

**MACOMB COUNTY BOARD OF COMMISSIONERS  
POLICY REGARDING A LIVING WAGE**

The Macomb County Board of Commissioners hereby adopts the following policy to provide a “living wage” to the working people of Macomb County.

**Section 1: Purpose; application; exclusions.**

The purpose of this policy is to improve the lives of working people and their families by requiring the County of Macomb, its Boards and Commissions, and Employers that contract with the County of Macomb to pay their Employees a wage sufficient to meet basic subsistence needs, defined herein as a living wage.

**Section 2: Definitions.**

For purpose of this policy, the following terms and phrases shall be defined as follows:

*Auditor* shall mean the Compliance Auditor as set forth in Section 4.

*Contract* shall mean a contract or contracts for the performance of services, including the subcontracting of services, where the total expenditure for such contract or contracts exceeds \$50,000.00 for any twelve (12) month period; however, contracts for the purchase of goods and contracts to lease or purchase property are excluded.

*Contractor* shall mean a person who enters into a Contract with the County of Macomb or it's Board and Commissions for services.

*County* shall mean the County of Macomb.

*Employer* shall mean the person who engages employees to provide labor in exchange for payment of wages or salary.

*Employee* shall mean an individual who is employed by another to provide labor in exchange for payment of wages or salary and who normally is required to work in excess of 37.5 hours per week.

*Part-time Employee* shall mean an individual who is employed by another to provide labor in exchange for payment of wages or salary and who normally is required to work less than 37.5 hours per week.

*Federal Poverty Level* shall mean the official Poverty Level defined by the Office of Management and Budget based on Bureau of Census data for a family of four (4), as adjusted to reflect the percentage change in the Consumer Price Index for All Urban Customers.

*Health Care Benefits* means providing health care benefits for employees (or employees and their dependents) paid at the employer expense, either wholly or in part.

*Living Wage* shall mean an hourly wage rate, which on an annual basis (based on forty hours per week, fifty weeks per year) is equivalent to either of the following:

- (a) one hundred and twenty five percent (125%) of the Federal Poverty Level; or
- (b) one hundred percent (100%) of the Federal Poverty Level, if Health Care Benefits are provided to the Employee.

*Person* shall include firms, joint ventures, partnerships, corporations, clubs, and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named, whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

### **Section 3: Payment of Living Wage**

The County shall not enter into any Contract for services with any Contractor who does not demonstrate that it pays its work force a Living Wage. The Contractor shall be required to maintain this rate of pay for the duration of the Contract period.

### **Section 4: Adjustments in the Federal Poverty Level. Notice.**

The Compliance Auditor, who shall be the County Finance Director or other employee designated by the Board of Commissioners or Finance Director shall monitor the Federal Poverty Level and shall notify all Contractors of any adjustment in the Federal Poverty Level. The Auditor shall require all Contractors to annually demonstrate compliance with the requirements contained in Section 3. In addition, any Contractor who is required to pay its Employees a Living Wage under Section 3 shall post a notice of such requirement in the work place during the Contract period. The notice shall also state that if the Contractor has failed to comply with the requirement of Section 3, an Employee may file a notice of non-compliance upon the Auditor. All County agencies shall be provided with standard notices, which set forth the requirements of this policy for inclusion in the solicitation of proposals, bids or applications for County contracts. Agencies shall include said notices in their RFP's, RFQ's, specifications, application materials, notices of funding availability, notices inviting bids or any other solicitations for contracts.

### **Section 5: Notice of Non-Compliance.**

Any person who believes the Contractor has failed to comply with this policy shall file a notice with the Auditor, who shall promptly serve it on the Contractor. The Auditor shall notify the Contractor to submit proof of compliance within thirty (30) days, or it shall be grounds for termination of the Contract. The Auditor shall have sixty (60) days to investigate and remedy the complaint. This policy shall not be construed to limit an Employee's right to bring legal action for violation of any other minimum compensation of wage and hour law.

### **Section 6: Non-Compliance.**

In the event the Auditor determines that a Contractor has failed to comply with the provisions of this policy, the failure to rectify the non-compliance within thirty (30) days shall be grounds for the termination of a Contract. A Contractor who violates the Living Wage

requirement shall pay to each Employee affected the amount of the deficiency, for each day the violation continues. The County may withhold from Contract payments such amounts as are necessary to effectuate the payments provided in this paragraph.

#### **Section 7: Limitation on Bid Acceptance.**

The County shall not accept any bids or applications or requests for a period of five (5) years from any Contractor, who has failed on two (2) separate occasions to comply with Section 3 during the previous five (5) year period.

#### **Section 8: Retaliation Prohibited.**

An Employer shall not discharge, demote, or otherwise discriminate or retaliate against an Employee for exercising any rights under this policy, including but not limited to the filing of a complaint. Any Employer who is found to have taken such action against an Employee in violation of this policy shall have its Contract terminated immediately, and such Employer shall be barred from bidding on or entering into any contracts with the County in the future. The Auditor may order the Employer to pay appropriate restitution to the Employee, including back pay, and may withhold such amounts from Contract payments due the Employer as are necessary to make the Employee whole.

#### **Section 9: Exemptions from Application fo This Policy.**

The following are exemptions from compliance with this policy:

- (a) All part-time employees.
- (b) High school or college students temporarily employed or enrolled in a student job training program, summer or youth employment program, or work study program, for the period of training or employment in the program not exceeding ninety (90) working days. For all periods of a student's employment in the program exceeding ninety (90) working days, the Employee shall be subject to this policy.
- (c) Contractors who employ ten (10) or fewer Employees on a continuous basis. Continuous basis is defined as employing ten (10) or fewer Employees on each working day in each of the twenty (20) or more calendar weeks in the current or preceding year.
- (d) Individuals housed at the Macomb County Jail, including trustees and/or any persons who are under Court Order to perform community service.
- (e) Macomb County Community Mental Health until June 30, 2006. At that time the exemption will be revisited based upon a report that will determine the actual impact of the policy on Community Mental Health programs.

The County Board of Commissioners may grant a partial or complete exemption from the requirements of this policy if it determines that the application of this policy would cause demonstrated economic harm to an otherwise covered employer that is a non-profit organization, and the County Board of Commissioners finds that said harm outweighs the

benefits of this policy; provided further that the otherwise covered non-profit employer shall provide a written plan to fully comply with this policy within a period of time, not to exceed three (3) years, and the County Board of Commissioners then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the non-profit organization sufficient time to reach full compliance with this policy.

### **Section 10: Record Keeping.**

Contractors shall maintain a listing of the name, address, date of hire, occupation, classification, rate of pay and benefits paid for each of their Employees covered by this policy and shall submit a copy of the list to the Auditor by June 30, and December 31 of each year covered by the Contract. Employers shall maintain payroll records for all Employees and shall preserve them for a period of at least four (4) years. Employers shall permit access to job sites and relevant payroll records for authorized County representatives for the purpose of monitoring compliance with this policy, investigating Employee complaints of non-compliance and evaluating the operation and effects of this policy. An Employer who fails to submit documents, declarations or information required to demonstrate compliance with this policy shall be deemed non-compliant or non-responsive and shall have the Contract payments denied or suspended until compliance is demonstrated.

### **Section 11: Reporting.**

The Auditor shall submit periodic reports to the County Board of Commissioners, no less frequently than annually, which shall include the following information at a minimum: a listing and the status of all contracts to which this policy applies, including the term, dollar amount and the services performed or assistance provided; a listing of all complaints, hearings, determinations and findings, and a report on compliance with this policy; a report on adjustments to the Living Wage made during the previous reporting period, if any; and a report on any significant administrative problems encountered and recommendations for more efficient and effective administration of the provisions of this policy.

### **Section 12: Effective Date.**

This policy shall be effective as of January 1, 2006.