City and County of San Francisco

HUMAN RIGHTS COMMISSION

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Equal Pay Advisory Board
Meeting Minutes

Date	November 17, 2015
Time	4:30pm
Location	San Francisco Human Rights Commission 25 Van Ness Avenue, Suite 800 San Francisco, CA 94102

Advisory Board Members Present:
Rachael Langston, Marisa Diaz, Dolores Blanding, Anu Menon, Margi English. Also in attendance: Peg Stevenson and Inger Brink, CSA, Mullane Ahern, HRC

Presentation by Inger Brinck and Peg Stevenson, Office of the Controller
Mullane Ahern introduced Peg Stevenson and Inger Brinck from the Office of the Controller, City Performance Unit. Inger shared about her background - 8 years with Women's Foundation of California and focused quite a bit on gender and wage gaps, grad training on economics, familiar with much of the research in this area. Approach goals for implementation – minimize burden on contractors in collecting and reporting, and enable City staff to analyze data as efficiently as possible.

Inger explained that research has shown that there are many different drivers of gender and wage gaps, including significant & common drivers such as job segregation, years of experience, type of education (GPA, quality of education, what school you went to). There are many different drivers of wage gaps and it depends on what data sample you're looking at, industry, age group. In order to look for and measure discrimination in wage gaps, we'd need a lot of data that would probably be very difficult to get from employers, if not impossible. General method used is decomposition method, trying to decompose wage gap by generally organizing into two categories: 1) Explainable factors, 2) Unexplainable factors. Researchers generally put discrimination in unexplainable factors category. That doesn't tell us if discrimination is the cause, just that it's a place where we think it might be. This is not entirely satisfactory to us. Some of the wage gap that can't be explained is potentially the result of discrimination.

Regarding what we are trying to accomplish with his ordinance, and how we are going to get there: Inger stated that we have a lot of thinking to do on this, and these are just the early stages. One thought we have is that instead of trying to pinpoint discrimination, we instead look at the presence of an anomaly or abnormality. We would look at, for example, individual employers within the same industry, or similar industry, and of relatively similar size, and compare them against each other to see if they are very different from their peers. And we'd look at the whole group as well. We might see that there is something within the whole group of employers that is interesting or curious for us to explore further. Generally what we might want to do is compare individual employers with their peer group and

see if there is something anomalous happening, and that could serve as a trigger for the Human Rights Commission staff to have a further conversation with the employer and explore what might be going on.

Inger noted that in terms of what data we might need from employers, and what the model might look like, where the data might live, we haven't thought through all of those things yet. One of our immediate next steps is to really understand what the legal and privacy issues are with data collection, what we can ask employers to report on.   Some of the data points we might ask them to report on are sensitive data, and they might not be easily collectible. So we need to figure that piece out first. And we need to look at what data we already have. In the City we have 29 different systems that collect data from contractors. So we want to know what data we already have, do we already have data we can use, maybe we don't have to ask for additional data. We want to get a better understanding of the systems we have and the data we already have.

Marisa asked about comparing employers to other employers within an industry, and looking at employers that might be an outlier on the positive side. Some industries might have a very low floor across the industry. Looking at the anomaly on the positive side might inform what's going on with the rest of the employers. Inger agreed that it's a great point and we'd want to look in both directions.

In background research for this – Inger had a conversation with Labor Economist from UC Santa Barbara, Katherine Weinberger, who has been studying gender and wage gaps for over 20yrs. She said very definitively that no one has been able to pinpoint discrimination in wage gaps. She raised interesting points – just the act of asking employers to report this data could have a very positive and potentially meaningful effect on reducing wage gaps, because they're forced to see what's happening within their organizations and are forced to see whether there is a wage gap and start thinking about what is driving that or causing that. A great example is Salesforce – they just did an analysis of gender wages, analyzing every single of one their 17,000 employees' wages by job category and found that there was a wage gap between men and women. I don't know that they found what caused that wage gap, but their response was to close it. So they are bringing every woman's wage up to what men in a comparable job are, where they're at. What I read in an article was that it would cost about $3million in the first year. So just by having the data, by reporting it and seeing it, could influence some positive behavior and changes. I thought that was a great point on her part, that there seem to be other benefits other than analytical purposes to collecting and reporting the data.

Marisa noted that in Equal Pay laws as opposed to anti-discrimination law, at least in California, there does not have to be any intent to discriminate for a wage gap to be unlawful. California Fair Pay Act made the burden heavier on employers. SB-358.

Peg added that Controller's office is willing to help and commit around 200-300 hours from CON's staff which should help get HRC at least part of the way there towards building and collecting what is needed for the mandates of this ordinance. In very broad terms, what we've talked about is defining data points we want to collect from contractors, researching the privacy and security and systems issues that would be involved and solving them as much as we can, and aggregating the data that would be required to make the kinds of comparisons that Inger articulated. And having that keyed up by the time HRC would want to go forward with the notice and education period for all of the appropriate stakeholders. As an ancillary benefit of doing this work, we're also going to pull together a grid which will be useful to a whole lot of people in the City about the different requirements that are laid on the City's contractors, profit, nonprofit, construction and not, professional services, etc., there are a whole different series of different thresholds and approaches and requirements. It would be good for the City generally and the

Controller's office specifically because we're also engaged in the design of the new financial system to have one place where all of these things are known, so there is a benefit to us in doing that, as well. Those are all good deliverables.

Rachael asked what EPAB can do to help assist in the process. Peg said they'd be great as a sounding board, getting feedback on decisions that would impact different sectors.

Marisa asked whether the Controller's office will develop the actual tool that would be used by contractors, which Peg and Inger confirmed. The City is in the design process for a big new financial system – though there are 29 systems, there is no one e-procurement system for the City. There are many systems where bids are made and information is collected, and many for different business purposes. We hope that many of those different business purposes as possible can be grouped into the solutions that are available in all the modern technology for financial systems management, of which this is an area, so everything you want to know about your vendors is the thing. Part of my interest in this project is thinking through all of those issues to help the financial system design. No one wants to see different departments invent the same wheel in 55 different places. We all have an interest in keeping the City's market as open as possible. The more requirements we layer on, the smaller gets our possible universe of providers, and that's not good. The City ends up paying more and limiting its options and we want to try and balance that.

Mullane asked Inger and Peg for examples of data points that may be available through City systems and those that are not: Elations for Construction contracting data – prevailing wage, a column of data that combined females and minorities. Journey level, apprentice level, local SF resident, non-resident, hours, LBE, name. Have not seen age, education or years of experience, and other data points.

Discussion on Report and Recommendations for BOS

Mullane spoke about the timeline moving forward and the project plan, and she will share that with Advisory Board when finalized. Report from the Board is Dec. 1. Over the course of the next 7 months conduct research and analysis, and develop model. Legislative amendments are currently being drafted with Office of the City Attorney, those primarily concern timelines set forth in ordinance. Extending July 31, 2016 due date of Equal Pay Report to July 3, 2017. The EPAB would be asked to meet at least twice yearly and report back to appointing bodies on developments. The sunset provision would be extended to correspond with the EPR deadline. These are non-substantive amendments. In the next six months, we'd research City contractors.

We met with DHR's leadership: Exec. Director Micki Callahan, Head of Compensation and Classification Steve Ponder, and Chief of Policy Susan Gard on using City employee data for pilot program. DHR has great data available and also share our concerns around privacy. This concern extends particularly to smaller companies, because even if all data is anonymous and aggregate, some minority individuals may still be identifiable in that place of employment. Within the City, we could do an analysis by job classification and look at data for people in various departments that hold that type of position. The City's system is structured with step system and tests to get in, so we do not expect that there will be wage gaps based on race and gender. The findings will be interesting and give us some ideas about job segregation and other issues that may occur, and it will be informative. Down the line we may likely want to look at those issues with the goal of reducing job segregation to the extent possible. We're very happy to have their commitment with this moving forward. As Martha Burk also noted, an internal study will give us moral authority to require this data of contractors. DHR also has some research related to privacy, which will be relevant for contractors as well.

Dolores talked about the City using EEO-4 vs. EE0-1 that may be used by contractors. Mullane suggested that we'd need to look at that closely and perhaps place a higher value on what is currently used by contractors in order to minimize the burden on them in reporting. Inger added that she and Mullane spoke with Martha Burk the day before, and talked about some of the difficulties with the EEO-1 job categories.

Peg and Inger left. Mullane noted that the City will save money with the Controller's involvement, rather than outsourcing to an outside contractor. Anu asked about the USF model. Mullane noted that the details will develop over the course of the next six months with the Controller's involvement, and that we would likely use more of an analytical model. This would also address a concern that the EPAB has consistently mentioned regarding the use of an enforcement model and definitively concluding that discrimination is taking place due to the presence of a wage gap.

Discussion on next steps: finalize details of project plan, incorporate the Controller's piece into the report with all of the EPAB's research and findings by the end of the week, and add in any edits upon review of all EPAB members. Meeting will be December 1st to introduce request, introduce amendments, and honor EPAB members.   January 7th is first day after legislative break. Mullane will find out details re: format and structure of meetings and report to EPAB members. HRC meetings have been very productive with other city departments and officials, and it was also interesting to learn from Martha Burk what some of the flaws in the design have been discovered due to job segregation equating to a 0% gender gap in that model. The question of whether the EEO1 categories are overly broad is an interesting one. NYC is also developing an equal pay initiative and it will be interesting to glean insight from the approaches that will be used in other jurisdictions as well.

EPAB members discussed the weight of analytical approach re: data points will be interesting – will those data points be readily available? Burdensome to collect from employer? Relevance will be driven by industry and position.

Adjournment