



REPORT FOR ACTION

Fair Wage Office - 2018 Annual Report

Date: June 19, 2019

To: General Government and Licensing Committee

From: Manager, Fair Wage Office

Wards: All

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2018.

RECOMMENDATIONS

The Manager, Fair Wage Office recommends that:

1. The General Government and Licensing Committee receive this report for information.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendation in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

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.

COMMENTS

EQUITY IMPACT STATEMENT

The implementation of the Fair Wage Policy advances the City's commitment to 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. This is particularly important to new 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 about their rights and responsibilities.

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 significant and contractors and sub-contractors might be enticed to cut contract costs simply by cutting employee wages. In this competitive environment, it is important to ensure that workers are fairly treated and compensated.

Key elements of the program involve:

- Verifying contractor(s) or sub-contractor(s) eligibility;
- Conducting on-site investigations and interviews with labourers & mechanics,

- trade workers/personnel, company and City officials;
- Ensuring compliance with posting and policy requirements;
- Conducting reviews of weekly/bi-weekly payroll records;
- Maintaining full documentation of actions;
- Recommending non-complying firms for disqualification to standing committee; and
- Reporting annually to City Council on Fair Wage Office activities.

This report outlines the Fair Wage Office activities for 2018 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 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 2004-2018 recovered approximately \$5,112,000.00 million in back wages to 4,011 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.

2018 Highlights:

Changes in legislation:

Making Ontario Open for Business Act, 2018. (Bill 47) included amendments to the Employment Standards Act, 2000 and the Labour Relations Act 1995 and received Royal Assent on November 21, 2018. Among the amendments, the new scheduling provisions from Bill 148 were repealed and held minimum wage in the Province of Ontario at \$14.00 per hour until October 1, 2020. Annual increases to minimum wage may restart in October 2020.

The Workforce Scheduling Pilot:

In 2018, pursuant to the Poverty Reduction Strategy, Council directed the Executive Director, Human Resources, the Chief Purchasing Officer and the Executive Director, Social Development, Finance and Administration, to pilot-test standards in City contracts and procurement documents related to advance notice of scheduling (EX29.12). The Fair Wage Office was provided an additional resource to pilot the feasibility of adopting an advanced scheduling standard into City contracts and procurement documents and measure the standard's impact on workers, vendors and City operations.

Details on the pilot's progress include:

In October 2018, the Fair Wage Office created a project plan to guide the design, consultation, implementation and evaluation phases of the pilot. Concurrently staff worked to identify compatible procurement calls in which the pilot could be included and that could yield results to report back to Executive Committee by Q4 2019.

At present, (2) City Divisions with procurement calls in 2019 have agreed to participate in the pilot including, the School Crossing Guard request for proposal (RFP) led by Transportation Services, and the Security Services for Respite Centres RFP led by Corporate Services (Corporate Security). The Fair Wage Office has also secured the participation of Facilities Management for the 2020 Custodial Service RFP.

Monitoring of advance notice of scheduling and evaluating its impact on workers, vendors and City operations is scheduled to begin in late Q3 2019 and Q4 2019 with the commencement of service of the selected procurement calls. To date, the Fair Wage Office has been collecting data on the feasibility of adopting the standard into City contracts by working with staff in Purchasing and Material Management Division (PMMD), Legal Services and divisional contract managers. The feasibility of adopting a standard related to the advance notice of scheduling into City contracts and procurement documents will be included in the Q4 2019 report to Committee.

Office Operations:

In June of 2018, Ali Sheikh, assumed the role of Manager, Fair Wage Office replacing Mark Piplica. Mark retired after more than 25 years of dedicated service to the Fair Wage Office and more than 30 years with the Toronto Public Service.

The Fair Wage Office improved the functioning of the Fair Wage Information System (FWIS) database by implementing date tracking fair wage forms and complaint tracking in FWIS. Investigation techniques now employ the usage of narratives to provide the reader a synopsis of the activities carried out during the course of an investigation. Adjustments to the way work is conducted ensure year end reporting data is easier to collect and maintain operational efficiency.

Table 1 provides an overview of the different types of activity that the Fair Wage Office engaged in and the volume of each activity type for 2015-2018. The dollar value of fair wage violations is also provided.

Tab	2015	2016	2017	2018
Number of Firms Reviewed	2986	2444	2667	2413
Number of Firms Approved	2829	2426	2570	2339
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1685	1536	1753	1631
Number of Site Visits Conducted	260	221	247	119
Total Investigations Conducted	55	57	58	34
Fair Wage Policy Investigations	35	43	35	20

Labour Trade Contractual Obligations Investigations(LTCO)	20	14	23	14
Value of Violations (Fair Wage Policy & LTCO)	\$157,371.84	1,742,026.88	\$254,918.57	\$896,958.24
Number of Contractors Cited for First Violation	6	18	6	8
Value of Fair Wage Violations	\$111,724.64	\$1,697,026.88	\$157,785.07	\$827,680.48
Number of Workers Receiving Back Wages	36	2021	47	117 ¹
Value (\$) Collected for Fair Wage Policy Administration Fee	\$12,261.90	\$209,563.06	\$18,148.71	\$142,088.57
Number of Grievances Investigated (Violations)	20	5	23	14
Value of Violations	\$45,647.20	\$45,000	\$97,133.50	\$69,277.76
Exhibition Place – payment received for FWO Service	\$1,914.64	\$1,914.64	\$1,914.64	\$1914.64

Fair Wage Violations

Much of the Fair Wage Office's work 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 worker job classifications.

In 2018, the Fair Wage Office conducted one hundred and nineteen (119) site visits and thirty-four (34) investigations. Twenty (20) investigations pertained to the Fair Wage Policy and the remaining fourteen investigations were regarding the City's Labour Trade Obligations. Of the twenty (20) Fair Wage Policy investigations, four (4) firms were cited for their first violation, as identified in Appendix A at the end of this report. If any of the firms listed are found to be non-compliant with the Fair Wage Policy in two separate instances over a period of three years, the Manager of the Fair Wage Office shall report these instances of non-compliance to Council and may recommend the firms be disqualified from City contracts for a two year period.

In 2018, back wages and benefits owed to workers from non-compliant contractors totalled \$827,680.48. These funds were collected and distributed to a total one hundred and seventeen (117) workers.² In addition, the Fair Wage Office collected a total of \$142,088.57 in administration fees made payable to the City Treasurer.

In July 2018, pursuant to Government Management Committee direction and Municipal Code Chapter 67, Fair Wage Policy, section A10, the Manager, Fair Wage Office reported and recommended to Government Management Committee that a contractor be disqualified for non-compliance to the Fair Wage Policy. The contractor, Aloia Brothers Concrete Contractors Ltd., having been found to be in non-compliance with the provisions of the Fair Wage Policy, was disqualified from conducting business on City projects for a period of two years inclusive from the date of the Council decision.

1 Investigations vary in terms of size and complexity; this can impact the number of workers receiving back wages in a year where an investigation takes more than a year to conclude.

2 Distribution of funds pending any legal processes.

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. The Fair Wage Office also supports 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 include 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 settlements. 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 fourteen (14) Labour Trade settlements in 2018, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2018, a total value of \$69,277.76 in negotiated grievances filed against the City of Toronto, were resolved. A list at the end of this report identifies the firms alleged to have been involved in Labour Trade non-compliance.

Work Plan 2019

The Fair Wage Office shall:

Continue to focus on proactive investigations, review payroll documentation, and enforce policy provisions to ensure firms compliance when doing business with the City.

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 Fair Wage Schedule(s).

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

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

CONCLUSION

In 2018 the Fair Wage Office conducted one hundred and nineteen (119) site visits, and will continue to make site visits a priority to enforce and increase awareness of the Fair Wage Policy. Additionally, the Fair Wage Office will monitor non-compliant contractors. In the event of any additional violations, the Fair Wage Office may recommend disqualification of non-compliant contractors to General Government and Licensing Committee. 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 the City's Fair Wage Policy, educate workers and vendors about the Fair Wage Policy and resolve fair wage and labour trade issues. The Office will continue to meet the objectives of the Fair Wage Policy and address critical issues that emerge throughout the year.

CONTACT

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SIGNATURE

Ali Sheikh
Manager, Fair Wage Office

ATTACHMENTS

Appendix A - Fair Wage Office - 2018 Non-Compliant Firms

Appendix A

Fair Wage Office – 2018 Non-Compliant Firms

Fair Wage Non-Compliant		Labour Trade Non-Compliant	
1.	Municipal Maintenance	1.	Samson Management Inc.
2.	Trisan Construction	2.	Atec Signs Inc.
3.	Industrial Waterblast	3.	Struct-Con Construction Ltd.
4.	Mariani Metal Fabricators Limited	4.	Dufferin Construction
		5.	Trans Canada Construction
		6.	Ainsworth Inc.
		7.	Buttcon Construction/Atlas Construction Ltd.
		8.	B.L.T. Construction Services Inc.

Total number of investigations completed, refer to Fair Wage Office – 2018 Annual Report Table 1.