

APPENDIX A



COUNCIL POLICY

Category: Purchasing

Fair Wage Policy

Policy Number: [Policy Number (assigned by CAO's Office, after approval)]
Approved by: Choose an item. [Council Resolution #] – [Date]
Administered by: [Division and section]
Effective Date: [Date]

This template is meant to be used in conjunction with the Quick Reference Guide <insert link here>.

Do not use the Microsoft Word web app with this template. It will break the styles formatting.

Corporate Policy Team, Office of the CAO policy@brampton.ca

Contents

1. Background	2
2. Purpose	2
3. Application and Scope	2
4. Outcomes	3
5. Principles	3
6. Mandatory Requirements	4
7. Roles and Responsibilities.....	5
8. Monitoring and Compliance	7
9. Definitions	8
10. References and Resources	9
11. Revision History	9

1. Background

On the 10th of August 2022, Council adopted Motion CW310-2022 directing the City to develop a Fair Wage Policy for construction work tendered by the City. The Fair Wage Policy aligns with and implements the City's Sustainable Procurement Strategy which was also endorsed by City Council on August 10, 2022.

If the City of Brampton were to directly enter the construction of buildings used principally for residential purposes a housing-specific Fair Wage Policy would be developed.

2. Purpose

The purpose of the Fair Wage Policy ("Policy") is to ensure that construction contractors hired by the City pay their employees not less than the prevailing wage for similar types of construction work, properly classify their workers as employees and comply with requirements under the *Occupational Health and Safety Act*, *The Workplace Safety and Insurance Act*, the *Employment Standards Act* and the *Ontario Human Rights Code*. The Fair Wage Policy encourages contractors to provide benefits to their employees and to invest in training and apprenticeships. In this way, the Fair Wage Policy fosters a level playing field among contractors competing to perform City work. The Policy encourages competition among contractors based on productivity and efficiency and not on paying wages below the industry norm.

3. Application and Scope

The Fair Wage Policy applies to all construction, renovation, repair and maintenance work, including optional renewals, with a procurement value of \$500,000 or greater. Requests for Proposal or Tenders will indicate whether the Fair Wage Policy applies to the work described in the Request for Proposal or Tenders. For clarity, the Fair Wage Policy applies to the construction, maintenance and repair of:

- Buildings, including their electrical, plumbing, heating and cooling systems;
- Roads, sidewalks, bridges and related structures;
- Sewers and watermains and other utilities installations; or
- Transit stops and transit rights-of-way.

The Fair Wage Policy applies to both prime contractors that contract directly with the City and to any sub-contractors that these prime contractors might also hire, pursuant to their contract with the City.

3.1 Exceptions

3.1.1 The Fair Wage Policy does not apply to:

- a) Landscaping work unless that work entails excavation or the construction of structures or walls;

- b) Construction of buildings used principally for residential purposes;
- c) Repair and maintenance of vehicles, including transit vehicles;
- d) Street sweeping and cleaning;
- e) Cleaning transit stop shelters;
- f) Graffiti removal;
- g) Snow clearing;
- h) Window cleaning or the routine cleaning of buildings;
- i) The installation, repair or maintenance of communications and data cabling systems and networks; and
- j) Utility work undertaken in connection with roadwork.

4. Outcomes

- 4.1 Increase in construction vendors' compliance with statutorily mandated employment standards.
- 4.2 Curtailment of construction contractors' deliberate misclassification of workers as sub-contractors rather than as employees.
- 4.3 Enhancement of the City's reputation as a responsible and ethical purchaser of construction services.
- 4.4 Support construction employers that invest in high standards for health and safety and skills training.
- 4.5 Promote a market for construction services that is based on quality, efficiency and productivity.

5. Principles

- 5.1 **Fairness** – This Policy ensures that workers are paid fair wages based on their skills and experience and receive the benefits they are entitled to under the statutorily mandated employee standards.
- 5.2 **Accountability** – This policy holds employers accountable for providing fair wages to worker, and includes mechanisms for ensuring employers comply with this Policy.
- 5.3 **Transparency** – This policy ensures there are publicly available criteria, in the form of a Fair Wage Schedule, for determining pay rates and clear processes for workers to raise concerns about their compensation.
- 5.4 **Open Tendering** – The City of Brampton welcomes tenders or proposals from all vendors that are compliant with the Fair Wage Policy regardless of whether

they have collective agreements with a Building Trades Union, an alternative union or no union.

6. Mandatory Requirements

6.1 Vendors performing construction work covered by the Fair Wage Policy must:

- 6.1.1 Pay no less than the remuneration set out in the City's Fair Wage Schedule for the relevant classifications and types of construction work where remuneration is the sum of the direct hourly wage plus the hourly value of statutory and non-statutory benefits; Remuneration by piece-rate is not permitted on City work. An hourly wage is required when carrying out construction work for the City;
- 6.1.2 Maintain payroll records that enable the City to verify compliance with the Fair Wage Policy;
- 6.1.3 Place a poster supplied by the City of Brampton indicating that the City has a Fair Wage Policy alongside the poster supplied by the Workplace Safety and Insurance Board;
- 6.1.4 Inform employees that the City of Brampton has a Fair Wage Policy and that the Fair Wage rates are available on the City's website;
- 6.1.5 Complete a statutory declaration at the completion of the project or when requested by the City affirming that the vendor and its sub-contractors:
 - a) Are in full compliance with all statutory obligations including, in particular, the Occupational Health and Safety Act, the Employment Standards Act, the Workplace Safety and Insurance Act and the Ontario Human Rights Code;
 - b) Have made all obligatory remittances under the Employment Insurance Act, the Canada Pension Plan Act and the Workplace Safety and Insurance Act;
 - c) Have classified all workers who are employees per the Employment Standards Act as employees;
 - d) Have required all workers who are properly classified as independent operators per the Workplace Safety and Insurance Act are registered with the Workplace Safety and Insurance Board; and
- 6.1.6 Ensure that sub-contractors are fully compliant with the Fair Wage Policy;
- 6.1.7 Cooperate fully with any inquiries or investigations undertaken by the City or its representatives; and

- 6.1.8 Where non-compliance with the Fair Wage Policy has been determined by the City, make payments within 14 days to the affected workers such that their remuneration complies with the Policy.

7. Roles and Responsibilities

- 7.1 The Director of Purchasing will have overall responsibility for the administration of the Fair Wage Policy, including:
 - a) Appointing a Fair Wage Administrator;
 - b) Appointing a Fair Wage Committee;
 - c) Ensuring that City staff receive appropriate training in the purposes and administration of the Fair Wage Policy;
 - d) Acting as the initial adjudicator of appeals against a finding of non-compliance by the Fair Wage Administrator;
 - e) Preparing an annual report on the administration of the Fair Wage Policy; and
 - f) Recommending to City Council, as appropriate, changes to the Fair Wage Policy.
- 7.2 The Director of Strategic Services & Initiatives or delegate will be the final adjudicator of appeals against a finding of non-compliance.
- 7.3 The Fair Wage Administrator will:
 - a) Develop Fair Wage Schedules per the Fair Wage Policy which may involve utilizing consultants as appropriate;
 - b) Ensure that the City's website includes up-to-date information on the City's Fair Wage Policy, Fair Wage Schedules and the names of any vendors found to be non-compliant with the Policy;
 - c) Ensure all procurements covering construction work is subject to the Fair Wage Policy including notice of this, along with information to prospective vendors on how to access the City's Fair Wage Policy and Fair Wage Schedules;
 - d) Arrange for and coordinate training for City staff in the purposes and administration of the Fair Wage Policy;
 - e) Prior to executing a contract, review with the successful vendor and the Operating Department the vendor's obligations under the Fair Wage Policy;
 - f) Respond to any inquiries concerning the Fair Wage Policy;

- g) Develop information forms that are required for administration of the Fair Wage Policy including statutory declarations, information posters and complaint forms;
- h) Receive complaints alleging non-compliance with the Fair Wage Policy and determine if there is a prima facie basis for initiating inquiries or an investigation;
- i) Determine, where relevant, how investigations will be undertaken, including whether external auditors will be engaged to review a vendor's payroll records and interview employees;
- j) Report to the Director of Purchasing the results of the inquiries and investigations and make a recommendation on the disposition of the complaint;
- k) Prepare such reports on the administration of the Fair Wage Policy as the Director of Purchasing or City Council may require;
- l) Convene and chair the Fair Wage Committee; and
- m) Carry out other tasks relevant to the administration of the Fair Wage Policy as determined by the Director of Purchasing.

7.4 The Fair Wage Committee will be appointed by the Director of Purchasing and will include:

7.4.1 The Fair Wage Administrator

7.4.2 Representatives from:

- a) Public Works & Engineering;
- b) Legal;
- c) Human Resources;
- d) Community Services; and
- e) other departments as required.

7.5 The Fair Wage Committee will:

7.5.1 Review draft Fair Wage Schedules and administrative forms developed by the Fair Wage Administrator;

7.5.2 Review submissions from internal and external stakeholders on the administration of the Fair Wage Policy;

7.5.3 Review findings of non-compliance and advise on further actions; and

7.5.4 Review the draft annual report on the administration of the Fair Wage Policy.

8. Monitoring and Compliance

- 8.1 Prior to executing a contract with a vendor, the Fair Wage Administrator will review with the vendor its obligations under the City's Fair Wage Policy. The Fair Wage Administrator will also review the Fair Wage Policy with the vendor's sub-contractors, all of whom are obligated in the same manner as the vendor.
- 8.2 Remuneration by piece-rate is not permitted on City work. All workers employed by vendors or their sub-contractors in occupations covered by the Fair Wage Schedules will be paid an hourly wage when carrying out construction work for the City.
- 8.3 Complaints that a vendor or its sub-contractor(s) is/are not in compliance with the Fair Wage Policy must be submitted on the approved Complaint Form within not more than 90 calendar days after completion of employment (evidenced by proof of last payment or payroll records) on the project but may be submitted at any time prior to that, including while the employment is in progress. At their sole discretion, the Director of Purchasing may waive this time limit, but in no event will the time limit be extended beyond two years.
- 8.4 Any person, corporation or organization may submit a complaint alleging non-compliance. The complaint will be submitted on the approved Complaint Form and will provide sufficient details to enable inquiries to be made or an investigation to be undertaken. Complainants will pay a fee of \$5,000. This fee does not apply when the complainant is an employee of the subject vendor or sub-contractor. The fee is refundable if the complaint is substantiated. When the complainant is an employee or former employee, the complainant's identity will be confidential to the City. The Fair Wage Administrator will determine whether the complaint should be investigated. If it is determined that no investigation should be undertaken, the complaint will be dismissed and the \$5,000 fee will be returned.
- 8.5 When an investigation proceeds, the payroll records of the subject vendor or sub-contractor will be reviewed to ascertain whether the vendor has violated the Fair Wage Policy. Employees of the vendor or sub-contractor may be interviewed. At the sole discretion of the Fair Wage Administrator, the investigation or inquiries may be undertaken by City employees or an external auditor. If the payroll records are not provided, the complaint will be deemed to be upheld.
- 8.6 A non-compliant contractor will be obliged to pay its affected employees the amounts they should have been paid per the Fair Wage Policy and to submit an audited statement proving that those payments have been made.
- 8.7 A non-compliant vendor will also be charged an administrative fee to cover the costs of the investigation. This fee will be the greater of \$5,000 or the cost of retaining auditing support to conduct the investigation.

- 8.8 A vendor found non-compliant may appeal the finding of non-compliance. The appeal will be heard by the Director of Purchasing. If there is no resolution at this stage, a final review will be undertaken by the Director of Strategic Services and Initiatives or delegate and the City Solicitor whose decision will be final.
- 8.9 The Director of Purchasing, after consulting with the Fair Wage Committee, may recommend to City Council that a contractor that has been found non-compliant on two occasions within a three-year period be barred for one or three years from bidding on City work or performing City work as a contractor or sub-contractor in accordance with the Vendor Suspension Administrative Directive.
- 8.10 A list of non-compliant and barred contractors will be maintained on the City's website by the Fair Wage Administrator.
- 8.11 The Director of Purchasing, after consulting with the Fair Wage Committee, may also recommend to City Council that a contractor be barred for one or three years from bidding on City work or performing City work as a sub-contractor if the non-compliance was found to be egregious in accordance with the Vendor Suspension Administrative Directive.
- 8.12 Non-compliance is deemed egregious if 10% or more of the contractor's workforce were improperly classified as sub-contractors and/or paid less than 80% of the appropriate Fair Wage.

9. Definitions

- 9.1 **Wages:** Wages have the same meaning as in the Employment Standards Act.
- 9.2 **Direct Wages:** Direct Wages are the hourly remuneration paid to a worker exclusive of employer contributions for benefits or for WSIB coverage.
- 9.3 **Employee:** Employee has the same meaning as in the Employment Standards Act.
- 9.4 **Independent Operator:** Independent Operator has the same meaning as in the Workplace Safety and Insurance Act.
- 9.5 **Fair Wage:** The Fair Wage is the wage set out in the Fair Wage Schedule and is the sum of the direct hourly wage pay, the hourly value of statutory and non-statutory benefits.
- 9.6 **Fair Wage Schedule:** The Fair Wage Schedule is established every three years commencing on January 1, 2024, The Fair Wage Schedule is updated every three years.

9.7 **Fair Wage Formula:** The Fair Wage Formula is the direct hourly wage derived from the applicable skilled trade collective agreement three years prior plus 15% to allow for benefits.

10. References and Resources

This Council Policy should be read and applied in conjunction with the following references and resources as updated from time to time. Please note that some of the following documents may not be publicly available.

10.1 External references

- [Employment Standards Act](#)
- [Occupational Health and Safety Act](#)
- [Workplace Safety and Insurance Act](#)

10.2 Internal References

- [Sustainable Procurement Strategy](#)
- [Vendor Suspension Administrative Directive](#)

11. Revision History

Date	Description
yyyy/mm/dd	Next Scheduled Review <i>(typically three years after approval)</i>