

31 August 2009

Caroline Le Couteur MLA
Chair, Standing Committee on Public Accounts
GPO Box 1020
CANBERRA ACT 2601

Dear Ms Le Couter

SUBMISSION TO THE INQUIRY INTO ACT GOVERNMENT PROCUREMENT

The CFMEU supports this inquiry into ACT Government procurement, and we wish to express our support for the more comprehensive submission made by UnionsACT. Our submission targets two specific points, apprentice numbers and ensuring successful tenders adhere with their legislative requirements

Apprentices

We would further like to highlight the procurement policy that accompanies the federal governments Stimulus Package. This policy requires apprentices to make up at least 10% of the workforce on these projects. This policy also factors in the number of apprentices being used by a company when assessing the dollar value of their proposal.

We would support the adoption of this policy in the ACT as it supports young Australians seeking to learn a trade, without disadvantaging businesses who seek to invest in training. The monitoring arrangements within this policy are also noteworthy. The policy uses industry bodies (such as the Construction Industry Training Council) to monitor and assist tendering businesses to take on an apprentice directly, or through a Group Training arrangement.

This policy will help to ensure that the building industry is sustainable, by using government money to develop the next generation of tradespeople and prevent future skills shortages. This model is particularly impressive as it draws on the links already formed within the industry to ensure self-regulation.

Legislative Requirements

Please find attached a tool which has been used on some sites in the ACT and has been shown to be effective at preventing sham-contracting on building sites. Sham-Contracting is responsible for workers compensation under insurance, tax avoidance (income and payroll), underpayment and non payment of wages, entitlements and superannuation.

This new tool is an important step in removing this unlawful activity from ACT building sites. The most effective way to implement the audit tool is for the ACT government to require its use by all tenderers at the time of tender and for all milestone payments. This audit tool – properly used and enforced as per the attached guidelines – will ensure lawfulness in the building industry and will level the playing field for those companies who are doing the right thing.

The level of non-compliance with ACT and Commonwealth legislation on ACT Government funded building sites is appalling and the government needs to take definite steps to improve the conduct in this vital industry.

We welcome the opportunity to make submissions to this inquiry and if you require any further information or assistance, please contact Warren Tegg on (02) 6267 1599.

Yours sincerely

Warren Tegg
INDUSTRIAL OFFICER

Attachment

Background

To paint the interior walls on the balconies, the workers were exiting the bucket of the EWP when it was adjacent to the balconies and then stepping over the handrail from the bucket onto a ladder.

Risks

This work practice is very dangerous for the following reasons:

1. The risk of a falling a number of floors to the ground.
2. The risk of the bucket controls being activated while climbing from the bucket to the ladder.
3. The ladder was not stabilized, i.e. once the painter is on the ladder, the ladder can become unstable. Further I understand that the Federal Safety Commission has banned the use of ladders on commercial building sites.

Standards

The relevant Standard is 2550 'Cranes, Hoists and Winches', Part 10 'Mobile Elevating Work Platforms', Clause 5.9 'Access to and Egress from the Platform in the Elevated Position.' This section is quite clear on the circumstances under which a worker can leave an EWP of the type in use in Braddon. I will reproduce the relevant sections here, but the full text, and associated diagrams are attached (all emphasis added is mine).

*"Personnel shall not enter or leave the platform when elevated... unless **each** of the following conditions are met:*

*(a) Risk analysis shows that this means of access is **safer** than all other means of access"*

This means of access is certainly not the safest means of accessing a balcony – obtaining a key and walking onto the balcony from within the apartment is unarguably the safest method of access this workspace.

"(b) The structural adequacy of the landing area has been established and the landing area is clear"

The workspace in question had not been cleared, nor their adequacy checked as these were private residences. The floors may have been cluttered or slippery. There was nothing to ensure that the ladder did not slip causing the worker to fall while moving between the bucket and the landing. In one case workers were seen using patio chairs to climb into the bucket of an EWP.

*"(e) The work platform floor is capable of being located within 300mm **vertically** of the landing (see Figures 5.9 (A) and (B))"*

Given the type of EWP being used is a "cherry picker" (Figure A) rather than a "scissor lift" (Figure B), you can clearly see that it is a requirement that the platform must be immediately **above** the floor which the worker is attempting to access.

*(f) Where the work platform is located **over the landing**, the landing point is not less than 2m from the edge of the structure, unless a safety harness is properly worn and attached to a suitable anchorage, where any potential fall is in excess of 2 m, see Figure 5.9 (A)"*

Again this type of EWP is only for use when the bucket is over the landing and more than 2m from the edge of the structure, completely contrary to how it was being used in this case.

From the attached diagram, and the clauses outlined above, you can clearly see that the work method approved by WorkCover does not meet the Australian Standards for Mobile Elevated Work Platforms. It is completely incomprehensible that such work practices would have been approved, especially when a completely safe alternative exists.



A photo of the unsafe work practice in process