Office of the Comptroller
Audit Services Division
Milwaukee County
Jerome J. Heer Director of Audits

DATE : December 14, 2017

TO : Supervisor Theodore Lipscomb, Sr., Chair, Milwaukee County Board of Supervisors

FROM : Jerome J. Heer Director of Audits

SUBJECT : Report on the Milwaukee County Minimum Wage

We have completed a review of the implementation of the Milwaukee County Minimum Wage which was created as Chapter 111 of the Milwaukee County Code of Ordinances.

Audit Services Division was tasked with the enforcement of the Minimum Wage Ordinance. However, due to circumstances as detailed below in this memo, Audit Services Division was unable to conduct a performance audit of the program due to auditing standards that could not be met. This memo is being issued to the County Board to update it on the status of the implementation of the Minimum Wage Ordinance.

The memo details how Audit Services Division concluded that the Minimum Wage Ordinance has encountered inconsistent application in its implementation. However, the review of the program by the Audit Services Division found that contractors and Milwaukee County employees are being paid the Milwaukee County Minimum Wage even though the inclusion of compliance with the Minimum Wage Ordinance is not consistently included in relevant contracts. There are a number of outstanding issues with the implementation of the Minimum Wage Ordinance where reporting to Audit Services Division should be occurring. We have determined a number of recommendations to be addressed in order to enhance the application of the Minimum Wage Ordinance.

Please refer this memo and related resolution and fiscal note to the Finance and Audit Committee.

Milwaukee County's Minimum Wage Ordinance

Summary

In March 2014 the Milwaukee County Board of Supervisors created Chapter 111 of the Milwaukee County Code of Ordinances which established a Minimum Wage Ordinance that required County employees and certain contractors doing business with Milwaukee County to earn a minimum wage as set by the Ordinance. The Minimum Wage Ordinance provides the framework for County departments to follow when contracting for services covered by the Minimum Wage Ordinance, and for subsequent contract monitoring. The Minimum Wage Ordinance defines what service contracts are subject to the minimum wage requirement as well as defines allowable exemptions.

Section 111.05 of the Minimum Wage Ordinance tasked the Office of the Comptroller – Audit Services Division with the enforcement of the Minimum Wage Ordinance including review of payroll records to ensure compliance by contractors and subcontractors. The duration of county contracts vary from as short as one month to five years on occasion. As it is now at the conclusion of three years from the implementation of the Minimum Wage Ordinance, which is roughly the mid-point of the range of contract lengths, Audit Services Division has completed its first formal review of the Minimum Wage Ordinance and its compliance.

Despite the existence of the Minimum Wage Ordinance since 2014, Audit Services Division discovered that there is inconsistent application on when the Minimum Wage Ordinance applies including varying views on the level and variety of exemptions. This confusion is further compounded by the lack of a master listing of required Minimum Wage Ordinance contracts. The Audit Services Division determined that best practice necessitated a listing of all vendors that should have had the Minimum Wage Ordinance applied to their payments from Milwaukee County. Thus far, no listing exists in part because no department has been so charged with the creation of the list. Therefore, Audit Service Division assumed this task. The steps taken to arrive at the listing are detailed below.

Audit Services Division Creation of Required Minimum Wage Ordinance Vendors

Audit Services Division utilized two main sources of data to generate a listing of all required Minimum Wage Ordinance compliance contracts. First, Audit Services Division reviewed reports the Office of the Comptroller issued from June of 2014 to June of 2017. These reports are required to be submitted by the Comptroller to the County Board to inform the Board of any contract entered into by County Departments. Audit Services Division reviewed 2,710 contract listings to determine which contracts did not contain an allowable exemption to the Minimum Wage Ordinance. The second source of data

was the review of 547 annual service expenditures from June 2014 to June 2017 that were in excess of $20,000 in a fiscal year which was derived from the CAPFIN online financial system.

Utilizing both review methodologies and including an additional nine vendors identified by Departments, Audit Services Division identified 25 vendors required to comply with the Minimum Wage Ordinance. Two of the vendors have contracts at both Milwaukee County and Milwaukee County Transit System and one vendor has contracts with two separate county departments, which results in a total of 28 contracts with Milwaukee County that were subject to the Milwaukee County Minimum Wage. In addition, many of the vendors had payments in all four of the years reviewed which results in a total of 57 contract and vendor payments from June 2014 to June 2017 for which the Minimum Wage Ordinance applied since the items did not qualify for any allowable exemption. Table 1 below details the items reviewed.

Table 1
Summary of Reviewed Items for Minimum Wage Ordinance Inclusion

Items Reviewed	**Mid-2014**	**2015**	**2016**	**Mid-2017**	**Total**
Contracts reviewed	296	871	970	573	2,710
Service Expenditures reviewed	97	155	165	130	547
Total items reviewed	**393**	**1,026**	**1,135**	**703**	**3,257**
Number of items that required Minimum Wage	4	15	14	15	48
% of items requiring Minimum Wage	1.0%	1.5%	1.2%	2.1%	1.5%
Additional Items Identified by Departments that require the Minimum Wage	0	0	0	9	9
Total items that required Minimum Wage	4	15	14	24	57

Source: Office of the Comptroller reports to the County Board in the Legistar system and payment records in the online financial CAPFIN system.

Audit Services Division reviewed 28 of the executed contracts for services that were deemed to require compliance with the Minimum Wage Ordinance. Audit Services Division looked to identify if the contracts specifically required compliance with Chapter 111 (the Minimum Wage Ordinance) of the Milwaukee County Code of Ordinances within the contracts. Of the contracts, eight contracts or 28.6% contained language requiring compliance with the Minimum Wage Ordinance. Three contracts contained a reference to complying with the terms of the Request for Proposal or in general with the Milwaukee County Code of Ordinances. Another 17 or 60.7% of the contracts **did not** reference the Minimum Wage Ordinance. Nevertheless, after reviewing the payroll information for these contracts, all vendors related to these contracts complied with the Milwaukee County Minimum Wage. Audit Services Division did not conduct a review of the Request for Proposals for these contracts.

Audit Services Division has received verification from 94.7% of the vendors with payroll information for 2017. All of the vendors that submitted payroll data are currently in compliance with the 2017 minimum wage. The 2017 minimum wage is $11.82 for contracts entered into prior to November of 2016 and $12.35 for contracts entered into after November 2016. The only non-responsive vendor (despite multiple requests for payroll data) was MidAmerican Building Services; that contract with the Department of Administrative Services – Facilities Management ended in April of 2017.

Two methods of payroll verification were utilized: vendor submittals of the hourly rates earned by employee and letters were accepted certifying the payment of all employees at a rate above the Milwaukee County Minimum Wage for vendors employing staff in areas with market rates higher than the Milwaukee County Minimum Wage or in instances where the contract involved primarily professionals making greater than the Milwaukee County Minimum Wage. Nine vendors submitted this attestation letters from the following service areas:

- Towing
- Occupational Health Services
- Executive Security
- Radio System Services

Audit Services Division received individual employee payroll data for 2017 from 18 vendors. In total 625 employee specific wage data was reported to Audit Services Division. Of those employees, 224 or 35.8% of the employees were paid the Milwaukee County Minimum Wage. That left 401 or 64.2% of employees working for vendors with a wage rate higher than the Milwaukee County Minimum Wage. Of those, 217 or 34.7% already make more than the $15.00 minimum wage required of vendors by 2021 per the Minimum Wage Ordinance.

Milwaukee County Employees

In 2017, there were 19 employees of Milwaukee County that had a wage rate below the Milwaukee County Minimum Wage and therefore received a raise. Each year upon the change in the Milwaukee County Minimum Wage, the Department of Human Resources (DHR) reviews the new Milwaukee County Minimum Wage amount and compares it to the pay grades to ensure that no step within a pay grade is below the new minimum. If a pay grade is impacted that pay grade is revised so the lowest step reflects the new minimum for the year. An internal audit is done of all employees and the pay grades to identify any necessary changes to employee compensation. DHR compensation then

makes those changes. If the process occurs after the annual effective date, then the Office of the Comptroller-Payroll Division is notified to issue a retroactive payment to the effected employees.

Conclusion

As previously noted, only certain types of services are subject to the minimum wage requirements and the wage data received for the 625 employees were from a small amount of service areas. It is important to note that Chapter 32 of the County Ordinance provides the foundational definition of a service contract as "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." These are essentially the types of contracts for which the Minimum Wage Ordinance has its greatest applicability.

The ultimate conclusion of the Audit Services Division's review is that the Minimum Wage Ordinance as written casts a much larger net than those service areas as defined in Chapter 32. This has created inconsistent application and a difficulty in conducting a performance audit of the program. However, contractors and Milwaukee County employees are being paid the Milwaukee County Minimum Wage even though the inclusion of compliance with the Minimum Wage Ordinance is not consistently included in relevant contracts. There are a number of outstanding issues with the implementation of the Minimum Wage Ordinance where reporting to Audit Services Division should be occurring. We have determined a number of recommendations to be addressed in order to enhance the application of the Minimum Wage Ordinance.

It recently came to the attention of the Audit Services Division that there is potentially pending legislation (reported by the Wisconsin State Journal on 12/2/2017) that may be introduced before the Wisconsin State Legislature that would, among other items, bar municipalities from setting a higher minimum wage for contracted municipal employees. A bill also has been introduced that would increase the State of Wisconsin's minimum wage to $15 over the next five years. Audit Services Division will monitor any introduction of legislation of this type and include an update in its six month's follow up report.

Background

In March 2014, the Milwaukee County Board of Supervisor adopted a Minimum Wage Ordinance that affected County employees and certain contractors doing business with Milwaukee County. The Minimum Wage Ordinance established a framework for County departments to follow when contracting for services covered by the Minimum Wage Ordinance, and for subsequent contract monitoring. The Minimum Wage Ordinance defines what service contracts are subject to the minimum wage requirement as well as defines allowable exemptions.

Contracts subject to the Minimum Wage Ordinance generally involve services such as housekeeping, food service, and security. Concessions contracts were also included in the creation of the Minimum Wage Ordinance. The Department of Parks, Recreation and Culture, the Zoological Department, and the Department of Transportation's Airport Division contract for the bulk of concessions revenue, (Airport concession agreements were originally exempted until January 1, 2017 and then later modified to November 3, 2016). Lease agreements are subject to the Minimum Wage Ordinance unless it is a lease with a cultural institution, other local government entity, or nonprofit corporation or there is a pass-through of $1 million or greater to a for-profit entity. The Minimum Wage Ordinance also covers contracts for which the County provides economic development financial assistance of at least $1 million.

The following exemptions are specified under the Minimum Wage Ordinance:

- Professional Services
- Contracts with a value that is less than $20,000 annually
- Contracts with employers with less than 20 employees in total
- Contracts with other governmental entities
- Contracts for the purchase of goods or commodities
- Any contract executed or Request for Proposal released prior to the creation of the Minimum Wage Ordinance of the Milwaukee County Code of Ordinances
- Contracts for purchase of services issued under Chapter 46 of the Milwaukee County Code of Ordinances by the Department of Health and Human Services Director or the Director of the Department on Aging
- Contracts for equipment leases and maintenance
- Contracts that are seasonal in nature
- Contracts with a non-profit entity

Initially, there was some confusion noted by County departments in determining which of their contracts were subject to the new requirements. We worked closely with Corporation Counsel to resolve questions posed to us resulting in the clarification of several exemptions. The following exemptions were implemented in the administration of the Minimum Wage Ordinance and usually agreed upon by the Audit Services Division Director and the Office of Corporation Counsel:

- Public Works contracts (which contained a Prevailing Wage requirement prior to 1/1/2017)
- Time and Material contracts (which contained a Prevailing Wage requirement prior to 1/1/2017)
- Repairs
- Contracts with a lack of dedicated staff for work for Milwaukee County
- Contracts which are multi-jurisdictional in nature
- Contracts where the wage rate is set by an outside entity or is paid on a non-hourly basis such as State established interpreter rates or rate per word typed
- Service Agreements for maintenance and repairs
- Equipment
- Federally funded contracts

Calculation of the Minimum Wage Ordinance Rates

In 2014 the Minimum Wage Ordinance designated the minimum wage for Milwaukee County as equal to 100% of the national poverty income level for a family of four as established annually by the U.S. Department of Health and Human Services. The Milwaukee County Minimum Wage hourly rate is determined by dividing the annual income by 2,080. This rate is currently in effect for any contract executed prior to November 3, 2016. Table 2 below details the history of the rate.

Table 2
For Contracts Executed Prior to November 3, 2016

Year	Effective Date	Hourly Rate	Annual Income	$ Change From Prior Year	% Change From Prior Year
2014	6/1/2014	$11.47	$23,857	N/A	N/A
2015	3/1/2015	$11.66	$24,252	$0.19	+1.7%
2016	3/1/2016	$11.68	$24,294	$0.02	+0.2%
2017	3/1/2017	$11.82	$24,586	$0.14	+1.2%
2018 and beyond are unknown until publication of US DHHS poverty rates					

Source: Hourly rates were calculated by dividing the national poverty income level for a family of four by 2,080 hours. The U.S. Department of Human Services establishes the national poverty income levels annually. Calculations by Audit Services Division.

In the 2017 Recommended Budget, the County Executive included funding of $70,000 to increase the Milwaukee County Minimum Wage to $12.35 per hour in 2017 and proposed phasing in an increase in the Milwaukee County Minimum Wage to $15.00 by 2021. County Board File No. 16-609 approved on November 3, 2016 made two modifications to the Minimum Wage Ordinance. First was the alteration of the effective date for concession contracts at the Airport from January 1, 2017 to November 3, 2016. In addition the Ordinance changed the methodology for the calculation of the Milwaukee County Minimum Wage to fixed rates established per year until December 31, 2022 for any new contracts. Effective January 31, 2022, and every January 31 thereafter, the rate shall be determined by the Department of Administrative Services, increased to reflect the rate of inflation for the previous calendar year, as calculated to the nearest cent, provided that in no case shall the wage be set at a level below the wage for the previous year. Table 3 below contains the rate for the years 2016-2021.

Table 3
For Contracts Executed on or after November 3, 2016

Year	Effective Date	Hourly Rate	Annual Income	$ Change From Prior Year	% Change From Prior Year
2016	11/3/2016	$11.68	$24,294	N/A	N/A
2017	1/1/2017	$12.35	$25,688	$0.67	+5.7%
2018	1/1/2018	$13.01	$27,061	$0.66	+5.3%
2019	1/1/2019	$13.67	$28,434	$0.66	+5.1%
2020	1/1/2020	$14.34	$29,827	$0.67	+4.9%
2021	1/1/2021	$15.00	$31,200	$0.66	+4.6%
2022 and beyond	Jan 1 of each year	Unknown	Unknown		

Source: Hourly rates under current legislation per County Ordinances. Calculations by Audit Services Division.

Attached to this report is both the original Minimum Wage Ordinance (Exhibit B) and the revised version as of November 3, 2016 (Exhibit C) for reference purposes.

An unintended and confusing side effect of the modifications contained in File No. 16-609 to the Minimum Wage Ordinance has been the need to manage the Minimum Wage Ordinance contracts under two different rate structures. The new rates created by the recent legislation affects only the Minimum Wage Ordinance contracts having an effective starting date after November 2, 2016. The Minimum Wage Ordinance contracts initiated between June 1, 2014 and November 2, 2016 need to be managed under the rate structure initially legislated, whereby annual increases are tied to a rate calculated from rates released by the U.S. Department of Health & Human Services. This dual wage rate structure requires departmental contract managers to be cognizant of which wage structure is in effect for their contracts.

The Minimum Wage Ordinance Workgroup - 2014

As directed by the original Minimum Wage Ordinance, in 2014 the Audit Services Division convened a workgroup consisting of representatives from the Office of Corporation Counsel, Office of the County Comptroller, Parks, Recreation and Culture Department, Zoological Department, Department of Administrative Services-Procurement, Family Care and Department of Administrative Services - Office of Community Business Development Partners. The results of this workgroup were included in a memo issued on May 28, 2014 (File No. 13-955) to all County department heads. It provided additional clarification for how County contract administrators were to integrate the Minimum Wage Ordinance into its affected contracts. The memo further emphasized that ultimate responsibility for ensuring compliance with the Minimum Wage Ordinance lies with County contract managers.

The memo (attached as Exhibit D) contained several exhibits designed to help County contract managers fulfill the Minimum Wage Ordinance contracting responsibilities, including:

- Exhibit B – Guidance in Application. This exhibit was created to provide guidance in determining if a particular contract was subject to the Minimum Wage Ordinance, along with applicable implementation and reporting requirements.

- Exhibit C 1 – Declaration of Commitment to Compliance with the Minimum Wage Ordinance. This form is to be signed by a vendor indicating their intention to comply with the Minimum Wage Ordinance, or detailing why it believes it is exempt from the Minimum Wage Ordinance. An example of an exemption would be a contract with a vendor with less than 20 employees. Revenue contracts involving seasonal work are also exempt.

- Exhibit C 2 – Quarterly Declaration of Compliance with the Minimum Wage Ordinance. This form is to be signed by vendors when submitting required payroll data.

- Exhibit C 3 – Final Payment Declaration of Compliance with the Minimum Wage Ordinance. This form is to be signed and submitted by the vendor when requesting final payment under the Minimum Wage Ordinance contract.

- Exhibit D – Frequently Asked Questions. This exhibit lists 35 questions and answers on expected issues for managers.

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 at a minimum:

- The name of contractor, and in the case of sub-contractor, the name of the direct employer of employees covered under this chapter;
- Contract or project name;
- The name of all staff employed to perform the contract or subcontract and their job classifications;
- The address of each staff member employed to perform the contract or subcontract; and,
- Hourly rate of pay for each staff member employed to perform the contract or subcontract.

According to the Minimum Wage Ordinance, all new contracts and contract renewals are subject to the Minimum Wage Ordinance beginning June 1, 2014. Contracts entered into before that date were allowed to be continued under the terms previously established. This included any extensions previously written into the contract. Thus, a contract signed on January 1, 2014 for two years that provided for two additional one-year extensions, would not be subject to the Minimum Wage Ordinance requirements until January 1, 2018. In addition the Minimum Wage Ordinance would not apply to any contract that was derived from a Request for Proposal issued prior to June 1, 2014 since it was released before the effective date of the Minimum Wage Ordinance.

Based upon the memo issued by the Minimum Wage Ordinance Workgroup, contract managers were responsible for applying the Minimum Wage Ordinance criteria to their contracts. If a contract met the Minimum Wage Ordinance criteria, appropriate contract language and measures would be taken to ensure the contractor followed the Minimum Wage Ordinance requirements, including providing Audit Services Division with required documentation in the form of Exhibits C 1, C 2 and C 3 noted previously.

Section 111.05 of the Minimum Wage Ordinance tasked the Audit Services Division with the enforcement of the Minimum Wage Ordinance including review of payroll records from contractors and subcontractors. The duration of county contracts vary from as short as one month to five years on occasion. As it is now at the conclusion of three years from the implementation of the Minimum Wage Ordinance, which is roughly the mid-point of the range of contract lengths, Audit Services Division has completed its first formal review of the Minimum Wage Ordinance and its compliance.

Despite the existence of the Minimum Wage Ordinance since 2014, Audit Services Division learned that there is inconsistent application on when the Minimum Wage Ordinance applies including varying

opinions on the level and variety of exemptions. This confusion is further compounded by the lack of a master listing of required Minimum Wage Ordinance contracts. This lack of a listing prohibits the Audit Services Division from completing a performance audit of the Minimum Wage Ordinance. This is due to the discovery that the Audit Services Division needed to create a listing of all vendors that should have had the Minimum Wage Ordinance applied to their payments from Milwaukee County. In order to conduct an audit according to Generally Accepted Government Auditing Standards, which Audit Services Division follows, there should have been a listing of all required vendors whose compliance with the Minimum Wage Ordinance could have been verified. No listing exists, in part, because no department has been charged with the creation of the list. The Audit Services Division cannot create the listing if it is expected to then perform an audit on the accuracy of the listing and the compliance of the vendors on the listing. This has resulted in two main points. One is that this memo is not a formal performance audit due to the issues discovered by the Audit Services Division when embarking upon its review of the Minimum Wage Ordinance. Second, instead of a performance audit, the Audit Services Division had to go back to 2014 and create a listing of vendors required to pay the Milwaukee County Minimum Wage and attempt to secure required information. The steps taken to arrive at the listing are detailed below.

Throughout the course of our review, Audit Services Division reviewed 28 of the executed contracts for services that were deemed to be Minimum Wage Ordinance applicable. Audit Services Division looked to identify if the contracts specifically required compliance with Chapter 111 (the Minimum Wage Ordinance) of the Milwaukee County Code of Ordinances within the contracts. Of the contracts that Audit Services Division reviewed, eight contracts or 28.6% contained language requiring compliance with the Minimum Wage Ordinance. Three contracts contained a reference to complying with the terms of the Request for Proposal or in general with the Milwaukee County Code of Ordinances. Another 17 or 60.7% of the contracts **did not** reference the Minimum Wage Ordinance. Nevertheless, after reviewing the payroll information for these contracts, all vendors related to these contract complied with the Milwaukee County Minimum Wage. Audit Services Division did not conduct a review of the Request for Proposals for these contracts.

Therefore, we recommend that the Director of Audit Services Division:

1. *Reestablish the Minimum Wage Ordinance Workgroup to address the implementation issues found by Audit Services Division during its review of the Minimum Wage Ordinance. Require a report back to the Finance and Audit Committee in six months to provide solutions to the implementation issues including any possible revisions to Chapter 111 of*

the Milwaukee County Code of Ordinances. The workgroup originally consisted of representatives from the Office of Corporation Counsel, Office of the County Comptroller, Parks Recreation and Culture Department, Zoological Department, Department of Administrative Services-Procurement, Department of Family Care and Department of Administrative Services-Office of Community Business Development Partners.

2. *Explore, along with the Minimum Wage Ordinance Workgroup, naming contract managers in Departments as responsible for including the Minimum Wage Ordinance in all required contracts and in ensuring the vendors are in compliance. The responsibility for the inclusion and managing of the Minimum Wage Ordinance has not been clearly defined which has resulted in confusion regarding its applicability and enforcement. A determination needs to be made and conveyed as to which entities are responsible for the implementation and initial managing of the Minimum Wage Ordinance and its compliance.*

<u>Audit Services Division Creation of List of Required Minimum Wage Ordinance Vendors via the Comptroller's Contract Reports</u>

Section 111.05 of the Minimum Wage Ordinance tasked the Audit Services Division with the enforcement of the Minimum Wage Ordinance including review of payroll records to ensure compliance by contractors and subcontractors. The Audit Services Division discovered that it needed to create a listing of all vendors that should have had the Minimum Wage Ordinance applied to their payments with Milwaukee County. No listing exists in part because no department has been charged with the creation of the list.

The County contracts for many types of services, each of which are guided by established County Ordinances with a general focus. For example, Chapter 44 addresses the requirements for construction contracting. Chapter 46 provides direction for purchase of service contracts for the Department of Health and Human Services. Chapter 56.30 lists the rules related to professional services contracting. All other contracting is covered by Chapter 32.20, which contains the requirements and authority of the Department of Administrative Services' Procurement Division.

Responsibility for county contracting for services, including those subject to the Minimum Wage Ordinance, is for the most part a decentralized process. Individual County departments and divisions interested in contracting for outside services generate their own contracts, often with the assistance and oversight from other County stakeholders such as Corporation Counsel, the Department of

Administrative Services (Risk Management, Procurement Division, and the Department of Community Business Development Partners), and the Comptroller's Office.

The Procurement Division also actively enters into contracts on behalf of the County for services that span multiple departments. It generates price agreements that can be used by individual departments as needed, negating the need for several departments to contract individually for the same service. For example, the Procurement Division has a price agreement with an outside personnel firm to provide temporary staff covering a myriad of services at designated hourly rates.

As previously noted, only certain types of services are subject to the minimum wage requirements. It is important to note that Chapter 32 provides the foundational definition of a service contract as "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." These are essentially the types of contracts for which the Minimum Wage Ordinance has its greatest applicability.

Comptroller's Reports on County Contracting

In order to recreate a listing of vendors and contracts that should have reported payroll data to the Audit Services Division, two main sources of data were utilized: information obtained from the Comptroller's reports and actual expenditure data for services not covered by the Comptroller's report. This section discuss the Comptroller's reports.

The County has a well-established process for gathering information relating to all types of contracting. Contract managers within County departments and divisions complete a form that is sent to the Office of the Comptroller (Form 1684) that contains select contract details. This form provides much of the basic contract information that is included in a report submitted periodically (generally monthly) by the Comptroller to the County Board's Finance and Audit Committee

To help put the extent of county contracting in perspective, the Comptroller's reports included information on 2,710 contracts entered into by the County over the period of June 2014 through June 19, 2017. However, without the Minimum Wage Ordinance contracts being highlighted, ascertaining the Minimum Wage Ordinance applicability required a review of the information reported to the Comptroller with additional informational follow-ups with contract managers within the departments.

Audit Services Division reviewed reports the Office of the Comptroller provided to the County Board from June of 2014 to June of 2017. Audit Services Division reviewed 2,710 contract listings to determine which contracts did not contain an allowable exemption to the Minimum Wage Ordinance. There were 2,338 contracts deemed to contain an allowable exemption to the Minimum Wage Ordinance requirement while 76 contracts were deemed to not contain an allowable exemption based solely on the information on the Comptroller's report.

For the remaining 76 contracts, Audit Services Division sought additional information from departmental contract managers to determine if contracts were indeed eligible for an exemption. A common example is vendors who may be seasonal in nature which is an allowable exemption to the MWO. This information about the vendor is not contained in the Comptroller's reports so contracts were deemed possibly eligible for the Minimum Wage Ordinance until Audit Services Division could solicit additional information from departmental contract managers.

Table 4 details the allowable exemptions that were able to be derived from the Comptroller's reports.

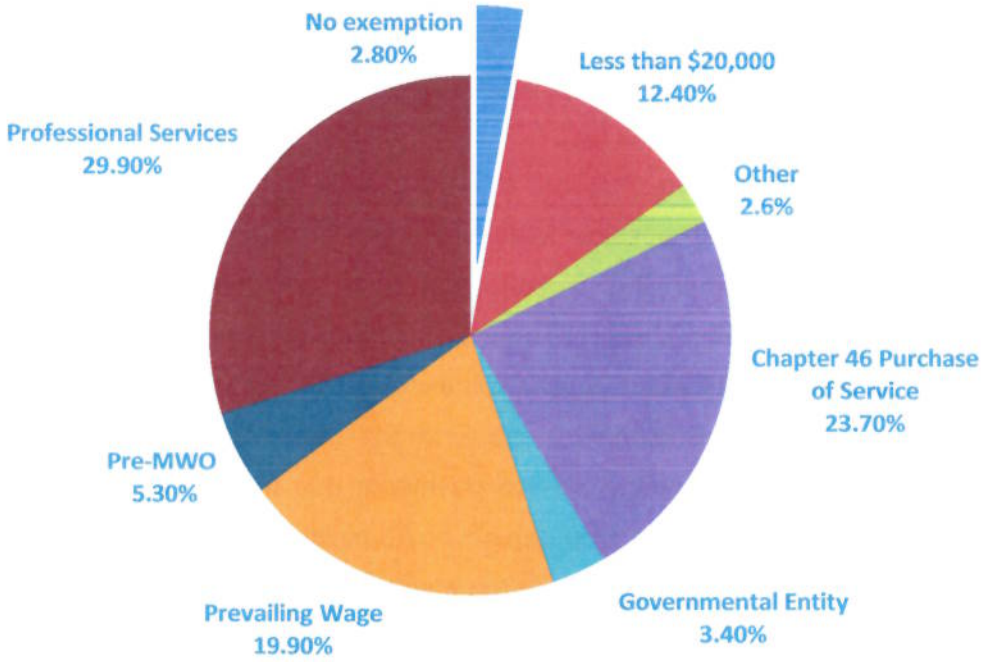
Table 4
Summary of Exemptions to the Minimum Wage Ordinance by Year and Type

Classification	Mid-2014	2015	2016	Mid-2017	Total	% by Type
Exempted Contract by type						
Less than $20,000	38	85	152	60	**335**	**12.4%**
Chapter 46 Purchase of Service	17	170	230	226	**643**	**23.7%**
Commodity	0	0	3	0	**3**	**0.1%**
Equipment Purchase	0	13	8	3	**24**	**0.9%**
Governmental Entity	2	31	40	19	**92**	**3.4%**
Lack of Dedicated Staff	0	6	5	4	**15**	**0.6%**
Non-Profit	2	3	4	0	**9**	**0.3%**
Construction	0	5	4	0	**9**	**0.3%**
Pre-Minimum Wage Ordinance	96	22	23	3	**144**	**5.3%**
Professional Services	88	300	270	152	**810**	**29.9%**
Prevailing Wage	53	201	204	82	**540**	**19.9%**
Seasonal	0	4	4	2	**10**	**0.4%**
Total Exempted	**296**	**840**	**947**	**551**	**2,634**	**97.2%**
No Exemption noted – more info required	**0**	**31**	**23**	**22**	**76**	**2.8%**
Total Contracts on OCC Report	**296**	**871**	**970**	**573**	**2,710**	**100%**

Source: Office of the Comptroller monthly contract reports to the Finance and Audit Committee

Figure 1 below details the exemptions that were able to be derived from the Comptroller's reports.

FIGURE 1
EXEMPTIONS OF CONTRACTS BY TYPE



Source: Office of the Comptroller monthly contract reports to the Finance and Audit Committee

Audit Services Division Creation of Required Minimum Wage Ordinance Vendors List - via Actual Service Account Expenditures

In addition to reviewing the contract reports, Audit Services Division also reviewed all actual expenditures that were paid out of a service account from June of 2014 to June of 2017. The following service accounts were reviewed for all departments:

- Housekeeping
- Security
- Temporary Help Short and Long term
- Ash, Rubbish, Waste Disposal
- Medical Service Fees
- Interpreter Fees
- Parking Revenue Fees
- Repair and Maintenance Accounts
- Towing Services
- Fleet Repair Services
- Food Services
- Pharmacy Services
- Maintenance

Audit Services Division downloaded the actual expenditure data by department by vendor for each of the service accounts listed above. The data was then sorted to exclude any vendor payments in a fiscal year that had actual expenses less than $20,000 as that is the minimum amount for the trigger of the application of the Minimum Wage Ordinance. Once the listing contained only service payments in excess of $20,000, the list was reviewed to determine if there were allowable exemptions for the payments. There were 547 service payments that were reviewed for allowable exemptions.

Audit Services Division then prepared individual letters and sent them to departments that had contracts and vendors with possible Minimum Wage Ordinance application. The letters contained both contracts derived from the Comptroller's report and service expenditure payments. Audit Services Division sent letters to Departments regarding contracts and service payments identified for a total of 559 possible Minimum Wage Ordinance eligible items. The Department of Administrative Services – Architecture, Engineering and Environmental Services Division had already provided exemptions for a number of the service payments due to the inclusion of the Prevailing Wage requirement. In addition, the Department of Administrative Services-Procurement Division was contacted regarding county-wide service expenditure items.

Audit Services Division was seeking additional information from Departments on 559 items that would indicate whether the vendor or contract did qualify for an exemption. Departments who received letters are as follows:

- County Executive
- Department of Human Resources
- Department of Human Resources - Employee Fringe Benefits
- Department of Administrative Services
- Department of Administrative Services – Water Utility & IMSD
- Combined Court Related Operations
- Office of the Sheriff
- House of Correction
- Office of Emergency Management
- Medical Examiner
- Department of Transportation - Airport Division
- Department of Transportation - Highway Maintenance Division
- Department of Transportation - Fleet Management Division
- Department of Transportation - Milwaukee County Transit System Division
- Department of Transportation - Director's Office Division
- Behavioral Health Division
- Department on Aging
- Department of Health and Human Services
- Department of Parks, Recreation and Culture
- Zoological Department

Based upon information and documentation provided by the relevant County departments in response to the Audit Services Division's letter and information on additional vendors from DAS-AE&E and DAS-Procurement, 575 of the items were eligible for an allowable Minimum Wage Ordinance exemption. The remaining 48 items were deemed to have required compliance with the Minimum Wage Ordinance.

Table 5 and Figure 2 below detail the distribution of the exemptions as indicated by the contract managers within the departments, DAS-AE&E or DAS-Procurement.

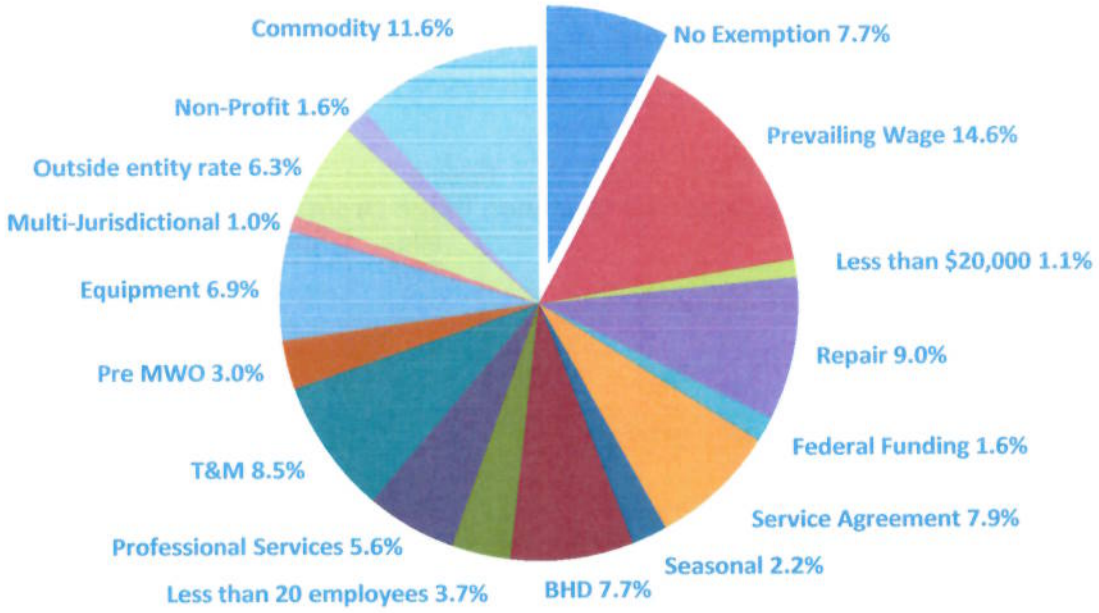
Table 5
Contracts/Payments Reviewed for Minimum Wage Ordinance exemptions by Year and Type

Classification	Mid-2014	2015	2016	Mid-2017	Total	% by Type
Minimum Wage Ordinance Exempted by type:						
Prevailing Wage	16	26	28	21	91	14.6%
Commodity	10	28	18	16	72	11.6%
Repair	11	15	20	10	56	9.0%
Time & Material - Prev. Wage applied	12	17	13	11	53	8.5%
Service Agreement	12	13	13	11	49	7.9%
Equipment	3	12	16	12	43	6.9%
BHD contract and vendor	5	11	16	16	48	7.7%
Outside entity defined pay rate/non hourly rate	9	11	13	6	39	6.3%
Professional Services	4	11	9	11	35	5.6%
Less than 20 employees	2	6	8	7	23	3.7%
Pre Minimum Wage Ordinance	7	3	4	5	19	3.0%
Seasonal	0	4	5	5	14	2.2%
Federal Funding	0	5	5	0	10	1.6%
Non-Profit	2	4	2	2	10	1.6%
Less than $20,000	0	3	2	2	7	1.1%
Multi-Jurisdictional	0	2	2	2	6	1.0%
Total Vendor payments exempted	**93**	**171**	**174**	**137**	**575**	**92.3%**
Minimum Wage Ordinance required	**4**	**15**	**14**	**15**	**48**	**7.7%**
Total Vendor Payments and Contracts reviewed	**97**	**186**	**188**	**152**	**623**	**100%**

Source: Online financial CAPFIN system, departmental contract manager responses, Audit Services Division calculations.

As can be seen by Figure 2, the distribution of exemptions is dispersed across the spectrum of exemptions with a total of 16 categories identified and with the highest category containing 14% of the exempted vendors.

FIGURE 2
DISTRIBUTION OF THE MINIMUM WAGE ORDINANCE EXEMPTIONS



Source: Online financial CAPFIN system, departmental contract manager responses, Audit Services Division calculations.

Utilizing both review methodologies and including an additional nine vendors identified by departments, Audit Services Division found that there were 25 vendors who are required to comply with the Minimum Wage Ordinance. Two of the vendors have contracts at both Milwaukee County and Milwaukee County Transit System and one vendor has contracts with two separate county departments which results in a total of 28 contracts with Milwaukee County requiring the payment of the Milwaukee County Minimum Wage. In addition, many of the vendors had payments in all four of the years reviewed which results in a total of 57 contract and vendor payments from June 2014 to June 2017 for which the Minimum Wage Ordinance applied since the items did not qualify for any allowable exemptions.

Table 6 below details the items reviewed.

Table 6 Summary of Reviewed Items for Minimum Wage Ordinance Inclusion					
Items Reviewed	**Mid-2014**	**2015**	**2016**	**Mid-2017**	**Total**
Contracts reviewed	296	871	970	573	2,710
Service Expenditures reviewed	97	155	165	130	547
Total items reviewed	**393**	**1,026**	**1,135**	**703**	**3,257**
Number of items that required Minimum Wage	4	15	14	15	48
% of items requiring Minimum Wage	1.0%	1.5%	1.2%	2.1%	1.5%
Additional Items Identified by Departments that require the Minimum Wage	0	0	0	9	9
Total items that required Minimum Wage	4	15	14	24	57

Source: Office of the Comptroller reports to the County Board in the Legistar system, payment records in the online financial CAPFIN system.

Audit Services Division reviewed 28 of the executed contracts for services that were deemed to require compliance with the Minimum Wage Ordinance. Audit Services Division looked to identify if the contracts specifically required compliance with Chapter 111 (the Minimum Wage Ordinance) of the Milwaukee County Code of Ordinances within the contracts. Of the contracts reviewed, eight contracts or 28.6% contained language requiring compliance with the Minimum Wage Ordinance. Three contracts contained a reference to complying with the terms of the Request for Proposal or in general with the Milwaukee County Code of Ordinances. Another 17 or 60.7% of the contracts **did not** reference the Minimum Wage Ordinance. Nevertheless, after reviewing the payroll information for these contracts, all vendors related to these contract complied with the Milwaukee County Minimum Wage. Audit Services Division did not conduct a review of the Request for Proposals for these contracts.

Audit Services Division has received verification from 94.7% of the vendors with payroll information for 2017. All of the vendors that submitted payroll data are currently in compliance with the 2017 minimum wage. The 2017 minimum wage is $11.82 for contracts entered into prior to November of 2016 and $12.35 for contracts entered into after November 2016. The only non-responsive vendor (despite multiple requests for payroll data) was MidAmerican Building Services; that contract with the Department of Administrative Services – Facilities Management ended in April of 2017.

County management and staff responsible for contracting with outside vendors represent the first line of defense for obtaining compliance with County's Minimum Wage Ordinance provisions. The contracts they enter into on behalf of the County need to address the Minimum Wage Ordinance requirements and identify the types of information vendors need to provide.

Therefore, we recommend the following:

3. *The Department of Administrative Services-Procurement Division in conjunction with the Office of Corporation Counsel provide training for contract managers to assist them in properly determining which new and rebid contracts are subject to the Minimum Wage Ordinance. This could include developing a checklist or decision-making matrix containing the criteria needed for determining the Minimum Wage Ordinance applicability.*

4. *Department of Administrative Services-Procurement Division should be required to report all contracts it initiates that are subject to the Minimum Wage Ordinance to the Comptroller for inclusion in its monthly contracts report to the Finance and Audit Committee.*

5. *As part of the established contract approval process through DocuSign, include a review for the Minimum Wage Ordinance eligible contracts by Corporation Counsel to help ensure such contracts are identified and include all the Minimum Wage Ordinance requirements.*

6. *As a part of the contract process, include in the contract a requirement to abide by Milwaukee County's Minimum Wage Ordinance to alleviate any confusion on its inclusion in a contract.*

Wage Verification of Minimum Wage Ordinance Compliance

For the 25 vendors, under 28 contracts that were required to pay the Milwaukee County Minimum Wage, two methods of payroll verification were utilized by Audit Services Division. First was the submittal from vendors of the hourly rates earned by employee. Second, letters certifying the payment of all employees at a rate above the Milwaukee County Minimum Wage was also received for vendors employing staff in areas with market rates vastly higher than the Milwaukee County Minimum Wage or in instances where the contract contained primarily professionals making greater than the Milwaukee County Minimum Wage with a small number of employees above the Milwaukee County Minimum Wage. Nine vendors submitted this paperwork from the following service areas: Towing, Occupational Health Services, Executive Security and Radio System Services.

Audit Services Division utilized typical annual salary data as calculated for 2016 by the Massachusetts Institute of Technology (MIT) for the determination on the allowable submittal of letters of attestation. The living wage is calculated by MIT at the county, metropolitan area, state, regional and national level. The living wage is calculated for 381 metropolitan areas and all 50 states and included all 72

counties in Wisconsin. Audit Services Division used this index as a guideline for market rates for Milwaukee County in determining which industries contain a market rate superior to the Milwaukee County Minimum Wage.

The typical salary data for Milwaukee County from MIT for 2016 is contained in Table 7 below.

Table 7
Milwaukee County Salary Data by Occupational Area

Occupational Area	Typical Annual Salary 2016
Management	$88,330
Computer & Mathematical	$68,700
Architecture & Engineering	$65,960
Healthcare Practitioners & Technical	$61,070
Legal	$58,110
Business & Financial Operations	$57,610
Life, Physical & Social Science	$54,710
Construction & Extraction	$47,590
Education, Training & Library	$44,690
Installation, Maintenance & Repair	$42,740
Community & Social Service	$40,200
Arts, Design, Entertainment, Sports & Media	$39,350
Protective Service	$37,480
Production	$34,100
Office & Administrative Support	$33,090
Transportation & Material Moving	$30,800
Healthcare Support	$28,760
Farming, Fishing & Forestry	$28,610
Sales & Related	$25,160
Building & Grounds Cleaning & Maintenance	$23,270
Personal Care & Service	$21,780
Food Preparation & Serving Related	$18,820

Source: MIT Department of Urban Studies and Planning

Table 8 below shows the breakdown of compliance with the Minimum Wage Ordinance including detail regarding vendors who were required to submit individual payroll data and vendors who submitted letters of attestation.

Table 8 Breakdown of Compliance with the Minimum Wage Ordinance	
Response of Vendors to data submittal requirements	Total
No. of Service payments/contracts not exempted from Minimum Wage Ordinance	57
Number of Vendors not exempted from Minimum Wage Ordinance	25
Number of Contracts not exempted from Minimum Wage Ordinance (3 vendors have 2 contracts)	28
Individual Payroll Records Submittal Vendor Information	
Vendors required to submit Payroll records	19
Number in Compliance with submittal of payroll records	18
% in Compliance with submittal of payroll records	94.7%
Letters of Attestation Vendor Information	
Vendors required to submit attestation	9
Vendors in Compliance with submittal of attestation	9
% of Vendors in compliance	100%
Total in compliance	**27**
Total % in Compliance	**96.4%**

Source: Office of County Comptroller contract reports to County Board, online financial CAPFIN system, Audit Services Division calculations.

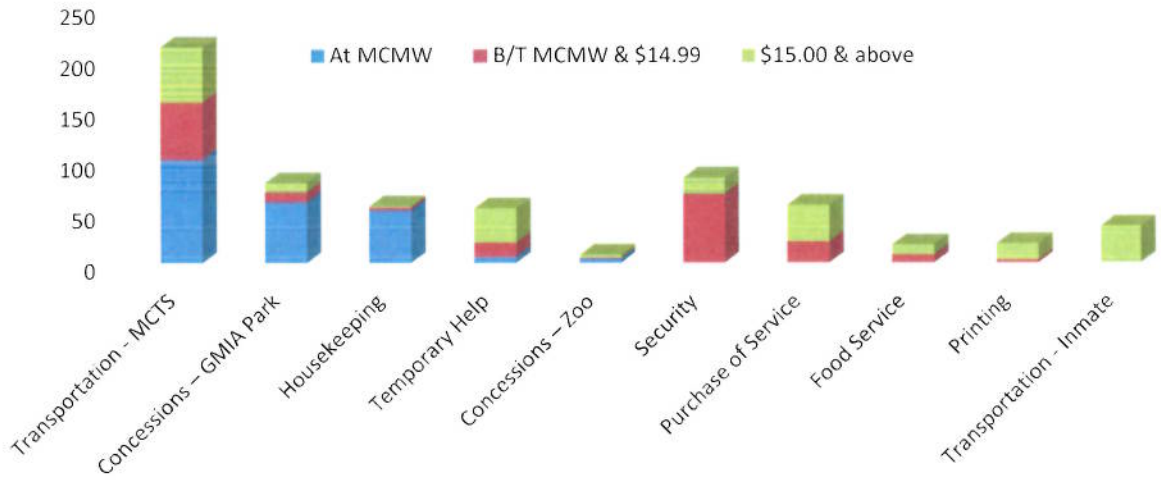
Audit Services Division received individual employee payroll data from 18 vendors. In total 625 employees specific wage data was reported to Audit Services Division. Of those employees, 224 or 35.8% of the employees were paid the Milwaukee County Minimum Wage. That left 401 or 64.2% of employees working for vendors with a wage rate higher than the Milwaukee County Minimum Wage. Of those 217 or 34.7% are already making more than the $15.00 minimum wage required of vendors by 2021 per the Minimum Wage Ordinance.

Table 9 depicts the wages by rate category and by service area while Figure 3 displays the information graphically.

Table 9 Wage Rates by Service Area				
Type of Service	**At Minimum Wage**	**Between MCMW and $14.99**	**$15.00 and Above**	**Total**
Transportation - Paratransit	102	56	54	212
Concessions – GMIA Parking	60	10	9	79
Housekeeping	52	3	1	56
Security	0	68	16	84
Temporary Help	6	14	35	55
Concessions – Zoo	4	1	4	9
Purchase of Service	0	21	36	57
Food Service	0	8	10	18
Printing	0	3	16	19
Transportation - Inmate	0	0	36	36
Total Employees	224	184	217	625
% of Employees at wage rate	**35.8%**	**29.5%**	**34.7%**	**100%**

Source: Audit Services Division calculated based upon vendor submitted payroll information

FIGURE 3
WAGE RATES OF EMPLOYEES BY SERVICE CATEGORY



Source: Audit Services Division calculated based upon vendor submitted payroll information.

As is evident in the Table 10 and Figure 3, there are certain service areas where employees are far more likely to be earning at or near the minimum wage. The following service areas had employees at minimum wage: Transportation Services-Paratransit, Airport Parking, Housekeeping, Temporary Help and Zoo Concessions. Audit Services Division found that other municipalities such as the City of Chicago defined their living wage ordinances with specific service categories. For instance, the City of Chicago lists the following services areas as being required to pay their base wage:

- Security Guards
- Parking Attendants
- Day Laborers
- Home and Health Care Workers
- Cashiers
- Elevator Operators
- Custodial Workers
- Clerical Workers

The City of Los Angeles' living wage contains the following conditions:

- At least some of the service rendered are rendered by employees whose work site is on property owned by the City;
- The services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources;
- The designated administrative agency has determined in writing that coverage would further the proprietary interests of the City.

The City of Chicago's Procurement rules state that if there is a reason to believe a vendor is not paying minimum wage, an investigation will be conducted. It does not require regular submittal of payroll records. Los Angeles enforcement requires employers to retain payroll for a minimum of four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

Therefore, we recommend the following:

7. *The Minimum Wage Ordinance Workgroup explore modifications to the Minimum Wage Ordinance that defines it as applying to specific high impact service areas similar to the City of Chicago's minimum wage ordinance. Explore modifications to the payroll records requirements of the Minimum Wage Ordinance vendors with a possible bifurcated system of required individual employee payroll reporting versus attestation, retention of records and possible on-site audits.*

8. *The Minimum Wage Ordinance Workgroup explore the possibility of limiting payroll records submission to specific vendors and types of services. Audit Services Division found that some category of services that are not exempted from the Minimum Wage Ordinance are employing individuals whose market rate is vastly higher than the Minimum Wage Ordinance. The workgroup should consider a method of allowing for annual attestation of paying the Milwaukee County Minimum Wage by these entities while also serving notification to these vendors of payroll audits to verify compliance if needed. Explore contractual language requiring the payment of the Milwaukee County Minimum Wage in these contracts without payroll records submission.*

9. *The Minimum Wage Ordinance Workgroup explore requiring that documents should be submitted to both Audit Services Division and contract managers since per the Minimum*

Wage Ordinance, payroll data is required only to be provided to the Audit Services Division in the Minimum Wage Ordinance. This has hindered departmental contract managers from proper monitoring of compliance by their vendors in regards to the Minimum Wage Ordinance.

There were two vendors who did not realize the increase to the Milwaukee County Minimum Wage that occurred in March of 2017, but once informed of the change immediately increased all workers to be at the Milwaukee County Minimum Wage. Other jurisdictions issue annual notifications. For example, the City of Los Angeles in accordance to Los Angeles Administrative Code Section10.37.2(a), the Bureau of Contract Administration shall provide notice of the new wage rate by publishing a bulletin announcing such wage adjustments. A copy of the notification from June 9, 2017 is contained in this report as Exhibit E.

Therefore, we recommend the following:

10. *The Minimum Wage Ordinance Workgroup should explore the determination of the responsibility of a county department to issue notification of annual increase in Milwaukee County Minimum Wage to all affected vendors in Milwaukee County to increase visibility and compliance.*

<u>The Department of Health and Human Services – Behavioral Health Division</u>

2013 Wisconsin Act 203 (Wis. Stats 51.41) which became effective on April 10, 2014 created the Milwaukee County Mental Health Board (MCMHB) and transferred all control of mental health functions from the Milwaukee County Board of Supervisors to MCMHB. The board is made up of 13 members and includes mental health professionals, consumers and advocates. The MCMHB is responsible for setting policy for the Behavioral Health Division. The legislation is clear that the County Board has no role in setting mental health policy as detailed in an Office of Corporation Counsel's memo to the County Board dated May 16, 2015. However, Milwaukee County still provides tax levy to fund BHD. BHD still utilizes the County's financial systems for its procurement and payment and BHD employees (past and present) remain part of Milwaukee County. The referenced Corporation Counsel memo stated that the minimum wage provision would not apply to BHD employees. Furthermore it also stated that "because the County Board has no authority over mental health contracts, the bid, RFP, purchasing and appeal procedures found in MCO CHs. 32, 44, 56 and

110 will not apply to mental health contracts". Therefore, BHD does not need to require its vendors to comply with the Minimum Wage Ordinance.

BHD executed a contract with Clean Power effective January 1, 2015 to provide cleaning services at the BHD facility and the Juvenile Detention Center (JDC) which is under the jurisdiction of the Director of Department of Health and Human Services. The contract does not contain language requiring the payment of the Milwaukee County Minimum Wage for the JDC deployed staff presumably because BHD is exempt from the Minimum Wage Ordinance. There are a total of 135 active employees under the contract and currently 12 are deployed to the JDC. In Table 10 below, Audit Services Division estimates the annual impact for compliance with the Minimum Wage Ordinance for those employees at the JDC at a cost of $10,608 as detailed in the table below.

Table 10
Clean Power Wage Rates vs. Milwaukee County Minimum Wage

Current Wage Rate	2017 Milwaukee County Minimum Wage	Hourly Amount below Milwaukee County Minimum Wage	Annual Fiscal Impact	No. of Employees	Total Fiscal Impact
$10.00	$11.82	$1.82	$3,786	1	$3,786
$11.00	$11.82	$0.82	$1,706	4	$6,822
$12.00	$11.82	N/A		2	$0
$13.25	$11.82	N/A		5	$0
TOTAL				12	$10,608

Source: Payroll data from Clean Power and Audit Services Division calculations.

Therefore, we recommend the following:

11. *The County Board and County Executive explore requesting the MCMHB to adopt a similar policy requiring the Milwaukee County Minimum Wage for the Behavioral Health Division contracts since the Behavioral Health Division has a unique operating structure at Milwaukee County and the Minimum Wage Ordinance is silent on the Behavioral Health Division requiring its vendors to comply with the Minimum Wage Ordinance. Again, Corporation Counsel's memo dated May 16, 2015 states that the Behavioral Health Division is not required to participate in the Minimum Wage Ordinance.*

12. *Require any contract issued by the Behavioral Health Division on behalf of the Department of Health and Human Services or a contract executed by BHD that will provide service to DHHS include the requirements of the Minimum Wage Ordinance for the DHHS*

portion of the contract. The DHHS contains both the Behavioral Health Division and the Health and Human Services Department and since DHHS is obligated to comply with the Minimum Wage Ordinance, any mutual contract that is executed should at least proportionately include the requirement.

Prevailing Wage and Service Agreements

Chapter 44 of the Milwaukee County Code of Ordinances establishes the policies that dictate public works contracts. These contracts include construction contracts and time & material (T&M) contracts. Prior to January 1, 2017 public works and T&M contracts issued by the Department of Administrative Services – Architecture, Engineering & Environmental Services Division (DAS-AE&E) required vendors' compliance with the State of Wisconsin Prevailing Wage per Wisconsin State Statute 66.0903. The Prevailing Wage laws applied to public construction work and generally required employers to pay workers the hourly wage and fringe benefits paid to the majority of workers in a particular county. In addition to all construction contracts requiring payment of the Prevailing Wage, all T&M contracts issued by DAS-AE&E also required payment of the Prevailing Wage.

However, 2015 Wisconsin Act 55 repealed the state Prevailing Wage law for local governmental units effective January 1, 2017 for any new projects. Public works contracts with Prevailing Wage issued prior to 2017 continue to be subject to the prior Prevailing Wage law through the life of the project. The Prevailing Wage is still applied under the Davis Bacon Act which requires a Prevailing Wage for federally funded projects only.

Based upon conversations with the DAS-AE&E Director, all new contracts issued since January 1, 2017 have included a requirement to abide by the Minimum Wage Ordinance even though the Minimum Wage Ordinance is silent on construction and T&M contracts due to the existence of Prevailing Wage at the time of the enactment of the Minimum Wage Ordinance.

Service Agreements issued by both DAS-Procurement and DAS-AE&E provide for repair and maintenance of County facilities. Neither entity believes that the Minimum Wage Ordinance applies to these type of contracts and the contracts have not contained an obligation to abide by the Minimum Wage Ordinance since its inception. These contracts are a blend of professional services and maintenance work. The contracts are typically bid out for one year of service with two one year renewals. Service Agreements for DAS-AE&E include the following types of services:

- Elevators

- Telemetry and Instruction
- Electrical High Voltage
- Electronic Card Access
- Building Automation

In order to monitoring compliance with the Prevailing Wage and other contractual requirements, the DAS-AE&E employs a certified payroll and workforce reporting software system called LCP Tracker. The latest Prevailing Wages are entered into the LCP Tracker by employee type. Vendors are required to submit payroll data with their invoices and no invoice is paid until compliance with the Prevailing Wage has been verified. Contracts are entered into the LCP Tracker after final approval in the County's contract system DocuSign. DAS-AE&E staff indicated the logging of contracts in the LCP Tracker system takes a minimal amount of time with a general estimate of about 15 minutes per contract. The LCP Tracker system is used for construction and T&M contracts but not for service agreements. Construction contracts are handled primarily by AE&E staff, but T&M contracts are handled primarily by staff in the following field departments: Airport, House of Correction, Department of Administrative Services-Facilities Management, Parks Recreation and Culture Department, Behavioral Health Division and the Zoological Department.

Therefore, we recommend the following:

13. *The Minimum Wage Ordinance Workgroup should evaluate whether the Minimum Wage Ordinance should apply to the contracts that previously required paying Prevailing Wage. The Prevailing Wage requirement was eliminated as of January 1, 2017 and the Minimum Wage Ordinance is silent on the inclusion of Public Works/Prevailing wage contracts.*

14. *The Minimum Wage Ordinance Workgroup should evaluate whether the Minimum Wage Ordinance should apply to Service Agreements. Services Agreements are not currently including the Minimum Wage Ordinance. These tend to be a blend of professional service and maintenance work. It should be clarified whether these type of contracts are an exempted service. In addition, a determination should be made as to whether the market rate for employees of Service Agreement vendors is above the Milwaukee County Minimum Wage such that compliance should be attestation and a commitment to be audited versus submittal of payroll records.*

15. *The Minimum Wage Ordinance Workgroup should explore whether the LCP Tracker could be used as a means of obtaining payroll data and as the monitoring system for compliance with the Minimum Wage Ordinance. The Milwaukee County Department of Administrative Services – Architecture, Environmental & Engineering Services utilizes a software system called LCP Tracker to track its vendor's compliance with the Prevailing Wage, where applicable.*

Chapter 46 Purchase of Service

Chapter 46.09 of the Milwaukee County Code of Ordinances grants the Director of DHHS authority to issue purchase of services contracts subject to the review and recommendation of the appropriate County Board committee. In addition, Chapter 46.0(2)(c)(2) includes in the definition of "Human services" these services the Commission on Aging is authorized by law to provide or purchase. The Minimum Wage Ordinance lists purchase of services as a specific allowable exemption. There are a few departments outside of the Department of Health and Human Services and the Department on Aging, such as the House of Correction and Combined Court Related Operations that utilize these types of contracts for the provision of similar services. For example, Wisconsin Community Services, Inc. (WCS) contracts with the House of Correction to operate the Day Reporting Center and also Combined Court Related Operations to operate a Pretrial Intoxicated Driver program. Both contracts include the Minimum Wage Ordinance. WCS is in compliance with the reporting of payroll date to Audit Services Division and currently all employees earn in excess of the Milwaukee County Minimum Wage.

Therefore, we recommend the following:

16. *The Minimum Wage Ordinance Workgroup should explore additional exemptions under Chapter 46 of the Milwaukee County Code of Ordinances. The Minimum Wage Ordinance allows for an exemption for contracts issued under Chapter 46 which allows the Director of DHHS and the Director of the Department on Aging to issue contracts for the purchase of services. There are additional departments that issue similar contracts such as the House of Correction and Combined Court Related Operations that appear to not qualify for the Chapter 46 exemption. It should be clarified whether purchase of service for similar services to Chapter 46 procured contracts are exempt even if not issued by DHHS Director or Director of Department on Aging.*

Professional Services Contracts

In the course of the review of all contracts and service expenditure payments, Audit Services Division learned that there are professional service contracts that employ staff that are earning near the Milwaukee County Minimum Wage. For example, Armor Correctional Health Services provides inmate health care at both the House of Correction and the Milwaukee County Criminal Justice Facility. The vast majority of the 128 staff are professional in nature and earn in excess of the Milwaukee County Minimum Wage. Armor indicated to HOC fiscal staff it currently does not have any employees earning less than the minimum wage of $13.01 which will be the new Milwaukee County Minimum Wage effective January 1, 2018. However, there are a small number of staff positions at Armor that are similar in nature to county positions, such as CNAs, whose hourly rate hovers close to the Milwaukee County Minimum Wage.

Therefore, we recommend the following:

17. *The Minimum Wage Ordinance Workgroup should explore if all Professional Service contracts should be under a blanket exemption. Professional services are an exempted category, however, Audit Services Division found some professional service contracts that contained both professional and service employees. Whether service employees under a professional service contract should be exempted should be resolved.*

County Employees–DHR Compensation Division & the Comptroller's Payroll Division

In 2014 when the Minimum Wage Ordinance was proposed, there were 110 non-seasonal county employees that were earning less than the Milwaukee County Minimum Wage. Upon the passage of the Minimum Wage Ordinance, the Department of Human Resources (DHR)-Compensation revised the relevant pay grades to ensure the first step was equal to or larger than the Milwaukee County Minimum Wage. Each year upon the change in the Milwaukee County Minimum Wage, DHR-Compensation reviews the new Milwaukee County Minimum Wage amount and compares it to the pay grades to ensure that no step within a pay grade is below the new minimum. If a pay grade is impacted that pay grade is revised so the lowest step reflects the new minimum for the year. An internal audit is done of all employees and pay grades to identify any necessary changes to employee compensation; DHR-Compensation then makes these changes. If the process occurs after the annual effective date, then the Office of the Comptroller-Payroll Division issues a retroactive payment to the effected employees.

Prior to 2017 the annual increase to the Milwaukee County Minimum Wage occurred March 1 of each fiscal year upon the release of the US DHHS poverty rates. After the adoption of County Board File No. 16-609, the increase for county employees now occurs January 1, 2017. The 2017 increase to county employee pay grades did not occur until April 7, 2017. The table below shows which job titles were affected and the fiscal impact.

Table 11
Milwaukee County Employees 2017
Increase to Milwaukee County Minimum Wage (MCMW)

Job Title	2016 Rate	2017 MCMW	Increase in pay rate	No. of Employees	Annual Impact
Airport Maintenance Worker	$11.91	$12.35	$0.44	12	$10,982
Certified Nurse Assistant	$12.21	$12.35	$0.14	1	$291
Certified Nurse Assistant	$11.91	$12.35	$0.44	1	$915
Certified Nurse Assistant	$12.11	$12.35	$0.24	1	$499
Certified Nurse Assistant	$12.13	$12.35	$0.22	1	$458
Certified Nurse Assistant	$12.33	$12.35	$0.02	1	$42
Certified Nurse Assistant	$12.21	$12.35	$0.14	1	$291
Certified Nurse Assistant	$12.24	$12.35	$0.11	1	$229
TOTAL				19	$13,707

Source: data provided by the Office of the Comptroller Payroll Division.

Therefore, we recommend the following:

18. *The Department of Human Resources Compensation Division, in conjunction with the Office of the County Comptroller Payroll Division, should draft a policy and procedure for the annual implementation of the increase to the Milwaukee County Minimum Wage for any affected County employees to minimize the need for retroactive payments.*

Economic Development Assistance Grants

The Minimum Wage Ordinance included a requirement that the Milwaukee County Minimum Wage apply to any economic development grants in excess of $1 million to an outside vendor. Audit Services Division conducted a search of the County's legislative system for any grant approved in excess of $1 million but none were found. In addition, Audit Services Division contacted the Director of DAS-Economic Development Division regarding any eligible grant funding. The Director identified two grants that were approved by the County Board that were possibly eligible based upon total funding. However, he believed they were exempt due to Chapter 111.02(d)(d) which exempts sale of land and assets from the Minimum Wage Ordinance. The first item was the sale of City Campus to Wiegand Enterprises where DAS-EDD discounted the sale of the land and building by $1.7 million

and placed that amount in a demolition escrow account. The second item was the sale of the Community Correctional Center where DAS-EDD discounted the sale of the land and building by $1.8 million and placed that amount into a rehabilitation escrow account.

Family Care Home Health Care Workers

The Milwaukee County Department of Family Care (later known as My Choice Family Care "MCFC") administered long term care and support service to adults with disabilities and frail elderly persons through the State of Wisconsin Family Care program. In March of 2016, the MCFC was administering the Family Care benefit to approximately 8,400 persons in Milwaukee County and an additional seven Wisconsin counties. The 2015-2017 Wisconsin State Budget (Act 55) enacted major changes to the Family Care program included requiring a participating entity to obtain a HMO licensure from the State of Wisconsin. Under state law there is no mechanism for a unit of County government to obtain a HMO license. Therefore, MCFC requested that the County Board approve an asset transfer agreement for MCFC to become a non-governmental entity and continue the program. On March 17, 2016 the County Board approved File No. 16-199 and the Department of Family Care ceased being a County entity by the end of 2016.

At the time of the approval of the Minimum Wage Ordinance, the Department of Family Care contracted with agencies that employed approximately 2,428 home health care workers who would be impacted by the Minimum Wage Ordinance. The Comptroller estimated raising the Milwaukee County Minimum Wage for these workers would cost the County $4.3 million in 2015. Due to the transfer of the Family Care program, these contracts no longer remain with Milwaukee County, therefore, this report no longer includes the compliance of the Department of Family Care with the Minimum Wage Ordinance.

MidAmerican Building Services

On July 14, 2015 the Director of Audit Services Division and the Corporation Counsel submitted County Board File No. 15-529 to the Committee on Finance and Audit. The memo was in response to a request to research the current status of the application of Milwaukee County's Minimum Wage Ordinance to the contract with MidAmerican Building Services. In 2010, the County entered into a contract with MidAmerican Building Services to provide housekeeping and janitorial services for the Courthouse Complex and County grounds. The contract was for one year, with an option to renew for two additional one-year periods by mutual agreement of the County and the vendor. The contract

period ended on January 13, 2013, and efforts to award a successor contract to MidAmerican failed to receive legislative approval. Subsequently, without a new contract or vendor in place, the County simply extended the contract and its related financial terms on a month-to-month basis which effectively eliminated the need to pay the Milwaukee County Minimum Wage to its employees.

As a result of File No. 15-529, a resolution was enacted to pay the workers of MidAmerican the higher wage and retroactively pay for hours already worked under the hourly threshold for the period June 1, 2014 through August 31, 2015.

As directed by the Resolution, the Audit Services Division worked with MidAmerican management to identify staff who worked on the County contract, the number of hours each person worked, and their hourly pay rate over the 15-month period covered by the Resolution. A total of 63 staff were identified. We reviewed for accuracy calculations made by MidAmerican for each of the employees charged to the County housekeeping and janitorial contract. We also reviewed detailed weekly timesheets used to support MidAmerican's calculations. Minor differences were identified and communicated to MidAmerican as a result of this review. Table 12 summarizes the cost to Milwaukee County as a result of compliance with the Minimum Wage Ordinance for the 15 month review period ending August 31, 2015.

Table 12
MidAmerican Cost Calculations

Number of Employees that worked at MidAmerican: 63 employees			
Number of Hours Worked June 1, 2014 – August 31, 2105			
	Straight Time Hours		75,480 hours
	Overtime Hours		575 hours
Salary Costs	Average Increase per Worker	$3,285	
	Median Increase	$2,672	
	Range of Increases		
	Highest:	$8,335	
	Lowest:	$16	
Total Salary Increase to meet Minimum Wage:			**$206,961**
Other Costs	Social Security (6.2%)	$12,832	
	Medicare (1.45%)	$3,001	
	State Unemployment Tax (2.23%)	$4,615	
	Federal Unemployment Tax (0.6%)	$1,242	
	Workers Compensation (4.9%)	$10,131	
Total Estimated Additional Payroll Costs			**$31,821**
Total Additional Costs			**$238,782**

Source: Audit Services Division memo dated November 25, 2015 from the Director of Audit Services Division to Director of the Department of Administrative Services.

The County Board authorized the Department of Administrative Services to process an appropriation transfer from the Appropriation for Contingencies in an amount not to exceed $505,000 to cover the increased cost of applying the Minimum Wage Ordinance to this contract for the period June 1, 2014 – August 31, 2015. As Table 12 shows, the cost was $238,782.

Jerome J. Heer
JJH/MRP
Enclosures
cc: Scott B. Manske, CPA, Milwaukee County Comptroller
Milwaukee County Board of Supervisors
Chris Abele, Milwaukee County Executive
Teig Whaley-Smith, Director, Department of Administrative Services
Colleen Foley, Deputy Corporation Counsel, Office of Corporation Counsel
Kelly Bablitch, Chief of Staff, County Board Staff
Stephen Cady, Research & Policy Director, Office of the Comptroller
Janelle Jensen, Legislative Services Division Manager, County Clerk's Office
Patrick Lee, Director, DAS-Procurement Division
Greg High, Director, DAS-Architecture, Environmental & Engineering Services Division

EXHIBIT A

SCOPE

The objectives of this review were to:

- Evaluate the implementation of Chapter 111 of the Milwaukee County Code of Ordinance which established a minimum wage for certain contracts for services provided to Milwaukee County and for Milwaukee County employees as well.
- Determine for those contracts that included the Minimum Wage Ordinance requirement whether or not vendors were in compliance with the Minimum Wage Ordinance.
- Determine if changes to the legislation, implementation and policies would lead to an increased compliance with Chapter 111 and enhanced ability for the monitoring of actual minimum wage payments.

In order to conduct an audit according to Generally Accepted Auditing Standards which Audit Services Division follows, there should have been a listing of all required vendors whose compliance with the Minimum Wage Ordinance could have been verified. The Audit Services Division cannot create the listing if it is expected to then perform an audit on the accuracy of the listing and the compliance of the vendors on the listing. This has resulted in two main points. One is that this memo is not a formal performance audit due to the issues discovered by the Audit Services Division when embarking upon its review of the Minimum Wage Ordinance. Second, instead of a performance audit, the Audit Services Division had to go back to 2014 and create a listing of vendors required to pay the Milwaukee County Minimum Wage (Milwaukee County Minimum Wage) and attempt to secure required information. However, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives. We limited our review to the areas specified in this Scope Section. During the course of the review we:

- Reviewed the legislation that created Chapter 111 of the Milwaukee County Code of Ordinances.
- Reviewed the legislation County Board File No. 16-609 approved on November 3, 2016 that made major revisions to Chapter 111.
- Reviewed annual contract reports from the Office of the Comptroller that are provided to the Committee on Finance and Audit. To create a listing Audit Services Division reviewed a majority of contracts entered into by Milwaukee County to determine if any of those contracts should have included the Minimum Wage Ordinance.
- Reviewed actual expenses in multiple service accounts within the County's financial system to determine which vendors received payments in excess of $20,000 within a calendar year to determine if any of those contracts should have included the Minimum Wage Ordinance.

- Conducted a review of both the contract list and applicable vendors to determine which items may qualify for allowable exemptions per the terms contained in Chapter 111.
- Created a listing of all contracts and vendors by Department and distributed said list to all relevant department heads seeking clarification if the contract or vendor specified was subject to the Minimum Wage Ordinance.
- Reviewed all responses from Departments and complied a listing of both contracts and vendors subject to the Minimum Wage Ordinance and any application for exemptions that required review by the Office of Corporation Counsel were forwarded to that entity.
- Requested that Departments forward any additional contracts or vendors subject to the Minimum Wage Ordinance to the Audit Services Division that were not included on the letters to Department heads.
- Created a master listing of all contracts and vendors from June 2014 to June 2017 that are subject to the Minimum Wage Ordinance.
- Reviewed all payroll submissions by required vendors.
- Reviewed all compliance letters submitted on behalf of certain vendors deemed by the Office of Corporation Counsel were acceptable to achieve compliance.
- Corresponded with Milwaukee County payroll staff to review policies and procedures for the annual review of hourly rates for County employees to determine which employees rates need to be increased to remain incompliance with Chapter 111 upon its annual increase.
- Corresponded with various Departmental staff in order to obtain clarifying information where necessary.

EXHIBIT B

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.

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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

Chapter 111 - MINIMUM WAGE

EXHIBIT C

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).

(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 (100) percent 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, through December 31, 2016; and *living wage* means:

(1) Effective January 1, 2017, twelve dollars and thirty-five cents ($12.35) per hour;

(2) Effective January 1, 2018, thirteen dollars and one cent ($13.01) per hour;

(3) Effective January 1, 2019, thirteen dollars and sixty-seven cents ($13.67) per hour;

(4) Effective January 1, 2020, fourteen dollars and thirty-four cents ($14.34) per hour;

(5) Effective January 1, 2021, fifteen dollars ($15.00) per hour;

(6) Effective January 31, 2022, and every January 31 thereafter, an amount determined by the department of administrative services, increased to reflect the rate of inflation for the previous calendar year, as calculated to the nearest cent, provided that in no case shall the wage be set at a level below the wage for the previous year.

(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 perform some aspect of a service contract 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.

(i) *Rate of inflation* means the percentage change from one year to the next in the average annual All Items Consumer Price Index for All Urban Consumers for the Midwest census region ("the average annual Midwest CPI-U"), or a successor index, as published by the U.S. Department of Labor, Bureau of Labor Statistics in January of each year covering the previous calendar year.

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, effective through December 31, 2016; thereafter the minimum wage requirement will be updated annually according to the schedule in section 111.02(e).

(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.

111.02(b). Amended - Nov. 3, 2016, J. Proc.

111.02(e). Amended - Nov. 3, 2016, J. Proc.

111.02(g). Amended - Nov. 3, 2016, J. Proc.

111.02(i). Created - Nov. 3, 2016, J. Proc.

111.03(1)(d). Amended - Nov. 3, 2016, J. Proc.

HISTORY NOTE

(Ord. No. 14-7, § 1, 2-6-14 ; Ord. No. 16-23 , § 1, 11-3-16)

EXHIBIT D

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: May 28, 2014

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 $11.47 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/index.aspx?clientid 12598.

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)
June 1, 2014	$11.47

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)
June 1, 2014	$11.47

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
2711 West Wells Street, 9th Floor
Milwaukee, WI 53208
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)
June 1, 2014	$11.47

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? $11.47 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. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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).

12. 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).

13. 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.

14. 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.

15. 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.*

16. 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.*

17. 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.

18. 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.

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

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

21. 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.

22. 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.

23. 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.*

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

25. 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.

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

27. 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.

28. 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.

29. 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.

30. 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.

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

32. 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.

33. 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.

34. 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
2711 W. Wells Street, 9th Floor, Milwaukee, WI 53208
Phone: (414) 278-4206; Fax: (414) 223-1895
E-mail: auditminwage@milwaukeecountywi.gov

Exhibit: E

NOTICE TO EMPLOYEES
MILWAUKEE COUNTY MINIMUM WAGE ORDINANCE

Your employer has a contract or agreement with Milwaukee County that requires the payment of a minimum wage to most employees for hours worked in performance of that contract or agreement.

Current Minimum Wage = $11.47 per hour

(Effective 2/28/2014. Updated Annually the Last Business Day of February)

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 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

The Minimum Wage Requirement DOES NOT APPLY TO:

- **Employers with 20 or fewer employees**
- **Employees under the age of 18**
- **Interns and Seasonal employees**
- **Volunteers receiving stipends**
- **Other exceptions listed in s. 111.03(2), Milwaukee County Ordinances**

For the full text of the Minimum Wage Ordinance, please refer to Chapter 111 of the Milwaukee County Code of General Ordinances, available online at:

http://library.municode.com/index.aspx?clientId=11508

If you are not sure whether you are covered by the Minimum Wage Ordinance, or if you think your employer is not paying you the required amount, you have the right to file a complaint.

Employers are prohibited from taking adverse employment action against an employee covered under the ordinance for filing a complaint under its provisions.

For more information or to file a complaint, you can contact the Audit Services Division at:

Milwaukee County Office of the Comptroller—Audit Services Division
2711 West Wells Street, 9th Floor
Milwaukee, WI 53208
Phone Number: 414-278-4206
Fax Number: 414-223-1895
Email: auditminwage@milwaukeecountywi.gov

EXHIBIT E

BOARD OF PUBLIC WORKS
MEMBERS

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PRESIDENT

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ERIC GARCETTI
MAYOR

JOHN L. REAMER, JR.
Inspector of Public Works
and
Director

BUREAU OF
CONTRACT ADMINISTRATION

1149 S. BROADWAY, SUITE 300
LOS ANGELES, CA 90015
(213) 847-1922

http://bca.lacity.org

June 9, 2017

To: ALL CITY CONTRACTORS SUBJECT TO THE LIVING WAGE ORDINANCE

2017 LIVING WAGE ORDINANCE WAGE RATE

In accordance with Section 10.37.2(a) of the Los Angeles Administrative Code, the Bureau of Contract Administration hereby issues this notice. Section 10.37.2 (a) of the Living Wage Ordinance provides that the wage rates paid to employees working on contracts subject to the Ordinance shall be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the Los Angeles City Employees Retirement System (LACERS). The LACERS Board has approved a 1.9% adjustment for Fiscal Year 2017-2018.

Based on the LACERS adjustment, **the living wage rates, effective July 1, 2017, will increase by $0.21 per hour for a new living wage rate of $11.48 per hour with health benefits of at least $1.25 per hour, or $12.73 per hour without health benefits.** For "Airport Employees," an amendment to the Living Wage Ordinance effective October 5, 2016, requires **the living wage and health benefits hourly rates, effective July 1, 2017, to increase to $12.08 per hour and at least $5.18 per hour, respectively, or $17.26 per hour without health benefits.** These increases are applicable to service contractors, lessees, licensees, City financial assistance recipients, and their subcontractors that are subject to the Living Wage Ordinance. Additionally, subject contractors, lessees, licensees and City financial assistance recipients are required to notify their subcontractors, if any, of the wage rate adjustments, and to ensure that the increases are provided to their affected employees beginning July 1, 2017.

Contractors that have been exempt from the provisions of the Living Wage Ordinance must provide notice of the living wage adjustment to their subcontractors, to ensure their compliance with the Living Wage Ordinance. Contractors with a collective bargaining supersession waiver or any other exemption from the LWO must still ensure compliance with the City Minimum Wage Ordinance.

Please note, as of July 1, 2017, the City Minimum Wage for Employers with 26 or more Employees increases to $12.00 per hour for qualified Employees in the City of Los Angeles. Employers will need to ensure compliance with all requirements of the City's Los Angeles Municipal Code 187 and 188, as applicable. For more information about the minimum wage laws, visit wagesla.lacity.org.

The 8½" x 11" "Notice to Employees" (English & Spanish) must be provided to all affected employees. It is suggested that a copy be distributed with their paychecks. Also, the aforementioned notices and the "Living Wage Ordinance Notice to Employees" poster are available on the BCA website (bca.lacity.org) by clicking on the "Living Wage Rates and Posters" link on the home page. Please print and display in a conspicuous location accessible to all affected employees.

Please be advised that Los Angeles Administrative Code Section 10.37.6(c) states in part:

> Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available.

If you have any questions regarding the Living Wage Ordinance, you may contact the Office of Contract Compliance at (213) 847-2625.

Sincerely,

HANNAH CHOI, Contract Compliance Manager
Office of Contract Compliance