

Review of the Madison County Human Resources Function

**Conducted by
The Whitten Group, P.A.
Ridgeland, MS**

January 30, 2014

Scope and Methodology of Work

In the fall of 2013, The Whitten Group was retained by Madison County to review the organization of the human resources at the County level and to make recommendations concerning the structure of the function and whether there existed a need to maintain the position of Director of Human Resources at the County level.

The review anticipated two phases, a set of seventeen (17) live or phone interviews with policy makers and selected employees and a separate independent analysis of the human resources function. At the time the review began, the County was conducting a search for a new County Administrator. The position was filled in December, 2013, and the new Administrator was included in the Phase Two analysis, which was conducted in January, 2014.

The attached report contains our findings and recommendations relative to the structure of the human resources function going forward. Appendix A contains a summary of the live interviews conducted in Phase One.

Our effort was directed by Amy Whitten, J.D., principal in The Whitten Group. Ms. Whitten is an employment lawyer and organizational consultant with over 30 years' experience. She was assisted by Kathy Rudd, an executive human resource professional with over 25 years' experience in organizations ranging from 50 employees to over 1000 employees.

Executive Summary of Findings

Madison County is a vibrant and growing County, with a complexity of constituent profiles, services, department structures, and employee positions. Over 390 elected officials and employees make up the human resource base for this dynamic organization. Though their functions are diverse, they bear one overriding similarity – every person working for or on behalf of the County requires human resource support.

At the present time, while basic human resource services are believed by those interviewed to be sufficient at the Department levels, our findings reflect an absence of sufficient coordination and support of the function at the overall County level.

In today's contemporary public sector organization, human resource management is a discrete professional skill set that is essential in managing the organization's risks of employment litigation, assuring compliance with ever increasing and changing federal and state regulations, and assuring that County employees and elected officials are fully advised of and receive all of the rights and benefits guaranteed to them.

A completely decentralized human resource system, such as is maintained by Madison County at the present time, puts the County at risk of liability in a variety of areas. Such a system runs the risk that complaints and issues will not be brought to the County level in a consistent or timely manner and decreases the likelihood that the County's administration can identify or address matters at a point in time early enough to prevent escalation. Moreover, the County administration cannot assure that critical employment practices are handled consistently across departments, especially in particularly sensitive areas such as the Fair Labor Standards Act (FLSA), Equal Employment Opportunity (EEO) matters, due process rights of all public employees, workers' compensation matters and unemployment compensation.

Moreover, decentralization hampers the County's ability to develop a true support function at the HR level, one which would build a strong central reservoir of knowledge related to employee entitlement and benefits, especially in light of the labyrinth of legal requirements which will accompany the Affordable Health Care Act, and which already exist in other laws such as the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA).

For reasons which will be more fully explained in the sections which support this summary, the Whitten Group recommends that the County design a human resource function at the County Administrator staff level, with sufficient administrative support and resources to track, coordinate, and support all human resource activities across the full range of County Departments and functions.

We further recommend that the individual(s) tasked to perform this role be provided in depth training on the range of issues which arise in the human resource arena and be provided training in the essential skills necessary to discharge this function to a high standard.

THE WHITTEN GROUP, J.D.

January 30, 2014

FACTUAL FINDINGS

In the Phase One interviews of key leadership and employees within Madison County, the Whitten Group visited with seventeen individuals, including all five supervisors and key departmental leadership. The general consensus of those interviewed was that core human resource functions, which the group tended to define as payroll and benefits, were sound at the various department levels and did not require any coordination from the County level. *(See Appendix A for notes from the various interviews.)* Persons interviewed reported little, if any employment related litigation in the past and expressed a general view that, from a human resource vantage point, the County was in “good shape.”

In the Phase Two organizational analysis, the Group first worked to define the range of human resource functions or services which have been required at the County level over the past five years. *(See Appendix B for the full list of such services/functions identified at the County level.)* The listing was substantial, and included critical and numerous activities in the areas of employee hiring, orientation, benefits management, employee performance evaluation, retirement and deferred compensation management, training, EEOC and litigation support, maintenance of confidential personnel files, etc.

In the Phase Two organizational analysis, the Group discovered that there have, in fact, been 19 documented EEOC cases over the last five years (sent to the County’s employment lawyer) by County employees, ranging from claims of age discrimination to retaliation, military discrimination, sexual harassment, and race discrimination. There exist no coordinated records at the County level which would establish how many complaints or grievances were filed but did not rise to the level of a formal EEOC charge.

During Phase Two, the Whitten Group also reviewed the County’s Employee Handbook and related policies and found them to be sound. The absence of coordination at the County level, however, means that the Group cannot assess whether departments are utilizing the handbook properly or whether the policies set forth therein are being administered in a consistent way across departments.

The absence of comprehensive coordination of the human resource function exposes the County to potential liability in the arena of employment law. Without coordination, the County may be hampered in producing the required showing of compliance and consistency which underpin successful defense of employment claims. Moreover, without training by and the support of an overall county human resource professional, department heads and policy makers may be unable to produce strong documentation trails which are necessary to establishing an evidentiary base for their actions.

Madison County is one of Mississippi's most dynamic counties. Between the Board of Supervisors , elected officials, and judges, the County has over twenty (20) elected officials, each of whom is charged with assuring full compliance with the law in their assigned area. In addition, the County maintains over 140 employees in the law enforcement and detention category, positions which traditionally figure prominently in employment law suits. Madison County has a diverse residency reflecting the tension felt by many fast growing counties between urban and rural needs. *(See Appendix C, Madison County Organizational Chart.)*

CONCLUSION

Despite the varying levels of support expressed for a decentralized human resource function within the County, Phase Two of the Group's work reflects a compelling rationale for better securing coordination of the range of human resource activities at the County level. The Group recommends that the County maintain the position of Human Resource Director, that the position answer directly to the County Administrator, and that the County act with a sense of urgency to identify the right individual to fill that position. Interviews in Phase One and the work in Phase Two suggest that the right individual to fill this position will have a working knowledge of the core human resource functions, a desire to increase his or her knowledge and training, and will quickly earn the respect and trust of the County's elected officials and its almost 400 employees.

Appendix A ***Summary of Phase One Interviews***

To: Amy Whitten, J.D.

From: Kathy Rudd

RE: Madison County HR Review/Analysis

On November 13 and 14, 2013, seventeen interviews were conducted in person and by telephone with the Madison County Board of Supervisors, elected officials and county managers and personnel. Those interviews were to provide an overall review and analysis of organizational components related to human resource management for Madison County. The following were interviewed for their input:

Board of Supervisors: Karl Banks, John Bell Crosby, Paul Griffin, Ronny Lott and Gerald Steen

Elected Offices:

Gerald Barber, Tax Assessor

Arthur Johnston, Chancery Clerk

Susan McCarty, Justice Court Clerk

Kay Pace, Tax Collector

Sheriff's Office: Jeremy Williams and Bryan Watson

County Employees:

Vickie Miller, HR and Administrative Assistant to County Administrator

Lawrence Morris, Road Manager, Helen Keller and Latashee Banks

Loretta Phillips, Payroll

Shelton Vance, Comptroller

Mississippi Code Annotated, §19-2-9, requires the Board of Supervisors of each county to adopt and maintain a system of countywide personnel administration for all county employees to be administered by the county administrator. The system may include, but not limited to, policies which address hiring and termination of employees, appeal and grievance procedures, leave and holidays, compensation, job classification, training, performance evaluation and maintenance of records. Elected officials, other than the Board of Supervisors, who are authorized to employ shall adopt and maintain a system of personnel administration for their respective employees or shall adopt the system of personnel administration adopted by the Board of Supervisors. All Madison County employees are at-will employees.

Interviews and a review of the Madison County Employee Handbook indicate the county has a personnel administration system that includes policies and procedures that address hiring and termination of employees, leave and holidays, compensation, job classification, and maintenance of records. The elected officials interviewed have adopted the county policies with some modifications that have been approved by the Board of Supervisors. There is no centralized system for job classification and salaries, recruitment and selection, performance management and grievance procedures. Some elected officials stated they have developed their own job classifications, salary ranges, and grievance procedures. There appeared to be no performance management system in place and mixed input as to the value it would have. Each office offered staff development opportunities appropriate to the work of the office.

All interviewed reported little employee turnover and very few legal actions (EEOC, lawsuits) where the county was found at fault. Most employee turnover is in the Detention Center and Solid Waste and the cause was related to the type of work. One supervisor indicated most county employees have 15+ years of service with the county.

Until 2008, human resource functions had been handled by an employee who reports to the Comptroller and performs payroll functions. In addition to payroll, she had performed new hire orientation and benefits administration; maintained personnel records; counseled employees on matters of their employment; worked with employment attorney on policy development and enforcement; and assisted with recruitment on an as needed basis. In 2008, a new position was created as Human Resources (HR) Director and the human resource functions were assigned to that position separating payroll and human resources. Eventually, the administrative assistant to the County Administrator also assisted the HR Director in HR matters. In September 2013, the Human Resources Director position was vacated and remains vacant to this date.

The Board of Supervisors agrees the human resource functions are important to the success of Madison County. However, the members are divided on what HR functions are needed and will be supported. Also, the Board is divided on if a full time HR Director is needed or if the county would be better served by contracting with a third party to handle the more complex HR issues. The county has an employment attorney that is accessible as needed.

The results of the interviews indicate the HR Director mainly assisted with new hire orientation and benefits administration and on rare occasion served as witness in an employee counseling session. There was no evidence the HR Director performed any different duties than the person responsible for payroll had performed prior to 2008. There were complaints that benefits had not been well explained nor problems resolved as well by the HR Director as they had previously. In fact, several mentioned they and their employees did not seek out the assistance of the HR Office, but instead went to the payroll person. She is trusted and considered capable.

The county has a very well written employee handbook that is distributed to all county employees upon hire. Included in the handbook is an open door policy that encourages all employees to discuss any work-related complaint or problem with management at any time. While there is no formal grievance process, employees are repeatedly encouraged to proceed with issues they may have without fear of reprisal.

While there is no formal evaluation system in place, most interviewed consider performance evaluated on an ongoing informal basis with deficiencies addressed by management. Training and development opportunities appear to be available and utilized to meet the needs of the staff.

It appears there is no statutory authority to *require* all county employees to participate in a centralized performance management, classification, or discipline system nor any authority an HR Director could impose over elected officials or their employees.

Based on the information obtained during these interviews and on a review of the Madison County Employee Handbook, it is clear that the County maintains a strong handbook and that those interviewed believe that the HR functions are handled in a satisfactory manner without the position of HR Director. In the absence of any objective analysis of the scope of HR service required at the County level, it is difficult to reach any other conclusion. I do believe, however, that such an analysis would be useful in assessing the accuracy and depth of the interview findings.

Appendix B

Listing of County HR Functions

Brief descriptions of the HR function:

Employee Job descriptions (not implemented).

Proper job classifications (not implemented).

Obama care/Healthcare review and implementation.

Responsible for coordinating County open enrollment process.

Keeping employee handbook updated with current employment laws, while conducting employee training sessions including county policy and procedures, etc.

Staying abreast and implementation of all State and Federal laws-ADA, HIPPA, etc.

Employee performance evaluation assistance and coordination.

FMLA implementation.

Unemployment claims and hearings.

Workers comp claims and hearings.

Work closely with department heads and County attorney, and other Elected Officials on all EEOC matters.

Staying abreast of all changes in retirement system (PERS) and Deferred Compensation Plan and how it affects employees.

In some cases responsible for interview/hiring of potential employees.

Employee Background checks.

Making sure proper hiring practices are followed.

Responsible for maintain confidential past and current personnel files.

New-hirer orientation/training: making sure all appropriate paperwork is completed; while working closely with payroll to ensure employees paperwork is submitted accurately and in a timely manner.

Being available to employees to help them in matters concerning their benefits and rights.

Coordinating complex disciplinary/grievance issues.

Assist in working with senior managers, coaching them and advising on personnel issues.

