

Fair Wage Office – 2015 Annual Report

Date:	September 19, 2016
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 2015.

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 2015 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 2004-2015 recovered approximately \$2.36 million in back wages to 1,826 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.

2015 Highlights

Pursuant to Municipal Code Chapter 67, Fair Wage Policy, section A10, the Manager, Fair Wage Office reported and recommended, to Government Management Committee and Council, disqualification notice that the following contractors have been found to have disregarded their obligations to workers under the Fair Wage By-law on two (2) separate occasions and that they are prohibited from being awarded City contract work for a two (2) year period.

<u>Company</u>	<u>Prohibit Start Date</u>	<u>Prohibit End Date</u>
MTM Landscape Contractors Inc.	July 7, 2015	July 7, 2017
Serve Construction Ltd.	July 7, 2015	July 7, 2017

In addition to the disqualification of the captioned companies, disqualification applies to any firm, corporation, partnership, association in which such contractors have an interest as well as all their respective directors, officers, agents, representatives or other controlling persons who act through or on behalf of the entities which are prohibited from being awarded any contract or subcontract for a City project.

The City of Toronto Fair Wage Office responded to the media story of workers performing Toronto's blue bin recyclables with allegations of hiring temporary agency workers paid at minimum wage. As a result of the above allegations, the Fair Wage Office undertook a compliance review to determine if workers are paid wages in accordance with contract requirements at the Arrow Road recycling facility.

Fair Wage Office reviewed multiple firms engaged in the operation of tree pruning and tree removal, areal bucket and wood chipper contract to ensure fair Wage compliance.

Conducted compliance reviews of cleaning contractor's payroll to ensure vendors pay their workers the prescribed hourly wage rate, vacation pay and applicable amount of fringe benefits as required under the contract.

Table 1 – 2012-2015 Fair Wage Office Activity Limited to City of Toronto Contracts

	2012	2013	2014	2015
Number of Firms Reviewed	1608	2695	3226	2986
Number of Firms Approved	1442	2470	2998	2829
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1048	1685	1807	1685
Number of Site Visits Conducted	265	236	271	260
Total Investigations Conducted	76	79	74	55
Fair Wage Policy Investigations	37	62	60	35
Labour Trade Contractual Obligations Investigations(LTCO)	39	17	14	20
Value of Violations (Fair Wage Policy & LTCO)	\$318,802.29	\$390,912.38	\$249,242.14	\$157,371.84
Number of Contractors Cited for First Violation	15	20	22	6
Value of Fair Wage Violations	\$200,889.30	\$376,725.38	\$173,186.51	\$111,724.64
Number of Workers Receiving Back Wages	109	166	92	36
Value (\$) Collected for Fair Wage Policy Administration Fee	\$15,730.15	\$45,221.02	\$25,977.97	\$12,261.90
Number of Grievances Investigated (Violations)	12	4	7	20
Value of Violations	\$117,912.99	\$14,187.00	\$76,055.63	\$45,647.20
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 2015, the Fair Wage Office conducted two hundred and sixty (260) site visits and fifty five (55) investigations in which thirty five (35) pertained to the Fair Wage Policy. Of the thirty five (35) Fair Wage Policy investigations, six firms were cited for their first violation, and two firms for their second violation, requiring disqualification action, 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 \$111,724.64. These funds were collected and distributed to a total of thirty six workers. In addition, the Fair Wage Office collected a total of \$12,261.90 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 2015, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2015, a total value of \$45,647.20 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 2016

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 2015, the Fair Wage Office conducted two hundred and sixty (260) 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

Mark Piplica
Manager
Fair Wage Office
Phone: 416 338-5594
Fax: 416 392-0801
Email: mpiplica@toronto.ca

SIGNATURE

ATTACHMENTS APPENDIX A

Fair Wage Office –2015 Non-Compliant Firms

Fair Wage Non-Compliant		Labour Trade Non-Compliant	
1.	Admiral Welding and Manufacturing Inc. (1)	1.	Cedar Springs Land Grp Ltd.
2.	Arthur L. Weaver Flooring Ltd. (1)	2.	Phoenix Restoration
3.	Pave-Krete Construction Ltd. (1)	3.	C.I.R General Contracting Inc.
4.	Urban Utilities & Construction Services Ltd (1)	4.	C.I.R General Contracting Inc.
5.	Global Cathodic Protection Inc. (1)	5.	C.I.R General Contracting Inc.
6.	Progress Paving Co Ltd. (1)	6.	Protek Roofing and Sheet Metal Inc.
7.	Serve Construction Ltd. (overlap 2014) (2)	7.	Brown Daniel Associates Ltd.
8.	MTM Landscaping Contracting Ltd. (2)	8.	Defina Haulage Ltd.
		9.	Bondfield Construction Ltd.
		10.	A&F Di Carlo Construction Ltd.

Total number of investigations completed, refer to Fair Wage Office – 2015 Annual Report Table 1.

* () number of violations.