County of Los Angeles
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DAVID E. JANSSEN
Chief Administrative Officer

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Third District

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Fifth District

July 26, 2006

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

CONTRACT COST OF LIVING ADJUSTMENTS

On June 27, 2006, your Board, on motion of Supervisor Yaroslavsky, directed this Office to work with County Counsel and the Internal Services Department to evaluate whether the Cost of Living Adjustment (COLA) contract provisions should be revised to ensure that a contract COLA is passed along to employees working on County contracts. Based on our collective review of this matter, we do not recommend that the County pursue such a requirement in our contracts.

The most problematic issue is the fact that, should an incumbent contractor be required to provide County mandated COLAs to their employees over the life of their contract, they will ultimately be forced to compete against vendors who are only required to pay the County's Living Wage. As a result, the new contractor most likely could not win a re-bid and any employees picked up by the winning contractor most likely would receive pay reductions to the Living Wage level. This and other issues are discussed below.

The County Counsel and Director of Internal Services concur with this memorandum.

Current COLA Policy

Pursuant to Board policy, a COLA is defined as "any contract price increase during the term of the contract that is not a cost included in the initially negotiated contract price, and is not for an increased service level or workload. A COLA reflects changes in the cost of doing business based on inflation." The current policy caps a COLA at the lesser of either the general salary movement granted to County employees, or the Consumer Price Index for Urban Areas (CPI-U) for the most recently published percentage change for the 12-month period preceding the contract anniversary date.

COLA provisions in contracts are not mandatory. However, if a COLA is recommended in a contract, the department must indicate this in its Board letter and specify whether the contract provision complies with the County's COLA policy.

Other Jurisdictions and Agencies

In our initial review of this matter, this Office surveyed other local jurisdictions and agencies to determine their policies relative to COLAs included in contracts they administer. The survey indicated that the majority of these jurisdictions and agencies do not have a COLA policy similar to the County's, nor do they monitor their contracts to ensure an approved COLA is passed on to the employees working under the contract. In most instances, the COLAs are granted on a contract-by-contract basis, are reviewed annually and are based on the CPI-U or another industry specific index. It should also be noted that COLAs are intended to cover more than just the cost of salary increases, such as supplies, equipment, insurance, and other items.

Living Wage Ordinance

The County's Living Wage Ordinance (LWO) requires non-exempt County contractors to pay their full-time employees working on Proposition A and cafeteria services contracts an hourly wage rate of $9.46 per hour or $8.32 per hour plus an additional $1.14 per hour towards health benefits. This provision ensures that employees in such contracts receive wages deemed to be sufficient to meet basic standard of living costs. However, it would be extremely difficult to track and monitor the appropriate adjusted Living Wage hourly wage rates due to the possible granting of a COLA based on the various contract terms and when the COLA may be granted pursuant to the language contained in each contract.

In addition to the above, as a standard business practice, many contractors who are awarded a new contract for an existing service subject to the LWO typically seek to hire the employees of the previous contractor, if additional staff are needed. Since the new contractor may not be aware of any COLA granted to the employees by the previous contractor, the new contractor would most likely submit proposal costs based on the current Living Wage hourly rates. Therefore, such contract employees could potentially receive a reduction in pay.

Conclusion

Overall our analysis indicated requiring contractors to pass along a COLA to their employees would present several challenges or give rise to various concerns, including, but not limited to, the following:

- Difficulty in determining the appropriate allocation of the COLA to wages, services and supplies, workers' compensation insurance and other similar items.

- Legal limitations on, and potential challenges to, County interference with employer-employee relations and contractual obligations under collective bargaining agreements which may be in place.

- Application of the COLA policy is not limited to Living Wage contractors. The COLA policy applies to all contractors, including those involving relatively high paid consultants, information technology professionals, technical engineers, and others. A consequence of requiring COLAs in these industries would be to force wages beyond competitive levels in areas where workers already receive a substantial wage.

- Significant workload impact for County departments to monitor such a requirement, both in determining compliance and non-compliance.

If you have any questions regarding this matter or require additional information, please contact me, or your staff may contact Vincent Amerson of this Office at (213) 974-1168 or at vamerson@cao.lacounty.gov.

DEJ: MKZ
DS:VLA:pg

c: Executive Officer, Board of Supervisors
County Counsel
Director of Internal Services