



*Habitat. We build.*

September 4, 2015

Ms. Mary Ziegler  
Director, Division of Regulations, Legislation, and Interpretation  
Wage and Hour Division  
U.S. Department of Labor  
Room S-3502  
200 Constitution Avenue NW.  
Washington, DC 20210

Re: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

Regulatory Information Number (RIN) 1235-AA11

Dear Director Ziegler:

Habitat for Humanity's (Habitat's) vision is a world where everyone has a decent place to live. Anchored by the conviction that housing provides a path out of poverty, Habitat, a nonprofit Christian housing organization, has helped more than 5 million people improve their housing conditions since 1976 through home construction, rehabilitation and repairs, housing finance, housing support services and technical assistance, and advocacy. Habitat's federated network operates in more than 70 countries and includes more than 1,400 independent affiliates (local 501(c)(3) nonprofit charitable organizations) serving communities throughout the United States.

Throughout its nearly forty year history, Habitat has built a strong record of providing employees fairly compensated, impactful and rewarding employment opportunities. Perhaps the best evidence of the high quality of these opportunities is that Habitat employees often serve long tenures with the organization and that many who leave the organization ultimately return to Habitat employment.

Habitat is fully committed to maintaining a responsible balance between investing in sufficient compensation levels to maintain the high-quality teams leading both our local Habitat affiliates and Habitat for Humanity International and investing in the provision of direct services to our partner families and the communities in which they live. While Habitat understands the need to adjust outdated minimum wage and overtime exemption requirements under the Fair Labor Standards Act (FLSA), new policies for charitable organizations should reflect their unique purposes and the practical ways their operations differ from similarly sized for-profit businesses. Wage and overtime rules must balance the individual needs of employees with the broader community needs served through the mission-oriented activities of Habitat and other

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charitable organizations. Habitat appreciates the Department's careful consideration of the following concerns.

**1. Habitat and other charitable organizations will be disproportionately impacted by the proposed rule and unable to comply without reducing access to products and services.**

- a. Because nonprofit charitable organizations pay employees less, on average, than for-profit businesses, the proposed changes will disproportionately impact their budgets. The salary for the majority of Habitat affiliates' CEOs or executive directors, the highest paid affiliate employee, is less than the \$50,440 salary that will be required for exemption under the proposed rule and far less than CEO's working in the for profit sector.
- b. The inelasticity of revenue streams for charitable organizations guarantees that any significant increases in business costs will reduce their mission-focused community impact. Because lower income households are unable to pay higher prices for the products and services provided by Habitat affiliates and other charitable organizations, and because charitable organizations have very limited abilities to increase donor support to respond to such increases, increased labor costs will inevitably result in fewer households receiving desperately needed support. At a time when housing resources at all levels of government are withering and housing markets in many areas of the country are continuing to struggle, communities can ill afford for charitable housing organizations to reduce access to their products and services, as well.

**2. Reduction in access to Habitat products and services will be significant.**

- a. The proposed changes will impact Habitat's U.S. network broadly. Based on a 2014 survey of affiliates, it is estimated that 65 percent of Habitat affiliates employing paid staff will be impacted by the proposal, with approximately 40 percent of the staff members of such affiliates directly affected.
- b. While it is difficult to approximate the exact cost of the proposal to Habitat's US network, it is clear that it would be significant and damaging. The nearly \$27,000 increase in the minimum salary to qualify for the overtime exemption, for example, represents one-third to one-quarter of the cost of building a typical Habitat home. For a smaller, rural affiliate that works tirelessly to raise enough funds to build just one house each year, it may be impossible to absorb the increased cost of paying overtime to a CEO or other staff members who earn less than \$50,440. Such an affiliate may have no choice but to cease operations, even if it is the only affordable housing provider in the community it serves. Larger affiliates may have the capacity to absorb increased costs, but only by reducing services and staff size due to the inelasticity of revenues.
- c. In addition to reducing the capacity of Habitat affiliates to serve their local communities, the proposal would also impact more than 100 employees of

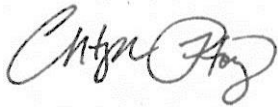
Habitat for Humanity International (HFHI), further undermining Habitat's ability to provide housing solutions to families in need. HFHI employees provide support and technical assistance to Habitat affiliates, enabling them to serve more families.

**3. The Department should adopt minimum wage and overtime exemption requirements that better reflect the unique, practical needs of charitable organizations and that better address the needs of the communities they serve.**

- a. Charitable organizations play vital roles in every community in the U.S., often meeting critical human needs that are not otherwise being addressed through the public and private sectors. With regard to housing, in particular, the work of nonprofit charitable organizations is indispensable in meeting local housing needs, as public housing programs are underfunded and reach only 40 percent of qualified, low-income households. Exemption requirements must carefully balance the income needs of employees of charitable organizations with the community needs served by such organizations.
- b. Charitable organizations are unique in the how they employ and compensate staff, and wage and overtime requirements should reflect this. The nature of charitable work frequently requires staff members to serve in multiple roles, undertaking both exempt and non-exempt activities, complicating the application of wage and overtime rules. Furthermore, the realities of developing resources to fund such work often results in compensation packages that provide lower salaries but better benefits than offered by for-profit businesses. Wage and overtime rules should reflect these needs and realities.
- c. Because charitable organizations provide significantly lower salaries on average than their for-profit counterparts, enabling them to provide more and better services to the communities they serve, and because they have limited ability to increase their revenues, charitable nonprofits should be provided an income threshold for overtime exemptions that is lower both than the amount proposed by the Department and than the threshold applied to for-profit businesses. Charitable organizations should also be provided a longer time horizon for implementing this change and any future changes to exemption requirements.
- d. Because charitable organizations rely, in large part, on grant funding, and because aspects of grant agreements often include or are based upon existing labor costs at the time the grant is made, any changes in wage and overtime requirements should be implemented over a sufficient amount of time for grants to be completed or, when possible, amended to reflect increased labor costs.

Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Ptomey". The signature is written in a cursive style with a large initial "C" and a stylized "P".

Christopher Ptomey  
Senior Director, Government Relations  
Habitat for Humanity International