

Report on the Impact of Ann Arbor's Living Wage Ordinance on Washtenaw County Non-Profit Human Service Providers

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1. Our Questions

This report aims to (1) assess the impact of the City of Ann Arbor's Living Wage Ordinance (LWO) on the Non-Profit Human Service (NPHS) providers to which it applies; (2) assess the likely impact of recently proposed amendments to this LWO; and (3) consider ways in which the LWO and related City policies might be altered to work better for the City's non-profit partners while strengthening the basic goals of the LWO.

2. Which Organizations are Covered by, and Subject to, AA's Living Wage Ordinance?

Ann Arbor's LWO applies to for-profit and not-for-profit employers contracting with these governments to provide public services. In the case of nonprofits, the City and County fund those that provide human services falling into six priority areas. Nonprofits covered by a LWO provide one or more of the following human services with the assistance of public funds:

1. Early Childhood (0 to 6 years)
2. School-aged Youth (7 to 21 years)
3. Aging
4. Housing & Homelessness
5. Hunger Relief
6. Safety Net Health and Nutrition

The Coordinated Funding Model (COFU), which facilitates an organized distribution of funds from multiple services to NPHS providers in Washtenaw County, began in 2011.² Under this model, funding partners are:

¹ This report was written by Ian Robinson, Lecturer and Research Scientist in the Department of Sociology and the Residential College's Social Theory and Practice program. I take full responsibility for its content, including any errors of fact or interpretation. All inquiries concerning the content of this report should be directed to me at eian@umich.edu. The three co-authors, who collected and analyzed many of the data on which this report is based, were students in my Winter 2013 term class on Ethical Consumption and Community Action (RC SSci 360.005). They are listed as co-authors in recognition of their hard work and many contributions to this effort. On behalf of our team, I would like to thank Mary Jo Callan, Andrea Plevak, Daniel Chae for all of their help in obtaining and interpreting City and County documents related to this research, and to Julie Steiner for helping to improve our survey participation rate.

² See Ann Arbor's Community Development Department "Mission Statement" page: <http://www.a2gov.org/government/communityservices/Pages/CommunityDevelopment.aspx>

1. Office of Community and Economic Development (OCED), representing:
 - a. Washtenaw County
 - b. City of Ann Arbor
 - c. Urban County
2. Ann Arbor Area Community Foundation (AACF)
3. United Way of Washtenaw County (UW)

The OCED manages City and County funds as well as funds from the federal Department of Housing and Urban Development which are designated as Urban County. All NPHS providers that receive their funding through the OCED are covered by a LWO, while those receiving funding only through AACF or UW are not. Twenty-nine of the 41 NPHS providers that are funded under COFU receive some funding through OCED, and are therefore *covered* by a LWO; the remaining 12 are currently funded only by the United Way, and so are not covered by a LWO.

While funding source determines LWO *coverage*, whether a NP is *subject to* the LWO – in the sense that they face legally binding obligations -- depends on whether two criteria are satisfied: first, it must employ at least 10 people; and second, it must receive more than \$10,000 in City/County funding.

This report focuses on the 14 NPHS providers that receive funding from the City of Ann Arbor, and so, are covered by its LWO. Of these, 11 are currently subject to the City's LWO. This does not mean that these 11 organizations are obligated to pay all employees at least the City LWO. This obligation applies only to employees that are providing the human services specified in the contract with the City. However, these employees must be paid the City's living wage whether or not the employer chooses to spend the City money on wages and benefits or on other costs. As we shall see later in the report, there appears to be some confusion on this last point on the part of at least one NPHS provider that responded to our survey.

3. How we answered our questions and Who answered our questions

We get most of the information used in this report from City and County documents, supplemented by an on-line survey. We encouraged the 41 NPHS providers that receive funding under COFU to answer our survey, collecting responses from February 18 to June 10, 2013.³ On average, the survey took about 10 minutes to complete. In cases where answers to important questions were missing, ambiguous or apparently contradictory, a member of our team followed up with the person from the non-profit who filled out the survey. As well, we sometimes had conversations with NPHS staff who indicated that they did not have time to fill out the entire survey, but were willing to have a brief conversation on the

³ We sought responses from all 41 NPHS providers, rather than focusing exclusively on those that have contracts with the City of Ann Arbor, because we wanted to be able to compare how employees are treated under two contrasting conditions: a LWO run by the County rather than the City, and no LWO at all. Unfortunately, our response rate from NPHS providers not covered by the City's LWO was so low that we had to abandon this aspect of our analysis.

phone. Last but not least, we had frequent recourse to the staff of the Office of Community and Economic Development to help us understand and interpret City data.

As indicated in Table One, below, of the 14 NPHS providers receiving City funding in fiscal year 2012, twelve met both criteria necessary to be subject to the City’s LWO and two were exempt because they employed less than 10 employees. Of the 12, one (the Community Action Network) was exempt because (in 2012) it applied for and received a three-year exemption, as provided for in the LWO. Of the eleven NPHS providers subject to the City’s LWO and not exempted, 10 responded to our survey and one did not. Together, the 11 NPHS providers subject to the City’s LWO received about \$1.5 million in City contracts and employ about 686 people in fiscal year 2012.

We cannot reveal organization-specific information acquired through our survey because we promised participants confidentiality. However, we can indicate the names of the organizations that did and did not participate in the survey, whether or not they were subject to Ann Arbor’s LWO, and if not, why not. Table One, below, does these things. In Rows 1-10 we have the ten NPHS providers that are subject to the LWO and filled out our survey. In Row 11 has the provider that was subject to Ann Arbor’s LWO but did not fill out the survey. Finally, Rows 12-14 have the three NPHS providers that are exempt for one reason or another, two of which filled out our survey.

Table One: Organizations Covered by and Subject to AA’s LWO, and Responding to our Survey

The 14 NPHS Providers Covered by AA’s LWO in 2012-13	Subject to AA’s LWO in 2012-13? If not, why not?	Responded to our survey?
1. AA Meals on Wheels	Yes	Yes
2. Avalon Housing	Yes	Yes
3. Food Gatherers	Yes	Yes
4. HIV/AIDS Resource Center (HARC)	Yes	Yes
5. Interfaith Hospitality Network (IHN)	Yes	Yes
6. Legal Services of South & Central MI	Yes	Yes
7. Perry Nursery School	Yes	Yes
8. Shelter Association (Delonis Ctr)	Yes	Yes
9. Planned Parenthood of Mid & South MI	Yes	Yes
10. Catholic Social Services of Washtenaw	Yes	Yes
11. Home of New Vision	Yes	No
12. Washtenaw Assoc for Community Advocacy	No – less than 10 employees	No
13. The Women’s Center of SE MI	No – less than 10 employees	Yes
14. Community Action Network	No – applied for and got 3-yr exemption from City Council in 2012	Yes

As indicated in Table Two, below, of the eleven NPHS providers subject to Ann Arbor’s LWO, the one that did not respond to our survey – Home of New Vision -- accounted for about 6% of all City funding received by these 14 organizations. Home of New Vision (HNV) employs about 70 employees -- about 10% of the total employed by the eleven NPHS providers. If we assume that the same share of HNV’s

employees work on City grants as the share of HNV revenues coming from the city, this implies that 13 HNV employees work on City grants. That would be about 7% of the roughly 185 workers employed by these providers to work (at least in part) on City contracts. We therefore believe that (assuming the accuracy of the information provided by survey participants) we have captured the lion's share of the impact of Ann Arbor's LWO on NPHS providers despite HNV's non-participation.

Table Two: Amount of City Grants to the NPHS Providers Subject to AA's LWO

The 11 NPHS Providers Subject to AA's LWO in FY 2012-13	(1) Amount of City Grants FY 2012-13	(2) Share of All City Grant Expenditures	(3) Organization's Expenditures on City- Supported Programs FY 2012-13	(4) City Grant Share of Total Budget for these Programs Col (1)/ Col (3)
1. AA Meals on Wheels	\$23,914	2.2%	\$300,000	8.0%
2. Avalon Housing	\$144,028	13.4%	\$299,640	48.1%
3. Food Gatherers	\$95,955	8.9%	\$3,506,336	2.7%
4. HIV/AIDS Resource Center (HARC)	\$4,599*	0.4%	\$87,763	5.2%
5. Interfaith Hospitality Network	\$92,400	8.6%	\$500,157	18.5%
6. Legal Services of S. & Central MI	\$178,510	16.6%	\$1,199,033	14.9%
7. Perry Nursery School	\$110,756	10.3%	\$1,099,433	10.1%
8. Shelter Association (Delonis Ctr)	\$247,551	23.0%	\$950,447	26.0%
9. Planned Parenthood (Mid & S. MI)	\$14,400	1.3%	\$204,491	7.0%
10. Catholic Social Services	\$102,294	9.5%	\$1,291,683	7.9%
11. Home of New Vision	\$63,942	5.9%	\$358,879	17.8%
TOTALS	\$1,078,349	100.1%	\$9,797,862	11.0%

Source: Budgets appended to contracts filed with COFU, Office of Community and Economic Development.

* Although Ann Arbor's contract with HARC falls below the \$10,000 threshold, we classified HARC as covered by Ann Arbor's LWO because it also receives \$13,486 from the Urban County (CDBG), which makes it subject to Ann Arbor's LWO.

4. Previous Efforts to Measure the Impacts of the AA LWO on Non-Profits' Wage Bill

Prior to this project, the City of Ann Arbor made two attempts to measure the impact of its LWO on NPHS providers. A 2001 memo assessing the potential impact of the LWO, prior to its passage, found that just two of the 27 NPs subject to the LWO would have to raise the wages of some employees to comply.⁴ One of these (the Shelter Association) estimated that it would require an extra \$27,352 to comply. It sought and was granted a three year exemption, after which time it came into compliance. When the LWO ordinance was passed, then, only one NP (Corner Health Center) had to raise the wages of some of its employees immediately. It estimated that its total wage bill would increase by \$3,120.⁵

In late 2012, the Office of Community and Economic Development sent a seven-question survey to about 80 contacts in 38 NPHS providers, 28 of which were then funded by the City, the County or both. In some cases, three or four people in the same organization were encouraged to respond.⁶ The survey did not ask for the names of individuals or organizations, so it is impossible to determine how many of the 38 organizations are represented in the 30 responses that the City received.

One indicator that several people responded from the same organization is that 14 respondents indicated that they were subject to both the City and the County LWOs. Yet, in 2012, only three NPHS providers had contracts with both the City and the County; another three had Urban County contracts that staff might have interpreted as subjecting them to both LWOs. Even if we work with the largest possible number – six – this implies an average of 2.3 respondents from each organization.

Multiple respondents from the same organization means that we have a multiple counting problem. For example, 8 respondents indicated that their organization had to pay higher annual wages as a direct or indirect result of the City or County Living Wage ordinance. The sum of the estimated amounts of these higher wages was \$156,592. But those 8 respondents could come from two NPHS providers, eight NPHS providers, or any number in between. We have no way of knowing which is the case, so we cannot determine how much double-counting is occurring. All that we know is that there is bound to be some, and therefore that \$156,592 is an over-estimate. Because of this problem, unfortunately, the quantitative data gathered by the 2012 City survey cannot be used to estimate the individual or aggregate costs of compliance with the City's LWO. The survey is useful mainly for the information it provides on how NPHS staff understand their situation, revealed by their responses to the survey's open-ended questions.

⁴ The number would have been higher, but the City permanently exempted several Summer Festival groups from the LWO's requirements.

⁵ Memo from Eileen Ryan, Community Development Director, City of Ann Arbor to the Mayor and City Council, "Information regarding nonprofit organizations and proposed Living Wage Ordinance" (February 20, 2001).

⁶ Office of Community and Economic Development, "Living Wage NonProfit Impact: Summary Survey Results" (November 2012).

5. Our Employer Survey Results on Impact of AA's LWO on NPHS Providers' Wage Bill and Budget

Our employer survey, by requesting names, eliminates the problem of multiple-counting. As noted above, ten of the 11 NPHS providers that are (a) covered by the City's LWO and (b) not exempt for any reason responded to our survey. Table Three gives a letter (A-J) to each of these organizations in order to preserve their anonymity, which was guaranteed in our survey. It then indicates whether or not the organization was impacted, and how heavily it relied on part-time and seasonal workers – the types of employees most likely to be paid low wages – to provide the services that it contracted with the City.

Table Three: Whose Wages Does the AA LWO Affect?

NPHS Providers Covered by AA's LWO in 2012-13	1. Did the organization raise wages in the last three years to comply with the AA LWO? If not, why not?	2. Are Non-City-Contract Employees Paid Less than Living Wage?	3. PT + Seasonal Employees doing AA contract work	4. PT + Seasonal Employees % of all Employees doing AA contract work
Organization A	Yes: all employees are paid above the LW minimum but the respondent uses LW as their benchmark and then pays somewhat more	No	1+0	4%
Organization B	Yes: part-time employees get health care and are paid above LW min, but seasonal workers are paid <i>exactly</i> the LW min	No	4+4	80%
Organization C	No: <u>not in compliance</u> for part-time and seasonal employees; other categories are above the LW minimum	Yes	2+0	7%
Organization D	No: except for contract workers, wages determined by <u>union contract</u> , and contract workers also above LW minimum	No	3+4	23%
Organization E	No: all employees are paid above the LW minimum, mainly because of labor market for type of work they do	No	10+0	19%
Organization F	No: all staff on AA contracts are senior, supervisory or professionals	Yes	0	0%
Organization G	No: pays all employees providing services contracted with AA above the LW minimum	Yes	0	0%
Organization H	No: pays all employees providing services contracted with AA above the LW minimum	Missing data	2+0	20%
Organization I	No: pays all except for seasonal employees above LW minimum; no seasonal workers provide AA contracted services	Yes	0	0%
Organization J	No: all staff working on AA contracts are paid above the LW minimum, though some staff who do not provide AA contracted services are not paid at that level	Yes	1+0	25%

Column 1 of Table Three shows that only two organizations (A and B) have raised wages in the last three years in order to comply with Ann Arbor's LWO. Organization A was clear that they did this. Organization B's respondent indicated that their wage structure was not affected by the LWO, but the date provided indicated that B's seasonal workers were paid precisely the AA LWO minimum for employees not receiving health care benefits from the employer (i.e., \$13.57 / hr). This can hardly be a coincidence, so we categorized this case as affected by the LWO despite the respondent's self-description.

Why are the wage policies of eight of the ten reporting organizations subject to the LWO apparently unaffected by it? One possible reason is that they are not in compliance with the LWO. Being out of compliance means that the LWO is not having the impact it is supposed to, and may have no impact at all. If we can trust the data supplied by respondents, only one NPHS provider – Organization C – is in this situation. We will have more to say about this organization in Section 7, below.

Organization D is a special case of another kind. Most of its employees are covered by a union contract, and the union scale is above the LW minimum. Only what it calls its "contract employees" – seasonal workers and perhaps also some part-time employees – are not covered by the collective bargaining agreement negotiated with this union. Just 7% of all employees providing services contracted by the City contract employees so understood, and they are also paid above the minimum.

That leaves six cases (Organizations E through J) to be explained. Respondents for each of these organizations indicate that they pay all of the employees who provide services contracted with the City at rates above the AA LW minimum. Several state that they do so because they have to pay more than the LW minimum to attract and retain high quality employees with the skill sets that they need. Thus, the respondent for organization E writes:

"I can tell you... that the AA City living wage ordinance has not had an effect on the wage scale for our ... employees. It happens that we exceed the standard but it is not intentional. We simply must stay competitive in our market and given that the vast majority of our "entry level" staffers deliver health care (mostly in roles traditionally analogous to a Medical Assistant) their entry level wage is higher than the ordinance dictates."

This kind of "market-driven compliance" makes sense when most or all employees are professionals, managers and other full-time staff, but not to the lower-skilled sorts of employees that are more likely to be hired on a part-time or seasonal employees. Organization E tells us that even these lower-tier workers are paid above the LW minimum, but Column 2 shows that at least four of the last five organizations in Table Three are paying some of their employees less than that. These sub-LW workers are all found in the part-time and/or the seasonal categories. Since Organizations F through J all state that they are in compliance with the LWO, we infer that the sub-LW employees are providing services that are not funded by City contracts.

The pay discrepancy between lower tier employers who provide services funded with City contracts and those who do not implies that the LWO makes a difference in the pay policies and behavior of these organizations. If market forces compelled higher than LW compensation rates, it would not matter

whether or not the employees provide City-funded services. Clearly, market-based LW compliance does not extend down to the lower paid tiers of these organizations. In the same way, if the employer paid all employees above the LW minimum because of their notion of what it is to be a good employer, then we would find no variation among employees of the same type just because some provide City-funded services and others do not.

This conclusion leaves us with a puzzle: if the difference in how much these lower-tier employees are paid is a product of the City's LWO, why do the respondents for these organizations say that the ordinance did not cause them to raise the wages of their employees over the last three years in order to remain in compliance? The answer to this puzzle may well lie in the phrase, "the last three years." Many of our respondents have been working with the City for many years, and so, have long been subject to the LWO.⁷ It is possible that they raised pay rates to comply with the LWO years ago, and then followed a policy of raising wages each year to keep up with inflation. Since that is the same basis for annual increases in the living wage, such a policy would keep the organization's wages at or above the living wage without explicit reference to the LWO. Where this is the dynamic, it is more accurate to say that the LWO is indeed responsible for wage increases, albeit indirectly, because it has been institutionalized into the organization's pay determination practices in a way that does not require direct reference to the LWO.

Organization A recognized that its pay rates were directly impacted by the LWO, and therefore filled out a series of supplementary questions that the others did not. By its account, 11 of their 26 employees had their salaries increased over the last three years for this reason: in 2009, the average hourly rate of these employees was \$9/hour, and at present it is \$12.50/hour. These workers were categorized as non-professional, full-time staff, and Organization A provides staff of this type with health care benefits. As a result, the applicable living wage in 2012-13 was \$12.17 per hour. Organization A thus paid 33 cents per hour above what the LWO requires. It indicated that, if it had not been subject to the LWO, it would have raised the wage for these workers to the LW minimum, 33 cents an hour less than they are currently paying. Thus, they consider the City's LWO as a useful benchmark for a fair minimum wage, and would do their best to pay those wages even if they were not legally compelled to do so.

The LWO's wage impacts are not necessarily confined to employees working on City contracts who would otherwise have been paid less. It could be seen as unjust to pay workers with comparable skills, merit and seniority at two different rates, based solely on whether or not they provide services funded by City contracts. Organization A indicated that all of their non-professional, full-time staff were involved in city or county funded work, so this distinction was not relevant to them. However, they did experience a second kind of indirect LWO effect: the desire to maintain its pay scale led it to increase the wages of three employees (who also receive health benefits) from \$10 to \$13.50 per hour over the last three years. Had it not been for the wage compression concern, Organization A estimates that the increase for these workers would have been about \$2 an hour over this period, so the net impact of the LWO on the hourly wage of these employees was an increase of \$1.50 per hour.

⁷ Six of the ten already had contracts with the city in 2001, when the LWO was first introduced.

Organization A estimated that the cost of compliance with Ann Arbor's LWO as \$16,120 per year in 2012-13, about 10% of the value of the organization's contracts with the City and County, and half of 1% of its total budget. About 90% of this extra \$16,120 came from increases in revenues, with 95% of that growth coming from increased contributions from non-foundation sources such as individual donors, and the remaining 5% from other (unidentified) sources. Of the 10% of the burden that was achieved through cuts in personnel and/or services, half of the savings came from increased reliance on volunteers, and the other half from other (unidentified) sources. The increased use of volunteers implies some reduction in total hours of paid employment. However, such reductions account for just 5% of \$16,120 or \$806. At Organization A's minimum hourly rate of \$12.50, this amounts to 64.5 hours of lost paid labor.

6. Other LWO Impacts on Responding NPs

Our survey also asked respondents to assess the scale of a number of positive and negative impacts that they think the City LWO has had on their organization. The possible negative effects listed were:

1. Reductions in the number of paid hours of labor we can devote to service provision
2. Reduction or elimination of some types of services
3. Reduction in the number of people who can be served
4. Reduction in the quality of some of the services we provide
5. An increase in the price we must charge for some of our services
6. Inability to pay higher skilled employees as much as they would like

Of our ten respondents, seven answered these questions. Of these seven, six saw no negative effects of any of these kinds on their organization. Organization J saw major negative effects of the first three types. Answering an open-ended question, this respondent stated:

"The staff paid by the City/County Living Wage at our agency are paid at rates higher than the living wage. There are others at our agency who are not, but their positions are not covered by the City/County. If their wages had to comply, it would be unaffordable to the agency. There needs to be a balance for what is beneficial for individuals and for local safety net providers, who serve those most in need in our county with the minimum resources."

This response suggests that Organization J is capable of paying the living wage, provided it does not have to extend that wage to employees that do not provide services covered by city contracts (i.e., that it is able to continue its current pay practices). If this interpretation is accurate, the high negative consequences attributed to the LWO pertain to the possible consequences of extending the LWO's scope, rather than to the *status quo*.

The possible positive effects listed in our survey question were:

1. Reduces employee turnover rate, and with it, recruitment and training costs
2. Improves employee morale, and with it, productivity and/or quality of job performance

3. Reduces the number of employees who are eligible (based on low income) for your services
4. Creates a more favorable impression of your organization in the wider community

Just five organizations answered the positive effect questions, but the results were more complex: two of the five consistently indicated no positive effect of the first three types, and that they did not know whether or not there was an effect of the fourth kind. The other three respondents thought that:

- Type 1 benefits were either considerable (2 respondents) or major (1 respondent)
- Type 2 benefits ranged from minor (1) to considerable (1) to major (1)
- Type 3 benefits were thought to be minor by one respondent; the other two thought it had no effect (1) or did not know (1)
- Type 4 benefits were either minor (1) or considerable (2)

The one NPHS provider reporting that its wage bill and budget *were* affected by Ann Arbor's LWO – Organization A -- thought that complying with the ordinance had no negative impacts of the sorts canvassed. They were not sure whether compliance had any positive impacts, attributing this uncertainty to the fact that they had been paying the living wage for so long. They went on to say:

“We are mission driven and we have figured out how to do what we need to do with the staff that we have. We have been paying and budgeting for the living wage for years. It would be very hard to determine how things would be if there were not a living wage. As we strive to pay people a fair wage, the living wage ordinance seems a good guide.”

7. Level of Compliance with the City's LWO

As noted earlier, Organization C acknowledged, with regret, that they are not fully complying with the LWO:

“At the present time our part-time and seasonal staff members are about \$1 behind the living wage in Ann Arbor. Since we believe in the living wage, we would like to correct this, but due to cuts in gov't funding we have not provided any increases for the past 2.5 years. This year we are hoping to get closer to the living wage, but we will not be able to meet it.”

Organization B seemed to imply that they are out of compliance when they stated that:

“The funds we receive [from the City] are not used for staffing/personnel expenses, so the impact on client services is minimal to non-existent. But, over time the higher wage paid to work study students does impact our annual expenses, and over time the savings realized by paying them a slightly lower wage could be used to expand / enhance client services.”

The LWO requires that staff providing services funded with City dollars be paid the living wage, whether or not those dollars are actually spent on salary. This kind of misunderstanding could open the way for some employees to be paid less than the LWO requires. On examining the wage data supplied by

Organization B, we found that they are currently paying all employees at or above LWO levels. However, this is a tenuous form of compliance, since it is based on inadvertently meeting the LWO's requirements despite misunderstanding them.

Summing up, we know there is a compliance problem with Organization A, because they have told us so. Of course, it is possible that some organizations whose responses indicated they are in compliance did not provide complete or fully accurate information. For these reasons, our assessment of the level of compliance in this report must be seen as tentative. The best way to reduce this uncertainty, we think, is interviews with employees that ask them about their wages and health care benefits. We had hoped to be able to conduct such interviews for this report, but gathering the survey data proved more time consuming than expected. This is clearly where the next stage of research should go.

8. Likely Impacts of Proposed Reforms to Ann Arbor's LWO

The impact of the proposed change in definition of a "contractor/vendor" is obvious: it amounts to a blanket exemption of all NPHS providers from the application of the City's LWO.⁸ Beyond this fundamental change, three more modest proposals for reform were put forward.

The first proposal would raise the threshold necessary to make a City contract subject to the LWO from \$10,000 to \$25,000. If applied to current arrangements, this change would reduce the number of NPHS providers subject to the City's LWO from 11 to 9, exempting Ann Arbor Meals on Wheels and the HIV/AIDS Resource Center. One other City contract recipient, the Washtenaw Association for Community Advocacy would also fall below the \$25,000 mark but it is already exempt because it has fewer than 10 employees.

The second more modest proposal is to assign the task of monitoring and enforcing the LWO to the City's procurement officer, in lieu of its Human Rights officer. Complaints or reports of violations of the LWO would be lodged with the City Attorney's office, instead of the Human Rights officer. It is our understanding that the City no longer has a Human Rights officer. There has never been a complaint or report of a violation, and there is no pro-active process for assessing compliance. The City assumes that all is well as long as it receives no complaints. Our findings suggest that this is an overly optimistic stance. Having one or more people in a position to take a more pro-active, investigative stance would be a good thing. However, we have not tried to assess whether the people that the amendment proposes to place in these roles are the best suited to these tasks.

The last proposed reform would change the procedure to apply for a three-year exemption. Current practice requires going before City Council to explain and justify the exemption. In the new process, "the City Administrator may grant a partial or complete exemption" from the LWO without the need to

⁸ The provision says: "Contractor/vendor" does not include: ... (c) a non-profit entity which provides human services to City residents pursuant to a contract or grant with the City." This and the other amendments discussed here may be found in, City of Ann Arbor, "An Ordinance to Amend Sections 1:813, 1:814, 1:818, and 1:820 of Chapter 23, Living Wage Requirements in City Contracts and Grants" (2012)

go before the Council. This change makes it less difficult to secure full or partial exemption for three years. With an easier process, how many of the NPHS providers currently subject to the City's LWO would be tempted to apply for some kind of exemption? One way to get at this question is to ask how frustrated NPHS providers are with the existing system, and hence, how strongly they desire an exemption, whatever the process might be.

Our survey asked respondents (1) whether their organization ought to be exempted from the LWO provisions of City contracts, and (2) whether all NPHS providers should be so exempted. When asked in this dichotomous way, only two of the eight NPHS providers that responded to this group of questions thought that their own organization should be exempted from the city's LWO, and only one of eight thought that all NPHS providers should be exempted.

However, open-ended follow-up questions, asking people to justify their Yes or No answers, allowed for more nuanced positions that are worth sharing. The two respondents who supported exemption for their own organization wrote:

- "If there is proof that it would cause undue hardship to the organization or negatively impact its ability to provide services"
- "I support the living wage, so that is a struggle for me to say. My staff absolutely deserve to make a living wage. At the same time, funding needs to increase by the City/County in order to make that change affordable."

The six that opposed exemption for their own organization wrote:

- "The only place it impacts us is our work study students. We have so many part time people that even at the living wage minimum (with health insurance), it's not a lot of income." However, this same respondent went on to endorse a general exemption on the ground that "As long as the City/County does not have to follow the living wage ordinance for its grantees, then we should follow their example."
- "[Org name] supports the City and County's efforts to require organizations to pay a living wage. Nonprofits should be among those most committed to paying living wages, regardless of local ordinances. We should be setting an example. We know firsthand how hard it is to survive on minimum and low wages."
- "Employees are due a fair wage and we should not have to be told we have to do this. If the budget and services allow then the living wage should be paid."
- "We believe in the living wage. The work performed by non-profits needs to be valued the same as those in the private, for-profit sector."
- "We support the idea philosophically and want to meet it. Why should we be exempt? [However], we are not bidding on contracts the same way companies do. We can't just raise the price to absorb the increases. So since we already cannot meet the demand for services; this

[i.e., legally mandated, annually increasing living wages] could potentially make this worse. I think each non profit should be able to apply for exemption if this is the process you choose to continue and make the case as to why they should be exempt. I think not being able to provide the contracted services for the outcomes expected is a good reason. But non profits are different and should be judged on a case by case basis. as an example, if the nonprofit hospital was applying to perform a contract, they should not be exempt [just] because they are a non profit.”

- “I think it is important for non-profits to pay competitive wages in order to attract and retain suitable staff to carry out their missions.”

We see considerable variation in these comments, but almost all – regardless of how they responded to the dichotomous question -- articulate two competing concerns: first, a commitment to the principle of paying employees fairly, a principle that aligns these organizations’ with the LWO’s purpose; and second, a recognition that budget situations can fluctuate quite dramatically and the organization must be able to address these challenges. These competing concerns lead to positions that seek to preserve the flexibility to reduce or freeze wages temporarily, if necessary, while adhering to LWO principles whenever possible. This stance makes an easier exemption process attractive, in cases where the organization is facing serious budget challenges. It does not, for most of our respondents, justify permanent exemption of NPHS providers in general or their own organization in particular.

Our survey asked respondents how likely their organization would be to apply for a three-year exemption if it could be granted by a City administrator, rather than requiring a formal hearing before City Council. Respondents could give probabilities ranging from 0 to 100% likely to apply for an exemption. Faced with an abstract choice (i.e., no specification of what kinds of budgetary challenges the organization might be facing), 4 of the respondents who answered this question put the probability at greater than 0, with the average being a 65% probability of applying. The remaining 4 respondents did not click any answer, which should probably be interpreted as a zero in this context.

We then asked organizations how likely they would be to apply for an exemption from the LWO if (a) the City paid half of the additional labor costs associated with its living wage ordinance, or (b) the City paid the full amount of those additional labor costs. Under the first of these scenarios, the number of respondents saying they might seek an exemption fell to 2, and the probability that they assigned to this possibility fell to 40%. Under the second scenario, only 1 respondent maintained the possibility of applying for an exemption; their estimated probability was 50% -- the same as it was for the previous two scenarios.

Summing up, it would appear that making the process for applying for exemptions easier would not lead to a flood of NPHS providers seeking exemptions. Even those that did seek an exemption would not want it to be permanent. However, some might seek partial exemptions, focusing on work-study or other students, and/or seasonal workers and, based on the reasoning in their responses, at least some of the respondents think that these kinds of employees should be permanently excluded from LWO

coverage. However, nothing in the proposed amendments to the LWO allows for permanent exemptions, whether partial or total.

9. Reforms Proposed by the NPHS Providers

In responses to our survey, and subsequent phone conversations, NPHS providers suggested a number of reforms that they would like the Advisory Committee and the City Council to consider. These are set out in the bullets below. The first two, involving the permanent exclusion from LWO coverage of certain classes of workers, probably command less broad support than the others, though none of these was put forward by a majority of our respondents.

- Exempt work-study students, or students more generally, from the LWO requirement.
- Exempt part-time and/or seasonal positions from the LWO requirements.
- Pay student employees at the lower of the two LWO wages – the one appropriate for those who have employer health insurance, since [the person making this suggestion believed] the University is providing its students with such insurance if they do not otherwise have it.
- If some non-profits are exempted, assign extra points to those that do pay the living wage as part of the grant award/determination process.
- Set the living wage in the City and County ordinances at the same dollar amount, and if that is not possible, amend the Ann Arbor LWO to permit either the City or the County wage to satisfy the requirement.
- The City should incorporate some or all of the increase in the living wage into the amount paid for services in contracts with NPHS providers.
- Announce the new City and County LWO levels in the month that enables NPHS providers' to incorporate the associated increase in their operating costs into their budgeting and fund-raising cycle.

10. Our Response and Suggestions

We would argue against exempting any category of workers from LWO coverage. Some of the NPHS providers make assumptions about the budgets of students – and the reasons why they seek paid work – that we think are inaccurate. Many students are working for a living, and because of low wages and high tuition, many are graduating deep in debt. Moreover, those debts cannot be eliminated, even by declaring bankruptcy! It is a mistake, we think, to assume that all or most students are a privileged

class of workers who do not need or deserve a living wage. Work study students, in particular, are eligible for federally subsidized employment because their family income falls below a certain level.

Nor are students at the University of Michigan – or any other university of which we are aware -- provided with health care coverage by the university. There is, it is true, a student health services clinic, paid for mainly with their tuition dollars, to which students have access. But this is a far cry from full health care coverage. For that, students typically rely on their parents. If their parents are not covered, they are out of luck. That said, it might be reasonable for NPHS providers to ask students whether they are covered by their parents' health care on a case by case basis. If they are, it would seem reasonable to pay those students the lower LWO wage that assumes the employee has health care coverage.

Proposals to exclude part-time, temporary and/or seasonal workers from the application of the LWO seem equally problematic to us. While university students usually have low incomes while they remain students, at least they have reasonable prospects of earning decent money further down the road. In the case of part-time, temporary and seasonal workers, too often they are permanently relegated to the bottom of the labor market. Living wage ordinances, like minimum wages, are particularly important for this type of worker because it is very difficult for them to organize into unions, or to increase their wages by their individual efforts. In the nature of their work, employers tend to have less commitment to them as employees, are more likely to think of their labor as a contracted-for commodity. It is precisely in such labor market conditions that government intervention to support a just base wage is most needed and justified.

If we do not embrace one or more forms of exclusion as a strategy for economizing, some way of helping NPHS providers to cope with rising cost structures and stagnant payments for services rendered to governments must be found. We think a just response to this challenge would be to levy more progressive taxes and transfer some of the increased revenues to the NPHS providers through their City contracts as increased payment for services rendered. Particularly strong candidates for such support would be those that rely most heavily on City funding, and so, have less capacity to find ways to raise the additional funds that compliance requires from other sources. Table Two, above, showed that City contracts' share of NPHS providers' budgets for City-supported programs ranged from 2.7% to 48.1%. Only two were above 20%.⁹

Another criterion that could be used for targeting increased funds intended to help NPHS providers meet the LWO minimums would be the share of their employees located in the lower tier. As we discussed in Section 5, market forces are not likely to result in wages higher than the living wage minimum for many in the lowest employment tiers (i.e., part-time and seasonal workers). So this is where the burden of meeting the LWO minimum, relative to labor costs if only market rates were paid, will be greatest. It follows that the NPHS providers that rely most heavily on these kinds of lower tier employees face a disproportionately heavy burden in complying with the LWO. As Table Three shows, such employees accounted for more than 20% of those providing City-funded services in three

⁹ It's worth noting in this connection that the Community Action Network (CAN) – the only NPHS provider that has sought an exemption in recent years – is above this 20% threshold. City of Ann Arbor funds accounted for 39% of the total funding of the two CAN programs that are partially funded by the City.

organizations, and for 80% in one. (However, Organization B, the only one that admitted to be out of compliance with the LWO for workers of this (or any other) type, had only two (or 7%) such employees!)

Some of the increase in revenues should also go to paying all City employees according to the same LWO standard that the City requires of its contractors. Several NPHS providers criticized this inconsistency in the City's stance, and it seems to us that they are right to do so.

By "stepping up" in these two ways, the City would demonstrate that it is willing and able to use its taxing and spending powers to fulfill the purposes laid out in its LWO, including: "(1) to increase the quality and reliability of services procured for the City or provided to City inhabitants..." and (2) to use City spending to encourage the development of jobs paying wages above the poverty level."

If the City were prepared to do this, it could with good conscience begin to monitor and enforce the LWO more pro-actively. At present, some NPHS providers are obeying the LWO without much difficulty, while others are struggling. Our survey found that one provider is willing to admit that it is partially out of compliance. The Community Action Network, of course, applied for an exemption – an honorable response but not one that can be generalized or sustained in the long haul. There may be others that are not in full compliance and were not willing to risk admitting this in our survey. The City can enforce its LWO more effectively if it has the high moral ground that comes from applying the same principle to all of its own employees and helping NPHS providers meet the same standard.