

Fair Wage Office - 2023 Annual Report

Date: September 17, 2024
To: Executive Committee
From: Chief Procurement Officer
Wards: All

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2023. Under Municipal Code, Chapter 67, Fair Wage, the Manager, Fair Wage Office is responsible for preparing an annual report containing the names of Contractors and Sub-Contractors that have violated the Fair Wage Policy or settled Labour Trades Contractual Obligations in the Construction Industry Policy grievances, and any other necessary information. The annual report is transmitted to the appropriate standing committee by the Chief Procurement Officer.

RECOMMENDATIONS

The Chief Procurement Officer recommends that:

1. The Executive Committee receive this report for information.

FINANCIAL IMPACT

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

While not a direct financial impact to the City, the overview of Fair Wage Office activities from 2020 to 2023 and corresponding value of violations/settlements, value of Fair Wage Policy violations (back wages and benefits owed to workers), value of Fair Wage Policy administrative fees collected and value of Labour Trade Contractual Obligations Policy settlements is detailed in Table 1 of this report.

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

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, the goal is to increase awareness of workers' rights. This is particularly important for new immigrants and other vulnerable workers. The Fair Wage Office will continue to increase awareness in these respective communities about the City's Fair Wage Policy and in the established complaint handling process. Through these efforts, workers and employers will be better informed about their rights and responsibilities. Workers, vendors, and the general public are able to contact the office directly and review wage rates by visiting the [Fair Wage Office](#) website.

DECISION HISTORY

At its meeting on May 22, 2024, City Council adopted [2024.EX14.11](#), Report Back Regarding Item GG8.20 and Revisions to the Fair Wage Policy and Updating the Fair Wage Schedule to Include 2022-2024 Wage Rates. One of the changes to the Fair Wage Policy was that the annual report will be transmitted to the appropriate standing committee by the Chief Procurement Officer, instead of the Manager, Fair Wage Office.

At its meeting on April 9, 2024, the Executive Committee adopted [2024.EX13.18](#), City's Fair Wage Policy - Referral to Executive Committee, which refers all matters related to the City's Fair Wage Policy from the General Government Committee to the Executive Committee, for consideration.

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, Chapter 67, Fair Wage, 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

Background

The Fair Wage Policy is meant to ensure that City contractors and sub-contractors pay their workers "fair wages", and that workers are treated fairly when working under City contracts. It does this by setting standards that employers must meet. The Fair Wage Office is responsible for ensuring fair, open, and transparent administration of Municipal Code, Chapter 67, Fair Wage, including the Fair Wage Policy and the Labour Trade Contractual Obligations in the Construction Industry Policy (the "Labour Trades Policy").

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

1. To produce stable labour relations with minimal disruption;
2. To harmonize the wages of organized and unorganized labour, including vacation pay and fringe benefits;
3. To create a level playing field in competitions 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 or sub-contractors failed to pay their workers the prescribed base hourly wage rate, vacation and holiday pay, or any applicable fringe benefits. Contractors bid on calls that contain the applicable Fair Wage Schedules and submit signed declarations agreeing to comply with all Fair Wage Policy and Labour Trades Policy obligations, prior to contract award.

The Fair Wage Office provides wage protection for workers engaged on City contracts. 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 treated and compensated fairly. Key elements of the Fair Wage Office's operations involve:

- Verifying contractor and sub-contractor eligibility before contract award;
- Conducting on-site investigations and interviews with workers, contractor/sub-contractor officers and directors, and City staff;
- Conducting reviews of weekly/bi-weekly payroll records;
- Maintaining full documentation of actions;
- Recommending non-complying firms for disqualification from doing business with the City to Standing Committee, where appropriate; and
- Reporting annually on Fair Wage Office activities.

Investigations from the period of 2004-2023 recovered approximately \$5.6 million in back wages to 4,359 workers. These workers encountered contractor or sub-contractor practices such as: underpayment of wages, misclassification of workers, underreporting of hours of work, submitting cash payments, unpaid wages or overtime, banked overtime hours, non-payment of benefits, off-the-clock violations, and late payments.

2023 Highlights

In 2023, the Fair Wage Office prepared updates to the Toronto Municipal Code Chapter 67, Fair Wage (the "Fair Wage By-Law") and reported them to the General Government Committee. The changes to the By-Law were proposed to improve clarity and enforceability, as well as to bring updated Fair Wage Schedules for 2022-2025 before Council for approval. All proposed updates were adopted by Council (EX14.11) during their meeting of May 22 and 23, 2024.

Overall, the changes to the Fair Wage By-Law reflect the Divisional Court's 2019 decision in the Queensway Judicial Review matter, and recommendations from the City's Auditor General.

Table 1 provides an overview of some of the different types of activities the Fair Wage Office engaged in and the volume of each activity type for 2020-2023. The dollar value of Fair Wage violations is also provided.

Table 1. Overview of Fair Wage Office Activities, 2020-2023

Activity Type	2020	2021	2022	2023
Number of Firms Reviewed	2684	3020	2851	2641
Number of Firms Approved	2654	2948	2720	2544
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1756	1809	1835	1733
Number of Site Visits Conducted	22	11	21	58
Total Investigations Conducted	25	28	33	30
Fair Wage Policy Investigations	12	14	17	13
Labour Trade Contractual Obligations Policy (LTCO) Investigations	13	14	16	17
Value of Violations/Settlements (Fair Wage Policy and LTCO)	\$368,410*	\$22,033	\$131,376	\$130,527
Number of Contractors Cited for First Violation	0	2	6	3
Value of Fair Wage Violations	\$349,009*	\$22,033	\$92,023	\$48,027
Number of Workers Receiving Back Wages	279*	57	30	5
Value of Fair Wage Policy Administration Fees Collected	\$49,702*	\$3,304	\$11,870	\$2,606
Number of Grievances Investigated	11	12	12	11
Value of LTCO Violations/Settlements	\$19,400	\$13,000	\$39,353	\$82,500

*Amounts include the 2019 Miller Waste investigation figures as the case was resolved in mid-2020 and reported on in March 2022 as part of the 2020-2021 Fair Wage Office Annual Report. This includes \$319,059 in back-wages owed to 260 workers, and \$47,858 in administrative fees collected.

Fair Wage Policy Violations

Much of the Fair Wage Office's work involves investigating compliance and reviewing payroll information. This is achieved through verifying wages and vacation paid, fringe benefits accrued and paid out, hours of work, daily logs, worker job classifications, among other payroll information.

In 2023 the Fair Wage Office conducted 58 site visits and 28 investigations - 13 Fair Wage Policy investigations and 17 Labour Trades Policy investigations. Of the 13 Fair Wage Policy investigations, three firms were cited for their first violation, as identified in Appendix A of this report. If any firm is 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 Executive Committee

and may recommend the firm be disqualified from conducting business with the City for a period of two years, inclusive.

In 2023, back wages and benefits owed to workers from non-compliant contractors totalled \$48,027.82. These funds were collected and distributed to a total of five workers. In addition, the Fair Wage Office collected a total of \$2,606.18 in administration fees made payable to the City Treasurer.

Labour Trades Policy Disputes & Settlements

Contractor and sub-contractor compliance with the City's labour trade agreements in the Industrial, Commercial, Institutional (ICI) construction sector is critical to minimizing the City's liabilities, mitigating risk, and avoiding costly litigation of labour trade grievances brought against the City in the Ontario Labour Relations Board (the "OLRB").

The Fair Wage Office reviews and approves contractors and sub-contractors for compliance with the Fair Wage Policy and the Labour Trades Policy, for the purposes of contract award. The Fair Wage Office also supports People and Equity staff with respect to grievances filed against the City by labour trade unions for alleged violation of the City's Province-wide collective agreements in the construction industry.

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

Where firms have allegedly violated the City's Labour Trade Contractual Obligations in the Construction Industry Policy, the Fair Wage Office takes an active role in facilitating settlements. The Fair Wage Office holds exploratory and discovery meetings to gather information and help resolve conflicts. These discussions may occur before or after a grievance letter is received by the City and/or a grievance is formally filed with the OLRB.

Fair Wage Office staff, together with staff from People and Equity and their Legal staff, regularly engage in informal and 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 to have open and frank discussions. These efforts directly resulted in the settlement of 11 Labour Trade grievances in 2023, as well as faster case processing, thus avoiding costly grievance hearings at the OLRB. In 2023, a total value of \$82,500 in negotiated grievances filed against the City of Toronto were resolved. The firms that were involved in the resolution of Labour Trades grievances in 2023 are listed in Appendix A.

Settlement of a Labour Trades grievance without a final decision being issued by the OLRB does not constitute a violation of the City's Labour Trades Policy.

Major Investigations

CP Systems

On November 19, 2021, the Fair Wage Office began an investigation into 1460973 Ontario Ltd. ("CP Systems") in response to a worker complaint about pay. Following a payroll review, the Fair Wage Office determined that CP Systems violated the Fair Wage Policy by misclassifying the worker and failing to pay \$13,092.98 for cathodic protection work. The work conducted by this worker was determined by the Fair Wage Office to be welding. However, the worker was misclassified as a helper, instead of a welder, and was paid below the prescribed Fair Wage rate for either classification. CP Systems retained legal counsel and filed for a Judicial Review of the Fair Wage Office's decision in the Divisional Court. However, the court upheld the office's decision and CP System's application was dismissed on September 18, 2023. CP Systems made an additional payment of \$30,653.28 to the worker for welding work performed on City contracts. A copy of the Divisional Court's decision is attached to this report as Appendix B. This constitutes CP Systems' first violation of the Fair Wage Policy.

Renokrew/JFON Construction Inc.

In April of 2021, the Fair Wage Office began an investigation into 1568796 Ontario Inc. o/a Renokrew (Renokrew), after a Labour Trades grievance was filed by the Carpenters Union (Local 27). The grievance asserted that members of their union should have performed the work. Following a payroll review of Renokrew and their sub-contractor JFON Construction Inc. (JFON), the Fair Wage Office determined that Renokrew and JFON violated the Fair Wage Policy by failing to pay \$63,490.25 in wages to 15 of their employees for work at the Davenport Shelter, located at 348 Davenport Avenue. This constituted Renokrew's and JFON's first violation of the Fair Wage Policy. All settlement details were finalized in May of 2023, with Renokrew paying the Carpenters Union \$75,000 in damages.

Non-Traditional Application of the Fair Wage Policy

The Fair Wage Office traditionally performs its compliance activities as part of the procurement process at the City. The Fair Wage Policy applies to all City work and not just activities that fit neatly into the procurement process. To facilitate compliance with the Fair Wage Policy, the City's Fair Wage Office provides information, support, and compliance verification services. In 2023 the Fair Wage Office was consulted on seven City projects that did not get processed through the traditional channels for City Purchasing. The Fair Wage Office supports these projects by providing information to project developers, not-for-profit organizations, and City divisions on the application of the Fair Wage Policy.

The Fair Wage Office completed a report providing feedback and recommendations to the City's Poverty Reduction Strategy Office regarding the Workforce Scheduling Pilot Project (the "Project"). The Project's aim was to address the quality of City contracted jobs by including contract provisions in City contracts and procurement documents that require vendors to provide at least two weeks' advance notice to their workers about

when they will be expected to work (the “Notice Provisions”). Notice Provisions are either still in use in the pilot-tested contracts that are still active or have been included in new call documents and awarded contracts for the same services. It is anticipated that Notice Provisions will also be included in applicable FIFA World Cup 2026 City contracts.

Voluntary Recognition Agreement ("VRA") with Labourers' International Union of North America ("LiUNA")

On November 1, 2023, LiUNA became the tenth construction trade union that the City is bound to in the Industrial, Commercial, and Institutional (ICI) sector of the construction industry. This followed a [June 2019 decision](#) where, in conjunction with the decision to remain a construction employer under the Labour Relations Act, City Council directed staff to negotiate a [Voluntary Recognition Agreement](#) with LiUNA. Under the terms of the VRA, construction projects that are awarded pursuant to procurements issued in the ICI sector will be subject to compliance with the LiUNA collective agreement in the ICI sector of the construction industry, subject to certain exemptions and exceptions.

The Fair Wage Office, together with Employee Relations in People and Equity, revised the City's purchasing website so that potential bidders on construction projects are aware of the City's obligations in respect of LiUNA. Successful bidders for City construction work in the ICI sector will be required to adhere to the LiUNA collective agreement, subject to the stipulated exemptions negotiated in the VRA. In addition to updating the website, the Fair Wage Office prepared internal and external parties for this change by creating and circulating a communication plan to division heads, project managers and external stakeholders. The Fair Wage Office worked with Legal Services to ensure solicitation templates and the Fair Wage By-Law adequately captured the changes. A scan of open contracts that may be impacted was provide to Employee Relations.

Work Plan 2024 - 2025

Through the rest of 2024 and into 2025, the Fair Wage Office intends to:

- Finalize a written grievance handling procedure between Purchasing and Materials Management staff (including Fair Wage Office staff) and People and Equity Staff.
- 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 contractors, and sub-contractors, by conducting site inspections and field interviews on projects to ensure workers are paid proper wages, vacation pay and benefits in accordance with Fair Wage Policy and Schedule(s).
- Close out ongoing investigations and distribute back-wages to workers.
- Conduct a review of some of the lowest classification rates in the Fair Wage Schedules.

CONTACT

Geneviève Sharkey, Chief Procurement Officer, Purchasing & Materials Management Division, 437-755-8089, Genevieve.Sharkey@toronto.ca

Ali Sheikh, Manager, Fair Wage Office, Phone: 416 338-5594, Fax: 416 392-0801
Email: Ali.Sheikh@toronto.ca

SIGNATURE

Geneviève Sharkey
Chief Procurement Officer, City of Toronto

ATTACHMENTS

Appendix A - Fair Wage Office - Companies that were cited for their first violation of the Fair Wage Policy and companies that have been involved in the settlement/resolution of Labour Trades grievances in 2023.

APPENDIX A

Fair Wage Office - Companies that were cited for their first violation of the Fair Wage Policy and companies that have been involved in the resolution of Labour Trades grievances in 2023.

Fair Wage Non-Compliant Firms		Resolution of Labour Trades Grievances	
1.	A&F Di Carlo Construction Inc.	1.	1568796 Ontario Inc. o/a Renokrew
2.	BDA Inc.	2.	Century Group Inc.
3.	1460973 ONTARIO INC. o/a CP Systems	3.	671860 Ontario Inc. o/a Somerville Construction
4.		4.	Eventscape Inc.
5.		5.	Graham Construction and Engineering LP
6.		6.	Western Mechanical Electrical Millwright Services Ltd.

APPENDIX B

CP Systems 2023 Divisional Court Decision