

CITY OF MINNEAPOLIS

Civil Rights – Contract Compliance Division

City Prevailing Wage

City's Vision

Minneapolis is a growing and vibrant world-class city with a flourishing economy and a pristine environment, where all people are safe, healthy, and have *equitable opportunities for success and happiness*.



Prevailing Wage Definitions

- **Prevailing Wage**: the total, minimum hourly rate of pay (base rate + fringes) contractors must pay their workers throughout the life of the project.
- **Overtime**: All employees must be paid no less than one and half the base rate of pay plus fringes for all hours worked over 40 in a week.
- **Exceptions to Prevailing Wage**: ***ONLY ONE!***
Registered Apprentices in an approved program.
 - Must be paid in accordance with their programs' pay and benefit scale.

Types of Prevailing Wage

- **City Prevailing Wage – Ordinance**
 - Minneapolis Code of Ordinances, Title 2, Ch. 24.220-270
- **CPED Prevailing Wage – Policy**
 - CPED Prevailing Wage Policy, RCA, 2004
- **Davis Bacon Prevailing Wage – Davis Bacon Act**
 - 40 U.S.C. 3141 *et seq.*
- *All of the above share the same type of decision published by the federal government, found here:*
 - <https://www.wdol.gov/Index.aspx>

Today's Focus: City Prevailing Wage

- **Basics:**

- What is the Law? Minneapolis Code of Ordinances, Title 2, Ch. 24.220-270

General Decision Number: HNS0130 01/02/2015 H0130

Superseded General Decision Number: H02049130

State: Minnesota

Contract/Job Type: Highway

Coverages: Anoka, Carver, Chicago, Dakota, Hennepin, Ramsey, Scott and Washington Counties in Minnesota.

HIGHWAY CONSTRUCTION PROJECTS

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dhs.gov/eoexecutiveorders.

Modification Number: 0 Publication Date: 01/02/2015

City of Minneapolis Non-Discrimination Notice

Discrimination is against the law

The employer will not discriminate against any employee or applicant for employment because of:

- Race
- Color
- National Origin
- Religion
- Gender Identity
- Age [forty (40) to seventy (70)]
- Marital Status
- Sex
- Disability
- Sexual Orientation
- Creed
- Ancestry
- Status with regard to public assistance

The employer will take affirmative action to ensure that all employment practices are free of such discrimination, including, but are not limited to:

- Hiring
- Upgrading
- Demotion
- Transfer
- Recruitment
- Recruitment Advertising
- Layoff
- Termination
- Rates of pay or forms of compensation
- Selection for training (including apprenticeship)

If you feel you have been discriminated against for any of these reasons, please contact the Minneapolis Department of Civil Rights at:

612-673-3012

www.minneapolismn.gov/civilrights

1. **Official Publication Projects (OP):** City's Prevailing Wage ordinance applies to City construction projects greater than or equal to \$50,000 where the City directly contracts with a general contractor for public improvements.
2. **Ultimate Responsibility:** Prime Contractor bears compliance responsibility for itself and all subcontractors.
3. **Posting Requirements:** The Prime Contractor must post the project's prevailing wage decision, additional wage classifications, and the City's non-discrimination poster in a safe, visible location on the project construction site.
4. **Additional Wage Classifications:** Submit request and proposed pay/benefit scale with contractor profile form prior to project start, or as soon as possible!
5. **CPR Submissions:** Prime Contractor and subcontractor must electronically submit bi-weekly Certified Payroll Reports in LCPtracker.
6. **Working Owners:** Business owners/operators working with their crew must report themselves on CPRs along with their crew. An owner/operator working with a crew need only indicate her hours worked and her trade classification on the CPR.
 - However, a business owner/ operator working alone cannot submit CPRs for herself. She must be included on the weekly CPRs of the prime or subcontractor for whom she is working.
7. **Document Retention:** Prime contractors must retain relevant payroll records for at least one year from the date of project completion.

Basics cont'd:

- **Recent Ordinance Amendments:** June 25, 2016, Amendments to City's Prevailing Wage Ordinance:
 - 4 main changes affecting Compliance:
 1. **3rd Party Beneficiaries:** Mechanics and employees employed by contractors and subcontractors ***are intended third-party beneficiaries*** of the contract between the City and the GC. This means mechanics and employees have standing to sue for unpaid prevailing wages.
 2. **Bi-Weekly Pay:** All laborers and mechanics must be paid every two weeks.
 3. **Non Compliance:** If prevailing wage violations remain uncured within thirty (30) days of written notice, MDCR may:
 - a) Direct Finance Officer to withhold payments to contractor on ***any contracts with City;***
 - b) Require contractor to pay 5% of the entire contract price as liquidated damages.
 - c) Place the contractor on a suspended or debarment list.
 4. **Independent Contractors:** MDCR may require bona fide proof of subcontractor and/or independent contractor status.

Prevailing Wage Enforcement

- **Monthly Reporting:**
 - 1st of the month email.
 - 19th -22th of the month reports are distributed.
- **Reviewing Certified Payroll Reports:**
 - Audited for red flags.
- **Investigating Complaints:**
 - Complaints submitted by various stakeholders.
- **Conducting regular on site visits:**
 - Typically will be scheduled in advance.
 - Employees interviewed.

Common Pitfalls

- **Failure to make subcontractors aware of prevailing wage requirements.**
- **Misclassifications:**
 - Trade Category
 - Independent Contractor
- **Apprentice Problems:**
 - Ratios
 - Approved Programs
 - Failure to submit apprentice documentation
- **Missing or delinquent Payrolls**
- **Contractor Non Responsiveness**
- **Failure to Include Wage Decision in subcontracts**
- **Failure to Communicate**

Non Compliance

- **Restitution payments, and possibly:**
 - Minneapolis Code of Ordinances, Title 2, Ch. 24.250:
 - Placement on Suspension or Debarment list
 - Liquidated Damages
 - Termination of current contract
 - Ineligible for future City contracts
 - Responsible Contractor Act

Best Practices

- Distribute Project's wage decision to all potential subcontractors during solicitation phase.
 - Ensures subcontractors build in prevailing wage to pricing.
- Completely and accurately fill out contractor profile forms.
- Read LCPtracker Quick Start Guide (6 pages) and sign up for a live LCPtracker training class! (<http://www.lcptracker.com/Support-Training-Main>)
- If project has multiple floors or is on multiple sites, post a copy of the wage decision on each floor/ or at each site.
- Promptly Respond to 1st of the month email.
- Upload all apprentice documentation into LCPtracker.
- Provide proof of any non-standard paycheck deductions, i.e. child support orders, signed union due payment approvals etc...email to CCO
- Submit non performing payrolls.
- Keep Civil Rights in the loop on any major project changes. **COMMUNICATION !**

Thank you

Questions?

Minneapolis Department of Civil Rights

Contract Compliance Division

Contract_compliance@minneapolismn.gov

612-673-3012

