COUNTY OF MILWAUKEE
Inter-Office Communication

Date: May 28, 2014 *(Updated March 2, 2015)*

To: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors
Chris Abele, Milwaukee County Executive
Milwaukee County Department Heads

From: Jerome J. Heer, Director of Audits

Subject: Implementation of Milwaukee County Government Minimum Wage Ordinance (MWO) (File No. 13-955)

Background

Milwaukee County Ordinance 111 (Exhibit A) establishes County policy regarding the County's minimum wage requirements for certain activity. Ordinance section 111.05 directs the Comptroller's Division of Audit Services to convene a work group to address implementation of the new Minimum Wage Ordinance (MWO). The charge to the group in 111.05(1) is:

(a) Develop language for RFP's, bids, concessions, and lease agreements; and,
(b) Define processes for field and desk audits ensuring compliance with this section; and,
(c) Ensure that each department/division head or his/her designee complies with payroll monitoring processes imposed on agreements; and,

(d) Define penalties and sanctions for noncompliance, subject to county board approval, including any combination of the following:

   a. withholding of payment or imposing monetary penalties in an amount sufficient to pay the wages of all affected employees; or
   b. termination of agreement; or
   c. temporary debarment of contractors or subcontractors no less than three years; or
   d. permanent debarment of contractors or subcontractors; and

(e) Examine the impact on airport concessionaires, real estate development contracts, and human service providers a year after the implementation of this ordinance; and
(f) Publish and disseminate all procedures within sixty (60) days of the passage and publication of this ordinance.

The group included representatives from Corporation Counsel, Comptroller's Office, Parks, Zoo, DAS-Procurement, Family Care and the Office of Community Business Development Partners. In addition, provisions of the Ordinance affecting Human Resources and Economic Development were also discussed with those offices. As the work of the group moved forward, other interested administrators were contacted for input.

Results of the work group efforts on these six items are presented below. It is important to note that this report is the collaborative effort of the group which includes those who will be most involved in administering the adopted policy. As auditors subject to Generally Accepted Government Auditing Standards, our role is to monitor compliance with the new Ordinance, therefore, we stress that the decisions regarding implementation were not made by the Audit Services Division. Rather, our Division was the convener of this collaborative effort.

Language in Documents Used to Administer the Ordinance

Several key documents need to be enhanced to ensure that those doing business with Milwaukee County understand the new Ordinance. These include requests for proposals, bids, leases and concession agreements. Copies of guidance to administrators for developing these documents in accordance with the MWO are attached (Exhibit B). Forms for managing compliance with the minimum wage ordinance are also included (Exhibit C). To assist in guiding the implementation of the Ordinance, the work group also developed a Frequently Asked Questions document (also attached—Exhibit D) that will be available to contract managers and to vendors. The group also prepared the attached poster (Exhibit E) required under section 111.04 (5) to inform contractor employees about the provisions of the Ordinance. Contract administrators should include copies of these exhibits in all solicitations.

Process for Ensuring Audit of Compliance

The Audit Services Division will deploy a staff of three auditors to verify compliance with the Ordinance. Each vendor affected by the Ordinance is required under section 111.04(3) to submit quarterly payroll records to the Audit Services Division. These reports are to include:

a. Name of contractor, and in the case of sub-contractor, the name of the direct employer of employees covered under this chapter; and,
b. Contract or project name; and,
c. Name of all employees employed to perform the contract or subcontract and their job classifications; and,
d. Address of each employee employed to perform the contract or subcontract; and,
e. Hourly rate of pay for each employee employed to perform the contract or subcontract.

Reports by the vendors will be accompanied by a sworn declaration of accuracy and compliance. Audit staff will conduct two levels of verification. The first level will be a desk review. The second level will be on-site review of contractor records. On-site reviews will be conducted on a sample basis using judgment to determine which contract records will be reviewed. Audit staff will also review internal County records to assess management compliance with the Ordinance. Results of audit activity in assessing compliance with the Ordinance will be reported to the County Executive and to the County Board of Supervisors.

Process for Ensuring Administrative Monitoring

Ultimate responsibility for ensuring compliance with this Ordinance lies with the contract administrator. Therefore, it will be the responsibility of each contract manager to ensure that vendors are made aware of the Minimum Wage Ordinance at every step in the process from solicitation to contracting to payment. Language referenced above and in the attachments should assist in using the soliciting and contracting process to ensure compliance. Contract managers are encouraged to take appropriate steps to ensure vendors comply with the county's minimum wage policy prior to issuing payment for work done.

In addition to contract monitoring matters, the Ordinance applies to Milwaukee County employees as well. The Department of Human Resources has identified those employees subject to the minimum wage (currently $11.466) and will adjust their pay. Further work will be done by DHR to address any "compression" issues related to those who supervise affected employees.

Sanctions for Noncompliance

The Ordinance provides a number of alternative sanctions contract managers can consider in response to issues of noncompliance including suspension of payments, termination of contracts and debarment. The work group concluded that options for noncompliance sanctions should include the withholding of payment, the imposition of monetary penalties, the termination of the agreement and/or temporary or permanent debarment. This breadth of options allows for the exercise of judgment based on the nature of noncompliance that may range from inadvertent and minor to egregious and significant. Findings of noncompliance may be appealed per MCGO Chapter 110. (See MCGO 111.05(1) and (4) for exact provisions).

Examination of the Impact

As directed in the Ordinance, the Audit Services Division will review the impact of the MWO on real estate development contracts and human services providers one year after implementation of the Ordinance. An amendment delayed implementation for airport concessions until January 1, 2017 so that impact will be reviewed one year after implementation.

Publication and Dissemination of Ordinance Requirements

According to the County Clerk, the official publication of the Ordinance was March 31, 2014. The workgroup was given 60 days from that date to disseminate procedures related to implementing the Ordinance. With the issuance of this memo, the Ordinance is in effect for all affected contract solicitations from the date of this memo forward. The Clerk's Office has already updated Municode to incorporate Chapter 111. In addition, Chapter 30 has been retitled from "Minimum Wages" to "Prevailing Wage" to more accurately reflect that ordinance. As implementation of the new MWO moves forward, the workgroup will also request that all relevant information regarding the Ordinance be readily available on the County website.

Conclusion

The work group has addressed each of the tasks with which it was charged in the Minimum Wage Ordinance. If there are any questions or concerns about this report, we would be happy to reconvene to address them.

Jerome J. Heer

JJH/cah

cc: Scott B. Manske, Comptroller, Dept. of Administrative Services
Milwaukee County Board of Supervisors
Work Group Members

Milwaukee County, Wisconsin, Code of Ordinances >> - MILWAUKEE COUNTY CODE OF GENERAL ORDINANCES VOLUME I >> Chapter 111 MINIMUM WAGE >>

Chapter 111 MINIMUM WAGE

111.01. Policy.
111.02. Definitions.
111.03. Standards requirement.
111.04. Contracting requirements.
111.05. Accountability, enforcement and monitoring.
111.06. Severability and savings.
111.07. Waiver by county board/rights of enforcement.

111.01. Policy.

It shall be the policy of Milwaukee County that certain contractors, subcontractors, lessees and recipients of financial assistance doing business with the county shall be subject to the requirements of this chapter, a minimum wage ordinance, as below. This minimum wage ordinance shall apply to all contractors, subcontractors, and recipients of financial assistance as defined herein party to an agreement covered under this chapter with any Milwaukee County unit, division, office, department, or sub-unit thereof, and Milwaukee County quasi-public entity including:

(a) A service contract as defined in MCGO 32.20(17), or an agreement to provide personal care and supportive home care to persons with disabilities or the frail elderly provided by agencies that exclusively contract with Milwaukee County, involving an amount greater than or equal to twenty thousand dollars ($20,000.00); and,

(b) A lease agreement involving county funding or a public asset involving an amount greater than or equal to twenty thousand dollars ($20,000.00); and,

(c) A concession agreement involving an amount greater than or equal to twenty-thousand dollars ($20,000.00); and,

(d) Economic development financial assistance involving an amount of financial assistance from the county greater than or equal to one million dollars ($1,000,000.00).

111.02. Definitions.

For all agreements covered under this chapter, the following definitions shall apply:

(a) *Service contract* means an agreement between the county or related entity and another party that provides a set of services defined in MCGO 32.20(17), as well as personal care, or supportive home care provided to persons with disabilities or the frail elderly by preferred provider.

(1) Service contracts do not include:

i. Purchase of goods or commodities or its delivery.

ii. Equipment lease and maintenance.

iii. Professional services contracts.

iv. Contracts with any school district, municipality, or any other governmental unit.

v. Contracts in which state or federal funder has a prevailing wage requirement.

vi. Contracts for family care other than preferred provider agencies that exclusively contract with Milwaukee County to provide personal care and supportive home care.

vii. Contracts procured under Milwaukee County Ordinance Chapter 46.

(b) *Concession agreement* means an agreement between the county or related entity and another party to allow the organization exclusive or semi-exclusive right to operate a particular enterprise usually making use of some resource of the county or related entity requiring payment to the county or related entity fees, rent, or percentage of revenues derived from the particular enterprise; airport concessions are included as defined by Milwaukee County Ordinance 42.02(1)(c). Airport concessionaires are exempted from the provisions of this chapter for any contracts executed prior to January 1, 2017.

(c) *Lease* means an agreement between the county or related entity as lessor and another party as lessee to provide exclusive use of real property, a particular asset or resource in exchange for rental payments or a fee, and which involves financial assistance consistent with s. 104.011(3), Wis. Stats. The following leases are exempted:

(1) *Cultural institutions:* Leases with institutions including the Fund for the Arts/CAMPAC, Milwaukee County Historical Society, Milwaukee County Federated Library System, Marcus Center, Milwaukee Public Museum, Charles Allis and Villa Terrace Museums, War Memorial Center, Milwaukee Art Museum, and any other cultural organization that receives contributions from Milwaukee County.

(2) *Nonprofit:* Leases with nonprofit corporations, unless the nonprofit corporation passes through to a for-profit entity an amount greater than or equal to one million dollars ($1,000,000.00) in which case the for-profit entity shall be subject to this chapter as a subcontractor as in 111.03(1)(b).

(3) *Other local units of government:* Leases with any school district, municipality or any other governmental or quasi-governmental unit.

(d) *Economic development financial assistance* means any form of assistance, consistent with s. 104.001(3), Wis. Stats., of an amount greater than or equal to one million dollars ($1,000,000.00), provided to a recipient directly by the county in the form of loan rates below those commercially available, loan forgiveness or guarantees, bond financing or forgiveness, leases of land or real property or other assets for an amount below fair market value, or grants of land or real property, or other valuable consideration, or any other assets provided to develop real property, to foster economic development or to create or retain jobs or for other similar purposes which inure to the benefit of the recipient. The following are exempted:

(a) *Nonprofit corporations:* Economic development financial assistance provided to nonprofit corporations, unless the nonprofit corporation passes through to a for-profit entity an amount greater than or equal to one million dollars ($1,000,000.00) in which case the for-profit entity shall be subject to this chapter as a subcontractor as in 111.03(1)(b).

(b) *Cultural institutions:* Economic development financial assistance to the Fund for the Arts/CAMPAC, Milwaukee County Historical Society, Milwaukee County Federated Library System, Marcus Center, Milwaukee Public Museum, Charles Allis and Villa Terrace Museums, War Memorial Center, Milwaukee Art Museum, and any other cultural organization that receives contributions from Milwaukee

County.

(c) *Other units of government:* Economic development financial assistance provided to any school district, municipality or any other governmental or quasi-governmental unit.

(d) *Sale of land/assets:* Sales of land or real property assets.

(e) *Living wage* means a minimum hourly wage rate equal to one hundred percent (100%) of the poverty income level set forth annually by the U.S. Department of Health and Human Services for a family of four (4) divided by two thousand eighty (2,080) hours.

(f) *Contractor* means a person or an entity that has a service contract, lease, or concession agreement with Milwaukee County covered under this chapter.

(g) *Subcontractor* means a person or an entity:

(1) Having an agreement or arrangement with a contractor to furnish a service for the benefit of Milwaukee County that would be covered under this chapter; or,

(2) Having an agreement or arrangement with a contractor to operate on a property that is subject to a lease or concession agreement with Milwaukee County that would be covered under this chapter; or,

(3) Purchasing or leasing from a recipient of financial assistance; or, managing or operating an enterprise employing people on the premises of property developed or improved as a result of financial assistance.

(h) *Recipient* means a person or entity receiving economic development financial assistance as defined in 111.02(d) but does not include a person or entity indirectly benefiting from incidental effects of county policies, regulations or ordinances.

111.03. Standards requirement.

(1) All employees performing part or full time work for a contractor, subcontractor, lessee or recipient of economic development financial assistance covered under this chapter and all direct employees of the county, shall be paid the minimum wage rate defined in chapter 111.02(e), except as provided in subsection (c) of this section.

(a) Tipped employees, employees paid on commission, or employees whose compensation consists of more than hourly wages shall be paid an hourly wage, when coupled with the other compensation, that will at least equal the minimum wage rate. The value of meals or lodging shall be calculated pursuant to Chapter DWD 272, Wisconsin Administrative Code.

(b) Contractors and subcontractors as defined in chapter 111.02(g)(1) and (2) shall be subject to the requirements of this chapter for the duration of the agreement with the county. Employees of contractors and subcontractors shall be covered under the requirements of this chapter for the hours worked in performance of covered agreements.

(c) Recipients of economic development financial assistance and subcontractors as defined in chapter shall:

i. Be subject to the requirements of this chapter for a period equal to one (1) year for every one hundred thousand dollars ($100,000.00) provided in economic development financial assistance, rounded to the nearest whole year; and employees of such recipients and subcontractors shall be covered under the requirements of this chapter for work performed on the premises of a project benefiting from financial assistance.

(d) Minimum wage rate requirement will be updated annually on the last business day of

February.

(2) Excluded employees:

(a) The provisions in this chapter shall exclude:

i. Student learners as defined by s. 104.01(7), Wis. Stats.; and,

ii. Employees of sheltered workshops as defined by s. 104.01(6), Wis. Stats.; and,

iii. Employees under the age of eighteen (18); and,

iv. Employees not performing work under a Milwaukee County service contract, concession, or lease; and,

v. Employees not working in a financially assisted economic development project; and,

vi. Interns and seasonal employees; and,

vii. Volunteers receiving stipends; and

viii. Any other category of employee excluded under ch 104, Wis. Stats.

ix. Employees of a contractor, subcontractor, concessionaire or recipient of financial assistance otherwise covered under this chapter where the employer otherwise subject to the provisions of this chapter employs no more than twenty (20) employees and where the employer otherwise subject to the provisions of this chapter is not an affiliate or subsidiary of another business entity dominant in its field of operation.

x. Employees of contractors, subcontractors, or a recipient of financial assistance who provide residential services such as community based residential facilities, adult family homes, residential community apartment complexes, and supportive and independent living.

xi. Employees of a member who receives personal care and supportive home care through a self-directed service program model in Milwaukee County.

(b) The requirements of this section may be modified or waived as regard employees who are covered by a collective bargaining agreement between the employer and a bona fide union, where the parties to such collective bargaining agreement expressly specify their intent in the agreement.

111.04. Contracting requirements.

(1) Department heads or their designee shall include requirements for compliance with this chapter in:

(a) Every bid, request for proposal, or request for qualifications for services, leases, concessions, or economic development financial assistance covered under this chapter; and,

(b) All new service, lease, and concession agreements, and all new agreements involving financial assistance; and,

(c) All renewals or amendments of agreements for services, leases, concessions, or economic development financial assistance covered under this chapter after the effective date of this ordinance.

(2) Contractors, subcontractors, and recipients of financial assistance must submit to the department a notarized affidavit certifying that they will comply with the requirements of this chapter prior to contract or subcontract award or receipt of any financial assistance.

(3) Contractors and subcontractors as defined in chapter 111.02(g) shall submit to the department of audit at the conclusion of every third month during the period of an agreement covered under this chapter verifiable payroll records that shall minimally contain:

a. Name of contractor, and in the case of subcontractor, the name of the direct employer of employees covered under this chapter; and,

b. Contract or project name; and,

c. Name of all employees employed to perform the contract or subcontract and their job classifications; and,

d. Address of each employee employed to perform the contract or subcontract; and,

e. Hourly rate of pay for each employee employed to perform the contract or subcontract.

(4) Contractors, subcontractors and recipients of financial assistance shall not use the requirements of this chapter to reduce the wages of employees.

(5) For every service contract and economic development assistance grant the current rate shall be posted by the contractor or grant beneficiary at the site of the work in a prominent place where it can be easily seen and read by persons employed in the performance of such contract or grant. The poster shall also provide information of the means the reader may use to file a complaint of violation. In addition, copies of the current rate requirements shall be supplied to any person employed in the performance of a service contract or economic development assistance grant at the request of such person and within a reasonable period of time after the request.

(6) Milwaukee County reserves the right to inspect and audit any payroll records of any contractor or subcontractor or recipient of financial assistance for which this chapter applies, for any reason and at any time.

111.05. Accountability, enforcement and monitoring.

(1) The division of audit shall enforce this ordinance and shall convene a workgroup, the composition of which will be determined by the auditor, from stakeholders in county departments. This workgroup will:

(a) Develop language for RFP's, bids, concessions, and leases agreements; and,

(b) Define processes for field and desk audits ensuring compliance with this section; and,

(c) Ensure that each department/division head or his/her designee complies with payroll monitoring processes imposed on agreements; and,

(d) Define penalties and sanctions for noncompliance, subject to county board approval, including any combination of the following:

a. withholding of payment or imposing monetary penalties in an amount sufficient to pay the wages of all affected employees; or

b. termination of agreement; or

c. temporary debarment of contractors or subcontractors no less than three (3) years; or

d. permanent debarment of contractors or subcontractors; and

(e) Examine the impact on airport concessionaires, real estate development contracts, and human service providers a year after the implementation of this ordinance; and

(f) Publish and disseminate all procedures within sixty (60) days of the passage and publication of this ordinance.

(2) Contractors, subcontractors and recipients of financial assistance covered under this chapter shall not discriminate or take adverse employment action against an employee covered by this ordinance for filling a complaint under this chapter, informing another covered employee of the provisions of this chapter, or assisting another covered employee in filing a complaint under this chapter.

(3) Nothing in this section shall prevent a covered employee, a group of covered employees, or

other person adversely affected by a violation of this section from attempting to bring an action against a contractor or subcontractor in a court of competent jurisdiction seeking relief under MCGO Chapter 111. Milwaukee County shall not be liable in any action arising under this chapter brought by a covered employee, a group of employees, or other person adversely affected violation of this section.

(4) An aggrieved individual, contractor or subcontractor may appeal findings of noncompliance in accordance with procedures established in chapter 110 of this Code.

111.06. Severability and savings.

If any provision of this chapter or application thereof is judged invalid, the invalidity shall not affect other provisions or application of the chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are declared severable.

111.07. Waiver by county board/rights of enforcement.

Milwaukee County recognizes that from time to time it may be in the county's best interest to enter into contracts, leases or other agreements, including agreements involving financial assistance, which have been negotiated, bid for, or otherwise entered into in a manner which is not in strict conformity with the terms of this ordinance. Upon adoption or ratification of any such contract, lease or other agreement by the county board through a vote carrying two-thirds of all seats on the county board, any such nonconformity shall be deemed to have been waived by the county.

This ordinance shall not be construed to create any right or rights of enforcement in any person seeking to do business with the county and compliance with the terms of the ordinance shall rest solely with the County of Milwaukee.

LEGISLATIVE HISTORY

All sections effective upon passage and
publication unless otherwise indicated.

Ch. 111 *Created* - February 6, 2014, J. Proc.

Ord. No. 14-7, § 1, 2-6-14

Exhibit B

GUIDANCE IN APPLICATION

Chapter 111 of Milwaukee County General Ordinances (Minimum Wage Ordinance)

Information & Requirements:

1. Introduction & Provisos: In preparing for a bid, request for proposal (RFP) or request for qualifications to do business with Milwaukee County, one must consider Milwaukee County's Minimum Wage Ordinance (MWO). The initial submission and any renewed or amended contracts, subcontracts, leases, concessions or economic development assistance may be subject to the MWO, set forth in Chapter 111 of the Milwaukee County General Ordinances (MCGO).

2. Minimum Wage Definition: Milwaukee County has instituted a MWO set forth at MCGO Chapter 111. Milwaukee County's MWO is a living or minimum wage equal to 100% of the poverty income level set forth annually by the U.S. Department of Health and Human Services for a family of four (4) divided by 2,080 hours. The current MWO is $11.66 per hour. The MWO is a level of pay for covered workers at a rate higher than the federal/state minimum wage, which is $7.25 per hour.

3. Application: The MWO requires that certain contractors, subcontractors, lessees and recipients of economic development financial assistance doing business with Milwaukee County shall be subject to the MWO. The MWO does not apply to companies that employ 20 or fewer employees and are not an affiliate or subsidiary of another business entity dominant in its field of operation. The MWO does apply to:

   (a) **A service contract** as defined in MCGO 32.20(17)[1], or an agreement to provide **personal care and supportive home care** to persons with disabilities or the frail elderly provided by agencies that **exclusively contract** with Milwaukee County, involving an amount greater than or equal to $20,000; and,

   (b) **A lease agreement** involving County funding or a public asset involving an amount greater than or equal to $20,000; and,

   (c) **A concession agreement** involving an amount greater than or equal to $20,000; and,

   (d) **Economic development financial assistance** involving an amount of financial assistance from the County greater than or equal to $1,000,000.

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[1] Per MCGO 32.09(17): "Service Contract" means an agreement primarily related to staff services including, but not limited to, housekeeping, security, landscaping, maintenance, clerical services, food services, and other non-professional services.

Definitions of and exceptions to each of the above categories are contained within the MWO at MCGO Chapter 111. The MWO's "Standards Requirements" are set forth at MCGO 111.03.

4. Contracting Requirements:

   - Accountability: To be considered responsive to a bid, RFP or request for qualifications to do business with Milwaukee County, a contractor, subcontractor, lessee, concessionaire or recipient of economic development financial assistance subject to the MWO must submit a sworn declaration certifying that it will comply with the requirements of the MWO.

   - Enforcement: After award, and at the conclusion of every third month during the period of an agreement covered by the MWO, the contractor, subcontractor, lessee, concessionaire or recipient of economic development financial assistance must submit to the County's Division of Audit Services verifiable payroll records that contain the information set forth in MCGO 111.04(3)a-e. At the conclusion of the contract, but before final payment, the covered employer must again submit a sworn declaration of compliance.

   - Monitoring: Milwaukee County reserves the right to inspect and audit any payroll records for which MCGO 111 applies, for any reason, and at any time.

5. Required Posting: The MWO mandates that every covered contractor, subcontractor, lessee, concessionaire or economic development financial assistance recipient post the current minimum wage rate and information for filing a complaint. Copies of the current rate requirements must also be supplied to an employee per request within a reasonable time. See 111.04(5) for exact provisions.

6. Prohibited Acts: No contractor, subcontractor, lessee, concessionaire or recipient of economic development financial assistance may use the MWO's requirements to reduce wages.

   Nor shall those same parties discriminate or take adverse employment action against an employee for filing a complaint, informing another employee of the MWO's provisions or assisting another employee in filing a complaint under MCGO 111.

7. Penalties & Sanctions: Noncompliance sanctions may include the withholding of payment, the imposition of monetary penalties, the termination of the agreement and/or temporary or permanent debarment. Findings of noncompliance may be appealed per MCGO Chapter 110. See MCGO 111.05(1) and (4) for exact provisions.

A copy of the Milwaukee County Minimum Wage Ordinance is attached.
It can also be accessed at
https://library.municode.com/HTML/12598/level2/MICOCOGEORVOI_CH111MIWA.html

Questions? Contact:

Milwaukee County Office of the Comptroller - Audit Services Division
Phone: (414) 278-4206/Email: auditminwage@milwaukeecountywi.gov **Fax: (414) 223-1895**

Exhibit C 1

Declaration of Commitment to Compliance with Milwaukee County's Minimum Wage Provision

Bid/RFP #: _____

In accordance with Chapter 111 of the Milwaukee County Code of General Ordinances, it is the policy of Milwaukee County that certain contractors, subcontractors, lessees and recipients of financial assistance doing business with the county shall pay employees performing part or full time work for the county a minimum wage rate. The current required minimum wage rate is as follows:

Effective Date	Base Wage Required ($ per hour)
February 28, 2015	$11.66

Milwaukee County's Minimum Wage Ordinance generally applies to employers with more than 20 employees that entered into one of the following types of contracts or agreements as of June 1, 2014:

- Service Contracts under Chapter 32 of the Milwaukee County Code of General Ordinances
- Certain Personal Care/Supportive Home Care Services provided by agencies that contract exclusively with Milwaukee County
- Concession Contracts
- Lease Agreements
- Economic Development Financial Assistance Agreements

Exemptions to the policy are listed in section 111.03(2), Milwaukee County Ordinances.

In order to be considered responsive to the Bid/RFP, you must submit this form.

The undersigned hereby agrees to the following:

- To pay all workers employed by the Contractor in the performance of this contract, whether on a full time or part time basis, a base wage of not less than the minimum wage rate as determined annually by Milwaukee County.
- New rates that go into effect (annually on the last business day of February) will be adhered to promptly.
- To provide the Milwaukee County Office of the Comptroller-Audit Services Division a Declaration of Compliance and supporting payroll data every three (3) months during the contract term and within 10 days following the completion of the contract.
- To procure and submit a like Declaration and supporting payroll data from every subcontractor employed by the contractor.

☐ I believe that I am exempt from Chapter 111 for the following reasons:

_____

_____

Please attach documentation to substantiate your claim of an exemption. Milwaukee County will review the documentation you provide; if your exemption is not substantiated, your proposal/bid will be deemed unresponsive, and will be removed from further consideration.

I declare under penalty of perjury that the forgoing is true and correct. I have read and understand Chapter 111 of the Milwaukee County Ordinances. I have executed this Declaration on _____ (date).

Company Name: _____

Authorized Signature: _____

Printed Name: _____

Exhibit C 2

Quarterly Reporting Declaration of Compliance with Milwaukee County's Minimum Wage Provision

In accordance with Chapter 111 of the Milwaukee County Code of General Ordinances, it is the policy of Milwaukee County that certain contractors, subcontractors, lessees and recipients of financial assistance doing business with the county shall pay employees performing part or full time work for the county a minimum wage rate. The current required minimum wage rate is as follows:

Effective Date	Base Wage Required ($ per hour)
February 28, 2015	$11.66

In order to ensure compliance with the provisions of Chapter 111, the Office of the Comptroller-Audit Services Division continually monitors contractors' compliance with the ordinance. On a quarterly basis, each vendor must submit the full names, addresses, rates of pay, and hours worked in performance of tasks associated with said vendor's agreement with Milwaukee County. The aforementioned information should be attached to this signed Declaration, and submitted to the following address:

Milwaukee County Office of the Comptroller-Audit Services Division
633 W. Wisconsin Avenue, Suite 904
Milwaukee, WI 53203
Phone Number: 414-278-4806
Fax Number: 414-223-1895
Email: auditminwage@milwaukeecountywi.gov

I/We hereby state that I/we have complied with Chapter 111 of the Milwaukee County Code of General Ordinances, and certify that the attached are representative of the work performed in accordance with our contractual agreement with Milwaukee County.

I further attest that should I send files electronically, I will maintain the original Declaration and supporting documentation on file and available for inspection at any time for a period of four (4) years.

I declare under penalty of perjury that the foregoing is true and correct. I have executed this Declaration on _____ (date).

Company Name: _____

Authorized Signature: _____

Printed Name: _____

Exhibit C 3

Final Payment Declaration of Compliance with Milwaukee County's Minimum Wage Provision

In accordance with Chapter 111 of the Milwaukee County Code of General Ordinances, it is the policy of Milwaukee County that certain contractors, subcontractors, lessees and recipients of financial assistance doing business with the county shall pay employees performing part or full time work for the county a minimum wage rate. The current required minimum wage rate is as follows:

Effective Date	Base Wage Required ($ per hour)
February 28, 2015	$11.66

I/We hereby state that I/we have complied with Chapter 111 of the Milwaukee County Code of General Ordinances.

I declare under penalty of perjury that the foregoing is true and correct. I have executed this Declaration on _____ (date).

Company Name: _____

Authorized Signature: _____

Printed Name: _____

Exhibit D

FREQUENTLY ASKED QUESTIONS

Chapter 111 of Milwaukee County General Ordinances

1. **(Minimum Wage Ordinance)**What is the Milwaukee County Government Minimum/Living Wage Ordinance (MWO)? The MWO requires that certain contractors, subcontractors, lessees, concessionaires, and recipients of financial assistance doing business with Milwaukee County shall be subject to a MWO. The Milwaukee County minimum/living wage is a minimum hourly wage rate equal to 100% of the poverty income level set forth annually by the U.S. Department of Health and Human Services for a family of four divided by 2,080 hours. It is a minimum level of pay for covered workers at a rate higher than the federal minimum wage.

2. How is it different from other prevailing wage and minimum wage laws? A prevailing wage is a wage rate that must be paid to workers on qualifying public works projects. Most public work is awarded to the lowest responsible bidder. A minimum wage is a basic minimum rate mandated by the federal government for covered, non-exempt employees. The current federal minimum wage is $7.25 per hour. States may have minimum wage laws that exceed the federal rate. Wisconsin adheres to the federal wage rate of $7.25 per hour.

3. What is the current minimum wage that must be paid under the Ordinance? $11.66 per hour.

4. Is the wage adjusted periodically? Yes. The wage is based upon the federal poverty guideline formula in #1 above. The rate will be updated annually on the last business day of February.

5. **What are the contractor and subcontractor's obligations when the living wage increases annually? During the term of the contract, contractors and subcontractors must pay the living wage in effect, including any increase, from the date of such increase. New rates that go into effect annually on the last day of February will be adhered to promptly.**

6. If the wage goes up or down, will my contract price be adjusted? No. The applicable MWO wage may fluctuate based on the annual adjustment (*see preceding Q&A*). However, the contract price is set at its inception. **Bidders typically have to project inflation costs over the term of multi-year contracts and this is simply another situation of when they will have to do that.**

7. What contracts are covered by the MWO?
   a. All **service contracts** under Milwaukee County General Ordinance (MCGO) 32.20(17), involving an amount greater than or equal to $20,000, which include:

i. Housekeeping
ii. Security
iii. Landscaping
iv. Maintenance
v. Food services
vi. Other non-professional services

b. **Personal care or supportive home care** provided to persons with disabilities or the frail elderly by a preferred provider that exclusively contracts with Milwaukee County to provide personal care and supportive home care involving an amount greater than or equal to $20,000.
c. **Concessions** involving an amount greater than or equal to $20,000.

8. What contracts are excluded?

a. Contracts with companies doing business with the County that employ 20 or less employees and are not an affiliate or subsidiary of another business entity dominant in their field of operation.
b. Professional service contracts (see MCGO 56.30(1)(a)).
c. Contracts for Family Care other than preferred provider agencies that exclusively contract with Milwaukee County to provide personal care and supportive home care.
d. Contracts procured under Milwaukee County Ordinance Chapter 46 (community living arrangements, foster homes, **etc.**, per Wis. Stat. Chapter 46).
e. Airport concessions executed before January 1, 2017.
f. Purchase of goods or commodities or its delivery.
i. Equipment leases and maintenance.
j. Contracts in which state or federal funder has a prevailing wage requirement.

9. Besides contracts, what else does the MWO cover?

a. **Lease agreements** involving the County providing financial assistance in an amount greater than or equal to $20,000.
b. **Economic development financial assistance** involving the County providing financial assistance in an amount greater than or equal to $1,000,000.

10. Are any lease agreements excluded by the MWO? Yes:

a. Leases involving cultural institutions.
b. Leases involving non-profit entities unless the employer passes through financial assistance in an amount equal to $1,000,000 or more to a for-profit entity.
c. Leases involving other units of government.
d. Leases less than $20,000.

e. Leases equal to or greater than $20,000 that do not involve County financial assistance.
f. Leases involving less than 20 employees unless the employer is an affiliate or subsidiary of another business dominant in its field of operation.

11. Are any economic development financial assistance recipients excluded by the MWO? Yes. The following recipients are exempt:

    a. Cultural institutions.
    b. Non-profit corporations unless the employer passes through financial assistance in an amount equal to $1,000,000 or more to a for-profit entity.
    c. Other units of government.

    Additionally, economic development with no financial assistance or less than $1,000,000 in financial assistance is excluded from the MWO.

12. Are any employees excluded by the MWO? Yes. For example, interns, seasonal employees, and volunteers receiving stipends are exempt from the MWO. For a complete listing of exempt employees, see MCGO 111.03(2)(a).

13. What is the effective date of the MWO? The MWO became effective upon its passage (March 20, 2014) and publication (March 31, 2014). However, its implementation date is dependent upon the Division of Audit Services' publication and dissemination of procedures, required within sixty (60) days of the MWO's passage and publication (on or before May 31, 2014).

14. Does the Ordinance apply to all contracts regardless of value? No. The MWO sets a $20,000 threshold with other limitations as previously described. Value is determined by this formula: dollar amount x contract term.

    Example 1: Contract for 1 year for $19,000.
    No option to renew.
    Contract value = $19,000. MWO does not apply.

    Example 2: Contract for 1 year for $19,000.
    Contract contains 2, 1 year options to renew for $19,000 each year.
    Contract value = $19,000. MWO does not apply.

    Example 3: Contract for 1 year for $19,000.
    Contract contains 2, 1 year renewals for $25,000 each year.
    Contract value: Year 1: $19,000. MWO does not apply.
    Year 2: $25,000. MWO applies.
    Year 3: $25,000. MWO applies.

    Example 4: Contract for 3 years for $60,000.
    Contract contains no option to renew.

Contract value = $60,000. MWO applies.

Example 5: Revenue share contract for 5 years. County gets 25% of gross receipts.
Contract generates $10,000 in annual revenue for County.
Contract value = $50,000. MWO applies.

15. Does the Ordinance apply to all economic development financial assistance regardless of value? No. The MWO only applies to economic development financial assistance from the County greater than or equal to $1,000,000.

16. How is the value of the contract measured? Value is determined by the amount times the term of the contractual obligation. Any renewals or amendments altering the value require an assessment of the MWO's application. *See Q&A #13.*

17. What about a contract that is not covered initially because of the value, but, due to modification or change orders is increased beyond the value threshold? *See Q&A # 13 & 15.*

18. Does the Ordinance apply to all companies regardless of the number of employees? No. The MWO does not apply to a company doing business with the County that employs 20 or less employees and is not an affiliate or subsidiary of another business entity dominant in its field of operation. The employer must count all of its employees, not just those working on the County contract. But, the company will only be subject to the MWO for those employees working on the County contract.

    For example, a company operates 1 office with 10 employees and is not affiliated with any other enterprise, whether located in Milwaukee or elsewhere. The company bids for a contract with Milwaukee County for those 10 employees. The company is not subject to the MWO.

    Alternatively, a company has offices not just in Milwaukee, but also in Chicago, and Boston and is overall dominant in its field of operation. It employs 125 employees between the 3 offices – 25 in Milwaukee, 50 in Chicago, and 50 in Boston. The company's Milwaukee office is an affiliate or subsidiary of a business entity dominant in its field of operation with more than 20 covered employees. The company bids for a Milwaukee County contract that will employ 15 of its workers. The employer is subject to the MWO and must pay those 15 employees the MWO rate. The employer is not required to pay the MWO rate for the other 10 employees in its Milwaukee office or for its 100 other employees in its Chicago and Boston offices, none of whom work on the Milwaukee County contract.

19. How are the number of employees measured or calculated? Any employees receiving a W2 from the employer shall be counted. An employer must count part-time and full-time employees, as well as the owner and/or family members if each receives a W2.

A company requesting an exemption must provide a count of the number of employees in its bid submission and when it executes the contract. Should a company claim an exemption from the MWO based on 20 or fewer employees, but later employs greater than 20 employees, it must immediately notify the Milwaukee County Comptroller's Office – Audit Services Division.

20. Are part time employees counted? Yes. That individual counts as 1 employee, just as a full time employee counts as 1 employee.

21. What if an employee turns 18 during the contract period? The MWO applies to an employee who turns 18 during the contract period.

22. Must covered employees be paid the minimum wage for hours they work on non-County contacts? No. The MWO must be paid only for hours spent on Milwaukee County business.

23. Does the MWO apply to employees who are represented by a Union? The MWO may be modified or waived where the parties to a collective bargaining agreement (CBA) between the employer and a bona fide union expressly specify their intent in the CBA.

24. How does the Ordinance apply to subcontractors? The MWO applies to subcontractors having an agreement or arrangement with a contractor subject to the MWO unless the subcontractor is eligible for an exemption. For example, the (prime) contractor is required to pay the MWO, but 1 of its subcontractors employs less than 20 employees and is therefore exempt from the MWO. *See also question 29.*

25. Does the Ordinance apply to County employees? Yes, but it excludes seasonal employees and interns.

26. How does the MWO apply to employees who are not performing any service for the County? The MWO does not apply to employees who are not performing services for the County.

27. Does the Ordinance apply to contract renewals and amendments? Yes. *See Q&A #13 & 15.*

28. What are County administrators required to do under the Ordinance? Department heads or their designees shall include requirements for compliance with the MWO in every bid, RFP or request for qualifications for services, personal care or supportive home care, leases, concessions or economic development financial assistance covered by the MWO, as well as any renewals or amendments.

29. What are contractors required to do? Any covered employer under the MWO must submit a sworn declaration certifying that it will comply with the requirements of the MWO as a matter of responsiveness to the bid, RFP or request for qualifications to do business with Milwaukee County.

At the conclusion of every third month during the period of an agreement covered by the MWO, covered employers must again submit to the Audit Division verifiable payroll records that contain the information set forth in MCGO 111.04(3)a-e, including but not limited to, contract or project name, employee names, addresses and hourly rates. At the conclusion of the contract and before final payment, the covered employer must again submit a sworn declaration of compliance with the MWO.

30. What is the contractors' role in terms of any subcontractors? A covered contractor must procure and submit a like sworn declaration and supporting payroll data from every subcontractor subject to the MWO employed by the contractor.

31. How will compliance with the Ordinance be audited? Milwaukee County's Division of Audit shall define processes for field and desk audits, ensure that each department/division head or his/her designee complies with payroll monitoring processes imposed on agreements, and establish penalties and sanctions for noncompliance. The Audit Division will also certify any claimed exemptions and periodically monitor those employers.

32. Are contractors required to provide the County with the names and addresses and salaries of employees working on contracts affected by the MWO? Yes.

33. Is that employee information subject to Wisconsin's Public Records Law? State law provides that no record may be accessed which contains personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action. Nor can a record be inspected or copied that contains personally identifiable information that if disclosed would identify a confidential informant.

    Otherwise, the employee's name and salary are generally subject to a public records request, but the employee's home address, home electronic email address, home telephone number and social security number are not. Certain notice provisions apply.

34. What are the penalties for not complying with the Ordinance? Penalties include, but are not limited to: withholding of payment or imposing monetary penalties in an amount sufficient to pay the wages of all affected employees; termination of agreement; temporary debarment of contractors or subcontractors no less than three years; or permanent debarment of contractors or subcontractors.

35. What should I do to report noncompliance or request additional information on the MWO? Noncompliance reports and/or general inquiries should be directed to:

Milwaukee County Office of the Comptroller - Audit Services Division
633 W. Wisconsin Avenue, Suite 904, Milwaukee, WI 53203
Phone: (414) 278-4206; Fax: (414) 223-1895
E-mail: auditminwage@milwaukeecountywi.gov