

MEMORANDUM

Agenda Item No. 8(F)(1)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving
Implementing Order No. 3-66
relating to paid sick leave
requirements for County security
service contracts

Resolution No. R-60-23

The accompanying resolution was prepared by the Internal Service Department and placed on the agenda at the request of Prime Sponsor Chairman Oliver G. Gilbert, III.



Geri Bonzon-Keenan
County Attorney

GBK/gh

Memorandum



Date: February 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava, Mayor 

Subject: Resolution approving Implementing Order No. 3-66: Paid Sick Leave Requirement for County Security Service Contracts

Executive Summary

The purpose of this item is to obtain approval from the Board of County Commissioners (Board) for Implementing Order (I.O.) No. 3-66: Paid Sick Leave Requirement for County Security Service Contracts. This I.O. establishes an administrative procedure for the implementation of the paid sick leave requirement adopted by the Board on September 2021 for County security service contracts valued over \$100,000.

This legislation provides employees on County security services contracts with paid sick leave in order to address health needs without jeopardizing their economic security and reduce the risks of them passing illnesses on to co-workers and customers.

Recommendation

It is recommended that the Board adopt the attached resolution approving I.O. 3-66. The I.O. establishes an administrative procedure for the paid sick leave requirement adopted by the Board on September 2021 for County security service contracts codified at Section 2-8.11 of the County Code (the "Code") and establishes an administrative procedure for the filing, processing and resolution of complaints regarding noncompliance.

Background

Section 2-8.11 of the County Code, enacted via Ordinance 21-82 on September 1, 2021, established a paid sick leave requirement for Security Service contractors with 15 or more employees on contracts for security services valued over \$100,000 per year. Under the new legislation, covered employees may earn not less than one hour of paid sick leave for every 30 hours worked, or alternatively, be awarded no less than 56 hours of paid time off at the beginning of each 12-month period of employment.

Paid sick leave requirements apply to contracts, and any renewals or extensions to existing contracts for covered services, that are: (1) effective on or after September 11, 2021; or (2) effective before September 11, 2021, if the covered employer and the County have entered into a written amendment requiring the Covered Employer to comply with the requirements, or the Covered Employer has otherwise agreed in writing to comply with the requirements.

Scope

The scope of this I.O. is countywide.

Delegation of Authority

This I.O. does not provide any additional delegated authority beyond that which was already approved in the Code.

Fiscal Impact/Funding Source

This I.O. is not expected to have a fiscal impact to the County.

Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners
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Track Record/Monitor

The Strategic Procurement Department or successor department is responsible for ensuring that the paid sick leave requirements are included in all applicable contracts and the Small Business Development Division of the Internal Services Department (ISD) is responsible for compliance and enforcement of such requirements on covered service contracts.



Edward Marquez
Chief Financial Officer

Implementing Order No.: IO 3-66

Title: PAID SICK LEAVE REQUIREMENT FOR COUNTY SECURITY SERVICE CONTRACTS

Ordered:

Effective:

AUTHORITY:

The Miami-Dade County Home Rule Amendment and Charter, including among others, Sections 1.01 and 2.02A; and Sections 2-8.11 and 2-8.9 of the Code of Miami-Dade County

POLICY:

It is the policy of Miami-Dade County that Security Service contractors with 15 or more employees on contracts for security services valued over \$100,000 per year provide their employees who are providing the covered services with paid sick leave. The paid sick leave required by Section 2-8.11 of the County Code (the "Code") is in addition to a covered employer's other obligations under the Code, including but not limited to the Domestic Leave and Reporting Ordinance, Article VIII of Chapter 11A, and the Living Wage Ordinance, Section 2-8.9. Service contractors may not receive credit toward their prevailing wage or fringe benefit obligations for any paid sick leave provided in satisfaction of the requirements of the Code and this Implementing Order.

Paid sick leave requirements shall apply to contracts, and any renewals or extensions to existing contracts for covered services, that are: (1) effective on or after September 11, 2021; or (2) effective before September 11, 2021, if the covered employer and the County have entered into a written amendment requiring the Covered Employer to comply with the requirements, or the Covered Employer has otherwise agreed in writing to comply with the requirements.

PURPOSE/SCOPE:

This Implementing Order implements the paid sick leave requirement for County security services contracts codified at Section 2-8.11 of the County Code (the "Code") and establishes an administrative procedure for the filing, processing and resolution of complaints regarding noncompliance with the requirements of the Code. The Strategic Procurement Department or successor department is responsible for ensuring that the paid sick leave requirements are included in all applicable contracts and the Small Business Development Division of the Internal Services Department (ISD) is responsible for compliance and enforcement of such requirements on covered service contracts.

EXCEPTION:

Paid sick leave requirements shall not apply to contracts for covered services awarded by the County that involve a total contract value of one hundred thousand dollars (\$100,000) per year or less, nor shall it apply to employers with fewer than 15 employees or employers whose Covered Service contracts were bid, were in the process of an award, or were entered into before September 11, 2021, nor shall it apply to the exercise of options to renew such contracts that are scheduled to renew before September 11, 2021, unless the parties mutually agree to the requirements upon renewal, extension or modification of the contract.

Should any services that are being performed by County employees as of September 11, 2021, be solicited or awarded in the future by the County to be performed by a service contractor, such services shall be covered services subject to the provisions of the paid sick leave requirements regardless of the value of the contract or the number of employees.

SECTION 1 - DEFINITIONS

The following definitions, as well as additional terms necessary for the understanding of this Implementing Order, shall apply:

- A. *Administrative Hearing Officer* means a person designated by the County Clerk or designee to hold administrative hearings on complaints of practices prohibited by the Code and this Implementing Order.
- B. *Applicable Department* means the County department using the Service Contract.
- C. *Child* means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in the place of a parent as a temporary guardian of a child.
- D. *Compliance Officer* means Director of Small Business Development or his/her designee to review compliance with the Code and this Implementing Order.
- E. *Contracting Officer* means the County staff responsible for issuing County security guard contracts.
- F. *County* means the government of Miami-Dade County.
- G. *Covered Employee* means anyone employed by any Covered Service contractor, as defined in the Code and this Implementing Order, either full or part time, as an employee, with or without benefits, that is involved in providing service pursuant to the Service Contractor's contract with the County.
- H. *Covered Employer* means a Service Contractor with 15 or more employees.

- I. *Covered Services* means contracts awarded by the County to a Service Contractor that involve a total contract value of over \$100,000 per year for security services.
- J. *Debar* means to exclude a Service Contractor, its individual officers, its principal shareholders, its qualifying agent or its affiliated businesses from County contracting and subcontracting for a specific period of time pursuant to Section 10-38 of the Code of Miami-Dade County.
- K. *Parent* means a biological, adoptive, foster parent or stepparent of an employee, or of an employee's spouse, or other individual who stands or stood in the place of a parent as a temporary guardian of an employee when the employee was a child.
- L. *Project Manager* means the person assigned under a contract, usually a department director of the using agency or his/her designee, who has primary responsibility to manage the contract and enforce contract requirements.
- M. *Service Contract* means a contract for Covered Services.
- N. *Service Contractor* means any individual, business entity, corporation whether for profit or not for profit, partnership, limited liability company, joint venture, or similar business, including any subcontractor of the Service Contractor, that meets the following criteria:
 - 1. The Service Contractor is paid in whole or part from one or more of the County's general funds, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a Service Contract; and
 - 2. The Service Contractor or subcontractor is engaged in the business of, or is part of, a Service Contract to provide Covered Services, either directly or indirectly for the benefit of the County.

SECTION 2 – SICK LEAVE EARNING AND USAGE

- A. Covered Employees shall earn not less than one hour of paid sick leave for every 30 hours worked, or alternatively, be awarded no less than 56 hours of paid time off at the beginning of each 12-month period of employment. A Covered Employer may not set a limit on the total award or accrual of paid sick leave per fiscal year at less than 56 hours. Paid sick leave earned may be used by a Covered Employee for an absence resulting from:
 - 1. Physical or mental illness, injury, or medical condition.
 - 2. Obtaining diagnosis, care, or preventive care from a health care provider, including, but not limited to, obtaining an immunization whether or not related to a

public health emergency or recovering from any injury, disability, illness, or condition related to such immunization.

3. Caring for a child, parent, spouse, domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described in paragraph 1 or 2 above, or self-isolating due to an order or determination as described in paragraph 6 below.
4. Pregnancy or care for the employee's own newborn, newly-adopted child or newly-placed foster child or children. This leave shall apply equally to parents regardless of gender, as well as to same-sex couples, in the event of a natural birth by any method, adoption, surrogacy, stillbirths, or pre-adoptive foster care placement in the employee's home.
5. Domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in paragraph 1 or 2 above, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in paragraph 3 above in engaging in any of these activities.
6. The employee's need to comply with an order or determination to self-isolate, on the basis that the employee's physical presence on the job or in the community would jeopardize the employee's health, the health of other employees, or the health of an individual in the employee's household because of: (i) possible exposure to a communicable illness related to a declared public health emergency; or (ii) exhibiting of symptoms of a communicable illness related to a declared public health emergency, regardless of whether the employee has been diagnosed with such illness.
7. The employee's inability to work because the employee is prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a declared public health emergency in the County.
8. An order or determination pursuant to paragraph 6 above shall be made by a local, state, or federal public official, a health authority having jurisdiction, a health care provider, or the employer of the employee or employee's family member. Such order or determination need not be specific to such employee or family member.

9. Covered Employees must exhaust all paid sick leave pursuant to this section before requesting unpaid domestic leave pursuant to Chapter 11A of the Code of Miami-Dade County.
- B. If a Covered Employer chooses not to award 56 hours of paid sick leave to covered employees at the beginning of every 12-month period of employment, then up to 56 hours of any earned paid sick leave accrued shall carry over from one year to the next. In either case, any paid sick leave awarded or accrued shall be reinstated for employees:
 1. Who remain employed by an employer who by virtue of merger, corporate reorganization, the sale of an entire business or the sale of an entire portion of a business sale, is the complete successor in interest to its predecessor covered employer; or
 2. Who are hired or rehired by a Covered Employer or successor employer within 12 months after a job separation.
- C. A Covered Employer is prohibited from making the use of paid sick leave contingent on the requesting employee finding a replacement to cover any work time to be missed.
- D. Paid sick leave shall be provided upon the oral or written request of an employee that includes the expected duration of the leave. Where the need for leave is foreseeable, a Covered Employer may require reasonable advance notice of the intention to use such leave not to exceed three calendar days prior to the date the leave is to begin. Where the need for such leave is not foreseeable, a Covered Employer may require an employee to provide notice of the need for the use of leave as soon as is practicable.

SECTION 3 - RESPONSIBILITY OF CONTRACTING OFFICER

The Contracting Officer for each agency of County government issuing Covered Service contracts subject to the Code and this Implementing Order, shall:

- A. Insert the paid sick leave requirements into solicitations and contracts that are subject to the Code, whether advertised or informally solicited.
- B. Include a requirement in the procurement specifications and contract language for applicable contracts that Service Contractors agree to produce all documents and records relating to compliance with the Code and this Implementing Order upon request from the County.

- C. Mandate the Service Contractor to whom the contract is awarded include paid sick leave requirements in any subcontracts regardless of tier and ensure paid sick leave is provided to employees providing the Covered Service as provided in the Code and this Implementing Order.
- D. Require the bidder to certify, prior to entering into agreement, that it will provide paid sick leave to its employees as described herein. A copy of this certificate must be made available to the public upon request. The certificate, at a minimum, must include the following:
1. The name, address, and phone number of the employer, a local contact person, and the specific project for which the service contract is sought.
 2. The amount of the contract and the applicable department the contract will serve.
 3. A brief description of the project or service provided.
 4. A commitment to provide all employees paid sick leave as described herein.
- E. Negotiate and submit to the County Mayor or his/her designee for approval, amendments to the price paid by the County under any renewal or extension of a contract subject to paid sick leave requirements provided that: (1) the Covered Employer certifies in writing that any such price increase equals or is less than the increased costs for compliance with the Code; (2) the County concurs with the Covered Employer's certification; and (3) the price increase is within the budget of the department or departments utilizing such contract renewal or extension.
- F. Not exercise any option to renew on, or extend or modify, a contract that is scheduled to renew on or after September 11, 2021, unless the Service Contractor agrees to include the requirements of the Code upon renewal, extension, or modification.
- G. Provide copies of all contract awards, renewals, extensions or modifications that require paid sick leave to the Compliance Officer, including the Service Contractor's certification.
- H. Provide copies of certifications received to the Living Wage Commission at its regular meetings or upon request.

SECTION 4 - RESPONSIBILITY OF PROJECT MANAGER

The Project Manager shall, in coordination with the Compliance Officer, ensure compliance with the Code and this Implementing Order by a covered employer, and at a minimum:

- A. Prior to issuance of payment, ensure that the Service Contractor has submitted certified payroll records by the 10th of each month for the previous month via the County's web-based system that verifies compliance with paid sick leave for each Covered Employee working on the contract(s).
- B. Ensure that the Service Contractor has posted the paid sick leave requirements and complaint information at the site of the work in a prominent place where it can easily be seen by the employees.
- C. Forward complaints to the Compliance Officer for investigation.
- D. Require that the Covered Employer file with the Compliance Officer, no less frequently than every six months, reports of employment activities to be made publicly available, including race, gender and wage rates of employees hired and terminated. The report(s) must be forwarded to the Compliance Officer.

SECTION 5 - RESPONSIBILITY OF BIDDER OR PROPOSER

Respondents to requests for bids or requests for proposals or solicitations on service contracts subject to the requirements of the Code and this Implementing Order shall provide the paid sick leave certification with bids or proposals.

SECTION 6 - RESPONSIBILITY OF SERVICE CONTRACTOR

The Service Contractor and any subcontractor(s) to the Service Contractor on a Covered Service contract is subject to the requirements of the Code and this Implementing Order and shall comply with the specifications included in Section 3 of this Implementing Order and made part of any contract. The Service Contractor must insert these specifications into any subcontracts along with a clause reminding their subcontractors to include these paragraphs in any lower tier subcontract. The Service Contractor will be responsible for compliance by all subcontractors. Covered Employers shall comply with the following requirements:

- A. Provide employees providing the Covered Services with no less than one hour of paid sick leave for every 30 hours worked, or alternatively, award no less than 56 hours of paid time off at the beginning of each 12-month period of employment. Covered employers may select only one of these methods for providing paid sick leave, and must apply that method equally to all covered employees.
- B. Post the paid sick leave requirements at the site of the work in a prominent place where it can easily be seen by the employees and provide a copy to employees within a reasonable time after a request to do so.
- C. Print the following statements on the front of the individual's first paystub and every six months thereafter: "Miami-Dade County requires your employer to provide certain

employees who work on County service contracts at least 1 hour of paid sick leave for every 30 hours worked, under certain conditions. If you are not being provided this leave, contact your supervisor or a lawyer." All notices shall be printed in English, Spanish, and Creole.

- D. Observance of other laws and collective bargaining. Nothing in this Implementing Order shall be read to require or authorize noncompliance with or to supersede any applicable federal or state law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established herein.
- E. Maintenance of leave records. Each covered employer shall make, keep, and preserve payroll, leave, and attendance records for all Covered Employees and basic records relating thereto as necessary and appropriate for the enforcement of the paid sick leave provisions and shall preserve them for a period of three years from the expiration, suspension or termination date of the contract in which these requirements of this section were applicable. The records shall contain at a minimum:
 - 1. The name and address of each covered employee.
 - 2. The job title and classification.
 - 3. The number of hours worked each day.
 - 4. The gross wages earned and deductions made.
 - 5. Annual wages paid.
 - 6. A copy of the social security returns and evidence of payment thereof.
 - 7. A record of fringe benefit payments including contributions to approved plans.
 - 8. The number of paid and unpaid sick leave hours accrued and used each pay period.
 - 9. The stated reason(s) for the covered employee using any paid or unpaid sick leave hours.
 - 10. Any certifications, statements, or other documentation provided by a health care or other provider as described in Section 2-8.11(2)(H) of the Code; and
 - 11. Any other data or information the County should require from time to time.
- F. Reporting Payroll, Leave & Attendance Records. The Covered Employer shall by the 10th of each month, submit to the County (or if by request within the requested time frame) certified payroll showing the Covered Employer's payroll records for each Covered Employee working on the contract(s) for Covered Services for the previous month via the County's web-based system to include sick leave accrual and usage. Upon request by the County, the Covered Employer shall produce for inspection and copying its payroll, leave, and attendance records for any or all of its Covered Employees for the prior three-year period.

G. Reporting employment activity. Upon request by the County but in any event no less frequently than every six months, the Covered Employer must submit to the Compliance Officer an Employment Activity Report Form containing the following information:

1. Race and gender of employees hired and terminated.
2. Zip code of employees hired and terminated; and
3. Wage rate of employees hired and terminated.

H. CERTIFICATION

1. A Service Contractor may only require certification issued by a health care provider for paid sick leave used for the purposes listed in paragraphs 1, 2, 3 or 4 of Section 2.A. above for employee absences of three or more consecutive workdays, to be provided no later than 30 days from the first day of the leave. A Covered Employee may certify their need for leave by utilizing virtual or telephonic appointments with their healthcare provider.
 2. If three or more consecutive days of paid sick leave are used for the purposes listed in paragraph 5 of Section 2.A. above, documentation may be required from an appropriate individual or organization with the minimum necessary information establishing a need for the Covered Employee to be absent from work. The Covered Employer shall not disclose any verification information and shall maintain confidentiality about the domestic violence, sexual assault, or stalking, unless the Covered Employee consents or when disclosure is required by law.
 3. If three or more consecutive workdays of paid sick leave are used for the purposes listed in paragraphs 6, 7 or 8 of Section 2.A. above, documentation including, but not limited to, a copy of the relevant order or determination or a written statement by the Covered Employee may be required to be provided from an appropriate individual, health care provider, or organization with the minimum necessary information establishing a need for the Covered Employee to be absent from work. Such Covered Employee statement need not be notarized or in any particular format.
- I. Nothing shall require a Covered Employer to make a financial payment to a Covered Employee upon a separation from employment for accrued sick leave that has not been used, but unused leave is subject to reinstatement as set forth in the Code and this Implementing Order.
- J. A Covered Employer may not interfere with or in any other manner discriminate against a Covered Employee for taking, or attempting to take, paid sick leave as provided for under the Code or this Implementing Order or in any manner asserting,

or assisting any other Covered Employee in asserting, any right or claim related to the Code or this Implementing Order.

- K. Covered Employees shall determine how much paid sick leave time they need to use, provided that Covered Employers may set a reasonable minimum increment for the use of sick leave time not to exceed four hours per day.

SECTION 7 - MONITORING AND COMPLIANCE

- A. Service Contractor to cooperate. The Service Contractor shall permit County employees, agents, or representatives to observe work being performed at, in, or on the project or matter for which the Service Contractor has a contract and to interview Covered Employees. The County representatives may examine the books and records of the Service Contractor relating to employment, payroll, leave, and attendance to determine if the Service Contractor is in compliance with the provisions of the Code and this Implementing Order.
- B. Complaint procedures and sanctions. An employee who believes that the Code or this Implementing Order applies or applied to him or her, and believes that the Service Contractor is not or was not complying with the requirements therein, has a right to file complaint with the Compliance Officer. A complaint may be submitted verbally or in writing. The complaint process is described further in Section 8 of this Implementing Order.
- C. Private right of action against Service Contractors. Any Covered Employee of a Service Contractor, or any person who was formerly a Covered Employee of a Service Contractor, may instead of the County administrative procedure set forth in the Code or this Implementing Order, but not in addition to such administrative procedure, bring an action by filing suit against the Covered Employer in any court of competent jurisdiction to enforce the provisions of the Code and may be awarded compensatory damages including back pay, future paid sick leave, benefits, attorney's fees, and costs. The applicable statute of limitations for such a claim shall be two years in an action for payment of wages. The court may also impose sanctions on the Covered Employer, including those persons or entities aiding or abetting the Covered Employer, to include wage restitution to the affected employee and damages payable to the Covered Employee in the sum of up to \$500 for each week each Covered Employer is found to have violated the Code or this Implementing Order.

SECTION 8 – RESPONSIBILITIES OF THE COMPLIANCE OFFICER

The Compliance Officer will administer the compliance monitoring and complaint process. This procedure shall include the following steps:

- A. Compliance Officer may initiate and investigate complaints of non-compliance with the requirements of the Code or this Implementing Order.
- B. Compliance Officer shall review complaints received, request and review supporting or other relevant material, conduct interviews, coordinate the production and examination of appropriate records, and analyze all information obtained from the investigation.
- C. Compliance Officer shall notify the Covered Employer of the findings of the complaint investigation. If any discrepancies or violations are identified, the Compliance Officer shall issue a Notice of Violation to the covered employer and require corrective action. Sanctions contained in the Code or Section 9 of this Implementing Order will be applied and included in the Notice of Violation.
- D. Compliance Officer shall maintain a file of complaints and any resolution thereof.
- E. Upon timely receipt of a request for an administrative hearing to appeal the Compliance Officer's Notice of Violation, the Compliance Officer shall follow the appeal procedures specified in Section 10 of this Implementing Order.

SECTION 9 - SANCTIONS

- A. Sanctions against Service Contractors. For violations of the Code or this Implementing Order, the County may sanction a Service Contractor by requiring the Service Contractor to pay wage restitution to the Covered Employee. The County may also sanction the Service Contractor for violations in one or more of the following additional ways:
 - 1. Penalties payable to the County in an amount equal to 20 percent of the amount of the underpayment of paid sick leave for the first instance of underpayment; 40 percent for the second instance; and for the third and successive instances 60 percent of the amount of underpayment. A fourth violation shall constitute a default of the contract where the underpayment occurred and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized to defray costs of administering the provisions in the Code and this Implementing Order.
 - 2. The sum of up to \$500 for each week for each Covered Employee found to have not been paid or granted leave in accordance with the Code and this Implementing Order.
 - 3. Suspend payment or terminate payment under the contract or terminate the contract with the Service Contractor.
 - 4. If a Service Contractor fails to cure a Notice of Violation or pay any sanctions that are assessed by the County, such Service Contractor and all officers, principals,

directors, shareholders owning or controlling ten percent or more of the stock, partners, qualifiers, divisions or other organizational elements of the non-complying Service Contractor may be declared by the County to be ineligible for bidding on or otherwise participating in contracts for Covered Services until all required payments have been paid in full, and, regardless of whether such payment has been made, may also be declared ineligible for bidding or otherwise participating in contracts for Covered Services for a period of up to three years. In addition, any Covered Employer shall be ineligible for contracts for Covered Services under the Code and this Implementing Order where any officers, principals, directors, shareholders owning or controlling 10 percent or more of the stock, partners, qualifiers, divisions or other organizational elements of the Covered Employer were officers, principals, directors, shareholders owning or controlling 10 percent or more of the stock, partners, qualifiers, divisions or other organizational elements of a covered employer who has been declared ineligible under the Code or this Implementing Order.

5. In addition to any other sanctions provided for in the Code and this Implementing Order, for violations other than nonpayment of paid sick leave, damages payable to the County in the amount of \$500 per week for each week in which the violation remains outstanding.
 6. A Service Contractor who fails to timely and adequately respond in the manner and within the timeframe set forth in a written request from the County to a notice of noncompliance, or fails to attend a compliance meeting, or who does not timely request an administrative hearing from an adverse compliance determination made by the County shall be deemed not to have complied with the requirements of the Code and this Implementing Order as stated in the Notice of Violation and, in the case of nonpayment of the paid sick leave required, an amount sufficient to pay any nonpayment shall be withheld from contract proceeds, to include any deposits and/or bonds, and remitted to the Covered Employee, and the Service Contractor may be fined the applicable penalty for such underpayment as defined therein.
 7. All such sanctions recommended or imposed shall be a matter of public record.
- B. Interest on unpaid sanctions. All sanctions imposed pursuant to the authority of this chapter shall bear interest at the same rate as the State of Florida statutory rate for judgments provided in section 55.03, Florida Statutes, as such may be amended from time to time.
- C. Retaliation and discrimination barred. A Covered Employer shall not discharge, reduce the compensation of, or otherwise discriminate against any Covered Employee for making a complaint to the Compliance Officer, Living Wage Commission, the Applicable Department, the County, or otherwise asserting his or her rights under these provisions, participating in any of its proceedings or using any civil remedies to

enforce his or her rights under the Code or this Implementing Order. Allegations of retaliation or discrimination, if found to be substantiated by the County Mayor pursuant to procedures set forth by Implementing Order 7-45 Equal Employment Opportunity Policy Prohibiting Unlawful Discrimination, Harassment or Retaliation or by a court of competent jurisdiction under Section 7 (C), shall result in an order of restitution and reinstatement of a discharged Covered Employee with back pay to the date of the violation or such other relief as deemed appropriate. In addition, the County Mayor or the Court may impose an additional sanction of up to \$500 for each week after the date that the Covered Employee was discharged as a result of prohibited retaliation under the Code or this Implementing Order.

SECTION 10 – PROCEDURES FOR APPEAL THROUGH ADMINISTRATIVE HEARING OFFICER PROCESS

The procedure for appeals shall include the following steps:

- A. Covered Employers shall be allowed thirty days to file a written request to the Compliance Officer for appeal of the findings of violation and penalties imposed by the Compliance Officer. Appeals shall be scheduled to be heard by an Administrative Hearing Officer. Such Administrative Hearing Officers may be paid a fee for their services but shall not be deemed County officers or employees within the purview of Sections 2-10.2 or 3-11.1 of the Code of Miami-Dade County, as amended, or otherwise. Upon timely receipt of a written request to appeal a determination of noncompliance, the County Mayor or his/her designee shall appoint an Administrative Hearing Officer pursuant to Section 8CC-2 of the Code of Miami-Dade County and set a time for an administrative hearing thereon. Failure to appeal within the specified time shall be considered a waiver of the appeal process.
- B. Notification of hearing date shall be served by the Compliance Officer upon the Covered Employer against whom the complaint is made within ten working days of the appointment of the administrative hearing officer. Such notice shall be by certified mail, return receipt requested. Such notice shall include:
 1. A copy of the written complaint, including reasons and causes for the proposed administrative hearing, outlining alleged prohibited practices upon which it is based.
 2. The penalties sought to be assessed.
 3. That an administrative hearing shall be conducted before an Administrative Hearing Officer on a date and time not to exceed thirty business days after service of the notice. The notice shall also advise the Covered Employer that they may be represented by an attorney, may present documentary evidence and verbal testimony, and may cross-examine or rebut evidence and testimony presented against them.

4. A description of the effect of the issuance of the notice of the proposed administrative hearing and the potential effect(s) of this administrative hearing.
- C. The Compliance Officer or his/her designee shall, with the assistance of the Project Manager, present evidence and arguments to the Administrative Hearing Officer.
- D. No later than seven days prior to the scheduled hearing date, the Service Contractor must furnish the Compliance Officer a list of the defenses the Service Contractor intends to present at the administrative hearing. If the Service Contractor fails to submit the list, in writing, at least seven days prior to the administrative hearing or fails to seek an extension of time within which to do so, the Service Contractor shall be deemed to have waived the opportunity to be heard at the administrative hearing. The Administrative Hearing Officer shall have the right to grant or deny an extension of time.
- E. Hearsay evidence shall be admissible at the administrative hearing but shall not form the sole basis for finding a violation of the Code or this Implementing Order. The administrative hearing shall be transcribed, taped or otherwise recorded at the expense of the County. Copies of the hearing tape or transcript shall be furnished at the expense and request of the requesting party. The costs of such transcription may be assessed by the hearing officer against a Service Contractor that has been found to have violated the paid sick leave requirements.
- F. The prevailing party shall not be assessed the costs of the hearing including the hearing officer's hearing fee. If a party is found to have violated the Code or this Implementing Order, the Administrative Hearing Officer shall order such party to pay the County for the hearing costs including the Administrative Hearing Officer's fee.

SECTION 11 - ADMINISTRATIVE REMEDIES

The County Mayor or his/her designee shall make the final determination of whether the Covered Employer failed to comply with the requirements of the Code or this Implementing Order and may administer sanctions found in the Code or Section 9 of this Implementing Order to Covered Employers, following an administrative hearing. This procedure shall include the following steps:

- A. Upon completion of the administrative hearing, the Administrative Hearing Officer shall submit written findings and recommendations, together with a recording or transcript of the administrative hearing and exhibits received by him/her during the hearing, to the County Mayor or his/her designee within thirty days of the receipt of the recording or transcript.
- B. Upon receipt of the Administrative Hearing Officer's findings and recommendations, the County Mayor or his/her designee may sustain, reverse or modify the Administrative Hearing Officer's recommendations, and shall render a final decision, in writing.

- C. If the County Mayor or his/her designee determines a Covered Employer failed to comply with the provisions of the Code or this Implementing Order, the non-complying Covered Employer and the principal owners and/or qualifying agent thereof may, in addition to any sanctions imposed pursuant to Section 9 of this Implementing Order, be prohibited from bidding on or otherwise participating in County contracts for a specified period of time pursuant to Section 10-38 of the Code of Miami-Dade County.

SECTION 12 - LIVING WAGE COMMISSION

The Living Wage Commission, established by Section 2-8.9 of the Code, shall be responsible for reviewing the effectiveness of the provisions of Section 2-8.11 of the Code pertaining to paid sick leave requirement for County security service contracts, reviewing certifications submitted by Covered Employers to the County, reviewing complaints filed by Covered Employees, and making relevant recommendations to the applicable department, County Mayor, and the County Commission.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(F)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)
2-7-23

RESOLUTION NO. _____ R-60-23

RESOLUTION APPROVING IMPLEMENTING ORDER NO. 3-66 RELATING TO PAID SICK LEAVE REQUIREMENTS FOR COUNTY SECURITY SERVICE CONTRACTS

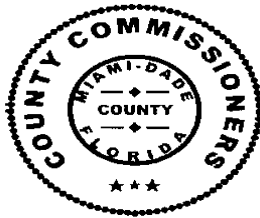
WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves Implementing Order No. 3-66 relating to paid sick leave requirements for security service contracts established in section 2-8.11 of the Code of Miami-Dade County, Florida, in substantially the form attached to the Mayor's memorandum accompanying this resolution and incorporated herein.

The foregoing resolution was offered by Commissioner **Eileen Higgins**, who moved its adoption. The motion was seconded by Commissioner **Kevin Marino Cabrera** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	nay
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 7th day of February, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

LUIS G. MONTALDO, CLERK AD INTERIM

Basia Pruna

By: Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in blue ink, appearing to read "M. Moffett", is written over a horizontal line.

Marlon D. Moffett