

HIRING PRACTICES
OF THE
CITY AND COUNTY OF SAN FRANCISCO



CIVIL GRAND JURY
CITY AND COUNTY OF SAN FRANCISCO
2010-2011

THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name.
Disclosure of Information about individuals interviewed by the jury is prohibited.
California Penal Code, section 929

STATE LAW REQUIREMENT

California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60 to 90 days as specified. A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided: or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

HIRING PRACTICES OF THE CITY AND COUNTY OF SAN FRANCISCO

SUMMARY

In 2005 the Department of Human Resources (DHR) issued a report entitled, “Civil Service Reform: Preserving the Promise of Government” (hereafter “Civil Service Reform Report”.) One of the principal recommendations of this report was the need to expedite the hiring process for City personnel by, “Decentralizing authority for personnel decisions from a central agency to operational agencies, especially for hiring.”¹

Up to that time, responsibility for conducting and scoring examinations and drawing up eligibility lists for permanent positions in the City government was centralized in the DHR. The process for hiring a permanent employee could take up to twelve months, basically precluding the ability to extend job offers “on the spot.” This put the City at a disadvantage when attempting to hire highly qualified job candidates for critical positions.

The only available alternative was for the City to opt for a provisional appointment. Provisional hiring provides City departments significant flexibility in filling vacant positions. However, the process also creates distortions within the hiring process. The biggest of these is that a provisional appointment is limited to a maximum of three years. After that employees must undergo a competitive examination in order to retain their positions.

Should a provisional employee fail an examination or not be ranked high enough on the permanent hiring list, the employee cannot be retained, and the department must forfeit its investment in the employee. This in turn can lead to disruptions in the continuity of City services. At the same time, job applicants have criticized the process as little more than a mechanism to “grandfather in” the provisional employees by giving them up to three years of on-the-job experience before having to take examinations to qualify for permanent employment.

Since the issuance of the “Civil Service Reform Report”, policies have been implemented to give various City departments the authority to conduct examinations and hire staff from the resulting eligibility lists. The wholesale adoption of Position-Based Testing (PBT), the sharing of eligibility lists across departments and increased reliance on training and experience factors in assessing candidates, has accelerated the hiring process while reducing the number of provisional employees.

These reforms have reportedly shortened the hiring process and according to the DHR have improved the likelihood that the new employee has the specific skills and experience required for the position. However, they have also complicated the Civil Service Commission's (hereafter, the Commission) efforts to ensure that these new hiring procedures conform to civil service rules. This report looks at the impact these policies are having on the merit hiring process and how the Commission is coping with these changes.

The Civil Grand Jury (hereafter, the Jury) also examined certain issues concerning the appeal process that were brought to its attention by union representatives and City employees.

POSITION BASED TESTING

As we have seen, the central thrust of the "Civil Service Reform Report" was to expedite the hiring process by decentralizing authority for personnel decisions. Within the confines of this overall objective, the report urged a greater use of PBT in establishing eligibility lists. PBT is described as a program that "combines the efficiencies of the provisional hiring process with the merit safeguards of the permanent hiring process." 2

It was anticipated that this testing program would allow departments to adopt eligible lists resulting from merit-based examinations within sixty days of the posting of an examination announcement. Based on figures from Fiscal Year 2009-2010, the sixty day goal has very nearly been met.³

Greater efficiency is achieved primarily in two ways;

- by utilizing existing job analysis for developing the job announcement information, and
- limiting the right of applicants to appeal to the Civil Service Commission.

According to the plan outlined in the "Civil Service Reform Report", after thorough training in conducting and scoring Position Based Tests, certain City departments would be responsible for conducting PBT with consultation and concurrence from the Human Resources department.

In 2006 the Commission adopted Rule 111A authorizing the use of PBT. Since then, it has proliferated to the point where it now accounts for over 60% of the tests administered by the City. Department of Human Resources has "created a list of over 550 pre-approved classes in which the new PBT selection process is used"⁴, and PBTs are now used by 17 city departments.

As a result, the Human Resources department reports that the PBT selection method has greatly expedited the hiring process and improved the likelihood that the person hired has the specific skills required by a department.

One facet of PBT captured the Jury's attention. A hiring list developed by one department is increasingly being used by other departments to fill vacancies for a similar job classification without announcing the information on the City's job posting website. Originally, PBT exams were intended to test for highly specialized classes unique to a particular department. When used for that purpose, there is little need for other departments to use the resulting eligibility list.

As we have seen, PBT exams now comprise the majority of tests conducted by the City, including citywide job classifications. As a result, the sharing of eligibility lists among City departments has become increasingly common.

To illustrate the implications of this practice, the General Services Agency (GSA) recently posted a PBT announcement for an automotive machinist position. Based on current policy, the announcement did display an advisory that, "The current position is located at the General Services Agency, Fleet Management. The eligible list resulting from this examination may be used for future positions in this class in other City departments."

However, these advisories do not identify the other departments that might use the eligibility list. Should another City department have an opening for an automotive machinist, it can select from the eligibility list resulting from the GSA's examination, thereby avoiding the need to conduct its own examination. Under these circumstances, an applicant who has interest in the position of automotive machinist, but not interested in working at GSA, would be effectively precluded from hearing about and applying for a similar position that might open up at another City department.

THE APPEAL PROCESS

The Department of Human Resources maintains that the Position Based Testing selection process "has been successful in terms of candidate acceptance, as we see very few appeals to the CSC." 5 This could be partially due to the fact that PBT imposes limitations on an applicant's right to appeal a DHR decision regarding testing or the selection process to the Commission.

Under the traditional Class Based Testing (CBT), an applicant has the right to appeal to the Commission at almost every point during the examination process. On the other hand, an applicant taking a PBT can only appeal at three points in the process. For example, with CBT, when the DHR determines that an applicant does not meet a position's minimum requirements,

the applicant can appeal to the Commission. But PBT applicants cannot appeal the decision to the Commission, thereby ending their ability to participate in the examination.

A similar situation exists when an applicant disagrees with their examination score. Statistics show that the number of PBT related appeals received by the Commission is very small. There were none in FY 2009-2010 as compared to 51 new appeals in the case of CBTs. 6

During the course of its investigation, the Jury became aware of other issues related to the appeal process that are not PBT-specific. One involves the requirement that, where appropriate, a letter from the Department of Human Resources denying an appellant's petition must advise the appellant of their right to appeal the decision.

The DHR asserts that, where permitted under existing rules, it is department policy to advise all appellants of their right to appeal DHR decisions to the Commission. It further insists that it provides extensive training on merit system practices and procedures to DHR personnel staff.

However, various sources have told the Jury that this policy is not always being followed by the DHR and provided letters to substantiate their claims. When some of these letters were shown to an official at the Commission, the Jury was informed that the letters contained inadequate information regarding appeal rights. (See Appendix A)

Once an applicant makes a formal appeal to the Commission of a Department of Human Resources decision, there is a requirement that the appellant be provided with a copy of the DHR's response. Union representatives have described instances when the DHR did not proactively provide a copy of their report to the appellant as required.

When queried by the Jury, the Commission acknowledged that there have been instances when the DHR confirmed that it had, in fact, provided the required report to the appellant but could not provide the Commission with any written evidence of its compliance. Moreover, when the Commission sends a letter to an appellant setting a date for their hearing they do not inform the appellant of their right to receive a copy of the DHR response free of charge.

TRAINING & EXPERIENCE TESTING

In discussions with union members, the Jury's attention was drawn to "Training and Experience Testing" (T&E). In this selection process, a hiring manager basically relies upon information provided by an applicant in arriving at an examination score. Based upon information provided on an application form, a numerical value is assigned to such factors as training, level of education or years of experience to reach a total score for that applicant.

It is the Jury's understanding that with this current process no effort is made to verify the accuracy of the information provided by the applicant, for example through a written examination. As a result, this process creates a situation conducive to exaggerated claims, if not outright lying, on an applicant's application form. The Jury was given an example of an applicant claiming to have received a bachelor's degree from a community college. Two-year community colleges issue only associate degrees.

T&E testing does have one advantage. The hiring staff can examine a large number of applicants in a short period of time. This process also results in a large number of applicants with identical test scores, thereby affording a department hiring manager considerable flexibility in selecting staff. On the negative side, because a large number of applicants can achieve an identical score, there is very little effective ranking of candidates.

Moreover, there is no actual "testing", as commonly understood, to determine whether an applicant possesses the skills required for the position. It is basically left up to the department to determine whether the person hired has the necessary skills. If the person hired does not have the requirements, the department must either train or discharge the person.

Union representatives expressed considerable dissatisfaction with these aspects of T&E testing. They consider it to be a wasteful and inefficient process for hiring staff and felt it was a poor substitute for the traditional testing methods used to determine whether an applicant is fit for the position. According to the DHR, they are "moving away" from the Training and Experience testing process.

CIVIL SERVICE COMMISSION – COPING WITH DECENTRALIZATION

San Francisco's charter tasks the Commission with overall supervision of all facets of the civil service merit system. The Commission must ensure that the hiring, separation and promotion of all but 2% of the city's roughly 26,000 budgeted positions conform to civil service rules. "The Commission also hears and adjudicates appeals of decisions by the DHR and has the authority to investigate and conduct public hearings about merit system matters." 7

The decision to decentralize the examination and selection processes, including PBT, to the departmental level, as well as the current practice of sharing eligibility lists among departments, has expanded oversight responsibility for both the DHR and the Commission.

For example, currently 17 city departments use PBT for hiring staff.⁸ Instead of having to provide oversight over its own centralized testing unit, the DHR must now train and manage 17

departments' human resources personnel, and the Commission must monitor the hiring units in each of the 17 departments for compliance to civil service rules.

As the civil service reform project launched in 2005 continues to evolve, so will the burden on the Commission to keep abreast of the changes. Concurrently, staffing levels of both the DHR and the Commission have been reduced as a result of budget cuts. According to the Commission, their audit functions are currently limited to specific complaints and random audits of job postings for conformity to merit testing practices. They felt there was a particular need for one additional senior personnel analyst in order to more effectively fulfill its role.⁹

Union representatives agreed that the Commission is now woefully understaffed and consequently is unable to adequately ensure a fair hiring process.

FINDINGS & RECOMMENDATIONS

Finding I

Under the traditional CBT, an applicant has the right to appeal to the Commission at almost every point during the examination process. Applicants taking a PBT can appeal at only three points in the process. These differences can be confusing to applicants.

Recommendation I

On all job applications there should be a single link or single sheet of paper outlining in easily understandable language under what conditions a job applicant can appeal to the DHR and ultimately to the Commission.

Finding II

DHR is not always informing appellants of their right to appeal decisions of the DHR to the Commission.

Recommendation II

DHR should establish tighter procedures to ensure that all letters sent to appellants denying their appeal are mailed promptly. Where appropriate they should advise appellants of their right to appeal the decision to the Commission. As a further backup, the Jury urges the Commission to include in its letters to appellants setting the date of their hearing a reminder that they are entitled to a copy of the DHR's report free of charge.

Finding III

T&E testing relies too heavily on training and experience factors listed on an application form in evaluating whether an applicant is eligible for a position. This is an ineffective method for evaluating job applicants. T&E testing does not verify whether an applicant actually possesses the training/education and experience claimed on the application form. The DHR has indicated that is in the process of reducing its reliance on T&E examinations.

Recommendation III

The city should continue its move away from T&E examinations and return to a more knowledge-based examination. This process should be completed by June 30, 2012

Finding IV

Besides a job description, PBT job announcements sometimes advise applicants that the eligibility list from this examination could be used by other City departments for hiring staff. However, the advisory does not identify those departments. This process can deny applicants the information required to become aware of and apply for a position with the City government.

Recommendation IV

Position based job announcements should identify each City department that might use the examination eligibility list. This would assist potential applicants in deciding whether or not to participate in the examination and get on an eligibility list. Otherwise, the list should be used solely by the department designated on the job announcement.

Finding V

As the hiring process in the City becomes increasingly decentralized and PBT testing becomes more prevalent, there is growing doubt among some City workers that the Commission as currently staffed is able to protect their rights.

Recommendation V

The Commission should be authorized to hire at least one additional senior personnel analyst.

METHOD OF INVESTIGATION

To prepare this report, the Committee reviewed various regulations pertaining to the hiring of non-exempt employees, including the City charter and civil service rules. The Committee conducted extensive interviews with a commissioner and a senior administrator of the Civil Service Commission, senior staff at the Department of Human Resources and the Department of Public Health as well as union leaders and city employees. These interviews were followed up with numerous emails seeking clarification of points made during those interviews

GLOSSARY

CBT – Class Based Testing
CGJ – Civil Grand Jury
CSC – Civil Service Commission
DHR – Department of Human Resources
PBT – Position Based Testing
T&E – Training and Experience (Testing)

ENDNOTES

1. DHR, “Civil Service Reform: Preserving the Promise of Government” 2005, p. 5
2. Ibid., p. 80
3. For the Fiscal Years 2009-2010, the figure for PBT was 63 days. DHR memo to CSC, “Report on the Position-Based Testing Program”, 9/17/09, p. 2
4. DHR, “Civil Service Reform Phase II: Unfinished Business”, 2/23/09 p. 2
5. “Civil Service Reform Preserving the Promise of Government” op. cit. p.2
6. CSC, “Summary Analysis of Appeals to Civil Service Commission during Fiscal Year 2000-2010, 3/17/11, p. 61
7. “Civil Service Reform: Preserving the Promise of Government”, op. cit. p. 78
8. “Report on the Position Based Testing Program”, op. cit., p.1
9. While the Jury is cognizant of the precarious financial position in which the City presently finds itself, one possible way to fund the estimated \$101-123,000 annual cost of an additional senior personnel analyst is from increased financial support by the Public Utilities Commission and the San Francisco Metropolitan Transportation Authority. In addition, the Jury believes that all enterprise departments such as the Airport Commission should be included among the governmental bodies required to provide financial support to the Commission.

BIBLIOGRAPHY

Appeals of Examination Process, Rule 111A, Article VIII, Position-Based Testing, Civil Service Rules
“Civil Service Reform Phase II: Unfinished Business”, Department of Human Resources, 2/23/09
“Civil Service Reform: Preserving the Promise of Government”, Department of Human Resources, 2005
“Report on the Position-Based testing Program”, Department of Human Resources, 9/17/10
“Summary Analysis of Appeals Submitted to Civil Service Commission during fiscal Years 2000 through 2010”, Civil service Commission, 3/7/11

APPENDIX A



Edwin M. Lee, City Administrator
Cavín Newsom, Mayor

Human Resources Administration
875 Stevenson Street, Room 470
San Francisco, CA 94103-0903
Tel.: (415) 554-6000
Fax: (415) 554-6025

[REDACTED] 2010

Dear [REDACTED]

Your email dated [REDACTED] 2010 concerning the 0932 Manager IV [REDACTED] examination has been forwarded to our office for response. You are appealing the rejection of your application on the basis that you claim to have second level supervisory experience. Also, you state that your application was accepted in March 2005 for class [REDACTED] (Acting Assignment).

Based on our review of the current [REDACTED] class specification dated May 12, 2000 (See Attachment A), the distinguishing features and supervision exercised in the [REDACTED] classification clearly states that incumbents serve as a first level supervisor over several crews. The May 12, 2000 class specification was amended to accurately reflect the current tasks, knowledge, skills and abilities defined in the job analysis conducted for this class and the class title was changed to [REDACTED]. Prior to this date, the [REDACTED] was titled [REDACTED] (See Attachment B). We noted that your Performance Appraisal Report does not reflect the change in title and will ensure that it is corrected for the future.

Pursuant to Civil Service Rule 110.9.1, City and County of San Francisco employees will receive credit only for the duties of the class to which they are appointed. Credit for experience obtained outside of the employee's class will be allowed only if recorded in accordance with the provisions of the Civil Service Rules. Your personnel file did not contain any record of temporary out of class assignment that would verify your second level supervisory experience.

Although your performance evaluation indicates that you supervise subordinate staff; it does not specifically state that you supervise first-level supervisors. Furthermore, we have reviewed the Bureau of [REDACTED] organizational chart (See Attachment C), which verifies your [REDACTED] position supervising classes in the entry or journey-level crafts classifications and not supervisory classifications. Your supervision of lead workers that supervise their crews is not considered second-level supervisory experience.

Your email indicated that in 2005, your application was accepted for class [REDACTED] Assistant [REDACTED] (Acting Assignment). The Department has reviewed prior recruitment records for class [REDACTED] and a provisional announcement for [REDACTED] Assistant [REDACTED] was located, but we have no record to indicate that you were deemed qualified for this position.

For the reason stated herein, we are unable to qualify you as a second level supervisor and your application remains not qualified.

This decision is final and no further consideration can be made by this de [REDACTED]

Should you have any further questions regarding this matter, you may contact Angie Iгнаo, Sr. Personnel Analyst, at (415) 554-6000. [REDACTED]

Sincerely,


Tammy Wong

Senior Human Resources Manager, GSA

List ID 056407

cc: Micki Callahan, Human Resources Director, DHR
John Kraus, Recruitment & Assessment Services Director, DHR
Laura Dancer, Recruitment Manager, RAS, DHR
Anita Sanchez, Executive Officer, CSC
Angelita Iгнаo, Senior Personnel Analyst, GSA
Anna Biasbas, Senior Personnel Analyst, DHR

Important Employment Information for Position Based Testing Examinations for the City and County of San Francisco, which specifies announcement and application policies and procedures, including applicant appeal rights, can be obtained at http://www.sfgov.org/site/sfdhr_page.asp?id=56273
Copies of this information can also be obtained at 1 South Van Ness, 4th Floor, San Francisco, CA 94103.

Elaine Lee/DPH/SFGOV
01/27/11 05:36 PM

To [REDACTED]
cc
bcc
Subject Re: 1161 Executive Assistant to the Administrator

Hello Ms. [REDACTED]

The minimum qualifications for the class 1161 Executive Assistant to the Administrator employment opportunity require that the candidate possess a Master's degree from an accredited college or university. Based on my review of your application documents, I do not see that you possess a Master's degree.

This decision may be reconsidered if you can provide additional information or explanation in writing within five (5) business days. If you would like your application to be reconsidered, please submit the additional information or documentation by Friday, February 4, 2011.

Thank you for your interest and inquiry.

Sincerely,
Elaine Lee



[REDACTED]



[REDACTED]
01/26/11 11:46 AM

To Elaine.Lee@sfdph.org
cc
Subject Re: 1161 Executive Assistant to the Administrator

Hello Elaine,

Thank you for letting me know about the position and your decision.

I am upset by this email, and feel it's just wrong! I have extensive experience in the "executive assistant", "administrative assistant", "office manager", and "director of administration" roles during my career, and to say I have not been considered due to lack of experience/education is very inaccurate. I've been in the administrative capacity for OVER 20 YEARS, and I'm wanting to speak with you about this decision.

Exactly what are the specific qualifications I am lacking for this position?

I feel this may be an age discrimination issue here, and will believe that unless I hear from you otherwise.

Regards,

[REDACTED]
[REDACTED]

On Wed, Jan 26, 2011 at 9:52 AM, <Elaine.Lee@sfdph.org> wrote:

Wednesday, January 26, 2011

[REDACTED]

[REDACTED]

Dear [REDACTED]

Thank you for taking the time to apply to the 1161 Executive Assistant to the Administrator employment opportunity announcement. For your information, there was a high level of interest in this position and we received a number of applications.

As part of the screening process for the Class 1161 Executive Assistant to the Administrator position, application reviews were conducted to evaluate candidates' experience and education as related to the responsibilities of the position. Based on this review, only those candidates who are deemed most qualified will continue in the selection process. We regret to inform you that you will not be invited to proceed in this examination process.

The City and County of San Francisco is continuously offering examinations for the same or similar job classifications. To find out about these and other employment opportunities with the City and County of San Francisco, please visit their website at www.sfgov.org

We wish you the best in your career endeavors.

Sincerely,
Elaine Lee
Human Resources Services

Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website [CSC Rules](#). Copies of specific rules can also be obtained at 1 South Van Ness, 4th Floor, San Francisco, CA 94103.



RESPONSE MATRIX

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p><u>Finding I</u> Under the traditional CBT, an applicant has the right to appeal to the Commission at almost every point during the examination process. Applicants taking a PBT can appeal at only three points in the process. These differences can be confusing to applicants.</p>	<p><u>Recommendation I</u> On all job applications there should be a single link or single sheet of paper outlining in plain English under what conditions a job applicant can appeal to the DHR and ultimately to the Commission.</p>	<p>Department of Human Resources Civil Service Commission</p>
<p><u>Finding II</u> DHR is not always informing appellants of their right to appeal decisions of the DHR to the Commission.</p>	<p><u>Recommendation II</u> DHR should establish tighter procedures to ensure that all letters sent to appellants denying their appeal are mailed promptly. Where appropriate they should advise appellants of their right to appeal the decision to the Commission. As a further backup, the Jury urges the Commission to include in its letters to appellants setting the date of their hearing a reminder that they are entitled to a copy of the DHR's report free of charge.</p>	<p>Department of Human Resources Civil Service Commission</p>
<p><u>Finding III</u> T&E testing relies too heavily on training and experience factors listed on an application form in evaluating whether an applicant is eligible for a position. This is an ineffective method for evaluating job applicants. T&E testing does not verify whether an applicant actually possesses the training/education and experience claimed on the application form. The DHR has indicated that is in the process of reducing its reliance on T&E examinations.</p>	<p><u>Recommendation III</u> The city should continue its move away from T&E examinations and return to a more knowledge-based examination.</p>	<p>Department of Human Resources Civil Service Commission</p>

<p><u>Finding IV</u> Besides a job description, PBT job announcements sometimes advise applicants that the eligibility list from this examination could be used by other City departments for hiring staff. However, the advisory does not identify those departments. This process can deny applicants the information required to become aware of and apply for a position with the City government.</p>	<p><u>Recommendation IV</u> Position based job announcements should identify each City department that might use the examination eligibility list. This would assist potential applicants in deciding whether or not to participate in the examination and get on an eligibility list. Otherwise, the list should be used solely by the department designated on the job announcement.</p>	<p>Department of Human Resources Civil Service Commission</p>
<p><u>Finding V</u> As the hiring process in the City becomes increasingly decentralized and PBT testing becomes more prevalent, there is growing doubt among some City workers that the Commission as currently staffed is able to protect their rights.</p>	<p><u>Recommendation V</u> The Commission should be authorized to hire at least one additional senior personnel analyst.</p>	<p>Civil Service Commission Mayor The Board of Supervisors</p>