

Sent via fax
416-325-3347

May 20, 2009

Hon. Madeleine Meilleur
Minister of Community and Social Services
80 Grosvenor Street
Hepburn Block, 6th Floor
Toronto, ON M7A 1E9

Dear Minister:

AMO appreciates the opportunity to respond to the initial draft Employment Standard developed under the *Accessibility for Ontarians' Act* (AODA). We are also appreciative of our ongoing involvement in the standard development process through representation at the various standard development committees.

Since the enactment of the AODA four years ago, important advancements have been made in discussions on the key barriers to achieving accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises. However, with the release of the recent initial draft Employment Standard, AMO remains concerned that the Act as a whole, as defined by the individual standards, will in its entirety, fall short in achieving the objectives of the AODA in implementation.

In general, AMO supports the principle of the employment standard and that it attempts to provide a degree of flexibility in the implementation of the standard. AMO is also pleased that the standard reflects to a great extent what is already law under the Ontario Human Rights Code. On the other hand, this may pose complications once the standard is in effect in terms of employment rights, complaint and enforcement processes.

Overall, however, we remain concerned with the government's piecemeal approach to the standard development process which makes it extraordinarily difficult to analyze the full impact of implementing the Act. It also makes it difficult to analyze when and how standards may be working at cross purposes to one another-specifically in the areas of definitions, classes and compliance timelines. We continue to strongly urge the government that no new standards be passed into regulations until the final review period of the final standard - the Built Environment.

Please find below, AMO's comments and recommendations on the following key aspects of the proposed standard:

- lack of harmonization across standards;
- poor financial assessment and rational of the implementation of this standard and all others;
- classes of obligated organizations and compliance with the employment standard.

Lack of harmonization across standards:

The employment standard includes provisions requiring employers to comply with the Information and Communication standard. It should be noted, this provision was included prior to the employment standard development committee having an opportunity to consider the final proposed information and communication standard-which includes the cost of implementing the information and communications standard.

Additionally, concerns as expressed above regarding the government's piecemeal approach to implementing the standards remain problematic.

Recommendation:

All AODA standards need to be harmonized, preferably prior to any becoming regulation. Harmonization supports consistency of class definition, compliance dates, terminology, definitions, requirements and presentation for all standards. Further harmonization recognizes the clear connections and interdependency of the standards, for example requirements under the transportation standard are linked or influenced by requirements under the information and communication standard, and may also be linked to the built environment standard.

The Impact of Implementing the Proposed Employment Standard:

The Deloitte costing analysis estimates that it will cost individual public sector organizations \$6,100.00 to implement the proposed employment standard (for a total estimate cost of \$2,940,600.00 provincially).

On page 12 of the costing report it is assumed that implementing the standard will be carried out through existing human resources and, if necessary through the support of the Government. Specifically, the report states: "that ensuring compliance with the standard is not a "net new" cost to an organization; rather it is a shift in the deployment of resources".

Interestingly, relying on existing staff to implement the standard has been defined as an "opportunity cost". AMO does not agree with this and would argue that while expanding access to employment in fact provides opportunity, the capacity of doing so is balanced against all other existing municipal responsibilities. While the costing report recognizes varying human resource capacity across the province and that smaller sized organizations will need to

determine how best to manage implementation and maintenance of the standard - it is also assumed that capacity issues will be addressed through the hiring of outside consultants. Clearly this would be a “net new” cost for municipalities that already are fiscally challenged to meet human resource demands.

The Report also identifies the exclusion of certain costing:

- Information and Communication in accessible formats or methods
- Individual Accommodations
- Customer Service Standard related costs
- Transportation and Built Environment related costs

Finally, the Report also recognizes that there is limited amount of “robust data to genuinely assess the current state and the number of assumptions used”.

This is a troubling analysis and approach to an initiative that will have significant fiscal and human resource demands attached to it. This approach also undermines the objectives of successfully ensuring access to employment for Ontarians with disabilities.

Recommendation:

It is critical to consider not only the financial impact of Employment Standard, but all standards when setting compliance dates. The financial impact has to be balanced against competing fiscal needs and fiscal capacity to meet those needs. The fiscal issue is heightened in light of the current economic climate. All standards require new long term supportive sustainable related funding, or at the very least, clarification on how existing Provincial funding programs are to be amended to accommodate the new costs associated with the respective standards; including identifying the impacts of the amendments on the original programs.

Further, AMO is recommending that a further costing analysis be conducted that is reflective of size and capacity of organizations to comply with the requirements and all other related requirements under the proposed standard.

Classes of obligated sector and compliance with the employment standard:

The proposed employment standard lumps all public sector organizations into a single class. On the other hand, small private sector organizations are considered separately from larger private sector organizations and are excluded from implementing aspects of the standard.

It is unclear why it is assumed that small municipalities, with limited resources have the capacity to comply with all aspects of the standard.

Additionally; the AODA clearly contemplates a phase in of incremental improvements in achieving full accessibility by 2025. With an objective of gradual phase in, business and organizations are provided the time to plan for and implement solutions. The "phase in" approach is supported by the mandatory 5 year review of all AODA standards. The proposed compliance timeframes for this and other standards that have been released for public review contain very aggressive compliance timeframes, which is counter to the intended phase in objective, and cannot reasonably be achieved individually or collectively in a fiscally responsible and sustainable manner.

Recommendation:

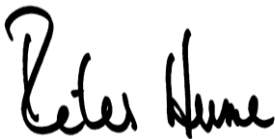
As currently drafted, compliance with the Standard may be particularly onerous for smaller public sector organizations that should be afforded the same time frame opportunity and exemption from certain requirements as smaller private sector organizations.

AMO is recommending that the compliance dates be revised to reflect a reasonable and fiscally sustainable implementation process. This should include consideration of a phased approach up until 2025.

As the first phase of the standard development process nears completion - with the Built Environment standard soon to be released - we remain hopeful that our concerns and recommendations will be carefully considered. The municipal sector has been a leading force in accessibility. However, the standards, as currently drafted, will seriously compromise this progress and future progress on creating sustainable, accessible communities.

AMO is confident that the shared commitment and objectives of creating barrier free communities can be achieved in a fiscally responsible manner. We look forward to working with the government to ensure that the intent and objectives of the Act are achieved.

Sincerely,



Peter Hume
President

cc. Hon. Jim Watson, Minister of Municipal Affairs and Housing
Ellen Waxman, Assistant Deputy Minister, Accessibility Directorate of Ontario, MCSS
Brenda Lewis, Director, Standards Policy and Coordination Branch, MCSS
Alfred Spencer, Director (Acting), Outreach and Compliance Branch, MCSS
Marcelle Crouse, Director, Intergovernmental Relations & Partnerships Branch, MMAH
