



COSD CLERK OF THE BOARD
2022 DEC 5 AM 11:52

COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: December 13, 2022

32

TO: Board of Supervisors

SUBJECT

A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

OVERVIEW

The County of San Diego (County) contracts for janitorial, landscaping, and security services for most of its facilities. The County has sixteen janitorial contracts among three providers, four landscaping contracts among three providers, and one security contract, totaling twenty-one contracts representing approximately 1,080 employees. The total annual contract value for these services is over \$40 million. These contractors serve the County Administration Center (CAC), County Operations Center (COC), County libraries, and other facilities that support the 19,000 County employees and all residents of San Diego County who utilize County services.

The County has made steps to become more worker-friendly, including the creation of the Office of Labor Standards and Enforcement (May 4, 2021, 23), modifications to the contracting process (June 8, 2021, 11), and bringing forward robust evaluation criteria as part of requests for proposals (RFPs). These processes are part of a better way of doing business at the County, engaging with our employees and contractors, and lifting up the working conditions for all San Diegans.

We have an opportunity to identify priorities for compensation and benefits for janitorial, landscaping, and security services through the adoption of a Contracting Standards Board Policy proposed in this board letter. This Board Policy outlines requirements for a potential contractor to ensure that the employees are entitled to more comprehensive benefits, a more competitive wage package, greater workplace protections, training programs, sick days, and health benefits, all of which reduce the risk of turnover and labor disputes. The standards outlined in the Board Policy

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

would be incorporated into all applicable Requests for Proposals (RFPs) posted after December 13, 2022, and all resulting contracts.

RECOMMENDATION(S)

CHAIR NATHAN FLETCHER AND SUPERVISOR LAWSON-REMER

1. Adopt Board Policy B-74, Contracting Standards for Janitorial, Landscaping, and Security Services Contracts (Attachment A, on file with the Clerk of the Board) with a sunset review date of December 31, 2029.
2. Direct the Chief Administrative Officer to implement the elements of the Board Policy in all applicable Requests for Proposals (RFPs) posted after December 13, 2022, and report back to the Board of Supervisors (Board) on the establishment of the wage theft fund within 90 days, and the implementation of Board Policy B-74, within one year and annually thereafter through Fiscal Year 2026-2027.

EQUITY IMPACT STATEMENT

During the height of our County's response to the COVID-19 pandemic, our janitorial, landscaping, and security staff never stopped showing up to work. These contracted employees are an integral part of our work to serve San Diego County. As essential workers, they never took a break from their responsibility, and we appreciate what they did to keep our workspaces and facilities clean, our buildings safe and well-maintained. It is our responsibility to now show up for them, some of whom are among the most vulnerable members of society, many of whom cross the border into the United States daily for work.

This Board of Supervisors has been very clear about our commitment to the Framework for the Future, which ensures that everyone in San Diego County has an opportunity to Live Well and Thrive, starting with our most vulnerable communities.

SUSTAINABILITY IMPACT STATEMENT

Adopting the Contracting Standards Board Policy for janitorial, landscaping, and security staff helps to advance the County's Sustainability goals by creating policies to reduce and eliminate poverty and promote economic sustainability for all. This Board Policy also includes provisions related to Sustainability and Hazards training, which can promote environmental justice and reduce exposure to hazardous materials.

FISCAL IMPACT

Funds for this request are not included in the Fiscal Year 2022-2024 Operational Plan. If approved, today's action would result in no additional costs in Fiscal Year 2022-2023. Today's action would result in estimated costs of \$2.5 million in Fiscal Year 2023-2024, including contracted services (\$2.3 million in the Department of General Services and \$0.1 million in the Department of Public Works) and one staff year for contract administration and management (\$0.1 million in the Department of General Services). There will be additional future fiscal impacts with total annual costs estimated to increase by \$13.5 million by Fiscal Year 2027-2028 for increased contract costs (\$12.1 million in the Department of General Services, \$0.5 million in the Department of Public

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

Works, \$0.3 million the Department of Parks & Recreation, and \$0.3 million in the Health & Human Services Agency) and three full-time employees to meet the additional contract management and administration requirements (\$0.4 million in the Department of General Services). These costs will likely vary depending on the responses received for future solicitations in compliance with the new Board Policy.

The departments will monitor their budgets and return to the Board with mid-year action to adjust the budget as necessary and/or incorporate future budgets as funding becomes available. At this time, there will be no change in net General Fund and no additional staff years.

BUSINESS IMPACT STATEMENT

The adoption of the Contracting Standards Board Policy will help ensure that businesses contracting with the County adhere to the highest principles and support a competitive marketplace.

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

San Diego County (County) allocates nearly a quarter of its annual budget to contracted goods and services and maintains an active portfolio of 2,200 service contracts with a total value of over \$11.7 billion. The County has a proprietary interest in County-owned and operated properties. Since many of these contracted services involve workers who must regularly interact with County employees and the public, the County also has an interest in ensuring high continuity and quality among workers employed by the County's Property Service contractors. These Property Service contractors include janitorial, landscaping, and security services.

The County has sixteen janitorial contracts among three providers, four landscaping contracts among three providers, and one security contract, totaling twenty-one contracts representing approximately 1,080 employees. The total annual contract value for these services is over \$40 million. These contractors serve the County Administration Center (CAC), County Operations Center (COC), County libraries, and other facilities that support the 19,000 County employees and all residents of San Diego County who utilize County services.

The County and the Department of Purchasing and Contracting (DPC) are making improvements to contracting. Procurement of these Property Service contracts are now authorized via requests for proposals (RFPs), rather than through requests for bids. RFPs allow for a best value award that considers factors other than price. The RFP process would allow for evaluation and award criteria that would now include factors such as total health and welfare benefits offered to staff, including health plans, paid time off, sick time, training, educational reimbursement, and retirement. The evaluation of RFPs will also consider prior and current labor and wage judgments, as reviewed by

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

the County's Office of Labor Standards and Enforcement (OLSE). The frequency of prior issues, their nature, size, and current status will be considerations.

Contracted employees in these fields are inherently vulnerable to abuses.¹ More women are in the janitorial field, while supervisors are commonly male. This gender-based power structure can make reporting violations, including sexual harassment or assault, fraught. Between a quarter and a third of female janitors surveyed in the 2018 California Janitorial Survey indicated they had experienced unwanted sexual behaviors. Complicated power structures can make it difficult to know to whom to report misconduct. Employees may be undocumented workers or speak English as a second language, further isolating and making these employees vulnerable to predatory behaviors. Documentation status and language can effectively prevent reporting abuse or knowing workplace rights.

Considering prior and current labor and wage judgments and the other factors identified above as part of RFP evaluation criteria will implement added measures to screen contractors who may cut corners, engage in wage theft, or ask employees to buy their own supplies.

That is why it is so important for the County to adopt the Contracting Standards Board Policy. It is more proactive for the County to contract with a contractor that provides benefits, training, support, and other resources to their employees, rather than try to rectify wage claims or other violations after an abuse has occurred.

Therefore, it is in the interest of the County that any contracted work for Property Services adhere to the Contracting Standards Board Policy, described below, that support and encourages continued employment, labor peace, and the best staff employed by the County's contractors and subcontractors. Implementation of these requirements as part of the Contracting Standards Board Policy will provide the County with assurances that these contractors will ensure labor peace; comply with local, State, and Federal laws; and adhere to the County's commitment of its Live Well San Diego Initiative and the Framework for the Future.

Contracting Standards Board Policy

The principles articulated in the proposed Contracting Standards Board Policy will be incorporated in all RFPs for Property Services Contracts, which are defined to include janitorial, security services, and landscaping. The text of the Board Policy is included as Attachment A. These principles should be in addition to any other elements of the RFP determined by DPC, OLSE, and other County departments to be appropriate. This Contracting Standards Board Policy will be phased into all RFPs posted after December 13, 2022, and all resulting contracts.

These contracts are defined as such:

Janitorial Services: Professional cleaning services for County facilities, including, but not limited

¹ <https://ecommons.cornell.edu/handle/1813/74351>

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

to, office spaces.

Landscaping Maintenance: Activities include seasonal cleanups, mowing, plant fertilization, weed control, cultivation activities, and other landscape-related projects performed at County facilities/buildings.

Security Services: Services to guard and patrol facilities and grounds as well as control access to property. May serve as deterrent for crimes and trespassers as well as record and report suspicious activities

Labor Peace Agreements

Labor Peace Agreements are important to guarantee labor peace to protect the County's proprietary and economic interests.

- **RFP Minimum Requirement:** Contractors shall attest that they have, or will enter into, a Labor Peace Agreement with any Labor Organization that represents employees performing work under the contract upon being awarded a contract from the County, which should include provisions related to addressing labor disputes and concerted activity.
- **Contract Requirements:**
 - If the contractor's employees are represented by a Labor Organization, within 90 days of being awarded a contract or contract renewal, the labor peace agreement should be furnished.
 - If at any time after the award of the contract employees of the contractor performing work under the contract become represented by a Labor Organization, contractor shall furnish a Labor Peace Agreement within 90 days of the effective date of such Labor Organization representation.
 - Any Labor Peace Agreement shall include a binding and enforceable provision(s) prohibiting the Labor Organization and its members from engaging in work stoppages, boycotts, or any other economic interference in relation to services performed under the contract for the duration of the Labor Peace Agreement.

Labor peace agreements are a requirement for New York City human services contracts, which include janitors, gardeners, and groundskeepers.^{2,3} New York City has a requirement that a labor peace agreement is furnished within 90 days after contract award or renewal. If no labor organization has sought to represent the employees, then this requirement is not applicable.

Similarly, the Port of Oakland has a similar requirement for labor peace agreements, although the timing requirements for furnishing a labor peace agreement are shorter.⁴

² <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYAdmin/0-0-0-124375>

³ Although it appears as if New York City's requirement is being challenged in court: <https://humanservicescouncil.org/wp-content/uploads/2022/05/13.-Declaration-of-Michelle-Jackson-in-Support-of-Preliminary-Injunction.pdf>

⁴ <https://www.portoakland.com/wp-content/uploads/21-22-03-final-complete-Janitorial-Services-for-530-Water-St-and-Other-Port-Assets.pdf>

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

Such a requirement will need to comply with the National Labor Relations Act (NLRA) and subsequent case law.⁵ For San Diego County, we would be acting as a market participant, rather than a regulator, in requiring labor peace agreements to avoid potential strikes or lockouts that could impact the safety, security, and well-being of the County, its employees, and the public.

Collective Bargaining Agreements

A collective bargaining agreement is a written legal contract between a contractor and a union representing the employees. This agreement helps empower employees to negotiate terms of employment, such as pay, benefits, hours, leave, job health, and safety policies. This is a requirement from the City of Mountain View for their janitorial services contract. San Francisco janitors are covered under a collective bargaining agreement.⁶ Custodial and groundskeeper staff at the Empire Union School District in Modesto, California, are included in a collective bargaining agreement.⁷

- If a contractor has an existing Collective Bargaining Agreement applicable to employees performing work under the contract, they shall provide that document as part of their RFP submittal.
- If a contractor does not have a Collective Bargaining Agreement, they shall provide documentation of the following for employees performing work under the contract:
 1. Wages
 2. Benefits, including health and other benefits
 3. Training programs
 4. Employment conditions, including work days and hours, assignment of work schedules, meal and rest breaks, leaves of absence, work-related expenses, and pay days
 5. Supplies, uniforms, and personal protective equipment provided to employees
 6. Retirement
 7. Relevant historic records related to overall employment conditions
 8. Procedure for resolving employee complaints and other employment-related disputes
 9. Any other documentation that is deemed appropriate to understand the comprehensive suite of offerings
- RFP Evaluation: One of the evaluation criteria for contractors shall be the suite of benefits (e.g., wages, benefits, employment conditions) that are offered in comparison to the market. A contractor who has a Collective Bargaining Agreement shall receive maximum credit for this evaluation criterion.

Wage Theft

Contractors who rob their workers of pay should held accountable. We need to reinforce existing County requirements outlined in Senate Bill (SB) 588 (2015) and California Labor Code Section

⁵https://montgomerycountymd.gov/COUNCIL/Resources/Files/agenda/cm/2018/GO/20180709/20180709_GO2.pdf

⁶https://sfgov.org/olse/sites/default/files/Document/Attachment%205%20Janitorial%20CBA%202012%20to%202016%20_0.pdf

⁷https://csea.com/system/files/2022-04/CSEA_Contract_Empire850_2019-2022.pdf

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

238.5(c)-(d). SB 588 was signed into law to address the epidemic of wage theft and unpaid judgments. The bill established joint and several liability for wage theft for the clients of janitorial and security contractors in California. Contractors under a union collective bargaining agreement may be shielded from SB 588 liability. Additionally, there is a requirement that all property services contractors providing services to the County must comply with the requirements of California Labor Code Section 238.5, subsections (c) and (d), concerning wage theft disclosure and liability, and that all contractors be required to provide a sworn affidavit assuring that the County will not be subject to joint and several liability for unpaid wages.

California's laws target wage theft but enforcing those laws has been challenging. Last year California workers filed nearly 19,000 individual claims totaling more than \$338 million in stolen wages, but resolving these claims often takes longer than the legal minimum of 135 days. This delay causes additional undue burden on the workers and can lead to long term impacts like housing eviction. Five years after workers in wage theft claims, state records show only one in seven were paid their judgment in full.⁸ The data underscores the importance of creating an RFP evaluation that must include, and appropriately weigh criteria, centered on wage theft prevention.

DPC and OLSE are jointly implementing procedures to protect workers from wage theft. Contractors will be required to participate in a wage theft fund. The County will set aside a portion of the contract, which will be paid out in full at the end of the contract term, provided there are no employee claims of wage theft against the contractor. The fund will be used to provide wages to employees who were not paid all wages owed in violation of the California Labor Code.

Upon a finding of wage theft by OLSE and appeal, or expired appeal period, the set aside funds will be used to pay the employee back wages owed and the cost recovery time to OLSE. In addition, a contractor may not retaliate, or threaten to retaliate against an employee for exercising their right to file a complaint with OLSE (or other labor enforcement agency) for participating in an investigation. A finding of retaliation by OLSE against a contractor as part of a wage theft complaint may result in damages being paid to the employee from the contractors set aside retention funds. If a contractor is found to have committed wage theft, they may be precluded from award of future County contracts and/or considered for debarment, and the information may be considered in the County's award of future contracts.

Wage Floor

It is important that any employees working for the County of San Diego receive a fair wage. This year, the County adopted the Working Families Ordinance to address barriers to self-sufficiency by ensuring that individuals working on County projects or at County-owned property are paid wages that allow them to adequately provide for themselves and their families. The ordinance requires prevailing wage, a skilled and trained workforce, and paid sick leave for contractors working on County construction projects or for County lessees. Providing workers in San Diego County more opportunity to obtain quality jobs will generate shared prosperity and inclusive

⁸ <https://calmatters.org/california-divide/2022/09/california-wage-theft-cases/>

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

growth and enable workers to invest back in the regional economy. Today’s action serves as another critical step in the County’s commitment as we investigate raising the wages of our janitorial, security, and landscaping contractor staff.

We are proposing to create a wage floor for the service contracts based upon conducting a benchmarking analysis every five years using updated information from comparable jurisdictions with similar contracts. This proposed wage floor would increase for each year of the contract. Additionally, the wage floor should include the hourly wage, health and welfare benefits, paid days off, sick leave, and other benefits to ensure competitive salaries for those employees.

We are providing initial information for benchmarking with similar entities that should be used for contracts starting within the next year after the passage of this board letter.

- Janitorial services: The wage floor for security services will be based upon benchmarking from other entities.

| Component | Los Angeles | | Orange County | | San Diego | | Genentech Oceanside |
|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------------|
| | 2022 | 2023 | 2022 | 2023 | 2022 | 2023 | 2022 |
| Wage | \$20.25 | \$20.90 | \$16.50 | \$17.00 | \$16.55 | \$17.20 | \$18.77 |
| Health & Welfare | \$7.04 | \$7.32 | \$7.04 | \$7.32 | \$3.96 | \$4.19 | \$3.96 |
| Pension | \$0.86 | \$1.01 | \$0.00 | \$0.16 | \$0.27 | \$0.46 | \$0.35 |
| Current Paid Days Off | \$2.41 | \$2.57 | \$1.90 | \$2.03 | \$2.10 | \$2.18 | \$2.17 |
| Industry Benefit Fund | \$0.21 | \$0.21 | \$0.17 | \$0.21 | \$0.19 | \$0.22 | \$0.13 |
| Total | \$30.77 | \$32.01 | \$25.61 | \$26.72 | \$23.07 | \$24.26 | \$25.38 |

| Component | Santa Clara | | San Mateo / East Bay | | Oakland | | Sacramento | |
|-----------------------|----------------|----------------|-------------------------|----------------|----------------|----------------|----------------|----------------|
| | 2022 | 2023 | 2022 | 2023 | 2022 | 2023 | 2022 | 2023 |
| Wage | \$19.25 | \$20.00 | \$19.25 | \$20.00 | \$19.25 | \$20.00 | \$17.65 | \$18.90 |
| Health & Welfare | \$8.79 | \$9.32 | \$8.79 | \$9.32 | \$8.79 | \$9.32 | \$6.24 | \$6.62 |
| Pension | \$0.40 | \$0.55 | \$0.00 | \$0.16 | \$0.00 | \$0.16 | \$0.00 | \$0.16 |
| Current Paid Days Off | \$1.59 | \$1.80 | \$1.59 | \$1.80 | \$1.57 | \$1.75 | \$1.53 | \$1.71 |
| Industry Benefit Fund | \$0.14 | \$0.16 | \$0.14 | \$0.16 | \$0.14 | \$0.16 | \$0.21 | \$0.26 |
| Total | \$30.17 | \$31.83 | \$ 29.77 | \$31.43 | \$29.75 | \$31.38 | \$25.63 | \$27.65 |

- Security services: The wage floor for security services will be based upon benchmarking from other entities. Included below are wages for contracts in negotiation for Los Angeles,

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

San Francisco, East Bay, and Silicon Valley. Negotiated wage rates likely to be higher than the totals listed below but are meant as an example.

| Component | Los Angeles | San Francisco | East Bay | Silicon Valley |
|-----------------------|----------------|----------------|----------------|----------------|
| Wage | \$17.41 | \$17.20 | \$16.00 | \$20.50 |
| Health & Welfare | \$4.21 | \$5.69 | \$5.69 | \$4.41 |
| Current Paid Days Off | \$1.59 | \$2.14 | \$1.65 | \$1.95 |
| Total | \$23.21 | \$25.03 | \$23.34 | \$26.86 |

- Landscaping services: The wage floor for landscaping services will be based upon benchmarking from other entities. This benchmarking data is from the San Diego Convention Center). In this contract, there is a differential pay with landscapers who possess a pesticide applicators license, and they receive \$2.50 more per hour when conducting work that requires special training and licensing. The wages increase 4.5 percent for each year during the life of the contract. The hourly wage rates are as follows: 2023: \$19.86; 2024: \$20.75; 2025: \$21.68; 2026: \$22.66; and 2027: \$23.68.

| Component | San Diego Convention Center (includes vacation rate) |
|-----------------------|--|
| Wage | \$19.00 |
| Health & Welfare | \$3.93 |
| Pension | \$0.23 |
| Current Paid Days Off | \$2.28 |
| Total | \$25.44 |

Training Programs, including Sexual Harassment Prevention

Many of these training provisions are already in place, and this section serves to reinforce existing County requirements and add in new trainings from OLSE and others.

- OLSE shall provide an annual training to all employees performing work under the contract that covers the role of OLSE, worker rights, any changes to State/Federal/ local laws, how to make a complaint to OLSE, and any other information deemed relevant.
- Within sixty days of contract award, and within sixty days of a new employee’s hire, the contractor shall furnish proof that all employees performing work under the contract have received and are up-to-date on Sexual Harassment and Sexual Assault training established by the State of California, Department of Industrial Relations (DIR). In addition, within sixty days of contract award, and within sixty days of a new employee’s hire, the contractor shall provide all employees an orientation on the following topics:
 - Potential consequences for perpetrators of workplace sexual harassment and assault;
 - Information on representatives of the contractor and within OLSE to whom an employee can report cases of workplace sexual harassment and assault;
 - Community and mental health resources locally available for survivors of workplace sexual harassment or assault; and
 - Strategies to defend against sexual harassment or assault.

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

- The Contractor shall provide updated training on the topics listed above to all employees performing work under the contract at least once per year. In addition, the Contractor will provide documentation annually that the awarded contractor has complied with all the requirements of California Labor Code Sections 1420 -1434, "Property Service Workers Protection Act."
- It is important that contractors for janitorial services provide their employees with the resources and skills to promote sustainability, a critical goal of San Diego County. It is also important to ensure that the use of hazardous materials are minimized, including to minimize employee exposure. Janitorial services contractors should support their employees performing work under the contract to all complete the "Green Janitor Education Program" at no cost or detriment to their employees.⁹ This program provides employees with the education and support necessary to implement sustainable procedures and materials that reduce energy use and water consumption.

Worker Retention

These provisions related to worker retention are already in place for a 30-day period, and this section serves to extend these existing County requirements. For example, this is a requirement from the City of Mountain View for their janitorial services contract. We also want to ensure contractors prioritize maintaining workers at the County location at which they performed services under the contract, as changing a place of employment can be burdensome.

- Extend the 60-day transition employment period set forth for janitors in California Labor Code Section 1060-1065 to 90-days and to include both security officers and janitors.
- The County should seek to maintain continuity within the workforce when transitioning between contractors.
- When a contractor is acquired by another entity or in any other way changes ownership, contractors should be required to establish a 90-day transition employment period for all existing employees performing work under the contract.
- Contractors should prioritize maintaining workers at the County location at which they performed services under the contract.

Compliance with Local, State, and Federal Laws

These provisions are already in place, and this section serves to reinforce and build upon existing County requirements.

- Contractors will be required to comply with all applicable Federal, State, and local laws and regulations during the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws that affect employees.
- OLSE shall investigate and/or audit potential allegations regarding health and safety, labor and employment, wage and hour, and licensing laws within 30 days to determine whether a breach of contract has occurred.

Contract Enforcement

⁹ <https://www.buildingskills.org/green-janitor-program>

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

Some of these provisions related to contract enforcement are already in place, and this section serves to reinforce and build upon existing County requirements.

- It is important that the County has provisions in place to enforce contract provisions with the objective of reducing the need for any remedial actions against companies engaging in wage theft or the like.
- This includes that the failure to comply with any relevant, aforementioned requirements may disqualify a proposal during the RFP process.
- The awarded contractor should furnish the requested information in order to confirm compliance with the Contracting Standards. And, the failure to comply with any relevant, aforementioned requirements or with applicable labor laws and regulations after an agreement is made between the County and an awarded vendor may result in enforcement actions up to and including cancellation of active service contracts with the County and debarment from future eligibility to obtain County service contracts.
- The County should incorporate anti-retaliation policies and the ability for employees to make anonymous complaints that are then resolved within a 30-day period.

OLSE will play an important role in contract enforcement. The Board of Supervisors established OLSE (May 4, 2021, 23) and specifically set a framework that included OLSE finding additional ways the County could participate in enforcement of state and local laws and regulations impacting workers within the County's jurisdictional boundaries, including “development of protocols for denial, suspension, or revocation of licenses, permits *or County contracts of employers who repeatedly violate labor standards*” (emphasis added). Additionally, the framework required OLSE to “coordinate with other County departments and offices that monitor and enforce County contracting requirements and expenditure of County funds.”

In fulfilling the framework, OLSE shall, upon the approval of the Deputy Chief Administrative Officer/Chief Financial Officer, require existing contract enforcement measures for County vendor contractors who have been found by OLSE (or other labor enforcement entity) to violate a labor standard on a current contract, based upon the following factors, including but not limited to:

- a. Nature of the current violation
- b. The severity of the current violation
- c. Number of employees impacted by the labor standards violation
- d. Frequency of prior labor standards violations
- e. Whether the contractor retaliated or threatened to retaliate against an employee making a complaint to OLSE.

OLSE shall complete an investigation and/or audit within 30 days of receiving a complaint to determine whether a breach of contract has occurred and shall submit the results, including proposed contract enforcement measures, to the Deputy Chief Administrative Officer/Chief Financial Officer for approval. At the discretion of the OLSE Director, the period to complete an investigation may be extended in extenuating circumstances.

SUBJECT: A BETTER WAY: ADOPTING A CONTRACTING STANDARDS BOARD POLICY FOR JANITORIAL, LANDSCAPING, AND SECURITY SERVICES CONTRACTS (DISTRICTS: ALL)

We urge your support for this proposal for a Contracting Standards Board Policy. We have an opportunity to identify priorities for compensation and benefits for janitorial, landscaping, and security services, and this Board Policy outlines requirements for a potential contractor to ensure that the employees are entitled to more comprehensive benefits, a more competitive wage package, greater workplace protections, training programs, sick days, and health benefits, all of which reduce the risk of turnover and labor disputes. The standards outlined in the Board Policy would be incorporated into all applicable Requests for Proposals (RFPs) posted after December 13, 2022, and all resulting contracts.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Empower and Equity Strategic Initiatives in the County of San Diego's 2022-2027 Strategic Plan by investing in our contracted workforce and providing economic opportunity for some of our region's most vulnerable workers.

Respectfully submitted,



CHAIR NATHAN FLETCHER
Supervisor, Fourth District



TERRA LAWSON-REMER
Supervisor, Third District

ATTACHMENT(S)

Attachment A - Board Policy B-74. Contracting Standards for Janitorial, Landscaping, and Security Services Contracts.