

Fair Wage Policy*

A1. Definitions.

As used in this Fair Wage Policy, the following terms have the meaning indicated:

CONTRACT – A legal, business agreement between the City of Toronto and the Contractor to perform Work or services or in the provision of materials and supplies.

CONTRACTORS – The prime contractor with the City of Toronto performing work or services in the execution of the Contract.

FAIR WAGE SCHEDULE – Stipulated rates of pay for different classifications of Work produced and obtainable from the Fair Wage Office.

FIELD WORK – All Work in performance of the Contract that is not shop Work.

FRINGE BENEFITS – Includes such benefits as company pension plans, extended health care benefits, dental and prescription plans, etc. It does NOT include legislated payroll deductions such as C.P.P., E.H.T., W.S.I.B. or E.I.C.

NON-COMPLIANCE – The occurrence of any of the following conditions:

- (1) Contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his/her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry.
- (2) Sub-contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his/her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry.
- (3) Contractor or Sub-contractor has been found in violation of the Fair Wage Policy (non-compliance applies to both Contractor and Sub-Contractor).
- (4) Contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry.
- (5) Sub-contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry.

SHOP WORK – Any Work in performance of the Contract that is done in or at any factory, foundry, shop or place of manufacture not located at or upon the site of the Work, and not operated solely for the purpose of the Work.

SUB-CONTRACTORS – Any agent of the prime contractor or any Sub-contractor hired to perform any of the Work or services in the execution of the Contract.

WAGES or RATE OF WAGES – Includes the hourly rate, vacation and holiday pay and any applicable amount for fringe benefits shown in the current Fair Wage Schedule, to be paid to the worker as part of the worker's wages or for the worker's benefit provided for in any collective agreement applicable to that worker.

WORKERS – Includes mechanics, workers, labourers, owners and drivers of a truck or other vehicle employed in the execution of the Contract by the Contractor or by any Subcontractor under them and clerical staff.

*Fair Wage Policy – (extracted from Schedule A of the City of Toronto Municipal Code, Chapter 67)

A2. Purpose and History, Fair Wage Policy.

- A. The Fair Wage Policy has a central principle the prohibition of the City doing business with Contractors, Sub-contractors and suppliers who discriminate against their workers.
- B. Originally implemented in 1893 to ensure that contractors for the City paid their workers the union rates or, for non-union workers, the prevailing wages and benefits in their field, the Fair Wage Policy has expanded over the years to other non-construction classifications such as clerical workers.
- C. The Policy also requires compliance with acceptable number of working hours and conditions of Work in order to protect the rights of workers.

A3. Intent, Fair Wage Policy.

The intent of the Fair Wage Policy can be summarized as follows:

- (1) To produce stable labour relations with minimal disruption.
- (2) To compromise between the wage differentials of organized and unorganized labour.
- (3) To create a level playing field in competitions for City Work.
- (4) To protect the public; and
- (5) To enhance the reputation of the City for ethical and fair business dealings.

A4. Establishment of Rates.

- A. Establishing fair wage rates and schedules are intended to minimize potential conflicts between organized and unorganized labour in the tendering and awarding of civic contracts.
- B. Fair Wage rates are established through discussion with employee and employer groups and associations (having both union and non-union members).
- C. These rates are reviewed by the above-noted groups and are recommended to Council, by the Manager, Fair Wage Office for approval on a regular basis.
- D. Certain designated construction related rates are based on the lowest rate established by collective bargaining, while the wage rates for other classifications are based on market and industrial surveys in accordance with the prevailing wages for non-union workers in the geographic area.
- E. Similarly, the City encourages contractors to hire and train apprentices under approved programs.
- F. In this regard, guidance on appropriate fair wage rates (including an appropriate factor for apprenticeship programs for construction related trades) will be sought from employee and employer groups as part of establishing Fair Wage Schedules.

A5. City of Toronto Council References.

- A. City of Toronto Council, by the adoption of Corporate Services Committee Report No. 13, Clause No. 1, as amended, at its meeting of October 1 and 2, 1998, directed that the Fair Wage Policy of the former Municipality of Metropolitan Toronto be adopted for all City Departments, Agencies, Board and Commissions and replace all existing fair wage policies of the former local municipalities.
- B. City of Toronto Council, by the adoption of Administration Committee Report No. 7, Clause No. 1, as amended, at its meeting of June 18, 19 and 20, 2002, directed that certain changes be made to the Fair Wage Policy and Procedures.
- C. City of Toronto Council, by the adoption of Administration Committee Report No. 5, Clause No. 2, as amended at its meeting of June 24, 25 and 26, 2003 directed that certain further changes be made to the Fair Wage Policy and Procedures, and to the Fair Wage Rate Schedule.

A6. Application.

- A. The provisions of the Fair Wage Policy apply equally to contractors and all sub-contractors engaged in Work for the City of Toronto. It is understood that contractors cannot sub-contract Work to any sub-contractor at a rate lower than called for in the Fair Wage Policy. Contractors or general contractors will be responsible for any violations or non-compliance issues arising from the engagement of any sub-contractor on City Work.
- B. The fair wage rates do not apply to small businesses, typically those with owner-operators, or partnerships, or principals of companies as long as they undertake the Work themselves.

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- C. It should be noted that under the above City of Toronto Council Reference authorities, the conditions of the Fair Wage Policy cannot be waived, unless authorized by Council to do so.

A7. Contractor and Sub-contractor Responsibilities.

- A. The contractor or sub-contractor shall not discriminate against workers or applicants for employment as workers because of race, creed, colour, national origin, political or religious affiliation, sex, sexual orientation, age, marital status, family relationship or disability.
- B. The contractor shall at all times comply with the *Occupational Health and Safety Act* and its regulations and take every precaution reasonable in the circumstances for the protection of workers. If the contractor sub-contracts any or all of the Work or services to be performed, the contractor will ensure the sub-contractors are qualified to perform the Work or services and comply with the *Occupational Health and Safety Act* and its regulations.
- C. The contractor or sub-contractor shall pay or cause to be paid weekly or biweekly to every worker employed in the execution of the contract (and shall see that every owner of a truck or other vehicle employed by the contractor or by any subcontractor in the execution of the contract shall pay, or cause to be paid, weekly or biweekly to each of the owner's drivers) wages at the following rates, namely:
- (1) For workers employed in shop work:
 - (a) the Union rate of wages in the particular district or locality in which the Work is undertaken for any class or Work in respect of which there is such Union rate; and
 - (b) for any class of Work for which there is no such Union rate, the rate of wages shall be the rate of wages, as determined by the Manager, Fair Wage Office prevailing in the particular district or locality in which the Work is undertaken.
 - (2) For workers employed in field Work:
 - (a) where the contractor or sub-contractor is in contractual relationship with a Union recognized by the Ontario Labour Relations Board as the bargaining agent for the relevant workers, the applicable rate of wages set out in the collective agreement.
 - (b) where there is no such contractual relationship, a rate not less than that set out for such Work in the Schedule of Wage Rates filed by the Manager, Fair Wage Office, with the City Clerk of the Corporation after being first approved by Toronto Council (hereinafter called "the Fair Wage Schedule"); and,
 - (c) for any class of Work for which there is no rate, the rate of wages shall be the rate of wages, as determined by the Manager, Fair Wage Office, prevailing in the particular district or locality in which the Work is undertaken.
- D. The contractor and sub-contractor shall:
- (1) At all times keep a list of the names and classifications of all workers employed in the Work, the hourly rate and hours worked per day and a record of the amounts paid to each.
 - (2) From time to time, if demanded by the Manager, Fair Wage Office, furnish a certified copy of all paysheets, lists, records and books relating to the Work and keep the originals thereof open at all times for examination by the Manager; and
 - (3) At all times furnish and disclose to the said Manager any other information respecting wages of workers that may be desired by the Manger in connection with the Work.
 - (4) The Fair Wage Office will have the authority to request any information respecting wages of workers, names of workers, records of amounts paid to each, paysheets, original books, etc. that may be desired by the Manager in connection with a contract that has been substantially completed within the past six months.
 - (5) Failure to co-operate will be considered non-compliance with the Fair Wage Policy.
- E. The contractor or sub-contractor shall not compel or permit any worker engaged for the Work to work more than the number of hours per day and the number of hours per week set out in the Fair Wage Schedule for the particular type of Work involved except in case of emergency, and then only with the written permission of the Commissioner or head of the Department having charge of the Work or the person then acting as such.

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A8. Manager, Fair Wage Office, Responsibilities.

- A. In case of a jurisdictional dispute or dispute as to rate of wages to be paid under the contract or as to the amount to be paid to any worker, the decision of the Manager, Fair Wage Office, shall be final and binding upon all parties.
- B. If the contractor or sub-contractor fails to pay any worker (or if any owner of a truck or other vehicle fails to pay any driver) wages at the rate called for in paragraph (D), the Corporation may charge an administrative fee not in excess of fifteen percent of the balance necessary to make up the amount that should have been paid from the contractor's progress draw or holdback, and may pay the worker(s) directly for any back-wages owing directly from the contractor's progress draw or holdback.
- C. If the contract is to be for the purchase of supplies or materials to which the provisions in Subsection A7 respecting the rates of wages to be paid to workers engaged in shop Work and field Work do not apply, Toronto Council will, before awarding same, cause to be secured from the Manager, Fair Wage Office, a recommendation as to whether or not the tenderer or bidder maintains a fair wage level.
- D. If a tenderer or bidder is found not to comply with the Fair Wage Policy the Manager may recommend the next lowest bidder for contract award in the following circumstances:
 - (1) an investigation is underway and the firm does not co-operate in providing timely information requested by the Manager, Fair Wage Office in fulfilling his/her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry and operationally, the provision of goods and/or services cannot be delayed.
 - (2) a contractor or sub-contractor is in violation of the Fair Wage Policy and has not paid restitution to its workers.
 - (3) a contractor or sub-contractor is unable to comply with the City of Toronto Labour Trades Contractual Obligations in the construction industry.
- E. Workers engaged in clerical office Work are to be paid a rate of wages no less than the surveyed standard for each classification of worker for the particular industry at the time of tendering.
- F. The contractor and sub-contractor MUST display legible copies of this "Fair Wage Policy" in a prominent position in his/her workshop(s), accessible to all employees.
- G. The contractor shall attach to all accounts rendered for payment of money upon the contract, as requested by the Manager, Fair Wage Office and for the final account, a declaration affirming that the requirements of the foregoing paragraphs have been fully complied with.

A9. Disqualification Provisions.

- A. When a contractor or any sub-contractor is found to be in non-compliance with the provisions of the Fair Wage Policy in two separate instances over a period of three years inclusive, the Manager, Fair Wage Office must report and may recommend to the Administration Committee that the said contractor or sub-contractor be disqualified from conducting business with the City for a period of two (2) years inclusive.
- B. After the disqualifying period is over, the said contractor or sub-contractor will be placed on probation for the next contract year. If another non-compliance violation occurs, the Manager, Fair Wage Office must report and may recommend to the Administration Committee that the said contractor or sub-contractor be disqualified from conducting business with the City for an indefinite period of time.
- C. All non-compliance activities (including firm names) and disqualification statistics will be reported to Council annually. Disqualified firms will be published on the City's web site.

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