



Metro

Los Angeles County
Metropolitan Transportation Authority

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MARCH 29, 2017

TO: BOARD OF DIRECTORS

THROUGH: PHILLIP A. WASHINGTON PAW
CHIEF EXECUTIVE OFFICER

FROM: DEBRA AVILA DA
CHIEF VENDOR/CONTRACT MANAGEMENT OFFICER

**SUBJECT: LIVING WAGE APPLICABILITY TO THE P2000 LIGHT
RAIL VEHICLE OVERHAUL PROGRAM**

ISSUE

As requested by Director Hahn, at the March 16, 2017, Executive Management Committee Meeting, the Diversity & Economic Opportunity Department (DEOD) reviewed the Statement of Work (SOW) for the OPP2000 P2000 Light-Rail Vehicle Overhaul Program (P2000), and has reaffirmed that Metro's Living Wage Policy is not applicable to the Contract.

BACKGROUND

On April 24, 2014, the Board approved Metro's Living Wage Policy (LWP), with an effective date of July 1, 2014. The LWP is applicable to service contracts greater than \$25,000.00 with an expected duration over 12-months, and which fall in the following categories:

- Asphalt and Concrete Repair
- Facility and Building Maintenance
- Food Services
- Janitorial and Custodial
- Landscaping
- Laundry Service
- Moving Services
- Office and Clerical (copier maintenance, facsimile maintenance, courier mailing, photographic, printing, collections)

- Parking Lot Maintenance
- Pest Control
- Security
- Street Sweeping
- Towing
- Trash Collection
- Tree Trimming
- Weed Abatement and Debris Removal

On March 30, 2016, DEOD staff responded to a Directors' Request from Directors Ridley-Thomas, Kuehl and Krekorian (refer to Attachment A) for staff to evaluate the feasibility of adopting a Universal Living Wage Policy.

Staff surveyed 122 public sector agencies, including 15 transportation agencies, to identify whether they had existing living wage policies or ordinances, and the service categories to which the programs apply. Out of the 122, only 22 had living wage policies or ordinances, with similar service categories. In addition, staff compared the service categories covered under the U.S. Department of Labor, Wage and Hour Division's Service Contract Act (SCA) against Metro's LWP service categories. The results indicated that Metro's service categories were in line with the Federal Service Contract Act categories.

Amongst the numerous categories that were not currently in the LWP, staff also reviewed Rail Car Technical Services, Rail Vehicle project management support services, New Light/Heavy Rail, and Rail Vehicle Overhaul Heavy/Light. After reviewing all categories and making the comparisons against other agencies with active Living Wage programs; staff determined that Metro would not be able to effectively monitor and enforce Living Wage Policy requirement for contract work outside of Los Angeles County.

DISCUSSION

As requested, staff reviewed the scope of work and wages to be paid on the P2000 project. Staff has confirmed the inability for DEOD to enforce all aspects of the LWP and has reaffirmed that the LWP is not applicable to the P2000 contract. However, the results of the DEOD review of the wages to be paid on the P2000 project indicate that the recommended awardee proposed hourly wages for all classifications listed on the Form 60 at rates higher than the current living wage hourly rate. On March 23, 2017, the P2000 project was approved by the Board of Directors. Once the contract is executed, the wages become a commitment.

Attachment A - Board Box – Response to Directors Request, dated December 3, 2015. Includes:

- Living Wage Director's Request & Response



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MARCH 30, 2016

TO: BOARD OF DIRECTORS

THROUGH: PHILLIP A. WASHINGTON *PAW*
CHIEF EXECUTIVE OFFICER

FROM: IVAN PAGE *Ivan Page*
INTERIM EXECUTIVE DIRECTOR,
VENDOR/CONTRACT MANAGEMENT

SUBJECT: FEASIBILITY OF ADOPTING A UNIVERSAL LIVING WAGE POLICY

ISSUE

On December 3, 2015, the Board introduced a Directors Request from Directors Ridley-Thomas, Kuehl and Krekorian (refer to Attachment A) for staff to evaluate which current contracts are not subject to Metro's existing Living Wage Policy or State/Federal prevailing wage requirements; assess the feasibility of adopting a Universal Living Wage Policy; and provide recommendations on the level of staffing necessary to monitor and enforce compliance.

BACKGROUND

On April 24, 2014, the Board approved Metro's Living Wage Policy, with an implementation date of July 1, 2015. The Living Wage policy (LWP) is applicable to service contracts greater than \$25,000.00, with an expected duration over 12-months, and which fall in the following categories:

- Asphalt and Concrete Repair
- Facility and Building Maintenance
- Food Services
- Janitorial and Custodial
- Landscaping
- Laundry Services
- Moving Services

- Office and Clerical (copier maintenance, facsimile maintenance, courier mailing, photographic, printing, collections)
- Parking Lot Management
- Pest Control
- Security
- Street Sweeping
- Towing
- Trash Collection
- Tree Trimming
- Weed Abatement and Debris Removal

In addition, the LWP allows the Metro Board of Directors and Executive Management to apply the LWP to other categories of services or labor that they determine are appropriate. The Labor Wage & Retention Program unit is currently monitoring six (6) contracts covered by the LWP, in addition to contracts where prevailing wage requirements apply. As currently active service contracts expire, Living Wage requirements will be included within the new solicitations. The Diversity & Economic Opportunity Department (DEOD) estimates that approximately 7-10 additional contracts will become subject to the current LWP within the next few years.

DISCUSSION

Based on the Director's Request, staff identified services categories where neither the prevailing wage requirements, nor the living wage policy apply (see Attachment B for a list) to determine the feasibility of expanding the applicability of the Living Wage Policy. Additionally, staff surveyed 122 public sector agencies, including 15 transportation agencies, to identify whether they had existing living wage policies or ordinances, and the service categories to which the programs apply. Out of the agencies surveyed, 22 have living wage policies or ordinances with one of these 22 being a transportation agency (see attachment C). The majority of the agencies that have living wage policies have similar service categories to Metro's current service categories that are subject to Metro's existing LWP. None of the city, county or transit agencies surveyed have living wage programs applicable to their manufacturing or equipment contracts.

Furthermore, staff compared the service categories covered under the U.S. Department of Labor, Wage and Hour Division's Service Contract Act (SCA) against Metro's current LWP service categories. The results indicate that Metro's currently covered service categories are generally in line with the Federal Service Contract Act categories. Additionally, the following categories are exempt from the Federal Service Contract Act:

- Contracts for Services with Communication Companies

- **Contracts for Public Utility work**
- **Employment Contracts**
- **Manufacturing or Supplies**

Based on the best practices of other agencies with living wage programs, the review of the Federal SCA covered service categories, and Metro's inability to effectively monitor and enforce Living Wage requirements for contracts outside of Los Angeles County, staff is recommending that Metro's LWP not be expanded to cover additional categories. Should the Board elect to expand the LWP anyway, the following service categories are potential candidates for expansion as the direct labor being performed on these services can be potentially monitored for LWP compliance. However, Metro monitoring and enforcement may be limited due to workforce location.

Rail Car Technical Services

- **Design definition and pre-award support**
- **Post award engineering and vehicle commissioning**

Rail Vehicle

- **Project management support services**

Bus Technology Consultant Services

- **Engineering**

Intellectual Property

- **Software**
- **Hardware**
- **Software maintenance**
- **Hardware maintenance**
- **Professional Consulting**
- **Program Management Consulting**

Challenges

Staff identified various challenges with the list of service categories that are not currently covered by living or prevailing wages, including: 1) difficulty monitoring and enforcing compliance if the services being provided are outside of Los Angeles County, the state, or the country; 2) where the supplies originate; 3) the ability to conduct site visits; 4) and the ability to identify direct hours worked for Metro. Service categories that may present real difficulties in the implementation of a Universal Living Wage Policy and that no other agency currently covers in their Living Wage program, based on our review, are as follows:

- **Manufacturing**
- **Equipment Suppliers**

- **Training (Online)**

Manufacturing

With the exception of assembly possibly being performed locally, various components of the manufacturing process would be difficult to enforce universal living wage compliance. Manufacturers that utilize suppliers would need to be monitored and audited. This would also require monitoring each of the manufacturer's suppliers and the wages they pay their staff. It is typical for manufacturers to use suppliers not local to them for cost effectiveness. This would require monitoring all non-local manufacturers' suppliers who ship supplies from outside of the county, state or country. It is not practical to travel outside of Los Angeles County to monitor, perform site visits or perform training or hands on program support remotely. It would also be challenging to determine how much time a company's staff devotes to Metro projects if the company is not local. In order to determine compliance, Metro staff must have the ability to verify a company's workforce and whether the required percentage of hours (50%) is spent working directly on Metro projects.

Equipment

Equipment supply contracts present challenges in implementing a universal living wage program as a large portion of our rail car shells come from outside of the country. Staff would not be able to perform site visits to companies outside of the county, state or country who provide parts, manufacturing or services to Metro. Verifying and auditing payrolls would be difficult to perform remotely on contractors out of the area.

Training (Online)

Online training contracts would be challenging to monitor as this would require remote implementation and monitoring. It is difficult for staff to enforce compliance on companies operating outside of Los Angeles County.

FINANCIAL IMPACT

As staff is not recommending that the current LWP be expanded to include additional categories, there would be no financial impact should this recommendation be accepted. Should the Board elect to only expand the LWP to the additional service categories identified above, the cost breakout based for additional Metro staff, or a consultant contract, is as follows:

- 1 additional FTE (Sr. DEOD Representative): \$181,145.76 (fully burdened/per year); or
- A consultant contract at an estimated \$276,127.68 per year

It would be impractical from a staffing perspective to implement a Universal Living Wage Policy to monitor all service categories.

NEXT STEPS

- Staff is currently in the process of making updates to the existing LWP to address areas that require clarification (i.e. overtime, holiday pay, etc.), and separating the Living Wage Policy and the Service Contract Worker Retention Policy.

Attachment A – Living Wage Director’s Request

Attachment B – List of Requested Service Types (Currently Not Covered by Living or Prevailing Wage)

Attachment C – Living Wage Survey Results

Motion by Directors Ridley-Thomas, Kuehl and Krekorian

Expanding Metro's Living Wage Ordinance

December 3, 2015

Given the significant cost of living in Los Angeles, residents who work in low-wage jobs barely make sufficient income to afford the cost of housing, utilities, transportation, and food; nonetheless save for emergencies and retirement. A low-wage workforce also creates reliance on public assistance programs for employees to meet their basic needs.

The wages that the Los Angeles County Metropolitan Transportation Authority (Metro) authorizes through its various contracts should reflect a rate that rewards employees' hard work, meets minimum standards of living and enhances self-sufficiency. Metro's Board of Directors (Board) has already taken numerous steps to ensure that the employees of our contractors are able to achieve an acceptable living standard. For example, the Board has authorized an agency-wide Project Labor Agreement, set targets for the hiring of Veterans, and aggressively and successfully pursued federal legislation that would support a local hire policy on our construction contracts. In addition, on April 24, 2014, the Board approved of a living wage ordinance that applies to all service contracts.

While policies are now in place to cover construction and service contracts, there are still gaps in our policies (e.g. procurement of rolling stock), that enables some Metro contractors to not pay their employees a living or prevailing wage rate. The Metro Board should ensure that there is consistency and universality to our wage policy to ensure that it applies to all contracts.

WE THEREFORE REQUEST THAT THE CHIEF EXECUTIVE OFFICER:

Report back by March 2016 with an evaluation of what current contracts are not subject to the agency's existing living wage ordinance or prevailing wage requirements, and an assessment of the feasibility of adopting a Universal Living Wage Ordinance that includes recommendations on the level of staffing necessary for monitoring and enforcing compliance.

SERVICES CURRENTLY NOT COVERED BY PREVAILING OR LIVING WAGE

Rail Car Technical Services

- Design definition and pre-award support
- Post award engineering and vehicle commissioning

Rail Vehicle

- Project management support services

Bus Technology Consultant Services

- Engineering

Intellectual Property

- Software
- Hardware
- Software maintenance
- Hardware maintenance
- Professional Consulting
- Program Management Consulting

Rail Vehicles

- New Light Rail
- New Heavy Rail

Rail Vehicle Overhaul

- Heavy Rail
- Light Rail

Buses

- New CNG Vehicles
- New Zero Emission Test Vehicles

Bus Powertrain Conversion

- Hybrid to Electric

Batteries

- Traction Power and train control batteries for Metro Rail Cars

Equipment

- Operations equipment for the entire agency (including all the divisions) i.e. inventory storage equipment, cranes, jack-lifts, Rail Grinders, Tow Tractors & Trailers

Rail Components and Major Spares

- Traction Power Brakes, LED Lights, windows, doors, flooring, rail ties, rail communication & camera systems, all components

SERVICES CURRENTLY NOT COVERED BY PREVAILING OR LIVING WAGE

Bus Components and Major Spares

- Engines, alternators, windows, doors,

Non-Revenue Vehicles

- Sedans, Trucks, SUVs, Forklifts, robotic inventory movers

Commodities

- Engine oil, diesel gas, compress natural gas, renewable nature gas, lubricants, brake fluids,

Consulting Services

- Training Services

Preventative Maintenance for Bus and Rail

- Preventative Maintenance

Non-Warranty Bus Engine Repairs

- Engine Repairs

**Living Wage Survey - Government Agencies
Metro Los Angeles**

	Agency	What Contracts does the Living Wage apply?	Threshold Dollar Amount	Minimum Contract Terms	Service Contract Categories/Types
1	City of Berkeley	Service Contract	\$25,000 +	12 months +	No specific contract types or terms noted in the ordinance.
2	City of Los Angeles	Service Contract	\$25,000 +	3 months +	Service contracts include but not limited to hotel employees, restaurant, food service or banquet employees; gardeners; waste management employees; and clerical employees;
3	County of Los Angeles	Service Contract	\$25,000 +	12 months +	No specific contract types are noted in the ordinance.
4	County of Marin	Service Contracts	\$25,000 +	3 months +	No specific contract types are noted in the ordinance.
5	City of Emeryville	Service Contract	\$25,000 +	Term of the contract	Service contracts include but not limited to security guard services, janitorial services, waste management, landscaping, parking attendant services, and towing.
6	City of Hayward	Service Contract	\$25,000 +	Term of the contractual relationship	Service contracts include but not limited to vehicle repair and maintenance, building facility repair and maintenance, janitorial and laundry services, landscape maintenance, security services and pest control.
7	City of Lakewood, OH	Service Contract	\$25,000 +	N/A	Limited to following categories of services: food service, janitorial, security services, parking lot attendants, home health care, health care aides, waste management, automotive repair services, landscaping, towing contracts, building and maintenance services, carpentry, clerical services, urban forestry, housekeeping, street maintenance and repair, and sidewalk maintenance and repair.
8	City of Norwalk, CO	Service Contracts	\$25,000 +	12 months +	Any contract for the purchase or lease of goods, products, equipment, commodities or supplies or any contract where services are provided incidental to the purchase, lease or delivery of goods, products, equipment, commodities or supplies;
9	City of Oakland	Service Contracts	\$25,000 +	N/A	No contract terms noted in the policy
10	City of Oxnard	Service Contract	\$25,000 +	Term of the contract	No specific contract types are noted in the ordinance.
11	City of Pasadena	Service Contracts	\$25,000 +	N/A	No specific contract types or terms noted in the ordinance.
12	Port of Oakland	Service contracts	\$50,000 +	N/A	No specific contract types or terms noted in the ordinance.
13	City of Richmond	Service Contract	\$25,000 +	12 months +	Applies to nonprofessional services including but not limited to hotel employees; health care employees; gardeners; waste management employees; and clerical employees.

**Living Wage Survey - Government Agencies
Metro Los Angeles**

	Agency	What Contracts does the Living Wage apply?	Threshold Dollar Amount	Minimum Contract Terms	Service Contract Categories/Types
14	City of Sacramento	Service Contract	\$100,000 +	N/A	Applies to nonprofessional services including but not limited to tree trimming services, repair services for motor vehicles and office equipment, vehicle towing, and security services.
15	City of San Diego	Service Contract	\$25,000 +	N/A	Services means work such as: janitorial, landscaping, security, laundry, parking, pest control, facility maintenance, street cleaning, right-of-way maintenance, waste collection/disposal; including recycling, water & wastewater maintenance, warehouse work; auto maintenance/repair; office/clerical; concessions/retail sales; cashiers; onsite food service/preparation; ushers and wheelchair attendants; ticket takers; child care; and other types of work consistent with the LWO's intent.
16	City of San Jose		\$20000 +	N/A	Food services, janitorial and custodial services, shuttle transportation, parking lot management, street sweeping (citywide), operation, programming and maintenance of recreational facilities, any other service or labor determined by the Director of Equality Assurance to meet the intent of this policy.
17	City of San Leandro	Service Contract	\$25,000 +	12 months +	Service contracts include but not limited to security guard services, janitorial services, waste management, landscaping, parking attendant services, towing
18	City of Santa Barbara	Service Contract	\$15,000	N/A	No specific contract types or terms noted in the ordinance.
19	City of Santa Monica	Service Contract	\$54,200 +	N/A	No contract terms noted in the policy
20	City of Vernon	Service Contract	\$25,000 +	3 months +	No specific contract types are noted in the ordinance.
21	Washington Metropolitan Area Transit Authority (WMATA)	All service and Construction Contracts	\$100,000 +	12 months +	Applies to service and construction contracts.
22	City of West Hollywood	Service contracts	\$25,000 +	3 months +	No specific contract types are noted in the ordinance.