



Fair Work
OMBUDSMAN

South Australian land development and site preparation services audit program

Final report – September 2013

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Performance snapshot

Total of

56

employers were audited

Found

70%

of employers were compliant

More than

\$42K

recovered on behalf of 47
employees

Summary

In November 2012, the Fair Work Ombudsman (FWO) commenced the South Australian land development & site preparation services audit program (the program).

We focused on businesses with employees covered by the *Building and Construction General On-Site Award 2010*, specifically, construction workers / engineering construction workers from Level 1 to Level 6.

We conducted the program in order to promote and assess compliance with Australia's workplace laws in the South Australian land development and site preparation sector.

During the program we assessed the records of 56 employers. We found 39 (70%) employers were compliant and 17 (30%) were in contravention.

As a result of the program we recovered \$42,892 on behalf of 47 employees.

Purpose of the program

The aim of the program was to promote and assess compliance with the *Fair Work Act 2009*, the *Fair Work Regulations 2009* and the *Building and Construction General On-Site Award 2010* in the land development and site preparation services industry. We excluded large land and / or building developers.

The specific objectives were to:

- engage with key industry stakeholders
- provide employers in the industry with information about our online resources including our online tools

- assess the level of compliance of a sample number of employers in relation to wages and entitlements
- ensure audited employers were compliant with their obligations
- provide a public report on the findings.

Our industry partners

We advised the following industry stakeholders of the program and sought their assistance to promote the program amongst their members:

- Master Builders Association (SA),
- Housing Industry Association (SA),
- Civil Contractors Federation (SA)
- Construction, Forestry, Mining and Energy Union.

We also worked closely with the Fair Work Building and Construction Commission.

Why did we target this industry?

During the 2010 / 2011 financial year, FWO received 15 complaints from employees in SA working in land development and site preparation. Of these we found 60% of employees had been underpaid.

We considered the program an effective way to promote compliance and determine the level of compliance in the industry more broadly.

What did we do?

We used the Occupational Licensing Register, available from the Office of Consumer and Business Affairs to select businesses for inclusion in the program.

Before commencing the audits we wrote to the selected employers advising them of the program and invited them to attend an information session.

During November and December 2012 we conducted three information sessions at the Civil Contractors' Federation SA Branch. At these sessions we explained the program and provided information on the *Building and Construction General On-Site Award 2010*. Over 35 employers attended the sessions

In December 2012 we also sent a second letter to selected businesses requesting a sample of records be forwarded to our office for assessment.

After we assessed the records we notified the businesses that were compliant with their findings in writing.

Where we identified record-keeping or pay slip contraventions, we informed employers of the contraventions and provided them with information about correct record-keeping practices. We asked for a written commitment that they would maintain compliant records and pay slips in the future.

Where we found employers had underpaid their employees we advised them of our findings and asked them to review their time and wage records and to calculate any underpayments owing. We worked with employers to confirm amounts owing and to ensure that all back-payments were made to the affected employees.

While we worked with employers to rectify contraventions, we took the opportunity to ensure they were familiar with our online pay

tools to assist them in identifying correct rates of pay in the future.

At the conclusion of each assessment we wrote to the employer to formally notify them of the outcome and advise that the assessment was concluded.

What did we find?

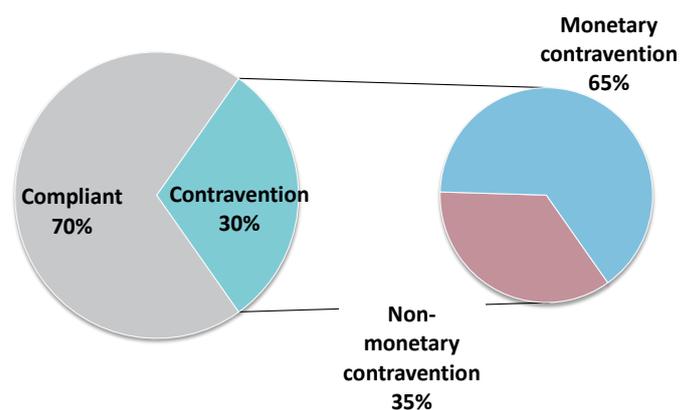
In August 2013, we had completed 56 audits. We found 39 (70%) businesses were compliant and 17 (30%) were in contravention.

We recovered a total of \$42,892 for 47 employees.

Of the 17 businesses we found in contravention, 11 (65%) had monetary contraventions and six (35%) had technical contraventions.

Audit

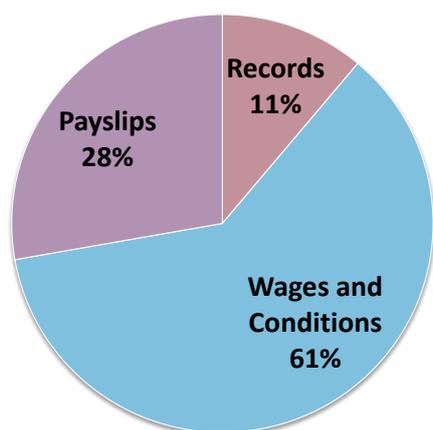
results:



The 17 businesses found to be in contravention had a collective total of 18 individual contraventions.

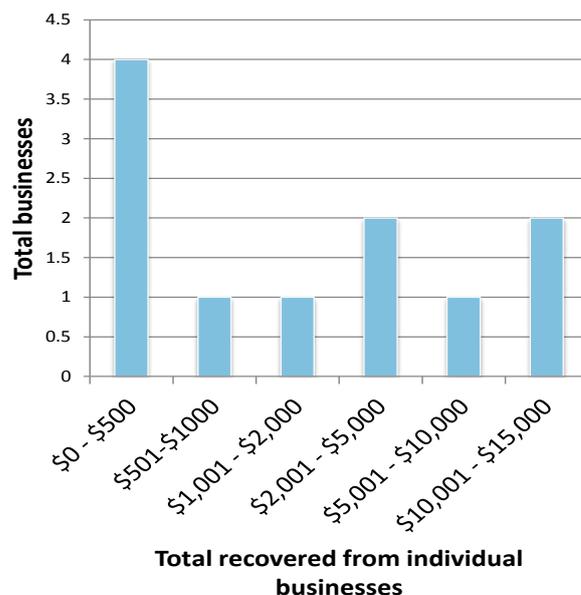
Pay slip contraventions accounted for 28% of contraventions and 61% of contraventions related to wages and conditions.

Contraventions:



We recovered a total of \$42,892 from 11 businesses for 47 employees. The amount recovered from individual businesses ranged from \$50 to over \$13,000

Amounts recovered:



Other findings

Most of the payslip contraventions we found related to missing details. The most common omissions were the ABN of the employer and the name of the superannuation fund to which payments were made.

Most of the monetary contraventions resulted from employers incorrectly calculating rates of pay and allowances.

Employers generally appreciated speaking to an inspector and took the opportunity to ask questions about their workplace obligations.

Concluding remarks

The findings of the program indicate the industry has an encouraging compliance level. We were also pleased that of the contraventions we did identify, all were voluntarily rectified by employers.

However, the fact that over 60% of the contraventions related to underpayments is of concern. This indicates the need for employers to be informed about and have access to the correct rates of pay.

The program has proven a worthwhile initiative in promoting compliance and in raising awareness amongst employers of the advice and assistance available from the FWO.

About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the *Fair Work Act 2009* on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world'

knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the SA site preparation services audit program 2012.

For further information and media enquiries please contact media@fwo.gov.au.

If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact Steve Ronson, Executive Director - Dispute Resolution and Compliance (steven.ronson@fwo.gov.au).

Commonwealth of Australia 2013

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