



## STAFF REPORT ACTION REQUIRED

### Fair Wage Office – 2016 Annual Report

<b>Date:</b>	September 7, 2017
<b>To:</b>	Government Management Committee
<b>From:</b>	Manager, Fair Wage Office
<b>Wards:</b>	All
<b>Reference Number:</b>	TBA

### SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2016.

### RECOMMENDATIONS

The Manager, Fair Wage Office recommends that:

1. Government Management Committee receives this report for information.

### Financial Impact

There are no financial implications from this report.

### EQUITY IMPACT STATEMENT

The implementation of the Fair Wage Policy advances the City’s commitment towards access, equity, and workers’ rights by ensuring that workers on City contracts are paid a “fair wage” and are not subject to harassment or discrimination. Through the implementation of this policy, workers become aware of their rights and this is particularly important to newly arrived immigrants and other vulnerable workers. The Fair Wage Office will increase awareness in the immigrant community by providing educational material in various languages about the City’s Fair Wage Policy and complaint process. Through these efforts, workers and employers will be better informed of their rights and responsibilities.

## 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 to 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 treated fairly in the work place by setting standards that employers must meet. 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; 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.

Key elements of the program involve:

- Verifying contractor(s) or Sub-contractor(s) eligibility;
- Conduct on-site investigations and interviews with labourers & mechanics, trade workers/personnel, company and City officials;
- Comply with posting requirements;
- Review certified weekly/bi-weekly payroll records;
- Ensure compliance with policy requirements;
- Maintain full documentation of actions;
- Refer disqualification recommendations to standing committee; and
- Submit to Council annual and required reports

## COMMENTS

This report outlines the Fair Wage Office activities for 2016 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 administration fee penalties transferred to the City Treasurer as a result of the Fair Wage Office efforts.

It should be noted that, investigations from the period of 2004-2016 recovered approximately \$4 million in back wages to 3,847 workers. These workers encountered certain contractor or subcontractor practices such as: underpayment of wages and misclassification of workers, underreporting of hours and the number of workers, cash payments, non-payment of wages, unpaid overtime, banked overtime hours, non-payment of benefits, off-the-clock violations and late payments.

### 2016 Highlights

Pursuant to Municipal Code Chapter 67, Fair Wage Policy, several compliance investigations were undertaken involving backhoe services with operator for planned, unplanned and emergency work for repair of watermain breaks, water services, sewers, laterals, catch basins, maintenance holes etc. within Toronto, East York and Scarborough Districts. Allegations were addressed where contractors intentionally failed to pay workers the proper fair wage rate, misclassification of workers as "shareholders contractor", cash payments and failure to submit true and accurate certified payroll records. Enforcement action required violating contractors to make restitution of owed back wages to affected workers, administration penalties were applied, firms were cited their first violation and are to be tracked in the event of any additional non-compliance for potential disqualification, as determined under the Fair Wage by-law.

An investigation into the pay practices of Canada Fibers Ltd "CFL", was in response to a media story of a worker's complaint with allegations of workers paid below the established fair wage rate as required under the contract(s) for Toronto's blue in recyclables. This complex and lengthy investigation resulted in the Fair Wage Office issuing non-compliance citation to CFL and that was required to make restitution to its workers, and to workers supplied by temporary employment agencies that were engaged on City recyclables contract(s). The company has been ordered to pay approximately \$1,330,000.00 fines and restitution to more than 1600 workers.

### Table 1 - 2013-2016 Fair Wage Office Activity Limited to City of Toronto Contracts

Tab	2013	2014	2015	2016
Number of Firms Reviewed	2695	3226	2986	2444
Number of Firms Approved	2470	2998	2829	2426
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1685	1807	1685	1536
Number of Site Visits Conducted	236	271	260	221
Total Investigations Conducted	79	74	55	57
Fair Wage Policy Investigations	62	60	35	43
Labour Trade Contractual Obligations Investigations(LTCO)	17	14	20	14
Value of Violations (Fair Wage Policy & LTCO)	\$390,912.38	\$249,242.14	\$157,371.84	1,742,026.88
Number of Contractors Cited for First Violation	20	22	6	18
Value of Fair Wage Violations	\$376,725.38	\$173,186.51	\$111,724.64	1,697,026.88
Number of Workers Receiving Back Wages	166	92	36	2021
Value (\$) Collected for Fair Wage Policy Administration Fee	\$45,221.02	\$25,977.97	\$12,261.90	\$209,563.06
Number of Grievances Investigated (Violations)	4	7	20	5
Value of Violations	\$14,187.00	\$76,055.63	\$45,647.20	\$45,000
Exhibition Place – payment received for FWO Service	\$1,914.64	\$1,914.64	\$1,914.64	\$1914.64

Much of the work undertaken by the Fair Wage Office is investigating contractors' compliance and directed at corroborating payroll information. This is achieved through verifying payroll records, wages paid, vacation pay, hours of work, daily logs, cancelled cheques and workers job classification.

In 2016, the Fair Wage Office conducted two hundred and twenty-one (221) site visits and fifty-seven (57) investigations in which forty-three (43) pertained to the Fair Wage Policy. Of the forty-three (43) Fair Wage Policy investigations, eighteen (18) firms were cited for their first violation, as identified in Appendix A of this report.

In the event that any of the firms listed are found to be in non-compliance with the provisions of the Fair Wage Policy in two separate instances over a period of three years, the Manager of the Fair Wage Office shall report to Council on disqualification from City contracts for a two year period. Back wages and benefits owed to workers from non-compliant contractors totalled \$1,697,026.88. These funds were collected and distributed to a total of two thousand and twenty-one (2021) workers. In addition, the Fair Wage Office collected a total of \$209,563.06 in administration fees made payable to the City Treasurer.

## **Labour Trade Violations**

Compliance with the City's and Exhibition Place construction labour trade agreements, in the Industrial, Commercial, Institutional "ICI" construction sector is critical in minimizing the City's liabilities, managing risk and avoiding costly litigation and labour trade grievances against the City. The Fair Wage Office provides compliance verification to Purchasing and Material Management Division prior to contract award and 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.

Significant efforts are undertaken to review and approve contractors and sub-contractors with appropriate signatory trade affiliation prior to contract award. Critical tasks require assignment of the work to trades with affiliated agreements that have jurisdiction over the work in the ICI sector of the construction industry.

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 five (5) Labour Trade settlements in 2016, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2016, a total value of \$45,000 in negotiated grievances filed against the City of Toronto, were resolved. Appendix A of this report identifies the firms involved in Labour trade non-compliance.

## **Work Plan 2017**

The Fair Wage Office shall:

As required under the Municipal Code Chapter 67, Fair Wage By-law, review and update fair wage schedules based on industry standards.

Provide City Engineering & Construction Services update to payroll burden labour rates that are utilized to verify the accuracy of payroll burden wages rates for time and material cost contractors charge the City.

Expand and enhance the Fair Wage Office database and reporting system being developed. Review, evaluate and improve the Fair Wage Information System (FWIS) database with the expectation to gain further operational efficiency and utilization to improve business processes and customer service.

Monitor construction companies, general contractor and sub-contractors, by conducting site investigations and field interviews on the project to ensure workers are paid proper wages in accordance with the Fair Wage schedules.

Continue strategic and coordinated enforcement in industries that have historically demonstrated high incidence of a variety of wage and hour violations.

## **CONCLUSION**

In 2016 the Fair Wage Office conducted two hundred and twenty-one (221) site visits, and will continue to make this a priority to enforce and increase awareness of the Fair Wage Policy. Additionally, the Fair Wage Office will compare the list of non-compliant contractors in the event of any additional violations and if necessary shall report disqualification to Committee and Council. Providing and distributing educational material in various languages, about the City's Fair Wage Policy to workers and contractors will 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.

## **CONTACT**

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## **SIGNATURE**

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## **ATTACHMENTS**

## APPENDIX A

### Fair Wage Office –2016 Non-Compliant Firms

Fair Wage Non-Compliant		Labour Trade Non-Compliant	
1.	Fairview Glass & Mirror Ltd.	1.	Bondfield Construction Company Ltd.
2.	Cipparone Construction Ltd	2.	DPI Contracting Inc.
3.	Queensway Excavating & Landscaping Ltd.	3.	Brown Daniels Associates
4.	Ruffolo Contracting	4.	Bennett Menchanical
5.	Municipal Maintenance	5.	Taurus Contracting Ltd.
6.	Continental Carbon Group		
7.	Junk-It Inc.		
8.	Scaf-Tech Inc.		
9.	Woodbine Pavement Markings Ltd.		
10.	Excelone Staffing Services Inc.		
11.	Miller Waste Systems Inc.		
12.	Universal Staffing Inc.		
13.	Canada Fibers Ltd. Including: (R.K. Staffing, United Staffing, LA Solution, AnyTime Staffing, One Stop Personnel)		

Total number of investigations completed, refer to Fair Wage Office – 2016 Annual Report Table 1.