

OREGON COUNCIL ON CIVIL RIGHTS

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Pay Equity Model: Switzerland's Federal Act on Public Procurement (1994) and Gender Equality Act (1995)

Overview: In Switzerland, the principle of equal pay for women and men is enshrined in the federal constitution and in the Gender Equality Act of March 24, 1995. In enacting equal pay, Switzerland uses a two prong approach, including both mandatory and voluntary measures. The government provides extensive information and tools to businesses within Switzerland to voluntarily ensure equal pay and also requires pay equality for all businesses that participate in the public procurement of goods or receive public contracts.

The Mandatory Approach: The Federal Act on Public Procurement of 1994

Employers Subject to the Law: All businesses that have public procurement contracts are subject to the Federal Act on Public Procurement and must achieve pay equality and submit salary audits.

Basic Requirements of the Act: The Act requires that public procurement contracts (involving the purchase of goods, services, and works by governments or state-owned firms) include equal pay provisions. Public procurement represents a significant section of Switzerland's overall economy and equal pay requirements are believed to prevent unfair market advantages between companies competing for public procurement contracts.

Upon successfully obtaining a public procurement contract, a contractor must confirm with the Swiss Federal Procurement Commission ("Beschaffungskommission des Bundes" or "BKB") that it and its subcontractors maintain equal pay. Equal pay audits are conducted through statistical regression analysis and software similar to Logib (described below), allowing for certain requisite qualification (the skill demanded within a job) and occupational position (level of managerial expertise required) variables. After regression analysis and consideration of the variables, the BKB only allows for a wage variance of 5 percent between women and men. If the wage variance is greater than 5 percent, the business must explain the causes of this gap and, if an acceptable explanation is not provided, correct the variance.

Enforcement: The Federal Act on Public Procurement of 1994 is enforced by the BKB, which can place sanctions on a business, rescind the public procurement contract, and prevent the business from competing for future public procurement contracts if no correction is made after an equal pay audit. The awarding authority is also able to inspect and audit recipients of public procurement contracts.

The Voluntary Approach: Gender Equality Act of 1995

Basic Provisions of the Act: Switzerland provides extensive information about equal pay and provides voluntary tools for employers to eliminate pay disparity. Through the Federal Office of
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Gender Equality (FOGE), Switzerland provides tools for private companies to independently assess pay equity using easily accessible payroll data. The FOGE created software, known as Logib, to allow any businesses with 50 or more employees to quickly use payroll data to conduct a self-assessment of pay equity through statistical regression analysis.

- Logib uses five independent variables, in addition to payroll data, to assess pay equity and variances in pay: education and training; potential professional experience; seniority; function; and job profile.

Further educational information for both employers and employees is provided on two websites, <http://www.equality-salaire.ch> and www.equalpayday.ch.

An independent non-profit foundation, financially supported by FOGE, known as “*equal-salary*,” also provides certification for businesses that opt to undergo statistical analysis and payroll audits, and are found to have no unjustified pay disparities. Any business that has successfully completed the certification process may mark its products and recruitment literature with a trademarked label indicating that the company is certified as an equal pay company. Businesses must pay a fee, based on the size of the business, for this assessment and are required to be re-evaluated every three years or lose the right to continue using the label. “*equal-salary*” notes that all information provided to it in the certification process is protected and confidential.

Advantages to Swiss Model

- i Voluntary participation model allows for businesses to enact policies that best fit their operations.
- i Logib statistical analysis provides a relatively easy and efficient analysis for businesses with 50 or more employees. FOGE provides an Excel worksheet with built in Logib analysis with easy to follow instructions.
- i Voluntary certification system encourages participation while ensuring confidential business information is protected.

Disadvantages to Swiss Model

- i Voluntary participation does not ensure that all businesses will enact equal pay policies.
- i The cost of certification for the equal pay label has hindered many companies from participating.
- i There is no proactive enforcement action for businesses outside of public procurement. The only enforcement action is reactive. An employee has to either bring a civil suit against the business or enter arbitration.
- i The regression analysis and Logib model do not resolve issues of pay disparity in occupations where one sex may dominate a particular position and is undervalued by a business.