

## **Chapter 67**

### **FAIR WAGE**

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#### **§ 67-1. Definitions.**

For the purposes of this chapter, the following terms shall have the meanings indicated:

**APPRENTICE** - An individual who has entered into a registered training agreement under which the individual is to receive workplace-based training in a trade, other occupations or skill set as part of an apprenticeship program approved by the appropriate Ontario ministry.

**APPRENTICESHIP PROGRAM** - A program recognized by the appropriate Ontario Ministry which provides for the qualification, recruitment, selection, employment, and training on the job. Apprenticeship and training leads to Ontario Certification of Qualification and Apprenticeship for journeyman status, which is recognized by employer and employee representatives of industry.

**CHIEF PROCUREMENT OFFICER** - Has the same meaning as in Toronto Municipal Code, Chapter 195, Purchasing.

**CONTRACT** - Has the same meaning as in Toronto Municipal Code, Chapter 195, Purchasing.

**CONTRACTOR** - Any person or business entity with whom the City enters into a Contract to perform work or provide services.

**FAIR WAGE OFFICE** - The office responsible for administering the provisions of this chapter.

**FAIR WAGE SCHEDULE** - Stipulated rates of pay for different classifications of work produced by and obtainable from the Fair Wage Office.

**FIELD WORK** - All work in performance of a 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.

**MANAGER, FAIR WAGE OFFICE** - The officer appointed, from time to time, to oversee the Fair Wage Office and to perform the duties and responsibilities set out in this chapter.

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

A. A Contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his or her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry Policy.

B. A Sub-Contractor fails to co-operate with the Manager, Fair Wage Office in fulfilling his or her responsibilities under the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry Policy.

C. A Contractor or Sub-Contractor has been found in violation of the Fair Wage Policy (Non-Compliance applies to both Contractor and Sub-Contractor).

D. A Contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry Policy.

E. A Sub-Contractor has been found in violation of the Labour Trades Contractual Obligations in the Construction Industry Policy.

**OWNER OPERATORS** - Principals of Contractor or Sub-Contractor business entities, as long as they undertake the entire City work themselves.

**PROCUREMENT** - Has the same meaning as in Toronto Municipal Code, Chapter 195, Purchasing.

**SHOP WORK** - Any work in performance of a 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.

**STANDING COMMITTEE** – One of the Council Committees set out in Toronto Municipal Code, Chapter 27, Council Procedure, § 27-16.2B.

**SUB-CONTRACTOR** - Any person or business entity not Contracting with or employed directly by the City but who supplies services or materials to the improvement under an agreement with the Contractor or under the Contract with another Sub-Contractor.

**WAGES or RATE OF WAGES** - Includes the hourly rate, standby rate, vacation and holiday pay and any applicable amount for Fringe Benefits shown in the current Fair Wage Schedule, or determined by the Manager, Fair Wage Office, to be paid to a Worker as part of the Worker's wages or for the Worker's benefit, or provided for in any collective agreement applicable to that Worker. Discretionary and non-discretionary bonuses are not included in the definition of Wages.

**WORKERS** - Includes but is not limited to mechanics, workers, labourers, clerical staff, and owners and drivers of a truck or other vehicle employed in the execution of a Contract by the Contractor or by any Sub-Contractor under them.

**§ 67-2. Appointment of Manager, Fair Wage Office; reporting.**

A. The person appointed Manager, Fair Wage Office for the City of Toronto, is deemed to be under the control of the Chief Procurement Officer for administrative purposes, including routine personnel matters such as provision of clerical services, attendance, vacation scheduling, sick pay authorization, increment recommendations, recording and control of budget allocation and petty cash authorization.

B. The Chief Procurement Officer shall report directly to the appropriate Standing Committee on matters arising from this chapter.

**§ 67-3. Duties of Manager, Fair Wage Office.**

The duties of the Manager, Fair Wage Office, shall include:

A. To collect and keep information respecting:

(1) The rate of wages and Fringe Benefits from time to time paid to each Worker and each classification of Worker engaged in the performance of any City Contract; and

(2) The number of hours per day worked by each such class or Worker.

B. To review and approve for Contract award all necessary Contractors and Sub-Contractors, as part of the City's purchasing approval process: [Amended 2007-10-23 by By-law 1140-2007]

(1) That appear to comply with the Fair Wage Policy; and

(2) That appear to comply with Labour Trades Contractual Obligations in the Construction Industry Policy.

C. To receive and investigate complaints:

(1) On any matter or thing relating to the union status, Rate of Wages, hours of labour per day, Fringe Benefits or conveniences provided for Workers;

(2) On alleged discriminatory practices in connection with the performance of any City Contract; and

(3) On any other matter relating to the Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Policy.

D. Prepare schedules setting out:

(1) the rates of Wages which in his or her opinion should be paid to each classification of Worker (including drivers of vehicles) engaged in the performance of City Contracts.

(2) The number of hours which should constitute a day's work for each such class.

(3) For the purposes of preparing any such schedule, to confer with representatives of employers and labour, as necessary.

E. To investigate and obtain information:

(1) On labour and conditions under which all City Contracts are performed, including:

(a) The name of any Contractor or Sub-Contractor whom he or she has found has failed to pay or cause to be paid to any Worker wages according to the provisions of his or her Contract with the City.

(b) The name and address of such Worker, his or her occupation, the time he or she was employed, the amount of wages payable according to the terms of the Contract, and the amount of wages actually paid to such Worker.

F. Inspection of books and records; reporting.

(1) To investigate and inspect from time to time, as he or she may consider necessary, the books and records of Contractors and Sub-Contractors employed or engaged in the performance of any City Contract to ensure that each such Contractor and Sub-Contractor is keeping proper books and records as required by the Contract; and

(2) To request any information respecting Wages of Workers, names of Workers, records of amounts paid to each, paysheets, original books, etc., in connection with a Contract that has been substantially completed within the past six months, that may be desired by the Manager to fulfill the Manager's duties under § 67-3C and 67-3E; and [Added 2007-10-23 by By-law 1140-20073]

(3) To prepare an annual report for the Chief Procurement Officer containing:

(a) The names of Contractors and Sub-Contractors that have violated the Fair Wage Policy;

(b) The names of the Contractors and Sub-Contractors that have settled Labour Trades Contractual Obligations in the Construction Industry Policy grievances; and

(c) Any other information, as may be necessary.

(4) For greater clarity, the annual report and any other report authorized or required by this Chapter shall be transmitted to the appropriate Standing Committee by the Chief Procurement Officer.

G. Site inspections.

(1) To inspect and view from time to time the place or premises where any City Contract is being executed:

(a) To collect information about Workers;

(b) To determine the type of work being performed, the appropriate construction sector, or the union status of Workers, Contractors or Sub-Contractors; and

(c) To ensure that the Contractor or Sub-Contractor has either posted and kept posted in a conspicuous place, open to the view of all workers, the schedule of rates of wages and hours of labour contained in the contract and a copy of the Fair Wage Policy, or provided all Workers with a an electronic copies of the schedule of rates of wages and hours of labour contained in the contract and a copy of the Fair Wage Policy.

(2) Site inspections may include interviews with Workers to ensure work conditions are in compliance with the Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Policy.

(3) To make one or more orders requiring Contractors, Sub-Contractors or Workers to stop performing City work that is suspected of not being performed in compliance with the Fair Wage Policy or the Labour Trades Contractual Obligations in the Construction Industry Policy, including ordering Contractors, Sub-Contractors or Workers to leave a place or premises where a City Contract is being executed.

H. To investigate Contractor and Sub-Contractor records to determine whether the City's Contractual obligations in the construction industry, with respect to using certified labour trades, are being met.

I. To investigate Contractor and Sub-Contractor records to determine compliance with the conditions under the Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Policy.

J. To perform such other duties as may from time to time be assigned.

K. To report annually to the appropriate Standing Committee activities and any issues relating to the Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry Policy or recommended revisions that are deemed appropriate.

[Amended 2007-02-06 by By-law 37-2007; 2007-07-19 by By-law 780-2007]

L. To report to the appropriate Standing Committee all issues respecting the disqualification provisions under the Fair Wage Policy. [Amended 2007-02-06 by By-law 37-2007; 2007-07-19 by By-law 780-2007]

### **§ 67-3.1. Delegation.**

[Added 2013-10-11 by By-law 1287-2013]

A. The Manager, Fair Wage Office, is delegated the authority to carry out all duties set out in §67-3 and to update the wage rates in Schedule C to Chapter 67, Fair Wage, every three years consistent with the construction industry prevailing market rates commencing in 2013.

B. No updated wage rate shall take effect until the enactment by Council of the necessary by-law to amend Schedule C to Chapter 67, Fair Wage.

C. The City Solicitor may submit, for enactment by Council, amendments to Schedule C to Chapter 67, Fair Wage, to give effect to the updated wage rates as determined by the Manager, Fair Wage Office under the delegated authority in §67-3.1.

D. Subsequent to the 2013 update for the General Classification division of Schedule C to Chapter 67, Fair Wage, set out in section 4 and Appendix I of this by-law<sup>4</sup>, the Manager, Fair Wage Office, is delegated authority to update the wage rates for the General Classification division of Schedule C every three years to reflect current market wage rates prevailing in such industries for new Tenders, Requests for Quotations, Requests for Proposals, Purchase Orders and Divisional Purchase Orders issued by the City.

E. 2013 shall be the base year and future updates to Schedule C shall go into effect on June 1 of the update year, with the first update year being 2016.

F. The Manager, Fair Wage Office, shall file the updated wage rates for Schedule C to Chapter 67, Fair Wage, with the City Clerk no later than 60 days prior to the June 1 effective date.

G. The City Clerk shall post on the City Clerk's website (under Public Notices) and the Manager, Fair Wage Office, shall post on the Fair Wage website notice of the updated wage rates for Schedule C to Chapter 67, Fair Wage, no later than 45 days prior to the updated wage rates coming into effect.

H. The Manager, Fair Wage Office, shall also advise the Chief Procurement Officer of the updated wage rates for Schedule C immediately prior to the updated wage rates going into effect. [Amended 2020-10-02 by By-law 804-2020]

**§ 67-4. Fair Wage Policy.**

The City's Fair Wage Policy attached as Schedule A to this chapter, as adopted by City Council and amended from time to time, shall be used in the City's Procurement documents where necessary.

A. The application of the Fair Wage Policy is described in section 67-A5 of Schedule A to this chapter.

**§ 67-5. Labour Trades Contractual Obligations in the Construction Industry Policy.**

The City's Labour Trades Contractual Obligations in the Construction Industry Policy attached as Schedule B to this chapter, as adopted by City Council and amended from time to time, shall be used in the City's Procurement documents where necessary.

**§ 67-6. Fair Wage Schedule.**

[Amended 2013-10-11 by By-law 1287-2013]

The City's Fair Wage Schedule attached as Schedule C to this chapter, subject to the enactment of any necessary amending by-laws, may be amended from time to time under the authority delegated to the Manager, Fair Wage Office in § 67-3.1 of this chapter, and shall be used in the City's Procurement documents where necessary, for the following classifications:

- A. General Classifications.
- B. Heavy Construction work.
- C. Industrial, Commercial and Institutional (I.C.I.) work.
- D. Road Building work.
- E. Sewer and Watermain Construction work.
- F. Utility work.