



MONTGOMERY COUNTY, MARYLAND

“Wage Requirements Law”

Frequently Asked Questions

What is the Wage Requirements Law (WRL)?

The County’s Wage Requirements Law (WRL), at Montgomery County Code Section 11B-33A, establishes that certain County service contractors, and their subcontractors, must pay a certain level of wages to employees who perform direct and measurable work on qualified County service contracts. It does not apply to contracts for goods or contracts for construction.

When did the law take effect?

The WRL applies to qualified County service contracts entered into on or after July 1, 2003.

What is the current WRL rate?

Please go to <https://www.montgomerycountymd.gov/PRO/DBRC/wage-requirements-law.html> for the current WRL rate.

How often is the WRL rate adjusted?

The Chief Administrative Officer adjusts the rate annually, effective July 1st of each year. The adjustment is based on changes in the Consumer Price Index for all urban consumers

in the Washington-Baltimore metropolitan area, as published by Bureau of Labor Statistics of the US Department of Labor.

Are subcontractors subject to the WRL?

Yes.

Are there exceptions to the WRL?

Yes. The WRL contains several exceptions to its applicability, based on the characteristics of the vendor, the contract, the solicitation method, and the status of an employee.

Exceptions to applicability of the Law are:

- A vendor who, at the time the contract is signed, has received less than \$50,000 from the County in the most recent 12 month period, and who will be entitled to receive less than \$50,000 from the County under that contract in the next 12 month period.
- A County contract with a public entity.
- A County contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code.
- A County contract awarded on a noncompetitive basis, under Section 11B-14 of the County Code, if the Chief Administrative Officer finds that the performance of the contract would be significantly impaired if the wage requirements applied.
- A County contract for electricity, telephone, cable television, water, sewer, or similar service delivered by a regulated utility.
- A County contract for services needed immediately to prevent or respond to an imminent threat to public health or safety.
- A vendor who is expressly precluded from complying with the Law by the terms of any federal or state law, contract, or grant.
- A County contract resulting from a bridge solicitation method under Section 11B-42 of the County Code.
- An employee who performs no measurable work related to a County contract.

- An employee who participates in a government-operated or -sponsored program that restricts to a level below the wage required under the Law the earnings of, or wages paid to, employees.
- An employee who participated for no longer than 120 days in any calendar year in a Government-operated or -sponsored summer youth employment program.
- An employee for whom a lower wage rate is expressly set forth in a bona fide collective bargaining agreement.
- A County contract resulting from a cooperative procurement under Section 11B-40 of the County Code.

What enforcement and compliance mechanisms does the County employ?

The WRL contains the following provisions:

- The WRL requires random and other audits necessary to ensure enforcement.
- The WRL requires services contractors' quarterly submission of certified payroll reports for employees who perform direct and measurable work on qualified County service contracts.
- Contractors who violate the WRL may be assessed with liquidated damages, including any unpaid wages, audit cost, and that the contractor is jointly and severally liable for any noncompliance by a subcontractor.
- An employer may not retaliate against an employee for asserting any right under the Living Wage Law, or for filing a complaint of violation.
- An aggrieved employee may enforce the Law as a third-party beneficiary, to recover unpaid wages, interest, attorney's fee, and retaliation damages.
- As necessary, the County may issue a Cure Notice, and, if necessary, a Termination for Cause, as a result of an employer's failure to comply with the Law.

What are the other responsibilities of an employer with a County contract subject to the WRL?

An employer must: certify that it, and its subcontractor(s), is (are) aware of, and will comply with the WRL; conspicuously post the notices that the County furnishes informing employees of the WRL; keep and submit any records necessary to show compliance with the WRL; and, submit certified payroll reports, quarterly.

Is an employer required to submit anything if there is no work performed in that quarter?

Yes, the Contract is required to write “No work was performed” on the payroll form (can be downloaded from <https://www.montgomerycountymd.gov/PRO/DBRC/wage-requirements-law.html>) and submit it to WRL@montgomerycountymd.gov

Are Sole Proprietors required to submit payroll reports?

Sole Proprietorships are subject to the WRL. In order to be excused from the posting and reporting requirements of the WRL, the individual who is the sole proprietor must sign the certifications below in order to attest to the fact that the Sole Proprietorship:

- (1) is aware of, and will comply with, the WRL, as applicable;
- (2) has no employees other than the sole proprietor; and
- (3) will inform the Montgomery County Office of Business Relations and Compliance if the sole proprietor employs any workers other than the sole proprietor.

My contract has expired, why am I receiving notices to submit payroll reports?

The payroll reports are due to the Office of Procurement by the end of January, April, July, and October for the quarter ending the preceding month. So if the contract was active in the previous quarter, the contractor are required to submit payroll reports for that quarter even if the contract is expired recently.

If an employer is located out of the County, does the WRL apply?

Yes.

Does the WRL apply to part-time employees?

Yes.

Does the WRL apply to a contractor's independent contractors?

No. However, the Law does apply to the wages a contractor must pay its employees, and wages a contractor's subcontractors must pay their employees.

For covered employees, must they be paid the WRL rate for those hours that they are not working on the County contract?

No. The Law and its related wage amount applies only to those hours spent working on the County contract.

What records necessary to show compliance would the County request?

To verify that a covered employer is in compliance with the Wage Requirements Law, the County may request employee, timekeeping, and payroll records, such as those listed below:

1. A list of all employees that performed work related to the employer's contract with the County, including position, hourly wage rate, and dates employed.
2. The reports and records that identify the following by employee for each pay period: the pay period covered; employee name; occupation title/work classification; total hours worked; related timecards; and the total wages paid.
3. Quarterly Wage Requirements Law Payroll Report Form (PMMD-183) submitted to the County.
4. Additional employee, timekeeping, payroll, or other records may be requested.

NOTE: Employers are advised to retain payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period covered by the County contract and other documents referenced above for a period of 2 years following the end of the contract.

How does an employee file a complaint?

The notices that the employer is required to post in the workplace contain the contact information of the County's Contract Administrator for the employer's contract. To file a complaint, an employee would contact the Contract Administrator, who will take the required information and initiate the complaint process.

Who can I contact if I have further questions concerning the Wage Requirements Law?

Please contact Kerri Albright, the Wage Requirements Law Program Manager, at 240-777-9920 or kerri.albright@montgomerycountymd.gov