

## **Revisions to the Fair Wage Policy and Updating the Fair Wage Schedule to Include 2022-2024 Wage Rates**

Date: November 22, 2023

To: General Government Committee

From: Manager, Fair Wage Office, Purchasing and Materials Management Division

Wards: All

### **SUMMARY**

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The purpose of this report is to recommend revisions to Toronto Municipal Code Chapter 67, Fair Wage (the "By-Law") and all three of the By-Law's schedules:

The By-Law and Schedule A, Fair Wage Policy (the "Policy"), changing purpose and intent, application, responsibilities, administration, and enforcement;

Schedule B, Labour Trades Contractual Obligations in the Construction Industry (the "Labour Trades"), changing the name to the "Labour Trades Contractual Obligations in the Construction Industry Policy";

Schedule C, Fair Wage Schedule, 2016-2019 ("Schedule C"), updating Schedule C, such that it reflects the most current prevailing wages for the industries in which the City procures services. The details are outlined in greater detail below:

The By-Law and Schedule A

- Adding definitions;
- Delegating explicit authority to the Manger, Fair Wage Office to order work to be stopped that is suspected of exposing the City to liability, and;
- Refining Policy application provisions regarding "owner operators" and grant agreements,
- Contractor and sub-contractor responsibilities regarding Fair Wage compliance declarations on accounts rendered for payment, displaying copies of the Policy, and permitting workers to work overtime hours have been modernized or removed to reflect current operational and business practices.
- Attachment "1" is a red-line document showing recommended changes to the current By-Law and the Policy.

## Schedule B

- The only revision proposed for the Labour Trades is to change the name to the "Labour Trades Contractual Obligations in the Construction Industry Policy", for clarity.

## Schedule C

- Comprised of six classifications of work: General Classifications, Heavy Construction work; Industrial, Commercial, Institutional (I.C.I.) work; Road Building work; Sewer and Watermain Construction work; and Utility work.
- An updated Schedule C is recommended to Council for approval every three years. The current Schedule covers 2019 to 2022 and must be updated to reflect 2022 to 2024 rates. The updated Schedule C set out in Attachment "2" reflects wage increases recognized by the construction labour markets. This report recommends that the updated Schedule C takes effect for all new City procurements issued on or after January 1, 2024. All City contracts or procurement documents issued before January 1, 2024 will use the Fair Wage rates set out in the current Schedule C (2019 to 2022). In order to maintain a record of historic wages, The Fair Wage Office will maintain copies of the former Fair Wage Schedules at the Fair Wage Office and on the Fair Wage Office website.

## **RECOMMENDATIONS**

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The Manager, Fair Wage Office, recommends that:

1. City Council amend Municipal Code Chapter 67 - Fair Wage, including Schedule A, as set out in Attachment "1" to this report, effective January 1, 2024 (the "Effective Date");
2. City Council amend Schedule C to Municipal Code, Chapter 67, by replacing the current Schedule C with the Schedule contained in Attachment "2" to this report, as the new Schedule C to Chapter 67, effective as of the Effective Date.

## **FINANCIAL IMPACT**

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The report recommends revisions to all three schedules of By-Law including the policy in Schedule A, to change the purpose and intent, application, responsibilities, administration, and enforcement, a name change to Schedule B and update to Schedule C such that it reflects the most current prevailing wages for the industries in which the City procures services.

Adoption of this report may result in future financial impacts due to increased costs of wages and benefits associated with new City procurements issued on or after January 1, 2024. These cost increases may have an impact on cash flow funding requirements of applicable capital projects. At the initiation of future procurements, the financial

impacts including full contracted expenditures and funding will be identified in the relevant contract and/or procurement document.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **Equity Impact Statement**

The implementation of the Fair Wage Policy advances the City's commitment to access, equity, and workers' rights by ensuring that workers on City contracts are paid a "fair wage" and are not subject to harassment or discrimination. Through the implementation of this policy, workers become aware of their rights. This is particularly important to new immigrants and other vulnerable workers. The Fair Wage Office continues to raise awareness by providing educational material in various languages about the City's Fair Wage Policy and complaint process. Through these efforts, workers and employers will be better informed about their rights and responsibilities.

## **DECISION HISTORY**

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At its meeting on February 7 and 8, 2023, City Council passed [By-law 139-2023](#), amending the Fair Wage Schedule of City of Toronto Municipal Code Chapter 67, Fair Wage, to increase the wage rates in Schedule C to Chapter 67 for the 2019-2022 period. Authority for this decision was General Government Committee Item [2023.GG1.12](#), adopted without amendments by Council.

At its meeting on May 24 – 26, 2017, City Council passed [Bill 592 into By-law 588-2017](#), amending the Fair Wage Schedule of City of Toronto Municipal Code Chapter 67, Fair Wage, to increase the wage rates in Schedule C to Chapter 67 for the 2016–2019 period. Authority for this decision was Executive Committee Item [EX33.2, Quality Jobs, Living Wages and Fair Wages in Toronto](#), adopted as amended, by City of Toronto Council on July 16, 17, 18 and 19, 2013.

At its meeting on November 8 and 9, 2016, City Council adopted [AU7.5, Strengthening Enforcement of the Fair Wage Policy](#), without amendments to, among other items, effectively enforce the provisions in the Fair Wage Policy.

At its meeting on Oct 22, 2007, City Council adopted General Management Committee Report [GM8.9 - Revisions to the Fair Wage Policy](#). This report proposed both minor and substantive revisions to the Policy that would enhance the clarity and understanding of the Policy by Contractors, employees and City Staff.

At its meeting on June 24, 25 and 26, 2003, City Council adopted Administration Committee Report No. 5, Clause No. 2, which included a recommendation that Fair Wage Schedules be submitted to City Council for approval every three years.

## **COMMENTS**

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## **Background**

For 130 years, the City has relied on its Fair Wage Policy to ensure that contractors and suppliers pay their workers fair market rates for their labour. First adopted in 1893, the intent of the Fair Wage Policy is to:

- (1) Produce stable labour relations with minimal disruptions;
- (2) Compromise between wage differential of organized and unorganized labour;
- (3) Create a level playing field in competition for City work;
- (4) Protect the public; and
- (5) Enhance the reputation of the City for ethical and fair business dealings.

Periodically, a review of the Fair Wage By-Law must be undertaken to ensure it reflects current Fair Wage Office practices, and meets the City's business needs. In general, the revisions identified in this report are meant to help clarify Fair Wage Office reporting requirements, update administrative processes, modernize contractor/supplier obligations, and support By-Law enforcement efforts.

The Policy also requires contractors and sub-contractors doing work on City contracts to pay their non-unionized workers pre-determined wages that are set out in the Schedule, and approved by Council. The Schedule outlines trade classifications, the minimum hourly wages, vacation pay, weekly hours of work and fringe benefits that are to be paid or provided to various classes of labourers and workers. These 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.

## **Overview of Revisions to the Fair Wage By-Law (Ch. 67) & Fair Wage Policy (Schedule A)**

Following a review of the By-Law and the Policy by the Manager, Fair Wage Office, the Chief Procurement Officer and Legal Services, the following are some of the proposed amendments. Attachment "1" to this report is a red-line document showing all recommended changes to the current By-Law and the Policy.

### **Purpose and Intent:**

The Policy's central principle remains the same - the prohibition of the City doing business with contractors, sub-contractors and suppliers who discriminate against their workers. However, a new subsection has been added to prohibit contractors and sub-contractors from paying less than the Fair Wage Rates. Another change clarifies that a key part of the Policy's intent is to "harmonize" wages between organized and unorganized labour, rather than "compromise".

### **Application:**

Currently, the Fair Wage rates do not apply to "small businesses", defined as "typically those with owner operators, or partnerships, or principals of companies as long as they undertake the work themselves". Proposed amendments remove the reference to "small

businesses", and focus more on the conditions under which the Policy does not apply to "owner operators". A subsection has been added stating that the By-Law does not apply to City work that is completed pursuant to grant agreements. This was added because these agreements are not covered under Municipal Code Chapter 195 Purchasing, and do not go through the standard Purchasing and Materials Management Division procurement processes. Further, the Fair Wage Office has limited visibility into work performed by partnering organizations and control over its funding sources.

#### Contractor and Sub-Contractor Responsibilities:

It is recommended that a current Policy provision that requires contractors and sub-contractors to submit declarations affirming compliance with the By-Law before release of payment is removed. It is no longer representative of current business practices, as the Fair Wage Office does not oversee this process or follow-up with divisional contract administrators to determine if they do. Contractors and sub-contractors must now ensure that every worker receives a copy or notice of the Fair Wage Policy, whether in hard copy or electronically. This provision was modernized to ensure that contracted workers are aware of their rights under the Policy when performing work for the City.

Changes are also proposed to allow workers to exceed the weekly hours of work set out in Schedule C. Overtime work is often required on City projects to meet operational and business objectives, and allows workers to receive appropriate compensation. Overtime pay is regulated by the provincial Employment Standards Act. Therefore, it is recommended that the current provision prohibiting contractors and sub-contractors from "permitting" workers to work overtime "except in case of emergency, and then only with the written permission of the commissioner or head of the department" is removed.

#### Administration and Reporting:

Under the proposed amendments to the By-Law, the Chief Procurement Officer is to report to the appropriate standing committee on Fair Wage Matters, and submit an annual report prepared by the Manager, Fair Wage Office to the committee, rather than the Manager, Fair Wage Office, who is currently tasked with those responsibilities. New details on what information is to be included in annual reports are included in Attachment "1", and the Manager, Fair Wage Office must report to the Chief Procurement Officer when a contractor or subcontractor has failed to submit records requested by the Manager. Failure of a contractor or sub-contractor to submit records to the Fair Wage Office may result in the Manager, Fair Wage Office recommending to the appropriate standing committee that a contractor or subcontractor be disqualified for a period of two years.

#### Establishment of Rates:

When establishing Fair Wage rates under the Policy, instead of basing construction-related rates on the "lowest rate established by collective bargaining", it is recommended that the Manager, Fair Wage Office base such rates on the "lowest applicable rate established by collective bargaining". This change reflects current operational and business practices, taking into account scopes of work and where there is jurisdictional overlap, or the potential for overlap.

## Enforcement:

It is recommended that the Manager, Fair Wage Office be delegated explicit authority in the By-Law to order contractors or sub-contractors to stop performing City work if it is suspected of not being performed in compliance with the Fair Wage Policy or the Labour Trades. This new subsection reflects current Fair Wage Office practices, and aims to limit the City's potential exposure to legal and financial liability related to labour trades grievances. In the context of Fair Wage Office approval of tenderers or bidders for contract award, the Manager, Fair Wage Office will inform the Chief Procurement Officer when it appears that a contractor is unable to comply with the By-Law, and that Fair Wage Office approval will be withheld rather than "recommending the next low bidder", which reflects current practice.

## **Future Operational & By-Law Improvements**

In 2024, the Fair Wage Office will start to explore how to make use of City technology, like SAP Ariba, to improve Fair Wage approval and enforcement processes. The aim will be to determine what future amendments should be made to our operations and the by-law that will streamline the Fair Wage approval process before contracts are awarded, and allow for effective enforcement of the Fair Wage and Labour Trades Policies after contracts have been awarded, and City work is being performed by contractors and sub-contractors.

Under the current Fair Wage pre-contract award process, for any services that are procured through Purchasing and Materials Management Division suppliers submit a written declaration and the Fair Wage Office does not approve them for contract award until it is satisfied that contractors and their sub-contractors are aware of their Fair Wage and Labour Trades obligations, agree to adhere to them, and provide sufficient details on how they will comply with them, including confirming the union status of companies that will be doing the work. This process is largely administered by Fair Wage Office staff coordinating efforts with suppliers and divisional staff through phone calls and emails, outside of the SAP Ariba procurement system.

In the near future, we will be seeking out technology-based solutions - in SAP Ariba or in other appropriate means - that will allow the City to approve Fair Wage Declarations within the system, based on the information and declarations provided by suppliers. Post-award, these solutions will also allow the Fair Wage Office to select declarations to look further into and follow-up on, based on risk factors identified by the Fair Wage Office, such as union affiliation, compliance history, industry, construction sector, type of labour.

## **Updating the Labour Trades Contractual Obligations in the Construction Industry (Schedule B)**

For clarity, adding the word "Policy" at the end of Schedule B is recommended so that going forward it will be referred to as the "Labour Trades Contractual Obligations in the Construction Industry Policy".

## Updating the Fair Wage Schedule, 2019-2022 (Schedule C)

Schedule C, the By-Law and the Policy work together to harmonize hourly wages, vacation and holiday pay, benefits, and weekly hours of work received by organized and unorganized workers performing City work to create a level playing field for contractors bidding on City contracts.

An updated Fair Wage Schedule C is recommended to Council for approval every three years. While the updated Schedule C will affect only procurements issued on or after January 1, 2024, it is important to maintain a record of historic wages.

The following six proposed schedules are included as part of Attachment “2” to this report:

- (1) General Classifications;
- (2) Heavy Construction work;
- (3) Industrial, Commercial, Institutional (I.C.I.) work;
- (4) Road Building work;
- (5) Sewer and Watermain Construction work; and
- (6) Utility work

Construction-related Fair Wage rates are harmonized with rates established by collective bargaining, while the Fair Wage rates for other classifications are based on market and industrial surveys, and the prevailing wages for non-union workers in a geographic area.

Average year-over-year wage increases for the six proposed schedules, in comparison with current schedules (2019 to 2021) are as follows:

Fair Wage Schedule Classification	Average Wages Increase 2021 - 2022	Average Wages Increase 2022 - 2023	Average Wages Increase 2023 - 2024
General Classifications	5.59%	6.06%	4.99%
Heavy Construction work	4.05%	4.05%	3.81%
Industrial, Commercial, Institutional (I.C.I.) work	3.23%	4.03%	3.86%
Road Building work	3.73%	3.61%	4.04%

Fair Wage Schedule Classification	Average Wages Increase 2021 - 2022	Average Wages Increase 2022 - 2023	Average Wages Increase 2023 - 2024
Sewer and Watermain Construction work	3.49%	4.2%	4.65%
Utility work	3.85%	4.23%	4.18%

The proposed updated Fair Wage Schedule would be in effect only for new City procurements released after January 1, 2024. The proposed Schedule C rates would not be binding on current City contracts in progress, or contract awards in progress. The former Schedule C will still apply for all City procurement documents issued before January 1, 2024 and enforcement and compliance of those contracts will be on the basis of the previous Fair Wage Schedules that apply.

The Fair Wage Office will maintain copies of the former Fair Wage Schedules at the Fair Wage Office and on the Fair Wage Office website.

**CONTACT**

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**SIGNATURE**

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Ali Sheikh  
 Manager, Fair Wage Office

**ATTACHMENTS**

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- Attachment "1": Fair Wage Policy
1. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage
  2. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage, Schedule "A" Fair Wage Policy

Attachment "2": Fair Wage Schedule 2022-2025

1. General Classifications;
2. Heavy Construction work;
3. Industrial, Commercial, Institutional (I.C.I.) work;
4. Road Building work;
5. Sewer and Watermain Construction work; and
6. Utility work