

Note: The following is a draft policy for discussion purposes only. It is the intent of the County to collect further input and continue working with the nonprofit community to refine the provisions listed below.

5.5.5.5(a). Living Wage Provisions in County Contracts with Community-Based Nonprofit Service Providers (Adopted XX-XX-XX)

Basic Wage and Benefit Standards

Employees of Community-Based Nonprofit County Contractors, and their Subcontractors, who provide Direct Services within the geographic boundaries of Santa Clara County, as part of a County Services Contract, as those terms are defined in the County's Living Wage Ordinance, shall be compensated at least pursuant to the following standards for their work as part of the County Service Contract:

- As of July 1, 2018, the minimum hourly wage shall be 85% of the living wage rates required for all other County Contractors.
- As of July 1, 2019, the minimum hourly wage shall be 92.5% of the living wage rates required for all other County Contractors.
- As of July 1, 2020, the minimum wage shall be equal to the living wage rates required for all other County Contractors.
- The living wage rate shall be adjusted annually for cost of living using the identical methodology to that used by the City of San Jose, as follows: The rates will be reviewed each year, no later than the 10th of February, to determine if any adjustment should be made based on any change as of December 31st of the previous year in the federal poverty level standard or the geographic cost of living differential provided by the Economic Research Institute's Geographic Assessor. If either standard has changed the County shall recalibrate the wages by multiplying the federal poverty level standard for a family of 3 by said geographic cost of living differential. If neither standard has changed, the Consumer Price Index for all urban consumers (CPI-U) in the San Francisco-Oakland-San Jose regional area (United States Department of Labor, Bureau of Labor Statistics) shall be reviewed. If the CPI-U has increased by at least 1%, the wage rate shall be adjusted by the same percentage change in the CPI but not to exceed 3%.
- Community-Based Nonprofit County Contractors that contribute to affordable individual health coverage for the employee shall have \$2.00 credited toward compliance with the minimum wage. Employers who offer to contribute at least \$2.00 per hour to a retirement plan for the employee shall have another separate \$2.00 credited toward compliance with the living wage.
- Community-Based Nonprofit County Contractors that offer individual vision and dental coverage [or to all their employees shall have another separate \$1.00 credited toward compliance with the living wage.

- Community-Based Nonprofit County Contractors that contribute at least \$1.00 per hour worked to an individual tuition reimbursement and/or professional development program shall have another separate \$1.00 credited toward compliance with the living wage.
- The resulting living wage rates are maintained by the Office of Countywide Contracting Management and available for reference online at <http://www.sccgov.org/livingwage>
- Employees shall receive at least one hour of compensated time off earned per 20 hours worked, up to a maximum of 12 days earned per year, which may be used for the employee's own sickness or to care for an ill family member or designated person. If the employee has no spouse or registered domestic partner, the employee may designate one person as to whom the employee may use compensated time off to aid or care for the person. Paid sick days, paid vacation days, and paid personal days shall count toward the required compensated time off, if those days may be used for such illness situations.
- The employer shall offer paid time off for employees required to report for jury duty, up to at least five days per year.

These Basic Wage and Benefit Standards do not apply to volunteers, interns, on-call and per diem wages, reimbursements by stipend, hourly wages not paid by County Service Contracts, or employees working for less than 5 hours per week as part of the County Service Contract.

Basic Job Security Standards

Employees of Community-Based Nonprofit County Contractors, and their Subcontractors, who provide Direct Services within the geographic boundaries of Santa Clara County, as part of a County Services Contract, shall enjoy the following protections at work:

- Employers shall not retaliate against workers who request their rights under the Living Wage Ordinance or Board Policy 5.5.5.5(a).
- The employer shall follow the same policies regarding background checks and review of possible contact with the criminal justice system that are followed by the County with County employees providing similar services. Specifically, the employer shall not ask an applicant for employment to disclose, orally or in writing, information concerning the applicant's conviction history, including any inquiry about conviction history on any employment application, until the employer has determined the applicant meets the minimum employment qualifications, as stated in any notice for the position. This requirement shall not prevent the employer from conducting a conviction history background check after determining the applicant meets the minimum employment qualifications. This qualification-assessment-first requirement shall not apply to a position for which the employer is required by law to conduct a conviction history background check, to a position within a criminal justice agency as defined in Section 13101 of the Penal Code, or to any individual working on a temporary or permanent basis for a criminal justice agency on a contract basis or on loan from a governmental entity.

- Employers shall not retaliate against an employee for engaging in lawful efforts to unionize their workforce.

Limitations of Board Policy 5.5.5.5(a)

[The following provisions of this section are carried over from the existing Living Wage in County Contracts Policy, Board Policy Chapter 5.5.5.5, which exempted all community-based nonprofit contractors. We are open to amending these provisions and look forward to stakeholder comments]

This policy will apply only to contracts for Direct Services developed pursuant to any Formal or Informal Competitive Procurement process which is initiated on or after July 1, 2018.

This policy does not apply to the following types of contracts:

- Contracts and grants that provide the County with revenue.
- Contracts where reimbursement to the contractor is linked to a match from another government entity, whether or not the revenue is through the County to another entity or utilized directly by the County.
- Compensation contracts with providers who charge the County health system for medical, mental health, and substance abuse services rendered to clients for whom the County has a legal responsibility to provide reimbursement for services.
- Contracts under \$100,000 for the term of the contract, unless the Contract is amended, extended, or renewed, such that the amendment, extension or renewal will result in a total expenditure exceeding \$100,000 for the underlying contract and any amendments, extensions, and renewals, in which case the amended, extended, or renewed contract is a new “Service Contract,” as defined in the living wage ordinance, from the date of the amendment, extension, or renewal.
- Contracts for “public works” as defined under California Labor Code Sections 1720 and 1720.2, and subject to payment of prevailing wages under the California Labor Code.
- Contracts for which the law prohibits such limitations. In addition, parties subject to the Living Wage Ordinance and this policy may by collective bargaining agreement provide that such agreement shall supersede the requirements of the Ordinance and this policy.

Waivers for Single-Year Exemption

A Community-Based Nonprofit Contractor may seek a waiver from the requirements of Section 5.5.5.5(a) if the application of the policy provisions herein are proven to create an undue economic hardship on the Contractor or its employees. The Community-Based

Nonprofit Contractor shall provide to the Office of Countywide Contracting Management a written statement, prepared and signed by the Community-Based Nonprofit Contractor, setting forth an explanation of the economic hardship to the Community-Based Nonprofit Contractor or the negative impact on services that would result from compliance with this Chapter. If the County determines that the written explanation is adequate to justify the waiver and that substantial evidence supports the written explanation, it shall recommend the requested waiver to the signature authority of the agreement. Each waiver shall be effective for a period of up to one (1) year, and subsequent waivers may be requested and granted.

DRAFT FOR DISCUSSION