

FREQUENTLY ASKED QUESTIONS

Chapter 2.95 of Eau Claire County Code **(Adopted Living Wage Ordinance)**

1. **What is the proposed Eau Claire County Living Wage Ordinance (LWO)?**

The LWO requires that certain contractors, subcontractors, lessees, concessionaires, and recipients of economic development assistance doing business with Eau Claire County shall be subject to a LWO. The Eau Claire County living wage is a minimum hourly wage rate equal to 100% of the poverty income level set forth annually by the U.S. Department of Health and Human Services for a family of four divided by 2,080 hours in 2017, 103.75% in 2018, 107.5% in 2019, 111.25% in 2020, and 115% in 2021. It is a minimum level of pay for covered workers at a rate higher than the federal minimum wage.

2. **How is it different from other prevailing wage and minimum wage laws?**

A prevailing wage is a wage rate that must be paid to workers on qualifying public works projects. Most public work is awarded to the lowest responsible bidder. A minimum wage is a basic minimum rate mandated by the federal government for covered, non-exempt employees. The current federal minimum wage is \$7.25 per hour. States may have minimum wage laws that exceed the federal rate. Wisconsin adheres to the federal wage rate of \$7.25 per hour.

3. **What is the current minimum wage that must be paid under the Ordinance?**

\$11.68 per hour in 2017.

4. **Is the wage adjusted periodically?**

Yes. The wage is based upon the federal poverty guideline formula in #1 above. The rate will be updated annually on the last business day of September for the following year and will also be increased an additional 3.75% per year through 2021.

5. **If the wage goes up or down, will my contract price be adjusted?**

No. The applicable LWO wage may fluctuate based on the annual adjustments (*see preceding Q&A*). However, the contract price is set at its inception.

6. **What contracts are covered by the LWO?**

- a. All **service contracts** as defined in 2.95.005 A., involving an amount greater than or equal to \$30,000, which includes:

- i. Housekeeping
- ii. Security
- iii. Landscaping
- iv. Maintenance
- v. Clerical services
- vi. Food services
- vii. Other non-professional services

- b. **Personal care or supportive home care** provided to persons with disabilities or the frail elderly by a preferred provider that exclusively contracts with Eau Claire County to provide personal care and supportive home care involving an amount greater than or equal to \$30,000.
- c. **Concessions** involving an amount greater than or equal to \$30,000.

7. **What contracts are excluded?**

- a. Contracts with companies doing business with the County that employ 20 or less employees.
- b. Professional service contracts.
- c. Purchase of goods or commodities or its delivery.
- d. Equipment leases and maintenance.
- e. Contracts with any school district, municipality, or any other governmental unit. (e.g. Chippewa Valley Regional Airport and the Eau Claire City-County Health Department).
- f. Contracts in which state or federal funder has a prevailing wage requirement.

8. **Besides contracts, what else does the LWO cover?**

- a. **Lease agreements** involving the County providing financial assistance in an amount greater than or equal to \$30,000.
- b. **Economic development financial assistance** involving the County providing financial assistance in an amount greater than or equal to \$1,000,000.

9. **Are any lease agreements excluded by the LWO?**

Yes:

- a. Leases involving cultural institutions. (e.g. Friends of Beaver Creek Reserve).
- b. Leases involving non-profit entities unless the employer passes through financial assistance in an amount equal to \$1,000,000 or more to a for-profit entity.
- c. Leases involving other units of government.
- d. Leases less than \$30,000.
- e. Leases equal to or greater than \$30,000 that do not involve County financial assistance.
- f. Leases involving less than 20 employees unless the employer is an affiliate or subsidiary of another business dominant in its field of operation.

10. **Are any economic development financial assistance recipients excluded by the LWO?**

Yes. The following recipients are exempt:

- a. Cultural institutions.
- b. Non-profit corporations unless the employer passes through financial assistance in an amount equal to \$1,000,000 or more to a for-profit entity.
- c. Other units of government.

Additionally, economic development with no financial assistance or less than \$1,000,000 in financial assistance is excluded from the LWO.

11. **Are any employees excluded by the LWO?**

Yes. For example, interns and volunteers receiving stipends are exempt from the LWO. For a complete listing of exempt employees, see section 2.95.010 B.

12. **What is the effective date of the LWO?**

The LWO becomes effective January 1, 2017.

13. **Does the Ordinance apply to all contracts regardless of value?**

No. The LWO sets a \$30,000 threshold with other limitations as previously described. Value is determined by this formula: dollar amount x contract term.

Example 1: Contract for 1 year for \$29,000.

No option to renew.

Contract value = \$29,000. LWO does not apply.

Example 2: Contract for 1 year for \$29,000.

Contract contains 2, 1 year options to renew for \$29,000 each year.

Contract value = \$29,000. LWO does not apply.

Example 3: Contract for 1 year for \$29,000.

Contract contains 2, 1 year renewals for \$35,000 each year.

Contract value: Year 1: \$29,000. LWO does not apply.

Year 2: \$35,000. LWO applies.

Year 3: \$35,000. LWO applies.

Example 4: Contract for 3 years for \$90,000.

Contract contains no option to renew.

Contract value = \$90,000. LWO applies.

Example 5: Revenue share contract for 5 years. County get 25% of gross receipts.

Contract generates \$20,000 in annual revenue for County.

Contract value = \$60,000. LWO applies.

14. **Does the Ordinance apply to all economic development financial assistance regardless of value?**

No. The LWO only applies to economic development financial assistance from the County greater than or equal to \$1,000,000.

15. **How is the value of the contract measured?**

Value is determined by the amount times the term of the contractual obligation. Any renewals or amendments altering the value require an assessment of the LWO's application. See Q&A #13.

16. **What about a contract that is not covered initially because of the value, but, due to modification or change orders is increased beyond the value threshold?**

See Q&A # 13 & 15.

17. **Does the Ordinance apply to all companies regardless of the number of employees?**

No. The LWO does not apply to a company doing business with the County that employs 20 or less employees and is not an affiliate or subsidiary of another business entity dominant in its field of operation. The employer must count all of its employees, not just those working on the County contract. But, the company will only be subject to the LWO for those employees working on the County contract.

For example, a company operates 1 office with 10 employees and is not affiliated with any other enterprise, whether located in Eau Claire or elsewhere. The company bids for a contract with Eau Claire County for those 10 employees. The company is not subject to the LWO.

Alternatively, a company has offices not just in Eau Claire, but also in Milwaukee and Boston and is overall dominant in its field of operation. It employs 125 employees between the 3 offices – 25 in Eau Claire, 50 in Milwaukee, and 50 in Boston. The company's Eau Claire's office is an affiliate or subsidiary of a business entity dominant in its field of operation with more than 20 covered employees. The company bids for an Eau Claire County contract that will employ 15 of its workers. The employer is subject to the LWO and must pay those 15 employees the LWO rate. The employer is not required to pay the LWO rate for the other 10 employees in its Eau Claire office or for its 100 other employees in its Milwaukee and Boston offices, none of whom work on the Eau Claire County contract.

18. **How are the number of employees measured or calculated?**

Any employees receiving a W2 from the employer shall be counted. An employer must count part-time and full-time employees, as well as the owner and/or family members if each receives a W2.

A company requesting an exemption must provide a count of the number of employees in its bid submission and when it executes the contract. Should a company claim an exemption from the LWO based on 20 or fewer employees, but later employs greater than 20 employees, it must immediately notify the Eau Claire County Purchasing Office.

19. **Are part time employees counted?**
Yes. That individual counts as 1 employee, just as a full time employee counts as 1 employee.
20. **What if an employee turns 18 during the contract period?**
The LWO applies to an employee who turns 18 during the contract period.
21. **Must covered employees be paid the minimum wage for hours they work on non-County contacts?**
No. The LWO must be paid only for hours spent on Eau Claire County business.
22. **Does the LWO apply to employees who are represented by a Union?**
The LWO may be modified or waived where the parties to a collective bargaining agreement (CBA) between the employer and a bona fide union expressly specify their intent in the CBA.
23. **How does the Ordinance apply to subcontractors?**
The LWO applies to subcontractors having an agreement or arrangement with a contractor subject to the LWO unless the subcontractor is eligible for an exemption. For example, the (prime) contractor is required to pay the LWO, but 1 of its subcontractors employs less than 20 employees and therefore is exempt from the LWO. *See also question 29.*
24. **Does the Ordinance apply to County employees?** Yes, but it excludes interns.
25. **How does the LWO apply to employees who are not performing any service for the County?**
The LWO does not apply to employees who are not performing services for the County.
26. **Does the Ordinance apply to contract renewals and amendments?**
Yes. *See Q&A #13 & 15.*
27. **What are County staff required to do under the Ordinance?**
Department heads or their designees shall include requirements for compliance with the LWO in every bid, RFP or request for qualifications for services, personal care or supportive home care, leases, concessions or economic development financial assistance covered by the LWO, as well as any renewals or amendments.
28. **What are contractors required to do?**
Any covered employer under the LWO must submit a notarized affidavit certifying that it will comply with the requirements of the LWO as a matter of responsiveness to the bid, RFP or request for qualifications to do business with Eau Claire County. The County reserves the right to inspect any payroll records of any covered employer.

29. **What is the contractors' role in terms of any subcontractors?**
A covered contractor must procure and submit a notarized affidavit from every subcontractor subject to the LWO employed by the contractor.
30. **How will compliance with the Ordinance be audited?**
If a notarized affidavit is not provided or if a noncompliance report is filed the Eau Claire County Finance Department will be responsible for auditing payroll records and providing information to department directors. The Finance Department will also certify any claimed exemptions and periodically monitor those employers where there are questions.
31. **Are employees providing overhead or back office services covered by the LWO?**
No, unless the County is the only entity the employer contracts with, in which case all employees are covered.
32. **Are employees providing incidental services or who temporarily fill in for covered employees covered by the LWO?**
No, if the time is *de minimus*. However, if floating employees are used regularly to fill shifts they are covered.
33. **What are some examples of professional services?**
Professional services shall typically include services customarily rendered by architects, engineers, surveyors, real estate appraisers, certified public accountants, attorneys, financial personnel, medical services, system planning, management and other consultants and services for promotional programs.
34. **Are existing contracts and leases subject to LWO?**
No.
35. **If there are two contracts with the same service provider, but one is with a government entity are both contracts covered by the LWO?**
Only the contract with the service provider is covered by the LWO. For example: special transportation services are provided to Eau Claire county residents through the ADRC, one contract is directly with the service provider Abby Vans and the other is with the City of Eau Claire. The contract with the service provider is covered by the LWO; however the contract with the City is not because it is a government entity.
36. **Does the LWO apply to companies with multiple locations, but less than 20 employees located in Eau Claire?**
Yes. All employees must be counted, however, only those employees providing services through the contract for Eau Claire County are covered by the LWO rate.

37. **What does the phrase “business entity dominant in its field of operation” mean?**

This means a business entity providing as least 51% of the type of service the county is contracting for.

38. **What is the potential direct salary cost for Eau Claire County Employees?**

The projected cost for Eau Claire County Employee wages & benefits if the entire wage grid were adjusted would be less than \$10,000 only in 2021 assuming an annual cost of living adjustment of 2%.

The detailed cost analysis is available on-line at: Cost Option Version 2 (based on poverty scale): <http://www.co.eau-claire.wi.us/government/county-board/pending-legislation>.

39. **What is the anticipated cost to contract for services?**

Increased costs based on the survey results in Human Services Dept. are \$4.44 million over the years 2017-2021. The Purchasing Department surveys estimate an additional increase of \$211,583 to other county contracts for just 2018. (This estimate includes the ADRC contracts).

The costs are professional best estimates based on information provided by vendors, assuming that service levels would remain the same.

40. **Will adoption of the LWO result in savings for the county?**

None that staff are able to identify.

41. **Will adoption of the LWO increase employee retention or attraction for service providers?**

See answers to Summary of Living Wage Survey (Department of Human Services); Survey Question 3 found on County website at:

<http://www.co.eau-claire.wi.us/government/county-board/pending-legislation>

42. **Of the potential number of services providers, how many companies have more than 20 employees?**

Staff does not have that information. This would be information that would be incorporated in the initial assessment that would be conducted for each contract for service.

43. **If adopted how will the County pay for the LWO?**

That decision will be made by the county board as part of the 2017 budget process. The potential exists that service levels would / could be adjusted as part of the implementation.

44. **What is the cost to administer the LWO?**

The LWO anticipates that the county would collect information from vendors upon contract award through a self-reporting mechanism. Yearly, after the award of the initial contract the county would send out self-reporting forms to vendors subject to the LWO to verify compliance.

45. **How many providers and citizens will be impacted?**

Based on the information the County has received 18 Human Services providers, 4 ADRC providers and 1 general services provider will be impacted. There is no data or information indicating how many citizens will be directly impacted.

46. **Will adoption of the LWO cause some employees to have hours or benefits reduced?**

See answers to Summary of Living Wage Survey (Department of Human Services); Survey Question 6 and question 8 found on County website at:

<http://www.co.eau-claire.wi.us/government/county-board/pending-legislation>

Noncompliance reports and/or general inquiries should be directed to:

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