

Living Wage Ordinance Compliance Review Report

Report No: #R09-010

Date of Report: October 15, 2010

Reporting Group: Living Wage Program
Administration Department, City of San Diego
619/236-6682

Authority: Living Wage Ordinance [San Diego Municipal Code §22.4235(a)]

Objective: Determine compliance with LWO requirements under San Diego Municipal Code §22.4235(a)

Subject Firm: J.L. Krueger Landscape Services

Contract Number/Name: Bid No. 6639-04-H, Landscape Maintenance within the Park Village Maintenance Assessment District (MAD)

Contract Terms: September 1, 2006, to August 31, 2009

Contract Amount: \$134,814

Review Period: September 1, 2006, to March 31, 2009

Violations: San Diego Municipal Code §22.4220(a): Failure to pay covered employees at the wage and benefit rates specified in the LWO.

San Diego Municipal Code §22.4220(c): Failure to provide each covered employee a minimum of 10 compensated leave days per year as required by the LWO.

San Diego Municipal Code §22.4225(b): Failure to notify covered employees of the requirements of the LWO.

See Findings and Resolutions below.

Back Wages Paid: \$3,887

Background: The Living Wage Program in the Administration Department is responsible to monitor applicable service contracts for compliance with the Living Wage Ordinance. J.L. Krueger Landscape Services had one landscape maintenance contract covered by the LWO. The contract was selected for review to determine compliance with requirements of the Living Wage Ordinance.

Review Actions: During the course of this review, payroll records were analyzed to determine whether correct LWO wage and health benefit rates were paid

to covered employees. The firm indicated four employees were assigned to this contract on a part-time basis, but they were no longer working for the firm at the time of this review. Three employees received a combined back payment amount of \$3,887; during interviews to verify receipt, two employees stated they had never been compensated at proper LWO rates, were not paid on a timely basis, were not provided pay stubs, and were threatened with termination if they complained to the proper authorities.

Summary:

J.L. Krueger Landscape Services originally denied having received an adjustment to compensate employees at LWO required rates, however, documentation on file verified the firm requested and received an increase amount of \$11,856 per year. The firm did not implement any measures to comply and, in fact, did not comply with the requirements of the Living Wage Ordinance, including payment of proper wages, provision of compensated and uncompensated leave time, and posting notices to inform covered employees about the Living Wage Ordinance. This review revealed multiple discrepancies where corrective action was required as detailed in the following section.

Findings and Resolutions:

Wages & Benefits. Payroll records for J.L. Krueger Landscape Services are maintained by the firm's owner, Jerry Krueger. Upon request, Mr. Krueger submitted copies of payroll records including time cards, checks, pay stubs and State of California Employment Development Department quarterly statements. These documents showed employees received compensation lower than stipulated by the LWO. To remedy underpayment, the firm paid three covered employees a total of \$3,887 in back wages.

When these employees were contacted to verify receipt of back wages, they complained they were owed additional monies because they'd worked more hours and had been paid far less per hour than accounted for. They also revealed they had never received pay stubs. Subsequently, one employee filed a formal Living Wage Complaint [#C10-005]. During the course of investigation, staff requested copies of cancelled checks from Mr. Krueger. At that time he admitted he did not have any cancelled checks because employees had been paid in cash. On May 26, 2010, Mr. Krueger resigned from his contract for Landscape Maintenance within the Park Village Maintenance Assessment District.

Compensated/Uncompensated Leave Time. The firm did not provide compensated days off to employees as required by the LWO.

Notification. The Living Wage Ordinance requires firms to notify covered employees of their rights under the LWO and advise them of their possible right to Earned Income Tax Credit (EITC). J.L. Krueger Landscape

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Findings and Resolutions:
(continued)

Services did not notify employees of their rights under the LWO or their possible right to Earned Income Tax Credit.

Resolutions: On April 13, 2010, Living Wage Program staff forwarded documentation to the County of San Diego District Attorney's Office, Insurance Fraud Division. On August 25, 2010, Living Wage Program staff recommended debarment in accordance with San Diego Municipal Code §22.0807(c)(1) for violations of local, State, and Federal wage laws; a preliminary Debarment Hearing Panel convened on September 20, 2010.

Firm's Response: Not required.

Previous Review: None.