



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: January 31, 2017
Board Meeting Date: February 14, 2017
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager
Peggy Jensen, Deputy County Manager

Subject: Living Wage Ordinance Amendment

RECOMMENDATION:

Introduction of an ordinance authorizing an amendment to the Living Wage Ordinance, and waive the reading of the ordinance in its entirety.

BACKGROUND:

The Board of Supervisors adopted the Living Wage Ordinance (LWO) on November 1, 2016. The LWO went into effect on January 1, 2017. Between January 1, 2017, and March 31, 2017, the LWO applied only to amendments to existing service contracts with the County. Beginning April 1, 2017, new service contracts entered into must also comply with the LWO.

Following the initial adoption of the LWO, the County Manager's Office (CMO) and County Counsel identified changes that would facilitate implementation and administration of the LWO. Therefore, the CMO is bringing this action to the Board of Supervisors to make the following amendments to the LWO:

- Add an exemption for nonprofit contracts funded less than 50% by County funds;
- Add an exemption for nonprofit contracts where the County is one of several braided funding sources for a single program, and County funds comprise less than 50% of the total program funding;
- Modify the definition of "Covered Employee" to specifically include full-time and part-time employees;
- Modify the definition of "information technology" services to make it consistent with other County contracting practices;
- Remove the term "chattel" from the definition of "Services" because it is unnecessary; and
- Modify the pass-through exemption to include "other non-County funds" in addition to state and federal funds.

DISCUSSION:

The LWO, as amended, exempts certain County contracts from LWO compliance to avoid imposing an unintended negative impact on nonprofit contractors. The exemption addresses two situations in which the County is a minority funding source, i.e., provides less than 50% funding, for either a single contract or a program with “braided funding.” The amendment is in response to issues raised in discussions with nonprofit core service organizations, including members of the Living Wage Task Force.

The first exemption applies to single contracts funded 50% or less by the County. The reason for this amendment to avoid a situation in which funding from non-County sources comprises the majority of the services for which the County is contracting. Typically, the majority (non-County) funding source, a state or federal agency, places numerous restrictions on service delivery and allocation of funding. Imposing the LWO in such circumstances could jeopardize the delivery of services under the contract.

The second exemption applies to County contracts that contribute funds to programs with “braided funding” sources. Braided funding refers to the weaving of multiple sources of funding (e.g. state, federal, and private) to support a single program. Although an entire County contract for services may be funded by the County—and therefore within the purview of the LWO—those County funds may comprise less than a majority of the total program funding. In addition, in braided funding scenarios, non-County funding sources typically impose restrictions, such as federal and state funding limits on administrative costs. Requiring LWO compliance in these instances may violate those restrictions, thereby negatively impacting the ability of nonprofits to operate programs that provide services to County residents at minimal County cost. Therefore, the LWO amendment exempts contracts between the County and nonprofit organizations where the County is one of several braided funding sources for a single program, and County funds comprise less than 50% of the total program funding.

The exemption for pass-through contracts was modified to apply to any contract that is a 100% pass through of “non-County funds,” not just where funds are from state or federal sources.

FISCAL IMPACT:

The total estimated cost of the LWO pilot program is \$4.2 million, which is based on data provided by the workgroup survey. Because this is an estimate, County staff will periodically report to the Board on the actual costs of the LWO.

ATTACHMENTS:

- A. Living Wage Ordinance Amendment