

# PAY EQUITY BEST PRACTICES GUIDELINES

A REPORT FOR THE WOMEN'S FOUNDATION

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## Research Note

In 1963, both the federal Equal Pay Law and Missouri's Equal Pay Act were written to ensure equal pay for women in certain types of jobs who perform exactly the same work as men. Over five decades of research shows that current laws have been unsuccessful at closing the gender pay gap because "equal work" is difficult to measure for many jobs, especially professional and managerial positions. Instead, employers should seek ways to achieve gender "pay equity," with pay rates that reflect the internal and external value each position and worker brings to an organization. Making the distinction between "equal pay" and "pay equity" is an important step in closing the gender pay gap, so the best practices included here will focus on pay equity, rather than equal pay.

## Executive Summary

In 2015, the Women's Foundation contracted with the University of Missouri's Institute of Public Policy to conduct research on best practices for reaching gender pay equity in Missouri. This information was used to develop a preliminary report of three best practices for employers in the public and private sector in Missouri, which became part of Missouri Executive Order No. 15-09. The order directed employers to: determine whether gender wage gaps exist in their organizations; re-evaluate their current compensation system for pay equity; and ensure transparency concerning organizational compensation policies.<sup>1</sup> This report provides a more comprehensive study of these best practices, fulfilling the directive of the executive order. The findings of this report are summarized below.

### **Employers should determine whether gender-based wage disparities exist in their organizations.**

- Employers should conduct self-audits to evaluate whether their compensation practices promote gender pay equity.
- Quantitative self-audits include analyses of pay by job title, pay band, or department to identify gender-based pay disparities.
- Qualitative self-audits guide employers through open-ended questions to determine if their compensation practices promote pay equity.
- Employers should be accountable for completing self-audits and working toward remediating any gender pay disparities identified during this process.

### **Employers should evaluate whether their current compensation system is equitable.**

- Compensation systems should be evaluated from a gender equity perspective which goes beyond the concept of "equal pay for equal work." Instead, the goal should be to understand what constitutes fair pay for all workers.
- Employers should use a standardized methodology to assess the internal and external value of each position in their organization. Pay rates should reflect the value of every position regardless of the type of work or job title.
- Employers should consider non-wage compensation, such as opportunities available to part-time workers, and flexible scheduling, in an evaluation of equal pay practices.

### **Employers should ensure transparency concerning organizational compensation policies.**

- Salary ranges for all job titles should be made public and available to all job applicants.
- Employers should develop and implement policies which prohibit pay secrecy and eliminate penalties for discussing pay.
- Employers should consider joint evaluation processes when making pay raise and promotion decisions, and ensure that these decisions are justifiable and well documented.

For each best practice, this report includes: a summary discussion of the practice and how it can help close the gender pay gap in either the public or private sector; examples of how other states have followed the best practice; how the best practice can be applied to state of Missouri employees; state policy considerations; and possible indicators for measuring whether the best practice is shrinking the gender pay gap.

## Introduction

In 2015, the Women's Foundation contracted with the University of Missouri's Institute of Public Policy to conduct research on best practices for reaching gender pay equity in Missouri. The Institute conducted an extensive literature review of research related to gender pay equity, and evaluated the programs of other states and municipalities which have recently enacted gender pay laws. This information was used to develop preliminary guidelines of best practices for employers in the public and private sector in Missouri.

These preliminary guidelines became part of Governor Jay Nixon's Executive Order No. 15-09, which directed Executive Branch agencies, and encouraged private sector employers, to review and determine how these practices can be used to identify and address any gender-based wage disparities. This executive order also included a directive for the Institute of Public Policy to develop a more comprehensive report of Pay Equity Best Practices Guidelines to be completed by Equal Pay Day in April, 2016. This report fulfills that directive.

## Pay Gap Facts

By now the statistics are well known. Regardless of occupation, women working in America earn less money than men. This income disparity crosses all racial and ethnic groups, educational levels, and most occupations. The wage gap is quantified by using an income ratio, which measures the gap in earnings between the sexes. In the United States in 2013, the median income of male wage and salary workers who worked full-time and year-round was \$50,033, compared to \$39,157 for women.<sup>2</sup> This equals an income ratio of 0.78. In simple terms, this means that full-time, year-round female workers earned 78 percent of what men earned, creating a "wage gap" between the incomes of men and women. The ideal ratio is 1.0, or 100 percent, which signals income parity between men and women.

In Missouri in 2013, women who worked full-time and year-round earned only 77 percent as much as men. All female workers, including both part-time and full-time, earned only 65 percent of their male counterparts. This disparity in wages negatively impacts short-term earnings, long-term savings, retirement benefits, and wealth accumulation.

Research shows that many complex factors have created this disparity. For example, because two-thirds of minimum-wage workers are women, annual wage income for all women is lower than for all men. Also, female dominated professions, such as care-giving and hospitality, are often associated with lower wages than male dominated professions, such as engineering and computer science. Even becoming a mother has been shown to have a detrimental effect on women's wages, due in part to the number of women who leave the workforce or reduce their work hours to meet their care-giving responsibilities. Studies have found that employers are less likely to hire women with children, and to pay lower salaries to those mothers who are hired, while men who become parents do not experience a similar pay penalty.<sup>3</sup>

While educational attainment, career fields, and personal choices can contribute to differences in income, studies which control for divergent life paths have found that, all things being equal, women still are paid less than men for the same work. A significant disparity exists between

the wages of men and women regardless of age, race or ethnicity, educational level, and profession, which suggests that a gender bias exists. For example, women 35 years and older experience larger pay gaps than do women in their twenties and early thirties, which could be due to women leaving full-time, paid work during their childrearing years. This does not, however, explain the gap between the wages of men and women at the start of their careers, which is currently 10 percent.<sup>4</sup>

## Equal Pay Laws

The effort to use legislative tools to ensure equal pay for women has been ongoing for more than 100 years, starting when women began entering industrial jobs in the late 19<sup>th</sup> century. In 1898, the federally appointed Industrial Commission started advocating for equal pay for women working the same factory jobs as men. During World War I, when women's labor was vital to the war effort, the National War Labor Board (NWLB) mandated that, if women must undertake work normally done by men, they should earn equal pay for that work. Similarly, during World War II, the War, Navy and Labor Departments required that wage rates for women and men be the same, and in 1945, the NWLB issued an "equal pay order," which allowed companies to raise women's wages to equal those of men without having to obtain approval from the NWLB.

The right of women to be paid the same wage as men for equal work became federal law in 1963 with the passage of the Equal Pay Act, which amended the Fair Labor Standards Act (FLSA) of 1938. Due to resistance in Congress, the Equal Pay Act passed only after several important standards had been removed. One of the most significant was changing the original fairness standard from "work of comparable character" to "equal" work, which was narrowly defined. The Equal Pay Act was subject to all FLSA exemptions, which meant that women employed in professional, executive and administrative positions were exempt from the act, as were women working in certain industries, including hotels and restaurants. Also, class action lawsuits were prohibited, placing the burden of proof on each individual woman claiming wage discrimination.<sup>5</sup>

Several federal laws and executive orders have been passed since the Equal Pay Act of 1963 to help address gender based wage discrimination in the work place:

- **Title VII, Civil Rights Act (1964)** – Prohibits pay discrimination based on worker's race, religion, sex or national origin
- **Title IX of the Education Amendments Act (1972)** – Prohibits pay discrimination based on sex at educational institutions which receive federal funding; removed "white collar" exemption from Equal Pay Act (did not modify "equal work" standard)
- **Pregnancy Discrimination Act (1978)** – Amended Title VII to prohibit employment discrimination, including compensation, based on pregnancy

- **Civil Rights Act (1991)** – Amended Title VII to allow plaintiffs who sue for pay discrimination to receive compensatory and punitive damages
- **Lilly Ledbetter Fair Pay Act (2009)** – Amended Title VII to codify the concept that each paycheck containing discriminatory compensation is a separate violation
- **Fair Pay and Safe Workplaces Executive Order (2014)** – Requires that federal contractors publish wage data by sex and race to ensure compliance with equal pay laws

## Equal Pay in Missouri

The Missouri Equal Pay Act was passed in 1963. This statute reflects the language of the federal Equal Pay Act, requiring that equal pay be based on “the same quantity and quality of the same classification of work.”<sup>6</sup> This act gives employees the right to file a complaint with the Labor and Industrial Relations Commission of Missouri if she has been paid lower wages due to her sex, and to file a civil action to receive compensation for unequal pay. As with the federal Equal Pay Act, the woman bringing the claim must prove that the pay discrimination was based on sex and not on any other differences. Missouri also passed the Missouri Human Rights Act in 1986, which prohibits employers from compensation discrimination based on race, color, religion, national origin, sex, ancestry, age, or disability.<sup>7</sup>

The majority of Missouri state employee pay categories are created and regulated by guidelines established in Chapter 36.031 of the Missouri Revised Statutes and Division 20 (1-6) of the Missouri Code of State Regulations (CSR).<sup>8</sup> State pay and classification categories generally operate under the direction of the Office of Administration, the Director of Personnel, and the Personnel Advisory Board. Workers employed by Missouri state government fall into one of three classification and pay systems: Uniform Classification Pay (UCP) system merit; Uniform Classification Pay (UCP) system non-merit; and non-UCP, non-merit.<sup>9</sup> As of December, 2015 approximately 66 percent of state of Missouri employees worked in the UCP pay system (either merit or non-merit). The remaining 33 percent worked outside of that system in non-UCP, non-merit job titles.

- **Merit Uniform Classification Pay (UCP) System Agencies** –These agencies must follow all policies set by the Office of Administration Division of Personnel for job classifications; salary ranges; and hiring, promotion, and separation practices. Merit job classifications and pay bands are developed by the Division of Personnel and approved by the Personnel Advisory Board.

Employees must apply for UCP positions through the State of Missouri Merit Electronic Application System (EASe). The EASe system is essentially a database of all applicants who have expressed an interest in one of the job titles within the state merit system. For example, a prospective employee interested in being hired as an Accounting Clerk completes an online application for that job title (as opposed to a current job opening at

a specific agency). Based on the work experience and education of the applicant, the EASe system assigns her or him a score, and that applicant is placed on a register of all applicants for the Accounting Clerk job title.

When a merit agency has an opening for an Accounting Clerk, the hiring department requests a “certificate” from the Division of Personnel, which is generated from the Accounting Clerk register, and is a list of all of the applicants for that job title who have scored well enough to be considered for hire. The hiring department then “works the certificate,” by sending out letters to applicants to determine interest for the open position in the hiring department. Once the hiring department has narrowed the applicant pool on the certificate, it returns the certificate to the Division of Personnel, where the list is culled further to select candidates to interview. The hiring department then conducts the interviews and makes the hiring decision.

- **Non-Merit Uniform Classification Pay (UCP) System Agencies** – State agencies, departments and positions in the non-merit UCP system are required to follow the merit system’s classification and pay ranges, but do not have to follow its hiring, promotion, and separation practices. These agencies do not post position openings through the EASe system, and applicants do not have to apply through that system. Prospective employees can submit their applications directly to these agencies, which are free to follow their own hiring process. Non-merit UCP agencies do, however, have to follow the same job classification system and pay bands as the UCP merit system. If a non-merit UCP agency is unable to find a candidate on its own, it can access the applicant pool from the EASe system by requesting a position certificate from the Division of Personnel’s register for that position, but they can conduct the rest of the hiring process independent of the Division of Personnel.
- **Non-Merit & Non-UCP agencies** –These agencies are not required to follow any UCP system guidelines for hiring, promotions, separations, or position classifications, and are not required to follow Division of Personnel merit system pay ranges. Non-merit and non-UCP agencies do not pull their candidates from the applicant pool in the EASe system but instead advertise for, select, and hire employees on their own. Pay bands are not required to be uniform or publicly available, nor are these agencies required to publish salary ranges with job announcements.

Per the Missouri Equal Pay Act, it is illegal for an employer to pay a female worker less than a male worker “for the same quantity and quality of the same classification of work.”<sup>10</sup> While this law was passed to ensure that women receive equal pay for equal work, determining what constitutes equal work is complicated. Also, if a woman learns she is being paid less than a male peer, she must be able to prove that she has been paid lower wages are due to her sex, and not any other reason, such as a “difference in seniority, length of service, ability, skill, [or] difference in duties or services performed.”<sup>11</sup>

This standard of proof is often impossible to meet. By placing the burden of proof on the employee, current equal pay laws provide little incentive for employers to ensure that men and women are paid equally. However, there are many reasons that employers should institute a gender-neutral compensation system:

- Ensuring that men and women are paid according to the skills, experience and responsibility required by their position allows employers to protect themselves from litigation that could stem from violating current equal pay laws.
- Paying men and women equally engenders trust between management and workers, creating a positive work environment which contributes to a highly motivated workforce.
- Eliminating wage discrimination is an important way for employers to attract and retain the best workers regardless of their gender, and to remain competitive in the 21<sup>st</sup> century economy.

There are several best practices which can be implemented by public and private sector employers in Missouri to help move the state toward pay equity for all workers.

## Equal Pay Best Practices

The Equal Employment Opportunity Commission defines a best practice for the workplace as one that allows employers to comply with the law; promotes equal employment opportunity and fairness to all employees; addresses any barriers to equal employment opportunity; addresses management accountability for equal employment opportunity; and is implemented conscientiously and produces noteworthy results.<sup>12</sup> Once implemented, a best practice should also achieve results that are measurable and can be achieved with a reasonable amount of resources and time.<sup>13</sup>

The following best practices for achieving gender pay equity meet these standards.<sup>14</sup> All use data that is readily accessible within the state of Missouri's classification and pay systems, or within individual Executive Branch agencies, and should not create undue administrative burdens. The long-term indicator for each of these best practices is that the state of Missouri shrinks the gender pay gap.

### Best Practice: Employers Should Determine if Gender-Based Pay Disparities Exist

In order to determine whether an organization's compensation policies are equitable for men and women, management must determine if there is a difference in what they pay male and female employees. While the gender pay gap is often represented as a simple comparison between what women and men earn, measuring whether an individual organization pays men and women equally is a more complex process which can yield valuable management information. Such an assessment can shed light on many indicators of pay equity, including

whether the current workforce composition reflects the available candidate pool; whether management includes a proportional balance of men and women; and whether men and women are paid equally for performing the same work. This information empowers management to begin to redress any inequities found.

An important step to identifying gender-based pay disparities is for management to conduct pay equity “self-audits” on a regular basis to ensure that women, as a group, are not paid less or more than men. These audits should be designed to capture aggregate data rather than to identify pay disparities between individual workers. A pay equity self-audit must take into account a number of variables, including the size of the group being analyzed, turnover, and years of service and experience of employees.

Management can conduct broad, organization-wide pay equity audits, or more focused audits, such as by department, position title, or pay grade. Such audits can be conducted through an informal process for internal use by management. Alternatively, self-audits can follow a more formal, structured process that includes a reporting component and designated oversight body, which can promote accountability and consistency across departments. Both encourage management to take responsibility for pursuing equitable compensation practices.

There are several approaches that management can take to identify gender-based pay disparities. Managers can conduct a broad analysis by pay band or job title across an organization; conduct similar analyses more narrowly at the individual department or division level; or individual managers can evaluate their own approach to establishing compensation practices and policies.<sup>15</sup>

- **Determine if jobs are segregated by gender.** Job segregation refers to any situation where a job title is completely held by either men or women. Similarly, a gender-dominated position is one in which a significant majority of workers are either male or female. Having positions that are either gender-segregated or gender-dominated can play a large part in creating a gender-based pay disparity if lower paying positions are dominated by one gender while higher paying positions are dominated by the other. For example, if office support staff positions in an organization are largely or entirely held by women while management positions are largely held by men, that organization will likely have a gender-based pay disparity.

Analyzing the job titles in an organization to determine the gender composition of each can provide management with a quick assessment of where and why pay disparities might exist. However, the value of such an analysis is dependent on the number of people who hold the job title. For example, if 100 people work in a given position and 75 of them are women, that position should be considered gender dominated. If four people work in a given position, and three of them are women, this is not a meaningful indication of gender segregation. Therefore, assessing whether any positions are segregated by gender can yield important information about pay differences between men and women, but should be seen as a first step to a more in-depth self-audit. This

type of assessment can be done broadly across an organization, or more narrowly by department or division.

- **Conduct a pay equity analysis by job title.** Management can also analyze whether a gender pay disparity exists within individual job titles. When workers are grouped by title but divided by gender, management can quickly evaluate whether there is a significant difference in pay between women and men working in the same position. This approach can also help control for variables such as education or experience requirements, as everyone hired into a given position presumably comes with similar qualifications.

As with measuring gender-based job segregation, however, analyzing for gender pay disparities by job title has some limitations. For example, if an organization does have widespread gender segregation, an analysis by job title cannot produce meaningful information because pay rates for individual positions cannot be evaluated by gender. Also, any given position must be held by enough employees to yield a representative comparison. Finally, within any given job title there may be variation between the tenure of individual workers, which can have a significant impact on pay rates. Despite these caveats, analyzing men's and women's pay by job title is a broad method which management can use to identify, and begin to remediate, gender-based pay disparities either across an organization, or within individual divisions or departments.

- **Conduct a pay equity analysis by pay band.** A more robust approach to determining whether an organization has gender-based pay disparities is to evaluate men's and women's salaries within an individual pay band. Common among public sector employers, pay bands are used to guide managers' compensation decisions by grouping positions requiring similar skills, education, and responsibilities into a salary range. Pay bands are comprised of positions requiring similar skill levels, but are not necessarily all similar positions. Because positions within a pay band share similar skill-level requirements, men's and women's pay should be equitable within any given pay band. Conducting an analysis by pay band can indicate a true wage disparity at any given level in the compensation system.

An analysis by pay band can be used in conjunction with a job segregation analysis to reveal possible gender-based pay disparities. Dividing pay bands by the number of men and women who work in those bands can quickly show whether an organization has a significant number of gender-segregated or gender-dominated pay bands. This information can also help management determine whether a ceiling exists in the organization where one gender becomes significantly underrepresented as the pay bands increase.

As with pay analyses by gender segregation and job title, this approach can be used broadly across an organization or more narrowly within individual departments or

divisions. However, such an analysis might yield more useful information at the department or division level, where more detailed data, such as years of service of each employee, can be considered to rule out discrepancies which are not gender-based. Armed with this information, managers can investigate pay bands or job titles with pay disparities to determine whether those disparities are due to gender, or can be explained by other factors, and can begin to redress inequities.

In January, 2016, the federal government took executive action to encourage the private sector to gather the data necessary to conduct a pay disparity analysis by pay band. The Equal Employment Opportunity Commission (EEOC), in partnership with the Department of Labor, published a proposal to collect summary pay data by gender, race, and ethnicity each year from businesses with 100 or more employees. Pay would be reported across 10 EEOC job categories and by 12 pay bands. This proposed change would expand the data currently collected by the EEOC through its EEO-1 compliance report, with a goal of improving enforcement of federal pay discrimination laws and supporting voluntary compliance with those laws.<sup>16</sup>

- **Use a self-audit tool to assess all compensation practices.** While the previous self-audit methods focus on assessing differences in pay between male and female workers, another approach to conducting a pay equity self-audit asks employers to assess wage-setting policies to ensure that they are fair and applied consistently for all workers. There are several self-audit tools designed to help employers conduct a guided examination of how hiring, pay and promotion decisions are actually made, and to identify any areas where compensation practices disadvantage women.

One such tool, developed by the Business and Professional Women's Foundation, includes a series of detailed questions related to recruitment; internal equity; industry competitiveness; job evaluation; compensation, raises, commissions and bonuses; training and promotion opportunities; and implementing organizational changes.<sup>17</sup> The state of Maine Department of Labor has also developed an equal pay self-audit tool, which includes questions more broadly focused on pay and hiring practices, and employee rewards. It also includes recommendations for improving any areas of concern, and for complying with state equal pay laws.<sup>18</sup>

Some private-sector organizations have also developed tools for businesses to use when conducting gender pay self-audits. One of the most well-known is the EDGE (Economic Dividends for Gender Equality) assessment methodology. Developed in 2009 as part of The Gender Equality Project (now called EDGE Certified), the EDGE assessment methodology uses a business approach to gender pay self-audits which includes benchmarking, metrics and accountability, and is applied across five different areas: equal pay for equivalent work; recruitment and promotion; leadership development training and mentoring; flexible working; and company culture. The certification process requires companies to complete the EDGE online assessment (including statistical data, a

policies and practices questionnaire, and an employee survey); analyze and report the results; develop an action plan to address any inequities; and apply for certification with a third party auditor (accredited and trained by EDGE) who makes the certification decision.<sup>19</sup>

Another self-audit resource has been developed by the Gender Equality Principles Initiative, a public-private collaborative formed by the San Francisco Department on the Status of Women, Calvert Group Ltd., and Verité, in 2008. The Gender Equality Principles Initiative has created a website with tools to help businesses move toward gender pay equity. These tools include a web-based assessment which helps businesses identify their strength and weaknesses related to gender equality, including whether compensation rates are equitable, and whether women are proportionally represented in management positions.<sup>20</sup>

### Pay Equity Self-Audits in Other States

In 2009, the Governor of New Mexico issued Executive Order #2009-049, which instituted a pay self-audit and reporting requirement for state government divisions, as well as for private sector businesses seeking contract work with the state. State government departments are required to submit pay reports annually, while private businesses with 10 or more employees must submit annual reports while working for the state, and as part of the bidding process in response to requests for proposals (RFP). New Mexico's reporting process includes the following requirements:

- Contractors must submit a report consisting of the number of employees by gender in each EEO-1 job category, and any gender pay gap (as a percent) for each category.
- Reports are produced using spreadsheets developed by state government, which are available for download. These spreadsheets include embedded formulas for computing wage gaps. These results are exported to a final report format, which is submitted to the state. Only the number of male and female employees, and the wage gap percent is reported to the state. Employers do not report the dollar amount of the gap, nor whether the wage gap favors men or women.
- State government departments must submit their pay gap reports to the governor's office each year, while private contractors submit theirs with their RFP bid. Both are public information, and are subject to audit by the Office of the State Auditor.

A study of the implementation of New Mexico's equal pay self-audit process found little resistance from state agencies or private sector contractors because reporting requirements were phased in gradually. The state also used familiar reporting categories and provided extensive technical assistance while focusing on positive incentives to promote compliance.<sup>21</sup>

Minnesota is another state that conducts regular pay equity assessment and reporting. Minnesota statute requires that all state government departments and public jurisdictions, including cities, counties, and school districts, submit pay equity reports every three years to the Equal Pay Office in the Department of Management and Budget.<sup>22</sup> Like New Mexico, this

requirement includes qualitative and quantitative analyses, including a list of all job classes; the number of all employees and female employees in each class; an indication of whether each job class is gender dominated or balanced; the work value of each class; and the minimum and maximum salary for each job class.<sup>23</sup> These reports are completed and submitted using an online template, and are reviewed for compliance.

### Application In Missouri

In order to conduct pay equity self-audits for state employees, the state of Missouri would need to have a mechanism in place for collecting gender pay data, a system for analyzing the data, and a requirement that the data be analyzed on a regular basis. At this time, state statutes and regulations do not require state agencies to collect, analyze or report gender pay data. Also, personnel data collection systems are not designed to capture this data. However, by making some adjustments to how personnel data is collected and reported, managers could begin the process of conducting self-audits to identify gender-based pay disparities.

- **Data collection** - The Division of Personnel collects high-level data, such as number of employees in a job title or in a particular pay grade, and the pay rates of all workers in a given job title. It does not have access to more detailed information, such as work experience or education level. Demographic information, such as gender or race, is an optional part of the merit system EASe application, so complete data about the number of women and men in a job title, and their respective pay rates, is not currently available to the Division of Personnel. Conducting a pay equity self-audit at the state level through the Division of Personnel is impractical with its current data collection processes.

Resumes and personnel files, which include much more complete employee information, are housed at the department and division levels, accessible primarily to department human resources staff. Not all of this information is captured electronically, and accessing some data might entail reviewing individual resumes on paper. However, individual agencies should have access to enough data to identify gender-based pay disparities by conducting pay equity self-audits by job title and pay band.

- **Reporting and oversight** – The state of Missouri does not require state agencies to report gender pay equity information, nor does any agency provide oversight to ensure that pay practices are equitable for men and women. Therefore, a discussion of reporting and oversight for this process is theoretical. However, because the Division of Personnel is responsible for most of the human resources functions for UCP system agencies, it would be reasonable for that department to develop a self-audit tool which could be applied uniformly across state departments. Ideally, this process would include non-UCP agencies as well, even though they conduct their hiring processes outside of the purview of the Division of Personnel.

Oversight for a pay disparity reporting process could come from any of several different state agencies. As the central agency for most state employment functions, the Division of Personnel could provide such oversight. Alternately, the Missouri Commission on Human Rights in the Department of Labor and Industrial Relations, which works to

prevent and eliminate employment discrimination, could also provide oversight. As in New Mexico, such reports could be subject to audit, giving the Missouri State Auditor's office a role in oversight. Finally, the state could create or restructure a current position to provide oversight, such as Illinois' Equal Pay Specialist position within its state Department of Labor.

### Policy Considerations

➤ **Create a Mechanism for Capturing Gender Pay Disparity Data**

Individuals applying for UCP system job titles are not required to indicate their gender on the EASE application. Gender, like race, is part of the application's optional affirmative action section. Consequently, the number of women and men applying for UCP jobs is not captured in any state database, nor is the number of women and men currently working in UCP system positions. Evaluating whether job titles within the UCP system are segregated by gender, or whether any job title or pay bands have a gender-based pay disparity, is not possible with current electronic data collection processes. Hiring departments would be able to compile this information using resumes and other information from agency human resources staff, but this process could be very manual and time-consuming. Creating a mechanism for capturing gender pay data for UCP and non-UCP job titles is an important first step to being able to conduct pay equity self-audits by pay band and job title.

➤ **Establish a Process for Analyzing and Reporting Pay Information by Gender**

Executive Branch agencies are not required to collect, analyze or report gender pay data, so currently there is no process in place for conducting regular pay equity self-audits. To do so would require two important steps: creating a process and schedule for conducting such an evaluation, and assigning a position or division to provide oversight for the auditing and reporting process. Developing a system to analyze and report such data ensures that gender pay equity is a priority, and can encourage managers to consider pay equity when making hiring decisions.

### Short-Term Indicator

The number of Executive Branch agencies which have conducted a pay equity self-audit.

### Intermediate Indicator

The number of gender pay disparities, and the size of the disparities, identified during a gender pay self-audit.

### Long-Term Indicator

The pay gap between men's and women's pay in Missouri decreases.

## Best Practice: Re-Evaluate the Current Pay System from an Equity Perspective

The legal requirement of “equal pay for equal work” established by the federal Equal Pay Act of 1963 is predicated on the simple idea that men and women doing the same job should be paid the same wage. The Equal Pay Act afforded women a legal foundation to fight discriminatory compensation practices. However, its exclusive focus on equal pay for equal work does not account for the many factors other than gender that can create a pay difference, such as years of experience, years of service, or individual performance. This can make gender discrimination difficult to prove. Also, this law has placed the burden of proving discriminatory pay practices on employees rather than employers, which has made enforcing the law difficult.<sup>24</sup> During the 53 years since the federal Equal Pay Law was enacted, the 41-cent pay gap in 1963 has shrunk only to a 21-cent pay gap. At this rate, research indicates that, nationally, women’s pay won’t equal men’s until the year 2059.<sup>25</sup>

One possible explanation for the slow progress in closing the pay gap is that the Equal Pay Act does not address the more systemic issues of gender pay inequity. Re-evaluating pay systems from an equity perspective moves beyond the concept of “equal pay for equal work” by considering how jobs traditionally held by women are often paid less than those traditionally held by men, regardless of the level of skill, experience or expertise required for each. Organizations can move toward pay equity by creating employment structures that promote equal pay for work of comparable value.<sup>26</sup>

While many jobs in the public and private sector are classified and paid according to the type of work done, a more equitable approach considers the value each position adds to the organization. Employers make wage determinations based on the skills, experience, and responsibilities required to do each type of job in their organization, and on the value of each job to the organization (internal equity) and to the marketplace (external equity). Before conducting such an evaluation, managers should receive training to ensure they fully understand the guiding principles of pay equity. Also, employees who are not hiring managers should be a part of the evaluation process to ensure diverse points of view. Because jobs traditionally held by women are often undervalued, ensuring that wage determinations are equitable can help close a gender pay gap.

In addition to evaluating job classification systems to ensure that the internal and external value of each job is fairly compensated, there are other steps that employers can take to re-think compensation practices from a gender equity perspective. For example, management can consider whether part-time positions, which are most often held by women, offer the same opportunities for career development and advancement as do full-time positions. To keep more women in the paid work force, employers can also evaluate whether their scheduling and leave policies can be made more flexible to support all workers’ need to balance their professional and personal responsibilities.

## Pay Equity Re-Evaluations in Other States

- **Redefine “equal pay for equal work”** - Several states have tried to remedy the legal shortcomings of the “equal pay for equal work” approach to establishing fair compensation practices by clarifying their equal pay statutes. Equal work is now defined as: “substantially equal, but not identical, skill, effort and responsibility” (Vermont); “substantially similar work” (California); or as “comparable skill, effort, responsibility, under comparable working conditions” (Massachusetts, Idaho, Kentucky, Maine, North Dakota, Oregon, South Dakota, and Tennessee).
- **Re-evaluate the current pay band system** - Some states have also reassessed their public employee pay band system from a pay equity perspective. Minnesota is the most instructive example of this practice. Minnesota’s Local Government Pay Equity Act (1984) requires that men and women employed by all public jurisdictions be paid equally for jobs of “comparable value.” The Minnesota Management & Budget office provides guidance for determining comparable value by using a point system to determine position classifications and pay rates.

For this process, points are assigned to each job according to the level of knowledge and responsibility needed to do the job, making it much easier to determine what constitutes “equal work.” Once jobs are classified, managers can compare gender composition and pay rates for men and women in each job class. For example, if the job title “delivery van driver” (largely male dominated) and the job title “receptionist” (largely female dominated) are both assigned 117 points based on the skill and experience needed for each, wage rates for each job class can be compared. If one is paid less than the other, this indicates a gender-based wage disparity that can then be corrected.

As part of its study of the gender wage gap, the state of New Mexico found that using the Hay Guide-Chart Profile Method of Job Evaluation system for state agencies helped “to minimize disparities due to factors not directly related to qualifications and performance.”<sup>27</sup> The Hay system requires hiring managers to consider four factors when determining compensation classifications: “Know-How,” which measures the knowledge and skill needed to do a job; “Problem Solving,” which measures the thinking required in each job; “Accountability,” which measures to what extent the job affects the end result of an organization; and “Working Conditions,” which measures the context in which a job is being performed.<sup>28</sup> While any job classification system requires some subjective assessment, using an established method to determine the value of a position to an organization allows each position to be scored and compensation rates set in a more objective and equitable manner.

## Application In Missouri

Like many public sector organizations, positions in the state of Missouri’s UCP system are organized in a pay band structure. The Employee Services Section of the Division of Personnel is responsible for developing and maintaining the UCP pay band system, including repositioning job

titles into a different pay band when necessary. To create new or change existing job classifications, Employee Services Section makes recommendations to the Personnel Advisory Board, a seven-member board which issues all regulations governing the merit system and the UPC system. Members of the Personnel Advisory Board are appointed by the governor and confirmed by the Senate.

Currently there are no written guidelines for determining which job titles are assigned to which pay bands. Employee Services structures pay bands by researching how other states and the private sector classify and compensate similar positions, with consideration given to other positions in the state. The goal of this process is to assure pay equity across positions and bands when considering the duties and responsibilities of a given job title. Currently, Employee Services does not conduct an analysis to determine whether pay bands are gender segregated or gender dominated, nor whether the pay band system promotes gender pay equity.

Although the Personnel Division does not conduct a regular evaluation of the UCP pay band structure, they do periodically review individual position classifications, including considering the equity of pay rates. If a state agency finds that the actual responsibilities and duties of a position do not match its pay band position, the agency can submit a request to reposition that job title in a different pay band. When a repositioning request is made, Employee Services will begin an evaluation, including looking at similar jobs in other states and the private sector (when applicable) to determine whether repositioning that job to a different pay grade is warranted.

Such a request also has to be balanced against the issue of internal equity across agencies and pay bands. Employee Services, in conjunction with the Personnel Advisory Board, must ensure that no job title is in a higher pay band than other job titles which are doing comparable work. Also, Missouri state employees are the lowest paid in the United States, making comparisons across states difficult, and agency funding a crucial consideration in any repositioning request.<sup>29</sup> Because Employee Services and the Personnel Advisory Board must take into account pay equity across pay bands and agencies when considering repositioning a job title, a gender pay equity analysis could become part of that process. Alternately, the Employee Services section, in consultation with the Personnel Advisory Board, could select a pay band assessment tool, such as the Hay system, to conduct periodic evaluations of the pay band system to ensure that it is equitable.

In Missouri, the current UCP pay band system has some anomalies which can complicate an analysis of gender pay discrepancies. When the UCP pay grid was developed, an annual step increase was supposed to result in a two percent pay increase across each step in the pay band system. However, state employees have not had an across-the-board step increase since 2000. The legislature has, at times, given pay increases to certain salary ranges, such as those earning less than \$40,000 per year. To accommodate these changes within the UCP pay band system, the Division of Personnel had to create new salary ranges for those job classes which did receive step increases. Over the course of 15 years, this has resulted in a very compressed pay band

system, with some employees in lower pay bands being paid more than others in higher pay bands.

An evaluation of the Missouri UCP pay band system would have to take this compression into account when conducting a gender pay equity analysis. For example, if a job title was held predominantly by men in the 1990s, when annual step increases were the norm, and women hired in that job title since 2000 have received no step increases, the compressed pay band system would create disproportionate pay discrepancies between longer-term employees and newer hires. Although most likely due to the lack of pay increases, in this example such a discrepancy could appear to be gender based. Controlling for these factors would have to be an important part of an evaluation process in Missouri.

Currently the state does not assess whether non-UCP system positions are being paid in an equitable manner, and has no means to do so. Therefore the sizable percentage of state positions which are not part of the UCP system would not be included in such an evaluation. However, each non-UCP agency could apply the same standardized methodology chosen by Personnel Division to determine whether appropriate compensation rates are being set for each job title, and are being applied consistently across non-UCP state agencies and departments.

## Policy Considerations

### ➤ **Conduct an Analysis of the UCP Pay Band System**

The Employee Services section of the Division of Personnel is not required to analyze its UCP pay band system for pay equity, nor is the Personnel Advisory Board. Conducting a regular analysis to ensure that each job title is assigned a pay grade which reflects the internal and external value of that job would ensure that the state UCP system is taking an intentional approach to supporting pay equity for women and men who work in this system. To conduct such an analysis, the Personnel Advisory Board could develop a scoring system similar to the state's EASe system, designed to assign a largely objective score to job titles based on each job's duties and the skill level and experience required for each.

### ➤ **Develop a Process for Conducting a Pay Equity Analysis for Non-UCP Agencies**

Because one third of state employees are hired and work outside of the UCP system, there is no assurance that those positions are paid equitably. There is currently no standard "pay system" for these positions, and no way to evaluate whether women and men hired into these positions are being paid equitably. Non-UCP agencies could use the evaluation methodology developed for UCP system positions and apply it to their job titles to determine whether they are following fair and equitable compensation practices which consider the internal and external value of each job title. Although these departments and positions do not fall under the purview of the Division of Personnel, designating an oversight entity and establishing a reporting requirement for such an evaluation would promote gender pay equity in all Executive Branch agencies.

### Short-term Indicator

Identify the number of job titles or pay bands where pay for men and women is not equal.

### Intermediate Indicator

Refine the current pay band system, including job titles and pay grades, to ensure each affords equitable pay for all state employees.

### Long-Term Indicator

The pay gap between men's and women's pay in Missouri decreases.

## Best Practice: Promote and Ensure Pay Transparency

Compensation policies and guidelines, including each job title's starting salaries and pay rates, should be public and transparent, and employees should be free to discuss compensation rates without fear of employer retaliation. When compensation rates are transparent, employees know what pay levels are for a position, and what is required to move up to higher pay levels through raises and promotions. Allowing all workers access to the same information about compensation practices creates an even playing field for salary negotiations, performance evaluations, and opportunities for promotion, all of which can narrow the gender pay gap.

- **Wage Transparency** - Access to wage information allows employees to identify, assess and seek to correct any wage discrimination. To ensure that employees have this information, employers should not have policies which require pay secrecy; ask an employee to waive her or his right to disclose pay information; or retaliate against an employee for disclosing pay information. Ensuring this transparency provides women and men the information they need to negotiate an appropriate and fair starting salary, which lays the foundation for future earnings. Consequently, pay transparency significantly reduces the likelihood of discriminatory pay practices within an organization.
- **Evaluation and Promotion Transparency** – Although women make up almost half of the paid workforce, they are significantly underrepresented in leadership, managerial, and high-earning positions. One recent study found that, among Fortune 500 companies, women:
  - Sit in only 17 percent of company board seats;
  - Comprise only 15 percent of Executive Officer positions;
  - Hold only four percent of Chief Executive Officer positions.<sup>30</sup>

The disproportionately small percentage of women in the highest earning positions is a significant reason for the gender pay gap, and can best be addressed by increasing women's opportunities for promotion. One important way to do this is by conducting promotions through a "joint evaluation." Much like the hiring process, a joint evaluation

requires employers to compare the work and achievements of all employees in a given job title to determine whose performance merits a raise or promotion, and to ensure that those decisions are consistent, justifiable, and documented.

Research has found that employers who base promotion decisions on a joint evaluation are more likely to base their decisions on performance and less on gender or ethnic stereotypes.<sup>31</sup> In this case, transparency does not mean that individual performance evaluations are made public, but rather that evaluation and promotion processes are clearly defined by management and communicated to employees. This approach, like wage transparency, can foster more equitable compensation practices.

The issue of pay transparency was a key component of the Lilly Ledbetter Fair Pay Act which was passed by Congress and was signed into federal law in 2009. This act extends the amount of time that an employee can file a discrimination charge after she or he receives a discriminatory paycheck or raise (e.g. one that is demonstrably lower than others doing the same job duties in the same position). If compensation practices are transparent, both employers and employees have a clear understanding of how much and why workers are compensated as they are, decreasing the likelihood of discrimination against the employee, and of litigation against the employer.

### Pay Transparency in Other States

Several states have passed laws to promote pay transparency and prevent retaliation.<sup>32</sup> For example, the state of Illinois prohibited employer retaliation for discussing wages as part of the state's Equal Pay Act of 2003. Similarly, in 2005, Vermont enacted its Wage Disclosure Law, which empowers employees to disclose and discuss their wages without "fear of discipline, discharge or retaliation." California's Fair Pay Act of 2015 promotes pay transparency by making illegal any efforts by employers to prohibit employees discussing wages.

### Application In Missouri

- **Wage Transparency** - Generally speaking, wages and salaries for jobs in the public sector are more transparent than those in the private sector, and public sector employees are much less likely to experience prohibitions on discussing their pay than are private sector employees.<sup>33</sup> The State of Missouri Division of Personnel provides some pay transparency by making public the salary ranges for all job titles in the UCP system, both merit and non-merit agencies, through its website.<sup>34</sup> Information about each job title's pay range, pay grade, job duties, required qualifications, and benefits are included on the website, which is searchable by job title. This information provides a much more even playing field for prospective and current employees when negotiating salaries and pay raises.

In addition to making pay band information public, all state employees' salaries, including those working in non-merit and non-UCP agencies, are made available to the public through the Missouri Accountability Portal (MAP). The MAP website allows people to view information about state agency expenditures, including personnel expenditures.<sup>35</sup> Here individual state employee's pay rates can be searched by agency, by employee

name, or by position title. However, this site does not provide pay range information for specific job titles, nor does it include other information that determines pay rates, such as length of service, step increases, or merit raises. Consequently, the MAP site is not an effective tool for determining, for example, what a fair starting salary would be for any individual position, nor for comparing men's and women's pay rates within a department or within a job title.

Pay information is much less transparent for the nearly one third of state employees who are in non-UCP agencies and positions. The state does not require that pay ranges for non-merit, non-UCP agencies and job titles be made public. Hiring and compensation practices for these positions are largely out of the purview and oversight of the Division of Personnel. For job titles in this classification, pay rates are set at the discretion of the hiring department. Although salary information for non-UCP employees is made public through the MAP site, it does not provide information about pay ranges per position title, nor offer more nuanced data, such as length of service or number of step increases an employee may have received.

- **Evaluation and Promotion Transparency** - Agency directors in the UCP system are required under 1 CSR 20-3 to establish a system of service reports (evaluations) to be made in writing, and to consider these reports when assigning raises and promotions. Supervisors of UCP positions conduct performance appraisals using the state's online PERforM system, which is a tool to help supervisors "plan specific, measurable work objectives, and the observation, evaluation and development of each employee's performance."<sup>36</sup> Currently, there are no statutes or personnel rules requiring that state agencies document or justify promotion and pay raise decisions.

Non-UCP agencies have no statutory guidance for documenting evaluations or pay and promotion decisions, and are not required to use the PERforM system to conduct employee evaluations. If a supervisor has the authority to make such decisions, the onus falls on him or her to determine how much documentation is needed to justify merit pay increases or promotions. Consequently, non-UCP employees are not assured that performance evaluations, pay raises, and promotions are being applied consistently and fairly.

An example of this lack of clear and transparent guidelines for employee evaluation and promotions is detailed by the Missouri State Auditor in a January, 2016 report. Auditors found that an executive branch agency did not maintain enough documentation to support the salary increases given to many of its employees.<sup>37</sup> Currently, there are no requirements for how to document these personnel decisions, so the agency did not violate any statutes or personnel rules. However, this audit finding indicates that clear requirements for justifying raise and promotion decisions should be applied consistently so that state employers and employees have a clear understanding of why workers are

compensated and promoted. This decreases the likelihood of discrimination against the employee, and of litigation against the employer.

### Policy Considerations

➤ **Develop Clear, Consistent, and Widely Available Compensation Guidelines**

While Missouri's Uniform Classification and Pay system meets the standard of transparent pay policies, approximately one third of state employees are excluded from the UCP pay system. For these job titles, there is no statutory requirement that compensation policies and guidelines, including each job classification's starting salaries and pay rates, be public and widely available. Developing clear compensation guidelines which are applied consistently to all state job titles would significantly improve pay transparency.

➤ **Develop Clear, Consistent, and Widely Available Guidelines for Conducting Personnel Evaluations and Making Promotion Decisions**

The state of Missouri currently does not have statute or regulations directing state agencies to justify or document their promotion and pay raise decisions. The recent findings of the Missouri State Auditor's office suggest that that state employees do not have clear and consistent guidelines to follow when determining whether raise and promotion decisions are fair. This might leave management vulnerable to litigation for unfair compensation practices. Developing clear guidelines for justifying and documenting these personnel decisions, and requiring that they be applied across all state agencies, would improve pay transparency.

### Short-term Indicator

Identify the percentage of employees who work under a transparent pay system.

### Intermediate Indicator

Measure whether the percentage of employees who work under a transparent pay system changes over time.

### Long-Term Indicator

The pay gap between men's and women's pay in Missouri decreases.

### Conclusion

These comprehensive pay equity best practices guidelines were developed to fulfill the directive of Missouri Executive Order No. 15-09. The best practices included in this report reflect the wide range of options available to employers in the public and private sector for narrowing the statewide gender pay gap. While some focus on comparisons of women's and men's pay to identify pay disparities, others push employers to consider how compensation policies are developed, and whether those policies contribute to the gender-based pay disparities. All are designed to increase equity and promote fair compensation for all Missouri workers.

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- <sup>1</sup> Executive Order 15-09 can be found in Appendix A.
- <sup>2</sup> U.S. Bureau of Labor Statistics. (2014). Highlights of Women's Earnings in 2013. Retrieved from <http://www.bls.gov/opub/reports/cps/highlights-of-womens-earnings-in-2013.pdf>
- <sup>3</sup> Correll, Shelley J., and Stephen Benard. (2007). Getting a job: Is there a motherhood penalty? *American Journal of Sociology* 112 (5): 1297-1338.
- <sup>4</sup> U.S. Department of Labor, U.S. Bureau of Labor Statistics. Highlights of Women's Earnings. (2009, 2011, 2013). Retrieved from <http://www.bls.gov/cps/earnings.htm>
- <sup>5</sup> Eisenberg, Deborah Thompson. (2010). Shattering the Equal Pay Act's Glass Ceiling. *Southern Methodist University Law Review* 63, 28-29.
- <sup>6</sup> Missouri Revised Statutes § 290.400 – 290.460
- <sup>7</sup> Ibid. § 213.055
- <sup>8</sup> These guidelines apply only to positions which fall under the Uniform Classification Pay system.
- <sup>9</sup> A summary of the state's classification and pay systems can be found in Appendix B.
- <sup>10</sup> Missouri Revised Statutes § 290.410.1
- <sup>11</sup> Ibid.
- <sup>12</sup> Equal Employment Opportunity Commission. (1997). Best EEO Practices Task Force Report. Retrieved from [http://www.eeoc.gov/eeoc/task\\_reports/best\\_practices.cfm](http://www.eeoc.gov/eeoc/task_reports/best_practices.cfm)
- <sup>13</sup> World Health Organization. Guide for Documenting and Sharing "Best Practices" in Health Programmes. (2008). Retrieved from [file:///C:/Users/ericksonso/Downloads/Guide for documenting and Sharing Best Practice - english%20\(1\).pdf](file:///C:/Users/ericksonso/Downloads/Guide%20for%20documenting%20and%20Sharing%20Best%20Practice%20-%20english%20(1).pdf)
- <sup>14</sup> The following studies informed this summary: Burk, M. (2013). The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap, prepared for the U.S. Department of Labor 50<sup>th</sup> Anniversary of the Report of the President's Commission on the Status of Women, Washington, D.C. Retrieved from <https://www.dol.gov/asp/evaluation/reports/WBPaperSeries.pdf>. Oregon Council on Civil Rights. January (2014). Pay Inequality in Oregon Formal Recommendations. Retrieved from <http://www.oregon.gov/boli/docs/Pay%20Inequality%20Oregon%200012314-Final.pdf>. Colorado Pay Equity Commission. March (2008). Fulfilling the Promise: Closing the Pay Gap for Women and Minorities in Colorado. Retrieved from <http://www.coworkforce.com/PayEquityReport.pdf>. American Association of University Women. November (2013). AAUW Pay Equity Resource Kit.
- <sup>15</sup> This discussion of pay gap self-audits draws heavily from Burk, Martha. (2008). Gender Pay Gaps in Six Selected Departments in the New Mexico State Government, pp. 6-8.
- <sup>16</sup> U.S. Equal Employment Opportunity Commission. Questions and Answers: Notice of Proposed Changes to the EEO-1 to Collect Pay Data from Certain Employers. Retrieved from [http://www.eeoc.gov/employers/eo1survey/2016\\_eo-1\\_proposed\\_changes\\_qa.cfm](http://www.eeoc.gov/employers/eo1survey/2016_eo-1_proposed_changes_qa.cfm). The EEO-1 is an annual report required of most federal contractors and other private employers (with at least 100 employees) which includes employee numbers for one pay period by job category, and then by sex, race and ethnicity. The new proposal would refine this reporting structure by detailing the same employee information within 12 specified pay bands.
- <sup>17</sup> Business and Professional Women's Foundation. (2012). Employer Pay Equity Self-Audit 2012. Retrieved from <http://bpwfoundation.org/about/organizational-information/bpw-foundation-materials/grassroots-tool-kits/equal-pay-day/>. A copy of this tool is included in Appendix C.
- <sup>18</sup> Maine Department of Labor, Bureau of Labor Standards, Wage & Hour Division. Equal Pay Self-Audit for Employers. Retrieved from [http://www.maine.gov/labor/labor\\_laws/publications/epaudit.pdf](http://www.maine.gov/labor/labor_laws/publications/epaudit.pdf). A copy of this tool is included in Appendix D. Similar self-audit tools are widely available from a variety of sources, including Equality Human Rights Commission, 2013; National Committee on Pay Equity, 2013; and Thomas, S. (2013). *Compensating Your Employees Fairly: A Guide to Internal Pay Equity*. New York, NY: Apress.
- <sup>19</sup> More information about the EDGE assessment methodology can be found at [www.edge-cert.org](http://www.edge-cert.org).
- <sup>20</sup> This assessment tool can be accessed at <http://www.genderprinciples.org/assessment.php>.
- <sup>21</sup> For a detailed discussion of the development and implementation of pay gap reporting in New Mexico, see Burk, M. (2013). The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap, prepared for the

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U.S. Department of Labor 50<sup>th</sup> Anniversary of the Report of the President's Commission on the Status of Women, Washington, D.C. Retrieved from <https://www.dol.gov/asp/evaluation/reports/WBPaperSeries.pdf>.

<sup>22</sup> Minnesota Statute §§ 181.-.71 Minnesota also has legislation that requires some state contractors to obtain an Equal Pay Certificate from the Minnesota Department of Human Rights prior to executing a contract with the state, but this does not require a self-audit. See Minnesota Statute § 363A.44.

<sup>23</sup> A detailed explanation of Minnesota's pay equity reporting requirements can be found on the Minnesota Management and Budget website at [www.mn.gov/mmb](http://www.mn.gov/mmb).

<sup>24</sup> Fewer than 30 percent of the gender pay discrimination claims filed with the Equal Employment Opportunity Commission since 2004 have resulted in favorable outcomes for the woman filing the complaint, while more than half were dismissed with a finding of no reasonable cause.

<sup>25</sup> Institute for Women's Policy Research. (September 2015). Women's Median Earnings as a Percent of Men's Median Earnings, 1960-2014 (Full-time, Year-round Workers) with Projection for Pay Equity in 2059. Retrieved from <http://www.iwpr.org/publications/pubs/equal-pay-projection-2059>

<sup>26</sup> Oregon Council on Civil Rights. p. 5.

<sup>27</sup> Burk, M. (2013). p. 6.

<sup>28</sup> Summary of Hay method found at [http://www.psc.gov.yk.ca/pdf/hay\\_summary.pdf](http://www.psc.gov.yk.ca/pdf/hay_summary.pdf)

<sup>29</sup> Quarterly Census of Employment and Wages, Bureau of Labor Statistics. Quarterly Census of Employment and Wages, State Government, Total, all industries, All States and U.S. 2014 Annual Averages. Retrieved from [http://www.bls.gov/cew/apps/table\\_maker/v4/table\\_maker.htm#type=0&year=2014&qtr=A&own=2&ind=10&su pp=0](http://www.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=0&year=2014&qtr=A&own=2&ind=10&su pp=0).

<sup>30</sup> Catalyst. Women in the United States: Quick Take. (June 10, 2014). Retrieved from <http://www.catalyst.org/knowledge/women-united-states>

<sup>31</sup> Bohnet, I., van Gree, A., & Bazerman, M. (2012, March). When Performance Trumps Gender Bias: Joint Versus Separate Evaluation. Faculty Research Working Paper Series. Retrieved from <http://www.hbs.edu/faculty/Publication%20Files/12-083.pdf>

<sup>32</sup> California, Colorado, Illinois, Louisiana, Maine, Michigan, Minnesota, New Hampshire, New Jersey, and Vermont all have passed pay transparency laws as of December, 2015.

<sup>33</sup> Institute for Women's Policy Research. (January, 2014). Pay Secrecy and Wage Discrimination. IWPR #Q016. This study found that 51 percent of all women workers surveyed reported that discussing their wage information at work was prohibited or discouraged. Of those who indicated they had experienced pay secrecy, however, 62 percent were private sector employees, while 18 percent were public sector employees.

<sup>34</sup> <https://oa.mo.gov/personnel/classification-specifications>

<sup>35</sup> This site can be found at [mapyourtaxes.mo.gov](http://mapyourtaxes.mo.gov)

<sup>36</sup> <http://perform.mo.gov/>

<sup>37</sup> Missouri State Auditor's Office. Office of Secretary of State Management Advisory Report. Report No. 2016-001. (January, 2016). Retrieved from <http://app.auditor.mo.gov/Repository/Press/2016001519759.pdf>

EXECUTIVE ORDER  
15-09

SECRETARY OF STATE  
COMMISSIONS DIVISION

WHEREAS, the State of Missouri is committed to ensuring that all Missourians are treated on equal terms; and

WHEREAS, at the direction of the Women’s Foundation, the University of Missouri Harry S Truman School of Public Affairs recently conducted a study entitled the Status of Women in Missouri; and

WHEREAS, this study found that a gender wage gap exists in Missouri, resulting in women not receiving equal pay for equal work, and that a gender wage gap exists across all age ranges, racial groups, ethnic groups, and educational training levels; and

WHEREAS, to address these findings, the Women’s Foundation has contracted with the Harry S Truman School of Public Affairs to develop Pay Equity Best Practices Guidelines to identify and address the gender wage gap in both the public and private sectors; and

WHEREAS, the development of Pay Equity Best Practices Guidelines is a necessary step that will be beneficial to all Missourians; and

WHEREAS, while the final guidelines are not expected to be published until April 2016, the Harry S Truman School of Public Affairs has recently released several preliminary guidelines and principles to help identify and address gender wage gaps in Missouri’s public and private sectors; and

WHEREAS, the preliminary guidelines specifically call for public and private entities to determine whether a gender wage gap exists within their organization, to re-evaluate their current compensation system in order to create an employment structure that promotes equal pay for equal work, and to ensure transparency concerning organizational compensation policies; and

WHEREAS, to remain competitive in the 21<sup>st</sup> century’s global economy, action is needed to address Missouri’s gender wage gap to ensure a skilled, inclusive, and competitive workforce; and

WHEREAS, Missouri state government has an obligation to support and promote equal treatment for all of its citizens.

NOW, THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, in recognition of the obligations of the State of Missouri and by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby declare that Missouri is committed to the elimination of the aforementioned gender wage gap and direct all Executive Branch agencies, as well as strongly encourage all private employers, to review and determine how the practices, contained in the preliminary guidelines and, eventually, the Pay Equity Best Practices Guidelines, can be utilized by their agency or business and to identify and address any gender wage gap in order to ensure that all Missourians receive equal pay for equal work.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of December, 2015.



ATTEST:

*[Signature]*  
Jeremiah W. (Jay) Nixon  
Governor

*[Signature]*  
Jason Kander  
Secretary of State

# Classification and Pay Systems

## Uniform Classification and Pay

The majority of employees in Executive Branch agencies are under the Uniform Classification and Pay (UCP) System. The UCP System was established under Chapter 36, RSMo, and is under the direction of the Office of Administration, Director of Personnel and the Personnel Advisory Board.

The UCP System provides for a coordinated classification and compensation policy, which promotes consistent compensation practices among participating state departments. A majority of state agencies are already part of the UCP System.

## Exclusions

Employees in the Departments of Conservation, some employees of Elementary and Secondary Education, Transportation and state colleges and universities, as well as uniformed members of the Highway Patrol are not part of the UCP System. Members and employees of the Legislative and Judicial Branches and other elected officials are also excluded from the UCP System.

Uniform Classification and Pay System (UCP)		
Merit System Agencies	Non-Merit System Agencies	Non-Merit & Non-UCP
Office of Administration Department of Agriculture Land Survey <sup>1</sup> Department of Corrections Department of Economic Development Housing Development Commission Public Counsel Business & Community Services – Labor Market Information Team Workforce Development Division of Energy <sup>1</sup> Tourism Department of Health and Senior Services Department of Labor and Industrial Relations Administration Operations Employment Security Labor Standards (partially Merit) Fraud & Non-compliance Unit (Division of Workers Compensation) Department of Mental Health Department of Natural Resources Department of Public Safety SEMA Capitol Police Veterans Commission Department of Social Services	Department of Agriculture Department of Elementary and Secondary Education <sup>2 and 3</sup> Department of Economic Development Administrative Services Arts Council Business & Community Services Public Service Commission Women's Council Department of Higher Education (Coordinating Board only) <sup>2</sup> Department of Insurance, Financial Institutions and Professional Registration Professional Registration Department of Labor & Industrial Relations Commission on Human Rights Labor & Industrial Relations Commission Labor Standards (partially Non-Merit, UCP) Workers Compensation Department of Public Safety Adjutant General Fire Safety Gaming Commission Alcohol & Tobacco Control Office of Director MSHP Civilian Employees <sup>2</sup> Department of Revenue Lottery Commission State Tax Commission	Office of Administration Ethics Commission Department of Conservation Department of Elementary and Secondary Education <sup>3</sup> Department of Insurance, Financial Institutions and Professional Registration Financial Examiners Market Conduct Examiners Division of Finance Division of Credit Unions Department of Public Safety MSHP Uniformed Members Department of Transportation Non-Executive Branch Elected Officials Legislative Branch Judicial Branch State Public Defender State Colleges & Universities

Functions and Services Provided by the Division of Personnel		
Merit System Agencies	Non-Merit UCP Agencies	Non-Merit & UCP <sup>4</sup>
Certification, Selection, Appointment, Probation, Classification and Pay Hours of Work, Overtime, Leave Political Activity Performance Appraisal Mgmt & Supervisory Training Labor Relations Coordination Separation, Suspension, Dismissal for Cause and Appeals MAIRS, EASe, Administration and Reporting SAM II HR/Payroll Table Maintenance, Reporting and Agency Assistance	Classification and Pay Hours of Work, Overtime, Leave Performance Appraisal Mgmt & Supervisory Training Labor Relations Coordination Appeal of Dismissal <sup>5</sup> SAM II HR/Payroll Table Maintenance, Reporting and Agency Assistance	Hours of Work, Overtime, Leave Mgmt & Supervisory Training Labor Relations Coordination Appeal of Dismissal <sup>5</sup> SAM II HR/Payroll Table Maintenance, Reporting and Agency Assistance

<sup>1</sup> Land Survey and Division of Energy became non-merit in August 2013 as the result of House Bill 28 and Executive Order 13-03. Employees possessing merit status prior to these transfers remain covered under such provisions until such time that existing employment ends or employees voluntarily elect to change positions.

<sup>2</sup> Department of Elementary and Secondary Education, Coordinating Board for Higher Education and Highway Patrol Civilian employees have not yet fully been converted to the UCP System.

<sup>3</sup> Attorney General's Opinion #120-91 indicates that constitutional provisions exempt "professional" employees from UCP coverage.

<sup>4</sup> Hours of Work, Overtime and Leave apply to Executive Branch agencies. Non-executive agencies for the most part follow suit. Provisions on Hours of Work, Overtime, Leave and Appeals of Dismissal do not apply to colleges and universities.

<sup>5</sup> RSMo 36.390 7.) The provisions for appeals provided for dismissals of regular merit employees may be adopted by non-merit agencies of the state for any or all employees of such agencies. 8.) Agencies not adopting the provisions for appeals shall adopt dismissal procedures substantially similar to those provided for merit employees. However, these procedures need not apply to employees in policy-making positions, or to members of military or law enforcement agencies.



## **Employer Pay Equity Self-Audit 2012**

In a time when women make up nearly half the workforce, many think that the issue of equal pay no longer exists. According to Census statistics released in September, 2010 women working, full-time, year round make, on average, 77 cents for every dollar a male earns. An alternative to the wage gap, which is measuring the ratio between women's and men's median weekly earnings for full-time workers, was 80.2 percent in 2009 which is flat since the historical high of 81.0 percent in 2005<sup>1</sup>.

Median earnings for women of color are consistently lower. In 2009, in comparison to the earnings of white men, African American women earned 67.5 percent, Asian American women earned 90 percent, and Hispanic women earned 57.7 percent<sup>2</sup>.

Business and Professional Women's Foundation (BPW Foundation) is creating successful workplaces by focusing on issues that impact women, families and employers. Successful workplaces are those that embrace and practice diversity, equity and work life balance. Through its groundbreaking research and unique role as a neutral convener of employers and employees, BPW Foundation strives to redefine today's workplace. The work of BPW Foundation supports workforce development programs and workplace policies that recognize the diverse needs of working women, communities and businesses.

BPW Foundation recognizes that gender discrimination is not only a women's issue but a business issue. Employers play a major role in helping to end the wage gap and to treat women fairly in the workplace. If they are not mindful of pay discrimination employers risk not only expensive law suits, but their female consumers having less money to spend and invest which will impact their bottom line.

To help employers be more mindful about their pay scales, BPW Foundation encourages employers to recognize and reward the skills and contributions of working women. The Employer Pay Equity Self-Audit was developed to assist employers in analyzing their own wage-setting policies and establishing consistent and fair pay practices for all. BPW Foundation encourages employers to answer all of the questions in the audit and examine how they are doing regarding paying and promoting their female employees fairly.

For more information about BPW Foundation please go to [www.bpwfoundation.org](http://www.bpwfoundation.org).

### **Employer Pay Equity Self-Audit**

#### **1. Recruitment**

- Does your hiring process seek diversity in the qualified applicant pool for positions?

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<sup>1</sup> <http://www.iwpr.org/pdf/C350.pdf>

<sup>2</sup> <http://www.pay-equity.org/index.html><http://www.pay-equity.org/index.html>



## 2. Evaluate Your Compensation System for Internal Equity

- Do you have a method to determine salaries and benefits?
- Do you write position descriptions, seek employee input and develop consensus for position descriptions? In unionized workplaces, do you involve union leaders?
- Do you have a consistent job evaluation system? Are jobs scored or assigned grades? Are positions where women and minorities work scored or graded according to the same standards as jobs where men or non-minorities work?
- Could a method be used for ensuring consistent pay for people with substantially similar levels or experience and education who hold jobs calling for substantially similar degrees of skill, effort, responsibility and working conditions, even though job titles may be different?

## 3. Evaluate Your Compensation System for Industry Competitiveness

- Do you have a method to determine the market rate for any given job? Do you ensure that market rates are applied consistently? (i.e.—Can you be confident that men are not being compensated *at or above* market rates while women are compensated *at or below* market rates? Can you be confident that non-minority workers are not compensated *at or above* market rates while minority workers' compensation is *at or below* the market rates?)
- Would your company benefit from a fresh approach that updates position descriptions; assesses skill, effort, responsibility and working conditions of various jobs; assigns grades or scores; and ensures consistent application of market rates and external competitiveness?

## 4. Conduct a New Job Evaluation System if Needed

- Do you have up-to-date position descriptions for all occupations?
- Do you establish criteria for assigning values to skill, effort, responsibility and working conditions of jobs? Do you challenge basic assumptions about the value of skills before assigning points or grades? (i.e.—Do you consider how caring for sick people, small muscle dexterity in typing, and other such skills may have been undervalued in jobs that have been traditionally held by women?)
- Do you ensure agreement among worker representatives and management on criteria to evaluate jobs?
- Do you assign scores or grades to jobs and allow worker input?
- Do you compare your system with market rates and other external competitiveness factors? Do you consider whether the market has under-compensated certain occupations or professions before making adjustments?



- Do you assign consistent compensation to jobs within similar grades or scores, and do you use market rates and other external competitiveness factors consistently?

#### **5. Examine Your Compensation System and Compare Job Grades/Scores**

- How does pay compare for positions with similar grades or scores within your company? On average, are women and minorities paid similarly to men and non-minorities within the same grade or job score? Are there legitimate reasons for any disparities in pay between jobs with similar grades or scores? Can corrections be made to ensure consistency in assigning grades or scores?
- How long do men, women and minorities stay within job grades or scores before moving up? Do men or non-minority workers move up faster? What are the reasons that some workers move up faster? Can you take action to ensure that all workers have equal opportunity for advancement?

#### **6. Review Data for Personnel Entering Your Company**

- At what grades or positions do men, women and minorities typically enter your company? Within those grades and positions, are salaries consistent, or do men, women and minorities enter at different pay levels?
- How does negotiation affect entry-level salaries? Are men able to negotiate higher starting salaries than women or minorities?
- How do new hires compare in salary to those already working in the company in the same grades or positions? Do men, women and minorities entering the company get paid higher or lower than those who already hold the same positions or grades? Are there differences by gender or race?
- Are changes needed to ensure that new hires are treated consistently and incorporated into existing compensation systems on a compatible basis?

#### **7. Assess Opportunity for Employees to Win Commissions and Bonuses**

- Are men, women and minorities assigned projects or clients with high commission potential on a consistent basis?
- Are men, women and minorities with similar levels of performance awarded bonuses on a consistent basis? Do they receive bonuses of similar monetary values?

#### **8. Assess How Raises are Awarded**

- Is there a consistent method of evaluating performance for all workers? Do men, women and minorities receive consistent raises based on similar performance



standards? (i.e.—Are all workers with outstanding evaluations awarded the same percentage increases? If not, what are the reasons for the difference?)

- Are men, women and minorities with similar levels of performance awarded bonuses on a consistent basis? Do they receive bonuses of similar monetary values?

## **9. Evaluate Employee Training, Development and Promotion Opportunities**

- How are workers selected for participation in training opportunities or special projects that lead to advancement? Are there differences by race or gender? If so, what can be done to widen the pool to reflect equal opportunity?

## **10. Implement Changes Where Needed, Maintain Equity and Share Your Success**

- Have you made changes to ensure consistency in evaluation of jobs, assignment of grades or scores, advancement within the system, performance evaluation, compensation levels, raises, bonuses, commissions and training? Have you evaluated your compensation system periodically to ensure that it meets equal employment opportunity goals?
- Do you maintain openness about compensation with your workforce? Do you regularly post job openings and salary ranges within the workplace? Do you allow employees to discuss compensation issues on their own time?
- Are you reaping the rewards of a productive, loyal workforce, and using your success as a competitive tool to attract the best and brightest workers?

*Information for this employer self-audit was derived from a 1996 document created by the U.S. Department of Labor Women's Bureau.*

## Appendix D

### Equal Pay Self-Audit for Employers

The following information will assist you, as an employer, in analyzing your wage-setting policies. First, take the self-audit and see how you fare. If it doesn't appear that your policies measure up, you should use the questions and recommendations to develop a framework for policies that will ensure equal pay regardless of an individual's gender.

**Please answer the following questions about your current pay policies:**

1. Do you have a method to determine salaries and benefits?
2. Do you have written job descriptions for each position?
3. Do you have a consistent job evaluation system in place?
4. Are jobs scored or graded?
5. Are positions where women work scored or graded according to the same standards as jobs where men work?
6. Even though job titles might be different, is a method used whereby people with substantially similar levels of experience and education who hold jobs calling for substantially similar degrees of skill, effort and responsibility are paid consistently?
7. Would your company benefit from a fresh approach which updates job descriptions by assessing skill, effort and responsibility in various jobs; by assigning grades or scores and; by ensuring that you are paying wages that are consistent with market rates?

**Please answer the following questions about your hiring practices:**

1. At what grade or position do men and women typically start at your business?
2. Within those grades or positions, are the salaries consistent between gender or do men and women enter the business at different rates?
3. How does negotiation affect entry-level salaries? Do men generally negotiate higher salaries than women?
4. Do men and women entering the company get paid higher or lower than those who already hold the same positions or grades?

**Please answer the following questions on how employees are rewarded:**

1. If you have a commission policy, are men and women assigned projects or clients with high commission potential on a consistent basis?
2. If you have a bonus system, does it reward men and women with similar levels of performance on a consistent basis and are the amounts similar in monetary values?
3. How are employees chosen for participation in training opportunities or special projects that could lead to advancement? Are there differences by gender?
4. Is there a consistent method to evaluate performance of all workers? Do men and women receive consistent raises based on similar performance standards? If the raises are based on percentages, are men and women given the same percentage increases?

**Now it's time to grade yourself. Be honest.**

**How do you think you scored? Were there many questions you had not considered before and did you have to hesitate with your responses? If so, we offer the following recommendations to assist you in compliance with the Maine law.**

1. Prepare job descriptions for all occupations.
2. Establish criteria for assigning values to skill, effort and responsibility. Be creative--consider how caring for sick people, small muscle dexterity in typing and outstanding people skills in the service industry may have been undervalued in jobs that have been traditionally held by women.
3. Compare your system with market rates and other external competitiveness factors and, as above, take into consideration that the market may have undercompensated certain occupations in the past.
4. Assign scores or grades to jobs--when possible, obtain worker or worker representative input.
5. Compare the pay for each job to positions with similar grades or scores within your company. Make sure the rates are consistent.
6. Make sure that on average, women and men are paid similarly within the same grade or score. If they are not, make sure there are legitimate reasons for any disparities in pay.
7. Look at how long men and women stay within job grades or scores before moving up. Do men seem to move up faster than women? Why do some workers move up faster? Can you take action to ensure that both genders have equal opportunity for advancement?
8. Provide equal training opportunities for women as are offered to men.
9. Give women equal consideration for promotion as is given to men.

And, finally, maintain openness about compensation with your employees. Post job openings showing salary ranges regularly. Do not discourage employees from discussing their compensation issues. And, remember to use your success as a competitive tool to attract the best and brightest workers. By implementing a fair pay system, you will reap the rewards of a productive and loyal work force.

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