

## **WAGE REQUIREMENTS LAW** **FY 23 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 wage<sup>1</sup>. The WRL, commonly known as the Living Wage Law, is an effort to offset the high cost of living in Montgomery County. The WRL minimum mandated rate of pay for FY23 was \$16.00 per hour. The WRL exempts a limited class of vendors from coverage, including vendors with contracts under \$50,000, tax exempt organizations and bridge contracts.

### **FY 23 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 23 the County realized a submission rate of 90.8%. The FY23 submission rate increased by 2.5% from FY22.

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 23 due to budget constraints.

Despite this, the County did recover back wages for several workers. 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 23 these efforts resulted in forty-six workers sharing \$4,701.16 in back pay.

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<sup>1</sup> 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  
FY20 — FY23**

	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%

	FY22 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	1066	277	26%	94	9%
Contracts with a vendor-claimed exception	473	118	25%	0	0%

Contracts operating under the Wage Requirements Law	593	159	27%	94	16%
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	FY23 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	1356	455	33%	99	7%
Contracts with a vendor-claimed exception	659	205	31%	3	0%
Contracts operating under the Wage Requirements Law	697	240	34%	96	14%

For the years reported, FY20 through FY23, 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 27% to 37%. The average MFD prime contractor participation was 33.25%. For MFD sub-contractors, their participation ranged from 14% to 24%, and the average MFD sub-contractor participation was 18%.

**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.

	FY20	FY21	FY22	FY23
Contracts subject to Wage Requirements Law <sup>i</sup>	1193	826	1066	1356
Contracts with a vendor-claimed exception	536 (45%)	322 (39%)	473 (44%)	659 (49%)
Contracts operating under the Wage Requirements Law	657 (55%)	504 (61%)	593 (56%)	697 (51%)
Reason 1	4	4	2	5
Reason 2	328	136	265	310
Reason 3	3	3	3	5
Reason 4	197	174	196	331
Reason 5	0	0	0	0
Reason 6	3	3	4	4
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	536	321	471	656

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<sup>1</sup> 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.