

TIME TO SCHEDULE AN HR CHECK-UP

Big problems could fester if you don't nip them now

* * * Every six months, I get a dental check-up. Every five thousand miles, I take the car in for service. These events are calendared in advance, and the appointments kept. My point? Schedule a regular human resources audit; your bank's health and smooth operation may depend on it.

With all you have to do, setting aside a block of time to analyze documents and review processes may seem a luxury you can't afford. And especially when everything appears to be running, if not smoothly, then at least running.

However, when a former employee sues for unpaid overtime; the Office of Federal Contract Compliance Programs schedules a meeting to go over your Affirmative Action Plan; and your best loan originator threatens to quit because she just found out she's being paid less than her male co-worker--all in the same week--you may regret not having set aside a few hours annually for an HR audit.

Many reasons stand behind the need to have regular HR checkups. Among them:

Laws change

A primary reason for periodic reviews is that new employment laws and regulations are enacted with increasing frequency.

For example, has your family and medical leave policy been updated to reflect new provisions for military exigency and caregiver leaves? Do forms requesting medical information now include GINA Safe Harbor language? (GINA stand for "Genetic Information Nondiscrimination Act.")

As well as federal law changes, keep an eye on your state legislature. A lot of the action in HR is now at the state level, with employee protections extending further than at the federal level.

New people drive information gaps

Another reason for regular checkups is that staff changes over time. A new hire may import practices from a previous employer which may not be compliant with the law or the bank's policies. A job description written for one incumbent may be ignored when a new employee with a different skill-set fills the position.

Gradually, policies and other documents cease to reflect the reality on the ground. When trouble strikes, the bank cannot rely on them as a defense.

Areas to cover

So, how do you conduct an HR audit?

The first step is a review of policies. The primary objective is to determine whether all the appropriate policies are in place, and that they do not contain language that violates any federal or state law prohibition or that gives rise to potential employment liability.

A secondary objective is to weed out any policies which are not being enforced or are out of date.

Documents to review:

- Employee handbook—Pay particular attention to the EEO and harassment policies, discipline and termination policies, and employment-at-will language

- Code of ethics—As well as confidential information and conflict of interest, if your bank is a public company, senior officers must certify compliance with Dodd-Frank and other regulations.

- Required postings—e.g. Family Medical Leave Act, minimum wage, employee rights. These should be in an accessible and frequented place, like the break room.

- Affirmative Action plan—Has it been updated for the current year?

Next, look at forms you use on a regular basis: employment application, offer letter, performance appraisal, disciplinary notice, etc. Are these forms still fulfilling the purpose of recording the information you need?

Sampling saves time

You will not be able to check every HR record the bank keeps, so reviewing a sample should be enough to make sure that personnel processes and procedures are being followed. How big a sample and how wide the coverage are decisions a seasoned HR person will be able to make, based on the size and complexity of their particular bank.

Here are some suggestions:

- Personnel files—Review in detail at least a few from each department, as well as the files of the most

recently separated employees. Things to look for: Is there a signed acknowledgment of the bank's policies, including the ethics code? Is all medical information kept separately from the main personnel file? Are all regular performance appraisals included?

- Job descriptions—Review lender job descriptions, as well as job descriptions for any exempt position for which it is not clear which exemption applies. The job description should reflect the "primary duty" under Fair Labor Standards Act regulations justifying exempt treatment. The job description should also list "essential job functions" and any physical or mental job requirements for ADA purposes.

- Payroll records—concentrate on non-exempt positions. Does the sample of time records show the exact hours worked? Have they been signed by the supervisor on a weekly basis? Has overtime pay been properly calculated?

- I-9s—These should be maintained separately from the personnel file. Check that every box has been filled in, down to the printing of the employer representative's name under his/her signature. When the government audits I-9s, every single paperwork deficiency means a fine!

On the audit trail

The essential tool for an audit is a checklist. Checklists, once completed for each area reviewed, are the basis for your audit report and recommendations, and constitute the back-up documentation needed to defend against a future challenge.

You can create your own checklists for the areas described above, tailored to your particular situation. Or you can obtain ready-made checklists from organizations like Employment Law Compliance, which can perform compliance assessments as part of its services.

Whether you go it alone, or seek outside help, don't neglect the audit chore. An ounce of prevention is worth a ton of cure, or, as the auto mechanic in the motor oil additive commercial used to say, "You can pay me now. Or you can pay me later."

For more information, participate in the ABA telephone briefing: "Conducting A Human Resources Audit," April 4., 2:00-3:30 P.M. For more information, [click here](#). To register, [click here](#), or call 1-800-775-7654.

About the author

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