in past years because the US EPA now publishes a list of recommended specifications, standards, and "ecolabels" (sustainability and related certifications) for a variety of products. Many California jurisdictions that have robust EPP programs publish their product specifications and mandates for certifications. For paper towels, for example, the US EPA recommends use of Green Seal™'s 01 Standard for Sanitary Paper Products (for Paper Towels, General-Purpose Wipes, and Napkins). This is a life-cycle standard that also requires 50% post-consumer recycled content in these products.

In addition, the State of California publishes very detailed specifications for dozens of products. Depending upon the product, these reference EPP and other attributes/concerns such as indoor air quality, toxicity, flammability, sound absorption, formaldehyde emissions, the use of chlorofluorocarbon (CFCs) or hydro chlorofluorocarbon (HCFCs) during manufacturing, and more. The State uses the Green Seal standard above for paper towels, or the EcoLogo/UL certification No. 175 for hand towels.

A LAWA procurement analyst also reports: a) that the "or equal" clause has often been used to substitute brands during the second contract year when bidders request price adjustments; b) that it is not uncommon to see 100 line item substitutions where pricing is adjusted; and c) the "or equal" has been used as an additional mechanism by which the supplier can try to escape performance and specification issues such as recycled content.

LAWA's Proposed Solution to the "Or Equal" Clause

To address the "or equal" problems, LAWA proposed these contract clauses (which have not been adopted, but which should be considered for use citywide):

- No product or brand substitutions will be accepted which fail to comply with the original Environmental Purchasing Program (EPP) specifications as set forth during the contract award.

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- Once awarded, when product or brand substitutions are proposed by the contractor, a 30 day advanced, written Request for Product Substitution will be provided for review and approval by LAWA's EPP Unit Coordinator.
- Prior to second or third year contract renewals, any product or brand substitutions must be documented by a 30 day advanced, written request, reviewed and approved by the LAWA's EPP Unit Coordinator.
- Contractor must reference the contract number and product numbers when submitting a written Request for Product Substitution addressed to: XX.

LAWA Lesson

The above illustrates why specific certifications should be included in specifications and why the list of certifications in the Ordinance should also be reviewed and expanded.

The Green Seal certification and those issued by the Forest Stewardship Council (FSC) and Sustainable Forestry Initiative (SFI) are used most often for domestic forests and paper products, but there are many others for additional products that should be used. The Ordinance should be updated periodically to include additional (respected) certifications/guidelines; it now names only five:

Sec. 10.32.2. Policy and Practices.

It is the policy of the City of Los Angeles to:

- (a) Specify and purchase environmentally preferable products and services where criteria **have been established by governmental or other widely recognized and respected third-party authorities** (e.g., Energy Star, Green Seal, EPA Recycled Materials Advisory Notice (RMAN) Purchasing Guidelines, Federal Electronic Product Environment Assessment Tool (EPEAT) program guidelines for electronics, State Agency Buy Recycled Campaign (SABRC)).

Related Paper Topics

Because the City purchases paper in such large volume, Sanitation investigated additional paper-intensive City operations.

Duplexing and Central Duplicating

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In 2015, after receiving a multi-page, *single-sided* document in a Personnel Department-sponsored training class of about 70, a Sanitation employee spoke with Personnel and the Print Shop manager. The Personnel contact was unaware of the City's duplexing mandate:

(Council File: 07-2378: "THEREFORE MOVE that within 90 days all City departments shall set all networked printers, photocopy machines and multi-function printing devices to print and copy double sided by default.").

The Print Shop manager said that it always follows customers' instructions, even if for single-sided copies, contrary to city policy.

Sanitation asked if Print Shop customers could be advised about the duplexing mandate and was told that Print Shop customers generally do not welcome changes/suggestions, so employees working at the customer counters were reluctant to enforce the duplex mandate. After input from the Mayor's Office, the Print Shop agreed to require customers ordering single-sided copies to sign a form confirming that they were deviating from the City's duplexing policy. The Print Shop reported that use of this form ended *most* single-sided copy requests. Sanitation also provided the GSD Print Shops with laminated signage about the duplexing policy for display at its customer counters. In 2016, Sanitation asked the Print Shop how many customers had requested single-sided copies, and whether the Print Shop had honored those requests, but did not receive a response.

October 2019 Duplexing Update

A BOE employee inquired about a hypothetical print job calling for both single-side and double-sided copies. The response from the Print Shop: "Council mandated to print double-sided whenever possible *but we print to order* (emphasis added)."

Single-Sided Legal Documents

The Print Shop reported that the City Attorney's Office is its primary duplicating customer, and most of its documents are copied singled-sided. Per cursory research, Sanitation learned that legal documents may be printed double-sided, if all parties to a given civil or small claims legal action consent to this.

Sanitation contacted a Deputy City Attorney about this; she reported: "In mid-September (2016), the Los Angeles Superior Court (LASC) leadership decided to, within the next 12 months, have the complex court (Central Civil West or CCW) transition to mandatory e-filing. If that works out, it is hoped that all of LASC will be mandatory e-filing within perhaps 24 months." Mandatory e-filing became effective in 2018.

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Print on Demand (POD) to Reduce Paper Usage

According to Konica Minolta (KM), approximately 30% of all documents printed in an office are “orphan prints,” meaning they are never claimed by anyone. KM equipment offers a “Print on Demand” (POD) function that requires employees to swipe their badge or enter a personal code *at* the printer/copier before their documents will print. If the 30% estimate is accurate, POD could represent a significant cost savings for both paper and toner. Konica is assisting LAPD in implementing a secure POD system. Housing and Community Investment and the City Clerk’s Office are also now considering POD.

The City leases equipment that functions as both copier and printer (Hewlett Packard has the current contract) multi-function devices (MFDs from Konica) that copy and scan. Duplexing capability is specified, but employees must also select the duplex feature (“print on both sides,” “EcoSmart,” etc.) *at* their computers when executing a print command. Because this requires an additional step, this option is not always selected. For this reason, the IT division or group for each department and division should ensure that “duplex” is the default setting for each personal computer, if technically possible.

Sanitation’s procedures vary somewhat: Sanitation owns HP copiers, printers and MFDs, so there is no associated per-page printing cost. Each of these devices is sized to the business uses and needs of its location. Upon request, and with the approval of a Division Manager and Financial Management, and if the necessary network port is available, Sanitation will allow the Konica MFDs to be used for printing. Approval is required because there is a cost for each printed page.

City’s Printed Documents Do Not Reference Recycled Paper

After noticing that many of the city’s informational brochures do not display the legend “printed on recycled paper” or the 3 “chasing arrow” recycling logo, Sanitation contacted a City graphic designer to discuss this and later sent a short survey to all City designers. Following is an overview.

Designers, Paper Specifications, and “Printed on Recycled Paper”

Designers *sometimes* specify a particular paper, such as “Endurance brand recycled, gloss pack, 94 BRT, 80#, white” when placing an order with the Print Shop. In this example, the designer has selected a recycled-content paper and so could (and should) incorporate the “Printed on Recycled Paper” legend and the recycling arrow into his or her design.

But when designers submit generic paper specifications, such as “80#, white, cover stock, high gloss,” the legend or arrow is usually not included in the document design (based on printed documents reviewed by Sanitation). In addition, in this scenario, selection of the specific paper is left to the Print Shop; what is selected may or may not have recycled content.

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Even if a recycled paper is selected by the Print Shop, Print Shop management informed Sanitation that it *will not* insert the recycling legend or arrow into the design, because the document design might be affected, and it will not contact the designer/submitter to suggest or request this. In contrast, the satellite print shop in the Public Works Building, which is now closed, said it *could* insert the legend and symbol into any document. It did so for a brochure reprint ordered by Sanitation that did not include the legend or symbol in the original.

Note: In contrast to its stance regarding insertion of the recycling legend and arrow, the main GSD Print Shop always inserts the SEIU union mark, in accordance with council motion (03-1675), even if the document designer did not.

The majority of the graphic designers responding to a Sanitation survey expressed interest in a recycled printing papers workshop, and all said recycled-content papers match non-recycled papers for quality and performance.

Based on a key word search for “cover” (“cov”) stock (heavy paper suitable for use as document cover pages), of the 275 different types of cover stock available from the Print Shop, 180 (or 65%) have no recycled content; 73 have 10% pcr (27% of the total); 21 (8%) have 30% pcr, and 1 (0.004%) has 100% recycled content. The City should never purchase paper without recycled content.

Note: The State of CA does not allow use of the chasing arrow symbol unless the paper contains a minimum of 30 percent postconsumer material.

Recommendation: The Print Shop should provide an annual report with this information: Number, type (flyers, 3- or 4-fold brochures, letterhead, pocket folders, etc.) and size of documents printed and the type of printing paper used for each, as per this example:

Item	# of Pages (original document)	Duplex	# of Copies	Paper	Notes
2018 Budget	545	Yes	2,000	20 lb., white, 30% pcr, 98 brightness	Soy Ink
Council office pocket folders	4	NA	500	80 lbs. cover, 10% pcr	Metallic ink*
4-fold brochure	2	Yes	350	30 lb., white, glossy	Soy ink
Legal documents	125	No	35	20 lb., white, 98 brightness	

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Or the Print Shop could save and submit one copy of every item printed. Either alternative would assist with compliance with Motion 10-1091 of 2001, which directed all City departments to halt printing of documents that could be distributed electronically, and directed GSD (the Print Shop) to set a goal for reducing paper and ink usage and ensuring use of recycled-content paper.

*Metallic inks should be avoided. Sec. 10.32.5. Specifications to Allow for Environmentally Preferable Products; (b) Powers and Duties of the Purchasing Agent; 3. of Ordinance 180751 allows the Purchasing Agent shall revise specifications to eliminate purchases of paper products deemed potential contaminants to the City's recycling programs. Neon paper is also considered problematic because the intense color can cause spotting in papers made from this recycled feedstock; the City purchases and prints on neon/fluorescent papers.

Sustainability Certifications

The majority (1,294) of the nearly 1,500 papers used by the Print Shop have third-party certifications from the Forest Stewardship Council-FSC, the Sustainable Forestry Initiative-SFI, and Green Seal, or the Programme for the Endorsement of Forest Certification-PEFC. The first three are the most common in the US; in general, FSC is considered the most rigorous.

	FSC	FSC, SFI	FSC, GREEN SEAL	FSC, SFI, PEFC	SFI	NONE
Number of papers with certification/s	542	219	28	13	492	172
Recycled Content (post-consumer)*						
100% pcr	2		1			
30% pcr	6	39	27			
10% pcr	104	47		15		
0% pcr	424	138			350	

*The post-consumer content percentages for the printing papers were provided by the printing paper vendor (Xpedx).

However there is uncertainty regarding actual amounts of recycled-content in FSC-certified paper. The “FSC 100%” label indicates that the timber or fiber comes from an FSC certified (well-managed) forest, but it does *not* indicate the postconsumer content percentage. The “FSC Recycled” label means that the timber or fiber must be preconsumer OR postconsumer reclaimed. For wood products produced under the “FSC Percentage System,” a minimum of 70% of the inputs must be postconsumer reclaimed.

The “FSC Mix” label is used for a product that is a mixture of some/all of the following: virgin timber/fiber from an FSC certified forest; reclaimed/recycled timber/fiber; virgin timber/fiber from other

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controlled sources. The product must contain a minimum of 70% FSC certified wood/fiber and/or postconsumer input. And the balance must be controlled wood and/or preconsumer reclaimed material.

For a market development perspective, and to support recycling collection programs, post-consumer content is considered to be the most critical.

Recommendation: With the exception of some specialty papers (magnetic, vellum, some envelopes), the Print Shop should use *only* papers with a minimum of 30% post-consumer recycled content.

State of California Requires Printing on Recycled Paper with Minimum of 30% Recycled Content

"The [agency name] requires that all printing jobs be printed on recycled content papers. Recycled-content papers are defined as papers containing a minimum of 30 percent postconsumer fiber by weight. All papers used in the performance of a print job for [agency name] shall be recycled-content paper. The exact grade and postconsumer fiber content of the papers used for each print job shall be specified by [agency name]."

Note: SB 1383, which became effective on January 1, 2022, requires jurisdictions to purchase recycled-content paper products that are recyclable, when they are available at no greater cost than nonrecycled products, and fitness and quality are equal to nonrecycled products.

Sustainability Certifications Not Referenced on Printed Documents

The Print Shop advised Sanitation that it does not insert/display certifications (such as "FSC" on printed documents because of the high cost to do so (approximately \$15,000/year for the right to print the certifications). But Sanitation confirmed with the FSC that generic text, such as "printed on paper from sustainable sources," could be utilized and does not encroach on third-parties' certifications.

It is unlikely the City's graphic designers know they can specify a sustainably-harvested paper (and that many of these papers also have recycled-content), so language about sustainability is not included in their designs.

Extended Producer Responsibility (EPR)

Toner Cartridge Take-Back Program Example

Advance disposal fees built into the cost of some products, such as motor oil and mattresses, are examples of Extended Producer Responsibility (EPR). These fees are assessed on products that are hazardous, expensive and/or difficult to recycle/manage at the end of their useful lives.

Per its 2012 contract, the vendor (PTI) that sells remanufactured toner cartridges to the City is also required to pick up all of the City's empty cartridges, regardless of the type of cartridge or source:

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USED CARTRIDGES PICKUP AND RECYCLING PTi shall collect and take back all used cartridges from City facilities, regardless where they were purchased from, and ensure that they are properly remanufactured. If cartridges received are deemed unusable, PTi shall ensure that they are properly recycled.

The City's empties are given to PTI free of charge. This free supply reduces some costs for this local business and helps diverts cartridges from the City's waste stream. PTI generates an annual report that tallies the number and weight of cartridges *sold* to the City. In response to a request from Sanitation, it now also reports the number and weight of empties that are collected, even though not contractually required to do so. Note: The "pickup/recycling" clause does not require any proof of recycling or any recycling reports. The number of cartridges picked up never equals the number sold, so some apparently are disposed as trash or stored, etc.

Print Shop Empties

In August 2016, the GSD Print Shop had accumulated a large supply of empty toner and other bottles from its high-speed/high-volume Konica equipment and contacted Sanitation to ask if those could be recycled in the City Facilities Recycling Program (CFRP) blue bins. That led Sanitation to inquire if the Print Shop's printing supplies vendor, Konica Minolta, is required contractually to provide an EPR/take-back program.

Sanitation learned that Supply Services had advised Konica, at the time its contract was executed in 2014, that Konica would *not* be required to provide its own EPR/take-back program, because this type of service (program) was already being provided by another vendor (PTI). PTI was then the vendor of remanufactured toner cartridges of the type used in office machines, not in print shop equipment.

Sanitation also learned that Supply Services never asked PTI if it could use the Konica high-speed printing cartridges. Ironically, Konica has had an expansive take-back program, Clean Planet, for many years. This program accepts all types and brands of empty cartridges (and peripherals) from individuals and businesses, regardless of brand or vendor, and recycles all the cartridges and materials, free of charge.

Sanitation convened a 2016 meeting to discuss the above. At the meeting, PTI reported that several years ago, that it could utilize about 80% - 85% of the empties it collected from the City, but that rate dropped to 45%, primarily because of technology changes (such as toner bottles becoming more common than rigid plastic cartridges). PTI said that any City cartridges it could not use were recycled by its "recycling company," but was not able to provide the company's name or any proof of recycling. Several months later, PTI advised Sanitation that its "recycler" is Republic Services. However, Republic

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informed Sanitation that it provides PTI with trash services only. That meant the 45% of the empty City cartridges PTI could not use had been disposed as trash – over a period of several years.

In late 2016, Sanitation and Supply Services discussed a pilot program with both Konica and PTI: After agreeing to this, and unilaterally setting the pilot parameters, Supply Services cancelled the pilot.

In March 2017, the same parties again met and agreed that Clean Planet would set up a collection /recycling program for all non-usable cartridges that PTI picked up from the City. In June of the same year, Konica advised Sanitation that the program is running smoothly and it is also helping implement a zero waste program at PTI. Sanitation requested that it be copied on all recycling reports submitted by Clean Planet, as the tonnage information should be collected for AB939 reporting, but Supply Services said “no” and instead promised to forward the Konica reports to LASAN. As of this writing (December 2019), Supply Services has not provided the 2018 report, despite several requests from LASAN.

Vendor PTI voluntarily agreed to provide pickup reports to LASAN, as shown in this excerpt:

Pick Up Report						
Dept. Name	Street Address	Suite/ Floors/ Spaces	City	Zip code	# Picked Up	Weight (lbs.)
Animal Shelter East Valley	14409 Vanowen St.		Van Nuys	91405	31	32
Central Traffic Division	251 East 6th. St.	1st floor storage	Los Angeles	90014	60	59
City Hall, East, South	200 N. Main St.		Los Angeles	90012	135	306
Sales Report						
Dept. Name	Street Address	Suite/ Floors/ Spaces	City	Zip code	Quantity Shipped	
Animal Shelter East Valley	14409 Vanowen St.		Van Nuys	91405	56	
LAPD	251 East 6th. St.	1st floor storage	Los Angeles	90014	16	

While the reports were not always exact (because a standard City facility naming convention wasn't utilized, *pick ups* from multi-office facilities such as City Hall were aggregated, while *sales reports* listed individual departments), the reports *did* provide a starting point for comparing sales and pickup reports by *facilities*. This in turn allowed LASAN to identify where sales exceeded pickups. For example, as shown above, the Animal Shelter (in red font) on Vanowen *purchased* 56 cartridges one year, but only 32 empty cartridges were picked up from that address. The reason for the discrepancy may be innocuous: the facility may not have used all of the cartridges, it may have been storing/aggregating spent cartridges for one pickup, or it may have discarded some. But without pick up

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reports, *no* comparison is possible, and this means that some facilities may be disposing of used cartridges.

2019 Toner Cartridge Contract Update

A remanufactured toner cartridge contract was executed in September 2019 with vendor B2B. LASAN was not advised of this and Supply Services has not educated City employees about the used cartridge return policies in effect under the new contract.

LASAN met with Supply Services and Council District 2 in November 2019 and learned that the shortcomings in the PTI contract as described above were not addressed in the B2B contract. Per Supply Services, this is because the post-contract services that both PTI and Konica Minolta agreed to provide (reporting about pick ups, pick up and recycling of PTI's non-usable materials collected from city facilities) were "value-added" services.

The previous shortcomings continue under the new contract. B2B is contractually required to recycle materials collected from that the City that are not usable, but *recycling reporting and proof of recycling* are not required. B2B is *not* required to pick up any empties and no reports about returned cartridges are stipulated. (To recap: PTI provided three types of pickup/take back service: collection boxes and regularly scheduled pickups at 13 large city facilities; on-call pickup at all other city facilities with a minimum of 25 empties; or provide postage-paid return labels given to other sites upon request).

At this juncture, it is unclear *how* City employees are to obtain return B2B labels for empties: will labels have to be downloaded each time, or will labels be sent with each cartridge order? If returns are handled strictly via labels rather than pickups, site-specific labels or label coding might be required to generate meaningful return reports. Detailed reports are necessary to determine if departments purchasing B2B cartridges are also recycling them.

B2B apparently will not provide collection boxes as PTI did, since it was not required to offer pick up service. B2B's return label indicates it will *not* accept many imaging supplies other than cartridges, including toner bottles, tubes & tanks, printer ribbons or dye cartridges, liquid ink tubes, bottles, jugs. If these items are not collected in central collection boxes, cannot be sent to B2B, and will not be recycled by a third party such as Konica, presumably many if not most will be discarded as trash. Or they may be placed in – and contaminate- City Facilities recycling bins.

Based on conversations, it is unclear whether Supply Services has requested that Konica Minolta provide to B2B the same pick up and recycling services for non-usable materials that it provided to PTI. Supply Services' rationale for selecting B2B is that it was significantly less expensive than PTI. This is an example of price - not environmental considerations and best *overall value* – driving vendor

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selection. In short, this contract does not include even rudimentary extended producer responsibility requirements.

PTI continues to pick up cartridges years after its City sales contract expired.

Good Food Purchasing Policy

The City purchases food/meals directly (the Department of Aging executes contracts for senior meals, the Los Angeles Police Department for meals served in jails, etc.) and indirectly (through companies that manage venues such as the Greek Theatre and Los Angeles Convention Center on behalf of the City). The City also executes leases with restaurants doing business on its property, such as in the Los Angeles Mall and City Hall.

The City's Good Food purchasing policy, which was adopted via Executive Directive No. 24 in 2012, is another example of EPP, in that it seeks to minimize the environmental impacts associated with purchases and practices directly affecting the City. The applicable language is:

"Therefore, I am directing all city departments with food purchases of greater than \$10,000 annually, through their department budgets and/or contracts and concessions, to adopt a good Food purchasing pledge and initiate plans to follow the good Food Purchasing Guidelines for Food Service Institutions ("Good Food Purchasing Guidelines" or "Guidelines").

Even though some Los Angeles Mall restaurant leases were executed as late as 2016, the Good Food guidelines were not incorporated/attached, and applicable contract language was not developed. This speaks to the need for third-party oversight (auditing) of internal compliance with environmental policies.

Food waste

On a related topic, with a few exceptions, the City does not set waste caps or limits for restaurants doing business on its property.

There is a relatively new application (app) – Copia - that tracks in great detail the amounts and types of food waste generated by restaurants, and thus facilitates waste reduction. This can be scaled to national restaurants and helps identify sites that are outliers in terms of waste generation.

The following appears to be the standard language pertaining to waste in the restaurant leases executed by GSD:

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“All trash, refuse and waste materials shall be stored on Premises in adequate containers and be regularly removed from Premises. Trash containers shall be located so as not to be visible to general public either in the Mall or in the business areas of the Premises, and so as not to constitute a health or fire hazard or nuisance to any Premises occupant. No burning of trash, refuse or waste materials shall occur.

Trash Compactor Fee. Tenant shall pay City as Additional Rent a trash compactor fee of \$100.00 per month commencing on the Execution Date. This fee will be subject to automatic five percent (5%) annual step increases so that the fee for full Lease Years two and three will be \$105.00 and \$110.25, respectively.”

There is no limit on the amount of general waste or food waste specifically that an individual restaurant may generate and dispose. LASAN has inquired whether LAWA imposes any waste caps on airport restaurants, but has not yet received a response. From a waste perspective, it would be in the City’s best interest to have all restaurants operating on its premises to subscribe to Copia or a similar app, even if the City paid for the subscription costs.

SPECIFIC EPP PROGRAM BARRIERS

Barrier No. 1: EPP Purchases Are Not Unambiguously Mandated

The Ordinance does not *unambiguously* mandate the purchase of EPP products. In 2015, Supply Services informed Sanitation that even if EPP attributes were included in bids, the lowest bidder offering a non-EPP product would win the contract, as EPP attributes are considered *optional* unless they pertain to product performance. However, per the above copy paper discussion, the City chose to specify 30% recycled-content paper, even though recycled content has no bearing on paper performance.

In 2016, GSD AGM Deborah Ramos advised Sanitation that Supply Services’ primary function is to assist City departments in issuing bids and RFPs and executing contracts; Supply Services does not “lobby” departments to consider EPP products. For those reasons, she said an Ordinance with an unambiguous EPP purchase mandate would be preferable for Supply Services.

In contrast, the State has clear and significant requirements for numerous products:

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State Agency Buy Recycled Campaign (SABRC)

Public Contract Code, Section 12200-12217
<http://www.CalRecycle.ca.gov/BuyRecycled/StateAgency>

Buying recycled content products can save energy and raw resources; create green industry jobs;
and support recycling and manufacturing infrastructure.

Key terms to know:

- ✓ **Post-Consumer Recycled Content** = Material derived from products that were purchased, used and then recycled by a consumer. This recovered material (e.g. paper, or plastic water bottles) becomes feedstock for new products.
- ✓ **Reportable Dollars** = The total amount of money spent on all products and materials, within a SABRC category, regardless of the percentage of Post-Consumer Recycled Content in the products.
- ✓ **SABRC Compliant Dollars** = The total amount of money spent on products and materials, in a SABRC category, that *meet* the minimum Post-Consumer Recycled Content requirements (per the table below).
- ✓ Per statute, in each category, HALF (50%) of an agency's total "Reportable Dollars" should be spent on SABRC compliant products. For example, if an agency spends \$1000 within a category, then \$500 of those dollars should be spent on products that meet the minimum SABRC Post-Consumer Recycled Content.

SABRC Reportable Product Categories	Minimum Post-Consumer (PC) Recycled Content Requirements
▶ Antifreeze	70% PC
▶ Compost, Co-Compost, & Mulch	80% PC
▶ Glass Products	10% PC
▶ Lubricating Oils	70% PC
▶ Paint	50% PC
▶ Paper Products	30% PC
▶ Plastic Products	10% PC
▶ Printing & Writing Paper	30% PC
▶ Metal Products*	10% PC
▶ Tire-Derived Products	50% PC
▶ Tires	Retread/Recapped

* Per the steel industry, all steel products meet the PC mandates for the metal category. Inclusion of recycled content is inherent in other metal industries, although CalRecycle does not yet have certification.
Note: Please contact CalRecycle if your agency has collected any major industry or supplier certifications for PC content.
Note: Composite products (made of multiple material types) are not required to be reported.

Barrier No. 2: No Easily Accessible Specification Library

The opportunity for reviewing and revising product specifications is stymied by these facts:

Sanitation was able to download a few "old" (now-closed) bids and specifications from LABAVN (LA Business Assistance Virtual Network) and hard copies of *some* old bids are saved in City Hall East, but not all old/now-closed bids (and their specifications) are saved. In June 2017, Supply Services advised that in most cases, the product descriptions found in executed contracts should be considered to be the same as bid specifications.

The following product descriptions were obtained from executed contracts. However, a comparison of annual EPP reports from some vendors - and those vendors' executed contracts - reveal discrepancies, as discussed below.

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The US EPA's Comprehensive Procurement Guidelines (CPG) advises these recycled-content levels for traffic cones:

Recommended Recovered Materials Content Levels for Traffic Cones ^{1,2}			
Product	Material	Postconsumer Content (%)	Total Recovered Materials Content (%) ²
Traffic Cones	Plastic (PVC and LDPE)	--	50-100
	Crumb rubber	--	50-100

Contrast the above CPG recommendations with the City contract for the same product:

City of Los Angeles Contract for Traffic Cones			
Contract	Product	Detailed Description From City Contract	Sanitation Notes
No. 58995, 2009	Traffic cones, 12" PLASTIC (PVC)	Conical section shall be made of red/orange virgin PVC . Weighted square base shall be made of 100% pre-consumer* recycled PVC and be a minimum of 50% of the total weight. Hole on top of cone.	Ordinance 180751 advises minimizing virgin content unless product performance is affected; recycled content has no impact on traffic cones. There was no reason to specify pre-consumer content. NOTE: The vendor reports that its cones have 60% post-consumer recycled content. (Sanitation has asked if 60% applies to the cone or base or both; the vendor did not respond).
No. 59781, 2017	Cone, traffic, 12" fluorescent orange	CONE, TRAFFIC, 12", FLUORESCENT ORANGE, HI-WAY SAFETY 100496-HSP	Recycled content is not referenced but should have been specified.
No. 59781, 2017	Cone, traffic, 28"	CONE, TRAFFIC, 28", HI-WAY SAFETY PART # HIS-28 WITH REFLECTIVE SLEEVES, Conical section shall be made of red/orange virgin PVC , weighted square base shall be made of 100% pre-consumer recycled PVC and be a minimum of 50% of the total weight.	Ordinance 180751 advises minimizing virgin content. This product is described as containing virgin PVC (a plastic), even though recycled content does not affect the performance of a traffic cone.

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The CPG advises this recycled-content for paper towels:

Recommended Recovered Fiber Content Levels for Commercial/Industrial Sanitary Tissue Products

Product	Postconsumer Fiber (%)	Total Recovered Fiber (%)
Bathroom Tissue	20-60	20-100
Paper Towels	40-60	40-100
Paper Napkins	30-60	30-100
Facial Tissue	10-15	10-100
General Purpose Industrial Wipers	40	40-100

City of Los Angeles Contract for Paper Towels			
Contract No. & Year	Product	Detailed Description From City Contract	Sanitation Notes
59112, 2009	Janitorial Products & Supplies –Paper Towels, Hand, Multi-Fold, One-Play; 9.125 Inches X 9.5 Inches.	White, Eco Logo certified*	White papers are unnecessary; unbleached papers are preferable. It is unknown if the Eco Logo certification, or any certification, was <i>specified</i> by the City, or is accidental (that is, the product is certified, but that was not required).
ARC** 40 200000000020 5, 2019	Paper, Towel, Hand, Multi-fold, White, One Ply, Sheet Size: 9.2" x 9.4", Packaging: 250 Sheets/Pack, 4000 Sheets/Case. Green Seal certified.	White, Green Seal certified	The Green Seal certification is a positive EPP attribute, but it is unknown if the City's <i>specified</i> a certification. White paper towels are unnecessary, as color does not affect performance and conveys that white is preferable to unbleached version. (This certification means recovered fibers are processed chlorine-free and chlorine/ chlorine-derivatives cannot be used. Green Seal stipulates 50% post-consumer content.) For clarity and educational purposes, the City should clearly list the minimum acceptable recycled content percentage in its bid.

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Where is EPA spec?			
59112, 2009	Paper, Toilet, Tissue, JUMBO ROLL, 1-Ply, 3.55 Inches X 2,000 Feet.	White, Eco Logo certified	
ARC 40 200000000020 5, 2019	Tissue Paper, Toilet, Jumbo Roll, 2-Ply, 3.55" x 2000" White, Eco Logo Certified	White, Eco Logo Certified	This appears to be a catalog purchase (Veritiv) through a cooperative agreement between LAWA and the City. It is unknown if the City or LAWA specified a certification. White tissue is unnecessary; color does not affect performance.

12/24/19: waiting for additl info from Veritev re pcr

*Eco Logo certifications pertain to lower energy use and associated air pollutants, lower noxious emissions to water, increased landfill diversion rates, lower emissions of greenhouse gases, higher use of recycled content and other sustainable choices of fiber, maximizing use of valuable wood fiber, supporting diversion of waste from landfills and reducing impacts on forest ecology.

**Annual Requirements Contract

Barrier No. 3: No Mechanism for Addressing Products Purchased Via Service Contracts

Many products that are listed in the Ordinance are purchased by service vendors (construction, printing, etc.) under contract to the City. These products should comply with the EPP Ordinance:

Sec. 10.32.9. Contractors.

When not otherwise provided for in contract specification, persons contracting with the City for the provision of services, shall be permitted and encouraged by the terms and conditions of their contract with the City to utilize, to the maximum extent feasible and consistent with performance standards, materials, supplies, and equipment containing Recycled Materials or other Environmentally Preferable Products.

However, since most if not all service bids/RFPs and contracts are executed directly by end user department/s, there is no centralized database of pending service contracts and no internal, third party specification review or oversight.

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Barrier No. 4: Some specifications Are Developed by Multiple Sources

End Users With Specialized Products

Generally, end users (departments or divisions) develop specifications for products and equipment unique to their operations or under their control:

- Information Technology, for example, sets specifications for the computer systems it operates;
- the Print Shop sets them for its printing and duplicating equipment;
- Fleet Services determines specifications for vehicle maintenance products such as tires and oil;
- Sanitation develops specifications for curbside recycling bins, refuse and recycling collection trucks, and chemicals for waste water treatment;
- Building Maintenance provides specifications for carpeting, paints, lighting, hardware and other maintenance, repair and operations (MRO) types of products.

“Core” Products

It seems that Supply Services alone sets specifications for some “core” products - such as copy paper and corrugated storage boxes – but it is unclear if/when input from other departments is solicited.

Catalog Contracts

Some core products are procured through “catalog contracts;” Office Depot and Grainger are two examples. To the best of our knowledge, the inclusion of non-EPP products in catalog contracts, or in the “market basket” (a sub-set of the entire catalog) is not prohibited, and vendors have not been required to implement systems to block purchases of such.

In 2017, Sanitation determined that Office Depot had not been advised of the City’s policy regarding the ban on purchasing expanded polystyrene (EPS or “foam”) food service products such as cups and plates. Those products were available for purchase through Blanket Purchase Orders (BPOs) that can be issued by any City department - and which are not reviewed/approved by Supply Services. Office Depot agreed to implement a ban on those products per Sanitation’s request.

Multiple Entities May Develop Specs for One Product

It is believed that specifications for products such as toner cartridges and printers, for example, may be developed with input from several sources (IT, Print Shop, etc.), but it seems that these informal groups usually do not include an environmental entity such as LASAN for purposes of an EPP review.

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Barrier No. 5: EPP Specification Review is Not an Automatic Process

The following is the process for development of future bids as described by Supply Services:

Approximately 7-12 months before a product/commodity contract expires, the Supply Services buyer assigned to that contract runs a report to determine which department/s has used the existing contract the most. (The metrics for identifying the “largest users” are unclear: highest number of Purchase Orders (POs) issued against the contract, total dollars expended by wwdepartments, largest purchase volume, etc.?)

- a. The buyer then emails a contact (usually a clerk) at the end user department/s to ask if the current contract specifications are satisfactory or if they need to be revised. (Sanitation was told that Supply Services does not maintain a list of these end user contacts because they vary from year to year.) It is also unclear if the Supply Services buyer provides the end user department with a copy of the previous bid (including specifications) - or only the current contract. The buyer imposes a deadline by which the end user department/s must respond, usually two weeks; bid development then continues.

Note: In 2015, a Supply Services assistant director (who is no longer with that Department) agreed to have its buyers copy Sanitation’s EPP group on all buyer emails pertaining to future bids and specifications, so Sanitation could become involved in the specification review process. This was to be restricted to “core” products, such as copy paper and paper toweling that are used by many/most departments and are not “technical” in any sense. The intent was for Sanitation to review and revise specifications when necessary for compliance with the EPP Ordinance. However, the process was never implemented, even though Sanitation repeated the request several times throughout 2015 and 2016.

In late 2016, Sanitation made the above request to a GSD AGM, and stipulated that if Sanitation did not review/revise the draft specifications within two weeks, the specification/bid process could proceed without Sanitation’s input. The AGM declined. Instead, Sanitation was advised to create a list of contracts for EPP review and prioritize those. Sanitation declined, because the root causes for the City’s poor EPP program would not be addressed, and because the contract information that is available through the current SMS system is not always updated to reflect a contract’s status.

On September 13, 2017, Supply Services agree to copy Sanitation on the buyers’ emails to end user departments. None have been received. However, Supply Services stipulated that it

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will not accept any specification revisions that Sanitation presents. Sanitation would therefore have need to ask the initial contacts at each end user department to identify the specification (or contract) reviewer. This is not tenable or efficient.

Assuming that line item product descriptions in executed contracts are identical to the original product bids specifications, as Supply Services has indicated, the lack of a third-party EPP review can result in the type of specifications described below, even for products listed in the Ordinance:

Contract 59232 (2010) for Envelopes

- Eleven different sizes and styles of envelopes are listed in the Contract
- Recycled paper was not specified (even though this is included in the CPG guidelines).
- The contract did not include a “recycled content statement” (see Barrier 6)

Note: This envelope vendor’s FY 15-16 EPP report indicates that it uses water-based and soy printing inks. However, this type of ink is not referenced or specified in the contract (and presumably the specifications). This is another example of “accidental” EPP purchases.

Contract 59735 (2016) for Envelopes

- Multiple envelopes, of various sizes are listed in this contract.
- Recycled paper was not specified (this product is listed in the CPG guidelines)

EPA's Recommended Content Levels for Paper Products			
PAPER PRODUCT	NOTES	POST-CONSUMER RECOVERED FIBER	TOTAL RECOVERED FIBER
Printing and Writing Papers			
Envelope	Wove Kraft, white, and colored (including manila) Kraft, unbleached Excludes custom envelopes	30% 10-20% 10%	30% 10-20% 10%

Contract No. 59497 (2013) for Paint

“Paint” is listed in the Ordinance, but, per the line item product descriptions, recycled content was not *specified*.

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Note: This vendor's FY 15-16 EPP report indicates that its paints are non-carcinogenic, free of heavy metals, and low-VOC – all desirable attributes. However, it is unclear whether these attributes were *specified* (the bid specifications are not available).

2020 Update: Promotional Items

The City did not have an annual contract for promotional items. LASAN attended a January 2020 meeting at which Supply Services presented samples of promotional items from the six categories most frequently purchased over the previous two years. This is a “market basket” methodology that includes representative samples in particular categories, typically representing the top expenditures. The categories are bags, drinkware, auto/home/tools, apparel, trade show accessories/signs, and office/toys/novelty.

Only one product – the plastic sport water bottle – specifies one EPP attribute (BPA-free). Overall product quality was poor, as noted by most attendees: One of the sample flashlights was not working and Supply Services said that another would not turn off. Attendees complained that the products would fail in short order and Supply Services said these are not meant to be long-lasting products (contrary to the Ordinance's mandate for durability).

LASAN inquired about the EPP process: had Supply Services requested any recycled-content or EPP product samples? Supply Services indicated that it had not considered EPP and is not required to do so, because EPP purchases are voluntary under the Ordinance. Supply Services in effect “recycled” the product specifications from the previous orders, even though the ordinance specifically requires reviews of specifications to ensure they include EPP attributes. LASAN offered that and was told that Supply Services “does what management says.” Other attendees asked to see a list of all products available from the potential vendors and were told this wasn't possible because the contract had not been awarded. LASAN asked if Supply Services could inquire if the potential vendors have *any* recycled-content products, and was told that could happen –after the contract is executed. This is intended to be a one-year contract with four, one-year renewal options. Failure to even ascertain the availability of EPP products is antithetical to the Ordinance.

A reverse auction process will be used for this contract: Sellers compete by underbidding – repeatedly lowering their bids until they reach their “floor price.” A race for lowest price, sans EPP attributes, ensures the purchase of shoddy, short-lived items that will quickly become waste.

Barrier No. 6: Inconsistent Use of Recycled/EPP Statements, Language and Contract Clauses

A review of contracts executed between 2006 and 2017 shows a variety of language/clauses referring to recycled-content and/or EPP products; some contracts that do not contain any of these.

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The City should always include the EPP advisory (immediately below) AND the “recycled content statement” in all contracts (and “purchasing mechanisms”), including those for service contracts. Buyers should not exclude the advisory or recycled-content statement based on their assumptions about its applicability to a given product or commodity. Both the recycled content statement and EPP advisory need to be revised because of, respectively, confusing terminology (use of both “post-consumer content” and “secondary waste”) and failure to include at least a partial list of EPP attributes.

<p>RECYCLED CONTENT PRODUCTS (“Recycled Content Advisory”): As an essential part of the City of Los Angeles' comprehensive program for solid waste management, it is in the public interest to purchase recycled products with the highest recycled material content feasible in the City's procurement of goods and equipment. (City of Los Angeles Administrative Code Division 10, Chapter 1, Article 6, Section 10.32) City employees are required to purchase recycled content products from this contract whenever feasible, consistent with the City's Recycled Products Purchasing Program.</p> <p>Contractor is required to identify recycled products that may be suitable for inclusion under this contract to the City of Los Angeles, if such products become available during the contract term.</p>	<p>ENVIRONMENTALLY PREFERABLE PRODUCTS (“EPP Advisory”): The City of Los Angeles seeks to conserve and enhance our local and global natural resources; promote and support a vibrant, diverse, and equitable economy; safeguard human health and the environment; and improve the livability of the City's neighborhoods without compromising the ability of future generations to do the same. (City of Los Angeles Administrative Code Division 10, Chapter 1, Article 6, Section 10.32)</p> <p>The City therefore promotes the use of environmentally preferable products in its acquisition of goods and services. City employees are required to purchase environmentally preferable products from this contract whenever feasible, consistent with the City's Environmentally Preferable Products Purchasing Program.</p> <p>The Supplier is required to identify environmentally preferable products that may be suitable for inclusion under this contract to the City of Los Angeles, if such products become available during the contract term.</p>
<p>RECYCLED CONTENT STATEMENT: Bidder shall provide the following information with its Quotation. Is recycled product available? .yes no If yes, state brand, model and/or category no.: Recycled content: _____ % Post consumer content: _____ % Secondary waste: _____ %*</p>	

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	<p>QUARTERLY REPORTS: The supplier shall provide the City Purchasing Agent with quarterly reports, to include the following: 1) Expenditure Report that indicates Manufacturer name, description, product/part number, quantity, unit price and extended price of all items sold to the City (contract inception to report date).</p> <p>2) Environmentally Preferable Product (EPP) Report that indicates the quantity and description of products sold to the City that are considered EPP. This information may be included in the Expenditure Report.</p>

Recycled Content Statement

LA Sanitation advised Supply Services on multiple occasion that the terminology in the recycled content statement is not standard usage and is confusing. The Ordinance’s definitions state that “post-consumer” and “secondary waste” are both part of the broader category of “recycled material.” This is correct but unnecessary as post-consumer content is the most important and often sufficient by itself.

In 2015, a former Supply Services Assistant Director reported that a City Attorney had reviewed and approved, with a few revisions, Sanitation’s proposed advisory and recycled-content statements. Supply Services has not adopted the revised versions, even though the percentages reported by various vendors are sometimes nonsensical, with post-consumer content exceeding the amount of recycled content.

Recycled Materials Reports

It is not known if recycled materials reports were ever submitted to the City (Supply Services), either as stand-alone reports or as part of the mandated quarterly reports. LA Sanitation began requesting recycled materials reports from City vendors in 2008, but these were not detailed and focused on dollar amounts, not specifications. More detailed EPP reports were requested beginning with FY 13-14.

It is unclear as to why there is language variation in contracts, even those executed in the same year, as per the following table. A shared folder, accessible to all buyers with the most updated contract language (or a system for third-party review of such language) could easily eliminate these inconsistencies:

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The EPP Ordinance was adopted in 2009							
Contract	Product/ Service	Year	Recycled Content Advisory	Recycled Content Statement	Quarterly Recycled Materials Report	EPP Advisory	Quarterly EPP Report
59112	Janitorial products & supplies	2009	Yes	No*	No	No	No
59270	Oils & Lubricants	2010	Yes	No*	Yes	No	No
59298	Athletic Uniforms / Camp Shirts	2011	Yes	No*	Yes	No	No
59321	Roof Materials & Sealants	2011	No	No*	No	Yes	Yes
59418	Bag, poly, police evidence	2012	No	No*	No	No	No
59420	Copy Paper	2012	Yes	No***	No	Yes	Yes
59428	Woven wire partition	2012	No	No*	No	No	Yes
59461	Bag, polyethylene	2013	No	Yes*	No	No	Yes
59469	Mobile storage containers	2013	No	No*	No	Yes	Yes
59551	Asphalt cold pitch & loop sealant	2013	No	No*	No	No	No
59590	Chain link fencing & gates	2014	No	Yes*	No	Yes	Yes
59600	Bike rack	2014	No	No*	No	No	No
59665	PVC conduit, & Installation	2015	No	No*	NA	Yes	Yes
59712	Bollards, facility management**	2016	No	No*	NA	Yes	Yes
59733	Copy paper	2016	No	No***	NA	Yes	Yes

*Products with recycled content are available for all these products

**Since the bollards are steel, they likely have recycled-content, even though that is not indicated

***Each product (line item) description indicates the percentage of recycled-content in that item.

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Contract	Product/Service	Standards/Certifications	Other/Notes
59677 (2015)	Computer equipment servers	EnergyStar and EPEAT are required. Recycled Content Advisory is included. The Recycled Content Statement and EPP Advisory are not in the contract.	No EPR or take-back program is specified even though server batteries must be collected/recycled as a hazardous material. Under “Additional Product/Services (4),” the contract states: “EPEAT Bronze requirement may be waived, on a State case by case basis, if approved by the State's Chief Procurement Officer.” <u>The supplier must provide products that earn the ENERGY STAR and meet the ENERGY STAR specifications for energy efficiency.</u> All desktop computers, laptop computers and computer monitors provided under this contract are required to have achieved <u>Bronze registration or higher under the Electronic Products Environmental Assessment Tool (EPEAT)</u> , based upon their environmental attributes as specified in the consensus-based IEEE Standard for the Environmental Assessment of Personal Computer Products (1680). Supplier is required to provide quarterly reports quantifying the number of EPEAT registered products purchased. These reports were never submitted.
58798 (2007)	Compost bin, passive aerobic	Yes-Energy Star	Note: EnergyStar is not applicable. This is a plastic, non-electric/electronic product. Bins with recycled content are widely available.

Barrier No. 7: The Ordinance’s List of Applicable Products/Commodities is Too Limited

Because the list is very short, City employees may not even be aware of the wide variety of EPP products that are available in each of the *commodity categories*, especially plastic and rubber. The list is lacking: Metals are not included, nor are the many products, from playground equipment to office products, that are made from multiple (“mixed”) materials.

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Compare the Ordinance's list with the State's:

	City	State of CA (SABRC)
1	Paper, which include, but are not limited to, fine grades of paper, corrugated boxes, newsprint, tissue, toweling	Agricultural
2	Compost and co-compost products	Appliances
3	Glass	Building & Maintenance
4	Lubricating oil	Furniture
	City	State of CA (SABRC)
5	Plastic	Lighting
6	Solvents and paint, including water-based paint	Paint
7	Tires	Cleaning Supplies
8	Building insulation	Cleaners
9	Concrete and cement (containing fly ash)	Plastic Trash Bags
10	Automobile parts	Communications
11	Rubber	Food
12	Asphalt	Dishes & Utensils
13	Batteries	Ground Maintenance
14	Aggregate rock	Medical
	Products/Commodities Added Under Ordinance 180751	Office Equipment
15	Remanufactured, recyclable or recycled toner cartridges	Data Storage
16	Antifreeze/coolant	Enterprise Servers
17	Processed and crushed miscellaneous base materials	Office Desk Lamps
18	Movable/portable walls	PC Goods
19	N/A	PC Servers
20	N/A	Printers, Multi-Functional Devices
21	N/A	Office Supplies
22	N/A	Ink & Toner Cartridges
23	N/A	Paper Products

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24	N/A	Janitorial Paper
25	N/A	State of CA (SABRC)
26	N/A	Office Paper Products
27	N/A	Paper Bags
	City	State of CA (SABRC)
28	N/A	Printing, Copy Writing & Paper
29	N/A	Stationery
30	N/A	Personal Care
31	N/A	Safety
32	N/A	Protective Wear
33	N/A	Textiles
34	N/A	Transportation
35	N/A	Electric Vehicle Charging Stations
36	N/A	Fuel
37	N/A	Parts & Equipment
38	N/A	Safety Vehicles & Equipment
39	N/A	Traffic Railing & Barriers
40	N/A	Traffic Stripes & Pavement Markings
41	N/A	Vehicles

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Barrier No. 8: No Mechanism for Evaluating Bids With Multiple EPP Attributes

At this time, the City relies primarily on lowest price when awarding contracts, which precludes the City's ability to consider and weigh multiple attributes. In contrast, the State of California had proposed using the following simplified life-cycle analysis for some products:

"Once all attributes have been identified that best embody the solicited product, a weighting system can be developed that assigns a specific amount of points for each attribute identified. Now a point system can be applied to all potential suppliers and the supplier with the maximum amount of points will be the supplier providing the Best Value."

The State's proposed system weighs price more heavily than other attributes, as befits a public entity, but the system does not effectively preclude EPP attributes from purchasing decisions. This ranking system apparently was not enacted, but is still a valid and more sophisticated model than that employed by the City, and it would allow the City to implement an EPP program.

State of CA Proposed Weighted Product Ranking System

Each supplier will be given a rating based on how they compared with the industry as a whole or with other suppliers offering similar products. It is imperative that the evaluation criteria used to determine the point ratings of each supplier be consistently applied to all suppliers being evaluated.			
Attribute	Rating (10 Possible)	Weight	Score
Price	7	40%	2.8
Conserves Energy	4	10%	0.4
Recycled Content	9	10%	0.9
Improves Air Quality	5	10%	0.5
Conserves Water	6	10%	0.6
Reduces Global Warming	8	10%	0.8
End-of-Life Management	10	10%	1.0
Total			7.0

As discussed this document, the City does not maintain a "library" or database of product specifications available to those outside GSD's Supply Services Division. In contrast, the State has detailed, published specifications for many core products in these categories: Building and Maintenance, Cleaning Supplies, Food, Ground Maintenance, Office Equipment, Office Supplies Paper Products, Safety and Transportation.

The following are excerpts from the plastic bag specification:

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State of California
Bid Specification
Plastic Trash Bags

8105-4340, Rev A
Event ID 0000008914
Attachment 2

1.0 SCOPE

This specification sets forth the minimum requirements for statewide contract of plastic trash bags intended for general use, as can liner inserts in waste receptacles for office/building/hospital trash, cafeteria waste, roadside and highway rest-stop trash, park debris and waste.

2.0 APPLICABLE LAWS and INDUSTRY STANDARDS

Specifications, standards and regulations referenced in this document in effect on the opening of the invitation for bid, form a part of this specification.

2.1 LAWS and REGULATIONS

- 2.1.1 Federal Standard L-P-378D, Plastic Sheet and Strip, Thin Gauge, Polyolefin
- 2.1.2 NIST Handbook 130 Uniform Laws and Regulations, 2013
- 2.1.3 Public Resources Code (PRC) Sections 42290 through 42297 and Title 14, Section 17975 through 17985 of the California Code of Regulations (CCR) (collectively referred to as the "Recycled Content Plastic Trash Bag Law")

2.2 INDUSTRY STANDARDS

- 2.2.1 ASTM D1709 Impact Resistance of Polyethylene Film By The Free-Falling Dart Method
- 2.2.2 GSA AA1668C, Static Load Capacity Test, US General Services Administration
- 2.2.3 ASTM D792 Standard Test Methods for Density and Specific Gravity of Plastics by Displacement
- 2.2.4 ANSI/ASQC Z1.4, Sampling Procedures & Tables for Inspection by Attributes

3.0 CLASSIFICATION

3.1 TYPE I

Bag shall be made from low or linear low density Polyethylene (LDPE or LLDPE) characterized with density 0.92 gram/cc per Test Method ASTM D792

3.2 TYPE II

Bag shall be made from high density Polyethylene (HDPE) with density at least 0.94 gram/cc

3.3 TYPE III

Bag for Department of Transportation (DOT) shall be made from polyethylene or ethylene copolymer.

4.0 REQUIREMENTS

4.1 POSTCONSUMER RECYCLED CONTENT

All manufacturers shall comply with "Recycled Content Plastic Trash Bag Law." All bags shall contain a minimum 10% recycled plastic postconsumer material (RPPCM) or 30% RPPCM by weight of the material used in all of the manufacturer's plastic products.

In addition, the State has a Performance and Environmental Standards Workgroup (PES). LASAN believes that a similar working group would be valuable for new products, or for products for which detailed, EPP specifications (from the State, the US EPA, or other municipalities) do not already exist.

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Another option is a point-based system such as that utilized in the City's Good Food Purchasing policy:

Good Food Purchasing Commitment Levels		
<i>To become a Good Food purchaser, food service provider scores 1 or higher in each value category.</i>		
Stars Awarded	Good Food Purchaser Status Level	Number of Points Needed
★	Good Food Purchaser – One Star	5 - 9
★★	Good Food Purchaser – Two Stars	10 - 14
★★★	Good Food Purchaser – Three Stars	15 - 19
★★★★	Good Food Purchaser – Four Stars	20 - 24
★★★★★	Good Food Purchaser – Five Stars	25+

Notes on Scoring System	
Baseline requirement	All Good Food Purchasers must score at least one point in <u>each</u> value category.
Mixing levels and values	Points may be earned by mixing various commitment levels and value categories. Example: 2 points from Level 2 of Nutrition + 1 point from Level 1 of Animal Welfare = 3 points total
Accumulation of points	Cumulative points may be earned if purchasers comply simultaneously with different commitment levels within a particular value category. <i>Example:</i> From the Environmental Sustainability category, participants can earn 6 points by fulfilling all the different requirements for Levels 1, 2 and 3.
Expectations for increased commitment	After one year of participation in the program, purchasers will be expected to gradually increase the amount of Good Food that they purchase in order to maintain the same number of points. See Good Food Purchasing Guidelines for more details.

Barrier No. 9: Little or No Planned Piggybacking/Joint Bids-Contracts

Although the proprietary departments utilize (piggy-back onto) City contracts, and the City and the proprietaries enter in cooperative purchasing agreements, LAWA and Harbor report that they are not always advised in advance by the City regarding the issuance of bids. In general, the City and

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proprietary departments seldom issue joint product bids, which could mean the City is missing opportunities to receive lower costs through larger volume purchases, especially for products in common to all departments, such as copy paper, motor oil, office furniture, tires and others.

Note: The Harbor Department typically includes “survivability” clauses in the City-executed contracts that it utilizes. This ensures that Harbor can continue to use a contract even if the City terminates it or does not exercise a renewal option.

Great Lakes Cooperative Purchasing Example

Nearly thirty years ago, several states that border the Great Lakes entered into cooperative purchasing agreements for products manufactured regionally, including copy paper and rerefined engine oil. Tasks were rotated among the states, (preparation and issuance of product bids, contract management), but each participant was billed individually and products were shipped to multiple locations for each participant. The result was significantly lower prices due to increased volume, as well as market support for regionally-produced products.

The City could consider *plan* cooperative purchasing with the proprietary departments. Or it should, at minimum, synchronize bids for core products or a designated list of products. This could require that the City and/or proprietary departments cancel some contracts (or not exercise renewal options) in order to align bid dates, but all contracts can typically be cancelled for any cause.

Solutions to Above Barriers

The most effective, long-term solution would be adoption of a new EPP Ordinance. The short-term solution would be the adoption of procedures and guidelines that will facilitate full implementation of the EPP program. The need for this was anticipated and incorporated into the EPP Ordinance:

Ordinance 180751

Sec. 10.32.3. Construction of Article.

- (b) Procedures and Guidelines may be established by the City Council as necessary to ensure the continuation of a strong Environmentally Preferable Procurement Program.

Utilize Buy Recycled Program “Lessons Learned”

The City’s 1990s-era Buy Recycled Program provides guidance regarding procedures and guidelines that can be adapted for the EPP Program.

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In the early 1990s, at the direction of then-Councilmember Ruth Galanter, Sanitation reviewed the City's Buy Recycled Program, which was based on ordinances 168313 (1992) and 170485 (1995). After determining that the ordinances were being applied only to copy paper, and that the City was purchasing paper with a post-consumer content level (10%) below then-current US EPA guideline (of 20%), Sanitation conferred with a City Attorney how to improve the program by developing procedures based upon the following "default" and "price preference" clauses of Ordinance 170485. The "default" clause:

Sec. 10.32.2.1. Award of Contracts.

(a) This Section shall not apply to contracts for purchases of \$1,000.00 or less.

(b) Except as provided in Section 10.32.3, all requests for bids or proposals for products shall request bids both for such items containing no recycled materials and for such items containing recycled materials. However, bidders shall be permitted to submit bids for either or both such classes of products. Such specifications shall comply with the provisions of Section 10.32.3. For purposes of this Section, "items containing no recycled material" shall mean items containing less than twenty-five percent (25%) recycled materials at least two-fifths of which (ten percent of the total) is post-consumer waste, determined according to weight or number of items, whichever is deemed appropriate by the awarding authority. **Provided, however, that whenever the Purchasing Agent determines that the items to be purchased are reasonably available containing recycled material and that (1) the cost differential between such items containing recycled material and containing no recycled material historically has not exceeded 10%, (2) there is sufficient market availability of such items, and (3) the items containing recycled materials will satisfy performance standards, the request for bids shall specify only items containing recycled materials** (emphasis added).

At that time, the US EPA's Comprehensive Procurement Guidelines (CPGs) were the defacto national standard for recycled-content in dozens of products in multiple categories: copy paper, envelopes, tires, motor oil, paint, building insulation and aggregate rock. In recognition of this, the Attorney and ISWMO decided upon the following five procedures:

1. Any product listed in a CPG was considered to satisfy the requirements of "reasonably available," "sufficient market availability" and "performance standards." Because there was no mechanism for ascertaining the "historical cost differential," and because that information was not considered necessary or significant, that element was deemed moot.
2. The City's specifications for products listed in a CPG would always require (specify), at minimum, the recycled-content levels found in the CPGs.

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3. Specifications for products listed in a CPG would always “default” to a recycled-content product (***“the request for bids shall specify only items containing recycled materials.”***) That also meant that the City would therefore reject as non-responsive all bids for “CPG-listed products” that lacked recycled content.

The “price premium” clause:

(c) A preference is hereby established, and each awarding authority is hereby directed, to award each such contract for the purchase of products to the lowest and best responsible bidder offering products containing recycled materials and meeting specifications; provided that, if bids are received both for items containing recycled materials and for the same items containing no recycled materials and the cost of the items containing recycled materials is greater than the prices bid for the items containing no recycled materials by an amount greater than ten percent (10%) of the cost of the latter, the award of such contract, if any, shall be made to the lowest and best responsible bidder offering the items containing no recycled materials and meeting specifications. Nothing contained herein shall be deemed or construed to preclude an awarding authority from rejecting all bids as permitted by City Charter Section 386.

The above clause was not very clear; the City Attorney interpreted it as follows: when a solicitation for a product not listed in a CPG resulted in bids for the equivalent recycled and non-recycled products, the City could award the contract for the *recycled-content* product and pay up to 10% more than for the equivalent non-recycled content product (provided that the products and vendors were otherwise equal).

Third-Party Review Deemed Necessary

Because of the largely “inactive” status of the City’s Buy-Recycled Program, it was decided that “third-party” specification review and program oversight was critical. The Sanitation and Supply Services directors agreed that for one year, a Sanitation representative with recycled-products experience (formerly employed by Californians Against Waste as the Regional Buy Recycled Program Manager) would review all draft product specifications and revise them, when necessary, for compliance with the CPG and ordinances 168313 and 170485. City bids and requests for proposals would be issued only after the specification review was completed.

In recognition of the need to issue bids/RFPs expeditiously, all reviews and revisions were to be completed within a week, or the original bids/RFPs would be issued. (All reviews/revisions were in fact completed within that time frame.) The review procedure was tested a few times when Supply Services issued bids without the “third-party” review and refused to cancel them. The City Attorney and

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Councilmember were advised after the second occurrence; the bids were cancelled and later reissued after specification review. This scenario was not repeated.

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Standardized Language

Sanitation developed standard contract clauses for 1) vendor's recycled- content product statements and 2) recycled-content reporting; wrote content for advertisements and other public notices; created training materials for SSV and City employees and vendors and conducted the training; and wrote a program brochure (Get into the Loop) for multiple end users.

Program Became Inactive

To the extent that can be determined, the Buy-Recycled Program apparently became largely inactive after Sanitation's specification review ceased.

Current EPP Program Issues and Status

EPP Mandate: As discussed above, the GSD manager who oversees Supply Services said a) that division's primary function is to assist City departments in issuing bids and RFPs and executing contracts, not to "lobby" the departments to consider EPP products or specifications. She also said an Ordinance with an unambiguous EPP mandate would be preferable for all parties.

EPP Responsibility: Both the City's Buy recycled and EPP ordinances (168313, 170485; and 180751) assigned duties and responsibility for compliance with the ordinances, the most important of which is specification review, to "the Purchasing Agent." However, as discussed in this report, Supply Services does not routinely review specifications from City departments for compliance with the ordinances, nor does it "lobby" departments to revise specifications for that purpose. In addition, based on product descriptions in executed contracts, Supply Services has executed contracts (and presumably issued bids) with specifications for virgin content products, and has failed to include standard recycled-content statement/EPR clauses in all applicable contracts.

(b) Powers and Duties of the Purchasing Agent.

2. The Purchasing Agent is hereby authorized to withhold his or her endorsement of approval of those specifications subject to this Article that do not comply with the provisions hereof.

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Additional City Environmental Policies Not Enforced

Ban on Expanded Polystyrene (EPS)

The City has prohibited using City funds to purchase expanded polystyrene (EPS) food service products, and banned use of these products in City facilities, since 2008.

LA Sanitation recently investigated whether these products can be obtained through the City's office supplies contract with vendor Office Depot. This catalog-based contract encompasses fourteen product categories that exclude food service products. However, many products outside these categories can be purchased very easily with blanket Purchase Orders (BPOs) that can be issued by any City department and which are faxed directly to Office Depot, with no "third-party" review. LA Sanitation tested this and was able to purchase EPS cups. Office Depot advised LA Sanitation that the EPS ban was not referenced in the City's office products bid documents or its executed contract, but as of July 2017, orders for EPS products will not be honored (per Office Depot).

Thermal and neon/fluorescent paper products are still purchased through commodity contracts, although both are considered blue bin contaminants:

(b) Powers and Duties of the Purchasing Agent.

3. The Purchasing Agent shall revise specifications to eliminate purchases of paper products deemed potential contaminants to the City's recycling programs.

The above clause would require the Purchasing Agent to confer with Sanitation as to which materials are contaminants, but this has not happened. Through cursory research, LA Sanitation was able to determine that the City Clerk uses much of the neon paper as dividers in various reports. Pastel papers should suffice.

Need for Assigned/Centralized Citywide Waste Prevention/Reuse/Extended Producer Responsibility Functions

As is almost universally acknowledged, in a government of this size, City departments become "siloed" -even though some functions (purchasing, personnel) are primarily centralized. However, there are issues or incidents that arise during day-to-day operations that are directly or tangentially related to (solid) waste, recycling or reuse, and for which responsibility and oversight has not been assigned. Each by itself may not seem serious, but ambitious initiatives such as the City's Zero Waste goal and even the Sustainability Plan, are helped or hindered at the employee level.

The failure to develop a robust EPP program is the result of dozens or hundreds of small actions and inactions that in turn have had citywide impacts.

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The City must proactively assign waste reduction, reuse, and EPR functions, on a citywide basis, to one Department. Examples of applicable calls and inquiries received by LA Sanitation include:

Unanticipated/Occasional Reuse Opportunities

What to do with naturally-fallen trees in City parks; some of these are now delivered to the Griffith Park composting/mulch facility, but cannot be processed (chipped) there due to their size/dimension, and so are being stockpiled. The trees could theoretically be reused (by schools, construction programs, and/or other nonprofits), but Recreation and Park (RAP) and Sanitation staff at Griffith Park do not have time to pursue these options.

Pollution Prevention

A request from an RAP employee to determine why RAP switched from burlap sandbags and fiber-backed sod to alternatives made with plastic, and to request assistance in encouraging RAP to stop purchasing these. Plastic sandbags used in City parks for erosion/floor control eventually break into small pieces (that carry pollution and litter); sod with plastic backing is entrapping small wildlife. Sanitation twice emailed the employee listed as a contact to request information but did not receive a response.

Improper Management of Materials

GSD or private construction/maintenance crew have left behind materials such as spent light bulbs, grout mix, patching materials, and paint and in numerous City facilities. Sanitation was able to arrange for the donation of some materials to Habitat for Humanity and LAUSD's Pre-Apprenticeship Construction Training Program ("We Build"). LASAN's Hazardous Materials Group has also arranged for several "one-time" pickups of these materials, mostly from libraries.

Waste Prevention Measures Not Fully Implemented

This is a partial specification for multifunction devices (MFDs –that copy, scan, print, fax): "All multifunction devices (MFDs) must have duplex copying capability, with duplex (two-sided copies) as default mode; pull-print feature; and the ability to fax scanned documents from device; usage reports must sent to designated contacts via email; energy efficient (Energy Star certification) required."

A "default" duplexing feature on all copiers/printers/MFDs is necessary, but is only half of the equation. That is because the duplex option must also be selected (via the control panel) for each computer's default printer, or copies will still print single-sided. Every department has an internal information technology group or division. On an annual basis, each department should assign an employee to handle this task and submit a report listing all computers that are connected to printers, verifying that "duplex" has been selected as the default option for the default printer for each computer.

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Externalization of Materials Handling and Associated Costs to City.

Contract 59491 with vendor Herman Miller, for furniture/systems, requires the vendor to handle its own materials:

"Basic Installation - price includes inside delivery, uncrating, assembly, installation, removal of debris from premises, installation documents and the bill of materials per the purchaser's approved plan and specifications" (emphasis added).

In contrast, the City's contract for the installation of new floor cover materials and removal and demolishing of existing carpet *does not* require the services vendor to consolidate remnants of new materials (for possible donation or recycling); does not require the recycling of suitable old (removed) carpet; does not indicate whether the vendor may use City trash bins or must haul debris for off-site disposal, and does not require proof of recycling. Of the services or commodity contracts that have been reviewed by Sanitation, only the Herman Miller and PTI contracts include EPR take-back clauses. None reference reduced packaging.

City Policies Preclude Donation/Reuse

Used Library Books

Until 2019, the City Facilities Recycling Program (CFRP) was collecting about 7,000-10,000 used/outdated library books monthly from City's 73 branch libraries, for an annual total of approximately 360,000- 540,000 books. Each load of collected books includes a cross section of reference, fiction, textbooks, picture books, etc. All these books are now handled as recyclable paper. One of the City's two contracted Materials Recovery Facilities (MRFs) stopped accepting hard-cover books for recycling, and then ceased operations. The other MRF agreed to accept about one ton of soft-cover books, a drop in the bucket.

Sanitation believes that these books could and should be reused as books and therefore requested that the Library Department allow LA Shares, a reuse organization partially funded by LA Sanitation, to advertise the books to other local nonprofit organizations such as Boys and Girls Clubs, etc. The Library Department declined on the grounds of "liability;" it does not want outdated materials to be used as reference materials. This unwarranted concern prevents nonprofits from receiving free books. (GSD's Salvage Division reported that used library books generated little interest in the past so it discontinued selling these.)

A City Attorney said that there would be no liability associated with donation of used books and that the publication dates in books served as adequate "warning" about the accuracy of a book's content. The

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Library Department also declined to meet with the Salvation Army and other nonprofits that have retail outlets and conceivably could sell some of the used book.

LASAN believes that all used surplus library books are now disposed as trash.

Used Hard Hats

In response to an inquiry from a Bureau of Engineering employee, LA Sanitation determined that hard hats do not “expire;” new hard hats are usually purchased because MOUs require this. LASAN took the hats; some were donated to “We Build,” the LAUSD construction apprentice program.

Parallels With Expanded Polystyrene (EPS) Ban

The following are additional examples of how a City policy - in this case, a ban on expanded polystyrene (EPS) food service products - can fail in a short period of time due to the lack of internal, “third-party” oversight and enforcement.

The General Services Department (GSD) has a “reservations/agreement” form for events sponsored by elected officials and held primarily in the Civic Center. The form does not reference the EPS ban. Nor is the EPS ban referenced (or enforced) at public events held on city property, including farmers markets. (Note: GSD updated the form in 2016 or 2017 to include the EPS ban, at LASAN’s request.)

The Department of Aging’s (Aging’s) senior meals were until recently served in EPS containers because that Department was unaware of the EPS ban. It revised its food service RFP to ban EPS.

Eight of the twelve agreements with Food Service Establishments (FSEs) in the LA Mall, City Hall and City Hall East, were executed prior to 2000 and therefore do not include the EPS ban. Four of the eight have EPS bans and those are still active agreements. However, the balance have expired and new agreements were not executed in anticipation of the LA Mall being demolished, so those tenants have been carried on a “holdover” or month-to-month basis. However, General Services apparently never investigated whether it could add EPS bans to the “hold-over” agreements. In response to July 2017 inquiry about that from LA Sanitation, GSD’s Real Estate (RE) division was told by a City Attorney that it would need to examine each lease to determine whether and how the individual terms may be amended. It is unknown if GSD is doing so.

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In August, LA Sanitation verified that two of the four FSEs with an EPS ban are using EPS food service products, as is at least one Civic Center Farmers Market vendor, although each Market vendor has signed agreement banning EPS.

Food Donations/Food Scrap Composting

The General Services Department reservations/agreement form for events does not require the event host to make prior arrangements for the donation of excess, edible food. And GSD has never contacted LA Sanitation to arrange for dedicated bins to collect food scrap suitable for composting.

Centralized Hazardous Materials/Materials Handling Contracts (and Procedures)

The City purchases many products, from hazardous chemicals to light bulbs, and used mattresses to motor oil, that are difficult to manage and recycle, and/or that require special handling by trained personnel. It is likely that multiple City departments have executed hazardous materials handling contracts, but this decentralized approach likely deprives the City of better pricing. And because materials handling functions/contracts are piecemealed, many employees are not aware that these contracts exist. Multiple City departments have contracts with the hazardous materials firm, Clean Harbors, for example.

A Citywide contract might offer better pricing and other advantages, but because one City department would have to be designated as the contract manager, this has not been pursued. The feasibility for a citywide contract, with shared or rotated contract management responsibility, should be investigated by a working group comprised of Sanitation, GSD, the Controller's Office and the proprietary departments.

Conclusion

Waste prevention, EPR, and reuse

The above examples do not represent shortcomings on the part of any City department or division. Instead, they reflect the need to officially assign responsibility for waste prevention, EPR, and reuse on a citywide basis. Because these needs are interrelated, assignment to one entity would be advisable.

Comprehensive waste characterizations conducted at all major city will identify materials that should have been recycled, reused, and/or addressed through EPR programs. The characterizations will also identify the for improved/expanded internal education and training, and EPR contract clauses.

A packaging pilot

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Example: Resolving Internal Conflicts of Interest

LA Sanitation operates/maintains several (closed) landfills, but it is the Local Enforcement Agency (LEA), a division within the Department of Building and Safety, not LA Sanitation, that oversees compliance with the landfill permits, closure/postclosure documents; facility inspections, etc. It would be a clear conflict of interest for LA Sanitation to manage these functions.

As pertains to EPP, this document has demonstrated that the EPP Program can be characterized as “happenstance.” This is primarily because it is a conflict of interest for EPP responsibilities and oversight to be assigned to the City’s Purchasing Agent (Supply Services). Supply Services primary functions are developing and issuing bids and executing contracts *on behalf of City departments*. But under the EPP ordinance, Supply Services is also required to “police” those same departments for EPP compliance. On paper, this may be a workable arrangement, but the reality – since adoption of the first “Buy Recycled” ordinances in the 1990s – is that Supply Services has not assumed the assigned buy recycled/EPP tasks.

Recommendation (Boldest – Option #1)

1. The City Council should review and adopt LA Sanitation’s draft EPP Ordinance, which incorporates extended producer responsibility and waste prevention elements, and that clearly *mandates* the purchase of EPP products and services, versus merely *recommending* them.
2. The draft Ordinance calls for designation of a City EPP Agent. It recommends that the EPP Agent be “housed” in LA Sanitation, for two reasons. the Local Enforcement Agency (LEA) is a state-mandated regulatory program that permits, inspects, and enforces State and specific local standards for solid waste facilities, including landfills and transfer stations and various recycling facilities. It would be a conflict of interest for the LEA to be housed inside LA Sanitation, which owns and operates landfills and related facilities. Supply Services’ primary role is to issue bids and manage product/commodity contracts on behalf of City departments. Supply Services would have to lobby
- 3.
4. Secondly, the Bureau informally assumed EPP responsibilities in 2008 and has in-house buy recycled, EPR, and waste prevention expertise. This organization parallels that of
5. All EPP responsibilities and duties found in Ordinance 180751 that are now assigned to the City’s Purchasing Agent, are hereby reassigned exclusively to LA Sanitation, specifically, to the employee designated as the “RRR Agent,” who shall have experience in the fields of “buy recycled,” EPP, and waste prevention.

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6. The EPP Ordinance shall be interpreted and applied as a mandate for the purchase of EPP products and services, versus as a recommendation for such, through implementation and application of the following procedures:
 - a. Any product that is listed in the CPG, and/or the US Department of Energy's (DOE's) FY17 Priority Products List; the US General Services Administration's (GSA's) Key Sustainable Products; and/or the US EPA Guidelines for Environmental Performance Standards and Ecolabels, and/or that is purchased by any of the following entities - State of California, the County of Alameda, the City/County of San Francisco, -shall satisfy the general requirements of “reasonably available,” “of sufficient market availability,” and meet “performance standards,” “performance requirements,” “quality standards,” and “quality requirements,” unless the end user City Department that is requesting the product can demonstrate otherwise.
 - b. When products with EPP attributes are determined by the RRR Agent to be “reasonably available” and/or “of sufficient market availability,” and said products meet

“performance standards,” “performance requirements,” “quality standards,” and/or “quality requirements,” specifications for those products shall always “default” to an EPP version of that product. Bids and proposals that are submitted in response to City bids, for products without EPP attributes, shall be rejected as non-responsive .
 - c. The City of Los Angeles may utilize singly, or any combination, EPP product specifications from the State of California, the County of Alameda, the City/County of San Francisco, the US Department of Energy's (DOE's) FY17 Priority Products List; and/or the US General Services Administration's (GSA's) Key Sustainable Products, and/or the US EPA Guidelines for Environmental Performance Standards and Ecolabels.
 - d. In general, specifications should give preference to multi-attribute (i.e., life-cycle based) standards and “ecolabels” for which the US EPA or other US-based entity has been able to confirm the availability of a competent certification body that is either:
 - e. The City shall specify and/or recognize, only those “eco labels” or certifications issued by an accreditation body that is a signatory to the International Accreditation Forum Multilateral Recognition Arrangement (IAF MLA) and has the relevant standard in the scope of its accreditation, or that otherwise meets Section III of EPA’s Guidelines (found at: <https://www.epa.gov/greenerproducts/final-pilot-assessment-guidelines-epas-recommendations-standards-and-ecolabels>)

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- f. The City's specifications should always require, at minimum, the recycled-content levels found in the CPGs or specifications issued by/included in, the State of California, the County of Alameda, the City/County of San Francisco, the US Department of Energy's (DOE's) FY17 Priority Products List; the US General Services Administration's (GSA's) Key Sustainable Products; and/or the US EPA Guidelines for Environmental Performance Standards and Ecolabels, at the discretion of the City's EPP Agent.

4.The RRR Agent and Supply Services shall jointly develop procedures for the expeditious review, and revisions, as necessary, by the EPP Agent, of draft product (and service) product/commodity specifications that will be included in City bids and all contracts that are executed as a result of such bids. The review process shall include a provision for end users (city departments) to protest the EPP Agent's specification revisions.

5.The RRR Agent shall develop EPP and recycled-content clauses; recycled-content statements; and EPR/take-back clauses for product/commodity bids (solicitations) and contracts; and "or equal" and "product substitution" clauses.

6.All City contracts, including those issued by proprietary departments, shall stipulate:

- No product substitutions will be accepted which fail to comply with the original specifications as set forth during the contract award;
- Once awarded, when product substitutions are proposed by the contractor, a 30 day advanced, written Request for Product Substitution will be provided for review and approval by the City's RRR Agent;
- Prior to second or third year contract renewals, any product substitutions must be documented by a 30 day advanced, written request, reviewed and approved by the City's RRR Agent.

7.The RRR Agent shall convene a committee that includes Supply Services, the Controller, the proprietary departments, and other department deemed necessary, to develop procedures by which future EPP opportunities for service contracts, including construction contracts, may be identified and made known to the RRR Agent, and procedures for incorporating EPP specifications and EPP reporting requirements into service bids and contracts, as per the Ordinance:

Sec. 10.32.9. Contractors.

When not otherwise provided for in contract specification, persons contracting

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with the City for the provision of services, shall be permitted and encouraged by the terms and conditions of their contract with the City to utilize, to the maximum extent feasible and consistent with performance standards, materials, supplies, and equipment containing Recycled Materials or other Environmentally Preferable Products. This requirement shall not apply to contracts which are funded in whole or in part by a grant or with grant or loan funds. This requirement shall apply to those contractors providing materials, supplies, and finished products to the City but not to those using materials incidental to their contractual obligations.

This committee shall issue a report with its findings and recommendations to the City Council within six months of its first meeting.

8.The RRR Agent will continue to oversee the annual EPP report that is mandated by the Ordinance.

9.The EPP Agent shall convene a Paper Reduction Working Group comprised of the Controller's Office, the Chief Administrative Officer, the Bureau of Contract Administration, IT, the City Clerk, Department of Transportation, the proprietary departments, and other departments deemed necessary, to explore how

the City can achieve a 10% reduction in the purchase of paper of all types, including but not limited to, copy paper, paper forms, envelopes, and janitorial (towel and seat covers).

10.The EPP Agent will also review and evaluate the EPP (and related) policies and programs of the proprietary departments and recommend revisions and improvements to them, and report those findings to the City Council on an annual basis.

11.The EPP Agent shall meet with the purchasing divisions of Los Angeles County, the State of CA, and/or area municipalities, to discuss opportunities for cooperative purchasing similar to the Great Lakes Purchasing Cooperative discussed in this report.

12. The Bureau of Sanitation shall execute, within 6 months, a personal services contract for on-call, technical EPP consulting services, with a not-to-exceed annual expenditure cap (ceiling) of \$175,000.

13. The RRR Agent shall generate, within 12 months of his/her appointment, a plan outlining how the status of waste prevention, reuse, donation, and EPR needs and opportunities within the City will be assessed and addressed.

Recommendation (Next Boldest – Option #2)

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Same as the recommendations in the preceding section, but substitute “EPP Agent” for “RRR Agent” throughout.

Sec. 10.32.3. Construction of Article.

(b) Procedures and Guidelines may be established by the City Council as necessary to ensure the continuation of a strong Environmentally Preferable Procurement Program.

Additional Note: Procurement Reform

The City is undertaking a procurement reform process. Per the City’s Chief Procurement Officer:

“While unlikely to receive much fanfare, the procurement process (acquisition of materials and services) is one of the most critical business processes at the City of Los Angeles. An effective and efficient procurement process results in lower City costs, timely City services, visibility into City spending, and job creation among local L.A. businesses. As is often the case with government entities, the procurement process within the City of Los Angeles has grown over decades, resulting in a process that is universally perceived as lengthy, complex, and difficult for vendors to navigate.

The City of Los Angeles has worked thoroughly to develop a Procurement Reform & Technology Working Group

- Standardize the currently complex and variable procurement processes that exist in the City.
- Reduce the duration of the impermissibly lengthy procurement cycles of the City.
- Give a more efficient use to all the City resources.
- Make the bidding process more intuitive and friendly (UX/UI) for the City vendors.
- Get better contractual terms for the City by generating more offers and enhancing these offers’ legal compliance revision process.
- Give the procurement process more traceability and visibility, for both the management and the auditing authorities, to be able to pursue continuous improvement together with full transparency.

For several reasons (budget, complexity, change management, and others), the City of Los Angeles Procurement Reform was divided in three stages – that respond to a natural division in the City’s procurement process:

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1. **Commodities Contracting Process** (Implemented by Summer 2017) - Commodities contracts are discrete individual products – that span cleaning supplies, tools, office equipment, hardware, and many others. These contracts are initiated by a Request for Bid (RFB) and are awarded to the lowest bidder.
2. **Construction Contracting Process** (Design and Implementation phases during Fall 2017 and Spring 2018) - Construction contracts refer to discrete projects with defined requirements, deliverables and deadlines. These are also initiated by an RFB and are awarded to the lowest bidder.
3. **Services Contracting Process** (Planning phase during Fall 2017 and Analysis phase starting January 2018) - Services contracts are contracts that are not strictly defined by units or detailed specifications, but rather a specific set of services products and solution approach. Unlike the other two types of contracts, these are initiated by a Request for Proposal (RFP) and are awarded to the best proposal according to a set of previously defined metrics.”