



STAFF REPORT ACTION REQUIRED

Fair Wage Office – 2014 Annual Report

Date:	August 31, 2015
To:	Government Management Committee
From:	Manager, Fair Wage Office
Wards:	All
Reference Number:	TBA

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2014.

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 2014 and provides information on Contractor's 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 2004-2014 recovered approximately \$2.25 million in back wages to 1,790 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.

2014 Highlights

The procurement of emergency services in response to the 2013 Ice storm required specialized equipment crews to remove debris from City's parks, trails and watercourses. Due to the extraordinary volume of debris, the City issued emergency blanket contracts to contractors for the clean- up. The Fair Wage Office approved each contractor that was issued a purchase order, confirmed that each had reviewed and understood the Fair Wage Policy and labour trades requirements and agreed to comply fully. In 2014, of twenty seven (27) ice storm contractors that were investigated twelve (12) were found to be in non-compliance and recorded for the fair wage by-law violation.

The Fair Wage Office consulted with City Engineering & Construction Services, City Legal Services and the Heavy Construction, Road Building and Sewer Watermain Associations with respect to City linear construction contracts. This process addressed the Internal Auditor's recommendations to verify the accuracy of payroll burden wage rates for time and material costs that contractors charge the City. The Fair Wage Office developed schedules of all -inclusive hourly labour rates by classification based on industry standards, for payroll burden applicable to construction collective agreement(s) or contractors subject to the City fair wage schedule.

Fair wage rates were established for multiyear winter maintenance contracts by structuring labour rates to operational function involving regular equipment operators, standby operations and winter camp operations. The Fair Wage Office reviewed contractors' declarations to ensure vendors and their sub-contractors are compliant with fair wage requirements.

Table 1 – 2011-2014 Fair Wage Office Activity Limited to City of Toronto Contracts

	2011	2012	2013	2014
Number of Firms Reviewed	1750	1608	2695	3226
Number of Firms Approved	1701	1442	2470	2998
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1119	1048	1685	1807
Number of Site Visits Conducted	229	265	236	271
Total Investigations Conducted	64	76	79	74
Fair Wage Policy Investigations	40	37	62	60
Labour Trade Contractual Obligations Investigations(LTCO)	24	39	17	14
Value of Violations (Fair Wage Policy & LTCO)	\$413,412.48	\$318,802.29	\$390,912.38	\$249,242.14
Number of Contractors Cited for First Violation	12	15	20	22
Value of Fair Wage Violations	\$285,488.51	\$200,889.30	\$376,725.38	\$173,186.51
Number of Workers Receiving Back Wages	82	109	166	92
Value (\$) Collected for Fair Wage Policy Administration Fee	\$42,823.28	\$15,730.15	\$45,221.02	\$25,977.97
Number of Grievances Investigated (Violations)	9	12	4	7
Value of Violations	\$127,923.97	\$117,912.99	\$14,187.00	\$76,055.63
Exhibition Place – payment received for FWO Service	\$1,914.64	\$1,914.64	\$1,914.64	\$1,914.64

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 2014, the Fair Wage Office conducted two hundred and seventy one (271) site visits and seventy four (74) investigations in which sixty (60) pertained to the Fair Wage Policy. Of the sixty Fair Wage Policy investigations, twenty two 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 \$173,186.51. These funds were collected and distributed to a total of ninety two workers. In addition, the Fair Wage Office collected a total of \$25,977.97 in administration fees made payable to the City Treasurer.

Labour Trade Violations

Compliance with the City's nine collective agreements in the Industrial, Commercial, Institutional 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 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 seven Labour Trade settlements in 2014, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2014, a total value of \$76,055.63 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 2015

The Fair Wage Office shall:

- Report to Committee and Council recommending the disqualification of contractors from conducting business with the City for multiple by-law violations, if required.
- Review, evaluate and improve the Fair Wage Information System (FWIS) database with the expectation to gain further operational efficiency and utilization to improve business agility and customer service.
- Continue to maintain oversight and, if necessary, conduct a compliance review of vendors(s) awarded custodial services contracts, providing cleaning services at various City buildings, to ensure wages are paid to workers in accordance with contract requirements
- Maintain oversight of companies awarded multi-year City contracts involving in tree pruning and removal, aerial bucket and wood chipper operations.
- Conduct payroll review to ensure compliance of companies engaged in curbside collections, transportation and off-loading of garbage, recyclables in DI and D2 Etobicoke district.

CONCLUSION

In 2014, the Fair Wage Office conducted two hundred and seventy-one (271) 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

ATTACHMENTS

Appendix A: Fair Wage Office – 2014 Non-Compliant Firms

APPENDIX A

Fair Wage Office –2014 Non-Compliant Firms

Fair Wage Non-Compliant		Labour Trade Non-Compliant	
1.	Victoria Design-Build Ltd.	1.	Aveiro Construction Ltd. (Painters)
2.	GTA Grounds Care Ltd.	2.	Aveiro Construction Ltd. (Carpenters)
3.	City Concrete Ltd.	3.	Rooftops & Sheet Metal Corp.
4.	Bruce Tree Service Expert Co. Ltd.	4.	Harbridge & Cross Ltd. / Clima Ltd.
5.	Ashley's Touch Tree Service Ltd.	5.	CIR General Contracting Inc.
6.	Islington Nurseries Ltd	6.	Limen Group Ltd.
7.	Tree Doctor Inc.	7.	Hank Deenen Landscaping Ltd.
8.	Euro Landscape & Construction Inc.		
9.	Leishman Landscape Inc.		
10.	Tekk Construction Group Ltd.		
11.	Humberview Maintenance Group Ltd.		
12.	International Landscape Inc.		
13.	From Roots to Shoots Inc.		
14.	Brook Tree Service Ltd.		
15.	MTM Landscape Construction Ltd		
16.	Peter's Environmental Inc.		
17.	LC Construction Ltd.		
18.	Kem Khider Electro Mechanical Ltd.		
19.	Dessa Snow, Lawn Care & Property Maintenance Ltd.		
20.	Conview Cutting Services Inc.		
21.	Arthur L. Weaver Flooring Ltd.		
22.	Nine Star Cleaning Service Ltd.		

Total number of investigations completed, refer to Fair Wage Office – 2014 Annual Report Table 1.