

The Pay Equity Project Summary

Background:

Wide gaps in the earning power between men and women, as well as those between non-minority and minority populations, are well-documented in the workforce at large. As an employer, Oregon state government's historic compensation policies and practices mitigated most of these differences, however, current available data is insufficient to substantially analyze, address and close the gaps. On June 1, 2017, Governor Brown signed into law House Bill 2005, also known as the Pay Equity Bill, expanding pay equity protections to Oregonians and creating new obligations for Oregon state government as an employer.

The Pay Equity Bill makes it an unlawful employment practice to:

- Discriminate between employees on the basis of a "protected class" in payment of wages or other compensation for "work of a comparable character".
- Seek the salary history of an applicant or employee before an offer of employment is made.
- Screen applicants on the basis of current or past compensation
- Determine compensation for a position based on current or past compensation of a prospective employee.

On September 29th, the Chief Human Resource Office issued addenda to the Pay Practice and Alternative Leave Policies in relation to the new law:

- [Pay Practices Policy Addendum](#)
- [Alternative Leave Policy Addendum](#)

Pay Equity Project Purpose:

The purpose of the Pay Equity Analysis project is to bring Oregon state government's compensation and recruitment systems, policies and practices into alignment with the amendments made to ORS 652 and ORS 659A by [House Bill 2005](#).

The Solution:

This project will develop tools, policies, procedures, and processes that align state compensation structures and systems with the new legislation and educate managers and human resource partners on how to make equitable compensation decisions.

The Work:

The Department of Administrative Services, Chief Human Resources Office chartered a project team to revise current statewide policies, contracts and practices that impact state employee compensation and salary negotiations with applicants seeking state employment. The project team will train and educate HR business partners and hiring managers on the new processes and policies. The project includes an equal pay analysis of the current workforce to determine where inequities exist and recommend corrective actions to state leadership.

The Outcomes:

- Compensation is solely determined by factors an employee or applicant controls, such as merit, education, skills and experience
- Oregon state government employees are compensated equitably for performing comparable work
- No employee's race, color, religion, sex, sexual orientation, national origin, marital status, veteran's status, disability or age shall influence his or her compensation

2018 NASPE AWARD

Eugene H. Rooney, Jr. Award Nomination

Innovative State Human Resource Management Program

Nominations from dues-paying states are considered for eligibility. Nominated leaders and programs should have a positive effect on the administration of state human resource programs. A state's central human resource department or line agency human resource operations may administer nominated programs.

Programs and projects must have been operational for at least six months and must be transferable to other states. Selection criteria are based on the questions asked on the award application. Included in this packet are the specific criteria for each award and their categories. Nominations are encouraged in all areas of human resource management administration.

Additionally, please attach a one-page summary of the program and prepare a narrative answer for the questions listed below. Do not send supporting documentation. Provide a narrative answer for each of the following questions.

PROGRAM INFORMATION

Program Title: The Pay Equity Project State: OR

Contact Person: Mark Rasmussen

Contact's Title: Classification and Compensation Manager

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Meet all eligibility requirements. • Meet deadline requirements stated on the NASPE website. • Be entered in the correct category and be correctly identified. • Include a complete nomination packet. • Conform to all copyright laws.

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NOMINATOR INFORMATION

Nominator: Madilyn Zike Title: Chief Human Resource Officer

State: OR Agency: Oregon Department of Administrative Services

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DETAILS

1. Please provide a brief description of this program.

In July 2017, the Department of Administrative Services, Chief Human Resources Office chartered the Pay Equity Project to:

- 1) Conduct a comprehensive equal pay analysis of Oregon's executive branch (over 34,000 employees) and implement corrective actions to reduce or eliminate inappropriate compensation gaps
- 2) Revise statewide policies, contracts and practices impacting employee compensation and salary negotiations with applicants seeking state employment
- 3) Ensure compliance with new pay equity statutes becoming effective in Oregon (2017 HB 2005) that have parallels with nation-wide trends
- 4) Implement systems and processes to update the equal pay analysis on a regular (triennial) basis.

2. How long has this program been operational (month and year)?

July, 2017 - to present

3. Why was this program created? (What problem[s] or issues does it address?)

In June 2017, Oregon HB 2005 ("Pay Equity Act") was signed into law. The Pay Equity Law extends additional pay equity protections to ten protected classes and expands potential employer liabilities for inequitable pay beyond existing state federal law (e.g., Oregon Revised Statute 659A.030, Federal Equal Pay Act 1963, Title VII of the Civil Rights Act of 1964). The Oregon Pay Equity Law prohibits employers from seeking or utilizing an applicant's salary history to determine the applicant's salary upon hire. This change dramatically changed Oregon state government's historical pay practices. Immediate action was taken by Oregon's Chief HR Office to revise policies, practices and retrain HR and management staff across the organization.

The Oregon Pay Equity Law allows employers to pay employees for "work of a comparable character" at

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different rates only based on "bona fide factors." As specified by the Pay Equity Law, an employer may only compensate employees for work of a comparable character at different levels if all of the difference is based on:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production, including piece work
- Workplace locations
- Travel, if travel is necessary and regular for the employee
- Education
- Training
- Experience; or a combination of factors accounting for the entire compensation differential

Oregon's executive leadership (Governor and Enterprise Leadership Team) holds "Equity" as a core organizational value. In this regard, leadership desired state government to go beyond compliance and be leader in the implementation of the revised law and standards.

Oregon's compensation and recruitment policies and practices needed to be updated and revised to align with this recently adopted legislation and organizational values. The legislation incentivized an equal pay analysis with subsequent corrective actions on the part of the employer as a means to mitigate compensatory and punitive damages. To ensure equitable compensation and manage legal risks, Oregon state government is conducting a detailed equal pay analysis to ensure that pay differences amongst employees doing similar work is attributable only to differences in employee qualifications. This analysis requires data collection that current state HR systems do not support; development of an equal pay analysis methodology and; staff trained to conduct the analysis. Finally, the impacts of this legislation on current labor contracts are being evaluated and, if necessary, the contracts will require re-negotiation and amendment.

4. Why is this program a new and creative method?

While pay equity legislation exists on the federal level, as well as a number of other states, Oregon is one of the first states to prohibit the use of salary history to determine compensation for new employees. Oregon's legislation further identifies specific factors such as education, experience and training, by which current employees may be paid differently. The legislation incentivized employers to conduct an equal pay analysis and make substantial progress toward eliminating wage differentials as a means to mitigate compensatory or punitive damages.

With the legislation expanding protections to include race, color, religion, sex, sexual orientation, national origin, marital status, veteran's status, disability or age means that Oregon state government, as an employer, is now accountable for wage inequities as a result of them. As a result of this project, Oregon state government is poised to be one of the leaders both nationally as well as locally (for counties and cities) when implementing legislation of this nature.

To bring our hiring policies practices into alignment with the legislation, the project developed internal assessment tools and guidance for state HR professionals to inform their job offers to new hires. These

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tools (available at <http://www.oregon.gov/das/hr/pages/equitytraining.aspx>) utilize the statutorily defined factors in assessing a candidate with current employees who do work of a comparable character. This includes the pay equity tool (<https://payequitytool.dasapp.oregon.gov/>), a Graphical User Interface, which provides information pulled from the state HRIS by classification and state agency regarding the number of employees occupying the classification at a specific salary step, average length of service in the position, average length of service with the state and average base rate.

The Oregon's statewide Pay Practices Policy was added to align with the legislation (see <http://www.oregon.gov/das/Policies/20-005-10.attachment.pdf>) and provided a mechanism for agencies to make "equity adjustments" for employees in order to correct pay inequities identified by the agency's internal assessments. Additionally, in partnership with the state Labor Relations Unit, the project negotiated and Letters of Agreement with its largest unions, creating a similar mechanism to make pay equity adjustments for represented employees.

Other states and employers are responding to similar legislation. Delaware, Massachusetts and California are some examples.

Project staff developed and administered a survey instrument to obtain updated and comprehensive information regarding relevant employee experience, education and training and combined it with existing workforce data (i.e., seniority, merit). Project staff developed methods to evaluate employee experience, education, seniority, merit and training. The staff are developing statistical and point-factor methods to analyze trends to identify and evaluate outliers that may need salary adjustments.

5. What was the program's startup costs? (Provide detailed information about specific purchases for this program, staffing needs and other expenditures, as well as existing materials, technology and staff already in place.)

Existing Staff Redeployment: \$512, 127

Additional Staff (Research Analyst): \$50,870

Temporary HR Analyst & Project Assistant: \$27,984

Loaned HR staff from agencies: \$121,751

Misc. Supplies & Services: \$10,000

TOTAL (18 month) estimated startup Costs: \$722,734

6. What are the program's operational costs?

The Equal Pay Analysis will be update every three years. The anticipated annual cost of this work is \$88,859.

7. How is this program funded?

Resources to implement the project are being pulled from other agencies and staff within DAS CHRO are being re-deployed to do the project work. Specifically, operating agencies dedicated

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20 human resource professionals on a half-time basis for 6 weeks to evaluate approximately 34,000 survey responses of employee education and experience. Chief HR Office staff, services and supplies are funded by general agency assessments.

8. Did this program originate in your state?

9. Are you aware of similar programs in other states?

If yes, how does this program differ?

Massachusetts, Delaware and California have recently passed similar legislation.

However, to our knowledge they have not yet implemented changes or completed a similar equal pay analysis that we currently have in process. Minnesota has had pay equity practices in place for decades, but the approach has been focused on comparable worth for different job types rather than equal pay based on comparable employee qualifications for similar jobs.

Oregon hosted the National Compensation Association of State Governments Conference in October 2017 and presented detailed information about Oregon's legislative effort and it's plans for Pay Equity Project to share information with other states.

10. How do you measure the success of this program?

Success of the program will be measured by achievement of the following milestones:

- 1) Compliance with the Pay Equity Act which requires that, by October 2017, the state will not use salary history when making job offers.
- 2) Training of Agency HR staff to evaluate and set new employee pay in accordance with new legal standards by January 2018.
- 3) Completion of a comprehensive equal pay analysis by November 2018.
- 4) Implementation of corrective pay actions by January 1, 2019.

11. How has the program grown and/or changed since its inception?

Our understanding of the complexity of the issues has evolved tremendously since we embarked on this effort. We have realized that the effort is more than an "study" of factors influencing pay to inform policy-making, but is essentially, a comprehensive audit of our entire workforce to ensure that all employees are compensated adequately for the type and level of work they perform and the qualifications they bring to it by virtue of their experience, education, training, seniority and merit.

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