

Fair Wage Office - 2020 and 2021 Annual Report

Date: March 8, 2022

To: General Government and Licensing Committee

From: Manager, Fair Wage Office

Wards: All

SUMMARY

This report provides an overview of the activities of the Fair Wage Office for 2020 and 2021. The reports for both years are combined for administrative purposes while the Fair Wage Office focused on operational priorities to keep essential business items moving forward. Overall more complex and fulsome investigations, combined with the pandemic restrictions have led to a decrease in overall site visits and fair wage investigations.

RECOMMENDATIONS

The Manager, Fair Wage Office recommends that:

1. The General Government and Licensing Committee receive this report for information.

FINANCIAL IMPACT

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

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

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. Chapter 67, Fair Wage, of the Toronto Municipal Code, 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

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, workers become aware of their rights. This is particularly important to new 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 about their rights and responsibilities.

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 workplace 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:

- To produce stable labour relations with minimal disruption.
- To compromise between the wage differentials of organized and unorganized labour.
- To create a level playing field in competition for City Work.
- To protect the public; and
- 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 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 fairly treated and compensated.

Key elements of the program involve:

- Verifying contractor(s) or sub-contractor(s) eligibility;

- Conducting on-site investigations and interviews with labourers, trade workers, personnel, company and City officials;
- Ensuring compliance with posting of the policy at job sites and other policy requirements;
- Conducting reviews of weekly/bi-weekly payroll records;
- Maintaining full documentation of actions;
- Recommending non-complying firms for disqualification to standing committee; and
- Reporting annually to City Council on Fair Wage Office activities.

Specifically for Fair Wage Policy investigations, the Fair Wage Office work involves 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 worker job classifications. Fair wage investigations from the period of 2004-2021 have recovered approximately \$5.4 million in back wages to 4,321 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.

With respect to the City's Labour Trade Obligation, the Fair Wage Office ensures contractors and subcontractors comply with the City's construction labour trade agreements, in the Industrial, Commercial, Institutional (ICI) construction. The Fair Wage Office verifies that the contractors agree to abide by the Labour Trades Obligations and that the subcontractors they propose are bound by the appropriate signatory trade affiliation for the work. The Fair Wage Office also supports 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.

Companies that were cited for their first violation of the Fair Wage Policy and the companies that have been involved in the resolution of Labour Trades grievances are identified in Appendix A at the end of this report.

Table 1 provides an overview of the different types of activities that the Fair Wage Office engaged in and the volume of each activity type for 2018-2021. The dollar value of fair wage violations is also provided.

Table 1

	2018	2019	2020	2021
Number of Firms Reviewed	2413	2574	2684	3020
Number of Firms Approved	2339	2522	2654	2948
Number of Tenders/RFQs/RFPs/DPOs/Sole Source Requests	1631	1543	1756	1809
Number of Site Visits Conducted	119	121	22	11
Total Investigations Conducted	34	40	25	28
Fair Wage Policy Investigations	20	25	12	14

Labour Trade Contractual Obligations Investigations(LTCO)	14	15	13	14
Value of Violations (Fair Wage Policy and LTCO)	\$896,958	\$366,346	\$49,350	\$35,033
Number of Contractors Cited for First Violation	8	3	0	2
Value of Fair Wage Violations	\$827,680	\$346,843	\$29,950	\$22,033
Number of Workers Receiving Back Wages	117	241	16	60
Value (\$) Collected for Fair Wage Policy Administration Fee	\$142,089	\$50,519	\$1,844	\$3,304
Number of Grievances Investigated	14	12	11	12
Value of Violations	\$69,278	\$19,500	\$19,400	\$13,000

Note Worthy Investigations of 2020 and 2021

Municipal Maintenance

Following a payroll review that began in February 2019 and concluded in January 2022, the Manager, Fair Wage Office determined that Municipal Maintenance Inc. violated the Fair Wage Policy by failing to pay \$2,476.50 in wages for part-time overtime work carried out by seven of its employees between November 4, 2018 and December 15, 2018. This constitutes the firm's third violation of the policy within a three year period. The first two violations took place in March 2016 and August 2017, the first violation was reported, but there is no record that the previous Manager, Fair Wage reported to Committee on the second violations.

This investigation took longer to complete than most investigations due to a number of factors, including senior Fair Wage Office staff retiring and going on extended leave, limited staffing resources, and the impact of the COVID-19 pandemic and shutdowns. Altogether, the first investigation resulted in \$71,721.58 of back wages being paid to 51 workers, the second in \$244,571.91 being paid to 17 workers and the third in \$2,476.50 being paid to seven workers.

Based on the minor nature of the most recent breach, a change in corporate management which took effect immediately before the second breach, and the firm's cooperation with Fair Wage Office, the Manager, Fair Wage is not pursuing disqualification. Legal Services was consulted in making this determination.

Ruffalo Contracting Ltd.

In 2018, the Manager, Fair Wage Office determined that Ruffalo Contracting Ltd. failed to comply with the Fair Wage Policy on RFQ No. 6038-17-7256, Contract No. 47021091. Money from the contract was set aside to pay a portion of workers outstanding wages. Distribution of the funds was delayed due to Ruffalo contesting the City's authority to distribute the wages.

In March 2021 the Fair Wage Office determined that it would proceed with the distribution of workers' wages held back on a contract for work performed by Ruffalo Contracting Ltd. (Ruffalo) in 2017. This was done in consultation with Legal Services as it was determined that distribution of the remaining funds posed low risk to the City.

In June 2021 cheques were issued to workers who were in contact with the Fair Wage Office. The remaining funds will be held by the division until other workers come forward and issued upon request of the Fair Wage Office.

Miller Waste Systems

Miller Waste System was a major investigation in 2019 that resulted in a large scale wage distribution effort in 2020. Approximately 260 workers were distributed their wages in accordance with a distribution plan. This plan took into account matters such as outreach to workers, including those that may have left the workplace, the logistics and administration of the distribution of cheques and record keeping. This plan was augmented to include safety protocols necessary during the pandemic. A complete synopsis of this investigation that generated this activity is available in the Fair Wage Office - 2019 Annual Report under the heading of Miller Waste Systems.

The Workforce Scheduling Pilot

In 2019, the Fair Wage Office successfully included the workforce scheduling pilot in (3) City contracts, namely School Crossing Guards, Security Services for Respite Centres and Custodial Services. The monitoring of Vendor's ability to adhere to the pilot's requirements and City Division's ability to hold Vendors accountable commenced in Q3 2019 and continued into 2021 due to resource constraints. Restrictions on recruitment during the pandemic have limited the data review. At the time of writing this report the Fair Wage Office has completed the recruitment process for the Senior Consultant Fair Wage Policy and Compliance to continue the data review and prepare the report back to Executive Committee on the feasibility of adopting these standards into City contracts.

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. In order to ensure compliance with the Fair Wage Policy, the City's Fair Wage Office provides information, support and compliance related services. In 2020 and 2021 the Fair Wage Office has been consulted on more than a dozen City projects that do 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 Policy.

Work Plan 2022

The Fair Wage Office Intends to:

- Implement changes to the Fair Wage Policy and Procedures to reflect the Divisional Court's decision from the Queensway Judicial Review and the outstanding Auditor General recommendations.
- Continue to focus on proactive investigations of building maintenance contracts, 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 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 such as waste management.
- Update the Fair Wage Schedules on the City's Website to reflect more current wages in the various sectors. Wage rates are established using a combination of collectively bargained rates and prevailing market rates as outlined in the Fair Wage Policy.

CONTACT

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SIGNATURE



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ATTACHMENTS

Appendix A: Fair Wage Office - Companies that were cited for their first violation of the Fair Wage Policy and the companies that have been involved in the resolution of Labour Trades grievances in 2020 and 2021

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Fair Wage Non-Compliant		Resolution of Labour Trades Grievances	
1.	Canadian Curtis Refrigeration Inc.	1.	Rossclair (2020)
2.	Nella Cutlery	2.	Heritage Restoration (2020)
		3.	Joe Pace & Sons Contracting Inc. (2021)
		4.	Bennet Mechanical Installations (2001) Ltd. (2021)
		5.	Friends of University Ave. (2021)

For the total number of investigations completed, refer to Fair Wage Office – 2020 and 2021 Annual Report Table 1