



CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
Treasury Services Division

TO: Chair and Members Audit, Finance & Administration	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: June 8, 2011	
SUBJECT/REPORT NO: Fair Wage Complaint Contract C14-04-09 – Audit Results (FCS11043) (City Wide)	
SUBMITTED BY: Tony Tollis Treasurer Corporate Services Department	PREPARED BY: Rick Male (905) 546 2424 ext. 4157
SIGNATURE:	

RECOMMENDATION

That no further action be taken, respecting the complaint against Brenner Mechanical Inc., regarding the City’s Fair Wage Policy.

EXECUTIVE SUMMARY

The City’s Fair Wage Policy and Fair Wage Schedule are applicable to construction contracts over \$100,000 and all contractors and sub-contractors providing construction and construction maintenance work shall pay or provide wages and benefits to their employees in accordance with this Policy.

The City received a complaint relating to contract C14-04-09 Proposal for Construction Management Services Required for the Multi-Agency Training Centre alleging non-compliance by Traugott Building Contractors Inc.’s sub-contractor, Brenner Mechanical Inc. for improper payment of wages and benefits.

The City has now concluded an audit in response to this complaint. Brenner Mechanical Inc. were found to be non-compliant with the Fair Wage Policy, however, the non-compliance has now been rectified.

Alternatives for Consideration – Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:

None.

Staffing:

None.

Legal:

None.

HISTORICAL BACKGROUND (Chronology of events)

The City received a complaint relating to contract C14-04-09 Proposal for Construction Management Services Required for the Multi-Agency Training Centre alleging non-compliance by sub-contractor, Brenner Mechanical Inc. for improper payment of wages and benefits.

The City informed the complainant of the process and the anticipated costs associated with undertaking an audit as the complainant was not an employee of the sub-contractor in question, therefore, any costs of inspection, audits or other action deemed necessary regarding the complaint shall be assessed against the complainant.

The complainant confirmed their wish to continue with the complaint and audit.

The City's Internal Audit inspected information and documentation at the sub-contractor's office to assess the wages and benefits of the employees working on the City contract in question for the period April 24, 2010 to January 29, 2011. Brenner Mechanical Inc. provided revised calculations for the remainder of the contract January 30, 2011, to April 2, 2011.

The results of the review:

- 34 employees were assigned by the sub-contractor to work on this contract for the period April 24, 2010, to April 2, 2011, and were covered by the Fair Wage Policy and Schedule.
- 12 employees were owed monies for wages under the Fair Wage Schedule rates totalling \$14,612.61.
- Seven employees were owed monies for overtime under the Fair Wage Schedule rates totalling \$126.90.
- 18 employees were owed monies for benefits under the Fair Wage Schedule rates totalling \$59,516.36.
- Three employees were owed monies for vacation under the Fair Wage Schedule rates totalling \$389.02.

Brenner Mechanical Inc. was a sub-contractor to Traugott Building Contractors Inc.

The City met with Traugott Building Contractors Inc., as contractor, and their sub-contractor, Brenner Mechanical Inc. to discuss the Fair Wage complaint and audit findings.

Traugott Building Contractors Inc. were co-operative and provided assurance that when undertaking City of Hamilton construction projects they review their sub-contractor contract documents and highlight the requirements of the City's Fair Wage Policy and Schedule. They would request that their sub-contractors acknowledge compliance to the Fair Wage Policy and Schedule. Traugott Building Contractors Inc. will also post a copy of the City's Fair Wage Policy within the construction project site office.

Brenner Mechanical Inc. was not aware that, whilst working as a sub-contractor on construction projects for the City of Hamilton, they were required to adhere to the City's Fair Wage Policy and Schedule. Brenner Mechanical Inc. commented on the importance of contractors making sub-contractors aware of the Fair Wage Policy and Schedule and they will be conscious of this requirement in the future. Brenner Mechanical Inc. is not working under a Labour Agreement and, as such, would negotiate different compensation packages relating to wages, vacation and benefits paid to its employees.

Brenner Mechanical Inc. has provided signed receipts from each employee to confirm they have received the shortfall identified in the audit.

Brenner Mechanical Inc. has reimbursed the City the \$2,735.80 cost of undertaking the audit.

Staff has not recommended any of the other sanctions or penalties outlined in the Fair Wage Policy be imposed on Brenner Mechanical Inc.

POLICY IMPLICATIONS

None.

RELEVANT CONSULTATION

Internal Audit: Ann Pekaruk, Director of Audit Services provided the audit findings.

Traugott Building Contractors Inc.: Judd Reidel, Project Manager, agreed with the audit findings.

Brenner Mechanical Inc.: Michael Brenner agreed with the audit findings.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Brenner Mechanical Inc. has rectified the non-compliance and is now aware of the requirements of the City's Fair Wage Policy.

Traugott Building Contractors Inc. has amended their procedures when using sub-contractors.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

None.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- The Fair Wage Policy and Schedule allows the employees of contractors the rate of pay to be financially sustainable.

Healthy Community

- The Fair Wage Policy and Schedule enables the employees of contractors to be paid a living wage and provide benefits to enable a healthy lifestyle.

APPENDICES / SCHEDULES

None.