County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://cao.co.la.ca.us

DAVID E. JANSSEN
Chief Administrative Officer

November 16, 2006

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

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

LIVING WAGE PROGRAM OBJECTIVES

On September 26, 2006, your Board, on motion of Supervisor Antonovich in reference to a motion by Supervisor Yaroslavsky, took the following action:

- Instructed our Office to work in conjunction with the Director of Personnel to determine the impact of having all Cost of Living Adjustment (COLA) provisions in Living Wage contracts exclude the cost of labor from the base upon which a COLA is calculated, and report back to the Board in 30 days;

In addition to the above directive, your Board on motion of Supervisor Burke also took the following actions:

- Instructed our Office to work with the Auditor-Controller, Affirmative Action Compliance Officer, Director of Internal Services and County Counsel to examine the following objectives regarding the Living Wage Program:

  - Validate and update, as necessary, the Chief Administrative Officer's recommended methodology for calculating increases to the current Living Wage amounts as outlined in his memo to the Board dated April 27, 2004;

  - Using the prescribed methodology and formula, determine updated Living Wage amounts for employees subject to the Ordinance, both those employees receiving health benefits and those who do not;

  - Examine the feasibility of establishing a mechanism to review and update, as appropriate, the Living Wage amounts on an annual basis - with an accompanying report to the Board 30 days prior to the execution of any annual change, as needed;

  - Examine the development of contract language which would cap employer provided healthcare plan co-payments to amounts commensurate with the average co-payment terms for County employees;

- Examine the feasibility of updating the Countywide Contract Monitoring System (CCMS) and/or Contract Data Base (CDB) to enable more precise tracking and calculations of the costs associated with the Living Wage Program; and

- Instructed our Office, Director of Personnel, the Auditor-Controller, Affirmative Action Compliance Officer, Director of Internal Services and County Counsel to jointly report back their findings, recommendations and proposed Ordinance amendment language, as appropriate, to update the Living Wage Program amounts and policies as described herein within 45 days.

Please note that in addition to the above referenced departments, the Department of Public Works also participated in this overall review.

On October 5, 2006, we reported to your Board that excluding the cost of labor from the base upon which a COLA is calculated in Living Wage contracts could only result in undetermined savings to the County due to lower COLAs paid to contractors. Included with that report was an amendment to the COLA contract language, which was subsequently approved by your Board on October 17, 2006. The COLA policy has been updated to reflect this change on your Board's Policy Manual Website. Additionally, on November 6, 2006, we provided departments with guidelines on calculating the COLAs in Living Wage contracts with respect to this provision.

This memorandum addresses your Board's directive on the remaining portions of the order. All departments involved in this report concur with the findings and recommendations. In summary:

- An increase in the Living Wage rate is a policy matter for your Board's consideration;
- The Living Wage amounts can be reviewed and updated annually if your Board desires;
- Capping employer-provided healthcare co-payments is not recommended; and
- CCMS and the CDB do not have the functionality to track Living Wage contracts.

Living Wage Calculation and Methodology

In the event your Board determines that it is appropriate to increase the Living Wage rate, it should be based on an updated calculation using the methodology employed by the Auditor-Controller to develop the original County Living Wage rate in 1999. This formula considers the minimum gross earnings a participant (supporting a household of two adults and one child) would need to earn to become ineligible for cash assistance under the CalWORKs program, and adds health benefits of the lowest cost Health Maintenance Organization (HMO) provider based on a survey of five HMOs.

Utilizing the same approach that your Board adopted in 1999, the Auditor-Controller obtained from the Department of Public Social Services (DPSS) the minimum gross earnings a participant would need to earn to become ineligible for cash assistance under the CalWORKs Program. DPSS provided the monthly gross amount of $1,671 as the point of ineligibility based on the following:

- An average Assistance Unit of three (3) persons;

- Based solely on an hourly wage;
- No income other than earned wages; and
- Not including any employee benefits.

As indicated in the chart below, we have determined that the updated Living Wage hourly rates would increase to $9.64 with health benefits of at least $2.20 or $11.84 without health benefits as compared to the current rates:

Description	Current Hourly Rate	Updated Hourly Rate	Variance	Percentage Change
Hourly rate with insurance provided by contractor	$8.32	$9.64	$1.32	15.87%
Cost of health insurance	$1.14	$2.20	$1.06	92.98%
Hourly rate without insurance provided by the contractor	$9.46	$11.84	$2.38	25.16%

Based on gross earnings of $1,671 and monthly work hours of 173.3 (40 hours per week X52 weeks/12 months), the hourly rate was calculated at $9.64. The cost of health insurance benefits was calculated to be $2.20 per hour for a three person household. This amount was based on a weighted average of standard HMO costs per age group. Blue Cross of California had the lowest rates for standard insurance coverage in comparison to Kaiser Permanente Personal Advantage (KPA), Blue Shield of California, PacifiCare, and HealthNet.

If your Board so desires, the Living Wage amounts can be reviewed and updated annually via the Annual Living Wage Report generated by the Office of Affirmative Action Compliance (OAAC). The updated rates would be calculated by the Auditor-Controller and provided to the OAAC for informational purposes in their Annual Living Wage Report submitted to your Board each December. Should your Board make a determination to enact an increase in the Living Wage rate based on this information, the increase would apply prospectively to new Proposition A and cafeteria services contracts executed on or after the effectuation of the increase.

Capping Employer-Provided Healthcare Plan Co-Payments

County Counsel has considered the feasibility of implementing contract language which would cap employer-provided healthcare plan co-payments to amounts commensurate with the average co-payment terms for County employees. Based on their review, they do not recommend this action and we concur with their finding. Employer-sponsored health benefit plans are governed by a comprehensive Federal statute known as the Employee Retirement Income Security Act of 1974 (ERISA), which generally preempts state and local laws and regulations that "relate to" such plans, except to the extent that the laws and regulations regulate insurance. County Counsel has indicated that serious issues exist as to whether capping or regulating the co-payments that would be charged to employees who receive health benefits as part of their compensation pursuant to the Living Wage Ordinance would conflict

with ERISA and/or other law.

Tracking Living Wage Contracts

There are currently two separate systems administered by ISD and the Auditor-Controller which track certain information on contracts. CCMS, administered by the Auditor-Controller and the CDB, administered by ISD, were originally designed to meet different objectives, and neither system specifically tracks Living Wage contracts. Further, there are no plans at this time to enhance either system for this purpose.

Should your Board desire better tracking of Living Wage contract information, it would be appropriate to instruct this office, the Director of Internal Services, the Auditor-Controller and the Chief Information Officer to investigate the feasibility of developing an automated solution, including costs, and to report back with findings.

Proposed Amendment to the Living Wage Ordinance

If your Board determines that it is appropriate to raise the Living Wage rate, the Living Wage Ordinance would need to be amended to change the rates set forth in Los Angeles County Code Section 2.201.040 "Payment of Living Wage."

In addition, if your Board should decide to make such changes to the Living Wage Ordinance, we would recommend two additional changes as housekeeping matters. First, we would recommend amending Los Angeles County Code Section 2.201.010 "Findings" to delete the words "less than," so that section reads as follows:

> "The board of supervisors finds that the County of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay ~~less than~~ a living wage to their employees causes them to use such services thereby placing an additional burden on the County of Los Angeles."

Second, we would recommend amending the debarment provision of the Living Wage Ordinance, Los Angeles County Code Section 2.201.080(B)(3), "Enforcement and Remedies," to make it consistent with recently amended Los Angeles County Code Section 2.202.040, "Debarment of Contractors." We would recommend amending Los Angeles County Code Section 2.201.080(B)(3), to read as follows:

> "Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, ~~not to exceed three years~~ in accordance with Section 2.202.040 of this Code.

Cost Impact of an Increase in the Living Wage Rate

As we have indicated in previous reports to your Board, and as underscored in this report, we do not have the ability to accurately calculate the potential contract cost increases associated

with raising the Living Wage. If an effort were undertaken to identify the general magnitude of changes in contract costs as a result of any increase, it would be a "guesstimate" based upon a simplistic but time-consuming approach, and would not account for scope of work changes that may increase or decrease the number of contract employees subject to the Living Wage. It should be noted again that increases to the Living Wage will only affect future contracts and that the cost of current contracts will not change.

Specifically, to provide a guesstimate of the cost impact of any increase in the Living Wage contracts henceforth, departments would start by estimating the prospective impact on upcoming solicitations of their current Living Wage contracts with the assumption that the scope of work will remain the same. Departments would determine the labor cost of these contracts and adjust those costs based on the increase in the Living Wage rates (for example from $9.46 to $11.84). Collectively, this would give a rough estimate of the impact of increasing the Living Wage for existing contracted services under the Living Wage that could be used as a crude benchmark to be applied to future contracts.

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

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DS:VLA:pg

c: All Department Heads

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