



# TORONTO STAFF REPORT

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April 13, 2004

To: Administration Committee  
From: Manager, Fair Wage Office  
Subject: Fair Wage Office Annual Report

Purpose:

To provide a summary of the Fair Wage Office's 2003 activities and performance. In response to Council approved recommendations outlined in the City's Fair Wage Policy and Fair Wage Office Review in 2003, the new Fair Wage Policy has been implemented and improvements to the Office are being made to enhance operations and accountability.

Financial Implications and Impact Statement:

There are no financial implications resulting from this report.

Recommendation:

It is recommended that this report be received for information.

Background:

In early 2003, staff initiated a review of the City's Fair Wage Policy and Fair Wage Office in response to a previous review by the City Auditor and improprieties by the former Manager. The purpose of the review was to: (i) confirm the Policy directions, statements, and schedules, (ii) confirm the governance responsibilities of the Office, and (iii) establish accountable Office practices and procedures.

At its meeting on June 24, 25 and 26, 2003, City Council approved Clause No. 2 contained in Report No. 5 of the Administration Committee entitled "Follow-up Review of the Fair Wage Office, Fair Wage Policy and Fair Wage Schedules". The accompanying staff report indicated that regular reporting of the Office's activities would be provided starting with the first annual report of the Fair Wage Office in 2004.

This report provides information about the actions taken to implement Council's decision and reports on the 2003 performance activities of the Office.

### Comments:

The City's Fair Wage Policy is designed to ensure that businesses awarded contracts with the City pay their workers a "fair wage" for work performed, and to ensure that workers are not exploited or discriminated against. The Fair Wage Office is responsible for ensuring that a fair, open and transparent process is followed in the overall application and operation of the Fair Wage Policy and Labour Trade Contractual Obligations in the Construction Industry requirements.

Resulting from Council's 2003 decisions on the Fair Wage Policy and Fair Wage Office, a number of improvements have been implemented, including policy, procedural and administrative enhancements.

### Fair Wage Policy Improvements:

The Fair Wage Policy has been updated and communicated to all affected parties as directed by Council. The new policy came into effect August 1, 2003 with the following changes:

- Clear language regarding Sub-contractor compliance and Contractor accountability for Sub-contractors.
- Definition of Non-compliance:
  - Contractor or Sub-contractor fails to co-operate with the Manager, Fair Wage Office re: Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction industry.
  - Contractor or Sub-contractor has been found in violation of the Fair Wage Policy (non-compliance applies to both Contractor and Sub-contractor).
  - Contractor or Sub-contractor has been found in violation of the Labour Trade Contractual Obligations in the Construction Industry.
- Introduction of disqualification procedures:
  - If non-compliance in two instances in three years, recommendation to the Administration Committee to be disqualified for two years.
- Annual Reporting:
  - Annual reporting of Fair Wage Office activities and issues.
- Increase in the Office's administrative charge for payroll violations from 10% to 15%.
- Increase contract monitoring and ability to inspect Contractor payroll records up to six months after the work is completed and final payment is made.
- Contractor declaration stating compliance with the Fair Wage Policy.

### Organizational Changes:

The Fair Wage Office continues to be staffed with three positions (Manager, Assistant Fair Wage Officer and Program Assistant). A competition was held in the fall of 2003 for the Manager's position. The resulting vacant Assistant Fair Wage Officer's position was filled in February 2004.

Further to Council's direction from 2003, two student interns were hired to assist the Office establish its new records management systems, document office procedures and develop the Fair Wage Information System (FWIS).

In 2003, Council did approve in principle, the addition of one permanent position for the Office to focus on proactive enforcement and awareness of the Policy, subject to budget approval. The Fair Wage Office did submit a request for additional funding to add one permanent position through the 2004 Operating Budget. However, given other budget pressures and priorities, the request was not recommended by the Executive Management Team (EMT) during the administrative review of the budget. The lack of additional resources will have an impact on the Office's ability to be more pro-active in monitoring and investigating specific contracts, industries or commodity groups.

Regular updates of policy and office issues and investigations are provided to the Executive, Director of Human Resources to maintain an accountability framework within the organization.

### Improvements to the Fair Wage Office Procedures and Systems:

A number of operational, administrative and technology improvements have been made in the Fair Wage Office, in keeping with the changes proposed to Council in 2003. Operationally, a draft procedures manual has been developed outlining all office procedures regarding the review of City purchasing contracts, policy enforcement, inspections and compliance audits. The manual outlines staff requirements, documented work flows and clear and concise procedures on all Fair Wage Office activities to guide decision making.

There is a clearer communication between the Office, operating departments and firms on declarations of policy compliance and the status and resolution of complaints and investigations. Improved Policy enforcement provisions and clear penalties have been communicated that the City will not do business with companies that do not observe the City's Fair Wage Policy.

The office continues to work with the operating departments and Purchasing and Materials Management Division (PMMD) to enhance implementation of the Fair Wage Policy, including commodity and/or sectoral procurement pre-approvals and standard policy compliance language for purchasing approvals and contracts. The Office has had some initial discussions with PMMD on the potential for automating procurement approvals.

Administratively, a new file system was established within the Office to track firms doing business with the City and their declarations of policy compliance, as well as policy compliance audit files for investigations. The file system contains correspondence, company history, review checklists and all documentation regarding a firm's activities.

Technology has played an important role to assist the Office with its procurement review and policy enforcement functions. A Fair Wage Information System (FWIS) was developed in 2003 to improve Office management practices including: (i) a procurement approval tracking system to monitor, and (ii) a case management system to manage investigations and compliance audits. The FWIS documents all activities taken with firms/contractors in the evaluation, approval, monitoring and investigation stages.

### Communications:

The Fair Wage Office is committed to ongoing communication with the industry and departmental representatives involved in monitoring and ensuring compliance with the Fair Wage Policy and Labour Trade Contractual Obligations. The following initiatives and comprehensive communication strategy has been established:

- Fair Wage Office has established a web site that is part of the City's Intranet "Doing Business with the City of Toronto". This web site provides a simple Guide to the Fair Wage Policy and Labour Trade Contractual Obligation Document, Fair Wage Policy changes as of August 1, 2003. Current and historical fair wage schedules and policies have been posted.
- Convened meetings with departments and organizations involved in the monitoring of City contracts to discuss the Council-adopted changes to the Policy and Office to promote understanding and co-operation.
- Published Fair Wage Policy changes in construction industry newspapers and other multi-cultural publications to provide greater awareness of the policy and its application to City contracts.
- Ongoing awareness and education campaigns to communicate the City's Fair Wage Policy and Labour Trade Contractual Obligations.
- The Office is developing a "Fair Wage Policy Kit" for all contractors and workers that includes workplace posters, multilingual brochures and other information on contractor obligations and worker rights under the policy.

2003 Fair Wage Office Activities:

In 2003, the emphasis for the Office was on maintaining its role evaluating firms for policy compliance as part of the procurement review process, while at the same time participating in the review by Corporate Services and implementing Council's subsequent decisions.

Table 1 illustrates the procurement workload indicators and policy enforcement activities for 2003. It should be noted that the degree of complexity can vary significantly between Tenders, RFQs, RFPs, DPOs, and Sole Source requests reviewed and investigations undertaken.

**Table 1. - 2003 Fair Wage Office Activity**

<b>Totals 2003</b>	
Number of Firms reviewed	5,181
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Reviewed	2,844
Total Investigations Conducted	31
Value of Violations (Fair Wage Policy & LTCO)	\$ 319,811.81
Number of Workers Receiving Compensation	125
Value \$ Collected for Fair Wage Policy Administration Fee	\$ 11,977.86
<b>January 1 – July 31, 2003</b>	
<b>Fair Wage Policy Enforcement</b>	
Number of Payroll Audits Conducted	21
Number of Firms in Violation of Fair Wage Policy	12
Number of Site Inspections Conducted	9
Number of Workers Receiving Compensation	125
Value of Violations	\$ 175,874.85
Value Collected for Fair Wage Policy Administrative Fee	\$ 11,977.86
Number of Ongoing Investigations (as of April 2004)	1
<b>Labour Trade Contractual Obligations Enforcement</b>	
Number of Grievance Investigations	9
Value of Violations	\$ 141,936.96
Number of Work Jurisdiction Review	216
<b>August 1 – December 31, 2003</b>	
<b>Fair Wage Policy Enforcement</b>	<b>0</b>
<b>Labour Trade Contractual Obligation Enforcement</b>	<b>1</b>
Number of Grievance Investigations	1
Value of Violations	\$2,000.00

Since the new Fair Wage Policy changes came into effect on August 1, 2003 for new City contracts, split recording is necessary for 2003. Almost all of the investigations and compliance audits completed in 2003 relate to the previous Fair Wage Policy and Schedules. There were no Fair Wage Policy compliance audits conducted in 2003 under the new Policy. The latter part of the year was focused on implementing and communicating the new policy changes and making the necessary operational, administrative and technological improvements.

In 2003, no firms were deemed by the Manager to be in non-compliance with the new Fair Wage Policy. Also, no firms are in non-compliance position necessitating a recommendation to Committee for possible disqualification from bidding on City contracts.

#### 2004 Work Plan:

The outlook for 2004 is to re-focus on pro-active investigations and policy compliance audits for firms doing business with the City, as well as policy promotion and education. The office will be making a concerted effort to focus attention on those areas that are most vulnerable to worker exploitation and abuse. Areas of high risk will include labour activity in the construction industry, cleaning services and security guard sectors. A pro-active approach will be to target and monitor these industries particularly where contract awards has substantial price differences between the awarded bid price and other bids. The Fair Wage Policy Kits will be distributed to City contractors, job sites and industry associations to promote policy compliance and worker protection in an effort to reduce complaints and grievances. Given existing resources within the Office, the 2004 target is to conduct between 35-45 compliance audit investigations. For the first quarter of 2004, there have been 12 compliance audits initiated by the Office.

The Fair Wage Office will continue to work co-operatively with client groups, operating departments and external industries to promote, educate and resolve fair wage and labour trade issues to meet policy objectives and any related emerging and critical issues throughout the year.

#### Conclusion:

The Council-adopted changes to the Fair Wage Policy have been implemented. New operational, administrative and technological improvements have been put in place to improve the Office's functions. Various communication initiatives have been undertaken to publicize the new policy and educate contractors and workers.

In 2003, a number of investigations and compliance audits were conducted resulting in violations on City contracts totalling over \$300,000. There were no firms found to be in non-compliance with the new Fair Wage Policy in 2003. The Fair Wage Office anticipates conducting 35-45 compliance audit investigations in 2004, and in particular, will be targeting firms contracted by the City for construction, building cleaning and security services.

The Manager, Fair Wage Office, will report its next annual report back to Committee in the first quarter of 2005.

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