



The San Francisco

# EQUAL PAY ORDINANCE



**Report of the  
San Francisco Equal  
Pay Advisory Board  
to the Board  
of Supervisors**

**December 23, 2015**

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## Executive Summary

### **A Milestone for San Francisco**

Women are consistently paid less than men in almost every occupation. The persistent disparity in pay between men and women is known as the *gender wage gap*. In California, women earn only 84 cents for every dollar earned by men, collectively losing over \$33.6 billion dollars each year to the gender wage gap. This gap is far worse for women of color. A Latina woman in California makes only 44 cents for every dollar a white man makes, the biggest gap for Latina women in the nation.

Discriminating against certain employees by paying them less than other workers can lead to long-term economic insecurity and has negative effects on San Francisco's economic and social fabric. Due in significant part to a lack of pay transparency, previous laws have failed to address pay inequality and wage discrimination in a meaningful way. Like federal and state governments, the City and County of San Francisco ("the City") has enacted laws that expressly prohibit discrimination based on sex, race, or other protected classes, yet wage gaps persist everywhere.

Through its new Equal Pay Ordinance, San Francisco will be the first jurisdiction in the nation to require its contractors to file pay equity reports that provide data on employee compensation, race, and gender. Authored by Supervisor David Campos, the Equal Pay Ordinance was passed unanimously by the Board of Supervisors on December 9, 2014. Signed by Mayor Edwin Lee, the Ordinance amends Chapter 12B of the San Francisco Administrative Code, which prohibits discrimination in City contracting. With this milestone legislation, San Francisco's voice enters the national dialogue on pay equality and wage discrimination.

### **About the Equal Pay Ordinance**

The Equal Pay Ordinance requires certain contractors to file Equal Pay Reports annually with the City's Human Rights Commission. It established an Equal Pay Advisory Board to analyze and recommend how to collect wage gap data in a meaningful way while maintaining a minimal burden on contractors reporting the data. The Human Rights Commission ("HRC") is authorized to investigate whether discrimination is occurring by contractors and recommend measures for enforcement when necessary.

### **The Promise of the Equal Pay Ordinance**

The Equal Pay Ordinance is a step toward achieving pay equality and improving economic stability in San Francisco. Effective implementation of the Ordinance may reduce wage gaps that are intentionally or unintentionally caused by discrimination by enabling the HRC to pursue investigations when wage gaps are identified. Wage gaps may also be reduced simply by requiring employers to collect and report certain data to the City, as they will become aware of the presence of wage gaps within their companies. The Ordinance may also empower individual employees to speak up if they believe there is wage discrimination occurring within their organizations.

San Francisco's equal pay model will improve the quality of wage gap data that is publicly available to researchers and policymakers throughout the nation. Better data can lead to better laws and employment practices, thereby advancing the goal of pay equality throughout the nation.



### **About the Work of the Equal Pay Advisory Board**

Beginning in April 2015, the Equal Pay Advisory Board (“EPAB” or “Advisory Board”) held public meetings at least once each month. The Advisory Board gathered input from experts in the public and private sectors in order to incorporate findings from relevant laws and initiatives on pay equity and wage discrimination in the development of San Francisco’s reporting model. The EPAB formed work groups to research and define key terms of the Equal Pay Report including *Race*; *Sex*; *Compensation*; and *Scope of Coverage*. The Human Rights Commission, which supports the Advisory Board, engaged stakeholders within the City government for information and assistance in the realm of City contracting. HRC formed a work agreement with the Office of the Controller for continued research on data collection and development of a reporting model. HRC enlisted the Department of Human Resources to explore the possibility of conducting an internal pilot study of the City’s workforce, and worked with the Office of the City Attorney to propose amendments to the legislation. This report on the Advisory Board’s findings and recommendations was prepared by Mullane Ahern of the HRC.

### **OVERVIEW OF KEY FINDINGS AND RECOMMENDATIONS**

#### **RELATED PAY EQUITY INITIATIVES**

##### **Findings on Related Pay Equity Initiatives**

While efforts to bridge pay gaps are emerging at all levels of government, existing laws requiring Equal Pay Reports from contractors are extremely limited and nascent.

##### **Recommendations on Related Pay Equity Initiatives**

Continue to research and incorporate insight from pay equity and wage discrimination laws as they develop in other jurisdictions, and from pay equity initiatives in the private sector.

#### **DEFINING CATEGORIES OF RACE**

##### **Findings on Defining Categories of Race**

Current categorization of race and ethnicity used by the federal government has proven to be limited and/or confusing to many. In the absence of race categories with which people identify, significant numbers of people decline to respond or identify as “other” when surveyed.

##### **Recommendations on Defining Categories of Race**

Define and standardize relevant categories of data by race and ethnicity that will be used in the Equal Pay Report. Establish a context and framework for collecting race-based data that will generate meaningful and measurable information.

- Define race/ethnic categories by drawing on the U.S. Census’s current categories and incorporating new categories that research has demonstrated are relevant in today’s society.
- Provide employers with guidance and tools to encourage employees to voluntarily report the most detailed race data possible.



**DEFINING SEX**

**Findings on Defining Sex**

The terms *sex* and *gender* are often used interchangeably but should be understood distinctly. By limiting the categorization to only *male* and *female*, many reporting structures fail to account for gender nonconforming individuals who may identify as both or neither gender.

**Recommendations on Defining Sex**

Categorize sex as *male*, *female*, or *other* on the Equal Pay Report. Establish a context and framework for collecting data on sex that correspond to the gender identity of employees.

**DEFINING OTHER TERMS AND STANDARDS**

**Findings on Defining Other Terms and Standards**

It is necessary to define and evaluate other terms and standards of the Equal Pay Report.

**Recommendations on Defining Other Terms and Standards**

Define the terms and standards as described in this report. Complete a comparative analysis of the Equal Pay Ordinances and the terms and standards used in other City contracting ordinances as set forth in the work plan between the HRC and the Office of the Controller.

**REPORTING MODEL DEVELOPMENT**

**Findings on Reporting Model Development**

Developing a successful EPR reporting model requires technical expertise beyond that of the EPAB, specifically in the areas of labor and economics, statistics, technology, and City contracting. The Office of the Controller is uniquely qualified to develop and test an analytical model for the Equal Pay Report, and has agreed to do so.

**Recommendations on Reporting Model Development**

Develop a model for Equal Pay Report by June 2016 in accordance with the Project Plan between the Human Rights Commission and the Office of the Controller. Evaluate phased implementation upon completion of model in June 2016.

**INTERNAL PILOT STUDY**

**Findings on Internal Pilot Study**

San Francisco would benefit from conducting an internal analysis of compensation data by race and sex within its own workforce. Data on employee race and sex are collected by the Department of Human Resources during hire.



- Gender wage gap analyses have been performed internally by the other jurisdictions in the development of pay equity initiatives, including the federal government of the United States, the City of Albuquerque, and the state of New Mexico.
- Studying its own workforce will enable the City to:
  - Gain insight into the practical application of equal pay reporting requirements and identify the most effective methodologies for data collection and analysis.
  - Understand the challenges and concerns that may arise for Contractors and develop the tools and framework needed for success.
  - Strengthen understanding and improve the quality of publicly available wage data.
  - Lead by example as a model employer and gain the moral authority to require equal pay reports of its contractors.

#### **Recommendations on Internal Pilot Study**

Conduct an internal equal pay pilot program using City employee data.

- Update records on race and gender of employees to match the categorization that will be used on Equal Pay Reports by April 2016, and perform an internal compensation analysis by June 2016.
- The City's system of classification and compensation is structured and regulated and is expected to reveal an absence of significant wage gaps; however, if any significant wage gaps are identified, the City should study the wage gaps and implement a strategy as to how they can be closed.

#### **LEGISLATIVE AMENDMENTS AND PHASED IMPLEMENTATION**

##### **Findings on Legislative Amendments and Phased Implementation**

- Further research, development, and testing is necessary to create a successful reporting model, and therefore legislative amendments are needed to extend the reporting deadlines set forth in the Ordinance.
- A Notice and Education Period is needed to ensure that contractors understand how to comply with the new reporting requirements.

##### **Recommendations on Legislative Amendments and Phased Implementation**

- Amend the Equal Pay Ordinance to extend the deadline for submission of the Equal Pay Reports to July 3, 2017, and extend the sunset date for the Equal Pay Advisory Board through July 2, 2018.
- Utilize a phased implementation plan that includes:
  - Research, Development and Testing: ongoing through June 2016
  - Analysis Period: June 2016 – September 2016
  - Notice and Education Period: October 2016 – May 2017
  - Equal Pay Reporting Period: through July 3, 2017
  - Continued Analysis Thereafter



## I. The San Francisco Equal Pay Ordinance

### A. Introduction

Through its new Equal Pay Ordinance, San Francisco will be the first jurisdiction in the nation to require contractors to report on pay equity by gender, race, and gender and race combined. Authored by Supervisor David Campos, the Equal Pay Ordinance was passed unanimously by the Board of Supervisors on December 9, 2014. Signed by Mayor Edwin Lee, the Ordinance amends Chapter 12B of the San Francisco Administrative Code, which prohibits discrimination in City contracting.

The Equal Pay Ordinance 1) created a new mandate in City contracting which requires contractors doing business on large projects with the City to submit an Equal Pay Report regarding compensation paid to employees, and 2) established an Equal Pay Advisory Board to analyze and recommend the best methods of data collection that will identify wage gaps between men and women of the same and different races and among members of different races. The Human Rights Commission administers the Equal Pay Ordinance.

With this milestone legislation, San Francisco's voice enters the national dialogue on pay equality and wage discrimination, hailing support from advocates of women's and workers' rights. By promoting wage transparency and awareness, this timely initiative will help prevent workers from being unfairly shortchanged so that they and their families can thrive.

### B. Equal Pay Matters

Women make up almost half the United States workforce, and are the primary or equal breadwinner in four out of ten American families. Nevertheless, women are consistently paid less than men in virtually every occupation.<sup>1</sup> Nationally, women earn only 78 cents for every dollar earned by their male counterparts. The pay gap is even greater for African-American and Latina women, with African-American women earning 64 cents and Latina women earning 56 cents for every dollar earned by a white non-Hispanic man.<sup>2</sup> The consequences of pay inequality are damaging to women, families, and communities everywhere.

In California, women earn only 84 cents for every dollar earned by men, collectively losing over \$33.6 billion dollars each year due to the gender wage gap. This gap is far worse for women of color. Latina women in California make only 44 cents for every dollar a white male makes, the biggest gap for Latina women in the nation.<sup>3</sup>

The California Legislature has found that the persistent disparity in earnings still has a significant impact on the economic security and welfare of millions of working women and their families. The wage gap contributes to the higher statewide poverty rate among women, which stands at 18 percent, compared

<sup>1</sup> Institute on Women's Policy Research. [Pay Equality and Discrimination](#), 2015.

<sup>2</sup> Government of the United States, the White House. [The White House Equal Pay](#), 2015.

<sup>3</sup> Government of the State of California, Legislature. [California Legislative Information](#), 2015.



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to approximately 15 percent for men. The poverty rate is even higher for women of color and single women living with children.<sup>4</sup>

Often, workers are unaware that they are earning less income for the same work as other employees. Due in part to this lack of pay transparency, laws like the federal Equal Pay Act of 1963 have failed to address pay inequality and wage discrimination in a meaningful way. The injustice and pervasive consequences of such widespread pay inequity have led to legislative actions at the federal and state levels. The very first bill signed into law by President Barack Obama was the Lilly Ledbetter Fair Pay Act of 2009. The following year, President Obama established an Equal Pay Task Force which found that that the lack of adequate employee compensation data makes identifying wage discrimination difficult and undercuts enforcement efforts.<sup>5</sup> At the Task Force's recommendation, President Obama signed an Executive Order in 2014 that will require equal pay reports in federal contracting.

In October 2015, Governor Edmund Brown signed the California Fair Pay Act, which will be one of the strongest equal pay laws in the nation when it takes effect in January 2016. While California law has prohibited sex discrimination, preventing employers from paying a woman less than a man when they are both doing equal work at the same establishment, the California Fair Pay Act will now require equal pay for "substantially similar work." The law also contains important provisions regarding pay secrecy and retaliation.

Like the federal and state governments, the City and County of San Francisco has enacted laws that expressly prohibit discrimination based on sex, race, or other protected classes, yet wage gaps persist everywhere. Discriminating against certain employees by paying them less than other workers can lead to long-term economic insecurity and have negative effects on the City's economic and social fabric. City leaders were moved to act, and in late 2014, the San Francisco Equal Pay Ordinance was passed to advance pay equality through data collection and analysis.

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*"In San Francisco, where we are experiencing an affordability crisis, women and families are having a harder time paying rent, securing quality healthcare, paying for childcare, and saving for a rainy day or retirement. Eliminating wage discrimination is not only a matter of fairness, but it will also have real material impacts on women, families, and society as a whole."*

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*Supervisor David Campos*

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<sup>4</sup> Government of the State of California, Legislature. [California Legislative Information](#), 2015.

<sup>5</sup> Government of the United States, White House Equal Pay Task Force. [National Equal Pay Enforcement Task Force](#), 5, 2010.



### **C. Equal Pay Advisory Board**

The Equal Pay Advisory Board (“EPAB,” or “Advisory Board”) was charged with assessing how to collect meaningful data that will identify wage gaps between men and women of the same or different races while imposing a minimal burden on contractors in reporting the data. Comprised of seven (7) members appointed by the Office of the Mayor, the Board of Supervisors, and the Department on the Status of Women, the EPAB began convening in April 2015. The Advisory Board elected Rachael Langston to serve as its Chair, and held public meetings at least once per month. The [Human Rights Commission](#), which implements and enforces the City’s laws against discrimination, provides in-kind professional and administrative support to the Advisory Board. HRC designated its Discrimination Division Director, Mullane Ahern, to work closely with the EPAB in fulfillment of its tasks.

#### **ADVISORY BOARD MEMBERS**

Seat 1: A person who works in or represents workers in an industry where wage discrimination is common.

***Utuma Belfrey.***

Seat 2: A person who has worked as a discrimination or employment lawyer with an emphasis on gender equity.

***Rachael Langston. \*Advisory Board Chair***

Seat 3: A person with expertise on discrimination against women of color.

***Marisa Diaz.***

Seat 4: A person who works in human resources responsible for diversity.

***Dolores Blanding.***

Seat 5: A person who owns a small or medium size business that has contracted with the City and County of San Francisco.

***Dilraj Kahai.***

Seat 6: A person who has worked in quantitative gender analysis, including statistics.

***Anu Menon.***

Seat 7: A person employed by a nonprofit organization that contracts with the City.

***Margi English.***

### **D. Equal Pay Report**

By requiring data on race in addition to gender, the Ordinance’s resulting analysis is more meaningful, yet it is also more challenging. Despite recent initiatives that seek to understand and eliminate wage gaps, there currently exists no model of race and gender compensation analysis to emulate. Therefore, San Francisco’s reporting model has the significant potential for replication in other jurisdictions. The



City will also benefit from an ongoing exchange of information on wage gaps with the public and private sectors.

For these reasons, the Equal Pay Report (“EPR”) currently requires covered contractors to provide summary information on compensation paid to employees that must be aggregated by occupation; sex; race; and race and sex combined. A standardized measurement of compensation must be calculated. The report may include different data points to aid in the analysis of wage disparities, such as employees’ education, years of work experience, and specialized skills.

## **II. Advisory Board Areas of Research**

The EPAB has gathered input from experts during its public meetings, including presentations on pay equity in the public and private sectors and on data collection in city contracting. The EPAB focused on relevant laws and initiatives regarding equal pay and contracting; substantive and technical report components; and steps needed for successful implementation of the Ordinance. Of fundamental importance to the EPAB has been interpreting the terms and definitions of the Equal Pay Ordinance. To that end, members of the Advisory Board formed smaller work groups to research and define key terms including *Race*; *Sex*; *Compensation*; and *Scope of Coverage*. The EPAB and HRC requested information and assistance from other City departments including, but not limited to the Office of the Controller; the Department of Human Resources; Department on the Status of Women; Office of Labor Standards Enforcement; Office of Economic and Workforce Development; Office of the City Administrator; Office of the City Attorney; and the General Services Agency’s Contract Monitoring Division.

### **A. Related Pay Equity Initiatives**

**Finding:** While efforts to bridge pay gaps are emerging at all levels of government, existing laws requiring Equal Pay Reports from contractors are extremely limited and nascent.

#### **i. New Mexico Pay Equity Initiative (Gender Pay Gap)**

The State of New Mexico passed the first law nationwide that requires entities seeking to contract with the State to file pay equity reports. New Mexico’s Pay Equity Initiative is the product of multi-year research and analysis in development and included a pilot program on its own workforce. This initiative addresses gender pay gaps, but unlike San Francisco’s Equal Pay Ordinance, does not include race and ethnicity in its reporting requirements. A similar initiative exists in the City of Albuquerque.

Martha Burk, a foremost expert in gender compensation analysis, is a key contributor to laws and practices on gender pay equity in the State of New Mexico and City of Albuquerque. Burk presented to the Equal Pay Advisory Board on these initiatives and is an invaluable resource on the topic. Burk and the Center for Advancement of Public Policy serve as an independent and nonpartisan resource to members of Congress, the press, advocacy organizations, community leaders, employee groups, corporate managers, and consumers. Burk authored a paper with the Center for Advancement of Public Policy prepared for the US Department of Labor 50<sup>th</sup> Anniversary of the Report of the President’s Commission on the Status of Women in October 2013.

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Therein, Burk states that the New Mexico Pay Equity Initiative was instituted by Governor Bill Richardson's administration over a two-year period (2009-2011) via Executive Order, building on recommendations from Equal Pay Task Forces created in 2003 and 2008.<sup>6</sup> These Task Forces consisted of directors and senior personnel from relevant state cabinet departments, non-profit organizations concerned with pay equity, and members of the private sector representing business interests.

At the Task Force's recommendation, New Mexico conducted a pilot study of gender pay gaps and job segregation of the state-classified workforce in some representative departments. The six-department pilot study was conducted to test methodology and procedures using gender pay gaps by job title as baseline data.<sup>7</sup> This was followed by a gender pay equity study of the entire New Mexico state-classified workforce (19,000+ employees). This larger study yielded more meaningful results, testing the methodology and granting the state the moral authority to require such information from its contractors.

Ultimately, while leaders in New Mexico recognized that race and ethnicity also substantially impact wage gaps, the state found that it was not possible at that time to gather reliable data on race and ethnicity. Burk explained that this was because providing race and ethnicity data was optional for employees. Moreover, some employee records went back as far as 25 years, when the only categories available were limited to "White" and "Hispanic." The data were limited and inconsistent. However, New Mexico used the initiative as an opportunity to update its records on race and ethnicity, with the goal of expanding future wage gap studies to include race.

Burk provided additional insight on the Albuquerque pay equity initiative, which is similar to the state of New Mexico's. At the recommendation of a Task Force, the City offers incentive preferences in contracting to companies that have a gender wage gap of 10% or less. Burk shared information on the tools and techniques as well as the challenges found in these initiatives. As the reporting and analyses of data continue, the findings of Burk and her colleagues will continue to inform efforts to close the gender pay gap throughout the nation.

**Burk's Advice to the EPAB:** In her presentation to the Advisory Board, Burk emphasized that the inclusion of race and ethnicity in San Francisco's reporting scheme makes it inherently more complex than gender compensation analysis alone. Burk advised that San Francisco would need to rely on experts in the fields of statistics and technology to develop its reporting procedure. As was the case in New Mexico, San Francisco will encounter inevitable challenges in obtaining reliable data on race and face resistance from businesses that do not wish to comply with reporting requirements.

In addition, Burk noted the importance of a major distinction between the initiatives: New Mexico and Albuquerque created incentive models for potential contractors, whereas San Francisco's Equal Pay Ordinance is an enforcement model. Burk anticipates that there will likely be resistance from the

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<sup>6</sup> Martha Burk, Ph.D., Center for Advancement of Public Policy. "The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap." Prepared for the U.S. Department of Labor 50th Anniversary of the Report of the President's Commission on the Status of Women. Washington, D.C. October, 2013.

<sup>7</sup> Martha Burk, Ph.D., Center for Advancement of Public Policy. "The New Mexico Pay Equity Initiative: A Template for Narrowing the Gender Pay Gap." Prepared for the U.S. Department of Labor 50th Anniversary of the Report of the President's Commission on the Status of Women. Washington, D.C. October, 2013.

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contractors required to file Equal Pay Reports, and thus it is imperative that the initiative have full support at the highest levels of government.

**ii. Gap, Inc. Pay Equity By Gender Project**

Clothing retail company Gap Inc. performed an internal gender compensation analysis and concluded that the company pays men and women employees equally for equal work. Liz Krukowski, Gap's Senior Director of Global Talent & Leader Communications, and Peter Pawlick, Senior Director of Global Compensation at Gap, Inc. presented to the EPAB on the Gap Inc.'s in-depth compensation analysis. To validate their internal findings, Gap Inc. requested an outside consulting firm, Exponential Talent, to perform its own gender compensation equity analysis using statistical testing.

The analysis used a global dataset of 129,992 employees and for each employee, included information on annualized salary, gender, full time or part time status, employee tenure, span of control, level, job code, and geography. Gap, Inc. and Exponential Talent found that after controlling for relevant factors, there is no significant gender wage difference between women and men at Gap Inc. within job codes globally and in any of the major retail geographies, providing an "apples to apples" comparison of wages by gender. The hypothesis of "equal pay for equal work" at Gap Inc. was confirmed. This conclusion was found to be true at Gap Inc. globally, as well as for each of its five largest retail regions (the US, UK, Canada, Japan, and China).<sup>8</sup>

In discussions with the EPAB, Gap's leadership expressed that the addition of race and ethnicity into a compensation analysis makes it significantly more complicated than the analysis of the gender wage gap alone. One major challenge is the lack of complete and accurate data from employees in the self-identification of race.

**iii. Federal Proposed Rule at the U.S. Department of Labor**

In August 2014, the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") proposed a rule that would require covered federal contractors and subcontractors to provide an annual Equal Pay Report on employee compensation. OFCCP is proposing to collect total W-2 earnings, total number of employees, and total hours worked by sex, race and ethnicity for each EEO-1 job group (broad occupational categories like managers, professionals, sales workers and craft workers). OFCCP has also issued an Information Collection Request ("ICR") that includes a sample of the form it may use to collect the summary compensation data.<sup>9</sup>

OFCCP's Notice of Proposed Rulemaking noted that substantial costs are expected to be incurred by covered contractors for regulatory familiarization and modifications of contractor personnel tracking systems. OFCCP sought input from contractors regarding the structure of its EPR and the reporting process to avoid creating unreasonable burdens for them. The original deadline for comments to be

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<sup>8</sup> Beth Roberts, MBA, Leader, Diversity & Inclusion and Analytic Services, Exponential Talent LLC. Caroline Simard, PhD, Leader Diversity, Workplace Transformation & Innovation Services, Exponential Talent LLC. Magali Fassiotto, PhD, Leader Organizational Design, Research & Evaluation Diversity, Exponential Talent LLC. [Gap, Inc. Pay Equity By Gender Project](#), 2014.

<sup>9</sup> Government of the United States, Department of Labor, Office of Federal Contract Compliance Programs. [Proposed Rule on Requirement to Report Summary Data on Employee Compensation](#), 2014.

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submitted was November 6, 2014; the comment period was subsequently extended to January 5, 2015 to allow for more public participation. In total, 7,855 public comments were submitted in response to OFCCP's proposed rule.

Among the comments submitted to OFCCP were requests that OFCCP conduct a pilot study prior to implementation of the federal Equal Pay Reporting requirement. A pilot study would offer an opportunity to test specific reporting methods on a small sample of contractors, identifying potential obstacles and opportunities for improvement in data collection procedures prior to full-scale implementation of the reporting requirement for all contractors. OFCCP stated that a Final Rule for the federal Equal Pay Report regulation was expected to be issued in November 2015; however, that Rule has not been published at the time of this Report.

**Finding:** In order to effectively incorporate insight from the federal regulatory process, and to avoid creating undue or unnecessary burdens for contractors who are subject to reporting under both federal and local EPR laws, it will be beneficial for San Francisco's Equal Pay Advisory Board to review OFCCP's final rule for the federal Equal Pay Report requirement and OFCCP's analysis of public comments received.

**B. Report Terms Defined**

**Recommendation:** the Advisory Board recommends adopting the definitions of key terms and procedures as described in this section for the Equal Pay Report.

**i. Defining Categories of "Race"**

The Equal Pay Report must calculate wage gaps "between men and women of the same and different races, and among members of different races."

Gathering and reporting meaningful data on race presents unique challenges. The complexities of a person's racial identity cannot be understated, and are deeply rooted in personal and historical lived experiences. Race is part of the social, economic, and political fabric of this nation's history, shaped by the individual and collective experiences lived each day. Race is defined differently by many people; often a person's concept of racial identity is understood through his or her ethnicity, national origin, ancestry, skin color, or culture.

Asking about a person's racial identity can be both complicated and thorny; such inquiries in an employment context could lead to a wide range of consequences, including legal action. Thus, it is critical to be mindful of the method and context in which questions are asked when creating the equal pay reporting framework.

The EPAB formed a work group focused on the collection of data on race. The work group research uncovered two issue areas that must be addressed to collect accurate race data: the lack of data collection, and insufficient racial categories with which people identify. The following are the findings:

**Finding:** Records on employee race are not consistently available across covered contractors.

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Many employers do not have reliable records or information on the race of their employees. Information may have been collected at time of hire on a voluntary basis, and options at time of hire may not accurately correspond to a person's racial identity.

**Finding:** Employers cannot require employees to provide race data, and many employees do not fill out voluntary race data on employment forms.

Proposition 209, the 1996 ballot measure which amended the California Constitution to prohibit public institutions from discriminating on the basis of race, sex, or ethnicity, ended the collection of data related to race, ethnicity, and gender in most jurisdictions of California.

New Mexico faced this challenge as well. The New Mexico Pay Equity Initiative in State Contracting initially sought to require collection of data on both race and gender, but the government soon found that it did not have accurate records on race. Older employee records only had race categories of "white" and "Hispanic," which failed to account for other races. Many current employees had not self-reported race since reporting race was voluntary.

**Finding:** Even when data on race is collected, racial categories may be confusing and inconsistent.

Research has shown that the categories commonly used in federal reporting are limited and confusing and therefore result in significant numbers of people who fail to select a race, instead choosing "other." For example, the EEO-1 categories used by federal contractors include:

1. Hispanic or Latino,
2. White (Not Hispanic or Latino),
3. Black or African American (Not Hispanic or Latino),
4. Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino),
5. Asian (Not Hispanic or Latino), and
6. American Indian or Alaska Native (Not Hispanic or Latino) and
7. Two or More Races (Not Hispanic or Latino).

Covered contractors may or may not collect race data using these exact categories. Even if there is consistency, employees do not necessarily understand or relate to these categories and so do not self-identify with them. The U.S. Census Bureau found that these categories caused confusion in the census that lead to a significant percentage of the American population failing to select a race category provided on the census form and instead choosing "some other race."<sup>10</sup> To address this, the Census Bureau is considering adding a "Middle East North African" category,<sup>11</sup> and, rather than asking about race, they are considering telling people to check the "categories" that describe them. This is especially relevant for the Hispanic and Latino communities, since Hispanic is considered a national origin rather than a race.<sup>12</sup>

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<sup>10</sup> Jens Manuel Krogstad, Pew Research Center. D'Vera Cohn, Pew Research Center. "U.S. Census looking at big changes in how it asks about race and ethnicity." March, 2014.

<sup>11</sup> Jens Manuel Krogstad, Pew Research Center. "Census Bureau explores new Middle East/North Africa ethnic category." March, 2014.

<sup>12</sup> D'Vera Cohn, Pew Research Center. "Census considers new approach to asking about race – by not using the term at all." June, 2015.



***Therefore, it is necessary to create an easy to understand and comprehensive race data collection process.***

**Recommendations:** the Advisory Board recommends employing the context and framework described below to standardize the racial/ethnic categories, to encourage employees and employers to provide this information, and, when they do, to obtain the most detailed race data possible.

This includes defining race/ethnic categories by drawing on the U.S. Census's current categories and incorporating new categories that research has demonstrated are relevant in today's society.

- Contextualize data collection for employers and employees:
  - Provide employers with a form to give to employees that will explain the purpose of the data collection and request their voluntary participation.
  - Provide employers with a form to fill out in case they are not able to obtain this information from their employees.
- Frame the question to encourage a higher response rate:
  - Ask employees: "What race/ethnicity do you primarily identify with?"
  - Ask employers (if employees do not provide information): "What race/ethnicity do you believe employee X primarily identifies with?"
- Provide parentheticals with examples next to each category to guide employees/employers (see below).
- Define race/ethnic categories by drawing on the U.S. Census's current categories and incorporating new categories that research has demonstrated are relevant in today's society. These categories are:
  1. White (for example, Irish, German...)
  2. Black/African-American (for example, African-American, Haitian, Nigerian...)
  3. Hispanic/Latino/Spanish Origin (for example, Mexican, Mex-Am, Puerto Rican...)
  4. American-Indian or Alaska Native
  5. Asian (for example, Chinese, Filipino, Asian Indian...)
  6. Native Hawaiian or other Pacific-Islander
  7. Middle Eastern/North African
  8. Multiracial/Multiethnic
  9. Information not Available





**Recommendation:** the Advisory Board recommends employing the steps below due to a significant likelihood of a low response rate during the first year of data collection:

- Determine the threshold for the response rate that will render statistically significant and reliable data.
- Survey employers and employees after the first year to investigate methods of improving future response rates.
- Consult additional studies and experts, if necessary, to inquire about alternative methods of race/ethnic data collection.
- Make any necessary revisions to race/ethnic categories and data collection methods for second year.

## ii. Defining “Sex”

The Equal Pay Report requires sex data to calculate pay gaps between men and women, known as the *gender wage gap*. The terms *sex* and *gender* are often used interchangeably but should be understood distinctly. By limiting the categorization to only *male* and *female*, many reporting structures fail to account for gender nonconforming individuals who may identify as both or neither gender.

### “Sex” and “Gender” Defined:

- **Sex** refers to biological and physiological characteristics, whereas
- **Gender** invokes socially constructed roles, behaviors, activities, and attributes.
- **Gender identity** is a person’s sense of self regarding characteristics labeled as masculine, feminine, both or neither.
- An individual determines their own gender identity and the sole proof of a person’s gender identity is that person’s statement or expression of their self-identification.

**Recommendation:** the Advisory Board recommends collecting and reporting sex data of employees in a manner consistent with their gender identity. In addition to male and female, the report shall include an “other” category for gender nonconforming employees who may identify as both or neither gender.

### Additional Considerations Regarding Sex and Gender

In some industries and occupations, segregation by gender is prevalent. Despite progress in some parts of the workforce, there remains very little gender integration in traditionally male-dominated industries such as construction and trades. This is a known barrier to equality. Research by the Institute for Women’s Policy Research shows that, irrespective of the level of qualification, jobs predominantly done by women pay less on average than jobs predominantly done by men.<sup>13</sup>

- The realities of occupational segregation impact calculations of gender pay gaps. Burk advised that in Albuquerque, the City has found occupational segregation to be a factor that

<sup>13</sup> Institute on Women’s Policy Research. [Pay Equality and Discrimination](#), 2015.



skews the calculation of gender pay gaps. For example, if a company employs no women, the company will be found to have no gender wage gap. Offering incentives to segregated companies based on this technicality was not the intention of the pay equity initiative.

- In addition, privacy concerns of individuals must be carefully considered in light of occupational segregation and in workplaces that lack both gender and/or racial diversity. Despite gathering summary information on compensation through EPRs, individuals may be identifiable due to the absence of other employees of the same gender or race. This topic warrants further research.

**Recommendation:** the Advisory Board recommends further research into the legal and privacy issues that will arise due to occupational segregation and workplaces that lack gender and/or racial diversity.

### iii. Defining “Summary Information on Compensation”

“*Summary Information on Compensation*” refers to overall trends and the average wages of employees based on race, sex, and race and sex combined. The EPR will collect aggregate compensation data and will **not** collect individual data on employees; however, employers must utilize individual employee data to calculate pay gaps. Thus, the EPR will require employers to calculate pay gaps based on:

- the total number of workers within each of the nine (9) job categories used in federal reporting<sup>14</sup>
- the total compensation paid to employees identified by sex, according to the three categories recommended below (male, female, or other)
- the total compensation paid to employees identified by race/ethnicity, according to the nine categories recommended below
- the total compensation paid to employees identified by sex *and* race/ethnicity, according to the categories recommended below

**Recommendation:** the Advisory Board recommends using the broad job classes and occupational subcategories as defined by the [United States Department of Labor](#) and used by the US Equal Employment Opportunity Commission in [the Employer Information Report EEO-1](#) to minimize the reporting burden on employers. However, due to the need for greater specificity in these broad categories, the EPAB recommends consideration of narrower job classes in future reporting periods.

### iv. Defining “Compensation”

The EPAB formed a work group to determine which measurement of compensation to use when calculating the equivalent of an annual, full time salary for each employee.

**Recommendation:** the Advisory Board recommends defining and calculation “calculation” as follows:

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<sup>14</sup> Some employers subject to federal reporting requirements use the job classes and occupational subcategories as defined by the [United States Department of Labor](#) and used by the US Equal Employment Opportunity Commission in [the Employer Information Report EEO-1](#).



**“Reported Compensation” Defined:** Reported compensation shall be that earned during the previous calendar year. For purposes of the report, “compensation” shall include base pay, commission, and employer-provided bonuses.

- “Compensation” shall not include gratuities, contributions to medical benefits, or other fringe benefits (although contractors may choose to include information on these types of benefits or gratuities in the “notes” section of the chart, as further described below).

**Calculations for “Reported Compensation:”**

- For each non-exempt (hourly) employee, whether full or part time, calculate the total hours worked by the person, including overtime.
- For exempt (non-hourly) employees:
  - For salaried employees who worked full time throughout the entire previous calendar year, enter “2080” for the number of hours worked (40 hours/week x 52 weeks).
  - For salaried employees who worked a partial year or who were salaried part time, multiply the number of weeks worked by 40 (e.g., if the employee worked 20 weeks, the number would be 20 x 40 = 800).
- For each category of employee (e.g., “operatives: female workers of X race”), add all hours worked during the previous calendar year, including hours worked by both part time and salaried employees in that category. Similarly, add up the total compensation received by all employees in that category during the previous calendar year.

**Additional Considerations Regarding “Reported Compensation”**

- Though compensation is limited to base pay, commission, and employer-provided bonuses, if a contractor believes that other types of fringe benefits (e.g., transportation benefits, childcare stipends, etc.) provided to employees in particular job categories are informative as to its Equal Pay Practices, the employer may use the “note” section to describe the type of benefits offered but not included in the “compensation” calculation.
- If such information is included in the “note” section, it should not identify employees by name or other identifying information, but should be a general statement of the benefit and the category of employee to whom it is provided. The note section may also be used to set forth an explanation for any disparities in a given job category (e.g., disparities in years of experience or education). Again, any such information should be general and avoid identifying particular employees.

**v. Defining “Data Points”**

Wage gaps analysis may be assisted by a number of different data points. In defining “data points,” the EPAB was challenged by determining how to collect meaningful information in Equal Pay Reports while imposing only a minimal burden on the contractors in reporting the data.

**Finding:** There are many different drivers of gender wage gaps, including significant and common drivers such as job segregation, years of experience, type of education, and specialized skills.



Different drivers of wage gaps are dependent upon the data sample being examined, the industry, and the age group, among other factors. There are a number of different approaches and methodologies to evaluate those data, and the presence of wage gaps between different protected groups does not automatically signify that it is caused by discrimination. However, the amount and nature of the data points needed from employers to measure discrimination in wage gaps would be very difficult, if not impossible, to obtain from employers.

Further research on the datasets available through current reporting requirements to the City will benefit the City in development of an analytical model.

**Recommendation:** the Advisory Board recommends developing a decomposition methodology for Equal Pay Reporting. This methodology would decompose the wage gap by organizing data into two categories: explainable factors, and unexplainable factors. Researchers generally put discrimination in the category of unexplainable factors. As noted above, the presence of unexplainable factors in a wage gap does not automatically signify that discrimination is the cause of the disparity; however, the unexplainable factors are potentially the result of discrimination. In order to understand whether discrimination is present in such occurrences, a detailed investigation by the Human Rights Commission would be necessary, as set forth in the Ordinance.

## **C. The Equal Pay Analysis in City Contracting**

### **i. Analysis of Covered Contractors**

Covered Contractors and Subcontractors must have at least 20 employees worldwide, and fall into one of the following three categories:

- 1. Chapter 6<sup>15</sup> Contractors & Subcontractors (Construction and Public Works):**
  - Have agreements of \$600,000 or more (the Threshold Amount set forth in Administrative Code Chapter 6)
  - Perform professional design services, consultant services, construction management services or construction services relevant to a public work or improvement.
- 2. Chapter 21<sup>16</sup> Contractors and Subcontractors (Goods and Professional Services):**
  - Have agreements of \$100,000 or more (the Minimum Competitive Amount set forth in Administrative Code Chapter 21)
  - Any corporation, partnership, individual, sole proprietorship, joint venture or other legal entity which enters into a contract to sell Commodities or Services to the City.
- 3. Nonprofit Grant Recipients with agreement of \$50,000 or more.**

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<sup>15</sup> [Chapter 6](#) of the SF Administrative Code governs public work or improvement contracting policies and procedures, including the procurement of professional design, consulting and construction management services for public work projects.

<sup>16</sup> [Chapter 21](#) of the Administrative Code governs the acquisition of Commodities and Services.



## ii. Analysis of the Scope of Coverage

The EPAB formed a work group to analyze the scope of the Ordinance's jurisdictional coverage. The work group evaluated which employees throughout an employer's operations should be included in the report.

**Finding:** Collecting compensation data on all employees throughout an employer's worldwide operations is not feasible or productive for the purpose of addressing pay gaps and wage discrimination in City contracting.

The results of further research by the Office of the Controller analyzing the terms and standards used in City contracting will address the jurisdictional scope of the Ordinance. That research is ongoing.

**Recommendation:** the Advisory Board recommends limiting reporting requirements geographically to include compensation data for all employees working:

- in any of a contractor's operations within San Francisco;
- a contractor's operations on real property outside of San Francisco owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract or property contract with the City; and
- employees performing work for the contract elsewhere within the United States

## iii. Analysis of Contractor Reporting Requirements

The EPAB received valuable input from other City departments with key roles in contracting to understand the existing reporting requirements with which contractors must comply.

Many departments are involved in City contracting include the Office of the Controller; the Office of the City Attorney; the Office of Contract Administration; the Office of the City Administrator and its Contract Monitoring Division; the Office of Labor Standards Enforcement; the Office of Economic and Workforce Development; the Public Utilities Commission; the Port of San Francisco; San Francisco International Airport; the San Francisco Municipal Transportation Agency; the Department of Public Works; and the Recreation and Parks Department. All department representatives that interact with covered contractors are stakeholders in the implementation of the Ordinance, as filing complete and accurate equal pay reports is a contractual requirement for the contractors.

**Finding:** City contracting is a complex environment, with contractor data stored in various locations in the City's twenty-seven (27) different data systems. Various contractors are already reporting some, but not all relevant data to the City to comply with these other reporting requirements. There is no universal database containing all contractor data.

Some of the data required for an Equal Pay Report are reported by certain City contractors for the purposes of complying with requirements of various City ordinances. For example, the Elation System collects some data on race and job classification for construction and public works contractors covered by the Prevailing Wage and Local Hire Ordinances. Through the collaboration with the Office of the Controller, ongoing research will include an extensive analysis of all of the City's data systems to identify



the locations of all relevant data already reported by contractors, and identify methods of migrating the data.

**Recommendation:** the Advisory Board recommends ongoing research by the Office of the Controller through the HRC-CSA partnership will clarify what data is already collected by the City, and where and how they reside. This information will inform future considerations for scope and coverage, and on minimizing the reporting burden on contractors.

As an Equal Pay Reporting model is developed, it may be necessary to designate a technical team involving other City departments (in addition to HRC) that will be responsible for data analysis. It may also be advisable to create a Steering Committee with department leads to contribute to procedural and regulatory development.

**Recommendation:** The EPAB recommends further evaluation through June 2016 of the need to establish a dedicated technical team and steering committee.

#### **iv. Analysis of Wage Gaps in Contracting**

##### **1. Awareness of Wage Gaps Through Wage Transparency:**

**Finding:** Wage transparency can compel thought and action from employees and employers alike to eliminate wage gaps and sex, gender, and gender identity discrimination.

As a result of tracking and reporting the data required by the Equal Pay Ordinance:

- Contractors will become aware of wage gaps within their companies.
- Contractors may proactively take measures to better understand address organizational wage gaps.
- Contractors will become aware of the number of women and employees of color in management and leadership positions, and may be prompted to assess the state of gender and racial diversity organization-wide.
- Contractors may begin to examine how biases (both explicit and implicit) impact hiring and promotional opportunities.
- Contractors may discover “glass ceilings” or other limiting employment patterns linked to sex and/or race, and identify strategies for improvement
- Individual employees may become aware of unfair pay practices and become empowered to exercise their rights to action under available federal, state, and local laws.

##### **2. Investigation and Enforcement**

Nondiscrimination is a contractual requirement of entities that do business with the City and County of San Francisco. The San Francisco Administrative Code prohibits discrimination on the basis of a broad range of protected classes and makes retaliation for opposing discrimination unlawful. The Human



Rights Commission is empowered to conduct investigations into potentially discriminatory conduct, and assess compliance with nondiscrimination provisions of the Administrative Code.

If HRC investigates an employer and finds probable cause to believe that discrimination has occurred, then the contractor could face monetary penalties and/or risk losing its contract with the City and County of San Francisco. The HRC may also make recommendations for corrective actions to promote equity and encourage fair employment practices.

### **III. Developing A Reporting Model and Internal Pilot Study**

**Finding:** The reporting scheme for the Equal Pay Report is inherently complex. It requires organizing the data for employees within each job classification by race, gender, and race and gender combined. Technical components of the data collection and analysis methodology require expertise beyond that of the Equal Pay Advisory Board. As discussed below, requests for technical assistance were made to receive input from experts in labor and economics, statistics, and technology, among other areas.

- For each of the nine (9) EEO1 job categories used in federal reports, the employers will be asked to state the number of female employees, the number of male employees, and number of gender nonconforming employees of each race [out of nine (9) possible racial/ethnic categories].
- For each of these categories of employees in each job classification, contractors will then state the aggregate compensation earned in the previous calendar year and the number of hours worked. This data will be gathered for each employee employed in the calendar year.
- Once a template is created, it must be tested and evaluated to determine its effectiveness in calculating and analyzing wage gaps, and to identify and incorporate necessary modifications.
- Currently, the City and County of San Francisco does not calculate gender and race gaps in CCSF departments, nor from City contractors. Thus, there are no available data to analyze for the purpose of developing and testing a reporting template.

The EPAB determined that further research, analysis, and collaboration with various experts is necessary to effectively implement the Equal Pay Ordinance. Leaders in City departments such as the Office of the Controller and the Department of Human Resources are providing key support and assistance to the Human Rights Commission in order to create a strong framework for the Ordinance.

#### **A. Office of the Controller**

**Finding:** Developing a successful reporting model requires technical expertise beyond that of the EPAB, specifically in the areas of labor and economics, statistics, technology, and City contracting. The Office of the Controller is uniquely qualified to develop and test an analytical model for the Equal Pay Report, and has agreed to do so.

The EPAB requested assistance from the Office of the City Controller in order to develop a reporting template, specifically seeking expertise in statistics to create and test algorithms to calculate race and gender pay gaps. The City Controller met with representatives of the EPAB and HRC, along with



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representatives from the GSA's Contract Monitoring Division, the Office of Labor Standards Enforcement, the Office of Economic Workforce and Development, and the Department of Public Works. The Controller agreed to assist with some of the necessary analysis; however, due to the scope and long term goals of the Ordinance, the EPAB expects that the City will need to allocate resources to establish a dedicated technical team.

In discussions with the Controller's Office City Services Auditor (CSA), the EPAB explored the possibility of hiring economic experts for consultation and development of an Equal Pay Reporting model. Although consultation with experts in labor and economic analysis may be necessary as the initiative continues, the EPAB determined that CSA is uniquely positioned to develop and test an analytical model and Equal Pay Report. Thus, CSA's City Performance Project Team and HRC agreed to a project plan to complete the following tasks enumerated below.

**Recommendation:** the Advisory Board recommends developing a Develop model for Equal Pay Report by June 2016 in accordance with the Project Plan between the Human Rights Commission and the Office of the Controller.

1. **Legal and privacy research:** CSA will research potential legal and/or privacy concerns related to the new EPO reporting requirements and assess how to streamline data collection, management and reporting and how to ensure data security.
2. **Comparative analysis of City Ordinances:** CSA will compare key elements of the EPO with those of other City Ordinances including definitions of terms and standards, jurisdictional scope, requirements placed on contractors, and data gathering practices.
3. **Data collection and analysis:** CSA will collect and analyze existing contractor data to determine if any additional data need to be collected from contractors to conduct the wage gap analysis. CSA will collect data from any of the City's systems where relevant data are stored, such as the Elation database. CSA will then analyze the data to determine if gender- and/or race-based wage gaps can be identified.
4. **Draft model development:** Based on its analysis of current contractor data, CSA will develop a draft model and EPR to test with a select group of contractors. CSA will look for guidance from OLSE and OCA to determine the appropriate group of contractors to test the model with.
5. **Model testing:** CSA and HRC will jointly manage the model testing process with the select group of contractors. CSA will manage the technical aspects of the testing and HRC will manage communications and stakeholder engagement.
6. **Model revision:** Based on the findings of the testing phase, CSA will revise the model and submit a final version of the model to HRC by June 30, 2016.

**B. University of San Francisco, School of Management**

Concurrently with its request to the Controller, the EPAB and HRC also contacted local universities for assistance and began working with the University of San Francisco's School of Management (USF) to develop a reporting template for the Equal Pay Ordinance. Dr. Mouwafac Sidaoui, Associate Professor and Chair of the Department of Business Analytics and Information Systems, selected a team of graduate students to devote their intensive course term to the equal pay project. Based on the specifications provided by HRC, the USF team developed an equal pay reporting model using Microsoft



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Excel and business intelligence and analytics software Tableau. The EPAB appreciates the contributions of the USF team and may seek to collaborate further with the University as the City continues its research and obtains real datasets for testing and analysis.

**C. Department of Human Resources**

**Finding:** San Francisco would benefit from conducting an internal analysis of compensation data by race and sex within its own workforce. Data on employee race and sex are collected by the Department of Human Resources during hire.

The Governments of the United States, the City of Albuquerque, and of the State of New Mexico have examined the wage gaps within their respective workforces in the development of pay equity initiatives. There are many benefits to following this precedent. The EPAB and HRC engaged the Department of Human Resources (“DHR”) about conducting a pilot study using CCSF compensation and classification data analyzed by race and sex.

DHR collects information on race and sex of its employees at the time of hire, and the City’s system of classification and compensation is structured and regulated. Thus, the data are readily available for analysis. In the pilot study, the City would update its records on race and sex to using the categories as defined on the Equal Pay Report.

By conducting an internal compensation analysis, the City will gain useful insight into the practical application of equal pay reporting requirements. It will benefit the City to understand the challenges and concerns that may arise for contractors in collecting and reporting the data required on the Equal Pay Report. Furthermore, this will afford the City an opportunity develop the tools and framework needed to address such challenges proactively and successfully. The most effective methodologies for data collection and analysis can be discovered and the limits of various statistical and analytical approaches will be better understood.

By studying its own workforce, the City will strengthen its understanding of wage gaps and improve the quality of publicly available wage data. If any significant wage gaps are identified, the City should study the reasons why those gaps exist implement a strategy as to how they can be closed. In addition to the many practical benefits, an internal pilot program will give the City the moral authority to require equal pay reports of its Contractors and serve as a model employer.

**Recommendations:** the Advisory Board recommends that the City Conduct an internal equal pay pilot program using City employee data. The internal pilot study would entail updating records on race and sex of employees to match the categorization that will be used on Equal Pay Reports by April 2016, and performing an internal compensation analysis by June 2016.

The City’s system of classification and compensation is structured and regulated and is expected to reveal an absence of significant wage gaps; however, if any significant wage gaps are identified, the City should study the wage gaps and implement a strategy as to how they can be closed.



## **IV. Legislative Amendments and Phased Implementation**

### **A. Legislative Amendments**

**Recommendation:** the Advisory Board recommends amending the Administrative Code to extend the deadline for the submission of the initial Equal Pay Reports from January 31, 2016, to July 3, 2017. The EPAB also recommends that the Ordinance be amended to extend the sunset date of the Equal Pay Advisory Board to July 2, 2018.

### **B. Phased Implementation**

**Recommendation:** the EPAB recommends a phased implementation of the Equal Pay Ordinance is in order to provide sufficient time for further research, development, and testing of the model. In addition, phased implementation should include a notice and education period to educate contractors on the new requirements.

#### **Phase I: Pilot Program, Model Development, and Testing**

Phased implementation will begin with consultation and collaboration with the Office of the Controller in order to continue necessary research and develop a model for compensation analysis as described above. As CSA develops a draft model development based on its analysis of current contractor data, the model will be tested with a representative sampling of contractors and revised as needed. The goals of this phase are expected to be completed by July 2016. Concurrently, working with the Department of Human Resources on a pilot study of the City's workforce will shape the development of the model and implementation plan.

#### **Phase II: Model Analysis**

The Human Rights Commission will analyze the results and findings of the pilot program and model testing in collaboration with other stakeholders, including the Equal Pay Advisory Board. The analysis will include contemplation of additional legislation that may be necessary to fulfill the spirit and intent of the Equal Pay Ordinance. Advisory Board members will keep their appointing bodies apprised of the progress and development of the equal pay initiative and reporting model. HRC will develop guidance materials by October 2016. In collaboration with the Office of the Controller, HRC will evaluate the need for resources that may be necessary to successfully implement the Ordinance. Funding may be needed in order to develop a data system, devote a technical team, hire economic consultants, and devote ongoing legal support.

#### **Phase III: Notice and Education to Covered Contractors**

It is imperative to provide guidance to covered contractors well in advance of reporting requirements, and allowing the contractors adequate time to update records as needed for the purpose of filing Equal Pay Reports.

In order to ensure that covered contractors, subcontractors, and recipients of grants understand their obligations in submitting Equal Pay Reports, the City should offer guidance materials and outreach sessions to covered employers beginning in October 2016. In order to promote compliance and

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understanding of the EPR requirements and procedures, HRC and other city agencies will need to conduct substantial outreach and education efforts within the community. Training and guidance is most likely to be effective if it is based on a clear understanding of the real-world application of the EPR data collection and reporting methods gained in Phase I. The EPAB anticipates that covered contractors will have a wide range of questions and concerns on Equal Pay Reporting with respect to the data collection and analysis methodology, as well as enforcement.

Phase III will include a request for covered contractors to update their records based on race and ethnicity. Due to the inevitability of incomplete records, the City must request that employers update their records before completing an EPR, but cannot require it. Thus, the City should allow for a reasonable period of time in which covered employers make an effort to that end.

**Phase IV: Equal Pay Reporting**

Deadlines for submission of EPRs by covered contractors will be July 3, 2017. The methods for data collection and analysis should be evaluated and modified as needed for future reporting years.

**Recommendation:** the EPAB recommends further evaluation of the need for resources as the model is developed and strategies for implementation are assessed.

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**San Francisco's Equal Pay Ordinance is the first in the nation to require City contractors to report on pay equity by gender, race, and both gender and race combined. In 2015, an Equal Pay Advisory Board was appointed by the City to evaluate key aspects of the Equal Pay Ordinance. This report contains the findings and recommendations of the Advisory Board.**