

THE IMPACT OF CONTRACT COMPLIANCE POLICIES IN CANADA – PERSPECTIVES FROM ONTARIO

Andrew Erridge and Ruth Fee*

ABSTRACT. This paper aims to discuss the problems in maintaining an effective contract compliance system in a Canadian context from the perspectives of the individuals managing the system (Workplace Equity Officers) and the individuals who work with the system (public sector purchasers). To this aim, interviews were carried out in June 1999 with Workplace Equity Officers (WEO) and purchasing managers based in Ontario. The results show clear differences in approaches to contract compliance between WEO and purchasing managers. It is noted that the Federal Contractor's Programme and the general employment equity scheme in Canada are under-funded and cannot achieve their stated objectives.

INTRODUCTION

This paper builds upon work previously carried out by the authors on contract compliance policy and implementation. The paper discusses the theory of contract compliance and develops Erridge and Fee's (1999) four-stage typology of equality and contract compliance policies. The Canadian employment equity regime and, in particular, the Federal Contractor's Programme, are discussed in this context. Main academic criticisms of the employment equity regime are outlined before discussing the problems in maintaining an effective contract compliance system in a Canadian context from the perspectives of the individuals managing the system (Workplace Equity Officers) and the individuals who work with

* *Andrew Erridge, Ph.D., and Ruth Fee, LLB, Mphil, are a Professor, and a Lecturer, respectively, School of Policy Studies, University of Ulster, Northern Ireland. Erridge's teaching and research interest is in strategic procurement management and public procurement. Fee's teaching and research interests are in public procurement law and policy, and European law and policy.*

Ontario, highlighted the problems of implementing an effective contract compliance system.

EQUAL OPPORTUNITIES AND CONTRACT COMPLIANCE

The term “contract compliance” is commonly used to describe procedures employed by government agencies, either central or local, to ensure that the companies to which they give contracts to supply services or goods, or to whom they give grant assistance, are pursuing equal opportunities as employers (Fee, Erridge & Maxwell, 1998, p. 80). The term originated in the US where contract compliance is generally considered to have been an effective instrument of policy for bringing about significant improvements towards equality. Protection of equal opportunities and employment rights is the fundamental rationale for contract compliance and is a feature of most western countries’ social policy legislation. As public procurement has a considerable impact on employment, the promotion of equal opportunities through contract compliance can contribute directly to broader social policy objectives. The absence of contract compliance in public contracts can also lead to the abuse of equal opportunities and a consequent increase in litigation (Erridge & Fee, 1999). Contract compliance is essentially complementary to social policies on equal opportunities and employment rights, which will be referred to as ‘equality policy.’ Blakemore and Drake (1996, p. 8-10) distinguish equal opportunities policies based on “fair or like treatment” which address direct discrimination, from positive or affirmative action policies which address indirect discrimination. Glastra, Schedler and Kats (1988, p. 164) describe the latter as employment equity, which:

introduces a system of registration and control of the representation of certain designated groups in the workforce, and applies negative sanctions to established imbalances in figures or to any lack of initiative to address them. In contrast with equal opportunities policy, its primary focus is not so much on ‘like treatment’, or procedural justice for each individual...but on stimulating a redistribution of collective outcomes in favour of designated groups.

Employment equity is thus a more systematic and positive range of measures applicable to specified categories of organisations. Contract compliance is generally associated with more positive employment

equity policies rather than with equal opportunities; a strong example is found in Canada where an affirmative action programme is complemented by a contract compliance programme. These programmes tend to be more successful than general equity programmes; Glastra (1998, p. 166) notes that the Canadian programme works smoothly since the eligibility of firms to be contractors of the federal government depends on their equity performance.

Arguments and evidence for and against the use of contract compliance revolve around issues of the identification of direct and indirect labour costs and benefits, compliance costs and impact on competitiveness balanced against ethical and moral arguments (Fee, Erridge & Maxwell, 1998; Erridge & Fee, 1999). Given their inconclusive and value-contested nature, methodological precision in analysing the nature and effects of contract compliance policy is essential. Erridge and Fee (1999, p. 202) proposed a four stage typology of equality and contract compliance policies, incorporating McCrudden's (1997) conceptual framework for analysing the diversity of possible contract compliance policies. He suggested that such programmes may differ in respect of: the stage of the tendering process at which it applies; the content of the requirement or preference; the public bodies, type of contract or type of firm to which it applies; and the institutional mechanisms through which it operates. Thus Table 1 indicates the detailed elements of contract compliance programmes in Types 3 and 4, respectively weak and strong forms, which may be used as the basis for distinguishing different policy approaches and their subsequent efficiency and effectiveness.

Prima facie, Canada appears to have a type 4 approach with strong employment equity and strong contract compliance. The development of contract compliance policy in Canada is discussed below. First, the impact of contract compliance under the North American Free Trade Association (NAFTA) Agreement is addressed.

TABLE 1
Typology for Analysing Equality and Contract Compliance Policies

Types	Equality Policy	Contract Compliance
1	None	None
2	Opportunities:	None

	'fair and like treatment'	
3	Limited Employment Equity: affirmative action limited in scope with weak sanctions	Weak: applies only to qualification stage; no monitoring or audit, applies only to one or two protected groups; applies to only local government, high value contracts and larger firms, not subcontractors; institutions have only reporting powers, little independence
4	Strong Employment Equity: affirmative action extensive in scope with strong sanctions	Strong: covers most stages of the tendering process with preference schemes or set asides for protected groups; strong monitoring, audit and enforcement powers, applies to wide range of protected minorities; applies throughout public sector, covers most contracts and firms and their subcontractors; strong institutions with enforcement powers and some independence

EQUALITY OF OPPORTUNITY AND CONTRACT COMPLIANCE IN CANADA

Regional Programmes: The North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA) between Canada, the US and Mexico entered into force on January 1, 1994. Designed to foster increased trade and investment, the Agreement contains an ambitious schedule for tariff elimination and reduction of non-tariff barriers, as well as comprehensive provisions on the conduct of business in the free trade area. Chapter 10 of NAFTA addresses government procurement policies. The objective of the policy is for parties to "strive to achieve the liberalisation of their measures regarding government procurement...so as to provide balanced, non-discriminatory, predictable and transparent government procurement opportunities for the suppliers of each Party" (Article 1001).

The 1994-96 report of the NAFTA Government Procurement Working Group indicated that there were differences between Parties as to affirmative action policies. Both Canada and the US, in Annex 1002.7 to the Agreement, have declared that Chapter 10 does not apply to procurements in respect of set asides for small and minority businesses. Concern was expressed at US policies and programmes dealing with set-

asides, and Mexico and the US indicated that they were concerned about a limited Canadian programme for advancing aboriginal business through government procurement. Concern was also expressed at the NAFTA Committee on Small Business by Canada and Mexico about the scope and application of the US Small Business Set-Aside Programme.

In terms of the policy types set out in Table 1, US and Canadian policies are broadly similar, employment equity with strong contract compliance, thus the greatest difficulty in reaching agreement is likely to lie in Mexico being able to adopt similar policies. A greater difficulty lies with public sector purchasers who have to work with the Agreement and the problems that arise as a result of this. Some of these problems are discussed later in the paper.

Contract Compliance at Federal Level

The foundations for contract compliance in Canada were established with the Canadian Human Rights Act 1977, Bill C-25, in particular section 15(1) which suggests that preferential treatment of groups historically subject to discrimination would not constitute reverse discrimination (Agocs, 1986). The principle is reiterated in the Canadian Charter of Rights and Freedoms of the Constitution Act, 1981. The 1977 Act also established a Human Rights Commission with powers to use persuasion and publicity to discourage and reduce discriminatory practices, and powers to investigate and conciliate complaints by individual employers of discrimination by federal departments, crown corporations, and businesses under federal jurisdiction. Agocs (1986) gives a comprehensive account of affirmative action approaches at provincial level, but this section will focus only on affirmative action and employment equity at the federal level, as the FCP applies only to federal government and Crown contracts.

The major impetus for bringing employment equity to the forefront was a series of reports written in the early 1980s, the principal one being the Abella Commission report entitled 'Equality in Employment'. The Abella Commission Report in turn led to the introduction of Bill C-62, the Federal Employment Equity Act, which applied to four designated groups: women, aboriginal peoples, visible minorities and the disabled. The rationale for selecting the four designated groups is that the members of each of these groups encounter significant difficulties in participating in employment on an equal basis. Some of these

inequalities include low participation rates in the workforce, lower income levels than the general population and occupational segregation. However, this Act was criticised for many reasons, the main one being the inefficient voluntary “good faith” efforts to increase the representation of target groups and the limited coverage of the Act. The Federal Employment Equity Act (1986) was revised in 1995, and requires certain employers to collect and report data on the representativeness of their workforce and to make a plan which includes targets for hiring and promotion and measures to remove discriminatory barriers in employment practices and to accommodate diversity within the workforce. Employers are subject to compliance audits and the reports of employers covered under the Act are available to the public and to the Canadian Human Rights Commission, which has the power to file and adjudicate complaints of systematic discrimination. The new Act and regulations apply to both federally regulated private sector employers and Crown corporations with 100 or more employees, federal departments and agencies (under the responsibility of the Treasury Board) and public sector “separate employers” with 100 or more employees. This represents about 8% of the Canadian Workforce - or about 900,000 employees. The Act does not require employers to hire unqualified individuals nor to undertake measures resulting in undue hardship. The imposition of quotas is specifically prohibited.

Indeed, the equity program from the outset tried to avoid the damaging image that affirmative action programmes in the US had attracted in the 1970s and 1980s. The Employment Equity Programme is generally viewed in academic and practitioner circles as an organisational change strategy, going beyond affirmative action measures, designed to prevent and remedy discrimination and disadvantage by identifying and removing barriers in employment policies as well as by improving the numerical representation and distribution of the designated groups (Hartin & Wright, 1994).

The Federal Contractors Programme

As discussed above, in 1986 the Canadian Government introduced the Employment Equity Act, along with the Federal Contractors Programme (FCP). The Legislated Employment Equity Program (LEEP) established under the Employment Equity Act (1986) covers employers under federal jurisdiction. The FCP applies to organisations that do business with the federal government but are not under federal

jurisdiction. The two programmes operate differently, but share the same objective of securing fair representation of the four designated groups at all levels throughout the Canadian labour market.

The FCP applies to suppliers of goods and services to the federal government who employ 100 persons or more and who want to bid on contracts of \$200,000 and over. Indirect beneficiaries of the programme would be members of the designated groups, for example persons with disabilities who are seeking employment or are likely to seek employment in the future. The programme requires contractors to implement employment equity measures to necessitate the identification and removal of artificial barriers to the selection, hiring, promotion and training of the designated groups. Further, contractors will take steps to improve the employment status of these designated groups by implementing special programmes and making reasonable accommodation to achieve appropriate representation of these groups in all levels of employment.

There are five essential steps in the implementation and operation of this programme. The first is certification in which the contractor certifies a commitment to implement employment equity according to specific criteria. The second is implementation, where employment equity will be implemented in keeping with the terms and conditions of criteria set by Human Resources Canada (HRDC). Essential components of this process are: the removal of discriminatory barriers to the employment and promotion of designated groups; improvement in the participation of designated group members throughout the contractor's organisation through hiring, training and promotion; the introduction of special measures and the establishment of internal goals and timetables towards the achievement of employment equity by increasing the recruitment, hiring, training and promotion of designated group members and by making reasonable accommodations to enable members of such groups to compete with others on an equal basis; and the retention of records regarding the employment equity implementation process for assessment by officials from HRDC during on-site compliance reviews. The third part of the process is compliance review where in-depth compliance reviews are conducted by HRDC to review the records and documents kept by contractors; assess compliance with the programme criteria and results obtained; determine the extent of efforts made by contractors on behalf of designated groups; and measure the performance level attained

by contractors. If the compliance review results are positive, the process is complete and the contractor will be informed. If the compliance review results are negative, the contractor will be so informed and will be expected to initiate remedial action for review within a prescribed time not to exceed 12 months. The fourth stage of the process is appeal, where the contractor has the right to appeal a finding of non-compliance to the Assistant Deputy (ADM) Labour Branch of HRDC. In that case, an independent assessor will be retained to study the findings of the original compliance review. The final stage is sanctions and in the event that the results of the independent review indicate a failure to comply, sanctions will be applied. This could include exclusion from bidding on federal government contracts.

The program also recognises outstanding achievement through the annual presentation of Merit Awards and Certificates of Merit. Merit awards were first used in 1990 to give public recognition and thanks to federal contractors for superior equity programmes that exceed FCP requirements. There are in theory many benefits of employment equity programmes which include an ability to effect organisational change in a competitive environment; means to attract and keep the best qualified employees; efficient use of a better trained workforce; access to a broader base of skills; enhanced employee morale and improved corporate image in the Community (HRDC, 1998).

Nevertheless, there have been strong criticisms of the regime from academics, public purchasers and from the individuals who administer the regime. The criticisms from the academic community are discussed below, before looking at the findings from a series of interviews that were carried out among public sector purchasers and Workplace Equity Officers in Ontario.

Employment Equity and the Federal Contractors Programme: Criticisms from the Academic Community

In general terms, employment equity legislation in Canada has caused a great deal of controversy among both supporters and detractors as some felt that it did not go far enough to improve the employment situation of the designated groups, while others felt that the Act was overly bureaucratic in nature and that the measures which it imposed would prove burdensome to employers. A major concern was that there was no clear means of enforcing the legislation and that both labour and advocacy groups felt that the legislation did not go far enough and were

troubled that it did not apply to the public service (although this problem has since been addressed [LeBlond, 1988, p. 1-3]). Furthermore, many groups representing persons with disabilities indicate that no significant progress has been made on improving the situation for their members (Johnston, 1991). From a business perspective, many employers feel that the regulatory requirements of filing plans and reporting are onerous, and that a great deal of money is spent on administration of employment equity as opposed to developing innovative programmes in workplace adaptation or in training and sensitising staff (Southerst 1991). Employers also indicate that they are unable to find qualified workers from the designated groups due to a lack of education and skills training.

In terms of the FCP specifically, even before implementation of the programme there was criticism. In noting the federal government's approach to the FCP, Agocs (1986, p. 159) argues that "by muddling along, the federal government has fended off both those who would move vigorously ahead toward affirmative action, and those who would retrench", and the compromise promised to have limited impact. However, most of the criticism of employment equity is aimed outside of this scheme as the eligibility of firms to be contractors to the Federal Government depends on their equity performance. Contractors comply out of enlightened self-interest (Glastra, Schedler & Kats, 1998, p. 166) even if the programme includes strong requirements for control (auditing) and sanctions. Whilst the contractors appear happy to comply with the programme and the resulting employment equity requirements, what of those who manage the scheme and work with the public procurement system? In order to address the question of the implementation of the FCP, a series of interviews were carried out with Workplace Equity Officers and Purchasing Managers in Ontario based upon the FCP.

METHODOLOGY

The aim of the research was to build upon work previously carried out by the authors on contract compliance policies and develop the typology set out in Table 1, in particular in relation to national contract compliance policies in Canada and regional contract compliance policies under NAFTA. The author visited Canada during June 1999 and undertook interviews with five workplace equity officers (WEO) and three purchasing managers (PM) in the public sector to determine to

what extent contract compliance policies, both national and regional, impacted upon public purchasing and general attitudes to contract compliance policies in Ontario. There were seven WEOs in Ontario at the time of the interviews; two WEOs were on work-related visits during the period of the interviews and therefore could not be interviewed. WEOs in Ontario were chosen as Ontario has experienced contract compliance policies at both a provincial and federal level. The PMs were chosen from experienced purchasing staff working at the federal level in government that had experience in working not only with the FCP, but also with supranational regimes i.e. the NAFTA agreement. It is recognised that this is not a definitive survey of PMs or WEOs in Canada as a whole, but attitudes and views gained from the research have allowed conclusions to be drawn and have significantly benefitted the research programme.

The interviews were semi-structured in nature, allowing participants to respond to and expand on pre-defined questions. All the participants were sent the pre-defined questions prior to the visit to allow for collation of material and knowledge of both the purpose of the visit and the overall research project. The questions posed to both sets of interviewees were similar to allow for comparative analysis. The Workplace Equity Officers were based in Toronto and had many responsibilities. For the purposes of this paper, the main relevant responsibilities are: education and information services on employment equity; advice on the design, planning or implementation of employment equity or equal pay processes to groups covered by the LEEP; compliance reviews under the FCP (after completion of formal training). The public sector purchasers were also based in Toronto and procured both goods and services. The findings are broadly broken down into three categories: what were their views on employment equity in general; what were their views specifically on the FCP; how can the employment equity scheme be improved?

FINDINGS

Workplace Equity Officers (WEO)

The WEO are very positive about the employment equity schemes, as would be expected. They did agree that there had been increased costs, but this had been offset by software available to all companies who fall under the programme. Increased costs “have to be weighed against

the cost of doing nothing;” without the programme, there would be a high turnover of staff, an abuse of human rights and increased litigation. The WEOs also noted that there had been a change in demographics, specifically an increase in minority workers but could not provide any strong evidence for this. However, they acknowledged that it “takes a while for things to happen” and statistics alone cannot change the problem. There have to be cultural changes, societal changes and educational changes to make a real difference. During the course of the interviews it became apparent that statistics for the FCP are not publicly available. When questioned about this, it was noted that they were available only for internal audit. Furthermore, under the employment equity programme, standard forms and software are available to employers. This is not the case under the FCP – there is no standard form for the return of data. The WEOs recommend that this is introduced to standardise the data. It was therefore evident why statistics under the programme were not available to the public. Moreover, the statistics appear flawed as they rely on individuals to self-identify themselves as a minority; there is no form that applicants for positions in companies must fill in as a matter of course, such as the requirement for potential employees in many Northern Irish companies under the Fair Employment and Treatment (Northern Ireland) Order 1998. Only around 10% of companies are covered by the FCP as the FCP cannot cover companies that are covered by provincial legislation. Sub-contractors are not covered by the FCP. However, the WEOs noted that contracts to the value of \$13bn have gone through the FCP from 1986-1997.

As noted above, companies must sign a certificate of commitment for a bid to be considered. If they are not awarded the contract then no compliance review is undertaken. If they win the contract, the review is carried out ideally within one year and they then go into the audit pool. An audit is carried out every 2 years and then a new cycle begins. There are no financial penalties if the audit is not favourable – according to the WEOs, it is a process of encouragement to comply, not enforcement. The main problems that the WEOs face are financial and time management. There are only seven WEOs in Ontario to deal with all the regulated companies under the whole employment equity regime. The WEOs feel that they are radically under-funded. The whole cycle of winning a contract, compliance review and audit is now taking over three years instead of two. It was also clear from the interviews that there was

no contact between WEOs and purchasing managers over the rationale behind the programme.

Purchasing Managers (PM)

Central government operates purchasing departments in every Province in Canada although cities have their own purchasing operations. In general, there has been a move towards decentralising purchasing and since this has happened, fewer purchasers are now responsible for contracts under the FCP. When procurement was centralised, departments could buy goods and services for only low-dollar values, typically less than \$1000 – anything over \$1000 had to be sent to a central agency, Public Works and Services Canada (PWSC). Treasury Board Canada lays down the guidelines for every department to follow; some departments are “by the letter” and some are more “flexible.” However, goods are limited to \$5,000 and anything over this must be sent to PWSC although there is an ongoing debate to make this ceiling at least \$10,000 to \$25,000. However, all the PMs interviewed have had experience with the FCP. When the PMs were asked if the FCP affected their work they replied in the negative: there was no difference working, from a purchaser’s perspective, with a regulated contract or an unregulated contract. The PMs were, on the whole, dismissive of the whole scheme. According to one PM “the FCP is just a form. Firms are assessed by a ‘request for proposal quotation.’” The FCP is simply a requirement that has to be sent in: “It has no effect, it is not burdensome.” As for suppliers, the PMs agreed that there was in general no negative feedback from suppliers. Initially, there is an additional layer of bureaucracy to fill in, but “whatever path they have to follow to get the business, they are going to go on.” The PMs received no training on the FCP – they received a policy statement and a copy of the form when the FCP was introduced.

When the PM were asked if they felt the FCP has the desired effect, the answers were similar: “they get records, they get numbers, they get statistics if that is what they are looking for.” They all agreed that what they called the “political requirements” of the job had grown astronomically and that the goals of public procurement had been distorted as a result of this. One PM commented that for every initiative that comes in, the government are ‘always looking for numbers to present to the public that they perceive as being in their best interests.’ He continued that “this is not necessarily wrong but they are not always

worked out.” An example of this was given as the Aboriginal Set-Aside Programme, and the PM noted that he has to ensure that 3% of government contracts go to Aboriginal firms where the client group served is Aboriginal people. From a realistic point of view he commented that this was not going to happen as the expertise is just not there and questioned the cost to the public of making a bad procurement decision.

Apart from the political requirements of the post, one PM noted that the major obstacle to his work was the requirements of NAFTA. Although he admitted that for low dollar contracts preference was given to national firms, he said that once the NAFTA threshold is met the preference is “thrown out the door.” It was referred to as ‘hands-tied’ purchasing. Most of the complaints he received were from clients rather than suppliers as he had to work within the rules and the set timeframes for advertising contracts. He noted that American companies tended to be very aggressive in contesting contracts and going to the tribunal within NAFTA. Most cases are won by the US companies, according to the PM, and it may be as a result of shoddy procurement practices, but the US companies are not ‘following the letter that is in the Agreement’. All PMs agreed that there were other wider concerns for the purchaser apart from value for money – ‘you want to have this function, there are long term social and economic needs.’ However, they remained unimpressed with the current FCP and employment equity in Canada.

Policy Implementation

Although it is noted above that there were criticisms of the FCP before it was fully implemented, it was at the implementation stage that most of the problems arose. Rather than emphasise factors that may impinge upon the success of a policy, Hogwood and Gunn (1995, p. 258) list a number of preconditions that they argue must be present if “perfect implementation” is to be achieved:

- S the circumstances external to the implementing agency do not impose crippling constraints;
- S that adequate time and sufficient resources are made available to the programme;
- S that the required combination of resources is actually available;

- S that the policy to be implemented is based upon a valid theory of cause and effect;
- S that the relationship between cause and effect is direct and that there are few, if any, intervening links;
- S that dependency relationships are minimal;
- S that there is understanding of, and agreement on, objectives;
- S that tasks are fully specified in correct sequence;
- S that there is perfect communication and co-ordination; and
- S that those in authority can demand and obtain perfect compliance.

Hogwood and Gunn argue that these preconditions to perfect implementation are, however, unlikely to be achieved in practice. Indeed, when the above are applied to the implementation of the FCP, it can be seen that the resources were not there to support the programme, that the FCP itself was a product of a 'muddle' and a compromise that pleased no-one and therefore did not set out to achieve what it could have done (Agocs, 1986); that the objectives of the FCP are not fully understood by those managing the system; that there is no communication between purchasers and WEOs; and those in authority cannot obtain or demand perfect compliance, as there are insufficient resources to do this.

It is frequently reported that complications do occur in moving from the adoption of a policy to its execution (Eaton Baier, March & Saetren, 1994). There has tended to be a lack of concern about these complications, the problems of 'post policy making.' Policy makers can often bypass the effect that bureaucracy and service-providers have on the overall effectiveness of a policy (Parsons, 1995). Another problem associated with policy implementation is "bureaucratic incompetence", caused for example by low levels of staff, incompetent managers and inadequately trained employees (Eaton Baier, March & Saetren, 1994). Whilst the WEOs are far from incompetent, they are certainly underfunded. However, Peters (1995) argues that much of the implementation failure can be attributed to political as opposed to organisational factors, stating that the further the administrator is removed from the organisational power the more the loss of political support and policy reinforcement. The WEO stated that they felt they had little support from HRDC and had little contact with them.

Parsons (1995) argues that little attention, at times, is paid to the “street-level” bureaucrats who have their own value systems, beliefs and interests and further comments that these values, beliefs and interests are used to shape policy; the intended policy set by government may then not be executed as it was intended. Organisational culture can also impinge upon the effectiveness of policy implementation. Horton and Farnham (1999) argue that culture has been long thought to have a major impact on corporate strategy, stating that to be able to change these deep-rooted values and beliefs takes a long time, and they are likely to survive for some time. The rather negative approach to the FCP by the purchasing managers in Ontario may not be typical of other provinces, but as they are in regular contact with suppliers they may have a detrimental effect on suppliers’ attitudes to the FCP.

Despite what has been said about the problems associated with policy implementation, it is argued that bureaucratic organisations do have a record of successfully co-ordinating large numbers of people in delivering services under policies imposed from outside (Eaton Baier, March & Saetren, 1994). Whilst the FCP may have had the potential to become a type-4 contract compliance policy, the theory was not put into practice and, due to the substantial problems with policy implementation discussed above, the FCP is, in effect, rather weak.

FINDINGS AND CONCLUSIONS

The results show a clear difference in attitudes to contract compliance between WEOs and PMs in Ontario. The WEOs obviously are very much in support of the contract implementation and believe in what they are trying to achieve. They emphasise that it is a process of encouragement, not of enforcement, for contractors to comply, and therefore rebut a major criticism that there is insufficient sanctioning of contractors who fail to comply. Policy in Canada still fits the type-4 descriptors as indicated in Table 2: employment equity with strong contract compliance. It could be argued that even in terms of policy (as only companies with over 100 employees and contracts over \$200,000 are covered, sub-contractors are excluded, and there are no financial sanctions) there is room for strengthening the contract compliance element. However, in terms of federal contracts, the size of companies and contracts involved is likely to be much larger than the minimum levels stipulated, and in terms of sanctions, the policy is based more on encouragement than penalties, as exemplified by the merit awards. By contrast, in its implementation the contract compliance element is weakened by infrequent audit, underfunding and lack of communication

between WEOs and purchasers. PMs on the whole were dismissive of the FCP, although they recognised the place in procurement for goals beyond value for money. They were, in particular, dismissive of the statistical nature of employment equity and FCP. The main problems in relation to contract compliance were the Aboriginal Set-Aside Programme and NAFTA. The PMs tended to focus on issues that really affected them, such as Government audits, the influence of the private sector and E-Commerce.

TABLE 2
Results of Analysis of Contract Compliance Policy and Implementation in Canada

Types	Policy	Implementation
3: Weak	<ul style="list-style-type: none"> - Applies only to federal government, contracts over \$200,000 and firms with over 100 employees (10% of total no. of firms), not subcontractors; - No financial sanctions. 	<ul style="list-style-type: none"> - Audit carried out only every 3 years; - Underfunding has led to insufficient no. of (WEOs); - Limited communication between WEOs and purchasers; - Purchasing managers say FCP has no effect, purely a data gathering exercise.

4: Strong	<ul style="list-style-type: none"> - Covers most stages of the tendering process with preference schemes or set asides for protected groups; - Strong monitoring and audit powers (to be carried out every 2 years), enforcement powers include exclusion from bidding for federal contracts; - Applies to wide range of protected minorities; - Covers most federal government contracts; - Strong institutions with some independence. 	<ul style="list-style-type: none"> - Claims that demographics have changed and that there had been an increase in minority workers (WEOs); - Few firms actually excluded, as education of firms in equality practices considered to be more important than exclusion (WEOs); - Changes in attitudes of employers and employees, increased awareness about discrimination and stereotyping; - Contracts with a total value of \$13 bn. from 1986-1997 covered; - Formal compliance review and cyclical audit programme (WEOs).
-----------	---	--

In conclusion, although the national scheme looks good on paper, it is under funded and therefore cannot possibly achieve what it sets out to do. The whole process is in need of simplification. From the point of view of purchasers, there are problems with some wider aspects of employment equity that need to be addressed, in particular the Aboriginal Set-Aside Programme, as this has led to bad procurement decisions. The NAFTA regulations would also appear to be in need of simplification as much criticism was directed at the Agreement.

Finally, proponents argue that a purely statistical view of employment equity hides qualitative changes in the attitudes of employees and employers as well as different policy outcomes for different target groups and occupational segments. Polls have indicated that the vision of equality and fairness, the publicity for the programme and its widely disseminated annual report have created awareness about discrimination and stereotyping among businesses, unions and minorities themselves; indeed, a broad coalition of women, minorities and the disabled accept in principle the usefulness of the programme and push for continuing implementation of equity measures (Kurthen, 1997). No scheme can make significant changes to designated groups until other

external influences, such as education and skills, demographics and culture, are addressed.

REFERENCES

- Abella, R.L. (1984). Equality in Employment: A Royal Commission Report. Toronto, Canada: Minister of Supply and Services.
- Agocs, C. (1986). "Affirmative Action, Canadian Style: A Reconnaissance." Canadian Public Administration, 11(1), 148-162
- Blakemore, K. & Drake, R. (1996). Understanding Equal Opportunities Policies. Hemel Hempstead, UK: Prentice Hall Europe.
- Eaton Baier, V. E., March, J. G. & Saetren, H. (1994). "Implementation and Ambiguity." In D. McKeivitt & A. Lawton (Eds.), Public Sector Management: Theory, Critique and Practice (pp. 160-170). London, UK: Sage Publications.
- Erridge, A. & Fee, R. (1999). "Contract Compliance: National, Regional and Global Regimes." Policy and Politics, 27(2), 199-216.

- Fee, R., Erridge, A. & Maxwell, P. (1998). "Contracting for Services – A Double Jeopardy? An Analysis of Contract Compliance Policy in the Context of European and UK Social and Procurement Policy." Public Policy and Administration, 13(1), 79-94.
- Glastra, F., Schedler, P. & Kats, E. (1998). "Employment Equity Policies in Canada and the Netherlands." Policy and Politics, 26(2), 163-176.
- Hartin, P. & Wright, P. C. (1994). "Canadian Perspectives on Employment Equity." Equal Opportunities International, 13 (6-7), 12-28.
- Hogwood, B. & Gunn, L. (1995). "Why 'Perfect Implementation' Is Unattainable." In M. Hill (Ed.), The Policy Process: A Reader (pp. 238-247). Hemel Hempstead, UK: Harvester Wheatsheaf.
- Horton, S. & Farnham, D. (1999). "Managing Public and Private Organisations." In Horton, S & Farnham, D. (Eds.), Public Management in Britain (pp. 26-45). London, UK Macmillan Press Ltd.
- Human Resources Development Canada. (1998). Annual Report – Employment Equity Act 1998. Quebec, Canada: Minister of Public Works and Government Services Canada.
- Johnston, A. (1991, Summer). "Perspectives on Employment Equity." Canadian Business Review, 30-32.
- Kurthen, H. (1997). "The Canadian Experience with Multi-Culturalism and Employment Equity: Lessons for Europe." New Community, 23(2), 249-270.
- LeBlond, A. (1988). The Federal Government Approach to Employment Equity (University of Ottawa Working Paper 88-18), Ottawa, Canada: University of Ottawa.
- Lum, J. (1995). "The Federal Employment Equity Act – Goals v Implementation." Canadian Public Administration, 38(1), 45-76.
- McCrudden, C. (1997, September). "Social Issues in Public Procurement." Paper presented at the Conference on Public Procurement: Global Revolution, Aberystwyth, UK.
- Mighty, E. (1996). "Factors Affecting the Adoption of Employment Equity: An Example from Canada." Equal Opportunities International, 15(5), 1-27.

- Minister of Supplies and Services Canada. (1993). Employment Equity: The Federal Contractors Program 1986-1991. Ottawa, Canada: Public Affairs, Employment and Immigration.
- Parsons, W. (1995). Public Policy: An Introduction to the Theory and Practice of Policy Analysis, Aldershot. London, UK: Edward Elgar Publishing Company.
- Peters, B. G. (1995). The Politics of Bureaucracy (4th ed.). New York: Longman.
- Southerst, J. (1991, December). "Public Policy: What Price Fairness?" Canadian Business, 67-74.