Annual Report 2011-2012

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1: Commissioner’s Message

This fiscal year, the Pay Equity Office has concentrated on consolidating and building on the significant workforce and structural changes that were introduced over a year ago and on strengthening our partnerships with various organizations.

In Review Services, the hire of three more Initial Review Officers was followed by an extensive orientation training program on the fundamentals of the Pay Equity Act, enforcement, compensation systems, communication and report writing skills. These new recruits are now responsible for examining compensation data from workplaces contacted through our 2011 Wage Gap Program and will be assisting Senior Review Officers in resolving pay equity complaints.

The initial response by employers to our Wage Gap Program was very encouraging. We are in the process of consolidating the data received from employers with over 500 employees who were contacted during the pilot project in order to provide an aggregated, anonymized report on our findings. The Program has now been expanded to include employers with 250 to 500 employees.

Preliminary observations show that many employers continue to have compensation practices that appear to produce wage gaps. As a result of these observations, our future monitoring efforts will be focused on assisting employers in determining whether their current compensation practices provide for pay equity so as to address one of the sources that may be contributing to the wage gap.

Our Education Unit launched a series of webinars that have been highly successful in reaching out to a greater number of participants. Our partnerships with the Ministry of Finance, the Ministry of Economic Development and Innovation and Industry Canada have allowed our Education Officer to participate in sessions that are available to wider audiences than in previous years.
On the social responsibility side, the Pay Equity Office has reduced its carbon footprint by reducing our fax and printing equipment, resulting in about 30% less electricity consumption and a similar reduction in the use of paper. Our Review Officers have significantly reduced the amount of travel by conducting meetings via phone or videoconferencing and our educational sessions are conducted almost exclusively by webinars. The Office has realized total cost savings of 50-65% by switching from personal or rental vehicles to government fleet vehicles.

In closing, I want to congratulate the management and staff of the Office for their continued hard work and dedication in achieving these excellent results in the face of continuing change and fiscal restraint.

Respectfully submitted,
Emanuela Heyninck
June 2012
2: Legal Mandate

The Pay Equity Commission (PEC) was established by section 27 of the *Pay Equity Act*, 1987, S.O. 1987.c.34 and is continued by subsection 27(1) of the *Pay Equity Act*, R.S.O, 1990, c.P.7 as amended (the *Act*). The Commission consists of two separate and independent parts: the Pay Equity Hearings Tribunal (PEHT), and the Pay Equity Office (the PEO).

The Commissioner is the head of the PEO and the Chief Administrative Officer (the CAO) of the PEC, appointed by the Lieutenant Governor in Council on the recommendation of the Minister. The Chair of the PEHT is responsible for the PEHT’s administration.

The Minister of Labour is accountable to the government for the PEC and is responsible for representing the PEC in Cabinet and its Committees, in the Legislative Assembly and before Committees of the Legislature. The Minister is accountable to the Legislature for the PEC’s fulfillment of its mandate and compliance with government administrative policies. The Minister is also responsible for the review and approval of the PEC’s Business Plan and Annual Report, and for submitting them to Management Board of Cabinet.
3: Pay Equity Act – Purpose

The most recent Statistics Canada report reveals that the 2006 gender wage gap in Ontario for full-time, full-year employment is 28%. Studies show that nearly a third of this gap in salaries between men and women could be attributed to discrimination in the workplace. There are various forms of discrimination in the workplace. The purpose of the Pay Equity Act (the Act) is to redress systemic gender discrimination in compensation of employees in female job classes. All public sector employers and all private sector employers with ten or more employees are required to have compensation practices that provide for pay equity.

3.1 How Pay Equity is Achieved

The Act sets out the criteria to be applied by employers to identify systemic gender discrimination in compensation and the means by which it is to be corrected.

To meet the minimum requirements and to show that pay equity has been achieved, all employers covered by the Act must carry out each of these activities for each of their establishments:

- determine job classes, including the gender and job rate of job classes;
- determine the value of job classes based on factors of skill, effort, responsibility and working conditions;
- conduct comparisons for all female job classes using job-to-job, proportional value or proxy method (proxy is for public sector only and of limited application)*;
- adjust the wages of underpaid female job classes so that they are paid at least as much as an equal or comparable male job class or classes;
- maintain pay equity for female job classes to ensure that new pay equity gaps are not created or re-emerge.

*Note: The proxy method of comparison, repealed in 1996, was restored by court order in 1997 and the PEO is therefore obligated to enforce these provisions as if they had not been repealed. To date, the proxy provisions have not been formally reinserted into the legislation.
4: Pay Equity Office

Vision

Safe, fair, healthy, productive, and high performing workplaces, free of systemic discrimination in the value and compensation of work performed primarily by women, that result in widespread social and economic benefits for all.

Mission

To contribute to the social justice and economic prosperity of Ontario by advancing fair compensation practices for work performed primarily by women, which foster more productive relationships in the workplace and in the broader community.

Activities

The PEO achieves its mandate through:

- investigation, resolution of complaints through alternative dispute resolution and, if necessary, issuing Orders for compliance;
- referral of Orders made by Review Officers to the Pay Equity Hearings Tribunal (the Tribunal) for enforcement, when required;
- monitoring levels of compliance of employers with the provisions of the Act;
- delivery of educational programs;
- production and dissemination of information about pay equity to the public and to the workplace parties;
- production of reports and recommendations to the Minister, if required.

All figures in $000.00 thousand

<table>
<thead>
<tr>
<th>Expenditures Category</th>
<th>Final Budget</th>
<th>Actual Expenditures</th>
<th>Variance</th>
<th>Explanation of Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>2,399.2</td>
<td>2,391.3</td>
<td>7.9</td>
<td>Surplus due to in-year staff departure</td>
</tr>
<tr>
<td>Benefits</td>
<td>270.2</td>
<td>251.8</td>
<td>18.4</td>
<td>Surplus due to in-year staff departure and benefits came in lower than expected</td>
</tr>
<tr>
<td>Operating Expenses (Including lease)</td>
<td>541.1</td>
<td>520.4</td>
<td>20.7</td>
<td></td>
</tr>
<tr>
<td>Transportation &amp; Communication</td>
<td>113.9</td>
<td>61.4</td>
<td>52.5</td>
<td>Savings generated through Internal policies intended to reduce travel expenses and mandatory use of fleet cars</td>
</tr>
<tr>
<td>Services (Including lease)</td>
<td>397.2</td>
<td>444.3</td>
<td>(47.1)</td>
<td>Deficit in lease supported by surplus in T&amp;C</td>
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<tr>
<td>Supplies and Equipment</td>
<td>30.0</td>
<td>14.7</td>
<td>15.3</td>
<td>Emergency funds set aside by Finance Branch not needed</td>
</tr>
<tr>
<td>Total</td>
<td>3,210.5</td>
<td>3163.5</td>
<td>47.0</td>
<td></td>
</tr>
<tr>
<td>Recoveries</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td></td>
</tr>
<tr>
<td>Revenues Generated from:</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td></td>
</tr>
</tbody>
</table>
6: Pay Equity Office Organizational Structure

The Pay Equity Office consists of 26 Full Time Equivalents at the end of 2011-12. The Commissioner is the only Order-in-Council appointee.

6.1 Commissioner’s Office

The Commissioner’s Office is comprised of the Commissioner, Legal Counsel and Secretary.

The Commissioner is appointed by Order-in-Council by the Legislature to act as the head of the Pay Equity Office and the Chief Administrative Officer of the Pay Equity Commission, as required by the Pay Equity Act. Reporting to the Minister of Labour, the Commissioner is responsible for setting the strategic direction of the Pay Equity Office and ensuring that the Office operates within its legislative mandate. The Commissioner is responsible for ensuring that the Annual Report of the Office and the Tribunal are submitted to the Minister.

The Commissioner liaises with the Ministry of Labour, its Labour Agency Council and the adjudicative justice community, through participation with the Circle of Chairs and the Society of Adjudicators and Regulators. The Commissioner keeps in direct contact with her counterparts in other jurisdictions and liaises with the stakeholder community. She represents the PEO on panels and at other public gatherings, and handles media relations.

Legal Counsel provides ongoing legal advice to the PEO on pay equity and related matters, and represents the PEO before the Tribunal and other adjudicative bodies. Legal Counsel speaks to groups about pay equity issues, serves as the freedom of information coordinator for the PEO, and provides legal advice on operational policy development.

6.2 Director’s Office

The Director’s Office is comprised of the Director, Review Services Unit, Manager of Administration, a Program Specialist and an Executive Assistant.

The Director provides leadership in developing and implementing the PEO Business Plan, oversees program delivery and, through the Manager of Administration, the effective administration of the Office, Education and Case Management Units. The Director is responsible for ensuring organizational capacity and resources to deliver on program commitments and effecting an appropriate balance among outreach, education and review service activities in order to make the best use of resources in fulfilling the PEO mandate.

The Director is a member of the Ministry of Labour’s Labour Agency Council, Strategic Human Resources Planning Council, Directors’ Council, Information Management and Information Technology Committee, the OPS Provincial Interministerial Council and Ontario’s Society of Adjudicators and Regulators.
6.3 Education and Administration Office

The Manager of Administration is directly responsible for the operations of the Case Management Unit, the Education Services Unit and the administrative support to Review Services Unit, ensuring effective linkages and integration between the services.

The Program Specialist assists in policy and program development within the PEO by performing a diagnostic function. The Program Specialist also responds to policy questions that are directed to the PEO and maintains contact with other jurisdictions in Canada and abroad to exchange pay equity research and expertise.

The Executive Assistant supports the Director and links with the Manager, Administration to provide technical support to the financial and human resources controllership functions.

7: Organizational Chart - 2011-2012
8: Pay Equity Office Programs

8.1 Review Services Unit

The Review Services Unit is responsible for the enforcement of the Act. The Unit is comprised of Initial Review Officers (IROs) and Senior Review Officers (SROs).

SROs provide leadership and expertise and handle the investigation of objections to pay equity plans, complaints of contraventions of the Act, settlement negotiations, and monitor pay equity processes, where warranted.

Review Services are currently involved in three types of activities:

Investigation and resolution of complaints

Review Officers investigate complaints alleging contraventions of the Act and assist the workplace parties in attempting to settle the issues which can arise during the implementation and achievement of pay equity. This approach is consistent with the intent of the Act that the pay equity process be “self-managed”.

In cases where Review Officers are unable to effect a settlement between the workplace parties, Review Officers will issue Orders. Any party affected by a Review Officer’s decision may request a hearing before the Tribunal. In those cases, the Pay Equity Office is not usually a party to the proceedings. Review Officers may also refer an Order to the Tribunal for enforcement where a party fails to comply with the provisions of the Order within the prescribed timeframes.

Monitoring

The Review Services Unit is in the last stages of completing its monitoring of employers in the hotel, motel and retail sectors, started in 2007. Under this program, over 4,000 establishments were contacted to gauge the level of compliance with the Act and, where necessary, to enforce its provisions.

Wage Gap Program

The 2011 Wage Gap Program was launched to determine if wage gaps are still prevalent in the compensation of men and women in Ontario workplaces so as to provide a more informed basis for future monitoring activity. The Wage Gap Program was also structured so as to provide a training platform using actual data for unique knowledge transfer of compensation practices from senior to junior staff. Initial Review Officers are responsible for analyzing compensation data provided by employers under Ontario jurisdiction and determining if there appears to be an apparent gender wage gap in that organization.
8.2 Case Management Unit

Case Management provides file administration and case processing services and is instrumental in supporting upgrades and modifications to the case management system to facilitate transparent, relevant, public reporting.

8.3 Education and Communication Unit

The Education Unit comprises two full-time Education Officer positions and shared support provided through a partnership arrangement with the Ministry of Labour’s Communications Branch.

The Education Unit provides educational services to employers, bargaining agents, employees and interested parties on implementation and maintenance of pay equity. Various mediums such as live sessions, teleconferences, seminars and webinars are used at no cost to the public.

The Education Unit is responsible for developing and maintaining the PEO’s website and produces all educational and support materials created in the Pay Equity Office. These publications, which are available electronically and on CD, are aimed at encouraging workplace self-management of pay equity.

8.4 Business Support

One Program Specialist position provides business support to the Pay Equity Program. This position analyzes current trends and the results of various studies conducted at the Pay Equity Office, such as the Wage Gap Program. This analytical capacity enables the Office to target its resources to those sectors where pay equity has not been achieved or maintained.

9: Key Achievements – Fiscal Year 2011-2012

9.1 Review Services

The Review Services Unit of PEO experienced several expected and unexpected staff departures during this fiscal period. Despite the fact that many of the senior staff were involved in extensive training and coaching of new field officers, productivity continued to improve with SROs resolving, on average, over 50 files a year, an increase over previous years’ average file resolution rates.

Throughout this period of significant change, the Pay Equity Office has maintained its track record of providing quality, defensible decisions, with the Pay Equity Hearings Tribunal upholding 95% of the decisions rendered by SROs.

The final 50 employers to be contacted under the 2007 Monitoring Program received their letters and questionnaires in the summer of 2011 and have been contacted by Review
Officers for investigation, marking the end of the 2007 program. A formal, separate report on the 2007 Monitoring Program is under development.

The 2011 Wage Gap Program has been supported for most of the fiscal year by three IROs in training and recently, a Team Lead who is an SRO. The program continues to be highly successful, with over 80% of employers providing compensation data for IROs to analyze for wage gaps.

9.2 Caseload Activity

Cases Opened:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Monitoring</th>
<th>Applications</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-2009</td>
<td>1260</td>
<td>138</td>
<td>13</td>
</tr>
<tr>
<td>2009-2010</td>
<td>1177</td>
<td>117</td>
<td>8</td>
</tr>
<tr>
<td>2010-2011</td>
<td>697</td>
<td>160</td>
<td>3</td>
</tr>
<tr>
<td>2011-2012</td>
<td>50</td>
<td>137</td>
<td>6</td>
</tr>
</tbody>
</table>

Since 2008, the number of cases (applications for review services and monitoring files) opened at the Pay Equity Office has fluctuated between approximately 700 and 1400. The high number of cases opened was due in a large part to the number of cases generated under the Monitoring Program for the hotel/motel/retail sectors. The level of application activity complaining of contraventions has remained relatively stable.

The 2012 Monitoring Program will be informed by the information gathered about the sectors exhibiting gender wage gaps under the 2011 Wage Gap Program.

Cases Resolved:

At the beginning of 2011, the Office targeted to resolve 505 complaint and monitoring cases, based on the file resolution rate of existing field staff.

With the expected retirement of 4 Review Officers and further retirements/departures of 3 Review Officers in this fiscal period, the complement of front-line staff was reduced by over 50% in a 2 year timeframe and those remaining have spent considerable time providing advice and expertise in the design and development of the Wage Gap Program, job shadowing and coaching to new staff as well as taking over existing files from departing Officers.
Efforts have been made to reduce the time to resolution, including streamlining administration, investigation and decision making training and increasing opportunities for Review Officers to interact on files. In spite of the significant staff departures and new staff, 12.3% of active files had aged beyond 36 months by the end of March 2012.

**Resolutions:**

In this fiscal period, over $2.6M was paid out in pay equity adjustments to Ontario workers by employers.

**Applicant Profile:**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total Applications</th>
<th>Represented Employee and/or Union</th>
<th>Unrepresented Employee</th>
<th>Other*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-2009</td>
<td>138</td>
<td>70</td>
<td>62</td>
<td>6</td>
</tr>
<tr>
<td>2009-2010</td>
<td>117</td>
<td>59</td>
<td>53</td>
<td>5</td>
</tr>
<tr>
<td>2010-2011</td>
<td>160</td>
<td>52</td>
<td>102</td>
<td>6</td>
</tr>
<tr>
<td>2011-2012</td>
<td>137</td>
<td>50</td>
<td>73</td>
<td>14</td>
</tr>
</tbody>
</table>

* Includes employer applications, employer Notice of Inability to Achieve, plus new cases resulting from PEHT decisions

For 2011/12, 53% of applicants for Review Services are unrepresented employees and 37% are filed by unionized employees or their representatives.

**Workplace Cooperation and Compliance:**

Of the 445 cases closed by Review Services in 2011/12, 85% achieved compliance without Order or were situations where no contraventions of the *Pay Equity Act* were found. Fifty-five cases, involving 33 organizations (22%) required the issuance of Orders to achieve compliance.

Of the total cases resolved in 2011/12, approximately 8% of files proceeded to the Pay Equity Hearings Tribunal (PEHT) and in the past year, 95% of Review Officer decisions have been upheld by the PEHT.

**9.3 Wage Gap Program**
<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Organizations Contacted</th>
<th>Organizations Assessed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-2011</td>
<td>165</td>
<td>1</td>
</tr>
<tr>
<td>2011-2012</td>
<td>151</td>
<td>193</td>
</tr>
</tbody>
</table>

Wage Gap assessments continue to be made by new Initial Review Officers and these assessments form part of their learning about pay equity concepts and compensation systems in Ontario workplaces. Our business support function will be analyzing the data collected and preparing anonymized report. Data will effectively facilitate focusing our Review Services efforts to reach those employers who require this service, the most.

Currently, 193 employers have been assessed for wage gaps and 49% will be subject to further review.

9.4 Education

During the 2011-12 fiscal period, the Education Unit operated with only one Officer and a shared communications resource. Despite the reduced staffing, the Unit was able to meet the demand for seminars and special presentations to a wide variety of audiences across Ontario as requested and as scheduled. The introduction of webinars resulted in a significant increase in participation in education sessions as participants are able to receive training in their work locations about all aspects of implementation and maintenance of pay equity. In addition, the Office participated in the development of a CD containing all Ministry of Labour legislation, including the Pay Equity Act that has been disseminated by our Education Services Unit to over 700 individuals and organizations.

Participation in forums hosted by various external organizations have enabled the Pay Equity Office to disseminate information and provide services to a much wider business community that would be less accessible to the PEO, given its limited resources. These organizations include: Ministry of Finance’s Tax Information Forums, the Ministry of Economic Development and Innovation Business Consultants, Service Ontario’s 57 municipal sites and Industry Canada’s regular program offerings. In January, 2012, the PEO participated in the Human Resources Professionals Association annual trade show, receiving over 650 requests for pay equity information and registrations at PEO training sessions.

9.5 Outreach

The Commissioner continues to focus on reaching out to various stakeholders to educate them on the wage gap and the role of pay equity in closing that gap. This year, the Commissioner addressed the Scarborough Chinese Business Association, the Canadian
Federation of University Women, various local chapters of the Business and Professional Women’s Association and met with representatives from the Ontario Federation of Labour. The Commissioner also lectured to student audiences at York University and Queens University. The Commissioner continues to be a member of the Program Advisory Council at Conestoga College to ensure that pay equity and pay equity principles are taught in a variety of Human Resources programs.

9.6 Business Support

The Program Specialist position was held vacant for approximately 9 months of the 2011/12 fiscal year, in order for recruitment to coincide with the Initial Review Officer recruitment targeted for December 2011. The Program Specialist has been with the Pay Equity Office for February and March of 2012 and participated in the training program delivered to the Review Officers.

9.7 Service Delivery Achievements for Pay Equity Office

During this fiscal year, there have been several OPS wide initiatives undertaken by the PEO, aimed at addressing various aspects of service delivery. In 2011-2012, all staff of the PEO have now received training in:

- Accessibility for Ontarians with Disabilities
- Diversity training (ongoing)
- French Language Services training
- new FileMaker Case Management system

Four staff members have completed the second year of weekly refresher training in French language, resulting in two staff securing bilingual positions in the Office.
10: Core Business Report – 2011-2012

The Pay Equity Office (PEO) is responsible for redressing systemic gender discrimination in the compensation of employees in female job classes by requiring employers to close pay equity wage gaps between female and comparable male job classes in Ontario workplaces.

The Program supports the OPS agenda of promoting inclusive and diverse workforces where employees and employers work cooperatively to achieve fair and harmonious relations and contribute to the overall success of Ontario’s economy. The Pay Equity Office’s performance measures reflect our contribution to this goal.

The PEO envisages an Ontario where workplaces have compensation practices that are gender neutral; employers, unions and employees work collaboratively to address pay equity issues; and Ontarians are aware of their rights and responsibilities under the Act.

<table>
<thead>
<tr>
<th>Program: Pay Equity</th>
<th>Measure</th>
<th>2010-2011</th>
<th>2011-2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Achieved</td>
<td>Target</td>
<td>Achieved</td>
</tr>
<tr>
<td>Employers, unions and employees work collaboratively to address emerging pay equity issues</td>
<td>Percentage of cases where compliance achieved without Order</td>
<td>91.8%</td>
<td>90%</td>
</tr>
<tr>
<td>Employers take corrective action to become pay equity compliant</td>
<td>Number of pay equity cases resolved</td>
<td>1435</td>
<td>505*</td>
</tr>
<tr>
<td></td>
<td>Time spent to resolve cases</td>
<td>90% of files &lt; 3 years</td>
<td>90% of files &lt; 3 years</td>
</tr>
<tr>
<td></td>
<td>% of formal education activities conducted with other organizations</td>
<td>Not implemented until 2010/11</td>
<td>Establishing base line for new measure</td>
</tr>
<tr>
<td></td>
<td>% of cases where Review Officer decisions upheld by PEHT</td>
<td>90%</td>
<td>90%</td>
</tr>
</tbody>
</table>

*New performance measure targets accurately reflect what the office feels is reasonable and attainable given the following influencing factors: reduced complement of tenured review officers, learning curves for new review officers and staff, restructuring of the monitoring program. These targets will be reviewed and adjusted as more information is available regarding the pilot programs and progress of new staff is reviewed.

** The PEO has faced significant challenges related to its staffing complements, having lost half of its complement of knowledgeable and tenured Senior Review Officers. The office has recruited new staff; however extensive training and knowledge transfer is required before these new review officers are able to reach optimal performance levels.
11: Core Activities Report – 2011-2012

Investigation Cases: Complaints and Monitoring

- **942 Total Caseload**
  - 755 – Outstanding 2011 Cases
  - 193 – New Cases Opened

- **445 Cases Closed**
  - 170 – From Complaints
  - 275 – From Monitoring

- **251 Complied Without Order**

- **55 Cases – Order Issued**

- **36 Administrative Closures**

- **44 Decided**
  - 42 Withdrawn
  - 17 Settled

12: Wage Gap Program – 2011

2011-2012 Achievements

- **151 Organizations Contacted**
  - 2011-2012

- **193 Cases Closed**
  - 2011-2012

- **164 Outstanding Cases**
  - As of April 1, 2011

- **122 Cases in Progress**
  - As of March 31, 2012

- **40 Cases**
  - Wage Gap Program
  - Not Applicable

- **58 Cases**
  - No Apparent Wage Gap

- **95 Cases**
  - Apparent Wage Gap / No Response
13: Educational Activities

Education Activities as of March 31, 2012

Total Seminars: 57
- 12 - Speaking Engagements
- 37 - Webinars
- 8 - Partnerships

Education Participants as of March 31, 2012

Total Participants: 895
- 393 - Speaking Engagement Participants
- 253 - Webinar Participants
- 2,014 - Partnership Participants