



July 10, 2019

**TO: Executive Branch Supervisors and Human Resources Staff**

**FROM: OFM State Human Resources**

**SUBJECT: Equal Pay and Opportunities Act salary-setting guidance (HB 1696)**

On May 9, Gov. Inslee signed House Bill 1696, which adds sections to the state’s Equal Pay Act as revised in 2018 by the Equal Pay Opportunity Act (EPOA).

His approval follows a trend in public and private organizations to adopt rules and policies that prohibit the use of prior pay information to set compensation for internal and external applicants, which may perpetuate salary disparities between men and women. Salary disparities may also occur for other protected classes, e.g. race, color, age, or national origin.

Beginning, July 28, 2019, the following prohibitions and requirements will take effect:

1. Employers may not seek the wage/salary history of an applicant, either from the applicant or their current or former employer, except as allowed in #3, below.
2. Employers may not require applicants’ prior wage/salary to meet certain criteria, e.g. meet a certain level or threshold.
3. To facilitate the employment process, employers may confirm an applicant’s wage or salary history only (1) if the applicant has voluntarily disclosed their wage or salary history, or (2) after the employer has negotiated and made a job offer, including the amount of compensation, to the applicant.
4. Post offer, employers must provide the minimum wage or salary for the position for which the applicant is applying (upon applicant’s request). Upon request of an employee offered an internal transfer to a new position/promotion/ demotion/transfer, the employer must provide the wage scale or salary range for the employee's new position.
  - o If no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion.

In addition to the new requirements now in law, OFM recommends that you:

- **Do not** seek an applicant’s or candidate’s salary expectations, as well as wage or salary history. This practice may further perpetuate pay disparities between men and women, and other protected classes.
- Include wage/salary minimum, full pay range or salary expectations set by the employer on job postings.
- Determine and document equitable wage/salary offers for candidates vs. existing staff performing similar work in relation to acceptable reasons for pay differences (as mentioned in the EPOA).
- If prior wage/salary confirmation is necessary for your processes, e.g. confirming current step for rules of promotion, **ONLY** confirm wage/salary histories after candidate voluntarily discloses, or accepts an offer.
- Destroy **or redact** any “in process” application data containing wage/salary history on or before July 28<sup>th</sup>, and ask applicants to re-apply (if necessary). Change agency-created forms as needed.

Please refer to Page 2 of this document for additional salary-setting guidance for Washington General Service, Washington Management Service and exempt positions. For more information, contact your agency’s Human Resources staff.

# Equal Pay & Opportunity Act salary - Compensation Guidance (HB 1696)

