

Summary of Fair Wage Complaint FW26-2017

Contract C15-56-16 (HSW) – Upper Sherman Road Reconstruction, awarded to Network in the amount of \$3,990,560.04.

Audit #1

Audit takes into account 28 employees of Network. KPMG finds Network in non-compliance with a discrepancy of \$20,247.95.

Network disputes the results of Audit #1 on two accounts.

1# Dispute: Network indicates that the audit miscalculated wages by failing to properly classify students.

KPMG Response: The List of Employees provided by Network and the classification of each employee did not identify the employee in question as a Student. Furthermore, the employee was identified as a Student during any fieldwork and subsequent follow-up by KPMG.

2# Dispute: Network claims that the audit significantly miscalculated overtime, as it did not take note of the Employment Standards Act exception for road workers, pursuant to O Reg 285/01.

KPMG Response: audits are carried out in accordance with the ESA as dictated by the Policy. The ESA identifies the OT limit is 44. However, the City agreed that the proper ESA threshold for OT applicable to Network Sewer is 55 hours/week.

Audit #2 (December 20, 2019)

Updated audit takes into account the treatment of employee as a Student and the revision of the overtime analysis to account for the special rules and exemptions for road construction workers under the ESA. KPMG finds Network in non-compliance with a discrepancy of \$593.60

Network Disputes Audit #2

Network disputes results of the audit. Given modest amount, Network is prepared to make appropriate payment of wage on the condition the City will waive any other consequences of the audit result. If not, Network will appeal audit and wants to arrange a meeting with Manager of Procurement.

Manager of Procurement met with Network on February 27, 2020 to discuss their second dispute. At this meeting, Network claims that the audit results did not take into account the change in positions for four employees. City agrees to request KPMG to review payroll records again based on Network's claims.

KPMG Response: audit procedures captured all of the information supplied by the company's payroll administrator/accountant including a detailed listing of all employees and what their positions were while working on the Upper Sherman project. Payroll records and supporting documentation of Network Sewer were disorganized and inconsistent. KPMG confirms that the change in positions was not noted or identified by Network during the Fair Wage audit. Network clarified that this was an oversight on their part and that only each employee's main title/role was provided when they originally sourced the payroll records for our team.

Audit #3 (July 13, 2020)

KMPG finds Network in non-compliance with a discrepancy of \$349.62

The updated audit takes into account the changes resulting from Network's clarification that 3 employees had changed position part way through the project which resulted in a change in hourly rate at the date of position change.

Network Disputes Audit #3

Network disputes results of the audit. Given modest amount, Network is prepared to make appropriate payment of wage on the condition the City will waive any other consequences of the audit result. If not, Network will appeal audit and wants to arrange a meeting with Manager of Procurement.

Manager of Procurement escalates the dispute to the applicable General Managers, Mike Zegarac and Dan McKinnon.

Both GM's agree to deny the meeting. Network is advised of this on August 12, 2020. The following is an excerpt from the email:

"As per the Fair Wage Policy, I have escalated your request for an appeal on this compliant to the applicable General Managers. Both Mike Zegarac, GM of Corporate Service's and Dan McKinnon, GM of Public Works, have made the final decision regarding the outcome of this Fair Wage complaint process and both agree with the findings of the City's auditor. Therefore, Network Water and Sewer has been found to be non-compliant with the City's Fair Wage Policy.

For your information, staff are required to present an annual report to the Audit, Finance and Administration Committee of Council regarding complaints investigated and resulting audits performed pursuant to the

Fair Wage Policy and Fair Wage Schedule. It is my expectation that this report will be brought to Committee during the fourth quarter of 2020. Should you choose delegate to the Committee regarding this compliant and your appeal, I would recommend that you contact the City Clerk's office for assistance to do so."