

Equal Pay Advisory Board Meeting Minutes

Date	June 15, 2015
Time	4:30 pm
Location	San Francisco Human Rights Commission 25 Van Ness Avenue, Suite 800 San Francisco, CA 94102

Agenda Item 1: Call to Order and Roll Call

Advisory Board Members Present:

Rachael Langston, Marisa Diaz, Dolores Blanding, and Anu Menon. Also in attendance was Mullane Ahern of the Human Rights Commission.

Agenda Item 2: Key Terms in Equal Pay Ordinance and City Contracting

Mullane led the discussion to focus on the core issues and meaning of key terms in the equal pay ordinance. Some items are defined in the Administrative Code/precedent, other items will require analysis by the Advisory Board. Breaking down the following:

The Equal Pay Report shall provide **summary information** on **compensation paid to employees** identified by **sex, race**, sex and race, and **data points** the Commission has adopted by regulation... that will identify wage gaps between men and women of the same or different races and among members of different **races**, and that will minimize the burden on City contractors and subcontractors in providing the data.

Summary information: refers to overall trends and the average wages of employees based on race, sex, and race and sex. The Equal Pay Ordinance does NOT require individual data on employees.

Compensation: Equal Pay Advisory Board must determine what is meaningful for the purpose of the Equal Pay Report. Should this be a calculation of equivalent of annual, full time salary? Hourly, Base Pay, Bonuses? Data collection per Chapter 6 states that “the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid.” Federal Equal Pay Reports will collect the total number of workers within a specific EEO-1 job category by race, ethnicity and sex; total W-2 wages defined as the total individual W-2 wages for all workers in the job category by race, ethnicity and sex; and total hours worked, defined as the number of hours worked by all employees in the job category by race, ethnicity and sex. The Advisory Board decided that a work group should be formed to focus on compensation.

Employees: Equal Pay Advisory Board must determine **which** employee data should be included the analysis for the EPR? Further discussion held in agenda item 4.

Sex: refers to biological and physiological characteristics. Sex is different from gender (gender and gender identity refer to socially constructed roles, behaviors, activities, and attributes.) The goal of the ordinance is to identify wage gaps between men and women of the same or different races and among members of different races.

Race and Ethnicity: data collection presents unique challenges for consideration. Further discussion held in agenda item 5.

Data Points: the Advisory Board shall analyze and recommend data points that may include but are not limited to employees' education, years of work experience, and specialized skills, that would aid in the analysis of wage disparities. Federal EPRs will not collect any individual pay information, or any information on factors such as education or experience that may affect pay. Requiring that contractors provide that information may be burdensome, but some may wish to provide detail in a notes section.

Focus on Chapters 6 and 21 of the Administrative Code to discuss what they govern in city contracting for both public works contracts and commodities and professional services.

Agenda Item 3: CCSF Departments involved in City Contracting: Which Departments Contract with Covered Employers?

Chapter 6 Contractors: Departments or Commissions empowered on behalf of the City to contract for public works or improvements or professional services related to a public work or improvement are:

Department of Public Works, Municipal Transportation Agency, Airport, Port, Public Utilities Commission and Recreation and Park Commission. All other departments or commissions must procure construction or related professional services through the Department of Public Works.

Other departments with which Chapter 6 contractors will likely interact: Office of Labor Standards Enforcement, Controller, Office of Economic and Workforce Development, Contract Monitoring Division, Human Rights Commission, General Services Agency: Risk Manager, Office of Community Investment and Infrastructure / Successor to Redevelopment Agency, City attorney.

Chapter 21 contractors: Office of Contract Administration/Purchasing - All city department purchases must go through the Purchaser with some exceptions. **Other Departments:** Public Utilities Commission, Controller, City Attorney, General Services Administration

What departments contract with nonprofits? Human Services Agencies: Parks and Recreation, Department of Public Health, **Any department** that receives a grant proposal from a non-profit that provides in city-related service.

Agenda Item 4: Which Employees Should Be Included in an Employer's Equal Pay Report?

Many contractors will have employees in multiple locations around the state, nation, or even worldwide. Should all be included? A Work Group will be devoted to resolving this question.

12B Considerations: SEC 12B.1D DEFINITIONS - the requirements of this Chapter shall apply to (i) **any of a contractor's operations within San Francisco;** (ii) **a contractor's operations on real property outside of San Francisco owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract or property contract with the City;** (iii) **where the work is being performed by a contractor for the City within the United States;** and (iv) **any of a contractor's operations elsewhere within the United States.**

Chapter 6 Considerations: SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING CONDITIONS. (6) **Records to be Kept by Contractors and Subcontractors.**

Every public works contract or subcontract awarded under this Chapter shall contain a provision that the contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of a public work, payrolls and basic records including time cards, trust fund forms, apprenticeship agreements, accounting ledgers, tax forms and superintendent and foreman daily logs for all trades workers performing work at or for a City and County of San Francisco public work or improvement. Such records shall include the name, address and social security number of **each worker who worked on the project, including apprentices, his or her classification, a general description of the work each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid.**

Every subcontractor who shall undertake the performance of any part of a public work or improvement shall keep a like record of each person engaged in the execution of the subcontract. Housing developers in SF now report to the City on whether they have policies prohibiting sexual orientation or gender identity based discrimination anywhere in the county. This is a requirement per a new ordinance, but it is fairly easy to say whether a policy exists, compared to EPRs. Comparisons by region may also be

The Advisory Board decided to form a work group to focus on this question. Rachael is going to be on that work group.

Agenda Item 5: Race Data: Goals and Challenges

Race and ethnicity data collection presents unique challenges for consideration. **Limited Data is a reality.** Many employers do not have records or information on the race of their employees, or only have aggregate data that cannot be matched to an individual's pay records. Information may have been collected at time of hire on a voluntary basis. An individual's race is not always straightforward to identify or categorize, and options at time of hire may not accurately correspond to a person's racial / ethnic identity. Equal Pay Advisory Board must consider how to address the inevitability of incomplete records. A Work Group will be devoted to the categorization of race and ethnicity.

Limited Framework – forms used for collecting federal data on race and ethnicity in the workforce use five racial categories and one ethnicity category: American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White; Ethnicity category: Hispanic or Latino. A person who identifies as Hispanic or Latino as an ethnicity may be any race. A person who is Middle Eastern may select

Multiracial Employees: employees may identify with more than one racial categorization. Categorizing multiracial individuals can be challenging. Some may identify equally with more than one race. Others may identify primarily with one race, while identifying secondarily with another race. Grouping all multiracial individuals into one category would provide information of little value for comparison or investigation purposes. However, categorizing every combination of multiracial identities separately may be extremely burdensome and confusing for employers. Color is a protected characteristic distinct from race, which can be a basis of discrimination, even among individuals who identify as members of the same race. Does a person's actual or perceived race matter if that is why they are paid less? EPAB

must determine whether to limit race data to the categories used federally or to attempt a more comprehensive analysis.

Should employers be required to survey their employees before completing an equal pay report?

Agenda Item 6: Board Member Activities and Research – determination of work groups:

- **Measurement of Compensation**
- **Employees to Be Included in Report**
- **Categorization of Race / Ethnicity**

Agenda Item 7: Matters of Interest for Possible Inclusion on Future Agendas

The next meeting is scheduled for July 6, 2015.

Agenda Item 8: Adjournment