

M E M O R A N D U M



SUBJECT: Policy Memorandum No. 20-01,
Living Wage

DATE: February 1, 2020

FROM: PRMT - T. Suzette Moore

TO: All PRMT Personnel

PURPOSE: This Policy Memorandum (PM) supersedes PM 19-02.

EXPIRATION DATE: This PM is effective immediately and remains in effect until canceled or superceded.

BACKGROUND:

As an element of FY08 budget approval process, Metro's Board of Directors approved implementation of a living wage policy that applies to all services and construction contracts. Calculation of Metro's living wage is performed annually and is based on the average wage rates of the local jurisdictions with a Living Wage policy. The jurisdictions include the City of Alexandria; Arlington County; District of Columbia; Montgomery County; and Prince George's County. The current living wage, for those jurisdictions range from \$14.65 to \$15.05 per hour. Based on Metro's fiscal financial constraints and continued effort to maintain its operating subsidy growth cap at 3% each year, the Living Wage for calendar year 2020 will be consistent with that of the District of Columbia and will increase to \$14.65 per hour.

POLICY:

This Living Wage rate of \$14.65 per hour must be included in all service and construction contracts issued during the calendar year and can only be adjusted if reduced by the contractor's per-employee cost for health insurance.

IMPLEMENTATION:

Include the below Living Wage clause in the General Provisions section for all service contracts, including construction contracts, awarded in an amount that exceeds the simplified acquisition threshold in a 12-month period, effective January 1, 2020.

- (a) The amendment of existing solicitations will be necessary to ensure compliance with the Living Wage policy;
- (b) Ongoing service and construction contracts do not require modification to include the new provision; however, inclusion of the clause may be considered on a case-by-case basis; and
- (c) Include the living wage provision when exercising a contract option.

Living Wage Provision

This contract is subject to the Authority's Living Wage Policy and implementing regulations. The Living Wage provision is required in all awarded contracts for services (including construction) that exceed the simplified acquisition threshold in a 12-month period. This excludes simplified acquisitions.

- (a) The Authority Living Wage Rate is adjusted annually by WMATA on or about January 1 based on the average wage rates of local jurisdictions with a living wage policy and may be reduced by the contractor's per-employee cost for health insurance.
- (b) The Contractor shall:
 - (1) Pay, at a minimum, the Authority Living Wage Rate, effective at the time the work is performed, to all employees who perform work under this contract, except as otherwise provided in paragraph (d) below;
 - (2) Include the Living Wage clause in all subcontracts that exceed the micro-purchase threshold in a 12-month period awarded under this contract;
 - (3) Maintain payroll records, in accordance with the retention and examination of records requirements in the General Provisions, and include or cause to be included, the substance of this section, including this paragraph (3), in its subcontracts covered by the Living Wage requirement at all tiers; and
 - (4) Submit records with each monthly invoice supporting payment of the Living Wage Rate.
- (c) The Contractor shall not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid compliance with the Living Wage provisions.
- (d) Exemptions to the Living Wage provisions include:
 - (1) Contracts and agreements with higher negotiated wage rates;
 - (2) Contracts that are subject to higher wage rates required by federal law or collective bargaining agreements (e.g., Davis Bacon);
 - (3) Contracts or agreements for regulated utilities;
 - (4) Emergency services to prevent or respond to a disaster or imminent threat to public health and safety; and
 - (5) Contractors who employ fewer than ten (10) employees.
- (e) The Authority may adjust the Living Wage rate effective in January of each year. The adjustment will reflect the average Living Wage Rate among Metro's Compact Jurisdictions with Living Wage provisions. If after contract award the Living Wage Rate increases, the Contractor is entitled to an equitable adjustment to the rate in the amount of the increase for employees who are

affected by the escalated wage.

- (f) Failure to comply with the Authority's Living Wage provisions shall result in the Authority's right to exercise available contract remedies, including contract termination or debarment from future contracts.