



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 8, 2009 REPORT NO: 09-052

ATTENTION: Budget and Finance Committee
Agenda of April 15, 2009

SUBJECT: Additional Data requested by Committee for
Annual Living Wage Ordinance Report for Fiscal Year 2008

REFERENCE: Report No. 09-007, Annual Living Wage Ordinance Report for Fiscal
Year 2008;
Report No. 07-144, Living Wage Administration during Fiscal Year 2007;
Report No. 05-090, City Manager's Analysis of Proposed Responsible
Wage and Benefits Ordinance; and
Living Wage Ordinance: San Diego Municipal Code Chapter 2, Article 2,
Division 42.

REQUESTED ACTION: Accept report.

STAFF RECOMMENDATION: Accept report.

BACKGROUND:

On March 11, 2008, during presentation of Report No. 09-007, *Annual Living Wage Ordinance Report for Fiscal Year 2008*, the Budget and Finance Committee requested additional information on "the effects of the City of San Diego Living Wage ordinance upon the City" [San Diego Municipal Code §22.4235(c)], and specifically requested data regarding financial costs. This report summarizes such data.

There are three categories associated with LWO costs to the City:

- 1) cost of LWO administration by City staff;
- 2) cost for LWO enforcement by the City Attorney's Office; and
- 3) cost increase on LWO service contracts.

Each of these categories is discussed below.

COST OF LWO ADMINISTRATION BY CIY STAFF

A study conducted prior to adoption of the LWO had predicted a need for 5.0 full-time employee (FTE) positions to administer the program. [City Manager Report No. 05-090, *City Manager’s Analysis of Proposed Responsible Wage and Benefits Ordinance*, Attachment D.] This number was based on a comparison with similar programs in Los Angeles, Oakland, San Francisco, and San Jose, and, if put into practice, would have resulted in an annual cost of \$400,000 – \$500,000.

In the City of San Diego during Fiscal Year 2008, LWO administrative duties were handled in Purchasing & Contracting Department by a Supervising Management Analyst dedicated half-time (0.50 FTE) to this assignment. Staff costs are shown in Chart 1:

<u>Position Classification</u>	<u>Full-Time Employee (FTE)</u>	<u>Salary</u>	<u>Fringe</u>	<u>Non-Pers onnel Expense (NPE)</u>	<u>Total</u>
Supervising Management Analyst	0.50	\$40,305	\$18,796	\$6,274	\$65,375

This Supervising Management Analyst conducted all tasks associated with LWO administration: analysis of contracts to identify applicability and ensure insertion of appropriate language; record maintenance; response to requests for information from contractors, workers, the public, and City staff; complaint receipt, investigation, and resolution; report preparation; and posting and distribution of informational materials including annual wage adjustment and Rules Implementing the LWO.

In Fiscal Year 2008, staff received seven formal LWO Employee Complaints; three complaints resulted in payments to workers as shown in Chart 2:

<u>LWO Complaint</u>	<u>Type of Recovery</u>	<u>Amount of Recovery</u>
#C08-001	Payment of LWO back wages to 26 workers	\$45,500
#C08-005	Payment of LWO back wages and lost wages to re-instated worker	\$4,914
#C08-007	Payment of LWO back wages to worker	\$2,427
TOTAL		\$52,841

Note: During Fiscal Year 2009, LWO administration staff was increased by an additional 1.0 FTE (Senior Management Analyst).

COST FOR LWO ENFORCEMENT BY CITY ATTORNEY’S OFFICE

In Fiscal Year 2008, the City Attorney’s Office expended staff time and administrative costs in connection with Living Wage enforcement. Specifically, the City Attorney’s Office became involved in resolution of two LWO Employee Complaints:

LWO Complaint #C08-001: The City Attorney’s Office brought a civil action against Prudential Overall Supply (People v. Prudential Overall Supply, Case No. 37-2007-00075766-CU-BT-CTL) for LWO-related violations. This lawsuit resulted in a stipulated judgment whereby the defendant was required to pay \$45,000 in back-wages

to covered employees (or \$1,750 per worker on average), as well as \$20,000 in penalties of which \$10,000 was paid to the County and \$10,000 to the City.

LWO Complaint #C08-005: The City Attorney’s Office assisted in resolution of a complaint against Jani-King, Inc. for LWO-related violations. The Jani-King complaint was resolved at the administrative level and did not result in litigation. Resolution of the complaint resulted in a payment of \$4,914.36 in back-wages to the affected employee.

Staff time and cost estimates do not include legal research and analysis, legislative drafting, and other legal services not directly related to enforcement. A summary of costs incurred by the City Attorney’s Office for enforcement of the LWO during Fiscal Year 2008 is shown in Chart 3:

LWO Complaint	Classification	Hours	Per Hour	Total
#C08-001, Prudential Overall Supply	Senior Litigator	60	\$66.22*	\$3,973
	Paralegal	80	\$44.14	\$3,531
	Administrative costs	--	--	\$1,474
#C08-005, Jani-King, Inc.	Chief Deputy Attorney	15	\$66.22*	\$993
	Deputy Attorney	20	\$66.22*	<u>\$1,324</u>
TOTAL				\$11,295

*Representation of average attorney salary, including wages and fringe benefits

The City Attorney’s Office contributions to LWO enforcement resulted in back-wages for workers as well as penalty payments to the City and the County [in accordance with California Business and Professions Code §17206(a-d)] for the enforcement of consumer protection laws. A summary of these recovered amounts is shown in Chart 4:

LWO Complaint	Type of Recovery	Amount of Recovery
#C08-001, Prudential Overall Supply	Back-payment of wages to workers	\$45,500
	Penalty payment to City	\$10,000
	Penalty payment to County	\$10,000
#C08-005, Jani-King, Inc.	Back-payment of wages to worker	<u>\$4,914</u>
TOTAL		\$70,414

COST INCREASE ON LWO SERVICE CONTRACTS

A contract is comprised of schedule, scope, and budget; for City of San Diego service contracts, these factors do not remain static from year to year. The scope of service, especially, is fine-tuned to adjust requirements such as performance frequency, standard of care, and product quality – factors influenced by perceived needs and fluctuating economic conditions during the solicitation period. For these reasons, an exact comparison of annual contract costs is difficult due to the nature of data-gathering, yet an analysis of available information is provided herein. In future years, the Enterprise Resource Planning (ERP) system under development in the OneSD

project will assist in providing a more streamlined process to assemble these records.

Several basic facts emerge regarding LWO contract costs:

- LWO contract cost increases are highest during the first year (Fiscal Year 2007) of implementation when wages and health benefits are initially boosted to required levels;
- in subsequent years, labor costs on LWO contracts increase by the Consumer Price Index for the region; and
- certain intangible benefits – such as highest quality labor, workforce stability, and increased contract oversight – may accrue to the procuring agency.

Initial Contract Cost Increases

To accommodate the Budget and Finance Committee's request for additional data regarding LWO costs to the City, Purchasing & Contracting Department pursued the following methodology:

- 1) A basic list of Purchasing Agreements with LWO requirements during the subject year was provided in Attachment D of Report to the City Council No. 09-007, *Annual Living Wage Ordinance Report for Fiscal Year 2008*.
- 2) Purchasing & Contracting Department employees identified the Purchase Orders (POs) associated with these contracts.
- 3) A request was made to the City Comptroller for payment amounts on invoices against these specific Purchase Orders for services from July 1, 2007, through June 30, 2008.
- 4) These invoice payment amounts were reviewed and totaled; the corresponding total amount is assumed to be Total LWO Contract Payment Amount in Fiscal Year 2008; this amount is \$16,088,885.

In April 2005 the City presented results of an exhaustive study of the LWO's anticipated fiscal impact in City Manager Report No. 05-090, *City Manager's Analysis of Proposed Responsible Wage and Benefits Ordinance*. Information in this report was compiled by the Financial Management Department with assistance from a team of professionals across the City. Using data extracted from the Online Purchasing Information System, this study (on page 17) determined the baseline value of service contracts for Fiscal Year 2006 – the last year of data prior to implementation of the Living Wage Ordinance; this amount was \$14,516,762.

The Fiscal Year 2008 Total LWO Contract Payment Amount can be compared to the baseline total for service contracts in Fiscal Year 2006 recorded in City Manager Report No. 05-090. The difference between these two amounts shows the additional cost to the City to apply LWO requirements to service contracts. This value is shown in Chart 5:

Chart 5: LWO CONTRACT COST INCREASE SINCE IMPLEMENTATION		
FY06 Service Contract Total (Pre-LWO)	FY08 Service Contract Total (Post-LWO)	LWO Increase for Service Contracts
\$14,516,762	\$16,088,885	\$1,572,123

However, the entire increase reflected in this LWO Increase for Service Contracts is not solely due to implementation of the LWO because:

- Some additional contract expense reflects the price volatility for fluctuating raw material costs, not labor per the contract; and
- Cost-of-living increases for administration and labor would have been applied per the existing contract terms even without this LWO requirement.

During Fiscal Year 2007, the initial year of LWO implementation, LWO requirements applied as contracts were “awarded, amended, renewed, or extended” [SDMC 22.4210(a)(1)]. For this reason, a complete aggregate of the City’s service contracts did not become subject to the LWO. For example, a contract awarded in May would include only two months of LWO financial data during the fiscal year. Fiscal Year 2008 is the first full year of LWO service contract coverage.

Cost Increases Due to Cost-of-Living

The April 2005 Report No. 05-090, *City Manager’s Analysis of Proposed Responsible Wage and Benefits Ordinance* (on page 1) stated:

“Additional impacts in future fiscal years would be based on the Consumer Price Index for the San Diego region.”

The Independent Budget Analyst agreed in IBA Report Number 07-99, *Living Wage Ordinance Administration during Fiscal Year 2007* (on page 2):

“In subsequent years, once all contracts are phased into the Living Wage Ordinance, the impact to the budget is expected to be minimal, between 3% and 3.5%. This increase is based on the cost-of-living adjustment determined by the regional Consumer Price Index.”

SDMC 22.4220(b) mandates the method to compute the adjustment of hourly wage and health benefits rates for LWO contracts:

“Beginning July 1, 2007, the hourly wage rates and health benefits rate shall be upwardly adjusted each July 1 to reflect the change in the Consumer Price Index for all Urban Consumers for the San Diego – Carlsbad – San Marcos Metropolitan Statistical Area for the twelve-month period preceding December 31.”

This data is posted by the U.S. Department of Labor, Bureau of Labor Statistics on its website at

www.bls.gov in “At-a-Glance Tables.” For convenience, the change in the Consumer Price Index during the years since implementation of the LWO is shown in Chart 6:

Chart 6: CONSUMER PRICE INDEX INCREASE FOR LWO ANNUAL RATE ADJUSTMENT				
<u>Date</u>	<u>Event</u>	<u>CPI Change</u>	<u>Full-Cash Wage</u>	<u>Effective Period</u>
July 1, 2006	LWO start date	N/A	\$12.00	Fiscal Year 2007
July 1, 2007	Annual rate adjustment	3.4%	\$12.41	Fiscal Year 2008

The specific cost to adjust salaries is based on this cost-of-living increase. If a cost-of-living increase had not been applied to the Total LWO Contract Payment Amount, then the total would have been reduced as shown in Chart 7:

Chart 7: LWO CONTRACT COST-OF-LIVING INCREASE IN FY 2008		
<u>Total LWO Contract Payment Amount</u>	<u>Cost-of-Living Increase Amount</u>	<u>LWO Contract Payment Without Cost-of-Living Increase</u>
\$16,088,885	\$547,023	\$15,541,862

CONCLUSION

Based on information discussed in this report, the estimated maximum cost to the City for implementation of the LWO during Fiscal Year 2008 is as shown in Chart 8:

Chart 8: MAXIMUM COST TO CITY FOR LWO IMPLEMENTATION IN FY 2008		
<u>Des cription</u>	<u>Cost to City</u>	<u>Notes</u>
City Staff (0.50 FTE)	\$65,375	
City Attorney’s Office	\$11,295	Offset by \$10,000 penalty payment recovery
Cumulative LWO contract increase	<u>\$1,572,123</u>	Total increase since implementation (Chart 5); includes cost-of-living, material, administration
TOTAL	\$1,648,793	

IBA Report Number 07-99, *Living Wage Ordinance Administration during Fiscal Year 2007* (on page 3) appeared to recognize the need to cultivate several years of data:

“The LWO is only in its second year of implementation, making it difficult to determine any long-term impacts of the policy on the community. Following 3-5 years of implementation, City Council may choose to direct staff to analyze these broader impacts of the LWO.”

The purpose of the LWO as stated in San Diego Municipal Code §22.4201, *Purpose and Intent*, is (in part) to ensure:

“[T]axpayer funded benefits are used in a way that advances the interests of the City as a whole, by creating jobs that keep workers and their families out of poverty... Paying service employees a living wage is intended to improve the quality of services provided to the City and to the public by reducing high turnover, absenteeism, and instability in

the workplace.”

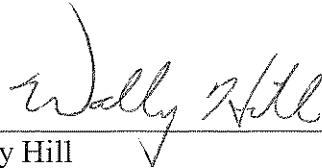
At present, there is not data to assess these intended – but intangible – benefits. It is similarly not possible to measure with any precision the economic benefit for the region resulting from the additional government outlay, though consumer studies show that people spend virtually everything they receive as income.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Report No. 09-007, *Annual Living Wage Ordinance Report for Fiscal Year 2008*, was presented to the Budget and Finance Committee on March 11, 2008. At that time, the Committee voted to unanimously request additional data regarding financial costs to implement the LWO. No action was taken to accept the report.

Respectfully submitted,



Hildred Pepper, Director
Purchasing & Contracting Department



Wally Hill
Assistant Chief Operating Officer

Report to Budget and Finance Committee

***Additional Data for
Living Wage Ordinance
FY 2008 Annual Report***



Hildred Pepper, Director
Purchasing & Contracting Department

April 15, 2009

LWO

Supplemental Data

**At Budget and Finance Committee March 11 request,
this data supplements Report No. 09-007**

Three categories of LWO costs for City:

- **LWO administration by City staff**
- **LWO enforcement by City Attorney's Office**
- **LWO service contract cost increase**



LWO **City Administration**

Chart 1: CITY STAFF LWO COSTS IN FY 2008

<u>Position Classification</u>	<u>Full-Time Employee (FTE)</u>	<u>Salary</u>	<u>Fringe</u>	<u>Non-Personnel Expense (NPE)</u>	<u>Total</u>
Supervising Management Analyst	0.50	\$40,305	\$18,796	\$6,274	\$65,375

Chart 2: RECOVERED AMOUNTS FOR LWO WORKERS IN FY 2008

<u>LWO Complaint</u>	<u>Type of Recovery</u>	<u>Amount of Recovery</u>
#C08-001	Payment of LWO back wages to 26 workers	\$45,500
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LWO **City Attorney's Office**

Chart 3: CITY ATTORNEY LWO COSTS IN FY 2008

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TOTAL		\$70,414

LWO **Contract Cost Increases**

On applicable service contracts:

- **Increase is highest during initial year (FY 2007) when wages and health benefits are increased to required levels**
- **In subsequent years, labor costs increase by Consumer Price Index for region**



LWO **Contract Totals**

Chart 5: LWO CONTRACT COST INCREASE SINCE IMPLEMENTATION

<u>FY06 Service Contract Total</u> <u>(Pre-LWO)</u>	<u>FY08 Service Contract Total</u> <u>(Post-LWO)</u>	<u>LWO Increase for</u> <u>Service Contracts</u>
\$14,516,762	\$16,088,885	\$1,572,123

- **Some increase is for material, not labor**
- **Cost-of-living would have been applied per existing contract terms**
- **FY08 was 1st full year of LWO coverage**



LWO Annual Wage Adjustment

“Beginning July 1, 2007, the hourly wage rates and health benefits rate shall be upwardly adjusted each July 1 to reflect the change in the Consumer Price Index for all Urban Consumers for the San Diego – Carlsbad – San Marcos Metropolitan Statistical Area for the twelve-month period preceding December 31.” [SDMC 22.4220(b)]

Chart 6: CONSUMER PRICE INDEX INCREASE FOR LWO ANNUAL RATE ADJUSTMENT

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Chart 7: LWO CONTRACT COST-OF-LIVING INCREASE IN FY 2008

Total LWO Contract Payment Amount	Cost-of-Living Increase Amount	LWO Contract Payment Without Cost-of-Living Increase
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LWO Cost to City

Chart 8: MAXIMUM COST TO CITY FOR LWO IMPLEMENTATION IN FY 2008

Description	Cost to City	Notes
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