



STAFF REPORT ACTION REQUIRED

Fair Wage Office – 2013 Annual Report

Date:	April 25, 2014
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 2013.

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 Trades 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 element of the program involves:

- Verifying contractor(s) or Sub-contractor(s) eligibility;
- Conduct on-site investigations and interviews with labourers & mechanics, trade 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 2013 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 2004-2013 recovered approximately \$2.1 million in back wages of 1,698 workers who 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.

2013 Highlights

During the past year, the Fair Wage Office has taken enforcement action involving a sewer water main contractor having been found to be in non-compliance with the provisions of the Fair Wage Policy on at least two separate instances over a period of three years. City Council directed that Aurostar Inc. be disqualified from City contracts for a two period and once the disqualification period is over, the company be placed of probation for next contract year.

As part of City Council direction, staff reported to the Public Works and Infrastructure Committee on various aspects of Curb Side Collections, district 2 involving Green For Life Environmental East Corporation. As part of this direction, the Fair Wage Office examined the company's payroll sheets, pay statements and time cards in order to ensure compliance with the City's Fair Wage Policy. The specific payroll review and examination procedures were carried out with results that were sufficient to verify the annual wage increase and support an opinion of GFL's compliance.

In response to Councils direction, implemented Quality Jobs, Living Wage, Fair Wage report's recommendations of updating Fair Wage Schedules for Industrial, Commercial, Institutional work, Road Construction, Sewer and Water main, Heavy Construction, Utility Work and General classification schedule. Updated Schedules have been posted on City's website.

City Council provided clarification of the Partnership between the Toronto and Regional Conservation Authority (TRCA) and the City of Toronto that vendors hired by the TRCA comply with the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry

The Fair Wage Office participated in a round table discussion and an initiative to address Human Trafficking in Toronto whose main goal was to understand how to improve the way instances of labour trafficking can be detected, investigated and that the Fair Wage policies are enforced.

Table 1 – 2010-2013 Fair Wage Office Activity Limited to City of Toronto Contracts

	2010	2011	2012	2013
Number of Firms Reviewed	3,126	1750	1608	2695
Number of Firms Approved	2,881	1701	1442	2470
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	2,117	1119	1048	1685
Number of Site Visits Conducted	319	229	265	236
Total Investigations Conducted	97	64	76	79
Fair Wage Policy Investigations	63	40	37	62
Labour Trade Contractual Obligations Investigations(LTCO)	34	24	39	17
Value of Violations (Fair Wage Policy & LTCO)	\$147, 638.88	\$413,412.48	\$318,802.29	\$390,912.38
Number of Contractors Cited for First Violation	19	12	14	20
Value of Fair Wage Violations	\$86, 599.24	\$285, 488.51	\$200,889.30	\$376,725.38
Number of Workers Receiving Back Wages	91	82	109	166
Value (\$) Collected for Fair Wage Policy Administration Fee	\$21,495.73	\$42, 823.28	\$15,730.15	\$45,221.02
Number of Grievances Investigated (Violations)	10	9	14	4
Value of Grievance Violations	\$61, 039.64	\$127, 923.97	\$117,912.99	\$14,187.00
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 2013, the Fair Wage Office conducted two hundred and thirty-six (236) site visits and seventy nine (79) investigations in which sixty two (62) pertained to the Fair Wage Policy. Of the sixty two Fair Wage Policy investigations, nineteen firms were cited for their first violation and one firm had two violations over a three year period, 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 must 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 \$376,725.38. These funds were collected and distributed to a total of one hundred and sixty six workers. Also, the Fair Wage Office collected a total of \$45,221.02 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 Trades 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 twelve Labour Trade settlements in 2013, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2013, a total value of \$14,187.00 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 2014

The Fair Wage Office will:

- Maintain oversight and if necessary conduct a compliance review of vendor(s) awarded custodial services contracts, providing cleaning services at various City buildings, to ensure wages are paid to workers in accordance with contract requirements.
- Ensure that vendors involved in the non-competitive procurement of various services related to the emergency clean up resulting from the 2013 Ice Storm comply with the City's Fair Wage requirements.
- Ensure that the vendor operating the Green Lane Landfill site, on behalf of the City of Toronto, involving workers performing construction work including operators of vehicles and equipment comply with the City's Fair Wage schedule(s).
- Participate with Purchasing Material Management Division on a Toronto Social Procurement framework with clear principles, goals and objectives to advance social procurement practices at the City.

- Work with the Toronto Regional Conservation Authority (TRCA) to develop a frame work and appropriate mechanism to ensure that work being performed by TRCA is in compliance with the City's Fair Wage Policy and Labour Trades Obligations in the Construction Industry.

CONCLUSION

In 2013, the Fair Wage Office conducted two hundred and thirty six (236) site visits, and will continue to make this a priority to enforce and increase the visibility 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

Mark Piplica, Manager

ATTACHMENTS

Appendix A: Fair Wage Office – 2013 Non-Compliant Firms

APPENDIX A

Fair Wage Office –2013 Non-Compliant Firms

Fair Wage Non-Compliant	Labour Trade Non-Compliant
1. Kasey Installation & Construction Ltd.	1. Tony Batista Paving Inc.
2. Rooftop & Sheet Metal Ltd.	2. Pegah Contracting Ltd.
3. J.T.H. Drywall Co. Ltd.	3. Trinity Roofing Ltd.
4. R&M Construction Ltd.	4. Aquicon Constr. Co. Ltd. / Sunshine Windows
5. Metro Asphalt Sealer & Repair Ltd.	
6. Paramount Steel Ltd.	
7. Aurostar Inc.*	
8. Surface Design Systems Inc.	
9. Canadian Hazmat & Decon. Services Inc.	
10. Beta & Associates Inc.	
11. J. Di Iorio Construction	
12. Decora Building Restoration Ltd.	
13. Rafat General Contractor Inc.	
14. Serve Construction Ltd.	
15. Mancuso Top Construction Ltd.	
16. Mountain Top Construction Ltd.	
17. TBG Landscape Inc.	
18. Global Cathodic Protection Ltd.	
19. MTM Landscaping Contractors Inc.	
20. Bronte Landscape Ltd.	

Total number of investigations completed, refer to Fair Wage Office – 2013 Annual Report Table 1

*Firm found to be in non-compliance in two separate instances over a three year period.