



STAFF REPORT INFORMATION ONLY

FAIR WAGE OFFICE - 2007 ANNUAL REPORT

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| Date: | October 1, 2008 |
| To: | Government Management Committee |
| From: | Manager, Fair Wage Office |
| Wards: | All |
| Reference Number: | TBD |

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2007.

FINANCIAL IMPACT

There are no financial implications from this report.

DECISION HISTORY

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, clarifying the role of the Fair Wage Office and its responsibility for ensuring compliance with the Fair Wage Policy.

Municipal Code, Fair Wage Policy Chapter 67. Schedule A & B requires the Manager, Fair Wage Office report annually to the Government Management Committee concerning the Fair Wage Policy administration and application including enforcement activities.

ISSUE BACKGROUND

The Fair Wage Policy is designed to ensure that contractors awarded contracts with the City of Toronto pay their workers “fair wages” for work performed and to ensure that workers are not exploited or discriminated against. The Fair Wage Office is responsible for ensuring that 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.

The intent of the Fair Wage Policy can be summarized as follows:

- (1) To produce stable labour relations with minimal disruption.
- (2) To compromise between the wage differentials of organized and unorganized labour.
- (3) To create a level playing field in competition for City Work.
- (4) To protect the public; and
- (5) To enhance the reputation of the City for ethical and fair business dealings.

The Fair Wage Office investigates complaints and takes enforcement action when it is determined that contractors fail to pay their workers the prescribed hourly wage rate, vacation and holiday pay and any applicable amount for fringe benefits shown in the current Fair Wage Schedules.

The Fair Wage Office provides wage protection for workers engaged on City contracts. The competition for these contracts is often fierce and contractors and sub-contractors might be enticed to cut contract cost simply by cutting employee wages. In this environment, it is important to ensure that workers are fairly treated and compensated without disrupting the orderly function of the City's procurement process.

COMMENTS

This report outlines the Fair Wage Office activities for 2007 and provides information on contractors who had at least one incident of non-compliance during the year, with a focus on the following areas:

- Procurement workload indicators (the number of contracts and firms reviewed);
- The number of established investigations conducted;
- Type of violations found;
- The amount of wages found to be unlawfully withheld from workers and the amount of unpaid wages recovered on behalf of workers; and
- The amount of penalties transferred to the City Treasurer as a result of the efforts of the Fair Wage Office.

2007 Highlights

Looking on the years activities, the Fair Wage Office concentrated on industries that have a history of non-compliance that were complaint based and within the construction. Complaints are generally received by the Office from workers, competing firms, unions and various labour associations. Depending on the nature of the complaint, an initial investigation is commenced to determine if the complaints have merit. An investigation can take the form of communication with the principals and/or workers over the

telephone, a work site inspection and/or an unannounced head office visit to inspect payroll records. The origin of the complaint is kept confidential.

Payroll investigations identified workers, their job classification, hours worked, wage rates and benefits paid against what is required under the Fair Wage Policy. The payroll compliance review revealed whether specific workers have been compensated in accordance with the Policy. If a firm has not been paying its workers the proper wages, the Manager, Fair Wage Office deems the firm to be in non-compliance with the Fair Wage Policy and instructs the firm to pay its workers the appropriate back wages to make up the proper wage and benefit rate. The Fair Wage Office also has the discretion to charge an administrative fee of 15 percent.

Other highlights in 2007 include the Fair Wage Office investigating allegations of violations of the Fair Wage Policy by sewer & watermain contractors, resilient flooring contractors, roofing and sheet metal firms.

In 2007, Fair Wage Schedules (2003-2004) were reviewed by employee and employer groups, associations, organizations and operating divisions and as a result, a recommendation by the Manager Fair Wage Office to update the Fair Wage Schedules, was reported to the Government Management Committee. The Government Management Committee considered the Manager's recommendations and elected to note and file the report.

Some of Fair Wage substantive changes that City Council approved in 2007 was the revision of the policy to which includes the following:

- Provide clarity in the call document to prospective bidders.
- Clarifies the responsibility of contracts & sub-contractors.
- Procurement documents to reflect applicable Fair Wage Schedules.
- New provision on the applicable wage rates for apprentices/trainers.
- Clearer guide to the Manager, when recommending disqualification.

Table 1 illustrates the workload indicators and policy enforcement activities for 2007. It should be noted that the degree and complexity of each case can vary significantly between tenders, RFQs, RFPs, departmental purchase orders (DPOs), and sole-source requests reviewed and investigations undertaken.

Table 1 - 2007 Fair Wage Office Activity

| Description | 2006 | 2007 |
|--|--------------|--------------|
| Number of Firms Reviewed | 2,508 | 3,026 |
| Number of Firms Approved | 1,750 | 2,854 |
| Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests | 3,748 | 2,263 |
| Total Investigations Conducted | 57 | 74 |
| Fair Wage Policy Investigations | 30 | 44 |
| Labour Trade Contractual Obligations Investigations(LTCO) | 27 | 30 |
| Value of Violations (Fair Wage Policy & LTCO) | \$263,141.92 | \$231,413.04 |
| Number of Workers Receiving Compensations | 114 | 89 |
| Value (\$) Collected for Fair Wage Policy Administration Fee | \$7,389.83 | \$19,320.10 |
| Number of Contractors Cited for First Violation | 25 | 27 |
| | | |
| Fair Wage Policy Enforcement | | |
| Fair Wage Policy Investigations | 30 | 44 |
| Value of Fair Wage Violations | \$196,108.67 | \$136,806.96 |
| Number of Workers Receiving Back Wages | 117 | 89 |
| Value (\$) Collected for Fair Wage Policy Administration Fee | \$7389.83 | \$19,320.10 |
| | | |
| Labour Trade Contractual Obligations Enforcement | | |
| Number of Grievances Investigated | 27 | 30 |
| Value of Violations | \$67,033.25 | \$94,606.08 |
| Number of Work Jurisdictions Reviewed | 1997 | 1,906 |
| | | |
| Other Revenues | | |
| Exhibition Place – payment received for FWO Service | \$2,080.22 | \$1,914.64 |

Fair Wage Violations

Much of the work undertaken by the Fair Wage Office in investigating contractors' compliance is directed at verifying payroll information. This is achieved through testing of a specific time period designated to gather appropriate contractor evidence to meet specific wage rates, vacation pay hours of work and workers job classification.

A significant percentage of complainants were interviewed and alleged contravention by contractors was noted. Written notification advising contractors of their non-compliance of the Fair Wage Policy was emphasized given the bylaw requirement to disqualify contractors who habitually violate the Policy provisions over a three year period. Consequently, since new policy changes took effect on August 1, 2003, a total of 119

contractors were noted to be in non-compliance and are tracked for further violations as possible disqualification. The Fair Wage Office has developed an electronic data base of prior violations to assist investigators in tracking those firms.

In 2007, the Manager of the Fair Wage Office reported and recommended the disqualification of a sewer and watermain contractor, OJCR Construction Ltd. "OJCR", from City Contracts for failure to comply with the Fair Wage Policy. City Council elected not to disqualify this firm, however, Council did recommend that OJCR make all proper restitution to its workers and that OJCR be placed on probation for one contract year. In addition, in the event of any further violations within that time frame, the current City sanction of the policy will apply.

In 2007, penalties were assessed and back wages and benefits owing from non-compliant contractors totalled \$136,806.96 were collected and distributed on behalf of a total of 89 workers. The successful collection of \$19,320.10 made payable to the City Treasurer, was collected and deposited in a timely and accurate manner.

As part of its enforcement responsibilities, the Fair Wage Office continues to increase its efforts to educate contractors, workers, City staff and other external organizations about the Fair Wage Policy.

The Fair Wage Office Web page (<http://www.toronto.ca/fairwage/>) and telephone hotline (416) 392-FAIR receives inquiries from employers, employees and other members of the public concerning a variety of employment related issues. Common topics include questions about unpaid wages, required fair wage rates, classification of work involved and labour trade requirements. The Fair Wage web-site has had traffic activity of 50,000 hits which has enhanced the user experience and in the end improves service level. The hotline is also a source where workers are able to lodge complaints regarding employers that failed to pay workers the prescribed fair wage rate.

The Fair Wage Office is committed to ongoing communication and the establishment of a web page has been effective in its objective to inform employers and workers of the major policy changes, and encourage people to access the web site and call the hotline to obtain further information and advice. Through these efforts, workers and employers are better informed of their rights and responsibilities. Better and more readily available information has generally resulted in behavioural changes which improve compliance with the Fair Wage Policy.

Labour Trade Violations

The Fair Wage Office provides support to Employee and Labour Relations staff with respect to grievances filed against the City by a labour trade union for alleged violations of the City's Labour Trade Contractual Obligations in the construction industry and/or the application of the collective agreements.

Where firms have allegedly violated the City's Labour Trade Contractual Obligations in the construction industry, the Fair Wage Office has continued to take an active role in the facilitating many of the settlements achieved. The Fair Wage Office holds exploratory and discovery meetings in order to resolve alleged Labour Trade violations with various affected contractors. These discussions may occur before or after a grievance is filed against the City and/or before the grievance is referred to the Ontario Labour Relations Board. The Fair Wage Office, together with Employee and Labour Relations and Legal staff regularly engage in informal or formal dispute resolution aimed at facilitating settlement. This frequently takes the form of addressing the relative strengths and weaknesses of the factual and legal positions of the parties, and giving the parties the opportunity for open and frank discussions. These efforts have directly resulted in thirty (30) Labour Trade settlements reported, as well as faster case processing, thus avoiding costly grievance hearing at the Ontario Labour Relations Board.

Fair Wage Status

Work Plan 2008

In 2007, the Fair Wage Office continues to focus on proactive investigations and compliance reviews of firms doing business with the City, as well as promotion and education. The 2007 target is to conduct between 60 and 70 compliance investigations given existing resources within the Fair Wage Office. The Fair Wage Office will also concentrate efforts to focus attention on those areas that are the most vulnerable to workers exploitation and abuse. Areas of high risk will continue to include labour activity in the construction industry, cleaning services, tree/forestry services, security guard sector and the garment industry. A key goal is to reduce fears in the immigrant community that prevent complaints about labour abuse by unscrupulous employers from being filed with the Fair Wage Office. Many of these workers are employed in low-wage industries which will be targeted for increased compliance.

In 2007, staff conducted 127 site visits, and will continue to make site visits a priority by demonstrating to contractors and sub-contractors a more visible presence in the field. In addition, the Fair Wage Office will compare the list of proposed or current contractors with the latest disqualification list as a safeguard to ensure against ineligible contractors working on City contracts. Providing and distributing educational material in various languages, about the City's Fair Wage Policy to workers and contractors will continue to foster awareness.

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

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SIGNATURE
