

CONTRACTING-OUT

Updated: 2022

Issue: The employer's practice of hiring contractors or individuals outside the bargaining unit to perform work which the members of the bargaining unit ought to or could do should be curtailed.

Contracting-out is an employer's practice under which work functions are given to outside contractors or individuals to perform with their own established workforce. Usually contracting-out is undertaken as an economic measure, but it may also be proposed where the employer's own work force cannot handle the job in question, the project is short-term, or an emergency has arisen which was unforeseen by the Employer. However, contracting-out is a matter of serious concern since a bargaining unit can be destroyed by such action. Contracting-out reduces employment opportunities and job security, weakens the Federation's bargaining position, depresses salaries and benefits, creates a fragmented work force and seriously hampers the strike weapon.

The issue is not academic to OSSTF/FEESO since some Boards of Education have attempted, with some success, to contract-out work normally done by professional service personnel, office and clerical workers and other support personnel.

It should be noted that neither the Recognition Clause establishing the Federation's exclusive bargaining right, nor the presence of terms and conditions of employment affixed to bargaining unit positions, is construed as restricting the employer's right to unilaterally transfer bargaining unit work to outside contractors or individuals - not even if the entire bargaining unit is wiped out as a result.

The only protection the Federation has against contracting-out is clausal language in the collective agreement.

Clausal language ranges from a complete ban on contracting-out during the life of the collective agreement to a requirement that the employer must consult with the Federation beforehand and agree to help displaced workers find alternative jobs.

The Federation's position is clear - there shall be no contracting-out during the life of the collective agreement.

RECOMMENDED CLAUSES:

- XX.01 No work that could be performed by the employees covered by this Collective Agreement shall be performed by another employee of _____ or by a person who is not an employee of _____.
- XX.02 The Employer shall not contract-out work regularly performed by the classifications set out in this Collective Agreement without the prior approval of the Bargaining Unit and the Federation.
- XX.03 The only exception to XX.02 shall be in the area of special education/education assistants, or other employees working specifically with non Board funded students only, where the workers are employed by First Nation Social/Education Services Agencies.
- XX.04 Where a First Nation Social/Education Service Agency Staffs a position in a school, the school Union Representative will be informed by their principal.

Note: The words "could be performed by the employees" protects against the employer creating new work or positions which have not previously been performed.