



REQUEST FOR COUNCIL ACTION

PREVAILING WAGE, WORKFORCE PARTICIPATION GOALS AND TARGETED BUSINESS CONTRACTS ON CAPITAL IMPROVEMENT PROJECTS

MEETING DATE:
November 23, 2020

ORIGINATING DEPT:
City Administration

AGENDA SECTION:
Consent Agenda

PREPARED BY:
Jorrie L Johnson

COUNCIL ACTION REQUESTED:

- 1) Approve Prevailing Wage, Workforce Participation goals and Targeted Business contracting goal for all City of Rochester Capital Improvement Plan projects consistent with the adopted Targeted Business Enterprise and Workforce Participation Plan for Destination Medical Center Projects.
- 2) Adopt the following implementation schedule (projects conducted under the provisions of Minn. Stat. Chapter 453.51 to 453.62 - Municipal Electric Power are excepted):

| | 2021 | 2022 | 2023 | 2024 | 2025 and beyond |
|---------------------------------|-------------|-------------|-------------|-----------|-----------------|
| Recommended Project Cost | \$5,000,000 | \$3,000,000 | \$1,000,000 | \$500,000 | \$175,000 |
| Minimum Threshold | | | | | |

COUNCIL PRIORITIES:

Enhance quality of life
Foster a team-oriented culture
Balance public infrastructure investment

POLICY CONSIDERATIONS:

- 1) Is the City Council prepared to require Prevailing Wage rates on phased-in projects as recommended?
- 2) Is the City Council prepared to require Workforce Participation goals on phased-in projects as recommended?
- 3) Is the City Council prepared to require Targeted Business contracting goals on phased-in projects as recommended?

REPORT NARRATIVE:

Prevailing Wage

Minnesota Department of Labor and Industry defines Prevailing Wage as, “the minimum hourly wage employers must pay certain workers who work on construction projects where state dollars are used to fund the construction. The prevailing wage includes the employer’s cost of benefits.”

<https://www.dli.mn.gov/business/employment-practices/prevailing-wage-information>

Cities in the state of Minnesota paying Prevailing Wage on City-only funded projects:

1. Minneapolis, MN (on projects budgeted at \$50,000 or greater)
2. St Paul, MN (on projects budgeted at \$25,000 or greater)
3. Duluth, MN (on projects budgeted at \$2,000 or greater)

In addition to State funded projects requiring Prevailing Wage, City teammates recommend the City of Rochester require contractors to pay Prevailing Wage rates on Capital Improvement Plan projects on City-only funded projects. Prevailing Wage would be phased-in on the CIP beginning in 2021 through 2025 and beyond on projects valued at \$175,000 and greater (see below).

The Economic Policy Institute concludes on the effect of Prevailing Wage on government contracts, “the weight of the evidence is strongly on the side that there is no adverse impact...in fact, substantial, calculable, positive benefits of prevailing wage laws.”

<https://www.epi.org/publication/bp215/>

<https://www.epi.org/publication/new-yorks-prevailing-wage-law-a-cost-benefit-analysis/>

Workforce Participation

Minnesota Department of Transportation has Workforce Participation goals on projects valued at \$100,000 or greater. Cities and counties in the state of Minnesota with Workforce Participation goals on local-only funded projects:

1. Minneapolis, MN (on projects budgeted at \$175,000 or greater)
2. Duluth, MN (on projects budgeted at \$150,000 or greater; [Community Benefits Program](https://duluthmn.gov/media/7997/community-benefits-cover-letter-and-policy-summary.pdf) <https://duluthmn.gov/media/7997/community-benefits-cover-letter-and-policy-summary.pdf> includes women and individuals who are considered socially disadvantaged, including people of color, low income workers, individuals who are homeless, at risk youth, disabled veterans, public benefits recipients, and individuals with a criminal background)
3. St. Paul, MN (on projects budgeted at \$50,000 or greater)
4. Hennepin County (on projects budgeted at \$50,000 or greater, plus a local hire goal)

Rochester City Council adopted the revised [Targeted Business Enterprise and Workforce Participation Utilization Plan](https://www.rochestermn.gov/home/showdocument?id=28253) <https://www.rochestermn.gov/home/showdocument?id=28253> for Destination Medical Center projects on June 15, 2020 increasing goals for women and minorities. Prior to the revision, construction Workforce Participation for women did not meet the prior goal of 6%, whereas minority participation was exceeded the prior goal of 4%. The revised Workforce Participation goals align with [Minnesota Departments of Human Rights](https://mn.gov/mdhr/certificates/participation-goals/workforce-participation-goals.jsp) <https://mn.gov/mdhr/certificates/participation-goals/workforce-participation-goals.jsp> Workforce Participation goals for women and minorities as follows:

| Workforce Participation Goals | 2015-June15, 2020 | June 15, 2020 | 2021 | 2022 | 2023 |
|-------------------------------|-------------------|---------------|------|------|------|
| Women | 6% | 6% | 7% | 8% | 9% |
| Minorities | 4% | 15% | 15% | 15% | 15% |

City teammates recommend the City of Rochester require contractors to recruit and employ a diverse workforce on Capital Improvement Plan projects on City-only funded projects. Workforce Participation goals would be phased-in on the CIP beginning in 2021 through 2025 and beyond on projects valued at \$175,000 and greater (see below).

Targeted Business (TB)

The U.S. Department of Transportation Disadvantaged Business Enterprise (DBE) program is designed

to remedy ongoing discrimination and the continuing effects of past discrimination in federally-assisted highway, transit, airport, and highway safety financial assistance transportation contracting markets nationwide. The primary remedial goal and objective of the DBE program is to level the playing field by providing small businesses owned and controlled by socially and economically disadvantaged individuals a fair opportunity to compete for federally funded transportation contracts.

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise>

Minnesota Department of Transportation DBE Program was established by the federal government to ensure women- and minority-owned businesses have the opportunity to participate in contracts financed in whole or in part by the U.S. Department of Transportation. MnDOT's overall DBE goal is 12.23 percent of the sum of all FHWA-funded contracts to be performed by DBEs and 9.12 percent of the sum of all FTA-funded contracts to be performed by DBEs.

<http://dot.state.mn.us/civilrights/dbe.html>

In 2018, the City of Rochester pledged to become an [Intercultural City](https://www.rochestermn.gov/about-the-city/intercultural-city) <https://www.rochestermn.gov/about-the-city/intercultural-city>. As recommended by the ICC in 2020, the City of Rochester could magnify efforts to support migrant/minority business-owners. Phasing-in Targeted Business goals on City of Rochester Capital Improvement Projects will signify inclusivity.

Targeted Business goals approved by City Council on June 15, 2020 for Destination Medical Center projects are as follows:

| Targeted Business Goal | 2015-2020 | 2021 | 2022 | 2023 |
|--------------------------|-----------|------|------|------|
| Commercial Construction | 4% | | | |
| Heavy Civil Construction | | 7% | 7% | 7% |

Rochester Public Transit (RPT) operations DBE goal for 2019-21 is 2%. Rochester International Airport construction DBE goal for 2019-21 is 3.13%.

It is recommended that the City require Prevailing Wage rates, Workforce Participation goals and Targeted Business goals as outlined in the revised (June 15, 2020) City of Rochester Targeted Business Utilization Plan on City-only funded Capital Improvement Plan projects as follows:

| | 2021 | 2022 | 2023 | 2024 | 2025 and beyond |
|--|-------------|-------------|-------------|-----------|---|
| Recommended Project Cost Minimum Threshold | \$5,000,000 | \$3,000,000 | \$1,000,000 | \$500,000 | \$175,000 (the existing threshold for public bidding) |

With a commitment to being inclusive and equitable, the City of Rochester should require contractors and subcontractors to pay Prevailing Wage rates, adhere to Workforce Participation goals and aim for Targeted Businesses goals on Capital Improvement Projects as recommended.

- In 2021, projects budgeted at \$5,000,000 or greater, including Water Reclamation treatment upgrades (budgeted total of \$6,500,000) and Administrative projects (budgeted total of \$5,435,000).
- In 2022, projects valued at \$3,000,000 or greater, including Sewer and Water, Water Reclamation, Flood Control, Library and Administrative projects.
- In 2023, projects budgeted at \$1,000,000 or greater, including Pedestrian Facilities, Sewer and Water and Water Reclamation projects.
- In 2024, projects budgeted at \$500,000 or greater.
- In 2025 and beyond, projects valued at \$175,000 or greater, reflecting the [2019 Minnesota Statutes 471.345 UNIFORM MUNICIPAL CONTRACTING LAW](#)

<https://www.revisor.mn.gov/statutes/cite/471.345>.

Targeted Business contracting goals for City of Rochester projects can be established per project based on availability of the types of contractors needed.

Standardized evaluation of Good Faith Efforts for soliciting bids from Targeted Businesses for contracts on projects valued at \$175,000 and greater have been discussed amongst City Administration and Public Works department teammates.

COMMUNITY ENGAGEMENT:

According to MN Trades Council website <https://mntrades.org/> and email (dated March 24, 2020) communication with Nate O'Reilly, president of Southeastern MN Building & Construction Trades Council, shared the advantages of requiring Prevailing Wage on projects.

City of Rochester Public Works project prime contractors provided their expertise on the cost of Prevailing Wage implementation. Matt Smith, Vice President at Elcor Construction, comments, "We estimate higher approximately 20% for labor cost on a prevailing wage project." While Chad Lind, Doyle Conner Company, says "It depends on what the prevailing wages are for the area the work is in (metro vs. Rochester). In Rochester we bid the same on prevailing wage projects as the prevailing wages are very close to the union wages our workers get."

ALTERNATIVE ACTION(S):

- A. City Council may request staff re-evaluate Prevailing Wage rates on proposed phased-in projects.
- B. City Council may request staff re-evaluate Workforce Participation goals on proposed phased-in projects.
- C. City Council may request staff re-evaluated Targeted Business goals on proposed phased-in projects.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 15, 2020, City Council approved RCA the revised Targeted Business Enterprise and Workforce Participation Plan for Destination Medical Center (state funded) projects and 2) Evaluate the "Targeted Business Enterprise and Workforce Participation Plan" for all City of Rochester construction projects in addition to Destination Medical Center projects.

The City of Rochester updated its TIF policy, in early 2020, to require Prevailing Wage rates, Workforce Participation and Targeted Business goals. The City of Rochester revised paying Prevailing Wage on affordable housing projects in 2020.

FISCAL AND RESOURCE IMPACT:

Project labor costs could increase from zero (nothing) up to 20%, depending on the specialty trades required on the project scope and union agreements.

On Prevailing Wage projects that require Certified Payroll reporting, Workforce Participation can easily be tracked using the LCPtracker system. Communicating Workforce Participation goals in RFPs, requiring Workforce Participation work plans with bids and writing expectations of prime contractors to assist in collection of Certified Payroll Reports in project contracts will help the City manage Prevailing Wage and Workforce Participation.

ATTACHMENTS:

prevailing Wage