

## **Report Back Regarding item GG8.20 and Revisions to the Fair Wage Policy and Updating the Fair Wage Schedule to Include 2022-2024 Wage Rates**

**Date:** April 30, 2024

**To:** Executive Committee

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

**Wards:** All

### **SUMMARY**

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This report provides additional information regarding item GG8.20 from the General Government Committee's meeting on December 6, 2023. Specifically, it provides an updated financial analysis on proposed changes to Toronto Municipal Code Chapter 67, Fair Wage, and how the proposed changes will clarify how the by-law applies to small businesses.

This report is being submitted to the Executive Committee following its April 9, 2024 decision to refer all matters related to the City's Fair Wage Policy from the General Government Committee to the Executive Committee, for consideration.

At the December 2023 General Government Committee meeting, the Manager, Fair Wage Office, Purchasing and Materials Management Division submitted a report on Item [GG8.20](#) dated November 22, 2023 (the "November Report"). The November Report recommended revisions to Chapter 67, Fair Wage (the "By-Law"), and all three of the By-Law's schedules: Schedule A, Fair Wage Policy (the "Policy"); Schedule B, Labour Trades Contractual Obligations in the Construction Industry (the "Labour Trades"); and Schedule C, Fair Wage Schedule, 2016-2019 ("Schedule C"). This report proposes no additional changes.

Under the By-Law the Manager, Fair Wage Office is delegated authority to update the wage rates in Schedule C every three years, consistent with prevailing market rates in the construction industry. The proposed updated Schedule C reflects wage increases recognized by the construction labour markets. The November Report recommended that the updated Schedule C wage rates take effect for all new City procurements issued on or after January 1, 2024. The new proposed effective date is July 1, 2024.

Proposed changes to the By-Law and Policy include adding definitions and clarifying Policy application provisions regarding "Owner Operators" and grant agreements. The proposed changes regarding the Fair Wage Policy not applying to "Owner Operators" would not change how Chapter 67 currently applies to small businesses. The changes further provide clarity as to how the Fair Wage Policy is interpreted regarding grant agreements.

## **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 Attachments "1" and "3" to this report, effective July 1, 2024 (the "Effective Date").
2. City Council amend Schedule C to Municipal Code, Chapter 67, by replacing the current Schedule C with the Schedules contained in Attachments "5", "6", "7", "8", "9" and "10" to this report, as the new Schedule C to Chapter 67, effective as of the Effective Date.

## **FINANCIAL IMPACT**

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This report recommends that new City procurements of contracts issued on or after the Effective Date be subject to the proposed Schedule C changes (i.e., wage increases to reflect 2022 to 2024 rates applicable to non-union workers).

The potential incremental costs for new City procurements of construction contracts issued on or after the Effective Date is estimated to be between \$2.7 million and \$4.8 million annually. This is based on the following assumptions:

- 2019 and 2020 data leveraged as proxies for the City's construction spending awarded to non-union contractors;
- 2019 - \$1.59 billion construction awarded with 12% or \$194 million awarded to non-union companies;
- 2020 - \$1.15 billion construction awarded with 30% or \$344 million awarded to non-union companies;
- 33.5% of total construction costs being labour costs; and
- 4.2% average annual wage increase for non-union workers.

These cost increases may have an impact on cash flow funding requirements of applicable capital projects. Capital project cash flows over the 10 year capital planning period are required to reflect annual inflationary estimates based on anticipated year of construction. Financial impacts including full contracted expenditures and funding will be identified in the relevant contracts and/or procurement documents with applicable capital projects.

It should be emphasized that the above financial impacts are high-level estimates based on certain assumptions that are subject to annual variability, projections such as fluctuating non-labour cost impact on total construction costs, estimation methods employed in developing bids, inability to accurately forecast the ratio of contract awards to non-union contractors for future years, etc. Any deviation from the base assumptions will result in changes in the estimated financial impacts.

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 April 9, 2024, the Executive Committee considered Item [EX13.18](#) and decided to refer all matters related to the City's Fair Wage Policy to the Executive Committee for consideration, instead of the General Government Committee.

At its meeting on December 6, 2023, the General Government Committee considered Item [GG8.20](#) and received a [report](#) from the Manager, Fair Wage Office dated November 22, 2023. The report recommended changes to Toronto Municipal Code Chapter 67 and all three of its schedules. The committee referred the matter back to the Fair Wage Office for further review and inclusion of 1) more detailed financial analysis and estimated budget dollar impact; and 2) options to continue to include exemptions for small businesses designed to ensure competitiveness and remove barriers to participation in procurement opportunities.

At its meeting on February 7 and 8, 2023, City Council passed [By-law 139-2023](#), amending 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 [GG1.12](#), adopted without amendments by Council.

At its meeting on June 18, 2019, City Council decided that the City of Toronto would remain a construction employer and bound by province-wide collective agreements in the Industrial, Commercial, and Institutional construction sector. Authority for this decision was Executive Committee Item [EX6.3](#), adopted with amendments by Council.

At its meeting on May 24 - 26, 2017, City Council amended 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](#), adopted as amended, by Council on July 16, 17, 18 and 19, 2013.

At its meeting on November 8 and 9, 2016, City Council adopted Item [AU7.5](#), without amendments to, among other things, strengthen enforcement of the Fair Wage Policy.

At its meeting on October 6, 2008, City Council received a report for information from the City Manager that provided an overview of the construction activities for 2007 including the cost of construction contracts, breakdown of labour costs (union/non-union) and the value of training and legal issues. The report came to Council from Executive Committee Item [EX24.8](#).

At its meeting on Oct 22, 2007, City Council adopted General Management Committee Report on Item [GM8.9](#). The report proposed both minor and substantive revisions to the Policy meant to enhance the clarity and understanding of the Policy by contractors, employees, and City Staff.

## **COMMENTS**

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### **Background**

At the December 6, 2023, General Government Committee meeting, a motion was passed to:

1. Refer Item GG8.20 back to the Manager, Fair Wage Office, Purchasing and Materials Management Division for further review and inclusion of:
  - a. More detailed financial analysis and estimated budget dollar impact; and
  - b. Options to continue to include exemptions for small businesses designed to ensure competitiveness and remove barriers to participation in procurement opportunities.

### **Proposed By-law and Schedule A Changes:**

#### **Purpose and Intent:**

Under the proposed changes, the Policy's central principle would remain the same - the prohibition of the City from doing business with contractors, sub-contractors and suppliers who discriminate against their workers. However, one proposed change clarifies that a key part of the Policy's intent is to "harmonize" wages between organized and unorganized labour, rather than "compromise".

**Application:**

The newly proposed application language would not modify how the Fair Wage Policy applies to small businesses: if an individual or company performing City work employs at least one employee, the Policy applies to the employee(s).

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". To improve clarity for vendors and workers, it was proposed that the Fair Wage rates do not apply to "Owner Operators", defined as "principals of Contractor or Sub-Contractor business entities, as long as they undertake the entire City work themselves".

All City contractors and sub-contractors, regardless of size, would still be required to comply with the City's Labour Trades Contractual Obligations in the Construction Industry and all province-wide collective agreements to which the City is bound. This is currently the case for small businesses and would continue to be the case for "Owner Operators" who do all City work themselves, were the proposed changes to be adopted.

In June 2019, the City decided to remain a construction employer, and bound by province-wide collective agreements. When making its decision, Council considered a report from the City Manager to Executive Committee on Item EX6.3, dated May 29, 2019.

A new subsection has been proposed 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.

The November Report provides more detailed analysis of other proposed changes to the By-Law and the Policy, beyond those set out in this report.

**Proposed Schedule B Changes:**

The only proposed revision related to the Labour Trades in the November Report was to change the name from the "Labour Trades Contractual Obligations in the Construction Industry" to the "Labour Trades Contractual Obligations in the Construction Industry Policy", for clarity and consistency.

**Proposed Schedule C Changes:**

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

Under the By-Law the Manager, Fair Wage Office, is delegated authority to update the wage rates in Schedule C every three years, consistent with the construction industry prevailing market rates. The current Schedule C covers 2019 to 2022.

The following six proposed schedules were included as part of the November Report:

- (1) General Classifications;
- (2) Heavy Construction work;
- (3) Industrial, Commercial, Institutional (ICI) 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.

In the November Report, average year-over-year wage increases for the six proposed schedules, in comparison with current schedules (2019 to 2022) were as follows:

**Table 1 - Average Year-Over-Year Wage Increases**

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 (ICI) work	3.23%	4.03%	3.86%
Road Building work	3.73%	3.61%	4.04%
Sewer and Watermain Construction work	3.49%	4.2%	4.65%

Fair Wage Schedule Classification	Average Wages Increase 2021 - 2022	Average Wages Increase 2022 - 2023	Average Wages Increase 2023 - 2024
Utility work	3.85%	4.23%	4.18%
Average Increase Across All Classifications Above	3.99%	4.36%	4.26%
Average Annual Wage Increase Over 2021-2024	4.20%		

The November Report recommended that the updated Schedule C take effect for all new City procurements issued on or after January 1, 2024. All City contracts or procurement documents issued before January 1, 2024, would continue to use the Fair Wage rates set out in the current Schedule C (2019 to 2022). The new proposed effective date is July 1, 2024.

### **Additional Financial Analysis of 2019 and 2020 Data & Estimated Budget Dollar Impact of Proposed Changes to Schedule C on City Construction Spending**

At a high level, the estimated budget dollar impacts the proposed changes to Schedule C would have on the City's construction spending is between \$2.7 million and \$4.8 million annually based on construction spend data for 2019 and 2020.

The Fair Wage rates only apply to non-union workers. Wage rates for all City work performed by union workers are governed by their collective agreements. The City is bound to 10 unions in the Industrial Commercial and Institutional (ICI) construction sector.

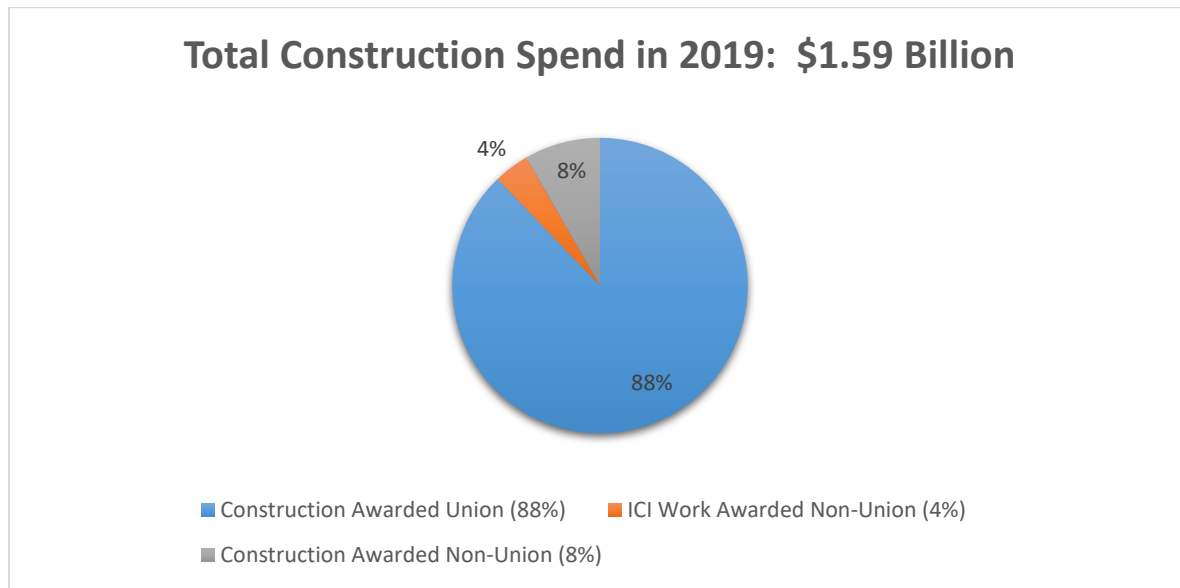
Under the City's bidding practices, procurement calls with work to be done by union workers – subject to the Labour Trades and provincial collective agreements to which the City is bound – can be awarded to general contractors who are not unionized in the sector in which the work falls, so long as they sub-contract it to companies who are affiliated with the appropriate union(s). This means that even if work is awarded to a non-union general contractor, that work can end up going to a unionized sub-contractor. This also means even less work is subject to Fair Wage, in practice.

Twice in the last four years, the Fair Wage Office has been asked to gather declaration information and analyze how much work is being awarded to union compared to non-union contractors. The figures and graphs in this section reflect construction spending funds being paid by the City to general contractors, and do not address how much those contractors are paying their sub-contractors, whether they are unionized or not.

In 2020, the Fair Wage Office gathered and analyzed information on construction spending in 2019, and again in 2021 for 2020 spending. The data did not cover non-construction services provided to the City.

In 2019, the City spent approximately \$1.59 billion on construction. Out of that total spend, 88% of work was awarded to union contractors. Of the remaining 12% awarded to non-union companies, 4% was in the ICI sector and 8% was in all other construction sectors. This meant that for 2019, the Fair Wage rates applied to approximately \$194 million of construction spending.

**Chart 1: Total Construction Spend in 2019**

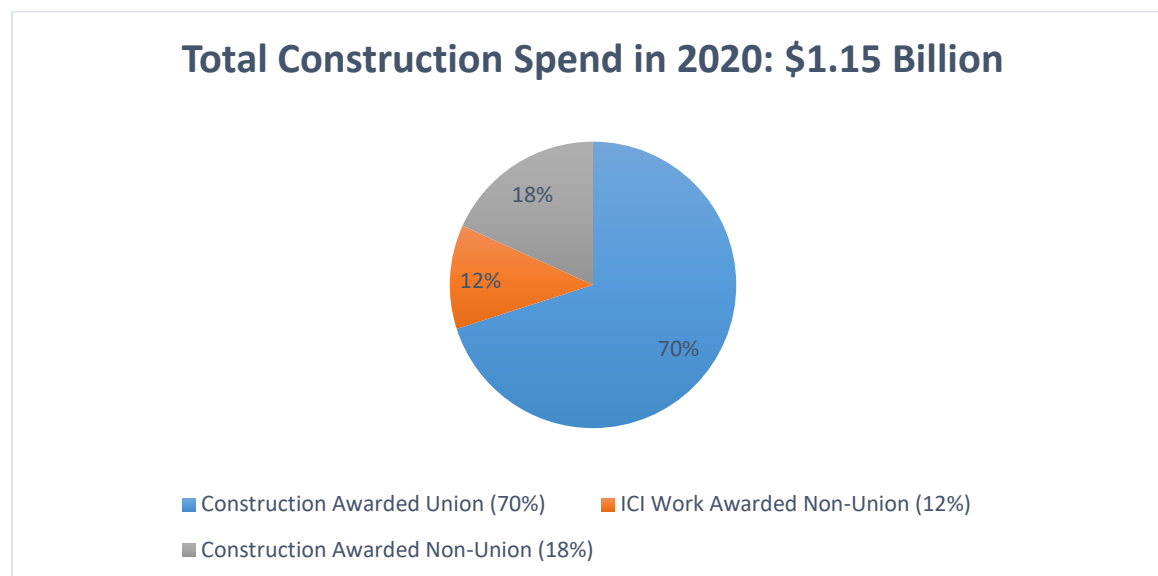


Construction Sector and percentage for 2019	Dollar Amount
Total Construction Spend (100%)	\$1,589,989,333
Construction Awarded Union (88%)	\$1,396,080,065
ICI Work Awarded Non-Union (4%)	\$61,744,275
Construction Awarded Non-Union (8%)	\$132,164,993

Completing the same type of analysis, a year later, it was determined that the City spent about \$1.15 billion on construction in 2020. 70% of work was awarded to union contractors. Of the remaining 30% awarded to non-union companies, 12% was in the ICI sector and 18% was in all other sectors. This meant that for 2020, the Fair Wage rates applied to approximately \$344 million of construction spending.



**Chart 2: Total Construction Spend in 2020**



Construction Sector and percentage for 2020	Dollar Amount
Total Construction Spend (100%)	\$1,147,412,812
Construction Awarded Union (70%)	\$803,537,072
ICI Work Awarded Non-Union (12%)	\$134,773,945
Construction Awarded Non-Union (18%)	\$209,101,796

## Financial Impact Estimation

One way to approximate how much the proposed increases could affect the labour costs of construction contracts going forward, assuming they would not already reflect inflationary increases in wages, is to take the average yearly increase of the proposed Fair Wage Rates across all sectors and apply it to the 2019 and 2020 construction spending data to which the Fair Wage rates were directly applicable. Referring to the Table 1 included on page 6 of this report, the proposed Fair Wage Rates increase on average 4.2% every year over a three-year period.

In a September 2008 report to Executive Committee (EX24.8) on Labour and Training Costs in Construction Procurement, it was reported that labour accounts for approximately 33.5% of total construction costs. Using this one third ratio as a guide we can approximate the potential cost impact of the proposed updated Fair Wage rates to the City:

2019

- In 2019, approximately \$194 million was awarded to non-union contractors.
- 33.5% of this represents \$65 million in labour.
- A 4.2% wage increase would represent a \$2.7 million increase in costs.
- \$2.7 million cost increase would reflect a total increase of 1.4% against \$194 million awarded to non-union contractors in 2019.

2020

- In 2020, approximately \$344 million was awarded to non-union contractors.
- 33.5% of this represents \$115 million in labour.
- A 4.2% wage increase would represent a \$4.8 million increase in costs.
- \$4.8 million cost increase would reflect a total increase of 1.4% against \$344 million awarded to non-union contractors in 2020.

### **Unit Priced Contracts Example: ECS Estimation Process for Road Work**

The Fair Wage Office investigated construction spending in the Road Building sector as a possible source of information to guide the financial impact, and the cost of labour is only one factor that the City's Engineering and Construction Services division ("ECS") takes into consideration. There has been an increase in overall capital costs over recent years, however increased labour costs have a limited impact on driving up these project costs, when compared to other factors such as complexity of a given project, volatility of the supply chain, increased traffic congestion, and new provincial Ministry of Environment regulatory requirements regarding the handling and disposal of soil.

According to ECS, they prepare cost estimates for road work using "unit priced contracts" and a tool called the Project Tracking Portal ("PTP"). A construction tender may have hundreds of items, with each item including labour, materials, and equipment. Unit prices relate to the costs of building each item by a unit rate (per square meter, for example). The same unit pricing process is used for estimating costs and paying out contractors.

Take the construction of sidewalks and curbs as an example. The PTP provides what an average curb unit costs to build over the previous few years. A City engineer will use this figure as a starting point to estimate what each curb in each project will cost, based mostly on volume and complexity of the required work. The more total curbs being built, and the less complex they are, the cheaper the rate; whereas the average unit rate is higher for less work, and for work that is more complex.

Road building projects have become more complex over time, particularly in the downtown core. With more things that require building around (utilities, infrastructure etc.) that weren't there previously, greater complexity of projects means they are becoming more expensive.

Since the pandemic, projects are also getting more expensive due to the magnitude of construction in the city driving up the demand for materials, equipment, and skilled labour. Recently there has also been an increase in overall traffic volumes and congestion. Truck drivers now need more time to deliver materials and workers must

wait for deliveries. This extends the time required to complete a project, and as a result, costs.

New provincial mandates related to the handling and disposal of soil waste further add to the City's road building costs. As of recently, construction waste handlers must prove that soil is clean enough to be dumped at a site other than an approved waste disposal site. If it isn't clean enough, it must be handled by a ministry-approved hauler and unloaded at an approved site, often outside the City. The new handling requirements and increased distances the soil must be trucked have, together, increased costs.

According to ECS, project costing is based on the cost of materials, equipment, and labour. An increase in the labour rate within the Fair Wages Schedule has a limited impact on current pricing generally and even more so in the current market where the demand for skilled labour is high.

### **Limitations on Providing More Detailed Financial Analysis:**

It is challenging to definitively estimate the financial impacts of the recommended increases to fair wage rates, especially with the variability in annual awards and portion attributed to non-union. Furthermore, any estimated incremental impact would be absent the level of inflationary increase to non-union wages that would have occurred without fair wage requirements.

In addition to challenges noted above, a financial impact report on potential spend is difficult because of the following reasons:

- 1) Market bids are not only impacted by labour costs. Demand and supply of materials and other factors will impact the costs of our projects.
- 2) Estimators are engaged by vendors to provide detailed estimated costs to complete a project to determine a viable bid price.
- 3) General contractors that do work for the City may not be amenable to providing accurate data on their labour costs and other variables in a competitive market. The City would not have this information without it being provided by the contractors.
- 4) The annual spend and the ratio of contract awards to union vs non-union contractors changes every year and cannot be forecasted accurately

## **CONTACT**

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## **SIGNATURE**

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Ali Sheikh  
Manager, Fair Wage Office

## **ATTACHMENTS**

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1. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage;
2. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage - Red Line;
3. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage, Schedule "A" Fair Wage Policy;
4. Proposed amendments to Municipal Code, Chapter 67 - Fair Wage, Schedule "A" Fair Wage Policy - Red Line;
5. General Classifications 2022-2025;
6. Heavy Construction work 2022-2025;
7. Industrial, Commercial, Institutional (ICI) work 2022-2025;
8. Road Building work 2022-2025.
9. Sewer and Watermain Construction work 2022-2025; and
10. Utility work 2022-2025