



Municipal Personnel Report

Recruitment and
Selection of
Managerial and
Professional Personnel

Prepared and Updated by
Warren Nevad
Management Consultant



MTAS

**MUNICIPAL TECHNICAL
ADVISORY SERVICE**

A statewide agency of
The University of Tennessee's
Institute for Public Service
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By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

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September 2002



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INTRODUCTION

The purpose of this publication is to provide Tennessee local governments with basic information and a general framework for recruiting and selecting managerial and professional personnel. Because a community's success and growth depend on its having competent managers and department heads, selecting the right candidate can be extremely challenging. Following some basic suggestions and guidelines in this publication can help ensure that hiring decisions are made only after weighing the possible alternatives and outcomes. While this publication focuses on hiring a public works director, similar processes can be used for hiring city attorneys, city managers, department heads and other key personnel.

Cities perform public services, and providing high quality service requires high quality people. People are not only your most expensive organizational investment, they also are the most critical. A city must be willing to "pay the price" to select personnel who provide a match to the community's needs. Paying the price means more than just finding the dollars necessary to hire the best people. It also means knowing how to recruit and select the best people while meeting all appropriate state and federal labor regulations. Examples of federal labor legislation include Title VI, Americans With

Disabilities Act, and Age and Discrimination Employment Act. This report has been prepared to assist city officials with this important task.

The recruitment and selection process is exceptionally important because of its consequences. A hiring decision sets many wheels in motion. Every hiring decision impacts the overall performance of the organization. Hiring the wrong person can be extremely costly. If the recruitment and selection process is confused and unorganized, potential qualified candidates may be discouraged from submitting their names for consideration. Following the steps outlined in this report along with appropriate personnel and federal laws will reduce the chances of hiring the wrong managerial and professional candidates.

The University of Tennessee's Municipal Technical Advisory Service (MTAS) has assisted many Tennessee cities in recruiting and selecting management level employees and continues to offer that service. We hope this report will enable more cities to follow a sound, systematic approach in future recruitments. This report is not an ironclad guarantee for success, but following it will increase the likelihood of a satisfactory selection decision.

CUSTOMIZING YOUR RECRUITMENT SELECTION PROCESS

Hiring personnel is probably the most important function any city official will ever encounter during their tenure. Consider the decisions and actions that the person you hire is going to generate, and how those decisions and actions will impact your organization and your community. A sound recruitment and selection process should never be shortcut. It is worth the time and effort required to do it correctly. A sound, systematic and fair recruiting and selection process is also an effective safeguard against potential challenges arising from rejected applicants.

When you have successfully created a mental picture of the new employee performing the job you want accomplished, you are ready to customize the job. Customizing means thinking through and writing down the specific characteristics that you desire. The word “specifics” is key. When you customize, you are putting the mental picture into words.

Customizing the job provides you with a valuable working tool called the *Job Design Profile*. (See Appendix A.) This also is referred to as a Job Analysis.

The Job Design Profile is a guide, used as a standard for evaluating the candidates who apply for the position. It is also the basis for the *Job Description*, which will be discussed in the next chapter. Its contents may vary depending upon the position, but it always provides an outline of the qualities, skills, and characteristics that you, as the person conducting the hiring, are looking for in the new employee.

Let’s look at an example: you need to hire a department head. The city’s public works director

will soon retire, and you must hire a qualified replacement as soon as possible. You have given it a lot of thought. You may need to revise the job description.

Begin by writing a description of the job as you see it. Ask yourself the question, “What is the public works director’s job?” Be as specific and complete as you can.

Second, decide on and note the type and extent of education and experience required and desired. Is a bachelor’s degree required or a master’s degree? Or are either desired but not required? Do you want the new person to have a degree in a specific educational area, for example, engineering or public administration? How much practical public works experience should the person have? State this in terms of years and the kind of experience required or desired (for example, more than 10 years as an assistant director or at least five years as a director in a community of at least 5,000 population).

Third, write down the five most important personal descriptive characteristics that you want the new public works director to have, and rank them.

For example:

- Confident decision maker;
- Innovative in creating new ideas;
- Outgoing personality;
- Practical problem solver;
- Tactful in addressing adverse groups.

Here, you are putting the picture into words.

Fourth, list the five most important professional characteristics you want the new public works director to have, and rank them. For example:

-
- Engineering skills;
 - Productivity oriented;
 - Results oriented;
 - Communication skills.

In developing this list you must match characteristics to the written description that you have already prepared. Ask yourself, “Are these the characteristics needed to do the job that I want done the way I want it?”

Fifth, write down the five most important job challenges or targets that you expect the new director to overcome and accomplish, and rank them. For example:

- Reorganize the department;
- Develop a five-year street improvement program;
- Improve employee productivity;
- Be responsive to citizen requests;
- Reduce the cost of garbage collection.

Taken together these items are the Job Design Profile. (A sample Job Design Profile is in Appendix A.)

RECRUITING

The emphasis in effective recruiting should always be on quality. A truckload of mediocre applicants will not accomplish the goal of finding the single candidate that best fits your Job Design Profile.

The Job Design Profile is an important working tool in recruitment and selection. It will be used and referred to at several points during the process. Writing the Job Description is the first practical use of the information generated through the Job Design Profile; the next step is the first application.

The Job Description is the principal means for conveying to the applicant pool your expectations and requirements for the job. It should be well organized and understandable. An acceptable format would include information presented within categories such as:

- General definition and nature of the job;
- Essential duties and work performed;
- Required knowledge and skills;
- Desired qualifications;
- Special requirements.

The Job Description must meet the Americans with Disabilities Act (ADA) standards for reasonable accommodations for the position. Much of the information you included in the Job Description will be derived from the Job Design Profile. An example of a Job Description for public works director is included in Appendix A.

Once the Job Description has been developed, it can be used as a recruitment tool. Potential applicants are typically recruited through the use of two methods: advertisement and personal contact.

An accurate and complete Job Description is essential for both methods. It is, in a real sense, an advertising technique and, at the same time, a professionally acceptable means for you to communicate with potential applicants.

The best advertising outlets in which to advertise often are dictated by the particular position you are seeking to fill. It is important that you target the most productive sources. For management and professional level positions, using the newsletters and trade journals of appropriate professional groups is essential for productive searches. *Tennessee Town & City* and publications of other municipal leagues are helpful sources. A partial list of sources is found in Appendix B. Advertising in the classified section of local or regional newspapers also is common. Advertising in widely circulated publications is likely to prompt additional applications, although many will lack desired levels of education and experience. In addition, there are opportunities to advertise on various Web sites, including the municipality's own site. The city must determine how broadly or narrowly it wishes to advertise. Important elements to consider including in the advertisement are:

- A brief, attractive description of the city or town, including population and an overview of the organization, including number of employees and budget;
- Minimum requirements for experience and education;
- A salary range, which may include "commensurate with experience";
- An application deadline of no fewer than three weeks and no more than eight weeks from the date of the ad.
- A location to which applications should be submitted.

The best candidates for the job may not respond to an advertisement, or they may never see it. Because good prospects may not be actively looking for a new job, do not rely exclusively on advertising to generate all applicants. You also need to ask others for suggestions. Within a particular profession, it is possible to secure the names of individuals who are highly respected and who may fit the Job Design Profile you have developed. This can be accomplished by securing a directory of the appropriate professional association and making direct contact with current officers and members.

Some local governments hire the services of an executive search firm, often referred to as a “headhunter,” to enhance the applicant pool. While often effective, executive search firms can be expensive. Local governments must weigh the costs and benefits of using an executive search firm with

the overall criteria established for the position to determine if outside assistance is needed and the extra expense is justified.

Remember not to be shy about inquiring and making personal contact. There is nothing improper or unethical about informing people of employment opportunities. It is up to the individual to decide if he or she is interested enough to apply.

As an equal opportunity employer, make every effort to attract qualified minority candidates. Minority recruitment is an obligation and a beneficial practice to promote community diversity.

One final recruitment tip: look right under your nose. The best qualified person may already be working for you.

REVIEWING RESUMES

It is not uncommon for a good recruitment effort to generate 50 or more applications for a professional position. It is recommended that you acknowledge the receipt of each application, and indicate your level of interest as soon as possible. We have developed a *Resume Checklist* in the appendix that should be used as a tool to screen resumes by assigning a score to each. Criteria for reviewing and scoring resumes should include experience, education, quality and clarity of resume, and length of time in previous positions.

A resume is essentially a personal advertisement. It may be accurate and complete, or it may be exaggerated or deceptive. You decide, as you sort through and decode what is before you. As you review each resume with your job design profile in mind, make notations and comments opposite each requirement or characteristic. In addition, we recommend requiring each applicant to complete your standard employment application.

As you review each resume, there are other considerations to keep in mind. There are two areas in particular that will require your conscious attention:

- Employment history. Are there gaps in employment? Has the candidate served a reasonable period of time in each job? Is the chronology consistent?
- Accomplishments. Experience is fine, but did the candidate accomplish the kinds of things you want accomplished? This is where resumes most often reflect exaggerated claims.

Narrowing the Field

Once you have completed your review of resumes and standard application forms, you are prepared to

make some judgments. You will be able to assign applicants to one of three categories:

1. Those who do not fit the Job Design Profile (inactive);
2. Those who do fit the Job Design Profile (active);
3. Those who are questionable.

Set aside the resumes of those candidates who do not fit the Job Design Profile. Temporarily, also set aside the resumes of those candidates who do meet the Job Design Profile. For the moment focus on the questionables.

What you are attempting to determine is which, if any, of the questionables should receive further consideration. To do that, you need additional information, and the best way to secure that information is through a telephone interview. Make a list of questions and the items on which you need clarification before you make the phone call. When you speak to the applicant, make it clear that the reason for the call is to ensure that you have complete and accurate information to use for evaluation purposes. Record the new information on the Resume Checklist found in Appendix C. The summary of the scores can be posted on a *Sample Screening Worksheet*, also in Appendix.

After assessing the new information, assign each of the previously questionable applicants to either the active or inactive category. Those candidates who will not be considered further should be advised at this time.

Now, take the paperwork for the candidates in the active category, and review it thoroughly once again. These are the applicants you will be considering further.

INTERVIEWING

Preparing To Interview

A major milestone in the recruitment and selection process is reached when you have decided who you will interview. Prior to conducting interviews, there is one remaining procedure that you may wish to consider using: the *Pre-Interview Questionnaire*.

The Pre-Interview Questionnaire is a series of questions that are pertinent to the position for which you are recruiting. It has two purposes:

1. To obtain insight into the candidate's thinking on subjects that are important to the job and to the organization;
2. To determine the candidate's ability to communicate in writing.

Both of the above are important in evaluating candidates for managerial and professional positions.

The Pre-Interview Questionnaire should be returned by each candidate well in advance of the interview date, so that each interviewer has an opportunity to review it and complete the *Pre-Interview Assessment Form*. (A sample Pre-Interview Assessment Form is in Appendix E.) The assessment form should be completed and at hand when you interview the candidate. You may desire to tape the interview.

In preparing for the interview you may discover that some of the candidates you are considering have decided not to pursue the opportunity. There are a number of legitimate reasons why this may happen. Accepting another position, second thoughts about leaving the current job, or reaching a conclusion that this is just not the right move are not uncommon.

In deciding how many candidates to interview, you must be guided in part by budgetary and time constraints. Time and money have a way of helping make decisions. There is no magic number. Be guided by the specific situation that confronts you. Do not force the situation by striving for a particular number. Interviewing three candidates whom you feel really good about is better than interviewing five against your better judgment.

You will need to decide who will be doing the interviewing for your organization. Your charter may indicate to who will do the hiring for the position. For a management or professional position, it is a good idea for more than one person to participate. Sometimes a screening committee or a selection committee approach makes sense. Often it may be the governing body itself. What's important is to include some perceptive questioners and listeners. The interview is an important event leading to a big decision. You are about to do some heavy-duty comparison shopping.

It is necessary that you enter the interview with a clear plan and specific objectives. At a minimum observe these basic principles:

- Know at the outset how the interview will be conducted and the kind of information you want to secure from each candidate;
- Communicate, in general terms, with each candidate prior to the interview about the information you will be seeking;
- Approach the interview as a two-way street, recognizing that the candidates are also interviewing you;
- Prepare yourself psychologically to manage and control the interview;
- Prepare in advance a list of basic questions that will be directed to each candidate;

- Prepare in advance an evaluation form to be used by those doing the interviewing for your organization.

The kinds of questions asked in the interview are important, and careful consideration should be given to the way they are worded and asked. Appendix F contains a sample list of interview questions. For a professional, management-level position these are some of the areas that you should evaluate in the interview:

- Demonstrated leadership potential;
- Demonstrated management potential;
- Demonstrated knowledge of department operations;
- Ability to work with people and groups;
- Demonstration of good judgment and common sense;
- Demonstrated ability to relate as a team player;
- Oral communication skills;
- Extent to which the individual is goal directed;
- Extent to which the individual is service oriented.

These areas are general categories within which specific questions are developed and asked. The emphasis and importance placed on each area will vary depending upon the needs and priorities of the position and the organization.

Conducting The Interview

It is important to emphasize the necessity of conducting each interview in a fair and equitable manner. It is not possible to develop identical interview situations, but every effort should be made to ensure a basic consistency in the interview format. This does not mean that concerns specific to a particular candidate cannot or should not be pursued. The interview is exactly the right time to do that.

What are the basic goals of interviewing for management and professional positions? There are two, and they must be kept uppermost in mind at all times:

- To determine if the candidate has the technical competence, experience and skills to do the job you want done, in the way you want it done;
- To determine if the candidate has the personal qualities and characteristics that fit the needs of the organization and the community.

The interview begins by your welcoming the candidate and making him or her feel comfortable. Open the interview by highlighting the job description and reviewing with candidates the salient features of their resumes. Allow and encourage candidates to tell you about themselves.

Keep in mind that the interview is a two-way street. Both parties are buyers and both are sellers. As the potential employer, you must be prepared to answer legitimate questions. If a candidate does not ask you any questions, you have good reason to be concerned about that candidate's seriousness. Allow at least one-third of the total interview time for the candidate's questions and your responses.

The uppermost concern of most job candidates is, "Is this the right job for me?" The questions directed to you and the answers you give are significant because they will help the candidate make a decision on that "most important of questions." In answering, be honest and straightforward. Anything short of honesty is a disservice to your own organization and grossly unfair to the candidate. Answering the question, "Is this the right job for me?" is as important to you as it is to the candidate.

If you are an inexperienced interviewer, there are a number of common pitfalls that you should be aware of and avoid. They include:

- Asking leading questions;
- Making decisions too early in the interview;
- Failing to properly relate questions and answers to job requirements (the Job Description);
- Talking too much and listening too little. The candidate should do at least 75 percent of the talking;
- Failing to manage the interview. Keep it on track and under control;
- Allowing one factor, positive or negative, to exert undue influence. Try to consider the person within the total framework of his personality and professional competency;
- Failing to probe and ask follow-up questions when a response is incomplete or confusing;
- Judging the candidate solely on personality.

Legal Aspects of Advertising and Interviewing

MTAS has prepared comprehensive reports on legal concerns and questions related to hiring. The first is titled *Legal Considerations Involved In The Hiring Decision, or Do I Really Have To Hire That Person?* by Sidney D. Hemsley, Senior Legal Consultant. The second publication is *Interviewing and the Law* by Richard L. Stokes, Municipal

Human Resource Management Consultant. These publications should be consulted whenever you are considering interviewing and hiring any employee. Chapter IV of *Legal Considerations Involved in The Hiring Decision* is presented in Appendix G. *Interviewing and the Law* is presented in Appendix H.

During the interview do everything you can to get the whole story, the big picture, and all the basic questions answered to your satisfaction. At the conclusion of the interview complete the interview evaluation form.

It is not unusual that more than one interview with the same candidate may be necessary or desirable. As you continue to narrow the field and to really zero in on one or two applicants, a second or third interview can be productive and decisive. Do what is necessary to completely achieve the two primary objectives of the interview.

Do not ask questions regarding religion, ethnicity, health, marital status, dependents or politics. Refer to the previously mentioned publications for more information.

EVALUATING

Recording Information and Impressions

What should happen at the conclusion of an interview? The most important immediate step is to record, while it is fresh in your mind, information and impressions that you obtained during the interview. During an interview session with more than one interviewer, you should immediately record your information while the other interviewer(s) are asking questions.

To record information on and impressions of each candidate at the conclusion of the interview, it is suggested that you use a simple form such as the *Interview Assessment Form* included in Appendix I. This form provides a 10-point checklist and space for your personal comments.

Completion of the Interview Assessment Form is the first post-interview step in moving toward a selection decision. It is the next item in a series that began with the construction of the Job Design Profile. Then there was the Job Description, the Job Advertisement, the Resume Checklist, the Pre-Interview Questionnaire and Pre-Interview Assessment Form, the Interview Questions, and now the Interview Assessment Form. All of these are “part of the same cloth.” They represent progressive steps in the process. Each is a working tool to be used at a different stage.

The *Post-Interview Assessment* provides an opportunity for ranking the candidate in the major areas of concern, and incorporates the rankings that were made on the Pre-Interview Assessment Form in Appendix E.

Through a thorough consideration of all written and verbal communication, you will finally achieve a preliminary ranking of candidates. In some situations, there will be a clear preference. In other situations, follow-up interviews may be required to arrive at first, second and third preferences.

Assessment Centers

An assessment center is an option available for the selection process. An assessment center places applicants in situations where they role play and participate in other exercises that help demonstrate their knowledge, skills and abilities (KSAs) required for the job. The benefit of the assessment center is that the selection panel is able to learn more about the management style of the candidate in the role for which he or she is interviewing. Elements of the candidate’s style, demeanor and decision-making skills are exposed, which can allow the selection panel to compare each candidate against a pre-defined description of the competencies desired for the ideal manager.

There are cautions for using assessment centers. Assessment centers use valid and reliable testing methods, but they are expensive, take considerable preparation time, demand extensive time of assessors and candidates, and should be conducted only by trained professionals with solid references and credentials.

Assessment centers attempt to simulate actual job situations and evaluate behavior through a series of job-related exercises. The principle is that behaviors displayed by a candidate during the exercises can also be expected in on-the-job performance. You can receive additional information on the assessment center approach from MTAS.

Background Investigation/ Reference Checks

It is absolutely essential that a careful and thorough verification of the preferred candidate's personal and professional background be made before a final selection decision is made. Under current circumstances, this may be a very difficult task. Because of potential liability, verifying anything more than employment dates can be a challenge. Verification should also include academic credentials and credit reports if positions involve money or property. The applicant must sign a release form if you will be performing a background check. If you use a credit report, you must abide by the Fair Credit Reporting Act.

You may already have made some preliminary checks back when you were considering which candidates you would invite to interview. Usually a candidate will either include a list of references on the resume or will indicate that references are available upon request. It is now time to do some serious checking. Reference checks should not be restricted to just those references provided by the candidate. Keep in mind that the candidate will provide the names of individuals who will give favorable references.

The purpose of background checks is to make sure that you touch third base on your way home. It should not be a negative, "let's see if we can dig up some dirt" approach. Rather, it should be viewed as one additional fact-finding procedure that will let you develop a complete and realistic assessment of the candidate. The way to do that is to communicate with the right people and induce their responses to the right questions. Before doing so, however, tell the candidate that this will be the next step. Make sure the candidate is ready and willing to undergo this scrutiny.

Who are the right references? Usually, they are current and previous supervisors, personnel directors and fellow workers. It is recommended that you use references provided by the candidate to develop a network of further references.

Speaking with references is similar to interviewing the candidate. You observe the same principles and procedures in questioning. Avoid the same common pitfalls, and heed the same legal constraints regarding age, race, religion, disabilities and marital status.

What are the right questions? Whatever is most important to you that is job-related. Are there things you are unclear on or uncertain about? Satisfy yourself before making a decision. At the very least, cover the key items on the job description. Do not ask questions out of curiosity.

In making reference and background contacts, you may write a letter, pick up the phone, or make a personal visit. You are likely to secure a more complete and in-depth response through verbal communication. Many people are bothered by the idea of expressing a negative opinion in writing. Be probing, and allow your contacts ample opportunity to be long winded. Look for similarities and differences in the comments you receive. Both are important. If one of your sources brings up something that you hadn't previously heard, and it is important, do not hesitate to re-contact someone with whom you have already spoken.

When you have finished checking and rechecking and have recorded the results, you should be in a good position to make a final selection decision.

HIRING

All that remains is to hire the person whom your evaluation has determined to be the most qualified and suitable candidate. This involves, among other things, reaching agreement on salary, benefits and conditions of employment. That may sound a little scary, but it is usually a pleasant, business-like experience.

In your job advertisement, you indicated a salary range for the position. The reason for doing that was to save potential applicants unnecessary time and effort. You can properly assume that those individuals who applied are willing to go to work for a salary that falls within the advertised pay range. If it is your intent to pay the starting rate, then do not advertise a range.

In the job advertisement you may also have indicated a maximum starting rate. That should make things go even smoother, but it does not mean there will not be a little give and take, a bit of honest, old fashioned trying to get the best deal possible. Expect some of that, because it is human nature. Just remember that your job is to keep the magic number at a level that is fair and within the salary parameters that have been established.

Benefits and conditions of employment for positions in city government are usually uniform and consistent for employees of the same classification, for example, department heads. This is generally understood, but to affirm that fact, many organizations provide this information to applicants prior to interviewing. It is recommended that you do so.

There are a few items other than salary that may require negotiation. Starting date is one. Another is moving expenses. Still another is use of an automobile. Go over the parameters of the job one final time with the person you are hiring so that there is absolutely no misunderstanding. This is also the time to communicate any expectations or preferences that were not thoroughly covered during the interview or subsequent conversations.

When you have covered all of the above items verbally to the satisfaction of the candidate and yourself, put it all in a written, formal job offer letter, and request a reply from the candidate in writing. Post-offer drug testing/physical examination is acceptable at this point.

Finally, make an effort to really welcome your new employee. Take the time to arrange introductions with other staff members. Provide an appropriate orientation to the job, the organization, and the community. Doing so will enable the new employee to be productive for you sooner.

HOW MTAS CAN HELP

The recruitment and selection process involves a variety of steps and activities that must be performed in a timely and orderly manner. Because the hiring decision is so important to the organization and the community, a city may wish to request project assistance from MTAS.

MTAS can help in a variety of ways ranging from coordinating the total process to performing a single task. We can, for example, assist in the preparation

of the Job Design Profile, the Job Description, or the Job Advertisement. We also can administer the Pre-Interview Questionnaire or contact references on behalf of your city.

In short, the scope of MTAS's services in the recruitment and selection of management and professional employees can be tailored to the needs and preferences of each city. MTAS also can arrange an assessment center.

Appendix A-1: SAMPLE COMPLETED JOB DESIGN PROFILE

Position of Public Works Director JOB DESIGN PROFILE

DUTIES & RESPONSIBILITIES

(Describe the position as you see it. What is the public works director's job?):

Oversees budgetary operations and prepares budgets as required; promulgates regulations to ensure proper organization and use of personnel; plans and directs activities of the public works department; performs administrative activities of the public works departments; coordinates formal and on the job training programs for recruits and personal development; keeps records and prepares reports including personnel reports; develops and recommends policy options and alternatives for consideration by the city manager and the city council.

Knowledge of public works operations including construction, engineering, maintenance, office and business procedures; ability to plan, organize, schedule, coordinate and direct public works functions including streets, solid waste, water and sewer utilities, and engineering; knowledge of and experience with the application of managerial and supervisory principles and practices, as applied to municipal government; knowledge of and experience with municipal procedures relating to finance, personnel, purchasing, office operations, risk management and public relations; knowledge of and experience with the management of occupational hazards and safety precautions; knowledge of the principles and practices of engineering and construction, particularly as applied to municipal functions; ability to efficiently prepare and maintain thorough and accurate reports and records; ability to establish and maintain effective working relationships with the public, the news media, employees, external agencies and organizations, the city manager and the city council.

EDUCATION & EXPERIENCE

(Indicate the level of education and experience required and desired for each item.)

	Required	Desired
Degree:		
B.S. Engineering	<u> X </u>	<u> </u>
M.S. Engineering	<u> </u>	<u> X </u>
B.A. Public Administration	<u> </u>	<u> </u>
M.A. Public Administration	<u> </u>	<u> </u>
B.S. Business Administration	<u> </u>	<u> </u>
M.B.A. Business Administration	<u> </u>	<u> </u>

	Required	Desired
Experience:		
As Public Works Director		
More than 10 years	_____	_____X_____
More than 5 years	_____X_____	_____
More than 1 year	_____	_____
None	_____	_____
As Assistant Director or Division Head:		
More than 10 years	_____	_____
More than 5 years	_____	_____
More than 1 year	_____	_____
None	_____	_____

OTHER EXPERIENCE: (Specify) _____

PROFESSIONAL CHARACTERISTICS:

(Number 1, 2, 3, 4, 5 the five most important professional characteristics that you would like the new director to have.)

Administrative Skills	_____1_____	People Oriented	_____
Analytical Skills	_____	Planning Skills	_____4_____
Communication Skills	_____5_____	Policy Development Skills	_____
Cost Consciousness	_____	Productivity Oriented	_____
Democratic Decision Maker	_____	Public Relations Skills	_____
Detailed Oriented	_____	Quality Conscious	_____3_____
Independent Decision Maker	_____	Results Oriented	_____
Objective	_____	Team Player	_____
Organization Skills	_____	Technically Oriented	_____
Engineering Skills	_____2_____	Other	_____
Business Minded	_____		

COMMENT: _____

PERSONAL CHARACTERISTICS: (Number 1, 2, 3, 4, 5 the five most important personal characteristics that you would like the new director to have.)

Alert	_____	Mature	_____
Ambitious	_____	Open	_____
Assertive	_____	Other	_____
Cautious	_____	Outgoing	_____
Confident	_____	Patient	_____
Conservative	_____	Persistent	_____
Considerate	_____	Practical	_____
Cooperative	3 _____	Prompt	_____
Creative	_____	Reliable	2 _____
Decisive	_____	Resourceful	_____
Deliberate	_____	Sensitive	_____
Friendly	_____	Stable	_____
Flexible	5 _____	Tactful	_____
Forthright	_____	Tolerant	_____
Honest	1 _____	Unprejudiced	_____
Humble	_____	Versatile	_____
Innovative	4 _____	Well organized	_____
Intellectual	_____	Other	_____

COMMENT: _____

CRITICAL JOB TARGETS:

List the five most important challenges or job targets that the new public works director will face. For example, develop a five-year street improvement program, reorganize the department, improve employee productivity, etc.

1. Downtown redevelopment program.
2. Street repaving schedule.
3. Reorganize the public works department and choose assistant director.
4. Work with the parks and recreation department in developing new mowing schedules and clean-up of ballfields and parks.
5. Make plans to relocate the equipment/vehicle storage area to a new facility within the next three years.

COMMENT: _____

Appendix A-2: JOB DESIGN PROFILE (Blank)

Position of Public Works Director JOB DESIGN PROFILE

DUTIES & RESPONSIBILITIES

(Describe the position as you see it. What is the public works director's job?):

EDUCATION & EXPERIENCE

(Indicate the level of education and experience required and desired for each item.)

	Required	Desired
Degree:		
B.S. Engineering		
M.S. Engineering		
B.A. Public Administration		
M.A. Public Administration		
B.S. Business Administration		
M.B.A. Business Administration		

	Required	Desired	
Experience:			
As Public Works Director			
More than 10 years	_____	_____	
More than 5 years	_____	_____	
More than 1 year	_____	_____	
None	_____	_____	
As Assistant Director or Division Head:			
More than 10 years	_____	_____	
More than 5 years	_____	_____	
More than 1 year	_____	_____	
None	_____	_____	
OTHER EXPERIENCE: (Specify) _____			

PROFESSIONAL CHARACTERISTICS:			
(Number 1, 2, 3, 4, 5 the five most important professional characteristics that you would like the new director to have.)			
Administrative Skills	_____	People Oriented	_____
Analytical Skills	_____	Planning Skills	_____
Communication Skills	_____	Policy Development Skills	_____
Cost Consciousness	_____	Productivity Oriented	_____
Democratic Decision Maker	_____	Public Relations Skills	_____
Detailed Oriented	_____	Quality Conscious	_____
Independent Decision Maker	_____	Results Oriented	_____
Objective	_____	Team Player	_____
Organization Skills	_____	Technically Oriented	_____
Engineering Skills	_____	Other	_____
Business Minded	_____		
COMMENT: _____			

PERSONAL CHARACTERISTICS: (Number 1, 2, 3, 4, 5 the five most important personal characteristics that you would like the new director to have.)

Alert _____
Ambitious _____
Assertive _____
Cautious _____
Confident _____
Conservative _____
Considerate _____
Cooperative _____
Creative _____
Decisive _____
Deliberate _____
Friendly _____
Flexible _____
Forthright _____
Honest _____
Humble _____
Innovative _____
Intellectual _____

Mature _____
Open _____
Other _____
Outgoing _____
Patient _____
Persistent _____
Practical _____
Prompt _____
Reliable _____
Resourceful _____
Sensitive _____
Stable _____
Tactful _____
Tolerant _____
Unprejudiced _____
Versatile _____
Well organized _____
Other _____

COMMENT:

CRITICAL JOB TARGETS:

List the five most important challenges or job targets that the new public works director will face. For example, develop a five-year street improvement program, reorganize the department, improve employee productivity, etc.

1. Downtown redevelopment program.
2. Street repaving schedule.
3. Reorganize the public works department and choose assistant director.
4. Work with the parks and recreation department in developing new mowing schedules and clean-up of ballfields and parks.
5. Make plans to relocate the equipment/vehicle storage area to a new facility within the next three years.

COMMENT: _____

Appendix A-3: JOB DESCRIPTION

Position of Public Works Director JOB DESCRIPTION

General Definition and Nature of Job:

The public works director is appointed by and reports to the city manager. This is a department head level position, one of six within the city's organizational structure. The director has primary responsibility for the organization, operation, and overall performance of the department. This specifically includes the department and administration of the departmental budget and the supervision of all departmental employees. Department functions include engineering, solid waste management, water and sewer utilities, streets, and public works construction activities.

Independent judgment is used according to the situation, and different courses of action must be taken to complete the department tasks. Work is performed in all kinds of weather conditions.

Essential Duties and Work Performed:

- Oversees budgetary operations and prepares budgets as required.
- Promulgates regulations to ensure proper organization and use of personnel.
- Plans and directs activities of the public works department.
- Performs administrative activities of the public works department.
- Coordinates formal and on-the-job training programs for recruits and personal development.
- Keeps records and prepares reports, including personnel reports.
- Develops and recommends policy options and alternatives for consideration by the city manager and the city council.

Required Knowledge and Skills:

- Knowledge of public works operations including construction, engineering, maintenance, office and business procedures.
- Ability to plan, organize, schedule, coordinate and direct public works functions including streets, solid waste, water and sewer utilities, and engineering.
- Knowledge of and experience in the application of managerial and supervisory principles and practices as applied to municipal government.
- Knowledge of and experience in municipal procedures relating to finance, personnel, purchasing, office operations, risk management and public relations.
- Knowledge of and experience in the management of occupational hazards and safety precautions.
- Knowledge of the principles and practices of engineering and construction, particularly as applied to municipal functions.
- Ability to efficiently prepare and maintain thorough and accurate reports and records.
- Ability to establish and maintain effective working relationships with the public, news media, employees, external agencies and organizations, the city manager, and the city council.

Desired Qualifications:

- Graduation from a four-year college with major course work in engineering, public works, business administration or public administration. Masters degree or engineering license preferred.
- Demonstrated management or high level administrative experience.
- Progressively responsible experience in public works.
- Must pass physical and drug screen.
- Valid Tennessee driver's license.

Special Qualifications/Requirements:

The public works director is expected to be an effective administrator concerned about productivity and quality performance. The public works director must bring to the job and at all times maintain a sense of objectivity and a business-minded approach. It is essential that the public works director be service oriented.

Appendix A-4: JOB ADVERTISEMENT

THE CITY OF _____, TENNESSEE

Public Works Director

The public works department has an annual operating budget of \$2.5 million. It has 25 full-time employees. The public works director is appointed by and reports to the city manager.

The public works director has primary responsibility for the organization, operation and overall performance of the public works department. Department functions include engineering, water and sewer utilities, solid waste management, streets, and public works construction.

The public works director must be an effective administrator, business minded, and be productivity and service oriented. The director should have a college degree. A masters degree in public administration or business administration is preferred. The director must have demonstrated management capabilities, with progressively responsible experience in the area of public works administration preferred.

Salary Range: \$50,000 - \$65,000

Starting Salary: \$50,000 - \$55,000 depending upon qualifications.

Send complete resume to: _____

Deadline for receipt of resumes: _____

EOE

Appendix B: ADVERTISING SOURCES FOR RECRUITING MANAGEMENT AND PROFESSIONAL PERSONNEL

National Organizations

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

1120 G Street, N.W., Suite 700
Washington, D.C. 20005-3885
Phone: (202) 393-7878
Web site: <http://www.aspanet.org>
Publication: *Public Administration Times*

INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION

777 N. Capitol St., N.E., Suite 500
Washington, D.C. 20002-4201
Phone: (202) 289-4262
Web site: <http://www.icma.org>
Publication: *ICMA Newsletter*

INTERNATIONAL PERSONNEL MANAGEMENT ASSOCIATION

1617 Duke Street
Alexandria, Virginia 22314
Phone: (703) 549-7100
Web site: <http://www.ipma-hr.org>
Publication: *IPMA News*

GOVERNMENT FINANCE OFFICERS ASSOCIATION OF UNITED STATES AND CANADA

180 North Michigan Avenue
Chicago, Illinois 60601
Phone: (312) 977-9700
Web site: <http://www.gfoa.org>
Publication: *GFOA Newsletter*

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

515 N. Washington Street
Alexandria, Virginia 22314
Phone: (703) 836-6767
Web site: <http://www.theiacp.org>
Publication: *Police Chief: The Professional Voice
of Law Enforcement*

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

4025 Fair Ridge Drive
Fairfax, Virginia 22033-2868
Phone: (703) 273-0911
Web site: <http://www.ichiefs.org>
Publication: *ICHIEFS On Scene*

NATIONAL FIRE PROTECTION ASSOCIATION

1 Batterymarch Park
P.O. Box 9101
Quincy, Massachusetts 02269-9101
Phone: (617) 770-3000
Web site: <http://www.nfpa.org>
Publication: *Fire News*

AMERICAN SOCIETY OF CIVIL ENGINEERS

1801 Alexander Bell Drive
Reston, Virginia 20191-4400
Phone: (703) 95-6300
Web site: <http://www.asce.org>
Publication: *Civil Engineering*

NATIONAL ASSOCIATION OF COUNTIES

440 First Street, N.W., Suite 800
Washington, D.C. 20001
Phone: (202) 393-6226
Web site: <http://www.naco.org>
Publication: *County News*

NATIONAL ASSOCIATION OF TOWNS & TOWNSHIPS

444 N. Capitol St., N.W., Suite 208
Washington, D.C. 20001
Phone: (202) 624-3550
Web site: <http://www.natat.org/natat>
Publication: *NATaT's Reporter*

NATIONAL LEAGUE OF CITIES

1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1763
Phone: (202) 626-3000
Web site: <http://www.nlc.org>
Publication: *Nation's Cities Weekly*

Leagues of Municipalities

ALABAMA LEAGUE OF MUNICIPALITIES

P.O. Box 1270
Montgomery, Alabama 36102
Phone: (334) 62-2566
Web site: <http://www.alalm.org>
Publication: *Alabama Municipal Journal*

ARKANSAS MUNICIPAL LEAGUE

301 West 2nd
North Little Rock, Arkansas 72115
Phone: (501) 374-3484
Web site: <http://www.arml.org>
Publication: *City & Town*

FLORIDA LEAGUE OF CITIES

301 South Bronough Street
Tallahassee, Florida 32302
Phone: (850) 222-9684
Web site: <http://www.flcities.org>
Publication: *Quality Cities*

GEORGIA MUNICIPAL ASSOCIATION

201 Pryor Street, S.W.
Atlanta, Georgia 30303
Phone: (404) 688-0472
Web site: <http://gmanet.com>
Publication: *Urban Georgia*

KENTUCKY LEAGUE OF CITIES

101 East Vine Street, Suite 600
Lexington, Kentucky 40507-3700
Phone: (859) 323-3700
Web site: <http://www.klc.org>
Publication: *The Kentucky City*

MISSISSIPPI MUNICIPAL LEAGUE

600 East Amite St., Suite 104
Jackson, Mississippi 39201
Phone: (601) 353-5854
Web site: <http://www.mmlonline.com>
Publication: *Mississippi Municipalities*

MISSOURI MUNICIPAL LEAGUE

1727 Southridge Dr.
Jefferson City, Missouri 65109
Phone: (573) 635-9134
Web site: <http://www.mocities.com>
Publication: *Missouri Municipal Review*

NORTH CAROLINA LEAGUE OF MUNICIPALITIES

P.O. Box 3069
Raleigh, North Carolina 27602-3069
Phone: (919) 715-4000
Web site: <http://www.nclm.org>
Publication: *Southern City*

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

P.O. Box 12109
Columbia, South Carolina 29211
Phone: (803) 799-9574
Web site: <http://www.masc.sc>
Publication: *Uptown*

TENNESSEE MUNICIPAL LEAGUE

226 Capitol Boulevard, Room 710
Nashville, Tennessee 37219-1894
Phone: (615) 255-6416
Web site: <http://www.tml1.org>
Publication: *Tennessee Town & City*

VIRGINIA MUNICIPAL LEAGUE

P.O. Box 12164
Richmond, Virginia 23241
Phone: (804) 649-8471
Web site: <http://www.vml.org>

Other Sources

TENNESSEE COUNTY SERVICES ASSOCIATION

226 Capitol Boulevard Building, Suite 700
Nashville, Tennessee 37219
Phone: (615) 532-3767
Web site: <http://www.tncounties.org>
Publication: *Tennessee County News*

PUBLIC WORKS JOURNAL CORP.

200 South Broad Street
Ridgewood, New Jersey 07451
Phone: (201) 445-5800
Web site: <http://www.pwmag.com>
Publication: *Public Works*

Appendix C-1: RESUME CHECKLIST

Position of Public Works Director RESUME CHECKLIST

Applicant Name: _____ Rater Name: _____

Use the following scale:

OS: Outstanding (5)

VG: Very Good (4)

G: Good (3)

F: Fair (2)

P: Poor (1)

(Note: there are 50 possible points)

1. Do the resume and cover letter suggest real interest in the position? 1 2 3 4 5
2. Has the applicant had experience with the variety of services delivered by the city's public works department? 1 2 3 4 5
3. Has the applicant had experience working in a local government of comparable size, including a comparable staff size and budget? 1 2 3 4 5
4. Has the applicant worked in a similar geographic area? Is the applicant likely to be comfortable with the community? 1 2 3 4 5
5. Has the applicant had broad administrative and supervisory authority in public works? 1 2 3 4 5
6. Has the applicant had experience working with citizen groups and appointed boards or commissions? 1 2 3 4 5
7. What is the applicant's educational background? 1 2 3 4 5
8. Does the applicant have good tenure with most previous employers? 1 2 3 4 5
9. Does the applicant show interest in continuing professional development by participating in training programs and professional organizations? 1 2 3 4 5
10. Does the applicant's employment history suggest a pattern of broad experience and increasing responsibility? 1 2 3 4 5

Total Score: _____

OVERALL RATING

OS = Outstanding

VG = Very Good

G = Good

F = Fair

P = Poor

[illegible]

Appendix D-1: SAMPLE FOLLOW-UP LETTER WITH ATTACHED QUESTIONNAIRE

Date

Dear Public Works Director Candidate:

Thank you for applying for the position of public works director for the city of *(name)*, Tennessee. We have received many applications for this position.

Of the applications we received, there are approximately (#) we would like to take a closer look at. Your application is one of them. In order to find out more about you and your management style, we have enclosed a list of six questions we would like you to answer and return to us no later than *(date)*. Based on these responses, we will select a small number of applicants whom we would like to bring to *(city name)* to interview.

Simply write or type your responses in the space provided, and please feel free to call if you have any questions.

In the meantime, I want to thank you again for your interest in the position of public works director. We look forward to receiving your responses so that we can learn more about you.

Sincerely,

City Manager

Encl: Public Works Applicant Questionnaire

Appendix D-2: APPLICANT QUESTIONNAIRE

TOWN OF ANYWHERE: PUBLIC WORKS DIRECTOR APPLICANT QUESTIONNAIRE

****Please answer in the spaces provided****

1. How does this position relate to your long-term goals?
2. What would you do if the city council adopted a policy with which you disagree?
3. What aspect(s) of your education and experience prepares you to be a department head in this organization?
4. Describe the leadership responsibilities and opportunities inherent in this position.
5. What special qualifications do you have that would enhance your potential for success in this position?
6. Describe your management philosophy and style.

Appendix E: PRE-INTERVIEW ASSESSMENT

NAME OF CANDIDATE: _____

KEY

OS: Outstanding

VG: Very Good

G: Good

F: Fair

P: Poor

1. How well do the candidate's qualifications meet the job requirements?
 - A. B.S./B.A. in engineering, business administration or public administration _____
 - B. Master's degree or engineering license _____
 - C. Demonstrated management experience _____
 - D. Progressively responsible experience in a similar type organization _____
2. Work history: Extent to which the candidate's work experience can be applied to this position _____
3. Communication skills (written) _____
4. Community oriented _____

OVERALL RATING: _____

Appendix F: INTERVIEW QUESTIONS AND EVALUATION FORM

INTERVIEW QUESTIONS AND EVALUATION FORM

Public Works Director

1. What interests you most about the position?
2. What are your personal and professional strengths?
3. Why do you want to leave your present job?
4. What aspects of this job would you most enjoy?
5. Tell us about some major accomplishments you have achieved in your present position.
6. In your view, what is the most important aspect of this job?
7. What qualifies you to manage a department with ____ employees and an operating budget of \$____ million?
8. What are your personal and professional goals?
9. How would you describe your own personality?
10. If we walked up and down Main Street of the community you now serve, what would the business community and the public tell us about you?
11. What do your subordinates think of you?
12. What are the characteristics you look for when hiring people?
13. Have you terminated employees?
14. How would you go about terminating a key employee?
15. Describe your management philosophy and style.

Appendix G: LEGAL CONSIDERATIONS INVOLVED IN THE HIRING DECISION, OR DO I REALLY HAVE TO HIRE THAT PERSON? (Chapter IV)

By Sidney D. Hemsley
Senior Legal Consultant

A. Advertising the Job

1. The Equal Employment Opportunity Commission (EEOC) dislikes both word-of-mouth advertising and a reliance upon walk-in applicants, particularly where the present work force is predominantly white. In finding a company guilty of violating Title VII for recruiting through a word-of-mouth system that reached only the white community, it declared:
“...a word-of-mouth recruitment policy conducted by a virtually all-white work force, without supplementary and simultaneous recruitment in the minority-groups’ community (by means of newspaper-advertising and the like), constitutes a prima facie violation of Title VII.” (EEOC Decision, June 4, 1969)
2. The EEOC *Sex Discrimination Guidelines* make it a violation of Title VII for help wanted advertisements to express a preference, limitation or specification based on sex unless sex is a bona fide occupational qualification. (Sec. 1604.5)
3. The EEOC interpretation of the *Age Discrimination in Employment Act Guidelines* prohibits age limitation language and such terms as “recent college graduates,” “young,” “boy,” “girl,” etc. in job advertisements except when age is a bona fide occupational qualification. (Sec. 1625.4)

B. Pre-employment Applications and Interviews

This is one of the most difficult areas of employment law. A writer who analyzed the employment application of all 50 state governments concluded that every one of them contained “inappropriate” questions. She defined “inappropriate” questions as being not clearly job related, those with potentially discriminatory effects and those that could not possibly be justified under the cloak of business necessity. But that conclusion is not so shocking; it is nearly impossible to frame any written question that cannot be used for a discriminatory purpose. The framing of oral questions without “inappropriate” language is even more difficult.

1. Legally offensive questions
 - A. Appendix H contains a list of inappropriate pre-employment inquiries.
 - B. In Appendix H, there are samples of pre-employment questions that have led to problems with EEOC or the courts and that may be used as a guide for planning legally inoffensive questions.
2. The EEOC *Sex Discrimination Guidelines* specifically provide that:
“A pre-employment inquiry may ask ‘Males, Females’ or ‘Mr., Mrs., Miss’ provided that the inquiry is made in good faith for a non-discriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitations, specifications or discriminations as to sex shall be unlawful unless based upon a

bona fide occupational qualification.”
(Sec. 1604.7)

3. The EEOC’s *Religious Discrimination Guidelines* provide that pre-selection inquiries that determine an applicant’s availability have an exclusionary impact on people with certain religious practices; therefore, they violate Title VII unless the employer can show the inquiry (1) did not have an exclusionary effect on its employees or prospective employees needing an accommodation for the same religious practice, or (2) was otherwise justified by business necessity. (Sec. 1605.3)
4. The EEOC’s interpretation of the *Age Discrimination Employment Act Guidelines* specifies that while questions on an employment application form such as “Date of Birth” or “State Age” are not in themselves violations of the act, they will be closely scrutinized to insure that the questions weren’t asked for a discriminatory purpose. Employment applications cover all inquiries, including resumes, etc. (Sec. 16255.5)

C. Arrest, Conviction and Military Discharge Records

1. Refusal to hire a job applicant based on an arrest or criminal record must be based on business necessity.

Employers who refused 14 times to hire black applicants who had been arrested but not convicted violated Title VII in spite of general policy not to hire applicants with arrest records because blacks are arrested substantially more than whites (disparate impact) and because there was no business necessity for the policy. (*Gregory vs. Litton Systems, Inc.*, 316 F. Supp. 401 (Cal. 1970)). But there was no Title VII violation when an employer discharged a black employee convicted of

theft and receiving stolen goods because he was employed in a position of access to the property of others, which justified the hotel’s policy of requiring such persons to have a record reasonably free from property crime. (*Richardson vs. Hotel Corp. of America*, 332 F. Supp. (La. 1971)).

2. Courts are split on whether people can be denied employment based upon less than an honorable discharge.

D. Educational Requirements

Must be related to job performance.
(See *Griggs vs. Duke Power Company*.)

E. Physical Fitness and Height and Weight Standards

1. Must be demonstrably job related.

A female police cadet in the Knoxville Police Department was dismissed for failing to pass a physical fitness test. Only three men and three women (counting the plaintiff) had ever failed the test; therefore, she did not carry the burden of proof to establish disparate impact. In addition, the court declared that the test was related to physical traits needed in the job of police officer. (*Eison vs. City of Knoxville*, 570 F. Supp. 11 (E.D. Tenn. 1983)).

The U.S. Supreme Court ruled that a state statute that limited the hiring of prison guards to persons five feet two inches tall and over 120 pounds or more violated Title VII. Because 41 percent of women and only one percent of men would be disqualified by those standards, that statute had a disparate impact on women, and the state could not prove that standards were necessary for good job performance. (*Dothard vs. Rawlinson*, 97 S. Ct. 2720 (1977)).

Appendix H: INTERVIEWING AND THE LAW

By Richard L. Stokes
Human Resources Consultant

Introduction and Overview

Equal Employment Opportunity — the right of all persons to work and to advance on the basis of merit, ability and potential — has deep roots in our American heritage. But for many years this right has been severely restricted by discriminatory employment practices operating against various groups in our society. Original action to prohibit such discrimination by State Fair Employment Laws and Presidential Orders in the 1940s and 50s proved insufficient.

Title VII of the Civil Rights Act

Congress provided federal legal enforcement for equal employment in the Civil Rights Act of 1964 with strengthening amendments added in 1972. Title VII of the Civil Rights Act makes it unlawful for an employer:

- To fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin; or
- To limit, segregate, or classify the employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion, sex, or national origin.¹

Congress established the Equal Employment Opportunity Commission (EEOC), a bipartisan

five-person board, to enforce Title VII.² The President appoints the members, who then must be confirmed by the Senate. Although the muscle behind the EEOC's enforcement power lies in its right to file lawsuits against private employers in federal court, the commission's primary importance for public employees centers on the guidelines it issues to clarify Title VII's reach.

Anti-discrimination Legislation

Many other state and federal laws and executive orders also prohibit employment discrimination. Some of these laws are:

- **Civil Rights Act 1866.** Provided same contractual rights to minorities as white citizens; covered all private contractual agreements including employment.
- **Civil Rights Act 1870.** Provided same rights to inherit, purchase, lease, sell, hold and convey real and personal property (basis of due process); covered all private contractual agreements, including employment.
- **Civil Rights Act 1871.** Provided civil action for deprivation of rights.
- **Equal Pay Act 1963.** Requires that men and women receive equal pay for equal work; covered all employers.
- **Executive Order 11246.** Established the Office of Federal Contract Compliance; commits federal contractors to non-discriminatory hiring and affirmative action; covers employers doing business with the federal government.
- **Executive Order 11375.** Amends E.O. 11246 to include sex discrimination; covers employers doing business with the federal government.

- **Age Discrimination in Employment (as amended).** Prohibits discrimination against any individual 40 and above except for public safety employees (prohibits discrimination between ages of 40 and 55); covers all employers having 20 or more employees.
- **Vocational Rehabilitation Act.** Prohibits employment discrimination of the handicapped; covers government contractors only.
- **Vietnam Era Veterans Readjustment Act.** Requires affirmative action to employ and advance qualified veterans generally and Vietnam-era veterans, disabled or not; covers employers who enter into contracts for \$10,000 or more with the government.
- **Pregnancy Discrimination Act (amendment to Title VIII).** Provides that pregnancy be treated like any other disability.
- **Americans with Disabilities Act.** Establishes comprehensive prohibitions against discrimination on the basis of disability; covers all public organizations and private entities; applies to any employer with 25 or more employees. After the act has been in effect for two years, it will apply to employers of 15 or more.
- **Tennessee Human Rights Act.** Prohibits discrimination in employment, public accommodations, and housing because of race, creed, color, religion, sex, age or national origin; creates a 15-member commission to enforce the provisions of the act.

The Tennessee Human Rights Act applies to employers with eight or more employees and provides an employee with two alternate routes for pursuing a claim or discrimination. *Tennessee Code Annotated* 4-21-302 – 307 allow an employee to file a charge of discrimination with the Tennessee Human Rights Commission and pursue the claim on an administrative basis. On the other hand, *T.C.A.* 4-21-311 allows an employee to file suit for discrimination in Chancery Court.

Pre-employment Practices

Pre-employment selection procedures, including tests and inquiries used to screen out prospective applicants, can be particularly vulnerable to adverse impact charges. Title VII allows the use of “professionally developed ability test(s)” provided they are not “designed, intended, or used to discriminate because of race, color, religion, sex, or national origin.”³ The EEOC requires employers using selection tests to justify them with “data demonstrating that the test is predictive of or significantly correlates with important elements of work behavior which comprise or are relevant to the job or jobs which candidates are being evaluated.”⁴

The EEOC also has published very technical and complicated standards for validating such tests.⁵ In most circumstances, if an employer cannot statistically tie a pre-employment test to specific characteristics necessary for successful job performance and the employer does not desire to perform a validity study, the test should be discontinued or changed.

Pre-employment screening procedures, such as job application forms, interviews and background investigations, should be reviewed for their job relatedness. Employers should limit their questions to matters relevant to determining an applicant’s competence. Title VII does not prohibit questions regarding an applicant’s race, color, religion, sex or national origin, but these may be used as evidence of discrimination if an employer cannot explain their presence. In addition, these questions may be prohibited by state law. Questions about association or marriage with a particular racial or ethnic group may also be used as evidence of discrimination. Employers should avoid questions about marital status, ages and number of children, plans for pregnancy, or arrangements for child care.⁶

Pre-employment investigations for the purpose of examining an applicant's "fitness" or "character" or to verify statements made on the application should be carefully reviewed for job relatedness. The criteria used to qualify applicants in background investigations should be precise, well defined, and should clearly state the information that will disqualify an applicant; if not, at least some courts refuse to find them job related. For example, a police department's investigations to seek disqualifying evidence of "bad character, dissolute habits, and immoral conduct" violated Title VII primarily because the criteria were so poorly defined.⁷

Employers must also conduct investigations using the same procedures and thoroughness, regardless of the applicant's sex, race, ethnic origin or religion. Proof that an employer compared the results of an in-depth investigation of a member of a protected class with a limited investigation of a non-minority one will defeat an employer's claim that the procedure was public business-related. When no proof of business necessity has been shown, courts have found that background investigations by police⁸ and fire departments⁹ into an applicant's financial

history violate Title VII because they disqualify a disproportionate numbers of blacks.

In addition, using a less than honorable discharge from the military as a criterion for rejecting an applicant may also violate the act because statistics reveal a higher incidence of such discharges among minorities.¹⁰ Unless solid proof of public business necessity can be shown, employers also should avoid use of arrest records to reject applicants. But, if a conviction would render an applicant unsuitable for a particular job, it might be a valid justification for rejecting the applicant.

For example, a conviction for bank robbery would probably justify a bank's refusal to hire an individual as a teller or loan officer, but perhaps not as a janitor. If an employer questions an applicant about prior convictions, inquiries should be accompanied by a statement that a conviction record will not necessarily be a bar to employment and that factors such as age and time of the offense, seriousness and nature of the violation, and rehabilitation will be taken into account.

Inappropriate Pre-employment Inquiries Made by the 50 States

Listed below are examples of inappropriate pre-employment inquiries found on employment applications:¹¹

	Number	Percent
1. Are you known or have you been known by any other name(s)?	4	8
2. Which title do you prefer? Mr., Mrs., Miss, or Ms.	5	10
3. What is your birth date? (with EEO disclaimer)	16	32
4. What is your birth date? (without EEO disclaimer)	23	46
5. What is your birthplace? (without EEO disclaimer)	2	4
6. What was your age on your last birthday? (with EEO disclaimer)	12	24
7. What was your age on your last birthday? (without EEO disclaimer)	4	8
8. What is your sex? (with EEO disclaimer)	37	74
9. What is your sex? (without EEO disclaimer)	7	14
10. What is your race or ethnic group? (with EEO disclaimer)	35	70
11. What is your race or ethnic group? (without EEO disclaimer)	4	56
12. Do you have any handicaps or physical defects? (with EEO disclaimer)	28	56
13. Do you have any handicaps or physical defects? (without EEO disclaimer)	7	14
14. What is your marital status? (with EEO disclaimer)	3	6
15. What is your marital status? (without EEO disclaimer)	3	6
16. How many dependents do you have?	1	2
17. What are your height and weight?	4	8
18. What are the dates of your education and/or degrees?	47	94
19. Have you ever been convicted of a crime?	20	40
20. Do you possess a valid driver's license?	24	48
21. Do you have transportation to work?	5	10
22. What were the dates of your military service?	22	44
23. What was your rank when you left military service?	5	10
24. If claiming veteran's preference, have you submitted the appropriate documentation?	27	54
25. Do you read and write English?	2	4
26. What is the lowest pay you will accept?	2	24
27. Do you have any relatives employed by the state?	7	14
28. Are you willing to travel?	8	16
29. Are you willing to work shifts/overtime?	5	10
30. Are you willing to lift heavy weights?	1	2

NOTE: EEO survey detachable from application; EEO survey on separate sheet.

Lawful and Unlawful Inquiries During Pre-employment Interviews

Any inquiry is forbidden which, although not specifically listed among those below, is designed to elicit information as to race, color, ancestry, age, sex, religion, or arrest and court record unless based upon a bona fide occupational qualification.

Subject	Lawful Inquiries	Unlawful Inquiries
Name	“Have you worked for this company under a different name?” “Is any additional information relative to change of name, use of an assumed name or nickname necessary to enable a check on your work and educational record? If yes, explain.”	Inquiries about the name that would indicate applicant’s lineage, ancestry, national origin or descent. Inquiry into previous name of applicant whether it has been changed by court order or otherwise. Indicate Miss, Mrs. or Ms.
Marital/Family Status	Whether applicant can meet work schedules or activities, commitments that may hinder the meeting of work attendance requirements. Inquiries as to a duration of stay or anticipated absences that are made to males and females alike.	Any inquiry indicating whether an applicant is married, single, divorced, engaged, etc. Number and age of children. Information on childcare arrangements. Any question concerning pregnancy.
Age	If a minor, require proof of age in the form of a work permit or a certificate of age. Require proof of age by birth certificate after being hired. Inquiry as to whether or not applicant meets the minimum age requirements as set by law and requirements that, upon hire, proof of age must be submitted in the form of a birth certificate or other forms of proof of age. If age is a legal requirement: “If hired, can you furnish proof of age?” or that hire is subject to verification of age. <i>continued</i>	Any such question that directly or indirectly results in limitation of job opportunity in any way. Requirements that applicants state Age or date of birth. Requirement that applicant produce proof of age in the form of a birth certificate or baptismal record. The Age Discrimination in Employment Act of 1967 forbids discrimination against persons over the age of 40.

Subject	Lawful Inquiries	Unlawful Inquiries
Age, cont.	Inquiry as to whether or not an applicant is younger than the employer's regular retirement age.	
Handicaps	For employers subject to the provisions of the Rehabilitation Act of 1973, applicants may be "invited" to indicate how and to what extent they are handicapped. The employer must indicate to applicants that: 1. Compliance with the invitation is voluntary. 2. The information is being sought only to remedy discrimination or provide opportunities for handicapped. 3. The information will be kept confidential. 4. Refusing to provide the information will not result in adverse treatment. Employers may ask about handicaps only if they are trying to remedy past discrimination through an affirmative action. Under the Americans With Disabilities Act an employer may ask questions to determine whether an applicant can perform specific job functions. The questions should focus on the applicants ability to perform the job, not on a disability. The applicant could be asked: 1. Are you able to perform these tasks with or without an accommodation? If the applicant indicates that she/he can perform the tasks with an accommodation, she/he may then be asked: 2. How would you perform the tasks and with what accommodation(s)?	The Rehabilitation Act of 1973 forbids employers from asking job applicants general questions about whether they are handicapped or asking them about the nature and severity of their handicap. An employer must be prepared to prove that any physical and mental requirements for a job are due to "business necessity" and the safe performance of the job. Except in cases where undue hardship can be proven, employers must make "reasonable accommodations" for the physical and mental limitations of an employee or applicant. An interviewer may not ask questions about a disability. Where an applicant has a visible disability or has volunteered information about a disability, the interviewer may not ask questions about: 1. The nature of the disability; 2. The severity of the disability; 3. The condition causing the disability; 4. Any prognosis or expectation regarding the condition or disability; or 5. Whether the individual will need treatment or special leave because of the disability.

Subject	Lawful Inquiries	Unlawful Inquiries
Sex	Inquiry or restriction in employment is permissible only where a bona fide occupational qualification exists. (This bona fide exception is interpreted very narrowly by the courts and EEOC.) The burden of proof rests on the employer to prove that a bona fide occupational qualification exists and that all members of the affected class are incapable of performing the job.	Sex of the applicant. Any other inquiry that would indicate sex. Sex is not a bona fide occupational qualification because a job involves physical labor (such as lifting) beyond the capacity of some women, nor can employment be restricted just because the job is traditionally labeled “men’s work” or “women’s work.” Sex cannot be used as factor for determining whether or not an applicant will be satisfied in a particular job.
Race or Color	General distinguishing physical characteristics such as scars, etc.	Applicant’s race. Color of applicant’s skin, eyes, hair, etc., or other questions directly or indirectly indicating race or color. Applicant’s height or weight where it is not relative to job.
Address or Duration of Residence	Applicant’s address. Inquiry into place and length of and previous address. “How long a resident of this state or city?”	Specific inquiry into foreign addresses that would indicate national origin. Names or relationship of persons with whom applicant resides. Whether applicant owns or rents home.
Birthplace	“Can you, after employment, submit a birth certificate or other proof of U.S. citizenship?”	Birthplace of applicant. Birthplace of applicant’s parents, spouse, or other relatives. <i>continued</i>

Subject	Lawful Inquiries	Unlawful Inquiries
Birthplace, cont.		Requirement that applicant submit a birth certificate, naturalization or baptismal record before employment. Any other inquiry into national origin.
Religion	An applicant may be advised concerning normal hours and days of work required by the job to avoid possible conflict with religious or other personal conviction.	Applicant's religious denomination (affiliation, church, parish, pastor) or religious holidays observed. Applicants may not be told that any particular religious groups are required to work on their religious holidays. Any inquiry to indicate or identify religious denomination or customs.
Military	Education and experience in service as it relates to a particular job.	Type of discharge.
Photo	May be required after hiring for identification.	Request photograph before hiring. Requirement that applicant affix a photograph to his application. Request that applicant at his option, submit photograph. Requirement of photograph after interview, but before hiring.
Citizenship	"Are you a citizen of the U.S.?" "If you are not a U.S. citizen, have you the legal right to remain permanently in the U.S.?" "Do you intend to remain permanently in the U.S.?" Statement that if hired, applicant may be required to submit proof of citizenship. <i>continued</i>	"Of what country are you a citizen?" Whether applicant or his parents or spouse are naturalized or native-born U.S. citizens. Date when applicant or parents or spouse acquired U.S. citizenship. Requirement that applicant produce his naturalization papers. <i>continued</i>

Subject	Lawful Inquiries	Unlawful Inquiries
Citizenship, cont.	“If not a citizen, are you prevented from lawfully becoming employed because of visa or immigration status?”	Whether applicant’s parents or spouse are citizens of the U.S.
Ancestry or National Origin	Languages applicant reads or writes fluently.	Inquiries into applicant’s lineage, ancestry, national origin, descent, birthplace or mother tongue. National origin of applicant’s parents or spouse. Any inquiry asking specifically the nationality, racial or religious affiliation of a school. Inquiry as to what applicant’s mother tongue is or how foreign language ability was acquired.
Education	Applicant’s academic or professional education; schools attended. Inquiry into language skills, such as reading, speaking and writing foreign languages.	
Experience	Applicant’s work experience; names and addresses of previous employers, dates of reasons for leaving, salary history; other countries visited.	
Conviction	Inquiry into actual convictions that relate reasonably to fitness to perform a particular job. (A conviction is a court ruling where the party is found guilty as charged. An arrest is merely the apprehending or detaining of the person to answer the alleged crime.)	Any inquiry relating to arrests. Asking or checking into a person’s arrest, court, or conviction record if not substantially related to functions and responsibilities of the prospective employment.

Subject	Lawful Inquiries	Unlawful Inquiries
Relatives	Names of applicant's relatives employed by this company. Names and addresses of parents or guardians of minor applicants.	Name or address of any relative of adult applicant.
Notice in Case of Emergency	Names of persons to be notified in case of accident or emergency.	Name and address of relatives to be notified in case of accident or emergency.
Organization	Inquiry into the organizations of which an applicant is a member providing the name or character of the organization does not reveal the race, religion, color or ancestry of the membership. "What offices are held, if any?"	"List all organizations, clubs, societies, and lodges to which you belong." The names of organizations to which the applicant belongs if such information would indicate through character or name the race, religion, color or ancestry of the membership.
Credit Rating	None	Any questions concerning credit rating, charge accounts, etc.
References	"By whom were you referred for a position here?" Names of persons willing to provide professional and/or character references for applicant.	Require the submission of a religious reference. Request reference from applicant's pastor.
Miscellaneous	Notice to applicants that any misstatements or omissions of material facts in the application may be cause for dismissal.	

Damages

There are a number of remedies available to employees who prove that employers violated Title VII or allowed others they employ to violate it. Cases under the act are tried without juries, and judges have much discretion in shaping each remedy to fit the particular situation. Depending on the circumstances, remedies such as reinstatement, injunction, back pay, and other related damages have been considered appropriate. In addition, a judge may award attorney's fees to the winner in a Title VII suit. Punitive damages and awards for pain and suffering, however, are never granted under Title VII.

Endnotes

1. 42 U.S.C. 2000e.
2. 29 U.S.C. 161; 49 Stat. 455.
3. 42 U.S.C.A. 2000e-2(h).
4. Guidelines on Employee Selection Procedures 29 C.F.R. 1607.4(c), 35 Fed Reg. 12333 (Aug. 1, 1970).
5. 29 C.F.R. 1607.5.
6. Romine, 518 F.2d at 332.
7. *United States vs. Chicago*, 549 F.2d 415 (7th Cir. 1977) *affirmed* 567 F.2d. 730 (7th Cir. 1977).
8. Id.
9. *Dozier vs. Chupka*, 395 F.Supp, 836 (S.D. Ohio, 1975).
10. Id.
11. Debra D. Burrington, *A Review of State Government Application Forms for Suspect Questions*, Public Personnel Management Journal, May 1982.

Appendix I: INTERVIEW ASSESSMENT

Name of Candidate: _____

	Outstanding (5)	Very Good (4)	Good (3)	Fair (2)	Poor (1)
1. Pre-interview rating					
2. Good judgment and common sense					
3. Oral communication skills					
4. Team player					
5. Goal oriented					
6. Service oriented					
7. Ability to work with people and groups					
8. Knowledge of public works operations					
9. Potential for effective management					
10. Leadership potential					
OVERALL RATING					

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to The University.

The University does not discriminate on the basis of race, sex, or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA, or the Age Discrimination in Employment Act (ADEA) or any of the other above referenced policies should be directed to the Office of Diversity Resources (DRES), 2110 Terrace Avenue, Knoxville, Tennessee 37996-3560, telephone (865) 974-2498 (V/TTY available) or (865) 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the Office of Human Resources, 600 Henley Street, Knoxville, Tennessee 37996-4125.

