



MEMORANDUM

TO: Mayor and Council

FROM: Mark Washington, Director, Human Resources and Civil Service *MW*

DATE: August 22, 2014

SUBJECT: Response to Resolution No. 20140522-044 – Municipal Equality Index (CIUR 1369)

Council Resolution No. 20140522-044 requested the City Manager to evaluate the City's score on the Human Rights Campaign (HRC) Municipal Equality Index (MEI) and receive input from stakeholders before returning to Council with recommendations on ways to improve the score.

BACKGROUND:

In 2013, Austin achieved a perfect score of 100 points on the Municipal Equality Index administered by the Human Rights Campaign, the largest civil rights organization working to achieve equality for lesbian, gay, bisexual, and transgender (LGBT) Americans. The achievement was significant because it improved on the 2012 score of 91 points and was the only perfect score from among 16 cities in Texas. Nationwide, 291 cities were scored, with only 10% scoring higher than 96, only 25 receiving a perfect score of 100, and only 8 achieving a perfect score in a state with no supportive laws, such as Texas.

In 2013, the City failed to earn point in the following four bonus areas:

- LGBT Police Liaison (partial points received for allocated position)
- Contractor Equal Benefits
- Transgender Inclusive Healthcare Benefits
- Domestic Partner Benefits Gross-Up

STAKEHOLDER INPUT:

A meeting was held on July 8, 2014 at the City of Austin Learning and Research Center to receive stakeholder input on how to improve the scoring and obtain credit for additional bonus points. In attendance were representatives from the Human Rights Campaign, Human Rights Commission, Equality Texas, the Austin Gay and Lesbian Chamber of Commerce and the Transgender Education Network of Texas. City staff from the Human Resources Department, Austin Police Department and the Purchasing Office presented information, and the Equal Employment Opportunity/Fair Housing Office (EEO/FHO) Division facilitated the meeting and obtained feedback.

Overall, the stakeholders supported efforts by the City to increase the score on the MEI. Specific areas of focus are described below.

1. LGBT Police Liaison – The Austin Police Department (APD) did not have a LGBT liaison at the time of the survey. Since then, APD hired an LGBT Police Liaison. The City should get credit for this item in the next evaluation.
2. Contractor Benefits – The City does not meet this criterion requiring contractors, by written policy or by ordinance, to provide equal benefits to their LGBT employees. Some of the stakeholder input discussion centered on the belief that the City already required equal benefits to be offered by contractors to their workforce. Given the current state of the law as it applies to benefit requirements in public procurements, developing a program for imposing such requirements presents significant challenges for the City. At this time, the Purchasing Office has no recommended changes.

Additional stakeholder discussion favored including the LGBT community as a qualification for MBE/WBE status. The City currently provides MBE/WBE status to business that are fifty-one percent owned, managed and controlled by an economically and socially disadvantaged individual to include persons that are Asian-American, African-American, Native American, Hispanic, or a women and operate a Small business as defined by Small Business Administration (SBA). Austin City Code §§ 2-9(A)-(D) does not include LGBT as part of the definition of an eligible business. I have informed the Small Minority Business Resource department of this additional feedback so that they may review the information with the appropriate stakeholders.

3. Transgender Reassignment Surgery – The City currently covers primary care and mental health care for transgender people. Transgender-inclusive benefits encompass primary care, hormone therapy, mental health care, and surgical care. Surgical care and hormone therapy services are excluded from City coverage when services are specific to gender reassignment or gender disorder treatment. The estimated cost for gender reassignment services per individual is \$25,000–\$100,000 per surgery. The attendees at the July 8, 2014 stakeholder meeting supported the City in offering this benefit to employees. Since transgender-inclusive benefits are not industry standard coverage and do not lower claims cost but add to claims cost, the Benefits Advisory Committee and Towers Watson, the City’s benefits consultant/actuary, do not support plan design changes that have no impact to decrease the medical trend. To date there are no Texas cities covering Transgender Reassignment Surgery and only twelve MEI participating municipalities do so. Starting in 2018, the Affordable Care Act will implement a 40% Excise Tax on benefit programs that are considered to be “Cadillac plans” by exceeding the annual threshold ceiling of \$10,200 for the cost of employee only coverage. The City will have significant challenges staying below the Excise Tax threshold. Adding any benefits that increase costs will accelerate and increase the projected Excise Tax liability. Coverage for this benefit is not assumed in the FY15 proposed budget as it adds to claims costs and premiums.
4. Gross-up of domestic partner benefits – Employees that have not legally married their domestic partner but cover them on benefits are treated differently for federal income tax

purposes. The MEI score in 2014 includes two bonus points (down from three bonus points in 2013) for a municipality that grosses-up salaries for domestic partner benefits. At this point, the only MEI participating municipalities that gross-up salaries for domestic partner benefits are San Francisco, CA and Cambridge, MA. The attendees that attended the stakeholder meeting supported the benefit. Based on current domestic partner enrollment, it is estimated to cost the City \$535,000 per year to pay the additional tax on the gross-up amount. The majority of this cost derives from the approximately 80% of City of Austin employees covering a domestic partner list them as being of the opposite sex. Because this type of benefit is rare, there remain unknown variables in administration and programming which may result in increased cost to the City. While the additional cost will not impact reaching the Affordable Care Act Excise Tax threshold, the cost to the City of implementing this benefit is substantial. Due to the cost, neither the Benefits Advisory Committee nor Towers Watson recommends adding this benefit. Offering this benefit is not assumed in the FY15 proposed budget.

The City is currently being evaluated for the 2014 Municipal Equality Index. Staff will continue to explore additional opportunities to include the LGBT community in programs and services. Based on feedback received from the stakeholder input meeting, I support creating a City webpage identifying and facilitating access to all City programs which are LGBT inclusive.

cc: Marc A. Ott, City Manager
Michael McDonald, Deputy City Manager
Anthony Snipes, Assistant City Manager
Elaine Hart, Chief Financial Officer
Urcha Dunbar-Crespo, Acting Purchasing Officer
Art Acevedo, Austin Police Chief
Veronica Lara, Small and Minority Business Resources Director
Tommy Tucker, Assistant Director, Human Resources Department
Joya Hayes, Assistant Director, Human Resources Department



Municipal Equality Index Stakeholder Meeting Overview of Feedback Received

BACKGROUND: By Council Resolution No. 20140522-044, City Council requested the City Manager to evaluate the City's score on the Human Rights Campaign (HR Campaign) Municipal Equality Index (MEI) and receive input from stakeholders before returning to Council with recommendations on ways to improve the score. In 2013, the City failed to earn points in the following four bonus areas:

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Listed below is a summary of the feedback received during the stakeholder meeting:

LGBT Police Liaison - The stakeholders generally expressed support for maintaining the LGBT Liaison for APD as a way to improve the MEI score.

Contractor Equal Benefits - The consensus of the group was that the City should revisit the Attorney General Opinion that is currently interpreted to prohibit criterion requiring contractors, by written policy or by ordinance, to provide equal benefits to their LGBT employees. Specific comments included:

- Chuck Smith, Equality Texas, stated that Attorney General Opinions are not law.
- Paul Rhea, Chairman (HRC), pointed out that the City already provides benefits that are contrary to a 2013 Attorney General Opinion.
- Ceci Gratias from HRC stated that points can be earned on this criteria if the City adopts a preference for contractors with equal benefits even if there is no ordinance requiring equal benefits.

Transgender Inclusive Healthcare & Domestic Partner Benefits Gross-Up - The consensus of the group was that the City can improve its score in the MEI by budgeting for these two items. Paul Rhea, Chairman HRC, stressed that the estimated cost of these budget items is a small percentage of the total city's proposed 2015 benefits budget. He also noted that this request should be prioritized because city code provides protection for non-city employees from discrimination based on sexual orientation or gender identity in addition to all federal and state

protections. He also noted that personnel rules protect city employees on the basis of sexual orientation and gender identity. With such protections, Rhea articulated that the city should recognize the value of such benefits to the well-being of the employee population.

Changing Criteria - Ceci Gratias, HR Campaign, communicated that some of the MEI criteria have changed. In 2013, a single criterion was worth two points, called “City provides services to particularly vulnerable populations of the LGBT community.” Austin earned two points on this criteria in 2013. For 2014, this metric is four separate criteria, worth two points each, for a total of eight, expressed as services to include:

- LGBT youth;
- LGBT homeless;
- LGBT elderly; and
- People living with HIV/AIDS.

Ceci Gratias stated that points will be awarded if the City funds programs that openly state that their services are open to all without regard to sexual orientation or gender identity, for example, on a public website or through other widely available program outreach materials. It will not be enough to merely have a policy of nondiscrimination based on, among other protected classes, sexual orientation or gender identity. The stakeholder group agreed that outreach of this sort would be one way for the City to increase its score on the HRC MEI.