

July 5, 2017

MEMORANDUM

To: CRUEDA Committee
From: Patricia Lee, Central Staff
Subject: Changes to the Priority Hire Program: CB 118939

Council Action

On July 11, 2017, the Council's Civil Rights, Utilities, Economic Development and Arts (CRUEDA) committee will discuss, consider and possibly vote on the proposed changes to the Priority Hire Program (Priority Hire) (SMC 20.37.010 et. seq) as shown in version two of CB 118939.

This memo provides: I) a procedural history of the legislation, II) summary of the proposed changes, III) background information on the Priority Hire Program, IV) the text of the proposed changes and V) outlines Next Steps.

I. Procedural History

The Priority Hire enabling ordinance (ORD 124690) passed by Council in 2015 provided that the Mayor and Council would review Priority Hire results during 2016 and determine if the program should be expanded or amended by increasing or decreasing thresholds. The ordinance also requested the Department of Finance and Administrative Services (FAS), who implements and administers the program, and the Priority Hire Advisory Committee (PHAC) separately provide annual reports and recommendations on Priority Hire to the Mayor and Council.

The Executive submitted version one of CB 118939 in February 2017. At Council's request FAS and PHAC continued to discuss the proposed changes to Priority Hire. FAS, with the concurrence of PHAC, decided not to recommend two of the changes proposed in version one of the council bill:

- 1) to exempt small subcontracts up to \$100,000 from Priority Hire requirements; and
- 2) to allow a different number of core employees for WMBE and non-WMBE contractors.

Those two proposed changes have been withdrawn.

Version two of CB 118939, is before the Committee and reflects the recommendations of both FAS and PHAC. If the Committee approves the proposed changes, version two will go forward and be introduced and voted on by the full council.

II. Summary of Changes

This memo summarizes the proposed changes to Priority Hire, provides information on the Priority Hire program, provides the text of the proposed changes, and outlines next steps. The proposed changes to the Priority Hire program are:

1. Through a new WHEREAS clause, reaffirms the City's commitment to include women and minority-owned businesses (WMBE) in City contracts and to provide them with technical assistance (fifth WHEREAS clause on page 1)
2. Reduce from five to three the number of core employees open-shop contractors may include on a project before hiring through the Priority Hire hiring process, (SMC 20.37.050 D on page 7)
3. Allows open-shop contractors to bring two additional employees beyond the proposed limit of three core employees before hiring through the Priority Hire hiring process, if the employee is enrolled in an apprentice training program and is also one of the following:
 - (i) a Priority Worker,
 - (ii) a Pre-apprenticeship graduate, or
 - (iii) an individual who furthers the City's aspirational goals for women or people of color. (SMC 20.37.050 D at page 7)
4. Increases from three to four the number of persons the Mayor may appoint to the Priority Hire Advisory Committee (PHAC) from each stakeholder group (SMC 20.37.040 J on page 5)
5. Makes technical corrections to change the name of the City's agreement with the pertinent unions from the Project Labor Agreement to the Community Workforce Agreement (SMC 20.37.050 D), clarifies the geographic areas defined as economically distressed zip codes are only in Seattle and King County (SMC 20.37.040 D), and amends the title to reflect the current proposed changes.

III. Background Information on the Priority Hire Program

In order to understand the proposed changes, the following section provides some background on Priority Hire and how it is currently implemented.

Based on City commissioned studies on the construction industry, the city found it was in the City's best interest to increase the supply of qualified construction workers, particularly women and people of color who have historically been underrepresented in the construction industry.

The Priority Hire Program was a community-initiated effort developed by the City and stakeholders in the construction industry and resulted in an Ordinance establishing the program in 2015. The Priority Hire program seeks to increase the number of women, people of

color, and those from economically distressed neighborhoods develop careers in the construction industry by making it a priority for the City to hire them onto City-funded public works jobs. Priority Hire reduces challenges and barriers that such workers face by promoting their access into pre- apprentice and apprentice programs and by providing them with the ability to secure continued employment in their chosen trade. This investment in worker training and hours helps to develop the next generation of skilled workers and to help provide employment opportunities to underrepresented groups in the construction industry.

Priority Hire applies to City-funded capital projects of \$5 million or more, referred to as “covered projects,” deemed by FAS as appropriate for the program. A Project Labor Agreement (PLA) with the Building and Construction Trades Council applies to all covered projects. Priority Hire requires that the prime contractor hire workers in a manner that will achieve a certain percentage of labor hours, established by FAS and announced in the bid documents on covered projects, for women, people of color, and workers living in economically distressed zip codes in Seattle and King County. Percentages are established separately for apprentice and journey level workers and excludes from the calculation the labor hours performed by non-state residents. Economically distressed zip codes are geographic areas found by FAS to have a high concentration of individuals:

- 1) living at or below 200% of the Federal Poverty Level,
- 2) unemployed, and
- 3) without a college degree compared to other zip codes.

Core Employees are defined in the PLA. Under the PLA, all workers in a covered project are dispatched from the union hiring hall. Open shop contractors may bring 5 core employees to work on the covered projects; the contractor must then hire the remaining workers as new hires through the union halls and the associated Priority Hire process. In order to meet the percentage of labor hours to be performed by Priority Workers, contractors and union dispatchers are required to first seek to employ a Priority Worker who is a resident in an economically distressed area in Seattle. The second priority are Priority Workers from economically distressed areas in King County. Contractors request and unions dispatch women and people of color in a manner that best supports the aspirational goals on the covered project.

The 2016 Priority Hire Annual Report, submitted in February 2017 shows this intentional program has achieved measurable outcomes. These include:

- Workers from economically distressed areas worked 21% of the covered project hours, nearly double the amount of labor hours previously worked on city funded projects.
- Workers in economically distressed areas of Seattle worked 12% of the covered project hours compared to 5% previously.
- African American workers worked 9% of the covered project hours compared to 3% on non-covered projects and 4% on previous city projects.

- Women workers performing 12% of covered project hours compared to 5% on previous city projects.
- Women and minority -owned (WMBE) utilization, which was 15% through September 2016 compared to 14% on non-PLA projects, represents more than \$50 million paid to date.

In addition, the Annual Report noted there is no evidence the Priority Hire program resulted in fewer contractors bidding or in a significant increase of project costs to the City. In fact, open-shop and WMBE contractors continued to receive robust shares of work on PLA projects; open shop contractors received 51% of subcontracts on PLA projects and 47% on non-PLA projects; WMBE contractors received 40% of the PLA subcontracts and 30% on non-PLA projects.

IV. Text of the Proposed Changes.

1. WMBE: A whereas clause is added that reaffirms the City's commitment to include women and minority-owned businesses (WMBE) in City contracts and to provide them with technical assistance by adding the following language as the fifth WHEREAS clause on lines 27 & 28 on page 1 and lines 1 & 2 on page 2:

WHEREAS, as codified in SMC 20.42, the City is committed to including Women- and Minority-owned Businesses in City contracts and to providing technical assistance to Women and Minority Businesses to increase their capacity to effectively compete for the award of government contracts and subcontracts; and

2. Core Employees: SMC 20.37.050 (D) page 7 lines 1-5, would be amended to reduce the number of core employees from five to three that open-shop contractors, including WMBE contractors, may include on a project before hiring through the union hall in a manner that complies with the Priority Hire ordinance and PLA hiring processes.

SMC 20.37.050 D would read as follows:

The ((PLA)) CWA shall permit an Open-Shop Contractor to employ as many as ((five)) three Core Employees on each contract in a Covered Project, provided the Core Employees meet the Core Employee criteria set forth in the ((PLA)) CWA

FAS noted in the Annual Report that most contractors, in their bid documents, are requesting three Core Employees. Reducing the number of Core Employees contractors may include before hiring through the PLA process appears in line with the current documented results of hiring patterns, at least those that can be verified by the formal process and

declarations filed during the pre-job meetings. While Priority Hire has achieved increased participation by Priority Workers, the enacting ordinance sets goals for the percentage of labor hours performed by Priority Workers at 20% of all labor hours in 2016 and an aspirational goal of 40% of labor hours by 2025. It was anticipated that the percentage of labor hours performed by Priority Workers would increase annually.

3. Apprentices: SMC 20.37.050 (D), page 7 lines 5-11 would be amended to permit a contractor to bring up to two apprentices without going through the normal apprentice dispatch process, if they are each enrolled in an apprentice training program, are Priority Workers, Pre-apprentice Graduates and/or further the City's aspirational goals for women or people of color. All remaining workers would be hired through the Priority Hire hiring process as established.

(SMC 20.37.050 D) page 7 lines 5-11 would be read as follows:

D. The ((PLA)) CWA shall permit an Open-Shop Contractor to employ as many as ((five)) three Core Employees on each contract ((for)) in a Covered ~~Project and shall permit an Open-Shop Contractor defined as a WMBE to employ as many as five Core Employees on each contract in a Covered Project,~~ provided the Core Employees meet the Core Employee criteria set forth in the ((PLA)) CWA, and up to two Apprentices enrolled in an Apprentice Training Program who are also one of the following: (i) a Priority Worker, (ii) a Pre-apprenticeship graduate, (iii) or an individual who furthers the City's aspirational goals for women or people of color. Open-Shop Contractors are allowed to select and hire ((up to 5)) these Core Employees and Apprentices before filling any further hiring needs through Dispatch. Open-Shop Contractors must notify the Union and identify their Core Employees and Apprentices. FAS has authority, at any time, to verify that the employees meet the definition of Core Employee as established in the ((PLA)) CWA.

4. PHAC: SMC 20.37.040 J page 5 line 20 would be amended to increase the number of representatives to the PHAC the Mayor may appoint from each stakeholder group.

The PHAC is composed of representatives of four identified stakeholder groups: labor unions, community organizations, contractors, including at least one WMBE firm, and pre-apprentice and apprenticeship training programs. Each stakeholder group makes nominations for membership on the PHAC to the Mayor. Currently, the Mayor must appoint at least two and no more than three persons from each group to the Advisory Committee. However, the representation on the committee lacked sufficient depth and breadth, so the need for additional representation in each group has been found prudent and is recommended by FAS. This change therefore increases from three to four the number of persons the Mayor may appoint to the Advisory Committee from each stakeholder group.

SMC 20.37.040 J page 5 line 20 would read as follows:

((4)) J. The Director shall establish a Priority Hire Implementation and Advisory Committee that includes representatives of the following groups ((7)): 1) Labor Unions, 2) community organizations, 3) Contractors, including at least one WMBE firm, and 4) ((7)) Apprentice and Pre-apprentice Training Programs. The Committee shall provide an advisory role to the City regarding the implementation and effectiveness of the Priority Hire policy. Each of the four named groups above shall make nominations from among themselves for Committee representatives to the Mayor. The Mayor shall appoint no less than two and no more than ((three)) four persons from each group to the Committee. The Department will convene the Committee on a regular basis, at least once every quarter, and will provide the Committee with information about program performance. The Director shall assign at least one staff member from FAS to support the work of the Committee. The Committee shall submit an annual report in writing to the Mayor and City Council, and may submit recommendations, findings or other reports to the Director, Mayor or City Council, for consideration as appropriate. The Committee shall establish rules for its procedures.

5. Technical corrections

- a. CWA: SMC 20.37.050 (page 6, line 6) would be amended to change Project Labor Agreement to Community Workforce Agreement and the references to the PLA would be changed throughout SMC 20.37.010 et.seq:

SMC 20.37.050 would read as follows:

20.37.50 ~~Project labor agreement))~~ Community Workforce Agreement

- b. Economically Distressed Areas: SMC 20. 37.040 D page 5, line 3 would be amended to conform the definition of Economically Distressed areas in Seattle and King County in the enabling ordinance.

SMC 20. 37.040 D page 5, line 3 would be read as follows:

In order to meet the percentage of Labor Hours to be performed by Priority Workers, the Director shall require Contractors and Dispatch under a ((PLA)) CWA to first seek to employ a Priority Worker who is a Resident in an Economically Distressed Area within Seattle City limits. The second priority shall be workers from Economically Distressed Areas within King County ((, and then workers from any other Economically Distressed Area)) as needed to meet the percentage of Labor Hours to be performed by Priority Workers. The Director ((shall)) may establish in consultation with the Advisory and Implementation Committee, by Director's Rule the specific process by which Contractors, Union Dispatch and the Jobs Coordinator will collaborate in order to facilitate the hiring of Priority Workers.

Economically Distressed Areas are defined as:

Economically Distressed Area” means a geographic area defined by zip code and found by the Director to have a high concentration of individuals; 1) living at or below 200% of the Federal Poverty Level, 2) unemployed, and or 3) without a college degree, compared to other zip codes. King County zip codes, with a high density per acre of at least two out of the three criteria, will be identified as Economically Distressed Areas. There shall be two classes of such zip codes: tier one zip codes located within the City of Seattle and tier two zip codes located within King County and outside of the City of Seattle.

- c. Title Change. The title is changed to reflect that the Executive and PHAC are no longer recommending small subcontracts be exempted and would read as follows.

AN ORDINANCE related to City public works and the priority hire program; amending Sections 20.37.010, 20.37.020, 20.37.040, and 20.37.050 of the Seattle Municipal Code to change references to “project labor agreement” to “community workforce agreement,” to make certain technical corrections, ~~to exempt some small subcontracts from the community workforce agreement,~~ and to change the number of core workers open-shop contractors may bring to a project.

V. Next Steps

If the CRUEDA committee approves these changes, CB 118939 version two will be introduced on July 17. A new introduction is necessary because the ordinance title changed. The ordinance would be ready for a full Council vote on July 24.