

Memorandum

MIAMI-DADE
COUNTY

Date: January 7, 2013

To: Honorable Barbara J. Jordan
County Commissioner, District 1

From: Carlos A. Gimenez
Mayor 

Subject: Report on Best Janitorial & Supplies, Inc.'s Compliance with Living Wage Requirements

This is in response to your request at the November 8, 2012 Board meeting for a report on Best Janitorial Supplies, Inc.'s (Best) compliance with living wage requirements on County service contracts. Small Business Development (SBD) under the Business Affairs division of the Department of Regulatory and Economic Resources is responsible for enforcement of the Living Wage Ordinance, Miami-Dade County Code §2-8.9. Best is currently a vendor on three (3) County contracts subject to Living Wage requirements: 7927-3/10-3, Cleaning Services for South Dade Busway Stations; 8469-4/12-4, Janitorial Services for Miami-Dade Police Department North Stations; and 9022-3/13-2, Janitorial Services for Juvenile Justice Center, Juvenile Justice Center Annex, Metro Annex, and the Miami Beach Branch Court. SBD has investigated complaints since 2009 from Best employees on these contracts reporting the following infractions:

- Non-payment of wages on the scheduled pay date
- Issuance of checks not cashed due to insufficient funds
- Threats of termination due to reporting non-payments to the County

Prior to 2012, there were four (4) notices of non-compliance issued to Best. The frequency of payment complaints increased in 2012 resulting in SBD's issuance of eight (8) notices of non-compliance and a request to stop County payments to Best for not paying employees on scheduled pay dates, pursuant to Living Wage requirements. SBD also found one instance where employees were paid below the living wage rate. Employees were subsequently paid all wages due; documentation submitted by Best confirmed employee complaints that they were not paid or were unable to cash checks for up to 23 days after the scheduled pay date as summarized below.

Pay Date	7927-3/10-3	8469-4/12-4	9022-3/13-2
February 4, 2012	up to 23 days late		
February 18, 2012	up to 10 days late		
March 9, 2012		up to 21 days late	up to 21 days late
March 23, 2012		up to 10 days late	
May 18, 2012		up to 13 days late	up to 21 days late
June 1, 2012			up to 21 days late
June 15, 2012		up to 14 days late	
November 16, 2012		up to 14 days late	

Best cited its inability to pay employees was due to delays in payment of its invoices by the County. To assist with cash flow issues, on August 31, 2012 the Internal Services Department notified Best that its contracts were amended to allow bi-monthly invoicing. Best was instructed to immediately notify SBD of any prompt payment issues it is experiencing that will affect its ability to pay employees bi-weekly; and that failure to do so would result in findings of non-compliance for any verified complaints, with corresponding sanctions as provided for in the Living Wage Ordinance.

To date, Best has paid the County \$290.28 in penalties assessed pursuant to non-compliance with Living Wage requirements. Best was informed that any additional findings of underpayment will result in a monetary penalty of 30% of the amount of any underpayment and possible sanctions pursuant to the Code. A fourth violation may result in a recommendation for contract suspension or termination.

Open Living Wage Issues

Contract No. 7927-3/10-3, Cleaning Services for South Dade Busway Stations

As a result of an investigation of a complaint filed by six (6) Best employees on Contract No. 7927-3/10-3, Cleaning Services for South Dade Busway, on June 25, 2012, Best was issued a Notice of Violation (NOV) for underpayment of the six (6) former employees for a total of \$503,620.88 from January 2009 to January 2012, and for terminating the employees because they had complained to SBD that they were not being paid in accordance with the Living Wage Ordinance. Best's response to the violation did not provide documentation to reverse SBD's findings. The Living Wage Ordinance provides that an underpaid employee can either pursue a complaint through the County's administrative process or by filing suit through the court system but not both. Four (4) of the employees have notified SBD that they were going to pursue their complaint against Best through the court system, specifically Case No. 1:2012cv23206 filed with the Florida Southern District Court on September 4, 2012. The two (2) remaining employees have confirmed that they would like to proceed with their underpayment complaints which total \$238,240. SBD is awaiting receipt of a notarized affidavit from Mr. Fuentes, due January 17, 2013, before issuing a revised Notice of Violation to Best. Once a revised notice is issued Best will have 30 days to pay the employees or appeal the violation and request the appointment of an administrative hearing officer.

Staff will continue to work with Best and its employees to resolve issues and ensure compliance with the Living Wage requirements. Should you require additional information, please contact Mario Goderich, Assistant Director, Department of Regulatory and Economic Resources at (305) 375-5952.

- c: Jack Osterholt, Deputy Mayor/Director, Department of Regulatory and Economic Resources
- Lester Sola, Director, Internal Services Department
- Mario Goderich, Assistant Director, Department of Regulatory and Economic Resources