



Health Services
LOS ANGELES COUNTY

January 13, 2023

**Los Angeles County
Board of Supervisors**

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TO: Supervisor Janice K. Hahn, Chair
Supervisor Hilda L. Solis
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FROM: Christina R. Ghaly, M.D. *Christina*
Director

SUBJECT: **HEALTHCARE FOR EMPLOYEES
CONTRACTED BY THE DEPARTMENT
OF HEALTH SERVICES (ITEM NO. 11 FROM
THE SEPTEMBER 13, 2022
BOARD OF SUPERVISORS' MEETING)**

On [September 13, 2022](#), the Board of Supervisors (Board) directed the Director of the Department of Health Services (DHS) to report back to the Board with the following cost estimates in 90 days on:

1. The feasibility to require contracted employers to provide contracted security officers, janitorial and environmental clean-up, and food service workers who work at DHS' hospitals and clinics with healthcare at the level of the Affordable Care Act (ACA) Gold Plan Individual Coverage; and
2. An assessment of whether or not there is a pay equity issue between contacted employees who are assigned to DHS facilities from those who are assigned to non-County facilities and provide recommendations to address.

To respond to the motion, DHS sought information from the contracted employers that provide security officers, janitorial and environmental service, and food service workers who work at DHS' hospitals and clinics, and reviewed this along with information from the Service Employees International Union – United Service Workers West (SEIU-USWW), to obtain cost estimates to provide healthcare at the level of ACA Gold Plan Individual Coverage, and to assess whether or not there is a pay equity issue between contract employees who are assigned to DHS facilities from those who are assigned to non-County facilities.

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Feasibility and Estimated cost to provide contracted workers with healthcare at the level of the ACA Gold Plan Individual Coverage

As referenced in the Chief Executive Office's (CEO) report from June 30, 2022(Attachment 1), the CEO has not identified any legal or technical barriers to requiring contractors to provide healthcare benefits at specified minimum levels. Based on the information that DHS was able to obtain from its current contractors for security, food service, and Environmental Services/janitorial (EVS/janitorial) and SEIU-USWW, the estimated annual cost for contracted employers to provide this contracted workforce with healthcare benefits at the level of the ACA Gold Plan Individual Coverage may be between \$12.9M, based upon estimates of \$654 to \$797 per month per contractor employee for approximately 1,500 full-time employees (FTE) for Security, Food Service, and EVS/Janitorial support DHS receives through contracts, and \$16.6M, based on SEIU-USWW's estimates of \$681 per month per contractor employee for 2,000 individuals working in a part-time or full-time capacity under contracts at the DHS healthcare facilities. Further, it is anticipated that the cost for healthcare benefits may increase each year. Attachment 2 provides a point in time summary of the estimated cost. Please note that this estimate may be incomplete. One contractor declined to provide an estimate, citing a concern that doing so may adversely affect participation in an active solicitation and deferred to DHS using the estimated monthly cost supplied by SEIU-USWW.

At present, DHS does not have sufficient information to effectively identify and evaluate the benefits that the contractors currently offer their employees. Similar to the Internal Services Department's (ISD) developed survey referenced in the CEO's June 30, 2022, report, cost estimates to implement the minimum healthcare benefits vary due to the complexity and uniqueness of each contract. Additionally, DHS cannot project the potential costs to Los Angeles County (County) as we do not know what costs contractors would propose to pass on to the County. Based on the aforementioned estimates and current negotiated contract budget information, it is possible that requiring the contractors to fully fund the cost of healthcare coverage at the level of the ACA Gold Plan Individual Coverage would increase the County's annual cost for the subject services between \$6.3M and \$10.0M, though this number could be higher if the contractors pass along a larger than anticipated share of the cost of health care coverage to DHS. Estimates will also vary and may be higher depending on the expectations and negotiated agreements with respect to providing coverage to part-time workers.

Based on DHS' current inability to quantify costs and operational impacts associated with requiring minimum benefit levels in these County contracts associated with healthcare facilities, DHS concurs with CEO's recommendation that the Board establish a data gathering program which would require proposers for new Proposition A contracts to submit cost proposals that describe the healthcare and other benefits offered, the cost of providing services under the existing benefits package, as well as the incremental additional cost to provide healthcare benefits at the Board specified minimum.

Pay Equity Assessment and Recommendation

DHS Contracts & Grants gathered information from the related County contracted employers and SEIU-USWW regarding pay rates for contractors assigned to DHS facilities and non-County health care facilities. The information, where available, included a range of

hourly pay rates paid by the County's contracted employers, pay rates identified in regional market studies, and collective bargaining agreements. Notably, rates may vary based on when the contracts were negotiated as well as the Memorandums of Understandings between the contractors and SEIU-USWW, County geography, the type of non-County facility and the length of service of the contractor's employees.

As a starting point, DHS assessed the available information against the County's Living Wage Ordinance (LWO) minimum hourly pay rate of \$18.49, which took effect on January 1, 2023. While some variability was noted, DHS could not conclusively determine whether there is a pay equity issue between contracted workers who are assigned to DHS healthcare facilities from those who are assigned to non-County healthcare facilities without validated pay and benefits data. For example, the available EVS data from the contractors and SEIU-USWW suggest that entry-level janitorial workers who are assigned to non-County healthcare facilities will earn between \$0.28 and \$1.21 per hour above the County's LWO minimum hourly pay rate of \$18.49. However, DHS does not have sufficient data to assess how the contractor's pay rates, benefits, days off, or other factors may change due to an individual's length of service with the contractor or a specific healthcare facility.

DHS' security contractors provided market data indicating that unarmed security officers in local healthcare settings were earning (on average) approximately \$19.75 per hour in the fall of 2022, with a lower pay rate at the 25% percentile, but DHS does not have detailed data available to compare what the contractors pay their employees in specific healthcare settings. Further, contractors have expressed some concerns with their ability to attract and retain EVS and security staff for DHS' healthcare facilities, but DHS does not have validated data to assess these market factors which may extend beyond the healthcare setting. In addition, DHS was recently advised that another County Department has implemented rate increases for their contracted security program, and we are seeking further information to assess how this may impact DHS' contracted security services and internal equity.

Due to the need for validated labor market data to conduct pay equity analysis, DHS recommends the Board establish a data gathering program with input from CEO, ISD and County Counsel to design a pay equity tool so that accurate cost estimates may be developed.

If you have any questions, you may contact me, or your staff may contact Julio Alvarado, Director of Contract Administration and Monitoring, by email at jalvarado@dhs.lacounty.gov.

CRG:jca

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors



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June 30, 2022

To: Supervisor Holly J. Mitchell, Chair
Supervisor Hilda L. Solis
Supervisor Sheila Kuehl
Supervisor Janice Hahn
Supervisor Kathryn Barger

From: Fesia A. Davenport *FAD*
Chief Executive Officer
FAD (Jun 30, 2022 13:44 PDT)

HEALTHCARE FOR CONTRACTED EMPLOYEES (ITEM NO. 44-B, AGENDA OF DECEMBER 7, 2021)

On December 7, 2021, the Board of Supervisors (Board) directed the Chief Executive Office (CEO) along with the Department of Health Services (DHS), County Counsel, the Internal Services Department (ISD) and any other relevant department(s) to report back in 90 days on the feasibility of requiring a Labor Peace Agreement clause in, and as a material condition for, entering into new, amended, or renewals of Proposition A (Prop A) and cafeteria services contracts, and requiring Prop A and cafeteria services contractors that employ the workforce responsible for security, janitorial, and environmental, as well as cafeteria service workers in the County's hospitals to provide information on available Affordable Care Act (ACA) healthcare insurance benefits and:

- 100 percent employer-paid healthcare insurance benefits for full-time employees and their dependents at the ACA Gold Level and Platinum Level Plan;
- five or more paid sick days;
- six or more paid holidays each year; and
- five or more vacation days.

The Board directed that the report back include cost estimates, convening a workgroup to discuss the feasibility to implement these changes, and a proposed timeline.

On March 3, 2022, CEO requested and was granted a 90-day extension to gather additional information.

Pursuant to the Board's directives, the CEO convened a workgroup that included representatives from DHS, County Counsel, and ISD to identify contracts subject to the motion, establish preliminary data points, and survey contractors to better understand the current benefits they offer and the feasibility of implementing changes.

Overview of Prop A Contracts

Prop A allows County departments to contract for work normally performed by County employees where the work can be performed more economically by an independent contractor. Typical types of Prop A contracts include custodial, landscaping, food service, parking and security services. Departments rely on Prop A and cafeteria services contracts to support their operations. In 2021, there were 248 Prop A and cafeteria contracts across 15 County departments. The annual cost of these contracts was \$347,274,932 based on ISD's Living Wage Program Annual Report. However, departments lack comprehensive information about medical and paid time off benefits as they do not generally track benefits that contractors provide their employees.

In an effort to provide a thorough and comprehensive report back to the Board and based on the workgroup's feedback, on May 4, 2022, the CEO convened a meeting with the 15 County departments that participated in ISD's 2021 Living Wage Program Annual Report to consult on various options to obtain the information needed as outlined in the motion. Based on this discussion, ISD developed a survey that was sent to all 98 Prop A and cafeteria services contractors to receive feedback on their current healthcare insurance benefits, paid sick days, paid holidays and vacation days provided to their workforce. The survey also asked contractors to provide cost estimates and describe the feasibility of providing their employees healthcare benefits at the ACA Gold or Platinum healthcare levels if they were not already doing so. ISD received responses from 23 contractors providing the following information:

- 40 percent provide 100 percent employer-paid healthcare insurance benefits for full-time employees and dependents at the ACA Gold and/or Platinum Level;
- 70 percent provide five or more paid sick days each year to full-time employees;
- 80 percent provide six or more paid holidays each year to full-time employees; and
- 80 percent provide five or more paid vacation days each year to full-time employees.

Responses related to cost estimates to implement the minimum healthcare benefits varied greatly due to the complexity and uniqueness of each contract, ranging from no additional cost (where existing benefits met or exceeded the levels identified in the motion) to upwards of \$470,000 per month. Most organizations expressed a willingness to provide increased healthcare benefits to meet the criteria in the motion where no collective bargaining agreement already exists.

Feasibility of Requiring Contractors to Provide Healthcare and Holiday/Vacation Benefits at Minimum Levels

Working closely with our workgroup partners, we have not identified any legal or technical barriers to requiring contractors to provide healthcare and paid time off benefits at specified minimum levels. However, we lack sufficient information to understand how much doing so would cost the County and what the operational impacts would be.

First, requiring contractors to provide a minimum level of benefits could make a Prop A contract more expensive because contractors may seek to pass on some or all of these costs to the County via the contracted rates. We cannot project these costs because we do not know what costs, if any, contractors will propose to pass on to the County.

Second, requiring minimum benefits could increase the cost of services so much that it is no longer more economical for a contractor to provide the services. In this case, departments would either have to abandon the proposed services or, more likely, insource the work.

Past Board-directed analyses shed some light on the key considerations associated with insourcing. On April 18, 2017, the Board directed the CEO and other departments to identify Prop A contracts with Living Wage rates below the then-current Living Wage Ordinance rate and determine whether the Prop A cost savings were achieved entirely through lower labor costs or if other efficiencies played a factor. The Board also directed that the CEO and other departments review all Prop A contracts approved over the prior 12 months to evaluate the amount of savings realized and the nature of those savings (e.g., whether they were primarily labor cost savings).

On April 30, 2018, the CEO submitted a report (Attachment I) to the Board finding, among other things, that cost savings in Prop A contracts were primarily generated through the contractors' reduced labor costs, including generally lower employee benefits. However, the report also concluded that Prop A cost savings do not reflect the full cost of insourcing a service because, in part, contractors leverage specialization and economies of scale to keep rates low and because insourcing could require costly startup costs for some services.

The report additionally concluded that insourcing is a multi-phase process, much of which must be addressed through the County's annual budget process. For example, in 2017-2018 ISD explored the time and costs to insource the County's fleet maintenance services (Attachments II and III). ISD estimated at that time that insourcing these services would require the development of a new budget and cost recovery methodology, with a projected annual cost of \$20,835,692 in the first year with a lengthy timeline for full implementation.

Insourcing services also has cascading costs that increase with cost-of-living adjustments and benefit changes. The Prop A analysis is a point-in-time only – it does not consider these substantial cost escalations in salaries and employee benefits over the long term. Contracting out for services under Prop A helps insulate the County from these cost escalators because the County can go to market for the most cost-effective services.

Finally, we expect that requiring contractors to provide minimum levels of healthcare and paid time off benefits would likely negatively impact certified local small businesses, social enterprises, and disabled veteran owned businesses. Smaller firms may be required to pass on a large portion or all of their new costs to the County, making it more difficult for them to compete for contracts against larger firms that are better positioned to absorb new costs.

Feasibility of Requiring a Labor Peace Agreement Clause as a Material Condition for Entering into a New, Amended, or Renewed Prop A Contract

A Labor Peace Agreement (LPA) is a private agreement between an employer and a labor union in which both sides waive certain rights under labor law. Typically, the employer agrees to not disrupt union efforts to communicate with or attempt to organize and represent employees in exchange for the union's agreement to not engage in any picketing, work stoppage, boycott or other economic interference with operations. (While an LPA may provide the County with additional assurance that County operations will not be interrupted due to labor activities, it is not necessarily a vehicle to impose a certain level of benefits for contractor employees. As discussed above, the County could simply impose such requirements via the agreement with the contractor.)

Governmental entities such as the County are not generally prohibited from requiring an LPA. Indeed, pursuant to Board Policy No. 5.290, the County already requires an LPA for new, amended, or renewals of leases, licenses, or concession agreements with hospitality operators at certain revenue generating County-owned or operated properties.

Requiring an LPA as a material condition for new, amended, or the renewal of Prop A and cafeteria services contracts is feasible. However, LPAs could increase costs for contractors likely resulting in greater contract expense to the County. In addition, requiring an LPA may discourage some potential contractors, including small businesses, from bidding on County contracts, thereby reducing the field of potential bidders and price competition.

Feasibility of Requiring Contractors to Provide Information on ACA Insurance Benefits to Their Employees

Requiring contractors to provide ACA benefit information to their employees is feasible and would be similar to other notifications required in standard County contracts. To ensure consistency across all contracts, the County could provide an exhibit in its contracts specifying how and what information a contractor must provide.

Recommendations

Get Better Data

Based on the analysis above and our current inability to quantify costs and operational impacts associated with requiring minimum benefit levels in County contracts, we recommend the Board establish a data gathering program. The program should span a sufficient timeframe, from 6 to 18 months, during which departments would require proposers for new Prop A contracts to submit cost proposals that describe the healthcare and other benefits

offered, the cost of providing services under the existing benefits package, as well as the incremental additional cost for providing a minimum number of paid vacation days, sick days and holidays and healthcare benefits at the Board specified minimum. At the end of the data-gathering period, the data will be aggregated, analyzed, and reported to help the Board better understand the operational and cost implications of moving forward.

Operational Considerations Should the Board Decide to Move Forward Now

Should your Board elect to move forward with requiring Prop A contractors to provide minimum benefit levels, we recommend the following as ways to minimize operational disruptions and sudden cost impacts:

1. *Provide sufficient time to plan.* We recommend that any new contracting policies adopted by your Board regarding minimum benefit levels apply to new contracts or amended contracts only, with an effective policy date at least 12 months out. This will allow departments to plan for cost impacts and potential insourcing requirements in advance. It will also allow cost increases to be requested and considered during the regular budget process and in light of the Board's funding priorities. The time will also allow contractors to plan for providing these benefits.
2. *Build flexibility into the policy.* Because we do not know all the impacts of moving forward, any policy should allow flexibility and a process for exceptions. For example, contractors might offer above-market wages in lieu of some benefits, which could be considered when awarding a contract. Your Board could also consider exempting contractors with existing collective bargaining agreements covering employee healthcare and paid time off benefits.
3. *Establish a monetary threshold and/or narrow covered services.* The policy could focus on the highest-value contracts to ease the administrative and cost burdens on the County while still achieving the Board's desired outcomes. Such a limitation could also ensure that smaller firms are not unintentionally hindered in their ability to compete for contracts. The policy could also exclude services that would be very costly to insource due to high startup costs associated with new equipment or capital purchases.

Should you have any questions concerning this matter, please contact me or James Hazlett at (213) 974-1148 or jhazlett@ceo.lacounty.gov

FAD:JMN:ADC
CA:JH:ST:ja

Attachments

c: Executive Office, Board of Supervisors
County Counsel
Health Services
Internal Services

ESTIMATED COST FOR AFFORDABLE CARE ACT GOLD PLAN INDIVIDUAL COVERAGE¹

Service	Estimated # of Contract Staff (FTE)²	Estimated Monthly Cost Per Staff: ACA Gold Comparable Coverage²	Estimated Total Annual Cost for All Staff: ACA Gold Comparable Coverage²	Estimated Current County Cost⁴	Estimated Increase to County's Annual Cost
Security	543	\$706 to \$797	\$4,866,927	\$2,038,176	\$2,828,751
Food Service	406	\$681 ³ to \$796	\$3,391,565	\$2,408,088	\$983,477
EVS/Janitorial	553	\$654 to \$796	\$4,612,951	\$2,147,094	\$2,465,857
Totals	1502		\$12,871,442	\$6,593,358	\$6,278,084

	Estimated # of Contract Staff (Full and Part Time)⁵	Estimated Monthly Cost Per Staff: ACA Gold Comparable Coverage	Estimated Total Annual Cost for All Staff: ACA Gold Comparable Coverage	Estimated Current County Cost	Estimated Increase to County's Annual Cost
SEIU-USWW	2032	\$681	\$16,610,381	\$6,593,358	\$10,017,023

Footnotes:

- ¹ This schedule presents a hypothetical scenario and was created based on the request of the Board for a cost estimate if contractors would be required to fully cover the cost of healthcare coverage for its workers at the Affordable Care Act Gold Plan level and the potential that contractors would pass the cost on to County. Validated cost estimates would require a formal data-gathering process.
- ² Estimated amounts derived from communications with DHS' current contractors.
- ³ SEIU-USWW estimated rate used, as one contractor expressed concerns that providing anything else may impact an active solicitation they are participating in.
- ⁴ Based on the amounts identified in the contractors' budgets that were used for the current term of their County contracts with DHS.
- ⁵ Amount provided by SEIU-USWW