



CITY OF OAKLAND

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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Jim Reese

SUBJECT: Supplemental Report to Annual Equal
Access Ordinance Compliance Report
(Ordinance No. 12324 CMS)

DATE: December 17, 2012

City Administrator
Approval

Date

1/16/13

COUNCIL DISTRICT: City-Wide

SUPPLEMENTAL REPORT

At its December 11, 2012 meeting, the Finance & Management Committee requested that staff provide a supplemental report to the annual Equal Access compliance report. There were concerns about the City's Equal Access Ordinance compliance raised in a letter dated December 7, 2012 (*Attachment A*) and distributed at the meeting. Authors of the letter also spoke at the committee meeting to address their concerns. Each of the concerns raised is listed below and staff have provided responses to each.

1. Timeliness of Reporting

The letter from community members acknowledged that operational changes in moving the Equal Access Office to the Department of Human Resources Management presented challenges for staff's ability to issue the annual Equal Access compliance report in a timely way. At the same time, the letter emphasized the need and importance of timely reporting.

At the Finance & Management Committee's December 11, 2012 meeting, DHRM staff provided that the report should be presented at the first committee meeting in September each year. Now that the transition of Equal Access to DHRM is complete, staff anticipates that the September timeline will be met in 2013.

2. Inclusion of a Written Plan to Remedy (Full or Partial) Non-Compliance by the Police and Fire (and Other) Department

The community members' letter raised questions specifically about the thoroughness of Police and Fire's annual compliance plans and requested more detailed information on staff assignments in Police and Fire. The letter asserts that the Police and Fire

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departments are not in compliance with the Equal Access Ordinance with regard to reporting of bilingual staffing.

The 2011 Settlement Agreement requires a specialized reporting process for Police and Fire to determine whether services located in areas of high concentration of Limited English Speaking (LES) persons have bilingual officers and firefighters serving the LES population. The Fire Department is required to report on staff assignments by firehouses, and the Police Department is to report assignments by police beat. In this year's compliance report, the Fire Department was able to provide the required information, but the Police Department was not.

Staffing transitions in the Police Department this year included a change in the Language Access Coordinator for the department. The previous coordinator retired in May 2012 and data tracking systems for bilingual staffing were not maintained. In preparing for the FY 2011-12 report, the gap in data was identified and Equal Access staff are working with the new Language Access Coordinator in Police to ensure accurate reporting for the current fiscal year. A meeting will be held in January to clarify the requirements of the Equal Access Ordinance and to evaluate tracking methods to ensure their effectiveness. Staff anticipates that reporting by police beat will be included in next year's report.

In the discussion of Police and Fire bilingual staffing needs and assignments, the 2011 Settlement Agreement acknowledges that the Memoranda of Understanding (MOUs) with the International Association of Firefighters Local 55 and the Oakland Police Officers Association govern staff assignments. Specifically, the MOUs do not allow management to require that bilingual staff accept assignments to locations where bilingual staffing has been identified as insufficient. For this reason, recruitment strategies for bilingual staff are broadly engaged with the goal of increasing bilingual staffing overall within those two departments and doing so until there are a sufficient number of bilingual staff as determined by citywide assessment using census data.

In the last fiscal year, both Police and Fire engaged outreach recruitment efforts targeted to multi-lingual and diverse communities through print media, outreach to local civic groups (Chinese Chamber of Commerce, Unity Council, etc.), local nonprofits, participation in community events such as career fairs, church events, and other local public events. Additionally, the announcement and candidate tracking processes were updated to capture candidates' language skills as they applied so the departments could evaluate the volume of applications received from bilingual candidates. Since it is not always practical to keep a job announcement open longer to attract more candidates, the information about the candidate pool is used to evaluate the effectiveness of outreach efforts for future recruitments.

Comments provided by the Police and Fire departments in their reports point to the need for additional funding to be able to increase outreach by providing for staff time to attend

outreach events, travel expenses for industry conferences and events to promote Oakland recruitments, and for additional or longer-running advertising in both print media and online outlets targeting bilingual populations. DHRM will continue to work closely with the departments to strengthen the outreach efforts within budgeted resources and ensure effective tracking of bilingual candidates.

3. Qualitative Survey

The community members' letter acknowledged that general agreement had been reached with staff to conduct a qualitative survey during FY 2012-13. Staff has agreed to meet with representatives of the community groups to discuss survey construction, distribution, and reporting. Staff has also provided copies of the FY 2011-12 sample survey instruments to the community members, per their request.

4. Report of Bilingual Staffing and the Location of LES Populations

The community members requested that data and analysis regarding the placement of Bilingual Public Contact Positions (BPCPs) be provided by beats or stations; and that the "need" calculation for neighborhoods with heavier concentrations of LES populations be revealed for easy access and analysis.

Following a meeting with community members on November 21, 2012, Equal Access staff created *Table 10 – PCP Location Summary* that was attached to the Annual Equal Access Compliance Report submitted to the Finance & Management Committee. Table 10 provides the population distribution numbers associated with the specific geographic locations of the City sites within them and identifies the bilingual staffing for those sites. As discussed in #2 above, the report did not include data related to Police staff assignments by police beat, but that reporting will be corrected for FY 2012-13. Table 10 is responsive to the community members' request for supplemental information on this topic.

5. Reorganization of Agencies and Departments

The community members' letter and again in comments made during the Finance & Management Committee's December 11, 2012 meeting, pointed out that not all of the reorganization impacts were discussed in the report. There were two impacts that were captured in the tables attached to the annual report and in the individual department reports, but not discussed in the Council report narrative, specifically:

- a. The Oaklanders' Assistance Center is reported as part of the Mayor's Office (moved from CAO reporting last year); service impacts and assessment of bilingual staffing needs did not change with the reorganization.

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- The ADA Program is reported as part of the Public Works Agency (moved from CAO reporting last year); service impacts and assessment of bilingual staffing needs did not change with the reorganization.

6. Role of the Equal Access Office

Since moving the Equal Access Office to DHRM, recruitment related to bilingual staffing is more closely and more effectively monitored *before* job announcements are posted and positions are filled. This shift in emphasis has made it less confusing for hiring departments to evaluate bilingual requirements for vacancies and makes compliance efforts in hiring more efficient. Additionally, the reorganization allows for closer management of the program and monitoring of compliance activities like posting appropriate signage, providing services in the required languages, and actively conducting outreach to potential bilingual candidates for employment into Public Contact Positions. In delegating oversight of the program to DHRM, the City Administrator has increased direct supervision of Equal Access staff and improved reporting and compliance activities consistent with the Ordinance.

The Equal Access Office and DHRM staff will continue to work to improve and further develop the City's compliance and reporting as it relates to the Equal Access Ordinance. Staff will also continue to engage community members in discussions regarding equal access activities and programs to increase and improve Oakland residents' access to services.

For questions regarding this report, please contact Kip Walsh, Recruitment & Classification Manager, at (510) 238-7334.

Respectfully submitted,



JIM REESE
Interim Director, Human Resources Management

Prepared by:
Kip Walsh, Recruitment & Classification Manager

Attachment A: Letter from Community Members Luz Buitrago, Peter Roos, Mary Gillespie and John Affeldt

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December 7, 2012

Kip Walsh
Recruitment & Classification Manager
Department of Human Resources Management
150 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Sent Via E-mail

Dear Kip,

We are writing to confirm comments and concerns that we discussed at our meeting of Wednesday, November 21, 2012 to discuss the draft of the 2011-2012 Equal Access City Administrator's Compliance Annual Compliance Plan (CAACP used interchangeably with Annual Compliance Report) Report that you will be submitting to the Finance and Management Committee and to City Council as required by the Ordinance and Settlement Agreement of the lawsuits filed in 2008 and settled in 2010. As you may recall, given the fact that we received the Annual Compliance Plan Report just a day and a half before the meeting, we were able to provide limited comments. We see this as a learning opportunity for DHRM since the Equal Access Office was transferred to the DHRM in May 2012.

We were glad to hear that you and the Equal Office staff believe that transferring the Equal Access Office to the DHRM has been beneficial and resulted in better institutionalization of compliance with the EAO both in hiring and in reporting. However, as we discussed, we have some serious concerns that we expect will be addressed in the coming year. We were also glad to hear your stated commitment to improving reporting and compliance with the EAO in the coming years and look forward to working with you, DHRM, and the Equal Access Office to accomplish these goals.

We summarize the purposes of the City Administrator's Annual Compliance Plan to provide context to the following summary of our comments and concerns:

PURPOSES OF THE ANNUAL COMPLIANCE PLAN

The Annual Compliance Plan Report is multipurpose. First, it calls for Agencies/Departments to perform an analysis (based on each agency's "Agency Compliance Plans (ACP)" of their performance and compliance with the EAO during the prior year. Second, it requires that, based on that analysis of compliance and identification of need to have bilingual staff, plans be made for the up-coming year to remedy gaps, non-compliance or limited compliance that are identified in the analysis. Further, the Annual Compliance Plan Report is designed to trigger action by the City Administrator when the analysis and the data show that a department is not meeting the standard of the EAO. Finally, the Annual Compliance Plan allows

an easy analysis of the information. You agreed to file a Supplemental Report to provide the data and analysis.

Data by Neighborhoods with high LEP concentrations

As we discussed, it might be helpful to explain the source of the “need” figures used in Table 4, i.e. that they are computed based on either citywide or local LES figures. You assured us that Table 4 of the report does use local and not citywide LES figures to calculate need for departments that provide geographically dispersed services,, but the information was hidden in the final version of Table 4. It should be made available to us to easily allow for an analysis of compliance for departments or agencies that have locally placed services (e.g., Library, Parks and Recreation). Monique thought that she would be able to pull out this information in time to be included in this report. If you were unable to do this in time for the submission of the December 11, 2012 of the report to the FMA, we suggest that the information be provided in the supplemental report that will be providing the Police and Fire beats and stations information.

Reorganization of Agencies and Departments

We also discussed the changes in “departments” occasioned by the City’s reorganization of agencies. In that context you assured us that Table 1 is the list of “departments” used as a basis for reporting and corresponds to Exhibit 1 of the Settlement Agreement, and that the shaded lines in Table 4 indicate departments used as a basis for reporting and need calculations.

In further reviewing Table 1 (which is the foundation of Table 4), we observed that there is no explanation in the Annual Compliance Report of the impact or lack of impact of concrete changes that resulted from reorganization. For example, the ADA Programs and Oaklander’s Assistance Center that previously existed as units within the City Administrator Agency are no longer listed. Both the Annual Compliance Report and the City Administrator’s Agency plan fail to discuss what happened to these units, whether they have been transferred to another agency, how their functions are being covered or if the “service” is no longer provided. This type of analysis is crucial for planning purposes. The EAO is not just focused on number of bilingual employees, but also asks for an analysis that is based on function. Thus for example there should be a discussion of how the needs of disabled LES’s are being met if the ADA has been transferred to a different agency or if it has been eliminated. The same should occur for the Citizen’s Resource Center. This problem occurs in several other key agencies where reorganization occurred. Because this is a crucial analysis that should occur whenever reorganization results in changes to agencies/departments/units, we request that such an analysis be included in the supplemental report that you have already agreed you would be filing to address several of the other highlighted problems.

the City Council and the public to evaluate the adequacy of departmental compliance and the adequacy of City Administrator's oversight of the EAO.

DELAY IN COMPLETION AND FILING OF THE EAO REPORT

Given the importance of the Annual Compliance Report to monitoring and planning, preparing and submitting the report on a timely basis as required by the EAO is crucial. In fact, this is so crucial that we were compelled to file lawsuits in 2008 that resulted in the Settlement Agreement that together with the EAO set the analytical and reporting requirements. While we understand the challenges that transferring the Equal Access Office to DHRM, personnel issues, and reorganization caused, we would like to emphasize that meeting the reporting deadlines outlined in the Settlement Agreement (we are attaching a copy) and the EAO is of paramount importance. Without timely reports, the budget will not include any targeted spending that would help with compliance and months will go by without any plans to remedy shortcomings. These types of delays are a serious contravention of one of the main purposes of the EAO and look forward to not having a repeat of this situation next year and in the coming years.

INCLUSION OF A WRITTEN PLAN TO REMEDY (FULL OR PARTIAL) NON-COMPLIANCE BY THE POLICE AND FIRE (AND OTHER) DEPARTMENTS

As mentioned, one of the purposes of the Annual Compliance Plan is to trigger action by the City Administrator when the data and analysis show that there is an identified gap in need or non-compliance.

Unfortunately, there is little discussion of how the City Administrator concretely plans to remedy the gaps in need and/or non-compliance in several key departments. The Annual Compliance Plan Report identifies that City Wide there is a need for 30.43 Spanish speaking bilingual public contact positions and 47.65 Chinese speaking bilingual public contact positions. The identified need for bilingual staffing corresponds exactly with the need identified in two (2) departments: Police and Fire. The City Administrator's (the Plan) discussion of the data provided in the Plan does not provide a targeted response to address these shortcomings, but instead provides primarily generalities.

The plans submitted by both the Fire and Police Departments suffer from the same problem. The plans are general and not specific enough. In fact, the two departments use what appears to be a boilerplate response to the identified shortcomings. The very general and boilerplate language (found at page 2 of the Police Department Plan and page 3 of the Fire Department Plan) state:

"Areas to be improved include advertising jobs for a longer period when funds are made available. Staff can strengthen the outreach effort to the Spanish and Chinese

speaking community via community meetings, community leadership involvement and web sites to recruit bilingual candidates.”

These conditional and vague promises hardly constitute the implementation plan to remedy shortcomings that the EAO envisions.

Question 11 (page 10 of the report) calls for an assessment of corrective plans to remedy gaps in need or non compliance. In the City Administrators response there is no assessment of the corrective plans submitted by the Fire and Police Departments. Again, there is no mention of targeted activities to address these needs to hire bilingual staff in these two departments. To simply state that all agencies follow the hiring process to recruit bilingual candidate for vacancies” is not enough

The Fire and Police departments provide crucial life saving services and, for many, represent the face of the city. If Oakland is to be truly inclusive, it must do better. Moreover, the facts require a more serious responsive implementation plan. We request that a Supplemental Plan that addresses the shortcomings of these two department that provides for more specific remedial action be tiled within two or three months.

Similar deficiencies exist in many of the individual Agency compliance plans, but we focus here on OPD and OFD since that is where most positions exist.

QUALITATIVE SURVEYS

We agreed to work together early next year to develop survey instruments and a that will hopefully result in better data than this year’s attempt to comply with the provision of the Settlement Agreement that requires such qualitative assessment. We highlighted the fact that the EAO and the Settlement Agreement do not call for having a statistically significant survey, but understand that despite the current efforts, you feel necessary to focus on this matter in next year’s Annual Compliance Report. We look forward to working with you to develop the surveys and suggest that we start off by having you share with us the survey instruments that were created and a description of the process that was followed this year.

ADDITIONAL COMMENTS

Fire and Police Departments.

The EAO and the Settlement Agreement require that data and analysis regarding the placement of BCPs be provided by beats or stations. This was partially done last year, but never completed. The current report lists data for OFD stations but not for OPD stations. Also, no information is given about the LES population of the areas in which the stations are located, which was done last year. We think that it would be helpful if this is reported in a separate table and not included in Table 4 to allow for

ROLE OF THE EQUAL ACCESS OFFICE

You discussed some important changes that you are planning to make to the functions of Equal Access Office. You indicated that EAO staff would be spending more time coordinating EAO implementation efforts as opposed to spending significant time translating documents. The plan is to outsource the translating function. We think this is a positive development and suggested that these changes be discussed in the report. We also suggested that you discuss in more detail how you see the Equal Access Office functioning now that is in the DHRM and no longer in the City Administrator's Office. In particular, we suggested that you discuss how the City Administrator will be involved in the monitoring of compliance since the City Administrator is ultimately responsible for compliance with the EAO and the Settlement Agreement. Also, the EAO itself was envisioned to perform simply administrative functions, but was meant to play an executive type function to ensure effective monitoring and implementation.

FOCUS FOR NEXT YEAR

While we applaud that the City will be focusing on making sure that bilingual signs and notices are posted in public areas and in departments with public contact, and on having an accurate list of bilingual employees who will be able to help facilitate connection of customers to bilingual staff within departments who can provide services, we emphasize that focus not be limited to this area. Improving compliance with hiring needs of the Police and Fire Department is important. And, as previously noted, we look forward to working with you on the qualitative surveys.

Cc: Deana Santana, City Administrator
Jean Quan, Mayor
Finance and Management Committee