



Max Anderson
Councilmember District 3

CONSENT CALENDAR
May 12, 2015

To: Honorable Mayor and Members of the City Council

From: Councilmember Max Anderson, District 3
Councilmember Darryl Moore, District 2

Subject: Budget Referral: Phase II: Implementation of *City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report*

RECOMMENDATION

The City should consider implementing the recommendations in the *City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report*.

A. Department Audits - **\$45,000**

The top-line report recommends audits of the Human Resources and Equal Employment Opportunity (EEO) Department. Upon completion of the Human Resources and EEO Department audits, the findings as well as the complaints within the top-line report will define the type of best management practices that should be implemented. In particular, consistent application of personnel rules by the Human Resources Department must be ensured in order to prevent perceived unfairness during the hiring and promotion process. Uniform and transparent standards applied in the hiring and promotion process must be implemented and enforced. The Human Resources Department should also strictly enforce the enhanced nepotism policy that is proposed in the top-line report.

The top-line report also shows that City employees felt that their complaints filed with the EEO office were not properly handled. In order to create greater transparency in the resolution of EEO complaints and engender confidence in the EEO office, the City should also consider establishing uniform standards to resolve EEO complaints and produce EEO reports.

B. Inventory of EEO Complaints - **\$15,000**

Many interviewees indicated that they had filed EEO complaints that were either unresolved or resolved unsatisfactory. The number of EEO complaints that have been filed, investigated, and resolved and the extent of documentation and evidence of alleged misconduct will be assessed and inventoried. The assessment will also allow for the identification of areas that need improvement, and potentially an estimate of how many EEO complaints are resolved successfully or satisfactory.

C. Whistle Blowing Policy - \$3,000

The EEO complaint process must be supplemented with a whistle blowing policy to protect City employees who report misconduct from retaliation and harassment. The enforcement of the whistle blowing policy is imperative due to the pervasive fear of retaliation and harassment by City supervisors and managers. The lack of protection of whistle blowers may have exacerbated the underreporting of misconduct that has reportedly occurred over the last 30 years. The assessment will allow for a definition of the scope of the policy.

D. Applicant and Employee Reporting - \$15,000

The top-line report calls of reinstatement of several EEO Reports:

- Applicant Flow Report: To identify the number, gender, race, and ethnicity of applicants, test participants and successful candidates in order to evaluate the extent to which underutilized classifications or job groups may be impacted by recruitment and selection procedures or practices.
- Quarterly and Year End Employee Turnover Report: To identify new hires, promotions, transfers, demotions, and terminations by job classification, race, ethnicity, gender, department, and division in order to identify and evaluate any indicators of disproportionate hiring, promotion, or retention practices.
- Quarterly and Year End EEO Complaint Report: To track EEO related complaints and grievances by issue, job classification, department, and resolution in order to identify and evaluate the need for review or revision of any policies, practices, procedures, or activities to enhance EEO effectiveness.
- Quarterly and Year End Training Report: To track training opportunities and participation in order to assure non-discrimination in training practices.

Suspension of reports diminished transparency in the hiring, promotion, transfer, demotion, and termination of City employees. The assessment will allow for a review of the current reports and also identify enhancements to the content and presentation of the required data.

E. Nepotism Policy - \$2,500

An anti-nepotism policy should be included in the Personnel Rules. The current policy, Berkeley Administrative Regulation 2.12: Employment of Near Relatives, is not included

in the Personnel Rules. The policy will also be expanded and include rules to ensure enforcement of the policy. The policy should be applied to all City departments, including the Rent Board and Library, and cover a City employee's family, near-family, friends, and acquaintances. The vast majority of nepotism observed by the complainants entailed the preferential hiring and promotion of friends, former co-workers, or former employees. Each potential hire should have to disclose if they have personal ties with City supervisors, managers, or staff, as part of the application process.

**F. Additional Staffing Needs of the Human Resources and EEO Departments-
\$4,500**

The Human Resources and EEO Department audits may also reveal a need to expand the body of skilled staff members who will be responsible for enforcing all recommendations of the *Phase II* project. The required skills and subject-matter expertise will be determined based on the findings of the audits. The duties and responsibilities will also be outlined in order to maximize the utility of the current staff and any proposed staff augmentation.

G. Improvements of Communication Methods - \$7,000

Better communication channels between the City and City employees and potential new hires will be established to address concerns about recruitment, selection and retention of new employees. The communication improvements would address the selection of media to publicize open positions, the length of time the open positions are advertised, and the content of the notices. The assessment will also consider options to make the communication more transparent and will include an examination of the schedules and time periods for submitting applications, taking exams, and participating in in-person interviews. The number of one-on-one and group interviews as well as the selection of interview panel members will be assessed. Standards for informing applicants of the City's hiring decisions will be a component of the assessment.

H. Revisions of the Personnel Rules - \$8,000

Additional revisions of the Personnel Rules may be necessary upon closer examination of the Human Resources and EEO Departments.

BACKGROUND

In 2012, the National Association for the Advancement of Colored People (NAACP) collected complaints by former and current City of Berkeley (City) employees. Mason Tillman Associates, Ltd. (Mason Tillman) was retained by the City of Berkeley to review the City's Personnel Rules and interview 20 complainants. Mason Tillman reviewed the City's Personnel Rules, Title 4 of the Berkeley Municipal Code, and Ordinance No. 2342 - N.S and conducted the 20 interviews in 2013 and 2014. Mason Tillman issued a report in May 2014 detailing the findings of the interviews and examination of the Personnel Rules, entitled *City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report*. The interviews revealed perceived unfairness in the hiring and promotion

process by inconsistently applying the Personnel Rules and lack of transparency in the handling of EEO complaints.

On October 7, 2014, the Berkeley City Council held a special session to discuss the report and hear public comments. Mason Tillman presented the top-line report findings to the City Council. The City Council unanimously supported taking additional steps to address the concerns of the complainants.

FINANCIAL IMPLICATIONS

TBD.

CONTACT PERSON

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A	\$45,000
B	\$15,000
C	\$3,000
D	\$15,000
E	\$2,500
F	\$4,500
G	\$7,000
H	\$8,000
Total	\$100,000