

## **Equal Pay Advisory Board Meeting Minutes**

<b>Date</b>	<b>June 1, 2015</b>
<b>Time</b>	<b>4:30 pm</b>
<b>Location</b>	<b>San Francisco Human Rights Commission 25 Van Ness Avenue, Suite 800 San Francisco, CA 94102</b>

### **Advisory Board Members Present:**

Rachael Langston, Marisa Diaz, Dolores Blanding, Dilraj Kahai, Anu Menon, Margi English, Utuma Belfrey. Also in attendance Martha Burk, Equal Pay Expert, and Mullane Ahern of the Human Rights Commission.

### **Presentation on the New Mexico Pay Equity Initiative in State Contracting and Albuquerque Pay Equity Initiative in City Contracting by Martha Burk**

Martha began with an overview of the pay equity initiatives in the State of New Mexico and City of Albuquerque. A bill would not have passed through the state legislature and then-Governor Bill Richardson issued an Executive Order aimed at closing the gender pay gap in New Mexico. After doing an analysis of state employees, a task force focused on reporting on gender pay equity by state contractors. In order to have the moral authority to require such reporting of contractors, the state first looked internally.

Initially wanted to collect data on both race and gender, but found that they did not have good records on race. Old records (25+ years) only had black and white only but not Hispanic (majority minority state). Many people had not reported race since it is voluntary. Records were too unreliable and thus NM went with gender only for the first go-around. Mayor of the City of Albuquerque wanted to pursue an initiative at the city level, and that process took about a year. They pass an ordinance, create a task force to come up with a reporting scheme – parameters for the reporting (what does it mean, what would happen, etc.) and was different purpose: to incentivize businesses to do better if they have a significant gender pay gap vs. punishing contractors for not complying. They spent about a year coming up with algorithms to report on the gender pay gap. Must report using federal EEO1 categories from DOL.

NM links directly there if they do not have info on how to classify an employee. Prorate hourly rate of pay to equate to full time equivalent must be calculated. No individual salaries are reported – they do have to calculate them and they are given spreadsheets to do that. What it provides at the end is a gender pay gap based on job category. Calculations just yield a number (does not identify if pay gap favors men or women). Allowable variance of 10% of parity which gives a bonus on bid and makes many businesses more competitive (the closer they are within 10% parity) for contractors. Only two genders (m/f) are included and race data is more complicated. Race, gender, race and gender together is a lot more numbers and a non-trivial task. It will require much more complicated reporting schemes – statisticians and IT people must make sure formulas are bulletproof. All contractors report in NM and so far they are very pleased with the progress, as it is the first of its kind in the nation. Many contractors

may not realize that this information is going to be public, though transparency and accountability are always at the forefront of discussion. Governor and Mayor are big on incentives vs. punishment; all contractors required to report and can decide whether to try for incentive. May get resistance internally, so procedure must be written so tightly that you don't have to fight those battles one at a time. Cooperation and support from leadership is important and in Martha's experience, it is vital to have full support from the person at the top.

Martha responded to various questions from the EPAB. Regarding the reliance on EEO1 job categories, Martha agrees that the categories are broad. In the state study, they started out letting departments use job titles, but every department has different job titles even for what amount to the same jobs. It's a huge fudge factor if you let them do that. Women and men may be hired for the same job with a different title and pay. One anticipated concern is that some employers will believe that the EEO1 job categories are overly broad. So far only one employer (a hospital) found that they were creating a distorted picture with the overly broad EEO1 categories (nurses vs. doctors all in professional categories) – US DOL website goes into a fair amount of detail telling people how to classify. The state has said in response to fill out the basic form and if you want to explain further, break it down more, even supply some of your proprietary categories, you are free to do that. This satisfied the one employer's concerns.

On whether large companies such as Oracle, HP, and other multinational companies required to report, New Mexico is concerned with pay equity in the state of NM. Businesses must report on employees that are working in the state, so reporting requirement is confined to employees working in the state. Even if they're not working on the contract, it doesn't matter. Martha would be hugely daunted to ask MNCs or even national companies to report on all of their employees. Martha contributed to Obama's federal initiative through the OFCCP for all federal contractors.

On the choice to examine why salaries vs. years of experience: it is a multi-barrier analysis. At initial reporting stage, such a multi-barrier analysis was not necessary or useful. Only if it comes down to a challenge do they look at it; they're trying to get a broad idea of what contractors are doing and have them get a broad idea of what they're doing. They can submit additional information if they want to. This is the same as OFCCP as well. Martha is unaware on algorithms that may be used for additional info provided by the OFCCP but in NM it is otherwise a subjective analysis. Martha advised that these initiatives *will* be met with some resistance and again, that's when having the support of the mayor is important.

Regarding how the state's departments requested employees to update records on race: State personnel came up with a standard form that was distributed to every department. It stated that it was optional and updating records and would like that information which would be voluntary to report. These are personnel records, not directly from employees.

Employers are responsible for making sure that reports are turned in for their subcontractors. No audits have been conducted yet, it's just too soon. However, the threat of an audit is a powerful incentive to not lie, as the State auditor can see payroll records. In the future, that reporting records may be cross-filed with tax filings on payroll to ensure that they don't lie.

When the Mayor of the City of Albuquerque moved to create a pay equity initiative, the process took about a year and was achieved by passing an ordinance. First, Albuquerque created task force to come up with reporting scheme and parameters of reporting. They spent a year coming up with algorithms to

calculate gender pay gaps for companies. The purpose is not primarily to punish someone who is not complying but to incentive businesses to do better if they have gender pay gaps.

Contractors submit Equal Pay Report forms through purchasing – the information is entered with bids and info goes to NM’s HRC folks for analysis – it’s just part of the process. Many employers only have 3-5 job classifications. They can identify which job classes and subcategories through the DOL. The EPR may have an opportunity to explain or ask about more information that would explain discrepancies in pay. That will come up.

The EPR report does generate how many part time or full time employees there are by gender. Many times PT employees do not have benefits which could also be discrimination that is not obvious at the outset. NM does not want to SEE the salaries because it compromises privacy of employees and can be proprietary info, they just want the job category and pay gap. Employers need to calculate that but forms state not to turn that in.

The Board members thanked Martha for her time and congratulated her on the successes of these pay equity initiatives.

### **Discussion of Board Member Activities and Research**

Rachael talked with Jeanette Whipple at OFCCP and found that they are waiting for approval on regulations. OFCCP is concerned that the EEO1 categories may be too broad.

Margi circulated the report on Fair Pay for Northern California Nonprofits in 2015 prior to the meeting.

Dolores spoke with some people in the City that already use EEO1 job categories for contractors. In order to make it less burdensome, it may be simpler to use those categories even though it won’t be a perfect fit. Anu agreed that using EEO1 categories will be viable for the first year or two and figure out where the holes are. Mullane suggested that based on research after first year, the EPAB might recommend that the Board form a task force to explore how to expand job categories, tighten and fine-tune what is missing from federal categories. It was clarified that race must be included in reporting, per the ordinance.

Board members asked about the City’s practice for examining this information. Mullane explained that according to the Department of Human Resources, the City does not have such a practice and that if an employee does not indicate their race at the time of hire, the person onboarding them will assign a race. Board members expressed that the City should likely take these steps before requiring it of contractors.

Marisa researched AB-1354, discussed below. Dilraj researched how to create a formula for this, but determined that they need to decide what data they want reported first.

In the interest of time, discussion of Chapter 21 of the Administrative Code and contracting for professional goods and services was tabled.

### **Data Points, Goals, and Anticipated Challenges**

Board members are curious about what percentage of the time race is reported. Dilraj suggested that the Board must engage with statisticians in order to decide what is statistically significant. They must decide what margin of error is acceptable. The reporting mechanism could encourage or request that if

a significant percentage of employees have not identified race in personnel records, the employer may request that they do and indicate on the report whether they have made that request.

The Equal Pay Advisory Board must clarify which employees should be covered by the reporting requirement – any employees in CCSF, all working on contact regardless of location, or all employees company-wide?

Marisa researched AB-1354 which is an assembly bill in the California State legislature that would require contractors to submit equal pay reports, but there is no specificity on what that would mean. Most likely it will rely on existing categories that are being utilized. Board members discussed the limited categorization of race in federal and other reporting framework available. The categories used do not classify all races in a meaningful way.

Board members discussed the powers and duties as written in the ordinance.

Forms with algorithms may be developed in an excel or even a google document. Mullane will research the other databases used by city departments. The Board members would like to hear from Exponential Talent about their work in the Gap study. Mullane has already contacted Exponential Talent to invite their experts to present to the Board and/or meet with anyone from the EPAB. The next meeting will be on Monday, June 15<sup>th</sup> at 4:30pm.

## **Adjournment**