

WAGE REQUIREMENTS LAW **FY 21 ANNUAL REPORT**

The Wage Requirements Law (WRL), County Code Section 11B-33A, works to ensure that workers on certain County service contracts receive a livable wage¹. The WRL, commonly known as the Living Wage Law, is an effort to offset the high cost of living in Montgomery County. The WRL exempts a limited class of vendors from coverage, including vendors with contracts under \$50,000, tax exempt organizations and bridge contracts.

FY 21 Retroactive Pay from County Contractors

One administrative requirement of the WRL is for contractors to submit quarterly payroll reports. These reports must contain the worker's wages, health insurance and other fringe benefits, as well as the race and gender of workers who perform work on the County contract. In FY 21 the County realized a submission rate of 88.0%. In FY 20, the submission rate dropped due to the impact of the Covid-19 pandemic. In FY 21, the submission rate has nearly returned to pre-pandemic reporting levels.

As a part of WRL enforcement, the Office of Procurement, Division of Business Relations and Compliance (DBRC) conducts audits when circumstances warrant. When an audit reveals an underpayment of the vendor's workers and subcontractors who work on County services contracts, the DBRC requires the vendor to issue back pay to the affected workers and subcontractors. Audit activity continued to be limited in FY 21 due to the ongoing impacts of the Covid-19 pandemic and budget constraints.

Despite this, the County did recover significant back wages. When the County discovers a violation, the County and the contractor often agree to a settlement. In this manner, all parties avoid the time and expense of an audit. In FY 21 these efforts resulted in one hundred twenty-one workers sharing \$16,747.13 in back pay.

¹ The Wage Requirement Law is applicable to contracts executed on or after July 1, 2003.

Minority, Female and Disabled (MFD) Contracts Subject to the Wage Requirements Law

The WRL requires an annual report on the number of contracts and subcontracts with minority-owned businesses that are subject to the requirements of the Law along with data on year-to-year variance. In accordance with Section 11B-33A(i) of the Wage Requirements Law, the tables below contain the number of MFD contracts and subcontracts subject to the Wage Requirements Law.

**MFD Contracts and Subcontracts Subject to the Wage Requirements Law
FY18 — FY21**

	FY18 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	931	334	36%	115	12%
Contracts with a vendor-claimed exception	398	98	25%	3	1%
Contracts operating under the Wage Requirements Law	533	236	44%	112	21%

	FY19 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	985	355	36%	120	12%
Contracts with a vendor-claimed exception	424	127	30%	5	1%
Contracts operating under the Wage Requirements Law	561	228	41%	115	20%

	FY20 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	1193	404	34%	160	13%
Contracts with a vendor-claimed exception	536	158	29%	1	0%
Contracts operating under the Wage Requirements Law	657	246	37%	159	24%

	FY21 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	826	289	35%	93	11%
Contracts with a vendor-claimed exception	322	114	35%	1	0%
Contracts operating under the Wage Requirements Law	504	175	35%	92	18%

For the years reported, FY18 through FY21, MFD participation was relatively consistent. For those contracts ultimately subject to the Wage Requirements Law, those with no vendor-claimed exemption, for prime contractors, the participation range was from 35% to 44%. The average MFD prime contractor participation was 39.25%. For MFD sub-contractors, their participation ranged from 18% to 24%, and the average MFD sub-contractor participation was 20.75%.

Vendor-Claimed Exceptions to the Wage Requirements Law

The Wage Requirements Law allows for exceptions based on the characteristics of the vendor's business. The County began compiling this information in FY06.

	FY18	FY19	FY20	FY21
Contracts subject to Wage Requirements Law ⁱ	931	985	1193	826
Contracts with a vendor-claimed exception	398 (43%)	424 (43%)	536 (45%)	322 (39%)
Contracts operating under the Wage Requirements Law	533 (57%)	561 (57%)	657 (55%)	504 (61%)
Reason 1	0	4	4	4

Reason 2	215	220	328	136
Reason 3	5	5	3	3
Reason 4	175	191	197	174
Reason 5	0	0	0	0
Reason 6	2	3	3	3
Reason 1,2	0	0	0	0
Reason 1,4	0	0	0	0
Reason 2,4	1	1	1	1
Reason 1,2,4	0	0	0	0
Total	398	424	536	321

¹ Section 11B-33A (b) of the County Code permits vendors to claim exceptions to the Wage Requirements Law. They are listed on the Wage Requirements Certification form as follows:

Reason 1 - Vendor employs fewer than 10 employees. (Repealed effective April 1, 2010.)

Reason 2 - Vendor has received less than \$50,000 in the last 12 months and will receive less than \$50,000 in the succeeding 12 months.

Reason 3 - Vendor is a public entity.

Reason 4 - Vendor is a nonprofit organization under section 501(c)(3) of the Internal Revenue Code.

Reason 5 - Vendor is expressly precluded from complying with the Wage Requirements Law by the terms of any federal or state law, contract or grant.

Reason 6 – CAO Waiver.