



REPORT FOR ACTION

Fair Wage Office – 2017 Annual Report

Date: April 13, 2018
To: Government Management Committee
From: Manager, Fair Wage Office
Wards: All

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2017.

RECOMMENDATIONS

Manager, Fair Wage Office recommends that:

1. Government Management Committee receives this report for information.

FINANCIAL IMPACT

There are no financial implications as a result of 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 2017 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 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 2004-2017 recovered approximately \$4,216,000.00 million in back wages to 3,894 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.

2017 Highlights

The *Fair Workplaces, Better Jobs Act, 2017* (Bill 148) received Royal Assent on November 27, 2017. It includes significant amendments to the *Employment Standards Act, 2000* and the *Labour Relations Act 1995*, some of which came into effect on January 1, 2018. The new provincial minimum wage and related provisions will have some impact on certain occupations listed in the General Classification Fair Wage Schedule from 2018 forward. These legislative changes will also add a further layer of complexity to the Fair Wage Office in carrying out compliance analysis going forward. A notice about the immediately impacted job classifications was posted on the Fair Wage Office and Purchasing and Materials Management websites for the benefit of workers and employers.

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 a general contractor has been found to have disregarded their obligations to workers under the Fair Wage By-law on two (2) separate occasions and that they be prohibited from being awarded City contract work for a two (2) year period. City Council directed that Pegah Construction Ltd. be placed on probation for a period of one year from the date of City Council's decision.

Another general contractor was also the subject of a disqualification report to Government Management Committee. The Committee directed that staff report back to

Government Management Committee in July 2018 to determine whether Aloia Brothers Concrete Contractors Ltd. has provided the Fair Wage Office with the requisite information, before a disqualification decision is finally recommended.

As required every three years, reviewed and updated Fair Wage schedules for the period 2016-2019 and amended Municipal Code Chapter 67 Fair Wage By-law to reflect wage changes. By-law No. 588-2017 was enacted by Council later that the third year anniversary, based on the delay in the ratification of the construction industry collective agreements, which provide the rates upon which the Fair Wage rate increases are based. The Fair Wage By-law has been amended so that future Fair Wage rate increases will done on the three-year cycle if possible; and, if not, then as soon as possible after the construction industry collective agreement rates are known.

Updated and provided City Engineering & Construction Services with payroll burden labour rates that are utilized to verify the accuracy of payroll burden wages for time and material cost contractors invoice the City for construction work they performed.

Expand and enhance the Fair Wage Office database and reporting system. Implemented improved function of Fair Wage Information System (FWIS) database with enhanced operational efficiency and utilization that has improved business processes and customer.

Fair Wage Office investigated multiple firms engaged in the different operations in areas such as construction, winter maintenance and landscape services.

Table 1 - 2014-2017 Fair Wage Office Activity Limited to City of Toronto Contracts

Tab	2014	2015	2016	2017
Number of Firms Reviewed	3226	2986	2444	2667
Number of Firms Approved	2998	2829	2426	2570
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1807	1685	1536	1753
Number of Site Visits Conducted	271	260	221	247
Total Investigations Conducted	74	55	57	58
Fair Wage Policy Investigations	60	35	43	35
Labour Trade Contractual Obligations Investigations(LTCO)	14	20	14	23
Value of Violations (Fair Wage Policy & LTCO)	\$249,242.14	\$157,371.84	1,742,026.88	\$254,918.57
Number of Contractors Cited for First Violation	22	6	18	6
Value of Fair Wage Violations	\$173,186.51	\$111,724.64	\$1,697,026.88	\$157,785.07
Number of Workers Receiving Back Wages	92	36	2021	47
Value (\$) Collected for Fair Wage Policy Administration Fee	\$25,977.97	\$12,261.90	\$209,563.06	\$18,148.71
Number of Grievances Investigated (Violations)	7	20	5	23
Value of Violations	\$76,055.63	\$45,647.20	\$45,000	\$97,133.50
Exhibition Place – payment received for FWO Service	\$1,914.64	\$1,914.64	\$1,914.64	\$1,914.64

Fair Wage Violations

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 2017, the Fair Wage Office conducted two hundred and forty-seven (247) site visits and fifty-eight (58) investigations in which thirty-five (35) pertained to the Fair Wage Policy. Of the thirty-five (35) Fair Wage Policy investigations, six (6) 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 \$157,785.07. These funds were collected and distributed to a total forty-seven (47) workers. In addition, the Fair Wage Office collected a total of \$18,148.71 in administration fees made payable to the City Treasurer.

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 and 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.

Significant efforts are undertaken to review and approve contractors and sub-contractors with appropriate signatory trade affiliation prior to contract award. Critical tasks require 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 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 twenty-three (23) Labour Trade settlements in 2017, as well as faster case processing, thus avoiding costly grievance hearings at the Ontario Labour Relations Board. In 2017, a total value of \$97,133.50 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 2018

The Fair Wage Office shall:

Continue to focus on proactive investigations, review payroll documentation, 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 2017 the Fair Wage Office conducted two hundred and forty-seven (247) 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

Mark Piplica
Manager, Fair Wage Office

ATTACHMENT

Appendix A: Fair Wage Office – 2017 Non-Compliant Firms

Appendix A

Fair Wage Office –2017 Non-Compliant Firms

Fair Wage Non-Compliant		Labour Trade Non-Compliant	
1.	Concrete Trimmings Ltd.	1.	Samson Management Inc.
2.	Greatario Engineers Storage Systems Inc.	2.	AECOM Ltd.
3.	Pine Valley Enterprises Ltd.	3.	Pegah Construction Ltd.
4.	Pegah Construction	4.	Torbear Contracting Inc. (1ST)
5.	Azores Landscape Ltd.	5.	Torbear Contracting Inc. (2ND)
6.	Avertex Utility Solutions Inc.	6.	Gowing Contractors Ltd.
7.	Aloia Brothers Concrete Contractors Ltd.	7.	CSL Group Ltd.
		8.	Bondfield Construction Co. Ltd.
		9.	Grenadier Group
		10.	Direct Construction Ltd.

Total number of investigations completed, refer to Fair Wage Office – 2017 Annual Report Table 1.