MONTGOMERY COUNTY, MARYLAND

"Wage Requirements Law"

Frequently Asked Questions

What is the Living Wage Law?

The County's Living Wage Law is officially entitled the "Wage Requirements Law" (the "Law"). The Law, at Montgomery County Code Section 11B-33A, establishes that certain County service contractors, and their subcontractors, must pay a certain level of wages to employees who perform direct and measurable work on qualified County service contracts. It does not apply to contracts for goods or contracts for construction.

When did the law take effect?

The law applies to qualified County service contracts entered into on or after July 1, 2003.

What is the current Living Wage rate?

Effective July 1, 2014 the Wage Requirements rate is $14.15 through June 30, 2015. Effective July 1, 2015 the Wage Requirements rate will be $14.35 through June 30, 2016. An employer may reduce the hourly rate paid under the Law by an amount equal to, or less than, the per employee hourly cost of the employer's paid share of the employee's health insurance premium.

How often is the Living Wage rate adjusted?

The Chief Administrative Officer adjusts the rate annually, effective July 1st of each year. The adjustment is based on changes in the Consumer Price Index for all urban consumers

in the Washington-Baltimore metropolitan area, as published by Bureau of Labor Statistics of the US Department of Labor.

Are subcontractors subject to the Living Wage Law?

Yes.

Are there exceptions to the Living Wage Law?

Yes. The law contains several exceptions to its applicability, based on the characteristics of the vendor, the contract, the solicitation method, and the status of an employee. Exceptions to applicability of the Law are:

- A vendor who, at the time the contract is signed, has received less than $50,000 from the County in the most recent 12 month period, and who will be entitled to receive less than $50,000 from the County under that contract in the next 12 month period.

- A County contract with a public entity.

- A County contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

- A County contract awarded on a noncompetitive basis, under Section 11B-14 of the County Code, if the Chief Administrative Officer finds that the performance of the contract would be significantly impaired if the wage requirements applied.

- A County contract for electricity, telephone, cable television, water, sewer, or similar service delivered by a regulated utility.

- A County contract for services needed immediately to prevent or respond to an imminent threat to public health or safety.

- A vendor who is expressly precluded from complying with the Law by the terms of any federal or state law, contract, or grant.

- A County contract resulting from a bridge solicitation method under Section 11B-42 of the County Code.

A County contract resulting from a cooperative procurement under Section 11B-40 of the County Code.

- An employee who performs no measurable work related to a County contract.

- An employee who participates in a government-operated or -sponsored program that restricts to a level below the wage required under the Law the earnings of, or wages paid to, employees.

- An employee who participated for no longer than 120 days in any calendar year in a Government-operated or -sponsored summer youth employment program.

- An employee for whom a lower wage rate is expressly set forth in a bona fide collective bargaining agreement.

What are the other responsibilities of an employer with a County contract subject to the Living Wage Law?

An employer must: certify that it, and its subcontractor(s), is (are) aware of, and will comply with the Living Wage Law; conspicuously post the notices that the County furnishes informing employees of the Living Wage Law; keep and submit any records necessary to show compliance with the Law; and, submit certified payroll reports, quarterly.

If an employer is located out of the County, does the Living Wage Law apply?

Yes.

Does the Living Wage Law apply to part-time employees?

Yes.

Does the Living Wage Law apply to a contractor's independent contractors?

No. However, the Law does apply to the wages a contractor must pay its employees, and wages a contractor's subcontractors must pay their employees.

For covered employees, must they be paid the Living Wage for those hours that they are not working on the County contract?

No. The Law and its related wage amount applies only to those hours spent working on the County contract.

What enforcement and compliance mechanisms does the County employ?

The Law contains the following provisions:

- The Law requires random and other audits necessary to ensure enforcement.
- Contracts may specify liquidated damages, including any unpaid wages, with interest, and that the contractor is jointly and severally liable for any noncompliance by a subcontractor.
- An employer may not retaliate against an employee for asserting any right under the Living Wage Law, or for filing a complaint of violation.
- An aggrieved employee may enforce the Law as a third-party beneficiary, to recover unpaid wages, interest, attorney's fee, and retaliation damages.
- As necessary, the County may issue a Cure Notice, and, if necessary, a Termination for Cause, as a result of an employers failure to comply with the Law.

How does an employee file a complaint?

The notices that the employer is required to post in the workplace contain the contact information of the County's Contract Administrator for the employer's contract. To file a complaint, an employee would contact the Contract Administrator, who will take the required information and initiate the complaint process.

Who can I contact if I have further questions concerning the County's Living Wage Law?

Please contact the Living Wage Law Program Manager at 240-777-9918.