

POLICY RESOLUTION NO. BOS-2016-196

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SANTA CLARA AMENDING BOARD OF SUPERVISORS' POLICY
MANUAL SECTION 5.5.5.5 RELATING TO LIVING WAGE PROVISIONS
IN COUNTY CONTRACTS**

WHEREAS, the Board of Supervisors wishes to give direction and set policy for such matters for which the responsibility of decisions is placed on it by virtue of State codes, County Charter or specific ordinances and resolutions or relates to its broad policy-making authority to matters regarding Santa Clara County; and

WHEREAS, the Board of Supervisors wishes to clearly state and compile policies and to provide for distribution of these policies to affected decision-makers; and

WHEREAS, the Policy Manual is not set by ordinance, is not legally binding, and can be changed by adoption of a resolution approved by a majority of the Board of Supervisors and is intended to give guidance to staff and future members of the Board of Supervisors;

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Adopted: 12/13/2016

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DEC 13 2016

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Santa Clara, State of California, that the Board of Supervisors' Policy Manual is hereby amended by adoption of this resolution to amend Section 5.5.5.5 relating to Living Wage Provisions in County Contracts, attached hereto as Exhibit "A" and incorporated herein, and the Clerk of the Board is directed to incorporate the policy into the manual so that it is available to all County staff.


PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on DEC 13, 2016, by the following vote:

AYES: CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER
NOES: WASSERMAN
ABSENT: NONE
ABSTAIN: SIMITIAN



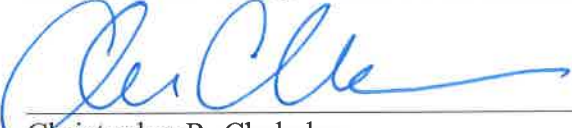
DAVE CORTESE, President
Board of Supervisors

ATTEST:



MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



Christopher R. Cheleden
Lead Deputy County Counsel

Exhibits to this Resolution:

A – Board Policy Manual Section 5.5.5.5 Relating to Living Wage Provisions in County Contracts

5.5.5.5 Living Wage Provisions in County Contracts (Amended 12-13-16)

Basic Wage and Benefit Standards

Employees of 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 the adoption date of this Policy, \$19.06 per hour shall be a minimum hourly wage, 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%.
- Employers who contribute to affordable individual health coverage for the employee shall have \$2.00 credited toward compliance with the minimum wage. Employers who 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. Therefore, employers may qualify for none, one, or both credits.
- The resulting living wage is 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 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.
- 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

This policy will apply only to contracts for Direct Services developed pursuant to a formal Request for Proposals process which is initiated on or after July 1, 2015, or any Formal or Informal Competitive Procurement process which is initiated on or after March 1, 2017.

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

- Contracts with community-based nonprofit contractors. This section of the Policy will be changed by the Board upon review and vetting of a non-profit specific Policy.
- Contracts and grants that provide the County with revenue, or where reimbursement to the contractor is linked to a match from another 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 with other governmental entities.
- Contracts with employees of the County, dependent agencies of the County or their employees.
- 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 with IHSS workers.
- 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.