

Fact Sheet



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The New Mexico Pay Equity Initiative in State Contracting

In January 28, 2009, Governor Bill Richardson of New Mexico issued Executive Order 2009-004 'Fair and Equal Pay for All New Mexicans Initiative' which formally declared that identifying and combating pay inequity and job segregation was the policy of the State of New Mexico and established a 'Governor's Taskforce on Fair and Equal Pay ("The Taskforce")'.¹ The recommendations of The Taskforce address pay equity in the state's direct workforce and in companies seeking to provide goods and services to the state of New Mexico. The recommendations were implemented by means of an executive order in 2010. The New Mexico experience has shown that pay equity reporting can be implemented without legislation and that compliance with new reporting requirements by employers is unproblematic.

The Gender Wage Gap in New Mexico

In 2009, according to the American Community Survey, the female to male earnings ratio in New Mexico for full-time and year round workers was 77.3 percent—women's median annual earnings were close to \$9,000 less than men's. The gender-wage ratio in New Mexico is close to the national rate of 78.2 percent, with 21 states having a narrower gender wage gap. The wage gap is particularly pronounced for African American women who earned only 54.3 percent of white male annual earnings, for Latina women who earned only 54.6 percent, and for Native American women who earned 56.5 percent, according to IWPR's analysis of the American Community Survey.

The Taskforce on Fair and Equal Pay

Governor Richardson's January 2009 executive order established a new taskforce, charged with developing recommendations for addressing pay equity in the state's own workforce and in companies contracting to provide goods and services to the New Mexican government. The executive order also directed a study of gender pay gaps and job segregations in all departments of the state's classified workforce (more than 19,000 employees). It established a working group to construct a process for addressing problems identified in the study of state government departments, and required all departments to submit a gender pay gap report to the governor on an annual basis.

Regarding the private sector, Executive Order 2009-004 charged that The Taskforce develop "research and reporting methods and procedures for requiring entities holding contracts with the State to study and remedy pay equity and job segregation within their businesses, and timelines for implementation."² It resulted in the appointment of a working group consisting of cabinet secretaries or their designees from the General Services Department, State Personnel, State Purchasing, and the State Department of Workforce Solutions, with input from the private sector and other state boards and commissions. The working group was charged with developing policies and procedures, with timelines for implementation of pay equity reporting, as well as appropriate safeguards for small business.

In September 2009, The Taskforce issued a report with detailed recommendations related to both the public and private sector workforces.³ Its recommendations led to Executive Order 2009-0049 (issued December 18, 2009, and effective as of January 1, 2010) which required all entities with 10 or more employees

contracting with the State of New Mexico to submit a gender pay equity report by July 1, 2010 as a condition of receiving contracts. Beginning October 1, 2010, gender pay equity reports were also required as part of the response to solicitations or the request for proposal (RFP) process. The Office of the State Auditor has the authority to review reports.⁴

Gender Pay Equity Reports

Companies wishing to contract with the State of New Mexico have to provide basic pay equity reports. The pay reports use the same broad nine occupational categories used by the federal Equal Employment Opportunity Commission's (EEOC) EEO-1 forms. While the federal EEO-1 forms are compulsory only for companies with 100 or more employees, companies in New Mexico with 10 or more employees are required to submit pay equity reports; companies with fewer employees are only included if at least 8 of their employees are in the same occupational group.

For each of the occupational categories companies have to provide the number of employees by gender (full- and part-time) and percentage gender pay gaps in each category. The gender pay gap is calculated based on the average hourly wages and is reported for each of the nine broad occupational categories. For example, a typical report might show that one gender of professionals earns 10 percent less than the other gender. There are no requirements to report actual individual compensation or hours worked—nor mean hourly wages—by job category and gender, although companies need to internally analyze those data in order to prepare the reports. Employers retain this information for their own use in correcting any gender pay gaps identified.

Most businesses have accounting and/or payroll systems to track employees by job category, hours worked, and compensation. For the very few that might not have such capability, the state has provided complete downloadable data entry capability for employee compensation tracking that is needed by employers for producing the final reports. Proprietary information is retained by contractors—only final pay equity reports are submitted to the state.

The State of New Mexico provided downloadable spreadsheets for producing the reports; the use of the spreadsheets (with their embedded formulas) is required—employers are not free to use their own formulas or formats in the preparation of their pay equity reports.⁵ Integration of pay equity reporting into the state's reporting system for tax filings for those contractors having an account in that system is in progress. This method of reporting will be optional.

Although the working group recognized that race and ethnicity are substantial contributing factors to wage disparities, it was decided to begin with gender data only. Future plans call for inclusion of these data in wage gap analyses.

The reports will be studied for a period of 12–18 months with the goal of developing a scoring system for future evaluation of responses to RFPs and other bidding documents.

Experience to Date

The reporting requirement applies to all state agencies that let contracts and all categories of purchasing, ranging from mountain lion hunters to multimillion dollar construction projects.⁶ Because the requirement to report as part of procurement offers became effective only in the last quarter of 2010, only about 600 contracts had been affected by the end of 2010. Altogether about 3,200 firms are covered by the requirements, ranging in size from New Mexico's largest employer, Intel (with more than 3,000 employees) to firms with only 10 employees.

The early experience is noteworthy for its lack of resistance by employers or reports of difficulties in complying. Over the first seven months of implementation, fewer than 50 contractors contacted the state for assistance in understanding the requirements or preparing their reports. Contractors seem generally to have accepted the requirement as a normal part of the contracting process and have lodged no substantial complaints about the new requirement.

Conclusions

The New Mexico experience has shown that pay equity reporting can be implemented without legislation. The work of the Governor's Taskforce on Fair and Equal Pay can serve as a model for other states, as New Mexico is the only state systematically implementing procedures to combat pay inequity among its state contractors. Closing pay gaps lowers the burden on public services such as Medicaid, subsidized child care, and food stamps programs. It is good for a state's tax base and will result in a healthier economy overall.

Notes

¹ See New Mexico Executive Order 2009-004 "Fair and Equal Pay for All New Mexicans" <http://nmdigital.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p267801coll5&CISOPTR=3158&CISOBX=1&REC=1> (accessed May 8, 2011)

² New Mexico Executive Order 2009-004, Section 3. <http://nmdigital.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p267801coll5&CISOPTR=3158&CISOBX=1&REC=1> (accessed May 8, 2011)

³ Task Force Report to the Governor: Fair and Equal Pay for All New Mexicans Initiative; prepared by Martha Burk, Ph.D, Chair of Task Force: <<http://www.generalservices.state.nm.us/spd/report093009.pdf>> (accessed May 8, 2011)

⁴⁴ All relevant documents, FAQs, and requirements can be found at: <http://www.generalservices.state.nm.us/spd/pay_e.html> (accessed May 8, 2011)

⁵ See Form PE10-249, available at <http://www.generalservices.state.nm.us/spd/pay_e.html> (accessed May 8, 2011)

⁶In addition to companies with fewer than 10 employees, several other categories of contract recipients are exempt from the reporting requirement: (1) government to government contracts; (2) entities granted emergency procurement contracts; and (3) out of state contractors providing goods or services with no employees actually working in the state.

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