**Archbright™**

**Insights Newsletter**

**April 2016**

Archbright Wage & Compensation Survey Opens for Participation on April 5th!

Archbright’s annual Wage & Compensation Survey opens for participation on Tuesday, April 5th. All Archbright members who participate in the survey will receive the report, in its entirety, for free when the results are released in July of this year.

There are exciting changes to the Archbright Wage & Compensation Survey we’d like to share with you!

This survey now combines several of our smaller surveys—such as IT/Engineering, Sales, and Non-Profit—into one comprehensive regional compensation survey. You no longer need to participate in (and download) multiple salary surveys throughout the year to ensure you have access to all salary data. Plus, we’ve streamlined the data collection process, to make survey participation easier for your organization.

The 2016 Archbright Wage & Compensation Survey is the largest one of its kind in the Pacific Northwest and will collect and report on salary data for:

* banking
* construction
* corporate/ administration
* engineering
* finance
* health care
* hospitality
* human resources
* information technology
* marketing/ sales/ service
* non-profit
* operations/ maintenance
* production
* retail
* supply chain/ inventory

Starting this year, non-profit organizations will also be included in the Archbright Wage

& Compensation Survey and a special report of the non-profit data will be available for applicable organizations.

The survey will remain open for participation until May 13th.

Please email our survey team at regionalsurveys@archbright.com to get started today!

**Proposed EEO-1 Report Changes: Progress or Folly?**

On March 16, the EEOC held a hearing on its proposal to revise the existing EEO-1 Report to include collection of pay data from employers with more than 100 employees. Although the EEOC has said that the new data would help the EEOC and the OFCCP in identifying possible pay discrimination and assist employers in promoting equal pay in their workplaces, the proposal quickly drew pointed criticism over its estimated recordkeeping burden, the usefulness of the massive data collection, and confidentiality. Yet others saw the proposed changes as an important path to narrowing the persistent wage gap.

**Amassing helpful data.** This pay data collection purportedly would permit the EEOC to compile and publish aggregated data that will help employers in conducting their own analysis of their pay practices to facilitate voluntary compliance, the EEOC said. Both agencies would use this pay data to assess complaints of discrimination, focus agency investigations, and identify existing pay disparitie that may warrant further examination. The two agencies plan to develop statistical tools that would be available to staff to use the EEO-1 pay data for these purposes.

**Recordkeeping burden.** One aspect of the proposal that has drawn criticism is the burden placed on businesses that would be required to complete a 3,360-cell spreadsheet.

Seyfarth Shaw attorney Camille Olson, who testified on behalf of the U.S. Chamber of Commerce, leveled several criticisms about the recordkeeping burden estimated by the agency:

The EEOC suggests that a “revised form” with almost 26 times the number of data points to complete will impose no additional burden and cost 50 percent less than the previous form, which was approved in 2015.

The EEOC and its consultant admit that there was no testing of the form or the time that would take to complete it, but rather that it used “synthetic data” compiled from fictitious companies to produce an estimate of the time required to complete the new forms.

The EEOC, through sleight of hand, arbitrarily eliminated from its analysis of the burden the time and effort required to submit data relating to more than 250,000 employer establishments. Under the EEOC’s proposal, employers will still be required to submit data for the 250,000 establishments that have been omitted from the Agency’s burden analysis. The EEOC simply ignores this fact.

**Won’t fight discrimination.** According to both Olson and SHRM Executive Janese Murray, this huge data collection effort will do nothing to help fight discrimination. Olson said that the EEOC failed to even offer any argument that the data submitted will be useful including these points.

The laws that the EEOC enforces do not permit the consideration of broad aggregates of data from dissimilar jobs combined into artificial groupings. Indeed, the EEOC’s own compliance manual and its consultant recognize that these broad aggregations of data are essentially useless.

The EEOC is requiring the combining of completely dissimilar jobs to determine if there is pay discrimination. For instance, the proposed revised forms will require a reporting hospital to combine lawyers, doctors, nurses, and dieticians—all grouped as “professionals”—to somehow determine whether there are pay disparities based on gender, race, or ethnicity. No law permits comparisons of such diverse workers to prove discrimination.

In order to meet its own bureaucratic timetable, the EEOC will require employers to combine two distinct years of W-2 data to create a fictitious W-2 amount for employees. This will yield completely useless information. It does not take into account job changes, promotions, annual pay adjustments, different working conditions, or locations, or the many other factors that go into compensation.

The EEOC will require employers to collect and report the hours worked for all employees. The EEOC has not addressed the critical fact that employers do not currently collect hours information for exempt employees. The EEOC suggests that employers may use a “default” number of 40 hours for each exempt employee however exempt employees regularly work more than 40 hours; thus the hours information would be inaccurate, and of limited use.

Confidentiality concerns. Both Olson and Murray also raised confidentiality concerns for the data submitted and the EEOC’s handling of that data. “SHRM and its members are very concerned about the confidentiality of the compensation data the EEOC proposes to collect,” Murray said. “The EEOC’s proposal would gather very specific compensation information by specific establishments, including very small establishments, using a web-based format including the reporting of individual, employee-level data. We need to focus on protecting our companies, but also on protecting our employees, many of whom would not be happy if their personal pay information was widely disclosed as a result of a data breach of the EEO-1 reporting system.”

Data would help narrow the pay gap. A group of Democratic Senators, led by Sen. Cory Booker (D-N.J.), saw the proposed changes to the EEO-1 Report much differently, underscoring the need for additional measures that would help narrow the pay gap that has been so detrimental to women. In a letter sent to EEOC Commissioners, the Senators said the EEO-1 proposal would help achieve that goal by:

* Increasing public transparency on compensation.
* Supporting employer efforts to self-monitor compensation practices.
* Strengthening the EEOC’s enforcement efforts.

“The compensation data collected by the revised EEO-1 will give the public valuable insight into what the pay gap looks like both geographically and by industry,” according to the letter. “Employers will also benefit by, for the first time, being able to benchmark their performance versus their competition. They will also be able to empower their human resource departments to make data-driven changes to address any pay gaps that may exist within a firm. Equally important is that the new compensation data will strengthen the EEOC’s ability to investigate allegations of pay discrimination and better enforce existing law.”

**Source:** By Pamela Wolf, J.D. EEOC and CCH

**10K-Plus Severe Workplace Injuries Reported With Manufacturing Highest in Hospitalizations, Amputations**

OSHA has released a report on the first year of its new 24-hour reporting requirement for severe workplace injuries, finding that in 2015, employers notified the agency of more than 10,000 injuries involving hospitalization, amputation, or loss of an eye. The manufacturing sector reported the greatest number of hospitalizations and amputations. These reported injuries, though, do not reflect all of the workplace injuries that occurred across the United States and its territories. Rather, the reported injuries came from federal OSHA states only, excluding the 26 jurisdictions that have OSHA-approved state plans.

In the first full year of the program, employers reported 10,388 severe injuries, including 7,636 hospitalizations and 2,644 amputations. That means about 30 severe work-related injuries occurred each day.

Industry sector data. The report shows that the greatest number of reports of hospitalizations came from the manufacturing sector (26%), followed by the construction sector (19%). A staggering 57% of reported amputations came from the manufacturing sector, with all other sectors reporting 11% or less.

The report also includes a breakdown of the top 25 severe injury reporters by industry groups as identified by NAICS number. That breakdown puts Foundation, Structure, and Building Exterior Contractors at the top, followed by Building Equipment Contractors, and Support Activities for Mining in third place.

The data also showed that 6% of reported severe injuries involved temporary workers.

**OSHA response.** The agency said it responded to 62% of the 2015 reports, including 69% of hospitalization reports, by asking employers to conduct their own incident investigations, and propose remedies to prevent future injuries, instead of sending agency inspectors to the scene. In response to about a third of all injury reports (and 58% of amputation reports), OSHA itself responded with an inspection by a compliance officer after determining that the hazardous conditions described warranted one.

OSHA found some employers exceeded the agency’s requirements to protect workers from future incidents. However, a few responded with what the agency called “callous disregard.” One manufacturer tried to hide an entire room full of machinery from OSHA inspectors.

“In case after case, the prompt reporting of worker injuries has created opportunities for us to work with employers we wouldn’t have had contact with otherwise,” explained Assistant Secretary of Labor for Occupational Safety and Health David Michaels, who authored the report. “The result is safer workplaces for thousands of workers.”

Unreported injuries. OSHA estimates that as many as 50% or more of severe injuries are not being reported. The agency bases its estimate on several factors, including injury claim numbers provided by state workers’ compensation programs. Since the majority of first year reports came from large employers, OSHA believes that many small and mid-sized employers remain unaware of the new requirements.

What is the penalty for failing to report? OSHA noted that it recently increased the unadjusted penalty for not reporting a severe injury from $1,000 to as much as $7,000, an amount that will increase when higher penalty levels recently approved by Congress take effect. Moreover, where the agency learns that an employer knew about the requirement but chose not to report it promptly, the fine can be much higher, with one employer already assessed enhanced penalties of $70,000 for willfully failing to report.

**Source:** By Pamela Wolf, J.D. and CCH

**Featured eLearning: Marijuana and the Workforce**

How has your organization responded to the legalization of recreational marijuana? OSHA, DOT, L&I, and the ADA all have requirements for employers regarding marijuana—are you aware of these? Do you know the pros and cons of various testing methods for use and impairment? What are the liabilities of various workplace marijuana policies, and which is the best for your organization?

Learn all about this and more in Archbright’s eLearning: Marijuana in the Workforce. Purchase at [www.archbright.com/page/elearning](http://www.archbright.com/page/elearning).

**Managing the Millennial Employee**

**Q**: Which group will make up over 50% of the US workforce by 2020?

**A**: Millennials!

Millennials, or those in their mid-teens to mid-30s, come to work with unique perspectives about communication, respect, boundaries, and priorities. Organizations that do not adjust and leverage the strengths of the Millennial group will not survive.

In Managing the Millennial Employee, you learn the general preferences of each generation, and how to honor, engage, and motivate employees of different generations, especially Millennials.

**This Class is Available:**

**Kent | May 11th Spokane | May 19th Seattle | July 20th**

**Say Goodbye to the Rating Game**

Long considered a core HR process, the traditional performance appraisal has come under scrutiny in recent years. After decades of questionable effectiveness as a means of increasing productive workplace behaviors, the performance appraisal, or annual review, has fallen out of favor for many organizations. And for good reason: as currently practiced, the review process often is viewed as a dreaded event by managers who tend to put off doing it and employees who would just as soon avoid having it done to them.

That makes for a curious situation, since it’s also true that when asked, the majority of people say they want to know how they’re doing at work. And most of us are quite willing—even eager—to adjust our performance once we realize that it makes us more efficient, productive, and yes, even more likeable to our teammates. In order to make those adjustments, we need feedback on the effect of our actions. Management expert Ken Blanchard likens not getting feedback on performance to bowling with a curtain that’s drawn across the alley to hide the pins: the bowler/ performer releases the ball and hears something happen behind the curtain, but has little idea about which pins went down – if any. Lacking feedback on what did or didn’t work, our bowler/performer is stuck guessing what to do next – aim a little to the left, straight down the middle, or just give up altogether because it’s impossible to know?

So it would seem that the feedback itself isn’t the problem—it’s likely more about the content of the feedback, how it’s delivered, and how often. Even more significant is the premise that underlies all of this: that individual performance, and by association, individuals themselves, are being evaluated in some kind of qualitative way. When a year’s worth of performance is appraised, assigned a value, and permanently documented in a personnel file, self-esteem can’t help but come into play. And when self-esteem gets involved, objectivity and rationality often fly right out the window.

But they don’t have to. On the plus side, our natural curiosity leads us to want to learn new things and self- esteem is bolstered whenever we master a new challenge, such as a skill or technique that makes us more effective on the job. In a trend that’s expected to continue gaining steam, research by Bersin by Deloitte reported in their Predictions for 2016 confirms a growing trend away from the “top down” annual review process toward an on-going form of performance feedback. That’s consistent with basic learning theory, which tells us that spacing learning over time is far more effective than cramming that knowledge into one long session. It turns out that long-term memory is enhanced by distributing learning across time in “bite size” chunks. Allowing the brain time to digest smaller amounts of data dramatically increases long-term memory.

Considering that the purpose of performance feedback is to help the employee learn new or different ways of getting work done, condensing it into a one hour data marathon just doesn’t make sense.

In our next Insights newsletter, we’ll explore some of the exciting new ways organizations are providing the important performance feedback employees (and their managers) need in ways that increase performance and engagement at the same time.

**Source:** Susan Brandt, MA, SPHR | Director, HR Solutions at Archbright

**Spokane CoffeeTalk: Safety First! Accident Prevention Programs and Safety Committees**

Prevent injuries, improve safety performance, save money, and remain in compliance with state and federal regulations!

Please join us for our next CoffeeTalk as Archbright Loss Control/Safety Management Specialists Tim Lundin and Shannon Elliott present How to Create an Effective Accident Prevention Program and Best Practices for Safety Committees.

Register online at Archbright.com/event/April CoffeeTalk today! Seats are limited.

When: Wednesday, April 13 | 8AM to 11AM

Where: Spokane Airport Holiday Inn | 1616 S. Windsor Drive | Spokane

Cost: FREE | a continental breakfast will be served

Is It Time to Update Your Personal Protective Equipment Requirements?

Most manufacturing facilities have some type of Personal Protective Equipment (PPE) requirement, but when is the last time your company evaluated the hazards in your work environment and determined if the PPE was adequate or even still necessary?

Employers are required to identify hazards or potential hazards that could injure employees in the workplace to determine if engineering controls could reduce or eliminate the hazards. To do this, employers must conduct a documented job hazard assessment (JHA) any time the employer has a facility change, acquires a new piece of equipment or machinery, or a process changes. If a hazard cannot be engineered out, then the employer must provide appropriate PPE at no cost to the employee, and then train the employee on why they must wear the PPE, how to wear it properly, and proper maintenance and storage. This training must be documented as well.

Many companies have PPE requirements, but often times find that their employees are not always wearing the appropriate PPE, or wearing it properly. Now is a good time to conduct a workplace observation to see if it’s time to update your JHA or retrain employees on PPE usage. Look at your injury investigation reports and safety committee minutes. Are the employees always wearing their required PPE? If not, why? Consider bringing in vendors to let employees choose the types of PPE that are comfortable for them to help with compliance. Talk to the employees to see what questions or concerns they may have around wearing PPE; they may have ideas for engineering controls that could eliminate the hazard and thus the need for PPE. Personal Protective Equipment should always be the last resort for employee’s safety.

To learn more about how to conduct a Job Hazard Assessment (JHA), Personal Protective Equipment (PPE) training resources, or for Personal Protective Equipment sample handbook policies, please call 206.329.1120, 509.381.1635, or email safety@archbright.com.

*“Successful change comes from focusing on building the new, not fighting the old.”*

Monthly Safety Webinar
March 2016

Element #3 – Safety Culture Checkup

Thursday, April 21st 2:15 p.m.

Topics we will cover in Element #2 - Safety Culture Checkup:

* Accountability
* Communication
* Employee Engagement
* Recognition

This monthly webinar is complimentary for all members of our Workers’ Compensation and Retrospective Rating Programs. Attendees will receive an email approximately one week before the webinar with participation and login information. For questions or more information on our webinar training, please contact safety@archbright.com.

For those not enrolled in our Workers’ Compensation or Retrospective Rating Programs, there is a $49.95 fee. Please contact info@archbright.com for registration information.

**Did You Know?**

Many workers are injured even when Personal Protective Equipment is required.

* Hard hats were worn by only 16% of workers who sustained head injuries.
* Only 1% of 770 workers suffering face injuries were wearing face protection.
* Only 23% of workers with foot injuries were wearing safety shoes/boots.
* About 40% of workers with eye injuries wore safety glasses.

**Source:** Bureau of Labor Statistics

**Please Notify Us of Staff Changes.** Please take a moment to contact us to correct any staffing changes for your organization, including email addresses. Email us at info@archbright.com.

Insights is published monthly for its member companies by Archbright™, founded in 1936. Items in Insights are for information only and not intended to render legal advice. Material contained herein may not be reprinted without the permission of Archbright.

We welcome your comments and suggestions.

Email: info@archbright.com | Seattle Office: P.O. Box 12068; Seattle, WA 98102

Phone: 206.329.1120 | Web: www.archbright.com