



**Pegah Construction Ltd.**  
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November 9, 2017

Dear Members of the Government Management Committee,

We are writing to you today with regards to item **GM23.23** - Pegah Construction Ltd. - Disqualification from City Contracts, Fair Wage Policy Non-Compliance

The purpose of the Fair Wage Policy is to ensure that contractors and suppliers who do work with the City do not discriminate against their workers. Our company fully supports this initiative, and works with the City, our staff, and subcontractors to ensure that all employees are able to make a fair and living wage while working on our projects.

The staff report addresses two unfortunate issues where, despite our best efforts, City staff has identified instances where we were not in full compliance with the Fair Wage Policy.

#### **Issue 1 - Construction of EMS Multi-functional Station - 1300 Wilson Ave**

The report states that we failed to properly compensate employees resulting in \$24,774.10 in back wages owed to 4 employees, due to a subcontractor failing to pay fair wages and maintain payroll records.

Section A5 of the City's Fair Wage Policy states that the fair wage rates do not apply to small businesses. The subcontractor in question, Azores Landscape & Renovating, is a father/son owned business that occasionally employs part time / contract labour to work on large projects, and as such should fall within this category.

However, out of an abundance of caution we did request Azores to maintain proper records and ensure that all employees were paid according to the requirements of the City's Fair Wage Policy. Due to the small nature of their business the employees were doing multiple tasks as part of this project, and it would have been prohibitive to document minute by minute which category of work they were doing. As a result, they were paid based on a single job category.

Two employees, retained by the contractor Azores, were recent arrivals from another country that had not yet established bank accounts, and thus could not be paid via

cheque. However, records were maintained by the contractor to ensure that all requirements with regards to government required payroll deductions were met. We stressed the importance of compliance to Azores and all subcontractors.

The report also makes mention that we employed non-signatory contractors that installed overhead garage doors, resulting in a grievance against the City of Toronto in the amount of \$6,000.

Our supervisory staff on site noted that employees doing the work in question were wearing union materials on their personal protective equipment, and union materials were also present on their vehicles. We were fully under the impression that the workers in question were approved union workers.

When notified of the issue, we did not contest the Fair Wage Office's findings and worked with our sub-contractor to remedy the situation immediately. We support the administrative fee implemented, however considering this was a matter of interpretation we do not agree that this should result in disqualification from City of Toronto bids. Our firm has already reimbursed the Iron Workers Union for the grievance filed.

## **Issue 2 - Replacement of Garage Concrete Slab at Toronto Police Services 33 Division 2 Dyas Road**

The report states that payroll records from our payroll company ADP showed non-compliance for the pay periods reviewed, and that it took weeks to adjust the payroll once we were notified.

Once the matter was brought to our attention, we contacted the City Fair wage office, ADP, our own internal staff, and the employees in question to immediately review what had taken place. Once we were able to confirm the Fair Wage Office's findings as well as some further information on how to manage two payroll hourly rates at the job in question as well as other active jobs, we immediately adjusted the payroll periods through ADP.

While not inaccurate, the report implies we took too long to adjust payroll, while the period of time in question is less than 60 days. It is not unreasonable for a company to review findings to make sure that a further error is not being made. Once confirmed, the corrections were immediately made.

Historically, the Government Management Committee has only disqualified 4 companies from City Contracts for Fair Wage Non-Compliance. In three instances, the Fair Wage Office indicates that there was evidence of falsified payroll records by deliberately under-reporting worker hours. In the fourth case, the supplier failed to pay the stipulated wage and benefits per the wage schedule, and refused to make the corrective payments to its workers. Given the deliberate actions of these companies, these are instances where actions such as barring a company from bidding on City work is much more appropriate.



In our case there were no issues with compliance of thousands of hours of work by many trades on the \$10M contract and the amount of non-compliant labour rate is very minimal (less than 0.3%).

Disqualifying vendors from bidding for matters that come down to interpretation or simple administrative error will have a severely detrimental effect on future City contracts. It will discourage vendors from bidding on contracts, resulting in fewer qualified bidders, and higher prices on City contracts. It will also discourage subcontractors from taking work on City projects, which ultimately will again result in higher prices on City related projects.

While we do not contest the fact that these were contraventions of the Fair Wage Policy in the strictest interpretation, in no way was there any deliberate deception presented to the City, our employees or subcontractors, or any malice contemplated through our actions. Barring our business from working on City projects for a 2 year period would present a much greater hardship to our employees than these findings, as their workload would be severely reduced.

We therefore respectfully request that you adopt the following at next week's Government Management Committee meeting:

### **Recommendation**

1. City Council direct that Pegah Construction Ltd. be placed on probation for the next contract year.

We have consulted with the Fair Wage Office, and they have indicated that they would be supportive of this decision should the Committee adopt it.

Thank you for your time and consideration,

Yours very truly,



**Ali Mohtashami, P.Eng., MBA**  
**President**

AM/dp

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