

Committee of the Whole (2) Report

DATE: Tuesday, December 08, 2020

WARD(S): ALL

TITLE: VAUGHAN'S FAIR WAGE POLICY

FROM:

Michael Coroneos, Deputy City Manager, Corporate Services and Chief Financial Officer

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

A draft Made-in-Vaughan Fair Wage Policy is presented to Council for their consideration and approval. Options have been provided for the development of Fair Wage Schedules. Estimates on costs to administer the Fair Wage Policy have been provided. Council feedback is sought on the recommended Options contained in this report, which will inform the next steps of this initiative.

Report Highlights

- A cross-functional team of staff worked with Prism Economics and Analysis (Prism) to develop a Made-in-Vaughan Fair Wage Policy, conduct stakeholder consultations, develop options for the creation of Fair Wage Schedules and estimate costs to administer the Policy.
- A \$500,000 threshold applies to construction contracts in the industrial, commercial and institutional, sewers and watermains, roads, and heavy engineering sectors of the construction industry
- Stakeholder consultations included Unions and Union Organizations, Employer and Business Organizations and Senior City Staff
- Three Options are for consideration to develop Fair Wage Schedules with costs ranging between \$25,000 to \$155,000
- Two Options are for consideration for the administration of the Fair Wage Policy, with estimated costs of \$25,500 annually

Recommendations

1. THAT Council consider this Report in providing direction for next steps in the development of the Fair Wage Policy;
2. THAT to develop Fair Wage Schedules council direct staff to implement the identified actions under Option 3;
3. THAT the 2021 Budget be amended to include costs associated with the approved option to develop the Fair Wage Schedules; and
4. That the City's Fees and Charges by-law (171-2013) be updated to reflect the Fair Wage Investigation Fee of \$5,000 for 2021

Background

At the December 2019 Council meeting, staff report 'Feasibility Assessment for a Fair Wage Policy for the City of Vaughan', was adopted as amended. Council directed staff to develop a Made-in-Vaughan Fair Wage Policy (Policy), and report back to Council on the options for developing Fair Wage Schedules (Schedules) and the estimated costs associated with the administration of a Fair Wage Policy.

Prism Economics and Analysis, the consultants that prepared the report '[Feasibility Assessment for a Fair Wage Policy](#)' (Prism Report), were engaged to help a cross-functional team of staff in the drafting of the Policy and conducting stakeholder consultations. The same stakeholders that were consulted during the preparation of the Prism Report were consulted during the drafting of the Policy.

The Policy was presented to the Policy Committee on September 23rd. Feedback received during that meeting has been incorporated into the Policy in front of Committee today.

The Prism Report outlined options and estimated costs for the development of Fair Wage Schedules and provided estimates for the administration of a Fair Wage Policy. These were considered when developing the options for developing Schedules and estimating the costs for administering the Policy.

Previous Reports/Authority

Council Extract May 21, 2016: FAIR WAGE POLICY FOR THE CITY OF VAUGHAN:
https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0502_16_8.pdf

Council Extract December 14, 2016: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:
https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1205_16_3.pdf

Council Extract May 16, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0501_17_2.pdf

Council Extract November 21, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1106_17_4.pdf

Council Extract December 17, 2019: Feasibility Assessment for a Fair Wage Policy for the City of Vaughan:

<https://pub-vaughan.escribemeetings.com/filestream.ashx?DocumentId=43808>

Analysis and Options

The purpose of the City’s Fair Wage Policy is to ensure that no contractor or sub-contractor performing construction work for the City of Vaughan secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms.

A few decisions were required prior to the drafting of the Policy

1. Contract thresholds to which the Policy would apply

The Policy applies to construction contracts with a value of \$500,000 or greater. This aligns with the recommendation in the Prism Report.

2. Sectors to which the Policy would apply

A project in the construction industry where the businesses are engaged in constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, tunnels, bridges, canals or other works at the site, and where the project falls within one of more of the following sectors referred to in the definition of “sector” in subsection 126 (1) of the Labour Relations Act, 1995:

The industrial, commercial and institutional sector

The sewers and watermains sector

The roads sector

The heavy engineering sector

3. Obligations of Contractors as it relates to the application of the Policy to Sub-contractors

A contractor is responsible for both its own compliance with the Fair Wage policy and the compliance of any sub-contractors.

The provisions of the Fair Wage policy apply equally to contractors and all sub-contractors undertaking construction work for the City of Vaughan. Contractors may not sub-contract work to any sub-contractor at a lower rate stipulated in the Fair Wage policy.

4. Basis of investigation: complaint vs proactive

A complaint basis of investigation is incorporated into the Policy. This aligns with other municipalities that have a Fair Wage Policy, aside from Toronto that has a proactive basis of investigation.

The City of Toronto has approximately \$2.8 billion of contracting. The City of Vaughan's annual value of contracting is approximately \$70 million, less than 3% of Toronto's. It is estimated that the number of contractors and sub-contractors completing work in the City of Vaughan is 300-350, 10-12% of the number overseen by Toronto's Fair Wage Office. Based on these statistics, it would be more appropriate for Vaughan to adopt the approach of smaller municipalities. This approach is based on a complaint-based model. A separate office would not be established and there is the option of using external consultants to conduct investigations.

A Made-in-Vaughan Fair Wage Policy

The Policy is to protect the worker, defined as a person who performs work or supplies services who is entitled by contract to be paid wages. This includes apprentices, trainees, and independent contractors.

A contractor or sub-contractor is following the Policy when a worker's compensation is not less than the compensation set out in the Schedules.

Attachment 2: Fair Wage Policy Summary provides a summary of the sections of the proposed Fair Wage Policy.

There is a Fair Wage Complaint Process and Consequences of Non-Compliance

Anyone may submit a complaint to the Director of Procurement Services, alleging non-compliance with the Policy and Schedules, by any contractor or subcontractor performing construction work on a City construction contract. There is no fee to file a complaint. Should the complaint proceed to the investigation stage, there is a \$5,000

investigation fee. This fee is waived for workers. Attachment 3 provides the Fair Wage Complaint Form to be completed to submit a complaint.

For all investigations, it is proposed that an independent third party will conduct the investigation and report their findings to the City. If it is found that the contractor or sub-contractor is compliant with the Policy and Schedules, there will be no further action. If it is found that the contractor or sub-contractor is non-compliant with the Policy and Schedules:

- First occurrence, contractor or sub-contractor may be required to submit an assurance report from a Certified Public Accountant verifying compliance with the Policy and Schedules for the next three construction contracts the contractor or sub-contractor is awarded.
- Second occurrence, the City may refuse to accept any bid submissions from the contractor or sub-contractor or refuse to accept the sub-contractor on any future construction contract for a period of two years.

There is an appeal process available to contractors, subcontractors and initiators should they wish to dispute the outcomes of a fair wage complaint process.

The City may also inspect and audit the records of a contractor or sub-contractor at any time during a construction contract, or up to seven years after contract completion.

A Fair Wage Working Group is Established to Continue the Engagement Process

The Fair Wage Working Group will be comprised of City Staff and representatives from unions, unionized employers and non-union employers. The Working Group will meet, at least, every three years to consult on the Fair Wage Policy and review the updated Fair Wage Schedules. Proposed amendments will be brought to a future Committee meeting for Council consideration and approval.

Fair Wage Schedules will need to be Developed

The [Prism Report](#) identified two options for the development of fair wage schedules, Prevailing wage survey and Percentage of union rate. Staff have identified a third option, Union wage plus percentage. Wage refers to the worker's basic hourly rate, exclusive of benefits.

1. Prevailing Wage Survey

A consultant would be hired to design a survey to be sent to those contractors and sub-contractors that have had one public sector contract in the GTA in the previous year (i.e. 2019). An Industry Advisory Committee would be formed to provide guidance on the design and execution of a wage survey. The survey would collect wage and benefit information for the classifications under each sector. Survey responses would be used to establish the fair wage for each classification. The cost of developing this survey is estimated to be between \$54,000 - \$155,000, with costs dependent on the survey sample size. It is estimated to take up to six weeks to develop the schedules, including designing the survey and finalizing the results. This survey would be completed every three years.

2. Percentage of Union Rate

A consultant would be hired to compile and analyze wage and benefit data from building trade collective agreements applicable to Labour Relations Board Area 8 and schedules from collective agreements of non-union trades from employers who undertake construction work in Board Area 8. The total hourly compensation on the fair wage schedule would be calculated as a percentage of the rates (wage + benefit) in the union collective agreements. To objectively determine the percentage to be applied to the rates, a wage survey should be conducted. This survey should be completed on a decennial basis to keep the ratio current. The cost of completing this analysis is estimated to be between \$128,000 - \$154,000. It is estimated to take up to six weeks to develop the schedules, including gathering the wage and benefit data, conducting the survey and finalizing the results.

3. Union Wage Plus Percentage

A consultant would be hired to compile the hourly wage information for trades and occupations in the prevailing collective agreements applicable to Labour Relations Board Area 8. A percentage is then added to cover non-statutory benefits and contributions. Union employers pay 23% to 35% (average 29%) for benefits in addition to wages. However, this includes 10% in lieu of paid vacation and paid statutory holidays. Non-union and CLAC employers typically continue normal pay on statutory holidays. Permanent employees are often entitled to paid vacation. It would be reasonable to use a percentage that represents non-statutory benefits and contributions. This could be somewhere between ten percent and twenty percent. For the City's Schedules, a maximum of fifteen percent would be applied to the hourly wage to arrive at the total hourly compensation on the fair wage schedule. The cost of completing this analysis is estimated to be \$25,000. It is estimated it would take up to one month to develop these schedules, including compiling the wage data and finalizing the schedules.

The [Prism Report](#) (pg33) stated “there is no evidence that Vaughan’s contractors currently pay less than the prevailing wage.” As such, it is reasonable to consider the hourly rate of collective agreements a fair rate, and these rates can be used in calculations to set Fair Wage Schedules.

Union employers pay an average of twenty-nine percent for benefits. However, this includes ten percent in lieu of paid vacation and paid statutory holidays. Non-union and CLAC employers typically continue normal pay for vacations and statutory holidays. Vacation pay and public holiday pay is a statutory benefit as outlined in the [Employment Standards Act](#) . When considering benefits, a more reasonable tie-in would be a percentage for non-statutory benefits and contributions. This percentage would then be used in calculations to set Fair Wage Schedules.

Options 1 and 2 require a wage and benefit survey to determine the total hourly compensation for the Schedules. This survey would not be required if a percentage for non-statutory benefits and contributions were applied to the hourly rate of collective agreements to arrive at the totally hourly compensation for the Schedules. Option 3 aligns with this methodology. Staff will need to report back to Council to obtain approval of the Fair Wage Schedules.

Costs to administer the Policy are estimated to be between \$50,000 - \$100,000 per year

Costs of administration include investigation costs, cost of appeals, and the costs to update the Policy and Schedules. A large component of administering the Policy is investigating the complaints received. This investigation could be conducted using internal resources or external resources. It is estimated using internal resources to conduct investigations could cost between \$44,000 - \$88,000. The use of external resources could cost an estimated \$50,000 to \$100,000. The cost is dependent on the number of investigations conducted and the complexity of the investigations.

Given the sensitivity of the information, and of the situation should an investigation be required, an independent evaluation from a qualified individual in audit processes and procedures would provide an unbiased response to the complaint received. This unbiased, qualified opinion should satisfy the complainant and the contractor/sub-contractor as well as City staff and Council.

The complaint fee recovers the costs of the investigation, approximately 50 percent of the total costs. The majority of the remaining costs are associated with the update of the Policy and Schedules. There is the potential to work with those municipalities, including Toronto, that have a Fair Wage Policy and supporting schedules in the development of Fair Wage Schedules. The costs would be cost shared amongst those participating.

Financial Impact

The costs of developing Fair Wage Schedules is dependent upon the option chosen:

Option	Financial Implications
Option 1: Prevailing Wage Survey	\$54,000 - \$155,000
Option 2: Percentage of Union Rate	\$128,000 - \$155,000
Option 3: Union Wage plus Percentage	\$25,000

Continuing the discussion from the above *Fair Wage Schedules will need to be Developed*, Option 3: Union Wage plus Percentage provides for a financially sustainable solution. Costs are for a consultant to gather hourly wage information from collective bargaining agreements, apply the rate representing non-statutory benefits and contributions and finalizing the Schedules. There is the potential the cost of updating these Schedules could be cost shared amongst municipalities that have a Fair Wage Policy.

The costs of administering the Policy is dependent upon whether investigations are conducted by internal or external resources:

Option	Investigation	Appeal	Policy/Schedule Update
Option 1: Internal Resources	\$7,500 - \$60,000	\$3,500	\$22,000
Option 2: External Resources	\$25,000 - \$75,000	\$3,500	\$22,000
Impact	Fully recovered*	\$3,500	\$22,000

*if the complainant is a worker, the investigation fee is waived.

As previously stated, an independent evaluation from a qualified individual in audit processes and procedures would provide an unbiased response to the complaint received. This unbiased, qualified opinion should satisfy the complainant and the contractor/sub-contractor as well as City staff and Council. As the costs of investigation are recoverable from the complainant or the contractor/sub-contractor, the cost of administering this Policy is an estimated \$25,500 annually.

Broader Regional Impacts/Considerations

The City should have discussions with the Region of York and its municipalities, as well as all neighbouring municipalities, to advise them of the City's intent when it comes to a Fair Wage Policy. For example, cross-Municipal/Regional projects, such as City of Vaughan and Region of York, will need to be discussed to determine the extent of their inclusion, or exclusion, from the City's Fair Wage Policy.

Staff will continue to monitor what is happening at the Federal and Provincial levels as it relates to their Fair Wage Policy initiatives.

Conclusion

The proposed Fair Wage Policy ensures that no contractor or sub-contractor performing construction work for the City of Vaughan secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms. It applies equally to contractors and sub-contractors, with contractors being responsible to ensure sub-contractors follow the Policy. It would apply to construction projects with a minimum value of \$500,000 in the industrial, commercial and institutional, sewers and watermains, roads, and heavy engineering sectors of the construction industry.

The proposed Policy proposes a complaint-based model where anyone may initiate a complaint of non-compliance against a contractor or sub-contractor. There is a proposed investigation fee of \$5,000 to offset the costs of investigation. Staff propose that an external resource be engaged to provide an independent evaluation to provide an unbiased response to the complaint received. The cost of investigation would be recovered from the complainant or the consultant/sub-consultant.

Staff propose Option 3 be approved for the development of Fair Wage Schedules. A maximum of fifteen percent would be added to the hourly wage from collective bargaining agreements to determine the total hourly compensation on the Fair Wage Schedules. The cost to develop the schedules is an estimated \$25,000 and could take up to a month to develop.

Council adopted the implementation of [Infrastructure Health and Safety Association's Certificate of Recognition \(COR™\)](#), a comprehensive health and safety audit tool with an accredited certification program for the construction industry in Ontario, in December of 2019. COR™ and the Fair Wage Policy demonstrate the City's commitment to protecting workers engaged on City construction contracts, as well as the community of Vaughan as a whole.

For more information, please contact: Asad Chughtai, Director Procurement Services, Ext. 8306

Attachments

1. 15.C.01 Fair Wage, Procurement Services, December 8, 2020
2. Fair Wage Policy Summary, Procurement Services, December 8, 2020
3. Fair Wage Complaint Form, Procurement Services, December 8, 2020

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