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DATE: March 20, 2018
TO: Board of Supervisors
FROM: Jeffrey V. Smith, County Executive
James R. Williams, County Counsel
John P. Mills, Deputy County Executive
SUBJECT: Annual Pay-Equity Report

RECOMMENDED ACTION

Receive report from Office of the County Counsel, Office of the County Executive, and Employee Services Agency relating to actions to promote pay equity in County employment and contracting.

FISCAL IMPLICATIONS

There are no fiscal implications associated with receipt of this report.

REASONS FOR RECOMMENDATION

At its March 14, 2017 meeting, the Board adopted a set of recommendations to promote pay equity in County policies and practices relating to employee hiring, pay and promotion; pay equity in County contracting; and pay and gender equity in the unincorporated County. One of the actions taken by the Board was to require that the Administration provide an annual pay-equity report to the Board. Below, we provide information on the status of Administration and County Counsel's implementation of the recommendations adopted by the Board.

1. Board Policy 3.7 on Workforce Diversity

On March 14, 2017, the Board adopted revisions to Board Policy 3.7 on Workforce Diversity to affirm the County's commitment to providing equal opportunity for all individuals to be hired or promoted by the County and to be paid equitably by the County. The revisions to Board Policy 3.7 also provided guidance, consistent with state law, regarding targeted outreach and recruitment that the County may undertake to ensure that underutilized or underrepresented groups are informed of County employment opportunities.

In January and February 2017, the Equal Opportunity Department (EOD) provided the Executive Leadership group and Human Resources Managers with training and debriefing on the County's Equal Employment Opportunity Plan (EEO) and provided information on job categories where employees are underrepresented by either gender or race. The EEO—which the County submits annually to the federal government in compliance with Title 28, Section 42.301 and following—is “a comprehensive document that analyzes a[n employer’s] relevant labor market, as well as the [employer’s] employment practices, to identify possible barriers to the participation of women and minorities in all levels of a[n employer’s] workforce. Its purpose is to ensure the opportunity for full and equal participation of men and women in the workplace, regardless of race, color, or national origin.”¹

EOD submitted an updated EEO to the federal government in late 2017. In preparing this report, EOD worked with County Counsel and the Employee Services Agency – Human Resources (ESA-HR) to review all County job classifications and ensure accurate reporting of employees by job categories/functions, gender, and race. EOD plans to provide the Executive Leadership group and Human Resources Managers with additional training and debriefing on the new EEO.

In order to attract a diverse workforce, ESA-HR has also contracted with an organization called Careers in Government through which the County will join a National Diversity Network designed to promote diversity-committed employers and attract and engage potential applicants. This service distributes the County's job postings to a wide array of leading diversity job sites to ensure the maximum exposure to a diverse pool of top qualified candidates.

2. Data on the County's Applicant Pool and Workforce

The pay equity recommendations adopted by the Board included direction to ESA-HR, EOD, Information Services Department (ISD), and County Counsel to design a mechanism for collecting, tracking, and reporting additional data about the applicant pool and workforce.

In 2017, the County conducted an internal review of its workforce data and the collection process for such data to ensure timely and accurate fulfillment of the County's collection and reporting requirements to the federal government. In addition to improving the efficiency and consistency of data reported to the federal government, County Counsel and Administration are working on revisions to the County's job application and survey form for new hires to include additional voluntary questions that will better enable the County to track employee demographics, including those who identify as LGBTQ and whose gender is non-

¹ U.S. Department of Justice, Office of Justice Programs, Equal Employment Opportunity Plans webpage, available at: <https://ojp.gov/about/ocr/eeop.htm>.

binary (not male or female). County Counsel and Administration are also exploring how to collect this information from current employees (on a voluntary basis) as part of existing survey efforts.

3. Dashboard to Track Employee Demographics

The recommendations adopted by the Board included direction to Administration to develop an online dashboard to track and graphically display the demographics of the County workforce. ESA-HR is working with the Information Service Department to implement a County of Santa Clara Workforce Demographics Dashboard that will be public facing, to show the ethnic and gender breakdown at the Budget Unit level. Administration is planning to produce a dashboard by July 1, 2018 for internal review and approval.

4. Study of Pay-Equity Best Practices and Recommendations for New Policies and Procedures to Better Ensure Pay Equity

County Counsel and Administration will present the Board with an off-agenda report, later this year, identifying pay-equity best practices and any associated recommendations for new policies or procedures to better ensure pay equity.

5. Documentation of Candidate Selection for Unclassified Positions

ESA-HR, as part of a Center for Leadership Transformation team, is reviewing and updating the Human Resources Practices Manual and all Human Resources Policies, and integrating and linking them into one document that will be accessible to the public. Additionally, ESA added a Service Center Manager position to coordinate, standardize, and train Service Center staff in transactional processing of personnel actions.

6. Tracking of Pay-Equity Complaints

EOD was directed to develop an improved mechanism for tracking pay equity complaints. EOD has created a specific category in its case management database that allows Equal Opportunity Officers to identify complaints of discrimination in compensation based on gender, race, or any other protected trait.

7. Prohibition on Solicitation of Prior Salary in Determining New Employees' Starting Salaries.

In June 2017, the County eliminated the prior salary field from its online employment application. County Counsel has also provided guidance to departments on Labor Code section 432.3, which went into effect on January 1, 2018, and prohibits employers from inquiring about a job applicant's private-sector salary history and from using that information in deciding whether to offer employment or what salary to offer.

Consistent with the focus on criteria other than prior salary, ESA-HR has clarified its Ingrade Policy, which provides Departments with guidance on what to consider when offering a

salary for a new hire, and ESA-HR's review process for requests to appoint a new employee at a salary step above Step 1 (i.e., an ingrade appointment). Factors considered for ingrade appointment include qualifications (experience, education, certification, etc.) that the candidate possesses, which exceed the employment standards for the classification, and which are directly applicable to the position for which the candidate is being hired. The candidate's current salary is not a consideration for an ingrade appointment.

8. For Broad Range Positions, Better Document Use of Objective Criteria to Evaluate Starting Salaries

ESA, in consultation with County Counsel, is revising its written Executive Management Recruitment and Post-Recruitment Procedures and Protocol, to include written guidance to Department Heads and hiring managers with respect to broad range recruitments and salary setting, with a target to have the revisions completed in the second quarter of 2018. Such written guidance would supplement direct consultation with the Department Head/hiring authority on such matters, as the circumstances of each recruitment are unique.

9. Guidance for Utilization of Panel Interviews in Hiring Processes

The County uses panel interviews for most of its hiring processes, but not all of them. To promote consistency within the County, ESA, and particularly its Human Resources Department, are improving written guidance regarding when and how panel interviews should be used in the hiring process; how panel members should be selected in order to promote equity; and what documentation those panels should generate.

ESA, in consultation with County Counsel, is currently updating its written guidance to Department Heads and hiring managers regarding the utilization of panel interviews in the hiring process, with a target completion date of the second quarter of 2018. Such written guidance would supplement direct consultation with the Department Head/hiring authority, including provision of feedback on the composition of the interview panels to ensure equity and diversity among interview panel members.

10. Mentorship Program for Current Employees

Based on research into best practices of other counties, as well as experience that other entities have had with mentoring programs, the Administration recommends that mentoring components be incorporated into the following current County programs, and include some targeted outreach regarding mentoring opportunities:

- Intersperse specific mentoring segments into the current Unit Based Team programming.
- Promote incorporation of case-studies into management meetings, which allows managers the chance to practice their situational awareness in a safe environment where they can learn from both peers and executive management.
- Raise awareness of existing short videos and books on mentoring which are included in the current sccLearn catalogs and utilize those in routine management meetings.

- Experiment with mentoring as part of a leadership development program for managers, as other jurisdictions have done, aiming to test ideas in spring 2018. If resources allow, a formal program could possibly begin in FY 2019.

11. Updated Board Policy 5.5.5.4 to Allow the County to Disqualify Potential Contractors Based on Pay Equity Violations and to Take Action Against Contractors that Violate Pay Equity Laws

On September 15, 2017, updates to Board Policy 5.5.5.4 went into effect. The Procurement Department has since updated its services agreement template with language approved by County Counsel to implement the pay equity provisions in Board Policy 5.5.5.4. The Office of Countywide Contracting Management has also disseminated guidance for County departments regarding implementation of Board Policy 5.5.5.4.

12. Use of the County’s Regulatory Authority to Ensure Compliance with County’s Business Standards

Administration provided reports to the Finance and Government Operations Committee (“FGOC”) on May 11, 2017, the Children, Seniors, and Families Committee on September 13, 2017, and FGOC on September 14, 2017, relating to a general business license program and how such a program can be designed to include compliance with the County’s business standards. On November 7, 2017, the Board directed Administration to develop a Business License Program for businesses in unincorporated Santa Clara County, to continue working with stakeholders on the development of the program, and to provide outreach to businesses in unincorporated Santa Clara County regarding access to the Affordable Care Act and opportunities to bid on County contracts. The workplan and timeline for development of the Business License Program were addressed in that legislative file. In addition to the Business License Program, the Board has directed Administration to develop a pilot program to enforce wage theft violations through Food Facility Permits, and to explore whether the program can be expanded to address sexual harassment.

13. Report and Proposed Regulations to Make Baby Changing Stations Equally Accessible to Men and Women in Public Buildings in the Unincorporated County

The Planning Department and County Executive’s Office have worked with the County Counsel’s Office to develop a draft ordinance making baby changing stations equally accessible to all members of the public. The draft ordinance also requires baby changing stations to be installed in all new buildings with restroom facilities that are in “public use areas” as defined by the County Building Code or are intended to be accessible for use by the public. It also requires that baby changing stations be provided in any new or altered restroom facilities in existing buildings that are in “public use areas” or intended to be accessible for use by the public. The draft ordinance contains exemptions for new or altered

public-use restrooms in existing buildings where there is inadequate space due to structural or accessibility issues and in buildings where persons under the age of 21 are prohibited.

The Planning Department, together with the Office of Women's Policy, will be conducting outreach and obtaining public comment on the draft ordinance prior to bringing the draft ordinance to the Board for consideration. A public outreach meeting was scheduled on March 8, 2018 at the County Government Center. For those unable to attend the meeting, public comment will be accepted through March 31, 2018.

14. Implicit Bias Training for Hiring Managers

In 2017, EOD led the development of a four-hour implicit bias training, which centered around an hour-long video that presented scientific data on implicit bias. EOD rolled out the training to all Department of Child Support Services employees (approximately 250 employees) in the summer of 2017. However, the video that forms the basis of the training is now no longer being made available by the company that produced it. EOD is working on developing a substitute for this section of the training so that it can offer the training to more employees. Additionally, to roll out this training to all County employees or, at a minimum, all supervisors, EOD will need additional staff to provide the training. EOD will return to the Board to request this additional staffing later this year.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

CONSEQUENCES OF NEGATIVE ACTION

The Board would not receive the report.