



# State of New Mexico

## *Office of the Governor*

Bill Richardson  
Governor

### EXECUTIVE ORDER 2009-049

#### FAIR AND EQUAL PAY FOR ALL NEW MEXICANS

**WHEREAS**, pay equity gaps exist when men and women do the same or comparable work yet are paid disparate wages;

**WHEREAS**, job segregation refers to a situation where any given job title or category is predominately, or totally, held by one gender or the other;

**WHEREAS**, it is the policy of the State of New Mexico to identify and combat pay inequity and job segregation;

**WHEREAS**, the negative impact of pay inequity and job segregation affects thousands of New Mexican families, and also has a significant impact on the State, through the provision of various public subsidies for low income residents;

**WHEREAS**, the Richardson Administration has taken significant steps to address pay gaps between men and women and to reduce job segregation. Such steps include appointing in 2003 the New Mexico Pay Equity Task Force to identify issues surrounding pay equity in the State of New Mexico, raising the State minimum wage, and supporting unions;

**WHEREAS**, in a further effort to identify and combat pay inequity and job segregation, Governor Richardson appointed a Senior Policy Advisor on Women's Issues and ordered a study of State classified employees' wages be conducted. This study evaluated aggregate data on employment in the classified system and pay by gender and job category throughout the State of New Mexico classified workforce;

**WHEREAS**, the Richardson Administration also appointed in 2009, the Task Force on Fair and Equal Pay to consider specific recommendations for legislative, regulatory, and other initiatives to further investigate, close or eliminate gaps in pay and job segregation for individuals employed in the State classified system; develop training and other resources for State agencies to effectively close or eliminate any gaps in pay and job segregation; develop systems for private employers to use to measure and remedy possible pay gaps and job segregation; and develop goals and timelines in which the State of New Mexico may close or eliminate pay gaps in the classified system and reduce job segregation;

**WHEREAS**, the Task Force on Fair and Equal Pay was also tasked with researching and reporting on methods and procedures for requiring entities holding contracts with the State to study and remedy any pay equity and job segregation issues within their own businesses, including reasonable accommodations for small business and timelines for implementation;

**WHEREAS**, the Task Force on Fair and Equal Pay submitted its Report to the Office of the Governor in September 2009, substantiating the preliminary findings of the Task Force. Namely, that the State's classified employment system has for the most part eliminated serious pay inequity. Further, where pay equity gaps exist in the classified system, such gaps, while not acceptable, are substantially below national averages;

**WHEREAS**, while it is important to establish pay equity within the State system, it is also fair and reasonable to require the same for those entities that seek valuable contracts with the State of New Mexico;

**WHEREAS**, New Mexico strives to be a leader in the United States when it comes to pay equity, as the goal of pay equity is not to decrease the wages of any employee or group of employees, but to ensure fair and equal pay for all workers.

**NOW THEREFORE**, I, Bill Richardson, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, do hereby direct the following:

1. The State Personnel Office ("SPO") to prepare and submit to the Governor an annual Fair and Equal Pay Report including pay information for every Executive Agency; such Reports should identify any pay gaps that exist at the individual Agency level. The first Fair and Equal Pay Report shall be submitted by SPO no later than December 31, 2010. Thereafter, annual reports shall be submitted to the Governor's Office no later than October 1 of each year. Further, SPO shall develop templates for Agencies to use in addressing and, eliminating non job-related pay gaps in the state classified system. Reports may be of the same type SPO provided for the Pay Equity Study of the state classified workforce completed in 2009.
2. Each Executive Agency is directed to review the annual Report and submit plans to SPO for overcoming any non job-related pay gaps. SPO shall, when requested, provide technical assistance to Agencies in achieving their goals.
3. By February 28, 2010, a Working Group consisting of the Secretaries or their designees of the General Services Department, the Department of Finance and Administration, the Economic Development Department, the State Personnel Office and Dr. Martha Burk, Senior Advisor for Women's Issues to the Governor, will develop definitions and reporting format requirements for contractors who will be required to submit reports as directed by this Executive Order.

- A. The definitions to be developed by the Working Group will include, but not be limited to, the terms "contractor," "New Mexico employee," "job title," "job classification," and "pay band;"
- B. The Working Group is also charged with identifying classes of contracts for which pay equity reports may be irrelevant, if any;
- C. Effective January 1, 2010, Executive Branch Agencies with state contracts including approved vendor relationships solicited or awarded will require contractors with 10 or more employees to file a pay equity report on or before July 1, 2010, with the State of New Mexico, and annually thereafter for multi-year contracts. Contractors with fewer than 10 employees but at least 8 individuals doing the same job may be required to file reports at the discretion of the Working Group. For contracts awarded after July 1, 2010, but before January 1, 2011, reports will be due on the date of the contract award. Beginning January 1, 2011, reports will be part of the Request for Proposal process as outlined below. Reports filed in 2010 will be informational only. Uniform reporting instructions and criteria will be provided by the State of New Mexico in advance of the first reporting deadline. Technical assistance to those companies requesting it will also be provided.
- D. By October 1, 2010, the Working Group will develop a system for incentivizing progress toward pay equity in the scoring of Requests For Proposals, and other bidding processes; such incentive programs will be standardized across all Executive Agencies. The incentive system will recognize that certain work related factors (e.g. seniority, piece rates) may contribute to pay disparities, and provide an appropriate mechanism for contractors to explain such work related disparities;
- E. The Working Group will also develop guidelines and prospective timelines for inclusion of race and ethnicity data in future pay equity reports insofar as feasible.
- F. Effective no later than January 1, 2011, the State of New Mexico will institute an incentive point system to apply in scoring of Requests For Proposals, and other bidding processes, for overcoming gender pay gaps that are not due to job-related factors.

- G. Information in the pay equity reports, including explanations of job-related pay disparities, must be certified by the principal executive officer of the contracting company, and will be subject to audit by the New Mexico State Auditor.
- H. When drafting the uniform instructions and criteria, the Workgroup will mandate information in pay equity reports including but not limited to:
  - 1. the number of employees;
  - 2. the percentage of each gender in the workforce; and
  - 3. the number of each gender in each job title, pay band, or similar job classification system as determined in implementing definitions and guidelines instituted by the Working Group;
  - 4. the percentage of gender pay gaps, if any, by job title, job category, or pay band, or similar job classification system, as determined in implementing definitions and guidelines instituted by the Working Group.
- I. The Working Group is prohibited from requiring in pay equity reports:
  - 1. dollar amounts paid to any individual employee, and
  - 2. the average or actual dollar amounts paid to any group of employees.
- 4. The State of New Mexico will provide technical assistance to contractors and prospective contractors for complying with this Order.
- 5. The Working Group shall be an advisory body that makes recommendations to the Governor and in no event shall it make final decisions regarding policy.
- 6. Working Group members shall serve voluntarily and shall receive no pay for their services, nor shall they be reimbursed for travel or subsistence expenses, unless otherwise provided by law.
- 7. Nothing in this Executive Order is intended to create a private right of action to enforce any provision of this Order or to mandate the undertaking of any particular action pursuant to this Order; nor is this Order intended to diminish or expand any existing legal rights or remedies.

**THIS ORDER** supersedes any other previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until such time as it is rescinded by the Governor.

ATTEST:

  
MARY HERRERA  
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE  
THIS 18<sup>th</sup> DAY OF DECEMBER, 2009

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO

  
BILL RICHARDSON  
GOVERNOR

