

**Nassau County  
Office of the Comptroller**



**Living Wage Law  
2007 Annual Report**

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**Comptroller**

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## **INTRODUCTION**

The Living Wage Law (the “Law”) was enacted by the Nassau County Legislature in 2006 to raise the minimum wage of employees working for the County and those working for most of its contractors. As a result of the enactment of this Law, many Nassau County workers have seen increases in their annual salaries. The Law assigns to the Comptroller’s Office the responsibility of monitoring compliance with the Law. This report, prepared pursuant to the mandates of the Living Wage Law, is intended to provide the County Executive and the Legislature with a summary of the implementation of and compliance with the Law.

The Law became effective as of January 1, 2007 and, during the first year of the Law’s application, the Comptroller made significant progress in ensuring compliance with the Law. First, the Comptroller established the Living Wage Unit (the “Unit”), which is exclusively dedicated to addressing matters that involve the Living Wage Law. The Comptroller also promulgated rules and regulations for compliance with the Law, created forms and other documents to streamline implementation of the Law, and established a web page to disseminate information about the Law. The Unit established audit criteria for conducting living wage audits, created a comprehensive audit plan intended to target the most likely offenders of the law, and began auditing covered entities. Finally, the Comptroller established a Living Wage Advisory Board comprised of labor leaders and community leaders, to advise his office in the implementation of the Living Wage Law.

## **THE LIVING WAGE LAW**

### ***Living Wage Rates***

The Living Wage Law sets minimum hourly wages that increase on August 1 of each year until August 1, 2010 when the living wage rate is set at \$12.50 per hour. For the period of January 1, 2007 through July 31, 2008, the Living Wage Law requires covered employers to pay an hourly wage of \$9.50, or \$11.00 if no health benefits are provided. The Law also requires that eligible employees receive twelve compensated days off per year for sick leave, vacation or personal necessity at the employee’s request.

### ***Application of the Law***

The Law applies to the following types of contracts and leases entered into by the County after January 1, 2007:

- Service contracts of \$25,000 or more.
- Financial Assistance contracts for more than \$50,000 and where the employer has at least 10 employees.

- Leases of property owned or controlled by the County.

The law also applies to county subcontractors, County tenants and contractors of recipients of financial assistance from the County. The Law covers all the employees of Nassau County and those of the Nassau Health Care Corporation and its subsidiaries.

The Law does not apply to vendors who enter into the following types of contracts with the County:

- Service contracts and financial assistance for providers of child care services, pre-school services and early intervention services.
- Contracts where services are incidental to the delivery of products, equipment or commodities.
- Inter-governmental contracts and financial assistance contracts for industrial development bonds, community development block grants and enterprise-zone investments.

The Law does not apply to the employees of Nassau Community College. Also excluded from the Law are those employees who are:

- under 18 years old and are claimed as dependents for federal tax purposes and are employed as an after-school or summer employee.
- enrolled in a bona-fide training program.
- disabled and covered by a current sub-minimum wage certificate issued to the employer by the United States Department of Labor or if he/she would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the federal minimum wage.

### **ESTABLISHING THE LIVING WAGE UNIT**

The Living Wage Law authorizes the Nassau County Comptroller to monitor, investigate and audit compliance with the Law.<sup>1</sup> To perform these functions the Comptroller established the Unit, led by a Director, within the Field Audit department of the Comptroller's Office. As of December 2007, four auditors were assigned to work on living wage enforcement activities and additional auditors will be assigned as needed. In addition, an administrative assistant is assigned to support the Unit.

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<sup>1</sup> Nassau County Living Wage Law § 7(a) (2008).

During 2007, the Unit's first priority was to create a framework for selecting auditees and conducting audits. Thus, the Unit created an audit plan that would target the most likely offenders of the law, and established procedures for conducting audits. In order to make sure that covered employers had the information they needed to bring their companies into compliance, the Unit drafted rules governing employers' compliance with the law, provided a list of Frequently Asked Questions (FAQ's) and answers about the Law, and created a Living Wage web page to make all of this information about the Law more accessible.

### ***Rules***

The Living Wage Law provides for rulemaking in two areas: monitoring and enforcement of the law, and waivers. The County Executive designated the Comptroller to promulgate the rules as they relate to the monitoring and enforcement of the Law.<sup>2</sup> The primary purpose of the rules promulgated by the Comptroller is to define the role of the Comptroller, outline the responsibilities of covered employers, and clarify the rights of the covered employees. (See Appendix A.) The County Executive has promulgated a separate set of rules to address the procedures governing requests for waivers (See Appendix B.)

### ***Web page***

The Living Wage web page can be found at [www.nassaucountyny.gov/agencies/Comptroller/Livingwage/index.html](http://www.nassaucountyny.gov/agencies/Comptroller/Livingwage/index.html). The web page provides easily accessible information about the Living Wage Law to the public. Currently, the content found on the web page includes a copy of the Nassau County Living Wage Law, the Living Wage rules promulgated by the Comptroller, links to Living Wage Forms in a downloadable format, and Frequently Asked Questions about the law.

### ***Poster***

The Unit created a Living Wage Poster to explain the Law in a simpler format. (See Appendix C.) The poster lists the current living wage rates and the employee's right to compensated days off. It also provides contact information, including the telephone number and the e-mail address for the Unit, to allow individuals to clarify eligibility questions and/or direct employee complaints. It is the Unit's hope that the poster will not only afford employees with the information they need to ensure that they are being paid at the correct rate, but will also provide leads on employers who are not in compliance.

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<sup>2</sup> Nassau County Living Wage Law § 7(b) (2008).

## **THE LIVING WAGE ADVISORY BOARD**

In an effort to benefit from the insight of union leaders and activists who are often the first to receive complaints about wage violations, the County Comptroller established the Living Wage Advisory Board. The current Living Wage Advisory Board members are as follows:

John Durso- President, Long Island Federation of Labor (Chairman)  
Jim Castellane- Building & Construction Trades Council (Vice Chair)  
Lisa Tyson- Long Island Progressive Coalition (Vice Chair)  
Jack Ahern- IUOE Local 30  
Shirley Aldebol- SEIU Local 32BJ  
Frank Bail- RWSSU Local 1102  
Walter Barton- NALC Branch 6000  
Patricia Bowden- TWU Local 252  
Roger Clayman- Executive Director LI Federation of Labor  
Larry DeAngelis- CWA District 1  
Nick DeFino- Local 1181  
Donald Fiore- IBEW Local 25  
Gary LaBarbera- IBT Local 282  
Jerry Laricchiuta, President, Civil Service Employees Association (CSEA) Local 830  
Nick LaMorte- CSEA Region 1  
Michele Lynch- 1199 SEIU  
Jimmy Rogers- DC9 IUPAT

The County Director of Compliance has also been invited to attend the meetings.

Chairman John Durso hosted the first meeting on November 30, 2007. The Board discussed ways to improve enforcement of the law. The Comptroller will continue to work closely with the advisory board members in addressing Living Wage complaints and streamlining processes.

## **AUDIT FUNCTION**

### ***Audit Plan and Selection Criteria***

The 2007 Living Wage Audit plan focused on gaining an understanding of where the Living Wage Law would have the biggest impact and the Unit concentrated its efforts on ensuring that those employees were receiving the living wage to which they are entitled.

The plan included a review of the County and the Nassau Health Care Corporation, since they are both significant employers covered under the Living Wage Law.

It also included a review of the County contracts covered by the law. The Living Wage Law only applies to contracts entered into by the County after January 1, 2007. The Unit found that as of December 31, 2007, Nassau County had 467<sup>3</sup> contracts, valued at approximately \$192 million, that were covered by the Living Wage Law. Thirty-five of these contracts are Personal Care Aide (“PCA”) contracts, which account for approximately \$65 million of the \$192 million.

In 2007, there were no significant county leases entered into by the County, which were covered under the Law; however, the Unit intends to audit any high-value leases entered into during 2008. It is also the Unit’s plan to audit covered subcontractors on a selective basis in 2008.

Based on the value and the size of a given contract, the Unit either conducted traditional physical (site-visit) audits or performed desk audits, which predominantly involved reviewing wage documentation already in the County’s possession. In some cases, after the initial review of this information, additional documentation was requested of the auditee if necessary.

In 2007, the Unit conducted physical audits of 15 PCA providers. In addition, the Unit performed desk audits of 55 of the largest county contractors by contract value.

### ***Audit Findings & Methodology***

#### County and its Components

The Unit’s first review, an undertaking emphasized by the leadership of the Civil Service Employee Association, was to ensure that the County was in compliance with the Living Wage Law. Our initial review showed that approximately 330 employees were not being paid living wage rates. After our review, the administration processed pay increases, retroactive to January 1, 2007, for all affected employees. The cost resulting from the retroactive salary increases was estimated at approximately \$100,000, as calculated by the Office of Human Resources.

The Unit is currently auditing the payroll records of the Nassau Health Care Corporation and its subsidiaries to ensure that its employees are paid at the living wage rate. This audit is expected to be completed in 2008.

#### PCA Contracts

Nassau County enters into an agreements with PCA contractors to provide state mandated personal care services to Medicaid recipients, the reimbursement claims for personal care services are submitted to (and paid by) the New York State Department of Health. During 2007, Nassau County had 35 PCA providers. Their total billings in 2007 were \$65 million. The Unit began audits of 15 PCA providers in 2007.

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<sup>3</sup> Source: Nassau Integrated Financial System

While the audits of PCA vendors have not been finalized, the Unit has noted that several of them raise questions concerning the requirement that they provide compensated days off. Specifically, two had not allowed the mandated number of paid days off as vacation, sick or personal days and three others had not allowed the mandated time off in a timely manner. Additionally, the Unit found that two of the PCA providers audited granted employees a cash payout at the end of the year instead of allowing the vacation days. Employers are also not treating part time workers similar to full time workers in accruing vacation time. The Unit is awaiting County Attorney's final clarification on these issues.

### Desk Audits

The Unit performed desk audits on the 55 non-PCA contractors. These desk audits focused on hourly wages paid to covered employees, and were performed using available data from within the Comptroller's Office.

Of the 55 desk audits performed, seventeen entities were found to have instances of non-compliance with regard to hourly rates. Although the number of employees affected was small, our audit identified several employees who were entitled to have their wages increased. The Unit is working closely with these contractors to confirm that the appropriate changes are made to bring them into compliance.

Three entities found to be in non-compliance with the wage provisions of the Living Wage Law have applied to the Office of Compliance for financial relief or waiver.

### **ENFORCEMENT CHALLENGES UNDER THE LIVING WAGE LAW**

In attempting to monitor and audit entities covered by the Living Wage Law, the Unit has encountered some difficulties applying the law in certain circumstances. Two provisions of the law require further clarification.

- While the Living Wage Law applies to Nassau County subcontractors, it has been difficult to ascertain the number of subcontractors covered by the law because the County does not have a database that includes all County subcontractors. Furthermore, subcontractors are not required to file a living wage certificate of compliance with the County. While the Unit is still attempting to gather the information about subcontractors from existing County information, the Living Wage Advisory Committee has suggested that the subcontractors be required to submit certified payroll reports similar to the reports submitted to the State to show compliance with prevailing wage laws. Such filings would provide much needed information to the Unit so it can create a meaningful, targeted audit plan that includes those subcontractors most likely to be in non-compliance with the Living Wage Law.



- Additionally, the Comptroller's Office brought to the attention of the Health and Human Services vertical that Consumer Directed Personal Assistance Program Providers ("CDPAPs") are not covered by the Living Wage Law because they do not have contracts executed after January 1, 2007. Under the New York State Department of Health directives, in lieu of a contract, these agencies sign a Memorandum of Understanding ("MOU") with the Nassau County Department of Social Services. As of December 2007, the administration informed us that it was exploring the possibility of amending the MOU's to include Living Wage compliance. There are presently six Nassau County CDPAPs, who employ approximately 700 home care aides, with annual billings of approximately \$30 million.

### **CONCLUSION**

The Comptroller's Living Wage Unit was established in 2007. During 2008, the Unit plans to take the momentum initiated in 2007 to bring as many covered employers as possible into compliance with the Living Wage Law. It will be the goal of the Unit to expand the audit base and further disseminate information about the requirements of the Law. The Comptroller will continue to work with the Advisory Board to further understand the issues associated with the Law and use its input to improve the Unit's functions as this office moves forward on the Living Wage compliance audits.

**APPENDIX A**



**COUNTY OF NASSAU**

**RULES OF THE COMPTROLLER  
THE NASSAU COUNTY LIVING WAGE LAW  
LOCAL LAW 1-2006, MISCELLANEOUS LAWS  
TITLE**

**57**

## APPENDIX A

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### AUTHORITY AND USAGE

- a. These Rules are promulgated pursuant to Local Law 1-2006, Section 7(a) which authorizes the Comptroller to monitor, investigate, and audit compliance by all contracting agencies and may contract with non-governmental agencies to investigate possible violations of the Living Wage Law.
- b. Whenever the term “Law” or “Living Wage Law” is used in this document, it shall mean Local Law 1-2006, otherwise known as the Nassau County Living Wage Law. Whenever the terms “Rule” or “Rules” are used in this document, it shall mean these Rules of the Nassau County Comptroller regarding the Nassau County Living Wage Law.

## PART II

# INVESTIGATION, MONITORING & ENFORCEMENT

### SECTION A: INVESTIGATING COVERED EMPLOYEE COMPLAINTS

#### 1: RESPONSIBILITIES OF COVERED EMPLOYERS

### SECTION B: MONITORING AND ENFORCEMENT

#### 1: RESPONSIBILITIES OF THE LIVING WAGE UNIT

#### 2: RESPONSIBILITIES OF COVERED EMPLOYERS

#### A. INVESTIGATING COVERED EMPLOYEE COMPLAINTS

##### 1. Responsibilities of Covered Employers:

a. Covered Employers are required to cooperate with the *Living Wage Unit* so that it may perform its monitoring, investigating and auditing functions pertaining to the Law. Covered Employers must permit access to work sites, payroll records and other relevant documents for compliance purposes. Cooperation includes, but is not limited to, producing payroll records for inspection and copying if deemed relevant and necessary by the *Living Wage Unit*.

#### B. MONITORING AND ENFORCEMENT

##### 1. Responsibilities of the *Living Wage Unit*:

The *Living Wage Unit* is responsible for ensuring that Covered Employers are in compliance with the Living Wage Law. The investigation process may include, but is not limited to, the following:

- a. Visiting relevant work site(s).
- b. Notifying Covered Employers and Contracting Agencies if any, non-compliance determinations have been made.
- c. Conducting follow-up investigations or audits with Covered Employers to ensure that corrective action has been taken.

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- d. Referring any cases of non-compliance to the County Attorney and the Contracting Agency for further appropriate action.

### **2. Responsibilities of Covered Employers:**

- a. Covered Employers must ensure that its covered subcontractors comply with the requirements of the Law by attaching to each subcontract, a provision obligating the subcontractor to comply with the requirements of the Law. This provision shall also provide that failure to comply with the requirements of the Law may constitute a material breach of contract by the subcontractor.
- b. During the term of the County service contract, Covered Employers must notify the Contracting Agency and the *Living Wage Unit* of any material changes in the information contained in their current certification or their subcontractors' certification within sixty (60) days of the date of the material change.

## PART III

### **RECORD KEEPING & REPORTS**

SECTION A: INVESTIGATING COVERED EMPLOYEE COMPLAINTS  
1: RESPONSIBILITIES OF COVERED EMPLOYERS

SECTION B: MONITORING AND ENFORCEMENT  
1: RESPONSIBILITIES OF THE LIVING WAGE UNIT  
2: RESPONSIBILITIES OF COVERED EMPLOYERS

#### **A. PUBLICATION OF LIVING WAGE RATES**

##### **1. Responsibilities of Covered Employers:**

- a. Provide written notification to each of their Covered Employees of the adjusted living wage and the health benefit supplement rates and the effective date of the change at least seven (7) days prior to the effective date.

## APPENDIX A

- b. Post Living Wage notices in a conspicuous manner at all relevant work sites/locations no later than the day on which any work begins under a County service contract.
- c. Provide all covered subcontractors with Living Wage notices (see subsection (b) above) for posting in a conspicuous manner at each covered work site/location.
- d. Provide all subcontractors with certification of compliance forms. Covered Employers must maintain in their files for inspection, copies of Living Wage-related subcontractor completed paperwork.

### **B. PAYROLL RECORDS OF COVERED EMPLOYERS**

#### **1. Responsibilities of Covered Employers:**

- a. Maintain its payroll records in accordance with the Living Wage Law, Section 5(b).
- b. Upon request by the *Living Wage Unit*, provide a separate list of Covered Employees which shall include the name, date of hire, position, rate of pay and benefits paid for each employee.
- c. Submit any required information in a timeframe established by the *Living Wage Unit*.
- d. Require its subcontractors to maintain payroll records for its Covered Employees and related records under each subcontract including, but not limited to, the following:
  - Number of hours worked each day for each employee;
  - Base rate of wages for each employee;
  - Gross wages;
  - Deductions made;
  - The actual wages paid each employee; and
  - A record of compensated days off.
- e. Require its subcontractors to preserve its payroll records for a period of four (4) years after the expiration of the subcontract.

**APPENDIX B**



**County of Nassau**

**Rules of the County Executive:  
The Nassau County Living Wage Law  
Local Law 1-2006, Miscellaneous Laws Title 57**

**Effective October 25, 2007**

## APPENDIX B

### **Section 1. Authority and Usage**

- a. These Rules are promulgated pursuant to Local Law 1-2006, section 7(b) which authorizes the County Executive to promulgate rules to implement the provisions of the Nassau County Living Wage Law.
- b. Wherever the term “Law” or “Living Wage Law” is used in this document, it shall mean Local Law 1-2006, otherwise known as the Nassau County Living Wage Law. Whenever the terms “Rule” or “Rules” are used in this document, it shall mean these Rules of the County Executive regarding the Nassau County Living Wage Law.

### **Section 2. Clarification of Terms**

- a. Awarded. “Awarded” shall mean that time at which a contractor is selected by the County, or any department of the County, to receive county financial assistance, even if that time is before execution of a county financial assistance agreement by all parties or approval of such agreement by the County Legislature.

See Living Wage Law, § 5(a) “Certification of Compliance” and § 10 “Other Provisions”

- b. County Service Contract. “County Service Contract” shall mean any contract let to a contractor by the county for the furnishing of services to or for the county and that involves an expenditure equal to or greater than twenty-five thousand dollars. A contract for the sale of goods to the County, or a contract for the sale of goods where incidental services are being provided to the County, are not considered County Service Contracts. This definition shall not include contracts awarded pursuant to the county’s emergency procurement procedure as set forth in section twenty-two hundred six of the county charter, inter-governmental agreements, agreements with state or local public authorities or agreements with local development corporations incorporated pursuant to section 1411 of the not-for-profit corporations’ law.

- c. County Financial Assistance. “County Financial Assistance” shall mean any grant, loan, tax incentive or abatement, bond financing, subsidy or other form of assistance of more than fifty thousand dollars given by or through the authority or approval of the county to an entity having at least ten employees. County financial assistance shall not include industrial development bonds, community development block grant loans, and enterprise-zone-related incentives.

- d. Employee and Employer.

- i. Under Section 1 of the Living Wage Law, an “Employee” for the purposes of a county service contract is an employee of a county contractor “pursuant to one or more service contracts and who expends any of his or her time thereon.” Thus, an Employee may be:



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A. Any person hired by a County contractor specifically to work on the County Service Contract at issue

B. Any person employed by the County Contractor who works on the specific services contemplated by the County Service Contract

ii. An Employee is not:

A. An employee who provides services which are only incidental to the services, which are only incidental to the services, specified in the County Service Contract.

A. An employee who does not provide any services contemplated under the County Service Contract in Question

iii. For the purposes of the Living Wage Law, Nassau Community College is not an employer as defined in the Law. However, service contractors, financial assistance recipients and lessees of the College are employers as defined in the law and are subject to the provisions of the Living Wage Law as they are applicable.

See Living Wage Law, § 1 “Employee,” “Employer”

e. Enter Into. “Enter into” shall mean that time at which both parties have signed the contract in question.

See Living Wage Law, § 1 “County Service Contract” and § 10(a) “Other Provisions”

### **3. Amendments, Extensions and Renewals**

a. Renewals and Extensions. Where an existing County Financial Assistance Agreement, County Service Contract, or County Lease is renewed or extended after the effective date of the Law, such agreement is a new County Financial Assistance Agreement, County Service Contract or County Lease, as the case may be, and is subject to the applicable provisions of the Law.

b. Determination of Applicability.

i. County Service Contracts.

A. Any renewal of a County Service Contract is subject to the Living Wage Law if the total expenditure by the County under the renewal is \$25,000 or greater.

B. If a County Service Contract is extended or otherwise amended, such extension or amendment will be subject to the provisions of the Law if such

## APPENDIX B

amendment increases the total expenditure under the original agreement to an amount \$25,000 or over, or if such amendment itself involves an expenditure of \$25,000 or over. In no event shall the Law apply in a situation where an amendment involves an expenditure of less than \$25,000 and the original agreement already involves an expenditure of \$25,000 or over.

### ii. County Financial Assistance Agreements.

A. Any renewal of a County Financial Assistance Agreement is subject to the Living Wage Law if the total expenditure by the County under the renewal is greater than \$50,000.

B. If a Financial Assistance Agreement is extended or otherwise amended, such extension or amendment will be subject to the provisions of the Law if such amendment increases the total expenditure under the original agreement to an amount over \$50,000, or if such amendment itself involves an expenditure over \$50,000. In no event shall the Law apply in a situation where an amendment involves an expenditure of \$50,000 or less and the original agreement already involves an expenditure over \$50,000.

iii. County Leases. Any renewal, extension or modification of a County Lease is subject to the provisions of the Living Wage Law.

See Living Wage Law, §10(a) "Other Provisions"

## **4. Waiver of the Law**

### a. Application of the Provision

i. Any County Contractor may apply for a waiver of the provisions of the Law. In order to qualify as a County Contractor, the applying organization must have a County Service Contract with the County of Nassau. A County Service Contract is a contract which contemplates providing a service to the County (not goods or any service performed only to deliver goods) for which the County is paying \$25,000 or more. Both non-profit and for-profit County Contractors may apply for a waiver.

ii. At this time, the Living Wage Law does not allow a County Lessee or an entity receiving County Financial Assistance to apply for a waiver of the Law's provisions.

b. Request for a Waiver The following procedures have been established by the County Executive for requesting a waiver of the provisions of the Living Wage Law:

i. Request for a waiver must be made to the Nassau County Office of Compliance. Since a waiver request must be made by a County Contractor who already has a

## APPENDIX B

contract with the County to provide services, a request for a waiver may only be made after the contract in question is entered into with the County.

ii. A request for a waiver must be made on the approved form designated “Request for Waiver of the Provisions of the Nassau County Living Wage Law.” This form is attached to these rules. Additional forms may be requested by contacting the agency with which the requesting organization has a contract.

iii. Except for those requesting organizations with County Service Contracts listed in section 4(b)(iv)(E)(3) below, those requesting organizations which plan to request a waiver once a County Service Contract has been entered into must include, in their bid or proposal for the specific County Service Contract, a budget breakdown stating the amount of the budget allocated to wages (*assuming the Living Wage Law applies*), and the amount of the budget allocated to services and other contract expenses.

A. In any budget breakdown submitted, the requesting organization must include only those employees who are included within the definition of “Employee” described above.

B. Those County contractors who have been awarded a contract through Executive Order No. 1 of 1993, a state or federal grant, General Municipal Law section 104, or any other state or federal rule or regulation must submit the above budget breakdown to the contracting agency before such contract is entered into with the County in order to be eligible for a waiver.

iv. A waiver request must contain the following information:

A. The name of the organization

B. The address of the organization

C. A brief description of the contract which the waiver pertains to.

D. The name and email address of the Chief Executive Officer of the requesting organization

E. The criteria (hereinafter, the “Criteria”) for qualifying for a waiver under the provisions of the Law. Currently, a requesting organization must meet either Criteria 1, 2 or 3 below, and, if Criteria 1, 2 or 4 are cited, must meet Criterion 5 below:

1. The highest paid officer or employee of the requesting organization earns a salary which, when calculated on an hourly basis, is less than six times the lowest wage or salary paid by the requesting organization.

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### OR

2. Compliance with the requirements of the Living Wage Law will directly increase the requesting organization's expected total annual budget in an amount greater than ten percent of the prior fiscal year's budget.

### OR

3. The requesting organization is providing any of the following services to the County and compliance with the Living Wage Law would exceed the amount, per hour or per diem (as the case may be), reimbursed to the County by any State or Federal Source:

- i. Services under the Expanded In-Home Services for the Elderly Program (EISEP)
- ii. Foster care services under the New York Social Services Law.
- iii. Residential domestic violence services under the New York Social Services Law.
- iv. Residential care, educational and vocational training, physical and mental health services, and employment counseling services to residents of the Juvenile Detention Center under the New York Executive Law.

### OR

4. The requesting organization is providing any of the following services to the County and compliance with the Living Wage Law would increase the County Service Contract's budget by greater than ten percent over the budget for the requesting organization's County Service Contract for the previous contracting year:

- i. Non-residential domestic violence services under the New York Social Services Law.
- ii. Services under the Home Energy Assistance Program (HEAP)
  - i. Preventive services for children pursuant to the New York Social Services Law
  - ii. Non-Secure detention services pursuant to the New York Executive Law.

### AND (if Criteria 1, 2 or 4)

5. When the requesting organization placed a bid or submitted a proposal for the county service contract at issue, it must have submitted a budget which included a breakdown of the wages paid to employees of the requesting organization who would be covered under the Living Wage Law.

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- F. A statement that, if a waiver is granted, the requesting organization will decrease its budgeted wage allocation to that amount the requesting organization would have paid its employees had the requirements of Living Wage Law not been applied. The amount to be paid by the County to the requesting organization will be reduced accordingly by contract amendment.
- G. The notarized signature of the requesting organization's Chief Executive Officer.
- v. A request must be accompanied by documentation supporting the Criteria claimed by the requesting organization.
- A. If Criteria (1) is cited in the request, the requestor must include a statement, certified by the chief financial officer of the requesting organization as true and accurate, of the wages paid, on an hourly basis, of the highest and lowest paid individuals employed by the requesting organization.
- B. If Criteria (2) is cited in the request, the requestor must provide a copy of the requesting organization's budget for the last fiscal year along with a copy of the organization's expected budget taking into account increases in salary as a result of compliance with the Living Wage Law. Both budgets must be certified as complete and accurate by the chief financial officer of the requesting organization.
- C. If Criteria (4) is cited in the request, the requestor must provide a copy of the requesting organization's budget for the County Service Contract for the prior agreement year along with the requesting organization's budget for the County Service Contract for the current agreement year which takes into account increases in salary as a result of compliance with the Living Wage Law. Both budgets must be certified as complete and accurate by the chief financial officer of the requesting organization.
- vi. The request form and all documentation must be sent to the following address:

County of Nassau Office of Compliance  
Attention: Living Wage Waiver Request Office  
One West Street – 4<sup>th</sup> Floor  
Mineola, New York 11501

### c. Waiver and Procurement

- i. As a waiver may only be requested once a County Service Contract has been entered into, no waiver application may be submitted by any organization submitting a bid or proposal to the County for a County Service Contract.

## APPENDIX B

ii. The fact that a waiver may be granted to an organization submitting a bid or proposal to the County for a County Service Contract will not be a consideration in evaluating such bid or proposal.

### d. Review Procedures

i. Review of a request for a waiver must be made by the Office of Compliance.

ii. Approval of a request is dependent on the requestor satisfying either criteria (1), (2) or (3) in section 4(b)(iv)(E) above and, if citing criteria (1), (2) or (4), criterion (5) in section 4(b)(iv)(E) above. Applications not satisfying these criteria, or incomplete applications, will not be approved. However, complete applications that do meet these criteria shall be approved by the Office of Compliance.

iii. The Office of Compliance shall inform the requestor of his or her decision to grant or deny a request in writing within thirty days of receipt of the request. A copy of the grant or denial shall be transmitted to the County Comptroller for the purposes of monitoring compliance with the Living Wage Law.

iv. During such thirty day period, the requestor must continue to abide by the provisions of the Living Wage Law. Failure to do so may result in action by the Office of the Nassau County Comptroller to enforce the provisions of the Law.

### e. Post-Award Review

i. After the County grants a waiver, if at any time during the term of the County Service Contract the requesting organization alters its budget or wages such that the organization no longer qualifies for a waiver of the Living Wage Law, the requesting organization must contact the County department with which it contracts and inform such department of such alteration.

ii. If a County department is contacted in reference to such a change, the department must either:

1. Amend the County Service Contract in question to restore any funding subtracted from the contract as a result of a waiver of the Living Wage Law and receive from the Contractor a completed Certificate of Compliance; or
2. Terminate such Contract according to its terms.

See Living Wage Law, § 9 "Waiver"

## APPENDIX B

### **5. Inter-Governmental Agreements**

a. The Living Wage Law shall not apply to those County Service Contracts which are entered into with any municipal corporation located within the County, any school district located within the County, and any special district located within the County.

b. County Financial Assistance Agreements and County Leases. The Living Wage Law shall not apply to a County Financial Assistance Agreement or a County Lease in the event that application of the law would conflict with the application of a federal, state or local law, rule, regulation or ordinance. For the purposes of this Rule, the Living Wage Law would not apply to a County Financial Assistance Agreement or County Lease where funding for the Agreement or Lease is derived from a Federal or state grant where the distribution of such grant funds to certain subrecipients is mandatory and non-discretionary.

See Living Wage Law, § 1 “County Service Contract,” “Inter-governmental Agreement;” § 3 “Minimum Compensation;” §10 “Other Provisions”

### **6. Certification of Compliance**

a. An updated certification of compliance with the provisions of the Living Wage Law shall be submitted to the County on or before the first day of each agreement year during the term of any County Service Contract.

b. For the purposes of updating a certification of compliance, a “material change” as used in the Law shall be limited to the following:

i. Any determination by the County Comptroller that the contractor has violated any provision of the Law.

ii. Any instance during the preceding year in which the contractor has been found by a court or governmental agency to have violated federal state or local laws regulating payment of wages or benefits, labor relations or occupational safety and health, or where any governmental body has initiated a judicial action, administrative proceeding or investigation of the contractor in regard to any of the above laws.

See Living Wage Law, § 5 “Certification of Compliance”

### **7. Nassau County Employees**

a. All Nassau County Employees are covered by the provisions of the Living Wage Law, provided, however, that Nassau County Employees covered by the collective bargaining agreement between the County and the Civil Service Employees Association are not entitled to receive the benefits supplement rate as the term is defined in the Law. The provisions of the Law also extend to paid interns hired by the County.

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b. The Living Wage Law does not apply to volunteer workers utilized by the County pursuant to the County's authority to use volunteer workers under § 2105 of the Nassau County Charter. As such, the Law does not cover unpaid interns utilized by the County.

See Living Wage Law, § 1 "Employee," "Employer;" § 10 "Other Provisions"



## APPENDIX C

## APPENDIX C



Howard S. Weitzman  
Nassau County Comptroller  
Living Wage Unit



### IMPORTANT NOTICE FOR WORKERS

The Nassau County Living Wage  
is  
**\$11.00 per hour**  
or  
**\$9.50 with health benefits**

Rate Effective January 1, 2007 through July 31, 2008  
Employees who work 20 hrs. or more per week are also entitled to 12 paid days off per year including paid holidays

If you work for a County contractor or lessee, the Living Wage Law may apply to you. If you have any questions about your eligibility, or if you believe your employer is not complying with the law, please contact:

**Office of the Nassau County Comptroller  
Living Wage Unit at (516)571-3668**

You may also visit our website @ [www.nassaucountyny.gov/comptroller/](http://www.nassaucountyny.gov/comptroller/)  
and click on Living Wage for more information or to obtain a complaint form

**\*Complaints will remain confidential\***

**Exceptions:**

The Law **DOES NOT** apply to the following:

- Contracts for child-care services, pre-school services and early intervention services
- Contracts where services are incidental to the delivery of products, equipment or commodities
- Inter-governmental contracts and financial assistance contracts for industrial development bonds, community development block grant loans and enterprise-zone incentives
- Contracts for less than \$25,000
- Employees under 18 years of age who are claimed as dependents for federal tax purposes and who are working as an after-school or summer employee
- Trainees in a bona fide training program
- Disabled employees covered by a current sub-minimum wage certificate issued to the employer by the United States Department of Labor or if he/she would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the minimum wage