

Best Practices for Conducting an Audit

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Meet the Presenter

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Agenda

- How an audit can make your job easier
- Determining the scope and scale of an audit
- Planning your audit project
- Audit report structure
- Ensure the audit findings result in action

Audits get a bad rap!



"Auditor's here."

Your Colleagues Get Audited

- Operations, Customer Service, Sales are constantly evaluated on accuracy, productivity and service levels
- The purpose for an audit is for improvement of the area, not to point fingers.
- Focus on how the results can help you and your team, and your company improve
- What if we took the "judgement" out of it. And flipped that around and instead thought about things like ...
 - Opportunity to improve
 - Showcase resource needs

Reasons to Conduct an Audit

- Compliance Concerns
- Turnover Issues
- Change in leadership or HR staff
- Effectiveness of HR function
- Process Improvement
- Mergers & Acquisitions



An Audit can make your job easier!

- Provides a road map for change
- Helps prioritize your to-do list
- Supports the need for different or additional resources
- Offers overview of the complexity of human resources function
- Goal is to improve processes, identify risk areas, minimize lawsuits/regulatory violations and ultimately tie HR goals to strategic business goals



Scope of an Audit

- Recruitment/Selection
- Employment Activities
- Recordkeeping
- Benefits/Leaves of Absence
- Wage & Hour Requirements



Scope – Additional Considerations

- Organizational Readiness
 - Do you have support from the executive team and other stakeholders?
 - Budget and time available to implement recommendations?
 - Should legal counsel be involved?
 - Should you use an outsider?



Scope – Additional Considerations

- Are you ready?
 - Knowledge and expertise of federal and state laws and regulations that impact your organization
 - As a result of audit findings, you may need to:
 - Eliminate policies and procedures you may have previously recommended
 - Deal with the potential political issues raised
 - Take on additional departmental responsibilities



Planning for the Audit

Audit Projects

- 3 key areas
 - Interviews
 - Document Review
 - Report preparation and delivery



Planning for the Audit



- Get yourself ready:
 - Review laws applicable to your organization
 - Size
 - Industry
 - Multiple States
 - Develop checklist of documents, policies and procedures to be reviewed
 - Determine who will be interviewed
 - Develop set of systematic questions
 - Schedule appointments



Planning for the Audit



- Hold a pre-audit meeting with key stakeholders
 - Determine functional areas to audit
 - Establish reasonable timeline for completion
 - Determine who will receive audit results and what results they will receive
 - Determine how to document areas of non-compliance or very sensitive areas
 - Determine how to communicate the audit process



Example: Recruitment and Selection

Key Concerns for Employers:

- Claims of discrimination based on hiring practices
- Violations of legal requirements relating to pre-employment background checks, drug testing and medical examinations



Example: Recruitment and Selection

Here is a list of sub topics that you would investigate and audit throughout your project.

- Approval Process for Job Openings
- Job Position Files
- Internal and External Recruitment
- Notice of Job Openings to State
- Employment Ads/EEO Tagline
- Employment Application Form
- Applicant Policy and Applicant Tracking
- Interview and Selection Process
- Pre-Employment Examinations and Testing
- Pre-Employment Reference Checks
- Pre-Employment Background and Credit Checks
- Offer Letter/Regret Letters



Example: Recruitment and Selection

- Documents to review:
 - Applicant policy
 - Advertisements and postings
 - Employment Application
 - Recruitment and selection procedures
 - Interview guides, interview evaluation forms
 - Offer letter
 - Other?
- Interview the following:
 - Anyone involved in the interview process
 - Anyone who assists with the administrative pieces of recruitment



Example: Recruitment and Selection

- Employment Application

Interview Questions

- Is an employment application used?
- At what point in the hiring process?
- Is the application available only online? What accommodations are available for disabled applicants?
- For what positions? If used for some, but not all, why?
- What questions are included?
- Where are completed applications stored? For how long?



Example: Recruitment and Selection

• Employment Application

Document Review - Things to look for include:

- Is information gathered about age, disability status?
- Language regarding convictions
- Language regarding authorization to work in the US
- Background check authorization and release
- EEO statement



Best Practice Examples

- Use application and corresponding employee acknowledgment forms to:
 - acknowledge that the company is an equal opportunity employer
 - certify accuracy of applicant information, and
 - establish an employment at will relationship
- Do not include hiring paperwork with employment applications (i.e., 1-9, W-2, FCRA forms)
- Ensure that background/credit check procedures are compliant with applicable federal, state and local laws
- Eliminate policies or practices that automatically exclude individuals from employment based on criminal record



Best Practice Examples

- Focus interview questions on whether the applicant is qualified for and able to do the essential functions of the job
- Document candidate qualifications with objective evaluation forms, and timely notify all rejected candidates in writing
- Develop objective criteria for conducting internet searches and screening applicants' social media accounts



Example: Employment Activities

Key Concerns for Employers:

- Discrimination claims based on perception of inconsistent application of workplace policies
- Unfair performance evaluation/disciplinary process
- Claims resulting from violations of drug testing requirements
- Legal claims for violation of ADA for employer failure to provide reasonable accommodations



Example: Employment Activities

• ADA Compliance/Documentation

Interview Questions

- Has the person responsible for ADA compliance been formally trained in ADA regulations and best practices?
- Is disability listed as a protected class in the EEO statement?
- Does the handbook inform employees how to request an accommodation?
- Do job descriptions address essential functions of each job?



Example: Employment Activities

• ADA Compliance/Documentation

Interview Questions – (Continued)

- Have supervisors been trained on how to recognize and address an accommodation request?
- What forms are used to support the interactive process? Where is this information stored?
- Is a physician statement required to substantiate the disability and support the interactive process?
- How are accommodations documented?
- Are there other policies that impact accommodation requests?
- Discuss confidentiality of accommodation requests.



Example: Employment Activities

- ADA Compliance/Documentation

Document Review

- EEO policy statement
- Disability Accommodation policy (or similar)
- Job descriptions
- Other related handbook policies
- Accommodation request form
- Medical inquiry form
- Accommodation approval/denial letters



Best Practice Examples

- Ensure that all legally mandated employee posters are displayed
- Develop a procedure for conducting regular reviews of job descriptions and clarifying minimum job qualifications
- Conduct yearly updates to employee handbook to ensure that management and employees are aware of key equal employment opportunity, workplace conduct, compensation and leave policies
- Use handbook and corresponding employee acknowledgment forms to: emphasize at-will employment relationship, and to detail discrimination/harassment reporting and complaint procedures



Best Practice Examples

- Ensure that workplace policies are distributed to all employees and obtain additional acknowledgments when distributing amended revised policies
- Evaluate/implement system for performing regular employee performance evaluations and ensuring fairness during evaluation process
- Align drug testing policies and procedures with applicable federal, state and administrative agency requirements



Example: Employee Records

- What belongs where?
 - Personnel File
 - Confidential/Medical File
 - Other Separate Employment-Related Files



Example: Wage & Hour Requirements

Overtime Practices: Interview questions

- Is there an overtime policy?
- What are our current practices?
- Is the workweek formally defined in the handbook?
- Does the overtime policy define whether or not paid time off is considered hours worked for OT purposes?
- Do we offer any of the following: non-discretionary bonuses, shift differentials, or multiple rates of pay? Are they factored into the regular rate for OT purposes?
- What types of complaints about OT payments have we received, if any?
- Do we retain detailed time keeping and pay records for at least 3 years?
- Do we operate in multiple states that may have unique overtime rules?



Example: Wage & Hour Requirements

- Overtime Pay
 - Document Review
 - Handbook policy on overtime
 - State research on overtime regulations
 - FLSA regulations
 - Payroll system overtime rules
 - Sample of x% of employee time card and corresponding payroll records



I-9 Requirements

Employers must:

- Verify the identity and employment authorization of each person hired after Nov. 6, 1986.
- Complete and retain a Form I-9 for each employee required to complete the form (Released on 9/18/2017.)

Employers must not:

- Discriminate against individuals on the basis of national origin, citizenship, or immigration status.
- Hire, recruit for a fee, or refer for a fee aliens he or she knows to be unauthorized to work in the United States.



What is the risk?

- I-9 Requirements are enforced by the U.S. Citizen and Immigration Service.
- Inspections can happen through the following departments:
 - Department of Justice
 - Department of Homeland Security
 - Department of Labor
- Employers typically receive 3 days notice for inspections.



What is the risk?

Employers who violate the law may be subject to:

- Civil fines
- Criminal penalties (when there is a pattern or practice of violations)
- Debarment from government contracts
- A court order requiring the payment of back pay to the individual discriminated against
- A court order requiring the employer to hire the individual discriminated against



Example: Internal I-9 Audit

Interview questions:

- Who is responsible for I-9 completion?
- Discuss how/when an I-9 is completed by a new hire
- Do temp's complete one at the time of conversion?
- How are remote employee I-9's handled?
- How are the forms stored?
- Are they purged annually?
- Has anyone been trained on how to ensure accurate completion of the form?



Example: Internal I-9 Audit

Document Review:

- Ensure form is retained for all active employees
- Ensure form is retained according to regulations for terminated employees
- Are current forms accurate?
 - Substantive versus technical violations
 - Was correct version used?
- Making corrections
 - Employee corrects section 1; employer corrects Section 2
 - **Do not back date**
 - Strikethrough, make corrections and initial & date corrections.
- Document your internal audit efforts



Drafting the Audit Report

- Executive Summary
 - High level overview of findings and priorities
- Audit Report
 - Detailed report of findings and gaps
 - Typically presents the following information:
 - Findings
 - Compliance Requirements
 - Best Practices
 - Recommendations
 - Recommended timeline



Drafting the Audit Report

Recruitment and Selection – Employment Application Form

Audit Findings	Compliance Requirements	Best Practices	Recommendations
<ul style="list-style-type: none"> Upon review of the employment application, the following unnecessary information is gathered: social security number, date of birth, education information including graduation date. Information regarding work authorization and conviction record is not gathered. There is no statement the company is an equal opportunity employer or that possible future employment is at-will. 	<ul style="list-style-type: none"> Employment applications can be viewed as a legal document and therefore must be designed to only gather job-related information. 	<ul style="list-style-type: none"> Employment applications should avoid gathering unnecessary details, such as date of birth, physical ability, date of graduation, and arrest/conviction record which disclose information that could lead to perceived unlawful discrimination. The phrasing of someone's eligibility to work in the US must be worded appropriately so as not to connote the idea that only US citizens are eligible. 	<ul style="list-style-type: none"> Revise the application as noted on this page. Use the Employment Application form to describe certain conditions of employment, such as employment-at-will. Additional language may also be included to document knowledge of other conditions of employment (i.e., falsification of records, employment-at-will, pre-employment drug testing, etc.)

Recommended Timeline: Within 6 months



Drafting the Audit Report

- Consider also adding the following to the report:
 - Risk level
 - Cost to remedy (high, medium, low)
 - Expertise – in house or external support needed?
- These details help form your road map for change



Ensure the findings result in action

- The audit report creates a roadmap for:
 - Priorities
 - Resources needed
 - Budget planning
- After presenting the audit report, schedule time with leadership to plan for action items with the following deadlines:
 - Immediate
 - Within 6 months
 - Within 12 months



Ensure the findings result in action

- Build audit recommendations into SMART goals
- Plan for a re-check within 12 months to ensure progress has been made



Wrap Up

- Determining scope/scale is key to success
- Know your strengths and weaknesses
- Don't let your pride get in the way



QUESTIONS

COMMENTS





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