



STAFF REPORT INFORMATION ONLY

FAIR WAGE OFFICE - 2008 ANNUAL REPORT

Date:	September 28, 2009
To:	Government Management Committee
From:	Manager, Fair Wage Office
Wards:	All
Reference Number:	

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2008.

FINANCIAL IMPACT

There are no financial implications from this report.

DECISION HISTORY

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

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.

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 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.

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.
- (5) To enhance the reputation of the City of Toronto 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 is intended to highlight the Fair Wage Office the activities for 2008 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 administration fee penalties transferred to the City Treasurer as a result of the Fair Wage Office efforts.

2008 Highlights

Looking at last year's activities, the Fair Wage Office concentrated on industries that have a history of non-compliance as a result of complaints involving workers. 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 identify workers, their job classification, hours worked, wage rates and benefits paid against what is required under the Fair Wage Policy. The payroll compliance reviews reveals whether specific workers have been paid 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 and applicable fringe benefits. The Fair Wage Office also has the discretion to charge an administrative fee of 15 percent.

Other activities in 2008 include the Fair Wage Office investigating allegations of violations of the Fair Wage Policy by construction contractors, waste removal companies, winter maintenance firms, tree/forestry services and cleaning services.

Table 1 illustrates the Fair Wage Office's workload indicators and policy enforcement activities for 2008. It should be noted that the degree and complexity of each case can vary significantly between Tenders, Request for Proposals (RFP's), Request for Quotations (RFQ's), Departmental Purchase Orders (DPO's), and Sole-Source requests reviewed and investigations undertaken.

Table 1. - 2008 Fair Wage Office Activities Limited to City of Toronto Contracts.	2006	2007	2008
Number of Firms Reviewed	2,508	3,026	3,005
Number of Firms Approved	1,750	2,854	2,699
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	3,748	2,263	2,234
Number of Site Visits Conducted	89	74	174
Total Investigations Conducted	57	74	56
Fair Wage Policy Investigations	30	44	31
Labour Trade Contractual Obligations Investigations(LTCO)	27	30	25
Value of Violations (Fair Wage Policy & LTCO)	\$263,141.92	\$231,413.04	\$233,509.80
Number of Workers Receiving Compensations	114	89	294
Value (\$) Collected for Fair Wage Policy Administration Fee	\$7,389.83	\$19,320.10	\$ 27,567.82
Number of Contractors Cited for First Violation	25	27	17
Fair Wage Policy Enforcement			
Fair Wage Policy Investigations	30	44	31
Value of Fair Wage Violations	\$196,108.67	\$136,806.96	\$190,120.61
Number of Workers Receiving Back Wages	114	89	294
Value (\$) Collected for Fair Wage Policy Administration Fee	\$7,389.83	\$19,320.10	\$27,567.82
Labour Trade Contractual Obligations Enforcement			
Number of Grievances Investigated	27	30	25
Value of Violations	\$67,033.25	\$94,606.08	\$43,389.19
Other Revenues			
Exhibition Place – payment received for FWO Service	\$2,080.22	\$1,914.64	\$1,914.64

Fair Wage Violations

Much of the work undertaken by the Fair Wage Office in investigating contractors' compliance is directed at corroborating payroll information. This is achieved through verifying wage rates, vacation pay, hours of work and workers job classification.

A significant percentage of complainants were interviewed in 2008, complaints investigated and contraventions by contractors were noted. Written notification was then sent to contractors advising them of their non-compliance of the Fair Wage Policy and by-law requirements sufficient to disqualify contractors who habitually violate the Policy provisions over a three year period. Consequently, since the new policy changes took effect on August 1, 2003, a total of 135 contractors were noted to be in non-compliance and are tracked for further violations and possible disqualification.

The Fair Wage Office has developed an electronic data base of prior violations to assist investigators in tracking firms who have not been in compliance.

In 2008 the Fair Wage Office conducted one hundred and seventy four (174) site visits and fifty six (56) investigations in which thirty one (31) pertained to the Fair Wage Policy. Penalties were assessed and back wages and benefits owing from non-compliant contractors totalled to \$190,120.61. These funds were collected and distributed to a total of two hundred and ninety four (294) workers. Also, the Fair Wage Office collected a total of \$27,562.82 in administration fees made payable to the City Treasurer, and deposited in a timely 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 Office's web site has recorded traffic activities of 42,637 hits in 2008 which has enhanced the user experience and in the end improves service levels. The hotline is also a place where workers are able to lodge complaints regarding employers that have 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 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 & Labour Relations and Legal staff regularly engage in informal or formal dispute resolution aimed at facilitating settlements. 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 twenty five (25) Labour Trade settlements in 2008, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2008 there was a total of \$43,389.19 in grievances filed against the City of Toronto.

Work Plan 2009

The Fair Wage Office has observed the following trends and will maintain diligent oversight of potential violations of the Fair Wage Policy.

- Recent dramatic growth of Temporary/Personnel Labour Agencies has increased attention to the industry's exploitation of vulnerable workers. Several firms have been cited for failing to comply with the Fair Wage Policy when employing workers through these means.
- Among the workers who are most vulnerable to exploitation by dishonest contractors are newly arrived immigrants. Many of these workers are concerned that they will lose their jobs if they complain about unfair treatment.

In 2009, the Fair Wage Office will continue to focus on proactive investigations and compliance reviews of firms doing business with the City, as well as promotion and education. The 2009 target is to conduct between sixty (70) to seventy (80) compliance investigations given existing resources within the Fair Wage Office. The Fair Wage Office will also focus attention on those areas that are the most vulnerable to workers exploitation and abuse. Areas of high risk continue to include labour activity in the construction industry, cleaning services, tree/forestry services, security guard sector and the garment industry. A key goal for the Fair Wage Office is to continue to increase awareness in the immigrant community about filing complaints against employers who do not pay a Fair Wage Rate in accordance with the City of Toronto's wage schedules. Many of these recent immigrant workers are employed in low-wage industries and feel intimidated about losing their jobs if they complain, therefore, as a result the Office will continue to target these industries for increased compliance.

In 2008, the Fair Wage Office conducted 174 site visits, and will continue to make this a priority to enforce and increase the visibility of the Fair Wage Policy. In addition, the Fair Wage Office will compare the list of proposed or current contractors with the latest disqualification list to ensure ineligible contractors do not work on City contracts. The Office shall provide and distribute educational material, in various languages, about the City's Fair Wage Policy to workers and contractors to continue to foster greater 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

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