I. EXECUTIVE SUMMARY

In this review, the Office of Public Integrity (OPI) examined compliance with the Rochester Living Wage Ordinance. The results of this review indicate that, in general, contractors are complying with the Living Wage Ordinance. We noted the following findings during this review:

- OPI noted that contractors paid employees wages that complied with the Living Wage Ordinance for 22 of the 24 Professional Service Agreements (PSAs) examined. For the remaining two PSAs examined, we noted that one vendor was self-employed and the other had only subcontractors and no employees.

- OPI noted that all of the PSAs examined had a clause that did not comply with the Living Wage Ordinance. The Ordinance states that the living wage requirements apply to expenditures of at least $50,000. However, we noted 23 PSAs that stated the contractors were subject to the living wage requirements if they received payments in excess of $50,000 and, 1 stated that the living wage requirements applied to payments in excess of $72,000.

- Public Integrity noted that 7 of the 24 vendors examined submitted documentation to support employee wages. The Ordinance requires covered employers to provide the City with annual reports of job titles and wage rates of covered employees during the term of the contract or business assistance. OPI contacted the remaining 17 vendors and obtained documentation to verify compliance with the required wage rates.

II. BACKGROUND, OBJECTIVES AND SCOPE

A. Assignment

The Office of Public Integrity routinely reviews contract compliance of contractors who conduct business with the City of Rochester. The Mayor's Office requested this review.

B. Background

City Council adopted the Rochester Living Wage Ordinance in January 2001. The purpose of this Ordinance is to ensure that employees of substantial City contractors and subcontractors earn an hourly wage that is sufficient for a family to live at or above the poverty guideline. This Ordinance applies to professional service agreements of $50,000 and over and excludes:

1) Welfare-to-work, youth employment programs and job training programs for workers aged 21 or younger or participants in a bona fide job training or welfare-to-work program.

2) Employees covered by a collective bargaining agreement.

3) Agreements with another unit of government.

4) Agreements for lease, purchase, development, redevelopment, or rehabilitation of real property.

5) State or federal "pass through" funds for eligible participants.

Additionally, this Ordinance does not include any contracts awarded through the competitive bidding process pursuant to the General Municipal Law Section 103.

The original per hour living wage rate was $8.52 for employees if their employer offered health benefits and $9.52 for employees not offered health benefits. The Ordinance requires that the City adjust the living wage rate annually based on the change in the Consumer Price Index. The following table summarizes the living wage rate for the last 4 fiscal years.

Living Wage Hourly Rate
For July 2008 to June 2011

Fiscal Year	With Health Insurance	With Out Health Insurance
July 2008 – June 2009	$10.29	$11.49
July 2009 – June 2010	$10.54	$11.77
July 2010 – June 2011	$10.59	$11.83
July 2011 – June 2012	$10.77	$12.03

C. Objective and Scope

The objectives of this review were to evaluate contract compliance with the Rochester Living Wage Ordinance. The scope included all professional service agreements from July 1, 2009 to July 31, 2011 and corresponding records applicable to all wage related expenses that contractors submitted to the City for reimbursement for this period.

OPI noted 2,147 professional service agreements for this period. The following table details the breakdown of these agreements.

Professional Service Agreements
July 1, 2009 to July 31, 2011

Total professional service agreements	2,147
PSAs less than $50,000	1,771
PSAs of at least $50,000	376
PSAs of at least $50,000 but exempt	125
PSAs subject to Living Wage requirements	251

Management is responsible for establishing and maintaining a system of internal accounting and administrative control. Fulfilling this responsibility requires estimates and judgments by management to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of accurate, informative reports that are fairly stated.

Because of inherent limitations in any system of internal accounting and administrative control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any system evaluation to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with procedures may deteriorate.

The recommendations presented in this report include the more significant areas of potential improvement that came to our attention during the course of the examination, but do not include all possible improvements that a more extensive review might develop.

III. RESULTS OF REVIEW

Of the 251 PSAs in our scope period that were subject to the Living Wage requirements, OPI arbitrarily selected 24 of them for detail testing. The following is a summary of the contracts selected for detail testing:

Review of the Living Wage Ordinance
Contracts Selected for Detail Testing

Contract Number	Contractor	Initiating Department	Amount
033753	Allpro Parking LLC	Finance	$435,000
032965	Bickmore Risk Services and Consulting	Finance	80,000
033542	Career Development Services	BHRM	72,000
033973	Center for Youth Services	DRYS	50,000
031351	Clark Patterson Lee (Prior- Dewberry-Goodkind Inc)	DES	75,000
032791	Corneles Engineering, P.C.	DES	200,000
032625	Downtown Special Services, Inc.	RPD	513,400
034100	Dox Electronics Inc	IT	54,609
033146	EBS-RMSCO Inc	BHRM	86,650
033999	First Consulting, Inc.	IT	90,000
032799	Greater Rochester Enterprises, Inc. (GRE)	NBD	50,000
032327	Hillside Children's Center	DRYS	69,000
030810	Lagan, Inc.	IT	538,000
033152	Law Enforcement Psychological Associates (LEPA)	RPD	60,000
033926	MICROS Systems Inc	IT	199,125
033557	Northeastern Production Systems, Inc.	Communications	106,000
033066	NSUC Entertainment, LLC	Communications	225,000
032345	Malcolm Pirnie, Inc.	DES	155,000
032630	Presentation Source	Communications	55,751
033049	Rochester Area Community Foundation	DRYS	50,000
033301	Sprinkle Consulting Inc	DES	79,650
033093	Technisource	IT	149,760
032704	Winter, Greg J., dba Wintek	Communications	80,000
032716	Young Explosives Corp.	Communications	87,000

The results of this test work indicate that, in general, contractors comply with the Living Wage Ordinance. However, we noted the following exceptions that require management attention to ensure compliance with the Living Wage requirements.

A. Contractors in Compliance with Wage Rates

OPI examined wage verification statements and payroll records to verify that contractors are complying with the living wage requirements. Of the 24 contracts selected for testing, we noted the following:

1. We examined documentation for 22 of the 24 contracts that indicated the contractor paid hourly wages that complied with the living wage requirements.

2. We noted one contractor who was self employed and performed all of the contract services himself. Another contractor subcontracted out many of the services outlined in the contract. This contractor indicated that he paid the subcontractors a set amount and had no knowledge of the living wage requirements. Based on the results of the test work on

the other contractors, we did not contact the subcontractors for this contract.

B. Contract Terms Conflict with the Living Wage Requirements

The Living Wage Ordinance applies to contracts awarded primarily for furnishing services to or for the City that involve expenditures to the contractor of at least $50,000 during a period of one year (excluding the exceptions noted in Section II). The City's professional service agreements include a section that details, to the contractor, the living wage requirements. This section includes the payment amount at which the living wage requirements apply.

OPI noted that of the 24 service agreements examined, 23 stated that the contractors were subject to the living wage requirements if they received payments in excess of $50,000 and, one stated that the living wage requirements applied to payments in excess of $72,000 which was the total amount of the contract. However, the Living Wage Ordinance states that the living wage requirements apply to expenditures of at least $50,000. As a result the terms outlined in these contracts are not in compliance with the Living Wage Ordinance. We notified the Law Department of this finding. They stated that they would correct the language in the PSAs for any future agreements.

♦ Recommendation

The Law Department should ensure that the requirements indicated in the PSAs agree to the City Code.

C. Wage Verification Statements Not Submitted By Contractors

Section D. (2) of the Living Wage Ordinance states, "Covered employers and business assistance beneficiaries shall provide to the City publicly available annual reports of job titles and wage rates of covered employees during the term of the service contract or business assistance". These reports help provide assurance to the City that the contractors are complying with the living wage requirements.

OPI examined documentation submitted by the contractors and we noted wage verification statements for 7 of the 24 contracts examined. Additionally, as noted above, two contractors had no employee wages to report. We contacted the remaining 15 vendors and they were all able to provide documentation that verified they were in compliance regarding employee wages.

- <u>Recommendation</u>

  All City personnel that initiate service agreements should make certain to obtain wage certifications from the contractors, as required per the Living Wage Ordinance.