



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

DATE: August 31, 2021

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TO: Board of Supervisors

SUBJECT

RECEIVE THE REPORT BACK ON THE SCOPE, ROLES AND RESPONSIBILITIES, INCLUDING THE NUMBER OF STAFF AND TYPE OF POSITIONS FOR INITIAL EXECUTION OF THE DUTIES FOR THE OFFICE OF LABOR STANDARDS AND ENFORCEMENT (DISTRICTS: ALL)

OVERVIEW

On May 4, 2021 (23), your Board of Supervisors approved the creation of the Office of Labor Standards and Enforcement (“OLSE”) to serve as a central location for education and resources for employers and their workers, undertake research and data analysis regarding worker issues, and pursue additional enforcement measures to protect workers. The OLSE is an external facing resource for workers not within County employment and their employers. The Board directed the Chief Administrative Officer to return with the overall scope, roles, and responsibilities of OLSE, including the number of staff and position types needed for initial implementation of the following duties:

- Providing a central location for questions and connection to resources for workers across San Diego County;
- Engaging business and community partners in education and outreach on important issues related to workers;
- Acting as the County expert on worker issues, including data collection and research initiatives, to better understand regional workplace issues, including trends, gaps in services, and potential policies that would further goals of protecting and advancing fair and safe workplaces for all;
- Reporting back annually on the research and data analysis with policy recommendations to consider;
- Explore the creation of a workplace justice fund that could provide resources to workers who are seeking justice on workplace issues and need assistance;
- Determine additional avenues the County can participate in enforcement of state and local laws and regulations impacting workers; and,
- Coordinating with other County departments and offices that monitor and enforce County contracting requirements and expenditure of funds.

Today’s action requests the Board receive the report on the scope, roles, and responsibilities, including the framework plan for the OLSE.

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RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

Receive the report on the overall scope, roles, and responsibilities of, including the number of staff and type of positions for initial execution of the duties for the OLSE.

EQUITY IMPACT STATEMENT

The County recognizes the essential role of sustainable, equitable and inclusive economic development in providing for a healthy regional economy. The County strives to unlock the full potential of the local economy by dismantling barriers and expanding opportunities for low-income people and communities of color. Based on a study by the Economic Policy Institute, prior to the pandemic, minimum wage violations amounted to an estimated \$2 billion of stolen wages from workers. A 2019 survey by the Center for Policy Initiatives and San Diego State University found that 64% of surveyed hourly workers experienced violations of sick day laws. These hourly employees did not receive sick days, received fewer than they were entitled, or faced retaliation when taking sick days. The COVID-19 pandemic has disproportionately impacted communities of color, based on County data. These workers are concentrated in tourism, hospitality, agriculture, and service sectors, which tend to have lower wages and are vulnerable to employers acting improperly. The OLSE will be providing education and resources to employers and workers and will be playing a role in enforcing laws and regulations within the County's jurisdiction. This would provide a local resource for workers to help achieve justice as well as a resource for good faith employers competing with businesses who do not abide by labor standards. The OLSE will provide workers who have been historically exploited the tools and resources to build stability for themselves and their families, which is an important step in addressing income inequality in communities of color.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2021-23 Operational Plan in the Chief Administrative Office. If approved, this request will result in costs and revenue of \$1,100,000 in Fiscal Year 2021-22 and costs and revenue of \$1,100,000 in Fiscal Year 2022-23. The funding source is General Fund fund balance. Future ongoing funding for the newly established Office of Labor Standards and Enforcement will be reviewed for potential funding from program revenue or General Purpose Revenue in future Operational Plans. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

The OLSE will be a resource for workers and their employers, so they may obtain information regarding applicable labor standards. In addition, the Office of Labor Standards will be taking steps to ensure workers are treated fairly, employers abiding by the rules are not put at a disadvantage by those cheating the system, and employers violating labor standards are held accountable.

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ADVISORY BOARD STATEMENT

N/A

BACKGROUND

On May 4, 2021 (23), your Board of Supervisors (“Board”) directed the Chief Administrative Officer (“CAO”) to establish the OLSE to serve as a central location for education and resources for employers and their workers, undertake research and data analysis regarding worker issues, and pursue additional enforcement measures to protect workers. The OLSE is an external facing resource for workers not within County employment and their employers. The Board directed the CAO to return with a report regarding the overall scope, roles, and responsibilities of the OLSE, including the number of staff and position types needed for initial implementation of the following duties:

- Providing a central location for questions and connection to resources for workers across San Diego County;
- Engaging business and community partners in education and outreach on important issues related to workers;
- Acting as the County expert on worker issues, including data collection and research initiatives, to better understand regional workplace issues, including trends, gaps in services, and potential policies that would further goals of protecting and advancing fair and safe workplaces for all;
- Reporting back annually on the research and data analysis with policy recommendations to consider;
- Explore the creation of a workplace justice fund that could provide resources to workers who are seeking justice on workplace issues and need assistance;
- Determine additional avenues the County can participate in enforcement of state and local laws and regulations impacting workers; and,
- Coordinating with other County departments and offices that monitor and enforce County contracting requirements and expenditure of funds.

Prior to establishing the OLSE, on March 17, 2021 (06), your Board directed staff to develop options for an ordinance to require contractors seeking building permits and right-of-way permits to identify their subcontractors and requires contractors to ensure that subcontractors meet state and local labor regulations. That action also referenced the role OLSE would have in enforcing compliance with the new regulatory requirements. The options for the proposed ordinance are scheduled to return to your Board in September 2021.

Additionally, on July 13, 2021 (21), your Board proposed setting baseline employment standards for County construction projects and for activities, enterprises, and operations on County-owned leased property. The Board directed staff to return with a draft Working Families Ordinance within 90 days, which is anticipated to occur in October 2021. The OLSE will have the role of enforcing violations of that proposed ordinance.

With the above in mind, the scope, roles, and responsibilities of the OLSE are discussed below.

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Scope, Roles, and Responsibilities

The overall scope and role of the OLSE, based on the direction of the Board, will be to serve as: 1) a hub for workers (non-County employees) and their employers in matters related to workers issues (education, outreach, and resources); 2) encourage compliance with labor standards and regulations (enforcement); and, 3) data-driven research and analysis to provide recommendations for advancing fair and safe workplaces (research and policy). These three general areas capture the range of duties and responsibilities identified by the Board and provide sufficient breadth to allow for the development of programs in furtherance of these responsibilities. The OLSE is structured as an external facing resource for workers not within County employment and employers. Each of the duties are discussed below. In addition, Attachment A provides a framework for the OLSE's duties, which describes the expected outcomes, plans, and timeframes for implementation of the duties. This framework includes the additional enforcement roles identified in the draft Working Families Ordinance and the Subcontractor Transparency Measures, both of which will be returning to the Board in the future.

- **Providing a central location for questions and connection to resources for workers across San Diego County**

The OLSE will develop a hub for resources and referrals regarding labor standards applicable to employers and their workers. This will be a referral network. As part of this hub, OLSE will explore a dedicated labor standards advice line and violation reporting hotline. In addition, OLSE will develop an outreach plan for worker and employer stakeholders and has begun initial outreach regarding the newly established office. Once OLSE staff is on-boarded, they will engage with organizations supporting workers and employers on labor laws to establish this referral network. The timeframe to develop this hub is approximately three to six months.

- **Engaging business and community partners in education and outreach on important issues related to workers**

The OLSE will develop an education and outreach program for workers and employers. The program will focus on current initiatives as well as important worker issues, which may include contracting for services with organizations to provide worker and employer education. This program is anticipated to take six to nine months to develop.

- **Acting as the County expert on worker issues, including data collection and research initiatives, to better understand regional workplace issues, including trends, gaps in services, and potential policies that would further goals of protecting and advancing fair and safe workplaces for all**

OLSE is currently recruiting for an executive-level employee with demonstrated expertise on labor standards and effective enforcement methods, who will serve as the internal expert on external worker issues. The on-boarding of this position is anticipated to occur within three months. The OLSE will undertake research initiatives to better understand workplace

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issues by obtaining data of San Diego industries/businesses with outstanding wage theft judgments to analyze trends and gaps. Identifying enforcement priorities will be based on data. This work is anticipated to occur within six to nine months.

- **Reporting back annually on the research and data analysis with policy recommendations to consider**

The OLSE will prepare an annual report of trends, gaps, and opportunities to increase worker protections from unscrupulous employers. The report will be based on data analysis, review of existing policies, and research of opportunities for new policies, and will be published each May.

- **Explore the creation of a workplace justice fund that could provide resources to workers who are seeking justice on workplace issues and need assistance**

The OLSE will research workplace justice fund structures, potential implementation, estimated costs, and funding options. The OLSE will present your Board options regarding a workplace justice fund within the next six to nine months.

- **Determine additional avenues the County can participate in enforcement of state and local laws and regulations impacting workers**

The OLSE is currently working with other departments regarding its role in the enforcement of the proposed Working Families Ordinance and the Subcontractor Transparency in Subcontracting measures.

Additionally, the OLSE will develop a program to work with businesses within the County's jurisdiction to encourage compliance for their outstanding judgments for owed workers' wages. This program will help good faith business owners who are competing with those that violate the labor laws and cheat the system. This program will be based on the data gathered regarding judgments for labor standard violations to determine which business types have repeated violations. OLSE will research existing permit requirements to evaluate the types of permits which may be suspended, revoked, denied, or suspended for labor standard violators, and research additional enforcement tools to enforce wage and hour violations, including enforceable fines and penalties, restitution for workers, and injunctions against employers. The program will be developed within the next six to nine months.

- **Coordinating with other County departments and offices that monitor and enforce County contracting requirements and expenditure of funds**

The OLSE will continue coordinating with other departments in the development and implementation of its programs.

Staff and position types

As part of the Fiscal Year 2021-23 Adopted Operational Plan, 5.00 staff years and \$1.1 million was approved for the OLSE. The staffing of the OLSE will consist of a deputy director with

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demonstrated expertise on labor standards, especially in the areas of wage and hour issues. In addition, the OLSE will have two Group Program Managers to implement the education and enforcement programs; an administrative analyst to perform the research and data analysis for the OLSE; and an administrative secretary to provide administrative support. These positions will carry out the initial implementation of the OLSE's duties. The OLSE will be within the Finance and General Government Group as a division of the Office of Ethics and Compliance, which is being renamed the Office of Ethics, Compliance, and Labor Standards. The deputy director will report to the director of the Office of Ethics and Compliance (being renamed the Office of Ethics, Compliance, and Labor Standards). As the OLSE enforcement programs develop over the course of the year, we will evaluate future staffing needs to be considered in future Operational Plans.

The recruitment for the deputy director is underway. Recruitment for the additional positions will occur once the deputy director has been selected.

Today's recommendation asks that you receive this report on the roles, duties and responsibilities, and the number of staff and type of positions for initial execution of the duties for the Office of Labor Standards and Enforcement.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action supports the Building Better Health, Living Safely, Sustainable Environments/Thriving Initiatives in the County of San Diego's 2021-2026 Strategic Plan by supporting and providing resources for workers in San Diego County.

Respectfully submitted,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

Attachment A: Framework for Implementing the Office of Labor Standards and Enforcement Duties

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

July 13, 2021 (21) Directed staff to return to the Board with a Working Families Ordinance;
May 4, 2021 (23) Creation of the Office of Labor Standards and Enforcement;
March 17, 2021 (06) Directed staff to develop options for an ordinance to require contractors seeking building permits and right-of-way permits to identify their subcontractors and require contractors to ensure that subcontractors meet state and local labor regulations

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Chief Administrative Office - Office of Ethics and Compliance

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

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