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Int. No. 208

By Council Members Yassky, Clarke, DeBlasio, Felder, Foster, Gerson, Koppell, Monserrate, Moskowitz, Perkins, Brewer, Serrano and Weprin; also Council Member Quinn

A Local Law to amend the administrative code of the city of New York, in relation to the procurement of handguns by city agencies.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Findings and Intent. The Council of the City of New York finds that it is in the City's best interest to procure handguns for use by City employees in the performance of their duties from responsible suppliers that are committed to a standard of conduct which makes every effort to eliminate sales of guns that might lead to illegal possession and/or misuse by criminals, unauthorized juveniles and other prohibited persons.

Over 30,000 people in the United States die each year from gunfire, including 4,200 children. On

average, firearms kill approximately 9 American children every day. In New York City, firearms, predominantly handguns, are used in approximately 66% of the murders committed each year. More than twice the number of individuals murdered with a firearm suffered injuries inflicted by firearms. Handguns are also used in a high percentage of other crimes, including robbery, felony reckless endangerment and menacing.

Government agencies purchase approximately 25% of all guns sold in the United States, including guns for police forces, correctional services, and public safety agencies. The City is a major purchaser of handguns for use by the City's various law enforcement agencies. The Council finds that the City, acting with the discretion allowed any private participant in the market, should choose to allocate its purchasing dollars in a manner that promotes the responsible manufacture, shipment and distribution of handguns. In furtherance of this goal, this legislation requires that City agencies purchase handguns from suppliers that refrain from marketing or manufacturing handguns in a manner that is attractive to criminals and juveniles, as well as adhere to other provisions designed to minimize the risk to innocent third parties and to prevent handguns from leaving the legal stream of commerce. Nevertheless, the Council recognizes that handguns which satisfy the standards required by this legislation may not be suitable for law enforcement needs, thus, the legislation provides an exception if necessary for handguns procured for law enforcement or military uses.

The Council finds that it is imperative that the City spend its citizens' money in a manner that promotes the safety and well-being of all residents. Accordingly, the Council finds that when procuring handguns the City should do so from responsible manufacturers whenever possible.

Section 2. Title 6 of the Administrative Code of the City of New York is hereby amended by adding a new section 6-125, to read as follows:

Section 6-125 Purchase of handguns. a. For the purposes of this section only, the following terms shall have the following meanings:

1. "Contract" means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds in return for work, labor, services, supplies, equipment,

materials, or any combination of the foregoing.

2. “Responsible supplier” means that the supplier of handguns, including if the supplier is a manufacturer, retail dealer, and/or wholesale dealer, is able to demonstrate that it is committed to a standard of conduct which makes every reasonable effort to eliminate sales of weapons that might lead to illegal possession and/or misuse by criminals, unauthorized juveniles and other prohibited persons. This agreement includes demonstrated compliance with the following provisions:

- (i) does not sell weapons to dealers who have sold more than 20 weapons within any continuous 12 month period in the preceding 5 years traced to use in a crime or illegal possession, as determined by the Bureau of Alcohol, Tobacco and Firearms, or who have not, on their own, sold weapons, 20 or more of which within any continuous 12 month period in the preceding 5 years are traced to use in a crime or illegal possession, as determined by the Bureau of Alcohol, Tobacco and Firearms;
- (ii) makes no sales at gun shows or alternate venues unless such sales at the gun show or alternate venue are conducted only upon completion of a background check and all sellers at the gun show or alternate venue agree to conduct sales only upon completion of a background check as dictated by state and federal law for sale at a retail gun store;
- (iii) when selling weapons to dealers, only sells to dealers who operate a retail shop located at a fixed address where:
 - (a) the dealer maintains an electronic database of make, model, caliber or gauge, and serial number of all weapons held in inventory or offered for sale;
 - (b) the dealer maintains an electronic database of make, model, caliber or gauge, and serial number of all weapons sold and the name and license number of all purchasers;
 - (c) the dealer makes visible all permits and legally required signage.
- (i) provides full access of aforementioned records to law enforcement and government

regulators conducting compliance inspections;

(ii) limits purchases by any individual in any given 30 day period to one weapon;

(iii) implements a security plan for securing weapons in transit.

1. “Contracting agency” means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, that purchases, leases, or contracts for the purchase or lease of goods or services financed in whole or in part from the city treasury, except where partial federal or state funding precludes the city from attaching the procurement conditions provided herein.

2. “Contractor” means any supplier, by sale or lease, of handguns to a contracting agency.

3. “Handgun” means a revolver or semi-automatic pistol designed to expel a projectile by the action of an explosive.

4. “City agent” means any individual who, as part of his official duties, purchases or leases a handgun financed in whole or in part from the city treasury and uses such handgun to perform such official duties.

b. A contracting agency shall only enter into a contract to purchase or obtain for any purpose handguns from a responsible supplier, and a city agent shall only purchase or lease a handgun for use in official duties from a responsible supplier.

c. The commissioner of the police department shall promulgate rules specifying the documents and information that contractors must provide to the contracting agency for purposes of subdivision (b) of this section.

d. Upon a determination that a contractor is in violation of this section, the contracting agency shall review such information and offer the contractor an opportunity to respond. If the contracting agency finds that a violation has occurred, it shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering

damages, declaring the contractor in default, seeking debarment or suspension of the contractor and/or deeming it as non-responsible.

e. A contractor shall also be liable for a civil penalty of not less than \$5,000 upon a determination that a contractor has been found, through litigation or arbitration, to have made a false claim under the provisions of this section with the contracting agency.

f. Every contract for or on behalf of all contracting agencies for the supply of handguns shall contain a provision or provisions detailing the requirements of this section.

g. With regard to a “contracting agency”, the requirements of this section shall be waived in writing under the following circumstances:

- (i) there is only one prospective contractor willing to enter into a contract; or
- (ii) where it is determined that all bidders to a contract are deemed ineligible for purposes of this section; or
- (iii) where it is available from a sole source and the prospective contractor is not currently disqualified from doing business with the city; or
- (iv) the contract is necessary in order to respond to an emergency which endangers the public health and safety and no entity which complies with the requirements of this section capable of responding to the emergency is immediately available; or
- (v) where a contracting agency whose primary responsibility is law enforcement deems it necessary to purchase handguns from other than a responsible supplier; or
- (vi) where inclusion or application of such provisions will violate or be inconsistent with the terms and conditions of a grant, subvention or contract of the United States or New York State government or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

All written waivers shall become part of the contract file of the contracting agency.

Notwithstanding any waiver, the contracting agency shall take every reasonable measure to contract with a manufacturer who best satisfies the requirements of this section.

h. With regard to “city agents”, the requirements of this section shall be waived in writing under the following circumstances:

- (i) the employer of the city agent determines that there is only one prospective supplier willing or able to supply such handgun; or
- (ii) where the employer of the city agent determines that all prospective suppliers are deemed ineligible for purposes of this section; or
- (iii) where the employer of the city agent determines that the handgun is available only from a sole source and the prospective supplier is not currently disqualified from doing business with the city; or
- (iv) the employer of the city agent determines that it is necessary in order to respond to an emergency which endangers the public health and safety and no entity which complies with the requirements of this section capable of responding to the emergency is immediately available; or
- (v) where the employer of the city agent whose primary responsibility is law enforcement deems it necessary to purchase handguns from other than a responsible supplier; or
- (vi) where the employer of the city agent deems that the inclusion or application of such provisions will violate or be inconsistent with the terms and conditions of a grant, subvention or contract of the United States or New York State government or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

i. This section shall not apply to any contract with a contracting agency entered into prior to the effective date of this local law.

j. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 3. This local law shall take effect 180 days after its enactment.

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